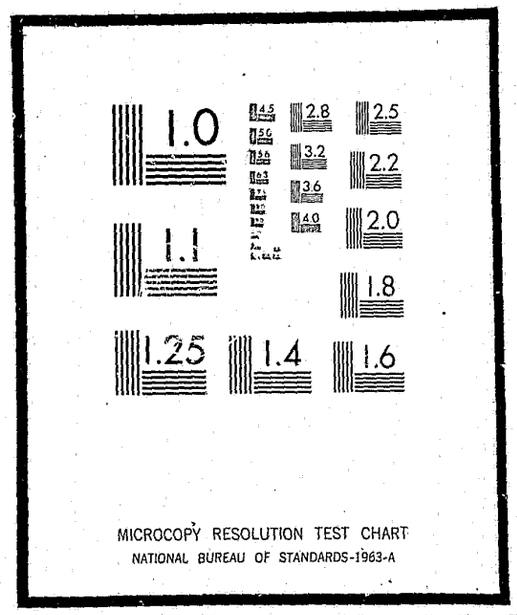

THE DETENTION AND JAILING OF JUVENILES

HEARINGS

BEFORE THE

SENATE SUBCOMMITTEE TO
INVESTIGATE JUVENILE DELINQUENCY

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 56, Section 12

INVESTIGATION OF JUVENILE DELINQUENCY IN THE UNITED STATES

INVESTIGATIVE HEARINGS ON THE DETENTION AND JAILING OF JUVENILES

SEPTEMBER 10, 11, AND 17, 1973

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THE DETENTION AND JAILING OF JUVENILES

MONDAY, SEPTEMBER 10, 1973

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

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Cook, Hruska, Fong, and Mathias) met, pursuant to notice, at 10:10 a.m., in room 2228, Dirksen Senate Office Building, Senator Birch Bayh, (chairman of the subcommittee) presiding.

Present: Senator Bayh.

Also present: John M. Rector, staff director and chief counsel and Mary K. Jolly, editorial director and chief clerk.

Senator BAYH. We will convene our hearings. I would like to insert at this point in the record the text of the subcommittee's enabling resolution, S. Res. 56, section 12.

[The document was marked "Exhibit No. 1" and is as follows:]

EXHIBIT I

[S. Res. 56, 93d Cong., 1st sess.]

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

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate so far as applicable, the Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services or personnel of any such department or agency.

SEC. 2. The Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $3,946,800 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with succeeding sections of this resolution.

SEC. 3. Not to exceed $377,800 shall be available for a study or investigation of administrative practice and procedure, of which amount not to exceed $3,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 4. Not to exceed $767,000 shall be available for a study or investigation of antitrust and monopoly, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. Not to exceed $239,790 shall be available for a study or investigation of constitutional amendments, of which amount not to exceed $12,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 6. Not to exceed $299,900 shall be available for a study or investigation of constitutional rights, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 7. Not to exceed $210,200 shall be available for a study or investigation of criminal laws and procedures.

SEC. 8. Not to exceed $14,500 shall be available for a study or investigation of Federal charters, holidays, and celebrations.

SEC. 9. Not to exceed $240,000 shall be available for a study or investigation of immigration and naturalization.

SEC. 10. Not to exceed $223,000 shall be available for a study or investigation of improvements in judicial machinery.

SEC. 11. Not to exceed $532,500 shall be available for a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended, (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States, and (3) the extent, nature, and effect of subversive activities in the United States, its territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organization controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence or otherwise threatening the internal security of the United States. Of such $532,500, not to exceed $3,785 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 12. Not to exceed $335,400 shall be available for a study or investigation of juvenile delinquency, of which amount not to exceed $14,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 13. Not to exceed $143,000 shall be available for a study or investigation of patents, trademarks, and copyrights.

SEC. 14. Not to exceed $79,000 shall be available for a study or investigation of national penitentiaries, of which amount not to exceed $1,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 15. Not to exceed $172,500 shall be available for a study or investigation of refugees and escapees, of which amount not to exceed $2,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 16. Not to exceed $62,300 shall be available for a study of investigation of revision and codification.

SEC. 17. Not to exceed $250,000 shall be available for a study or investigation of separation of powers between the executive, judicial, and legislative branches of Government, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 18. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1974.

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

Senator BAYH. Since the last hearing of this Juvenile Delinquency Subcommittee, the Nation has been shocked to learn of the tragic loss of life and the brutal torturing of, at last count, 27 young men in a Texas city. We may never know all the reasons that led to these tragic deaths, but they have made the Nation at last aware of the problems confronting many of our young people. As tragic as the Texas situation is, it is even more tragic that such horrors have been going on in a less glamorous, less publicized manner for a long time, but people just don't become alarmed by it.

Our subcommittee has been studying the problems of young people for a number of years, and this morning we continue our study. We are trying to learn, not only why 27 young men lost their lives by

sordid sexual assault, but also why the tragedy continues of many young people losing their lives while in the custody of public authorities. This morning we begin an intense study of what part incarceration of young people in jails plays, not only in the problem of law enforcement, but in the problem of creating conditions in which young people can lead constructive lives.

Why, I ask, did a 15-year-old boy recently hang himself in the city jail in Niles, Mich., or in a county jail in Maine? Why would a youth who is in the jail in Alexandria, Va., set fire to his mattress and kill himself on his 18th birthday? Why would we permit such conditions to exist as those in a Louisiana parish jail where a 17-year-old was gang-raped by 4 cellmates? This type of occurrence, these attacks and deaths, have been going on year after year without public outcry. The problem is of national significance and the statistics are staggering.

In the period of a year there are over 100,000 youths who spend at least 1 day and 1 night incarcerated in a jail or a police lockup. There are over 500,000 young people held in various detention centers throughout the country. We must ask ourselves, what can we do? How can we tolerate the continued practice of locking up young people in a jail cell with adults? There is no magic answer to the problems for young people. One of the temporary solutions would be the Runaway Youth Act which I had the good fortune to author and which was reported by this subcommittee and passed by the Senate by a voice vote both last year and again this summer. No action was taken in the House last year. Next month, hearings are scheduled to commence in the House to study the problem of runaway youngsters and the Runaway Youth Act.

We have in the past had testimony from young people about running away. One young girl ran away from home and was incarcerated for 10 or 11 months in an adult jail. She ran away because she was tired of being sexually molested by her stepfather. Now, we have to give to the authorities—the judges and the police officials of this country—an alternative to locking a young runaway up for almost a year in the county jail.

The wisdom of incarceration in jail will be the immediate thrust of this week's hearings. In a broader sense, we are going to ask if detention or incarceration in any facility is addressing the problems that cause young people to get into trouble. We want to find a way we can give the authorities a wide array of alternatives designed to meet the needs of the individual problem child, including, the means to deal with the problem home, and the problem parents, which more often than not lead to the problem child.

OPENING STATEMENT OF SENATOR BIRCH BAYH

Today, as part of the Subcommittee's continuing study of the quality of juvenile justice in the Nation, we begin hearings to investigate the extent, necessity and conditions of the detention, in jails and detention facilities, of juveniles who are alleged to be delinquent or for some other vague legal reason to come under the jurisdiction of the state. A further purpose of these hearings is to examine the need for Federal legislation to improve or change present methods of detaining youth.

The period of detention for juveniles is critical because it is frequently the juvenile's first contact with the juvenile justice system. Detention generally refers to the incarceration of a juvenile in a secure facility prior to adjudication

or disposition of his case. The institutions involved may range from ultra-modern detention facilities to ancient city and county jails. Youth locked up in these institutions may frequently spend long periods of enforced idleness without educational, recreational or counselling facilities. Worse still, some juveniles in detention are brutalized, beaten and exposed to vicious sexual attacks. Neglect, abuse, isolation and punishment in detention facilities or jail often destroy any possibility of subsequent rehabilitation. This is doubly tragic when we consider that many of the detained children have committed no crime but are locked up because they are runaways, truants or not wanted at home, or have no other place to go.

The enormity of the problems of juvenile detention is staggering. On any given day, there are close to 8,000 juveniles held in jails in the United States. It is estimated that more than 100,000 youths spend one or more days each year in adult jails or police lock-ups. In addition, the average daily population in juvenile detention facilities is over 12,000, with close to 500,000 held annually in such facilities. We intend to consider in these hearings not only the conditions of such jailing and detention but whether this amount of incarceration is necessary.

Our first two days of hearings will focus on the problems presented by juveniles in jails. In many jails, contrary to most recommended standards, and often contrary to state law, juveniles are not separated from adults. Tossed in jails with hardened criminals, a runaway may learn how to steal a car or a truant may be taught how to shut off a burglar alarm. Innocent teenagers emerge from jail street-wise. Even a brief stay in jail, rather than deterring crime, may just make a juvenile more sophisticated and less likely to be caught at his next offense. Whether or not the juvenile learns actual criminal skills, young people may often be held weeks or longer in jails lacking adequate medical services and ill-equipped to provide educational, recreational or rehabilitative programs for youth.

The inability of jails to provide adequate supervision of inmates, particularly those in isolation, may result in tragedy. A 15 year-old boy recently hung himself in the city jail in Niles, Michigan as did another juvenile in Androscoggin County, Maine. A youth detained in the Alexandria, Virginia city jail set fire to his mattress and killed himself on his 18th birthday. In Central Lockup of Orleans Parish, Louisiana, a 17 year-old was gang-raped by four cellmates. Such events are not uncommon, particularly in jails which are not set-up to cope with juveniles.

The Subcommittee received testimony on detaining juveniles in jail during hearings in 1969. The John Howard Association told about the detention of juveniles in the Cook County Jails in Chicago, including extensive reports on suicides and sexual attacks. The jailing of juveniles in Minnesota, where the practice has now been largely eliminated, was also described. Perhaps the most shocking testimony about detention during those hearings involved a report on sexual assaults in the Philadelphia jails and sheriff's vans. A report by the Police Department and the District Attorney estimated that 2,000 sexual assaults had occurred in the jails and vans over a 26 month period. One story related how a juvenile was raped five times while being transported in the Sheriff's van. Conditions in many areas have changed in recent years. Through the hearings we hope to determine the trends over the last decade in the jailing of juveniles and what can be done by the Federal government to change present practices.

Criminal justice and law enforcement groups which have considered the issue oppose the use of jails for detention of juveniles. The National Association of Sheriffs have condemned the practice. Standards promulgated by the National Council on Crime and Delinquency would prohibit jailing of juveniles. Both the 1973 Report of the National Advisory Commission on Criminal Justice Standards and Goals set up by the Law Enforcement Assistance Administration, and the 1966 Report of the President's Commission on Law Enforcement and the Administration of Justice have recommended eliminating the practice. Yet 46 states continues to permit the detention of juveniles in jails under certain circumstances, and 34 of these states do not even require a special court order or approval by social services departments for such jailing.

The use of jails is rationalized in many ways. Some believe that juvenile facilities are not sufficiently secure to detain those accused of certain offenses. Others explain that juvenile facilities are often not available or are over-crowded. Many persons, of course, still believe that a few nights in jail will scare a wayward youth away from further criminal activity. As these hearings progress we hope to assess the validity of these and other justifications for placing juveniles in jail.

The issues involved in the detention of juveniles are not limited, however, to the use of jails. Next week we will hear testimony on the conditions that prevail in juvenile detention centers.

Detention of juveniles is generally predicated on the belief that such detention is required to assure the juveniles' appearance in court, or that the juveniles present a danger to the community or to themselves. These concerns are, of course, genuine, but the extent to which detention is actually based upon such criteria has been questioned by studies of the widely varying detention practices in different cities and states. Many juveniles are detained merely because there is no place for them to go and there are no alternative services available. Over 40% of detained children are released after their court appearance, frequently after many days or weeks in detention. For these youth, and for those committed to open institutions after adjudication, detention was clearly inappropriate. Juvenile detention also raises a number of unresolved legal issues, many of which involve constitutional rights; the right to a probable cause hearing, the right to bail, the right to a speedy trial, and the right to treatment are but a few examples. The conditions in which adjudicated delinquents, alleged delinquents, status offenders, and neglected children can be detained also raises questions of due process, equal protection, and cruel and unusual punishment. We plan to explore these issues in the hearings.

Following our exploration of the problems involved detaining youth, the second phase of the Subcommittee's investigation will explore the many innovative and successful alternatives to detention developed in different states and cities, including home release under court supervision, half-way houses, residential treatment centers, and secure psychiatric facilities for juveniles requiring such care.

Some of the problems of juvenile detention are addressed in the Juvenile Justice and Delinquency Prevention Act of 1973, S. 821, which I introduced along with Senator Cook, the ranking minority member of this Subcommittee. Nine days of hearings which the Subcommittee has recently concluded on this bill demonstrated the need for Federal legislation to provide funds to the states for the creation of community-based facilities as alternatives to detention institutions and jails. As a condition for obtaining funds, the states are required to develop a plan including provision for the elimination of the jailing of juveniles and for the phasing out of the secure detention of alleged status offenders. Other provisions of S. 821 provide for the personnel training desperately needed in detention centers and for the implementation by the Federal government of standards of juvenile detention. There are many other provisions in the bill which are relevant to the issue of detention of juveniles which will be explored in these hearings and for this reason I ask that S. 821 be put in the record at this time. S. 821 builds on the best existing knowledge of the ways to help children in trouble. These hearings will give further guidance to the Subcommittee on the questions involving detention and inform many Americans of the difficulties involved in detaining juveniles.

Our first witness this morning is Prof. Rosemary Sarri, project codirector of the National Assessment of Juvenile Corrections, Ann Arbor, Mich., who is accompanied by two juveniles, Lynn and Kenneth.

STATEMENT OF PROF. ROSEMARY SARRI, PROJECT CODIRECTOR, NATIONAL ASSESSMENT OF JUVENILE CORRECTIONS, ANN ARBOR, MICH., ACCOMPANIED BY LYNN AND KENNETH

Senator BAYH. Dr. Sarri, is that the way you pronounce it, "Sorry"?

Mrs. SARRI. Right.

Senator BAYH. Many people are very sorry in pronouncing Bayh, and I didn't want them to make the same mistake with your name. Thank you for being with us. We appreciate it.

Mrs. SARRI. There are a few statements that I would like to make to sort of locate the problem in the context, and then I think the com-

ments that both Kenneth and Lynn will have will probably be most helpful to you in really understanding what happens to young people in jails today, and some that are staying in detention facilities.

It is strange to think that as long ago as 1923, Joseph Fishman referred to jails as "giant crucibles of crime" and advocated their abolition. Even earlier, Edith Abbott, in 1916 advocated the abolition of county jails because of their failure during the previous 50 years. Now, almost 100 years later we are still confronted with this problem and it seems to me with little, if any, progress toward a solution. More recently, similar accommodations were made in 1967 and 1973 by national commissions appointed to formulate policy recommendations on criminal justice. There is, however, I am sorry to say no reason to be optimistic today about reductions in the jailing of children unless dramatic efforts are made and legislation is implemented that will require significant changes in current practice. Regardless of the reasons that might be put forth to justify jailing juveniles, the practice is destructive for the child who is incarcerated and dangerous for the community that permits youth to be handled in clearly harmful ways.

An accurate portrait of the extent of juvenile jailing in the United States does not exist. Furthermore, it is difficult to develop one because of the lack of reliable and comparable information from the cities, counties, States and Federal Governments, all of whom are in various ways involved in the jailing of youth. But we do know that the jailing of juveniles occurs both in rural areas, where available alternatives for custody of children are limited, as well as in large metropolitan communities where the volume of children detained is high, even though the range of alternative facilities is greater.

The only comprehensive information available today about jailing practices is that contained in the National Jail Census conducted by the Department of Justice in 1970. The census, as Senator Bayh indicated, reported a total of 7,800 juveniles in more than 4,000 jails on a given day in March of 1970.

Now, in addition to knowing how many are in jail on a given day, we also need to have a picture of how many juenviles are confined over a period of a year, and thus a much more difficult statistics to arrive at. More recently, the picture looks as if the jailing of juveniles, if anything, is increasing rather than decreasing. In one State in which there was a survey conducted in 1968, the projection, based on that survey, indicated that there would be approximately 10,000 children in jail in that State in 1 year.

Senator BAYH. Pardon me, Doctor. When you say the jailing of children is increasing, do you mean the incarceration of juveniles in adult facilities?

Mrs. SARRI. That is what I mean.

Senator BAYH. Are you going to tell us why this is happening or isn't there any answer?

Mrs. SARRI. I don't think there is an obvious answer. I have some ideas as to why it may be happening. I think part of it has to be the whole notion of the generalized surveillance, and we are just picking up more children in a variety of communities and holding them in various kinds of custodial facilities rather than using alternatives.

This is particularly so in the cities where jailing seems to be increasing, more than in the rural areas and small towns.

Senator BAYH. Here we are in an age of relative enlightenment, and yet despite the enlightenment which exists in many parts of our society, we are incarcerating more and more young people in adult jails than we did in previous years?

Mrs. SARRI. Yes, in this one State, which is an urban, Middle Western State, it appears that between 1968 and 1972, if we can trust the data that it went from 10,000 to 25,000 children in jail per year in that 4-year period of time. So, that represents a substantial increase, and at a time 75 years after the founding of the juvenile court, which was established to remove children from the adult criminal justice system, we in fact, have a very, very large number of youths in jail.

Now, despite this fact, there are some States who have been able to eliminate it. There are seven States who at the time of the jail census had no children in jail and several States who had no children in jail or detention, so that it is possible to achieve a different kind of situation than that which does exist at the present time.

The other problem with regard to jailing is that not only are children held in jail who are pretrial or preadjudication, there are juveniles even sentenced to jail after adjudication, and there were 67 facilities in 24 States which held 2,218 juveniles serving sentences of up to 1 year or even longer than 1 year in some cases. Now, it seems to me, one, you know, might argue, that although it is extremely undesirable, at times you might have to confine a child to jail. Even though I don't support the argument, I can see how one might make the argument. But, it seems to me that it is impossible to believe that there is any rationale for sentencing minors to adult jail under any circumstances.

A recent survey in Illinois done by Mattick indicated there are also serious problems in trying to separate juveniles from adults. Many Sates require that there be separate facilities. If children are to be held in adult jails that there be separate facilities for juveniles and adults. In the Mattick survey of 160 jails in Illinois, he found 142 of those jails held juveniles, but only 9 out of 142, in fact, had facilities for the segregation of juveniles from adult offenders. So, there is more fiction than fact if we look at the survey that Mattick completed, and there is no reason to believe that the Illinois survey represents a deviant case as far as the other States are concerned.

The other problem with regard to the holding of children in jail is that seldom is there any kind of medical examination with regard to the holding of children. Less than 50 percent of the Illinois jails had any type of routine medical examination, despite the frequent assertions that juveniles who were likely to be confined in jail are more likely to be mentally or physically ill than other detainees. Furthermore, 82 percent of these jails had less than 45 square feet of space per person, and it seems to me this is particularly problematic for juveniles because it means, it presents, problems with regard to the supervision of inmates. If juveniles are frequently subjected to adult abuse in jails, and when jails are very crowded, this problem is seriously aggravated.

Now, another problem is the fact that those children who are held in jail are very frequently not children who would represent any kind of

serious danger for the community. A recent survey in upper New York State by the NCCD indicated that 43 percent of the children who were held in jail were what we call status offenders, they are referred to as PINS, CINS, and MINS, in various States. They have not been charged with any violation of law as it might be for an adult but rather with truancy or incorrigibility, curfew violation, and so on.

Senator BAYH. Forty three percent?

Mrs. SARRI. Forty-three percent of the children in upper New York State held in jail were status offenders. Child suicide in jail becomes all the more tragic when it is apparent that many juveniles are incarcerated who pose no threat to society but rather need help. That, in fact, was the case with the young juvenile who committed suicide in the Niles, Mich., jail recently.

Furthermore, the large majority of juveniles who are held in jail are males, but the ones who are held longest are females Females are more likely to be detained for status offenses than are males and for longer periods of time, as the Pennsylvania AAUW Study indicated.

Another survey done by Pawlak indicated tremendous variations in juvenile court caseloads from one county to the next, and he surveyed all of the juvenile courts in a large Eastern urban State and found the variation in detention or jail varied from 0.2 percent in one county to 72 percent of the caseload in another county. So, there is tremendous variability. This variability oftentimes is not related to the presence of alternative detention facilities because when he interviews several judges in that State, judges indicated that they made an explicit choice of jails for juveniles, even when detention facilities existed because they wanted to teach them a lesson.

Pawlak also noted that the number of prior court contacts was more highly correlated with detention and jail than the type of offense that led to the particular holding at that point in time. Those who were charged with crimes against persons were more likely to be detained than those who committed property or victimless crimes, but the people who committed crimes against persons were detained less than juveniles who committed status offenses.

Senator BAYH. Would you say that once more for impact?

Mrs. SARRI. The juveniles who committed crimes against persons were held less often in jail than those who committed status offenses and/or were charged with status offenses.

Senator BAYH. Let me explore the distinction. You are saying that someone could get involved in a crime involving an attack on a person, like a mugging, and be treated less severely than someone who dropped out of school or who wouldn't attend school regularly or who ran away?

Mrs. SARRI. Right. And one of the youngsters who is here today, Kenneth, will tell you and report some of his incidents with regard to running away.

A Western State survey which was completed last year indicated that dependent and neglected children were held in jail when necessary in more than 50 percent of the counties in that State and, furthermore, more than half of the jails reported they placed juveniles in jail as a deterrent even though there was not any formal charge. For example, on the weekend they might say if they suspected a juvenile might engage in certain kinds of illegal behavior, he would be put in jail in

advance. It is a strange kind of a twist on preventive detention. But, as a deterrent, even though there was no formal charge, these juveniles could be held for indefinite periods of time, since there are only a few counties or cities which had any type of mechanism for controlling maximum number of days a juvenile could be held in jail. And this is from the States and survey of the facility. There really were in only two counties in this particular State, any kinds of mechanism for controlling the time that a juvenile might be held in jail, so that holding for 3 or 6 months is possible.

Wtih regard to physical conditions in jail, these oftentimes are very problematic for the reasons that you mentioned earlier, because jails are very old, dilapidated, and the majority are more than 50 years old across the country. Sanitary conditions, food, exercise facilities, fire control, and so on, almost never meet basic minimum public health standards.

Furthermore, typically in jail people are only fed twice a day, in the morning and in the evening, and when one thinks of juveniles, 12-, 13-, 14-year-old youngsters, this kind of problem is very severe because they get very hungry, and malnutrition is a very serious problem. There are seldom any facilities for handling suicides or physical assaults to protect human life so that as a result there are numerous accounts of inhumane, unjust conditions, and we do know, from the work done by Moyers and Flynn and others how to build detention facilities so that they are not inhumane, but certainly they do not exist at the present time.

I realize that the hearings today are focused largely on jails, but I want to indicate that I think there are both sides of the coin when one thinks about jailing and detention, and one cannot see detention as an obvious solution to elimination of juveniles in jail because it might be, and there are, in many cases, an overuse of incarceration as a means for intervening in the lives of juveniles. I think there is much very overwhelming negative outcomes that occur from detention as well. The one thing that is characteristic of detention facility, and on any given day there are approximately 10,000 children held in detention or the 7,800 that are held in jail, so there are about approximately a third more children that will be held in detention on a given day as contrasted with the jails, but the thing that is particularly shocking with regard to the detention facility is that very often very young children are held.

About 2 percent of the census of detention facilities indicated that the population were under 18 months of age, and recently the John Howard Society reported with regard to Cook County Detention Facility that there was a child 18 months of age that was charged as being a minor in need of supervision on his petition. And while it seems very ironic, these things, in fact, are happening.

Senator BAYH. That was probably an accurate description, but a poor remedy.

Mrs. SARRI. Right, but it is a rather horrible remedy.

The highest proportion of young children are found in the largest cities, in metropolitan areas, suggesting that these areas apparently lack or fail to develop formal and informal resources for children without homes. The average length of stay in jail is a very difficult figure to arrive at, but most of the NCCD surveys and so on indicate

that it is approximately, it is less than 2 weeks, as contrasted to the average length of stay in a detention facility which is approximately a month, which indicates that children, if they are assigned to detention, stay much longer and there is no reason for this longer period of stay, because adjudication hearings could be expedited much more than they are.

Senator BAYH. You are talking about the stay of juveniles in detention centers before any determination of guilt or innocence?

Mrs. SARRI. That is right. For the most part, the large proportion are preadjudication. There will be a smaller proportion who will be held there awaiting assignment to a State training school and so on. But, the large bulk of the juveniles will be in preadjudication stages.

Senator BAYH. Is it fair to say that a significant number of young people who are detained pending trial are affected emotionally or physically in a way which warps their entire lives, and that cannot really be erased after determining that they are innocent?

Mrs. SARRI. I recently was on a census field trip in several Western States and talked with a number of juveniles who had been in a variety of different correctional facilities. And without exception, these are juveniles who are now in training schools and private institutions and so on for delinquents. Without exception, all of them pointed to their experience in detention and jail as being the most traumatic experience of their lives. I also talked to a man who is now the State director of a crime commission in one of the Western States who had been jailed when he was a 14-year-old and he said he still recalls it. He is a man of about 45 to 50 now, and he said being in jail was the most terrible experience of his life, so it is apparently a kind of experience that leaves a real mark on people.

I think one other question I would like to raise is what are the differences in rates among the States in jailing and detention. We have tried to compare jail populations, detention populations relative to the child population in those States, and we have found that there is a tremendous variation. The State of Maine, to show the rate of jailing varies, is 1 per 100,000 as contrasted with 27 per 100,000 in Wyoming. When one thinks of 27 per 100,000 it does not sound like a lot of children, but 27 times is a variation in rate and both of these are rural States. I expect, in many ways, it is similar with regard to the kinds of facilities that are available for juveniles. The two largest States of this country, California and New York, both had high rates of detention. But, for juveniles, for example, the detention facilities are used extensively in California as contrasted with New York, which rarely uses them. So, we have tremendous variations among the various States and I think this problem has to be understood as a national problem. There is no way to say that there are only certain States in which this is problematic and if we eliminate the problem in most States, we eliminate the problem of jailing. With the exception of seven States where there are no children held in jails, it is a very serious national problem.

We recently—well, in fact, we are still in the process of doing a sample survey of correctional programs in 16 States. We are going in and interviewing and talking with the staff and juveniles. Thus far, we have interviewed 700 youths in correctional programs in these 16 States; 60 percent of these youths report having been in jail one or

more times. In fact, a medium jailing was 2.6 for youths who were in institutions and 2 for youths who were in community-based programs. So, there is not a great deal of difference in terms of jailing. Both of them are reporting a considerable amount of jailing. The present median age of these youngsters is 15.8. They also report having been in detention facilities 3.6 times, on the average, in the institutions, 4 times in the community-based programs. They report having been in training schools, and they report very little use of probation and group or foster home placement. So, my conclusions from looking at this survey of youths that we have thus far, indicate that communities are not using the less stringent alternatives for intervention, but rather are using the most stringent, because one would think those youths would have had much better experiences, probation, or youth in foster homes rather than in jails and in secure kinds of custody.

Also, it was interesting to note that again females tend to be held more frequently in jails and for a longer period of time than the males, even though the number of males that are held are more frequent.

One last comment that I would like to make has to do with the statutory provisions in the various States. We did an analysis of the juvenile code in all 50 States, and I suppose the thing that one can conclude from this analysis with regard to detention is that only in 5 States is there a prohibition that has teeth in it against the jailing of youngsters, and in 5 States it says in the statute that juveniles shall be held in jail under no circumstances. There are some States that at any time, any place, a juvenile can't be held in jail. So, obviously, one of the first things that has to be done is to have very tight statutes with regard to jailing of youths and, similarly, that hearings would be called. I think one of the problems with regard to the jailing of youngsters is that a policeman or a sheriff can put a youngster in jail and there will be no hearing conducted as to probable cause whether or not, in fact, he is guilty of the charge that is made. And he can be held for several months without any kind of hearing. Obviously, statutes could provide mechanisms whereby these hearings would be mandatory within a 24-hour, no longer than a 48-hour, period of time.

I would like to make just a few recommendations before concluding, and then getting into the discussion by Kenneth and Lynn, with regard to what seems to me, from looking at this picture of jailing and detention of youth, what some solutions might be, might possibly be. Most of these solutions pertain to the States because our system of Government gives a great deal of discretion authority to the States. But, I think that the Federal Government could do a lot to stimulate positive change through the provisions of resources where such are needed and in the juvenile area there is a real need for greater resources being allocated to juvenile programs and to juvenile criminal justice system, as was attempted in the last session of Congress. It certainly needs to be repeated.

Senator BAYH. Are you familiar with the amendment that I offered to the extension of the Law Enforcement Assistance Administration? It would have increased the percentage of LEAA money devoted to juveniles. Is that the kind of approach you think we need?

Mrs. SARRI. Right. I think that is certainly necessary because as you know approximately 50 percent of the crime in the United States is

committed by juveniles and yet, only about 19 percent was the amount of money allocated to juvenile programs, according to the latest report from LEAA. So, there is a sharp discrepancy between the crime situation and actual funding of resources.

It seems to me one other thing may be needed to be done. We need to provide resources but we also need to withhold resources when abuses are being observed. In those States where, in fact, they are jailing youngsters, there needs to be a withholding of resources. So, the Federal Government can cooperate in both ways, it seems to me, in stimulating a good deal of change here. It can also help in the drafting of legislation. Juvenile laws tend to be very ambiguous, archaic, have few protections of rights of children. The *Gault* decision was an important decision, but it certainly has not gone far enough to insure the rights of children in a number of different areas. It pertained to the adjudicatory, it did not pertain to detention, hearings, and jailing, and a lot could be done in helping States in drafting model legislation or providing for training for State legislators and supreme court administrators' offices and so on, so that statutes would be much more adequate to insure the rights of children. Criteria for detention should, it seems to me, be absolutely explicit and limited solely to acts which would be criminal felonies if committed by adults. There have been a number of proposals that special civil actions and quasi-judicial mechanisms be substituted for juvenile court action in cases of truancy, incorrigibility, and other status offenses. Proposals of this type would require effective community resources but it seems to me this can be accomplished.

Rapid development of alternatives to incarceration of juveniles charged with criminal violations must also be given high priority. Foster and shelter homes can provide alternative 24-hour supervision and, likewise, home detention with supervision and consultation to parents can be provided. We have had a number of experiences in Sacramento, St. Louis, and Louisville, of very successful programs which have indicated that we can have viable alternatives to detention.

Youngsters will not abscond. The overwhelming majority will appear for trial. In almost all of these cases, less than 5 percent of the juveniles who were released either to foster homes or to their own homes, failed to appear at the time of their hearing.

We must keep in mind that very frequently the notion that children are to be held in jail or detention because something worse might happen to them on the streets is really a fallacious kind of reasoning. The cure in this case is very frequently worse than the disease that it is meant to remedy, and this is not at all adequately faced across the country.

What I would like to do now is to have Lynn and Kenneth tell you something about the experiences that they have had in jails and in detention facilities. They came from two very different States. Lynn has experienced largely in an urban State, and Kenneth comes from a Western, more rural, State. They would like to tell a little bit about some of their first experiences. Both of them have had many experiences in jails and detention, and are looking forward to telling you about them.

Lynn, do you want to start off?

Senator BAYH. Lynn and Kenneth, we appreciate your willingness to come and tell us your personal experiences. If I were you, I would

be a bit nervous. In fact, I am me, and I am a bit nervous. I hope you tell us exactly what your experiences were. That is the only way we are going to be able to come up with new laws so that other young people do not have the same kind of experience as you.

LYNN. OK. All of the jails I am talking about are in the city.

Senator BAYH. How old are you, Lynn?

LYNN. Sixteen.

Senator BAYH. OK. I would like you to tell us how old you were when you first had this kind of experience. Then we can better understand how a great proportion of very young people get involved. OK?

LYNN. OK. Well, the first time I went to jail I was 12 years old. I went for about 24 hours, a day and a night. I went for a drug charge with some other people. We were released home. We didn't have to go to any detention places or anything, and I would have gone home the night before except they couldn't get anybody at my house. So that's why I was kept there. I was treated pretty fair. We just, you know, stayed in the room with a cot and toilet facilities and stuff, and it wasn't all that bad.

But the longest time I spent in jail was in the jail in Detroit. I spent 17 days there, and I didn't like it. We were pretty isolated, you know, even the rest of the convicts, not just the juveniles. We were all in a room all day. They brought us out like once a day to brush and stuff, and then to clean up the place, and once in awhile they would have us out. They would check us down for knives and stuff, you know, for suicides and stuff. All it was, was a room, just facilities—a sink and a bathroom, you know—and we just sat there all day. They didn't give us any recreation; I mean, no books, no magazines, and you just kind of had to think.

Senator BAYH. Why were you put in jail in Detroit?

LYNN. Sale and possession of heroin and barbiturates.

Senator BAYH. Sale and possession of heroin and barbiturates? How old were you?

LYNN. Thirteen.

Senator BAYH. You were put in jail for how many days?

LYNN. Seventeen days.

Senator BAYH. Then what happened?

LYNN. Then I went to the detention home, and I was kept there for, well—do you want to know about detention, too?

Senator BAYH. Yes, I would. Did you learn anything there?

LYNN. No.

Senator BAYH. What type of recreation or educational programs were available?

LYNN. At the detention home?

Senator BAYH. Yes.

LYNN. Well, they had a schoolroom for the people at the detention home that I was in, and we went there and you learned kind of on your own. The teacher sat there or gave you a book. Lots of girls didn't work or anything. Most of the time we just sat around in this room and put puzzles together or something. But, there was nobody who came and talked to us about any of our problems. Mostly we worked it out ourselves if we felt like working it out. Then we all went together to a dining room, and we were searched afterward for knives and stuff.

I was in this jail up North and it was pretty nice. I was there for 5 days because there was no place to put me after I was leaving the

group home. They gave me a radio and everything, and that is a privilege, you know. There are other comforts at night, like they locked the doors with the key on the inside and the outside, and they let you walk around. If you are really good, you get TV's and stuff in your room. They didn't treat minors the same as the adults, but, if you are an adult and you are there for 30 days, and if you have perfect behavior, you get 5 days out of the jail. But, I stayed in it and we didn't get no time. We didn't get to walk around like the others, like the adults. We just sat in a room but they gave us a lot to do. It was a pretty nice jail; it was the sheriff's department.

Senator BAYH. When you were first sent to jail, were you put in a jail cell alone or a cell block with others who had been convicted several times before?

LYNN. No. It was not a very big city, the first time, but I have been in jails where there have been others.

Another time I was in Wayne County Jail; it was just like a big room and all of these other people were there. There were three of us minors, you know, that went in together, and a bunch of other ladies that were in there for various reasons. They liked to talk to us and told us ways how not to get caught doing things. They didn't do anything to help, it was just making things worse.

Senator BAYH. How old were you then?

LYNN. About 14.

Senator BAYH. You were 14 and you were put in a jail where other adult women taught you all of the tricks of the trade?

LYNN. Yeah.

Senator BAYH. What were your thoughts after you got out of there?

LYNN. I went to a detention home and I didn't really think about it too much, but, I remember telling them—like there was some there for prostitution and stuff, and she said, if you are doing anything like that, this is the way not to get caught. They would tell us stuff like that.

Senator BAYH. It isn't a very good training ground, is it?

LYNN. No.

Senator BAYH. May I ask you a personal question? Are your mother and father alive?

LYNN. Yes.

Senator BAYH. Were you living with them when you were first apprehended at age 12 or 13 for the drug offense?

LYNN. Yes.

Senator BAYH. What was their response?

LYNN. It wasn't too good. The first time I was just with people that had drugs and so I had to go, too. My mother, just talked to me about, you know, what was wrong with drugs and stuff and she kind of looked out for me after that. But then, when I got caught myself with narcotics, she kind of didn't want me. She wanted me in detention for awhile, to learn what I was doing wrong. I don't think it helped.

Senator BAYH. Do you have any brothers and sisters? How many?

LYNN. Yes. Five brothers and two sisters.

Senator BAYH. Five brothers and two sisters, and what does your father do for a living?

LYNN. My father doesn't live at our house. What does he do? He works on the railroad.

Senator BAYH. Well, were your father and mother living together when you first got in trouble?

LYNN. No; they just got separated.

Senator BAYH. Thank you.

Why don't we hear from Kenneth?

Mrs. SARRI. Maybe we can have Kenneth tell us something and then we can go back to Lynn. Kenneth was in jail repeatedly in several Western States, primarily because of running away from home. Do you want to tell us about that?

KENNETH. Well, the first time I ran away I was about 12, maybe 13, and I had been hitchhiking. Two girls picked me up and took me to the police station, and they threw me in the cage and left me in there. They just kept throwing other people in there, you know, for being drunk and things like that.

Senator BAYH. Were these adult men?

KENNETH. Yes.

Senator BAYH. And you were 12?

KENNETH. Yes. One of the drunks decided to take off after me and the cage wasn't that big. They finally remembered I was in there and they called up my dad and got me out of there.

Senator BAYH. How long were you there?

KENNETH. Two or three hours. They knew who I was and everything, they just wouldn't call up my dad.

Senator BAYH. Were you in your own home community?

KENNETH. Yeah, this was my own community.

Senator BAYH. Where was that?

KENNETH. In Colorado Springs.

Senator BAYH. Had you been before a judge?

KENNETH. Had I been before a judge?

Senator BAYH. At that particular time, when you were 12 years old and thrown in the jail cell with a bunch of drunks, had you seen a judge, or just the arresting officer?

KENNETH. Just the arresting officer.

Senator BAYH. What does it feel like, being in there with a drunk chasing you around?

KENNETH. It gives you an eerie feeling. All they do is they take knives and everything off of you and they still leave you with your matches and cigarettes and things like that, because you can't get out of that cage with them. You have got to go to two or three rooms to get out of the cage. They figure you can't get out of it so they just leave you with matches and belts like he was swinging at me.

One time I stayed in jail for a week and a half for hopping a boxcar. I was planning to hop a boxcar just to ride up a couple of blocks and jump off, but they locked me in it, and they finally unlocked it when I was going through Kansas. I managed to pry it open and I jumped out. I had gone without food for 2½ days. I walked back to town and turned myself in to the sheriff there. He was pretty nice, and he gave me some food and then he called up some other county sheriff who picked me up and threw me in jail for a week and a half. I was the only person in that whole jail.

Senator BAYH. How old were you then?

KENNETH. Fourteen.

Senator BAYH. What did your parents think about all of this? Where did they think you were for the 2½ days you were locked in a boxcar?

KENNETH. I wasn't living with my parents at the time.

Senator BAYH. Who were you living with?

KENNETH. I was living in a group home.

Senator BAYH. Were your parents living together when you first started running away?

KENNETH. Yes.

Senator BAYH. Were you living in their home?

KENNETH. Yes.

Senator BAYH. Do you have any brothers and sisters?

KENNETH. I have two sisters.

Senator BAYH. How old are they, Kenneth?

KENNETH. Seven and eleven.

Senator BAYH. Are they living with your mother and father?

KENNETH. Yes. I have been in jail all over around Colorado. One time they picked me up, they thought I was an escaped convict.

Senator BAYH. How old were you when they picked you up as an escaped convict? You barely look 14 right now.

KENNETH. I was 14 at the time.

Senator BAYH. What sort of person would make the kind of determination that a 14-year-old was an ex-convict?

KENNETH. I don't know. They shined a big old light on me and some dude came walking over with a rifle. He made me have my hands up all the way over the car. When I got in the car they searched me and then he held the gun at my head until they dragged me to this little bitty town where they threw me in jail and left me in there a couple of hours. Then they came back and handcuffed me again and they left me sitting in the chair for awhile, and then they unhandcuffed me and they threw me in a pickup truck and they rehandcuffed me and drove me to another town and threw me in jail.

Senator BAYH. What sort of crime had you committed to get this sort of treatment?

KENNETH. I was just a runaway and I wouldn't tell them my name.

Senator BAYH. Was it wise not to tell them your name?

KENNETH. No; but they kept on thinking I was an escaped convict.

Senator BAYH. Well, you have to look at the other side of this. It was not too wise of you not to tell them your name.

KENNETH. No.

They threw me in jail in a big old hall that had all of the cells in the hall. They just locked me up at the end of the hall and I went in all of the cells. It was freezing up there, and it was dirty and smelled. No toilet paper, no nothing. The bunk didn't even have a mattress on it. All they gave you was a bunk, with just a sheet of metal, and your sheet, and you had your toilet and it was—I wouldn't have even sat on it if I had to. That's how dirty it was. They left me in there about 5 or 6 hours and my dad finally came and picked me up.

Senator BAYH. Why did you run away?

KENNETH. Because my parents and I don't get along.

Senator BAYH. Why don't you get along?

KENNETH. My parents and I have different ideas about things.

Senator BAYH. Could you tell me just what kind of different ideas?

KENNETH. Everything. I haven't lived with my parents for about 8 months now.

Senator BAYH. Is it any better where you are?

KENNETH. Yeah.

Senator BAYH. Where are you living now?

KENNETH. I am living at a place that helps kids solve problems and things like that. I got kicked out of my group home until I could solve my problems and then I can go back.

Senator BAYH. What was the group home like?

KENNETH. The group home? It was all right You could stay out until 11:30 at night and you had freedom. You had to go to school and then when you came home from school you could go out until 5 p.m. Then you had to come home for supper and then you could go back out.

Senator BAYH. Can you try and be a little more descriptive of your experience when you were locked in the jail cell with a drunken man chasing you? What goes through your mind? What do you do to keep that from happening?

KENNETH. I was scared.

Senator BAYH. What did you do, scream? Did you fight?

KENNETH. Well, first I ran and then, finally, I started screaming and finally the jailer did come and answer my screams. He took the dude out and threw him in the drunk tank. But, I was so scared because the cage, it wasn't that big around, it was about 10 feet by 15 feet.

Senator BAYH. How old are you now, Kenneth?

KENNETH. I am 14½.

Senator BAYH. What do you want to do when you grow older?

KENNETH. Probably end up working, a scientist or something.

Senator BAYH. Do you like to run away?

KENNETH. I don't run away that often any more.

Senator BAYH. When you were running away, how did you live? How did you provide for enough food and clothing?

KENNETH. Well, when I ran away, I usually either took no money, or I remember one time I ran away and all I had on me was 75 cents and that lasted me 3 days.

Senator BAYH. How did you live? You can't live for 3 days on 75 cents and enjoy it very much, can you?

KENNETH. Well, I did.

Senator BAYH. Did you pick up food in the stores?

KENNETH. No, I was walking cross country and before I started walking I bought a great big candy bar and that lasted me 3 days.

Mrs. SARRI. You might be interested, I think, that Lynn stayed out 8 months running away to different parts of the country, with a group of people.

LYNN. When I ran from the detention home, I was gone for 8 months. One of the guys that was with us had a van and he was into carpentry work and so we went around and in every State that we went to we found like odd jobs. We never had to panhandle or anything. We always had money and just traveled around seeing the west coast. It was pretty nice. Then after 8 months we went back to Michigan and I turned myself in.

Senator BAYH. Why?

LYNN. Why did I turn myself in?

Senator BAYH. Yes. Why bother?

LYNN. I just didn't like the idea of running away, you know, but I thought I was doing OK out of my own. My problems were pretty much cleared up but ever since I turned myself in, they still haven't released me. I don't have the problems that I had before and they don't give me a chance. I don't think that that's right either.

Mrs. SARRI. Lynn has essentially been in custody for almost 4 years now; right?

LYNN. Three.

Mrs. SARRI. Three years.

Senator BAYH. Lynn, did you have enough to eat in the jails where you were confined? Were they dirty or clean? Were they warm or cold? You pointed out that in most cases you just sat there and there wasn't anything to do. What were the living conditions?

LYNN. Well, in some, like in the jail up North, we ate the same food that the sheriff did, because it was a sheriff's department, and we ate really good food there. But, in some jails we had two meals, some one. One jail I was in for 24 hours and they didn't give me anything to eat. And then the jail I was in, in another city, just about 8 weeks ago, I was there for 24 hours because the detention home wouldn't take me back because I was a State ward or that is what they told me.

Senator BAYH. Let me ask you this: You said a moment ago that they had not released you yet because you did not have the problems you once had. Yet 8 weeks ago, you tell me you were in another jail?

LYNN. I went to a group home. They were making it an all-male group home because it was coed. They opened up another one but I never had any weekends off, because I did not have a caseworker. So, I took a weekend to see my parents. When I came back, they told me I was discharged. They did not release me to another place. They did not send me to the training school or anything. So I called around and asked the jail there what the warrant was after me because I did not want to stay out. If they want me I am going to go back. They said that the department of social services had a pickup warrant out after me, so I went to the jail and told them who I was. The detention home would not take me. So they sent me to jail for 24 hours and did not give me anything to eat. The detention home there would not take me or else I would have went there that night. The next day I went to the detention home and since I am a ward of the State, they would not keep me there, so they sent me to the training school in Michigan.

But, about the jail that I was in that night, I sat in this room like almost all night long. I told them I was tired and, you know, it's the middle of the summer, so they said, well, you can come in this room and lay down, and I went in this room and I just turned into a piece of ice it was so cold in there. I said, could I have a blanket or something and he said, just go over there and lay down and go to sleep. Well, it was a cement block that was sticking out of the wall, you know, and I had a book of matches and a couple of cigarettes. I lit the cigarettes to keep me warm, and I lit matches to keep me warm, it was so cold.

Senator BAYH. Thank you, both.

Professor, in talking about runaways, we were talking about approximately 1 million young people like Kenneth and Lynn that just take off for sometimes understandable and, sometimes unexplainable reasons. Society's response so far has been very much like that described by Kenneth when he was running away and he ended up being thrown in a dirty, rotten, filthy old jail with a drunk after him. Maybe he gets something to eat, maybe not. I would like to talk about how this kind of treatment of runaways or other children relates to the adult crime problem. Understandably, I think, society is very disturbed about law and order, about crime, rape, robbery, mugging, and theft, but for some reason we have not been able to tie in the problem child with the problem of adult crime.

Now, you pointed out a moment ago, that half of the serious, not just petty, crimes in America today are committed by youngsters under 21. I would like your professional opinion of whether our inability to treat the problems of the youngsters in a way which actually rehabilitates them is related to the tremendous increase in crime and lawlessness. Is there a direct relationship between the treatment of a problem child who is thrown in a drunk tank, of a runaway who is thrown in an adult jail, or of a young lady who is a runaway and is thrown in a cell in which there are women who are there for prostitution and other adult crimes and the fact that the adult crime rate continues to rise?

Mrs. SARRI. I am quite sure there is. It is a little bit difficult to pinpoint, you know, the exact relationship and trace out the cause-effect. I think both Lynn and Kenneth in their descriptions about their own experiences, indicated that part of their being held in jail socialized them to adult crime. Both of them learned something about how adult criminals behave as very young juveniles in jails; Lynn learning from adult women and Ken seeing how adult men behave vis-a-vis juveniles and vis-a-vis each other, so that they are socialized to crime through these experiences with a total lack of any kind of rehabilitative effort.

I recently talked with a youngster who was being held in a maximum security cell in a Western State. She was lying on a cot, covered up with a blanket, had talked with no adult for 6 days and had nothing in the cell—nothing to read, no radio, an almost total sensory deprivation. And from what we know about this kind of experience, it can't have anything but a tremendously negative effect. There is no rehabilitation provided. The charge then is subsequently made against the training school or the reformatory or so on, that they can't rehabilitate. Part of the reason may be the fact that the person has been exposed to such traumatic custodial experience that it almost becomes hard to overcome this.

Senator BAYH. Those youth have been exposed to that kind of treatment or custody without having been convicted of anything?

Mrs. SARRI. Right, because there is nothing in the juvenile law that requires that hearings be conducted. By and large probable cause is seldom, if ever, an issue, except in a very small number of cases. It tends to be much more frequently the idea that the child is to be protected against himself. Well, many of these youngsters would be better off on the street than they are being held in

facilities where they are going to be grossly abused, so severely isolated, so that they may commit suicide or hurt themselves.

Senator BAYH. Let me ask your opinion on specific legislation. I authored a bill some time ago which would permit the establishment of a Federal program to make available small grants of $50,000, to local communities or volunteer organizations to provide the financial resources by which local runaway homes can be maintained for young runaways. The Runaway Youth Act passed the Senate on June 8. Now there is a great outcry about the problems of runaways. Is that the kind of legislation that can provide some of the alternatives we are looking for?

Mrs. SARRI. I think there is no doubt. Part of what we have to do is to offer services to young people. I am not going to argue that young people who violate curfews or are truant or incorrigible should be ignored but what we should do is to offer them services and to help assist them. There are a number of such services available in many places, operated through the YMCA, nonprofit organizations, community groups, the United Services or Community Services. Some of them have developed small runaway centers which offer services to people who are in need of assistance and help them. I think Lynn's comment and also Kenneth's is pertinent; namely, that somebody must help them deal with their problems. Instead, all they received was secure custody and no dealing with their problems.

Senator BAYH. One of the criticisms directed at the Runaway Youth Act or similar efforts is that to create facilities in which young people can be given shelter and have their health and nutrition needs satisfied, while staff try to communicate with them, reestablish some kind of communication with their homes, and perhaps create a better environment so that they won't need to run away, is to create additional incentive for youngsters to run away. Does that make sense to you?

Mrs. SARRI. No; I don't think there would be any evidence that would show that you would encourage that. The rate of runaways is very high.

Senator BAYH. We estimate 1 million runaways each year.

Mrs. SARRI. I think we should offer services to the people who are there right now. We do have, by analogy, the creation of community mental health centers which are providing various kinds of services and I do not think that there would be any evidence to show that the act of 1954 has in any way aggravated the problem of mental illness. It has alleviated it. I do not think because you have a community health program with more and more people coming that we have aggravated the problem, and I do not think we will aggravate the problem of runaways by offering services in local communities.

Senator BAYH. You mentioned a moment ago that we need to provide and incentive for States and localities to develop alternatives and we need to provide resources. The Juvenile Justice and Delinquency Prevention Act, S. 821, which has been endorsed by a wide array of youth-oriented organizations, establishes certain criteria for a State plan which must be submitted by a State before it can receive any funds under the act. One of the criteria is an absolute prohibition of commingling juveniles with adults. The act also provides resources to develop alternatives. Do the provisions of S. 821 make sense to you?

Mrs. SARRI. I think that there is no doubt about it and I think we not only have to provide resources but we also have to provide some controls for abuses. Again, recently, just in talking with people at the State level and in a whole variety of States, I have asked the question: Of all of the children who go to training schools, about how many spend one or more nights in jail before they go to the training school? And the usual answer I got was more than 90 percent. Well, we do have very excellent evidence from, you know, 3- and 5-year studies in St. Louis and Louisville that young people do not abscond while they are awaiting being sent to training schools or awaiting adjudication. It seems to me to provide resources at the same time, there should be some penalties for using the facilities that do not need to be used in this case because the evidence just does not indicate that you have to do this.

Senator BAYH. One of the things that we are trying to do in S. 821 is deal with the problem presented by the superintendent of Indiana's Training School for Boys, who pointed out that most of the youth in that training school are not being trained, and can be better treated and trained elsewhere. We are trying to provide a judge different alternatives. You mentioned Louisville. We have had a juvenile court judge from Clark County, just across the river from Louisville, testify. He now, unfortunately, has passed away. In the year about which he was reporting, the initial year of an intensive probation and foster care project. they had a 95-percent success ratio. I am not talking about juveniles leaving the premises during detention, but about a year in which 95 percent of those who after appearance before the juvenile court were assigned to various foster home setups did not get involved in any other type of criminal activity. If you compare this with 74- or 75-percent recidivism rate for juveniles in most jurisdictions, it seems that this success story ought to be a compelling reason to change what we are doing.

Is unenlightened treatment of juveniles a consistent problem?

Mrs. SARRI. I think there is no doubt about that, and a survey that we are in the process of doing of juveniles across the country also indicate that people are not using probation, and group and foster homes. They are not using these alternatives and yet these alternatives are far cheaper, they are easier to use. There is no reason why rural areas, as well as cities, cannot have local group and foster homes. But, they are not being used as extensively as the more stringent kind of public intervention and they could be. It seems to me that it is a terrible travesty of justice when the juvenile report on the average being held 2.6 times in jail versus 1.6 times for probation, when they are only 15 years of age.

Senator BAYH. I talk to many very well intentioned people. They want to do the right thing as far as youngsters are concerned, but they are very frightened about the entire scope of the crime problem and how they can keep their cities, their small towns, and their families safe and secure. The normal response is that these are troubled youth, they are problem youths, we need to teach them a lesson. People believe that a short stay in the county jail or locking them up with 500 other youngsters in a detention home will teach them a lesson. Those who recommend this kind of program do so with the feeling that this is the way to diminish juvenile delinquency.

I have worked with my staff and we have introduced a number of legislative proposals. We have held many investigations and hearings. One of the bills—the Runaway Youth Act—passed the Senate and, hopefully, it will pass the House. I don't have any panacea. I don't know whether my Runaway Youth Act will help. I think it will. I don't know whether the Juvenile Justice and Delinquency Prevention Act, will help but I hope and I think it will. Now, however, we are faced with the existing system. Has the present program worked?

Mrs. SARRI. No; the present program hasn't worked at all. I can say the same thing that Edith Abbott said in 1916, when she said the jails weren't working and should be abolished. We keep using them. We have never really tried service and rehabilitation efforts in terms of the requirements that are necessary to provide service to people. We have only really tried custody. I think Lynn, who is only 16 years of age, has been in something like 26 jails and detention facilities which is exemplary of very undesirable circumstances that didn't work. The same thing was true in Kenneth's case. If it was to teach them a lesson, to put them in a custodial environment, there is no evidence that it worked at all. If you take a pragmatic approach it is just not the answer, but we have never tried rehabilitation.

Senator BAYH. The evidence is that it failed dismally. Maybe we don't have a magic formula in some of our new programs, maybe we can't predict with absolute certainty that they are going to be successful 100 percent, or even 50 percent of the time, but we can say with absolute certainty that what we have been doing has been failing better than 70 percent of the time. So, it only stands to reason that we must find some different way of solving the problems before us.

Mrs. SARRI. I think there is also evidence of what happened in a number of European countries to juveniles where the intervention of the state is much less frequent and much less stringent. You can't confine a juvenile in jail in England or Scandinavia and they tend to have lower rates of juvenile crime. It looks like if we can use by analogy some of the evidence from other countries that they have similar levels of industrialization and types of family life but other alternatives work far better. I think that there is no reason for the community to be alarmed. Most of these juveniles we see started out by running away, or with truancy, or incorrigibility, and they are no threat. These are not the people that we talk about in street crime but they are put into jail, and they are socialized to crime. And then as Ollie Keller, the head of the Youth Services in Florida, said, "we have good reason to be concerned about them when they come out of jails and detention facilities."

Senator BAYH. It is an oversimplification, but all too often when we find a child that is a problem child, whether because of the problem home, the problem parents, or just the abnormality of the child, instead of actually correcting, reforming, or rehabilitating that child, as our correctional reformatory institutions are intended to do, we put them in an institutionalized setup where they learn more about crime than they possibly could on the street. As Lynn points out: How in the Sam Hill are you going to help a 14-year-old problem child by putting her in a jail cell with prostitutes?

Mrs. SARRI. Nothing could happen. The lesson can't be learned.

LYNN. I think, as far as detention places and stuff, I think there are some pretty good programs that have helped me, but there are some

that really made me want to go back on the street again and start doing the things that I did wrong before. But right now, this program I am in at the training school that everybody says is so bad is not as bad as that. The girls work with each other's problems. I am not into that because before I went there my problems had been already dealt with. But, I have seen a lot of girls that are doing better, and the girls decide when a girl is ready to leave. She goes up in front of the parole board with the girls and not just, you know, with the house parents or whoever is in charge. They just watch to see how the girl was doing because the girls all sit together and talk out their problems and then each of the girls works on it. When the girls feel you are ready to leave, all, not just one girl, you know, the whole group of girls, then they all get together and say, well, I think she should have a weekend, I think she should leave. That program is really working out pretty good. A lot of girls are learning, and a lot of girls I knew that went there have gone into the program, and they are out going to school and some are going to college and it is a good program.

But then I have been to places like I said, the detention home, where we just sat around for maybe 6 months at a time and didn't do anything but sit around. You go to school and the teacher gives you a book and you don't learn anything. You don't have to do it and nobody talks to you about your problems.

Senator BAYH. Lynn, I would like to spend half a day just sharing your experiences. Professor, you have been very kind. I want to thank you very much. Kenneth and Lynn, I want to thank you very much also. I appreciate your sharing your experiences with us.

[Mrs. Sarri's prepared statement is as follows:]

PREPARED REMARKS BY ROSEMARY C. SARRI

DETENTION OF YOUTH IN JAILS AND JUVENILE DETENTION FACILITIES

Dispite frequent and tragic stories of suicide, rape, and abuse of youth, the placement of juveniles in jail has not abated in recent years. The overuse of jails for adults and juveniles has been denounced by justice system personnel and lay critics, but this criticism has not produced any significant change in the vast majority of states. In 1923 Joseph Fishman referred to jails as "giant crucibles of crime" (Fishman, 1923); certainly today, fifty years later, no one would disagree with that characterization of the average jail in every state. Even earlier, in 1916, Edith Abbott advocated the abolition of county jails because of their failure during the previous fifty years. More recently, similar statements were made in 1967 and 1973 by National Commissions appointed to formulate policy recommendations on criminal justice. There is, however, no reason to be optimistic today about reductions in the jailing of children unless dramatic efforts are made and legislation is implemented that will require significant changes in current practices. Regardless of the reasons that might be put forth to justify jailing juveniles, the practice is destructive for the child who is incarcerated and dangerous for the community that permits youth to be handled in clearly harmful ways.

An accurate portrait of the extent of juvenile jailing in the United States does not exist. Furthermore, it is difficult to develop one because of the lack of reliable and comparable information from the cities, counties, states, and federal government. But, we do know that the jailing of juveniles occurs both in rural areas where available alternatives for custody of children are limited, and in larger metropolitan communities where the valume of children detained is high even metropolitan communities where the volume of children detained is high even

The only comprehensive information avaielable today about jailing practice is that contained in the National Jail Census conducted by the Department of Justice in 1970. That census reported a total of 7,800 juveniles in 4,037 American jails on a given day in March (LEAA, 1970). This total, however, included

only those children in facilities that held persons for forty-hours or more. Not included were police lock-ups or "drunk-tanks," which normally detain persons including children, for shorter periods (of time). Data about these latter facilities are nearly impossible to obtain because of the lack of adequate record-keeping.[1]

It is not sufficient to know the number of children in jail on a given day. One also needs to know the total number who are confined within a year. A survey by NCCD in 1965 reported an estimate of 87,951 juveniles jailed in that year. More recent comparable data are not presently available, but most knowledgeable persons would today estimate a far higher number—in some cases as high as 300,000 minors in one year. For example, a survey completed in 1968 in one urban state, which had a below average rate of juvenile jailing in 1970, projected a total of 10,000 children in jail that year. Actual data available for that same state in 1972 indicated that a total of 25,332 juveniles (19,313 male, 6,019 female) had been processed through municipal and county jails. This represents a substantial increase in a relatively short period of time. If we assume that the changes that occurred in this state are not atypical (and we have no reason to believe that they are), then it is probable that 200 to 300,000 children will be processed through local jails this year in the United States. And, this is the last quarter of the Century that opened with the founding of the Juvenile Court, which was to remove minors from jails and the adult criminal justice system.

Although we lack adequate information about recent trends in jailing juveniles, some information is available about relative utilization among the states. In the National Census jails holding juveniles were found in nearly all states except Hawaii, Massachusetts, New Hampshire, Vermont, and three other states not included because all maintain state systems rather than local city or county jails—Connecticut, Delaware and Rhode Island.[2] Although the number of jails that held juveniles varied in each state, it is nevertheless clear that the problem of jail detention of juveniles is a national problem—not a regional phenomenon.

Of the 7,800 juveniles in jail, 66% were awaiting trial, compared to 50.9% of the total adult population in jail who were awaiting trial on other legal action. Regional comparisons of the percentages of juveniles detained in jails prior to hearing and adjudication show considerable variation. In the Northeast, 54% of juveniles in jail were awaiting trial; in the North Central region, 83%; in the South, 87%; and in the West, 90%.[3] Most juveniles (7,687) were jailed in cities with populations exceeding 25,000. From a total of 4,037 jails included in the survey, 2,822 received juveniles according to various types of retention authority, with the largest number permitted to hold only juveniles who were unarraigned or awaiting trial.[4]

Not all juveniles located in the Census were in jails for the purpose of detention prior to a hearing or trial as the findings in *Table 1* reveal. 856 jails held juveniles who had been convicted and were awaiting further legal action. 765 jails in forty-four states and the District of Columbia held juveniles serving sentences of one year or less, and, even more surprisingly, 67 institutions in 24 states held 2,218 juveniles serving sentences up to one year or more. Some may argue that, although undesirable, it may be necessary to confine children in jail because of the total lack of any other alternative, but it is impossible to believe that there could be a rationale for *sentencing* minors to jail under any circumstances.

[1] There are almost no data available about the number of juveniles held in lock-ups or the length of time which they are detained. Various estimates have been made, but it is probable that they underestimate the use of this practice.

[2] These data do not indicate that persons including juveniles are not held in jail-like facilities in these states. The national census covered only locally-administered jails; thus, it cannot be determined whether persons were held in facilities to jails in Connecticut, Rhode Island, and Delaware.

[3] The large number of juveniles sentenced to jail in the New York City Reformatory and the New York City Adolescent Remand Shelter account for this distribution in the Northeast.

[4] "Retention authority" refers to the authority to hold persons in various stages from pre-arraignment through sentence periods of more than one year.

TABLE 1.—JUVENILES IN JAIL: MARCH 1970[1]

Status	Number of juveniles	Number of jails by type of retention authority[2]
Unarraigned or held for others	2,104	2,785
Awaiting trial	3,054	2,289
Convicted, awaiting action	424	856
Serving sentence:		
1 yr. or less	1,365	765
More than 1 yr	853	67
Total	7,800	4,037

[1] Data from the National Criminal Justice Information and Statistics Service, LEAA, U.S. Department of Justice, "1970 National Jail Census," pp. 10–14.

[2] Jails may have retention authority that covers several statuses. Thus, the total exceeds 4,037 if the categories are added together.

These national data can be better understood if we examine further information about jailing practices in one or more states. A recent survey in Illinois indicated that juveniles comprised 6% of the total jail population (some 10,000 youths) (Mattick and Sweet, 1969). The findings also showed that the juvenile jail population was relatively stable over a two-year period—in fact, it evidenced the least fluctuation of any of the inmate groups. Of the 160 jails included in this census, 142 held juveniles, but of these, only *nine* jails had facilities for the segregation of juveniles from adult offenders. There was no marked difference in the use of county or city facilities, for 5,580 were held in county jails and 4,671 were in city facilities. Programmatic information about the Illinois jails is of concern in the handling of juveniles. Less than 50% of the Illinois jails had any routine medical examination or care, despite frequent assertions that juveniles who are detained are more likely to be mentally or physically ill than adult detainees. Eighty-two percent of the jails had less than 45 square feet of space per person, far below the ACA recommendation of 75 square feet per person. Only 15% had active supervision of inmates. The latter is particularly problematic for juveniles may be subjected to adult abuse, with little interference when staff supervision is lacking.

Offense characteristics

It is difficult to categorize the percentages of jailed juveniles by the offenses they have allegedly committed. In upper New York state, according to a recent NCCD survey, 43% of the children held in local jails were allegedly PINS offenders ("persons in need of supervision"), who had not been charged with a misdemeanor or felony (NCCD: New York, 1971). Nevertheless, it was asserted that the majority of these youth were being held because there were no available detention facilities. Obviously insufficient consideration had been given to alternative means of providing assistance to them. Child suicide in jail becomes all the more tragic when it is apparent that many juveniles are incarcerated who pose no threat to society, but, rather, need help.

Although the large majority of juveniles who are jailed or held in juvenile detention facilities are males, the types of offenses for which they are held are generally quite different from those of females. Females are more likely to be detained for status offenses than are males, and for longer periods of time (Velimesis, 1969). The Pennsylvania AAUW study of women and girls in jail in that state reported that most were held for offenses against the public order, family, or administrative officials. Substantially intercounty variations were also observed: several counties had no juveniles among the female offenders, while in other counties, the rate was as high as 18%.

In a study in another eastern state, Pawlak (1972) observed that juvenile status offenders, especially females, were detained more often than were those

who committed crimes against property or persons. The presence of juvenile detention facilities did not prevent the utilization of jails in many counties in that state. Moreover, judges reported explicit choice of jails for juveniles in order to "teach them a lesson." Pawlak also noted that the number of prior court contacts was more highly correlated with detention in jail than the type of offense. Those who were charged with crimes against persons were more likely to be detained than those charged with property or victimless crimes, but the former were generally detained less than youth charged with status offenses.

A Montana Jail Survey (1972) reported that dependent and neglected children were held in jail "when necessary," and more than 50% stated that juveniles were placed in jail as a "deterrent" even though there was no formal charge of any type. These juveniles could be held for indefinite periods of time since only a few counties or cities had any type of mechanism for controlling the maximum number of days a juvenile could be held in jail.

Physical conditions in jails

For an assessment of physical conditions in jails one must rely on (several) surveys that have been completed in a few states. Mattick (1969) reported that most jails were more than fifty years old, dilapidated, and designed to service only the most dangerous offenders. Almost none have been constructed to permit humane segregation of juveniles from adults or of unsentenced from sentenced offenders. Sanitary conditions, food, exercise facilities, fire control, and so forth almost never met basic minimal public health requirements.

A 1971 survey in Montana by the Governor's Crime Control Commission dramatically highlights the inadequate physical conditions of nearly every jail in that state. Furthermore, these conditions tended on the average to be even worse for juveniles because only a relatively small proportion of the total jail population in that state consisted of juveniles. Food expenditures seldom exceeded $2.25 per day and two meals a day was a typical pattern for juveniles as well as for adults. In both of these accounts the lack of any medical or dental examination or care was particularly noteworthy. Moreover, there were no facilities for handling suicides or physical assaults so as to protect human life. These findings are further corroborated by the numerous accounts in the media of inhumane, unjust, and unhealthful conditions. Solutions to more effective and humane conditions have been developed by Moyers and Flynn (1971) and others, but for juveniles the most obvious first solution is to prevent their experiencing such conditions under any circumstances.

Juvenile detention

It is obvious that jailing juveniles is a substantial problem in the United States, but it is insufficient to castigate the "jailers" without examining the entire question of detention. Detention is probably the most significant phase in the criminal justice process because it is the initial critical contact for many juveniles. The detention process, however, has been largely ignored, and little effort has been directed toward study, change, or innovation. As a result, there is little awareness of the overwhelmingly negative outcome that most juveniles experience from detention.

Detention in physically restricting facilities built for the exclusive use of juveniles has been characterized generally as positive when contrasted to juveniles in adult jails. Although many juvenile facilities may be more healthful or humane than their jail counterparts, they still are jail-like facilities and are often even located adjacent to the jail. Confinement in such a facility may be equally harmful, particularly in cases where the person has not committed a criminal violation. A report of the findings of a committee appointed to investigate New York City's three juvenile detention centers stated: "At the Spofford Juvenile Center . . . it found inadequate light and heat, a dangerously warped gymnasium floor, and a fire alarm system in disrepair. It also reported finding weak and falling plaster, cracked ceilings, faulty plumbing and poor lighting at the Monida Juvenile Center . . . (NCCD, 1971).

Although there has been little court action regarding juvenile detention, two recent court decisions. *In Re Baltimore Detention Center* and *Patterson vs. Hopkins*, have sharply criticized conditions in juvenile detention facilities. Judges' opinions indicate that conditions must be modified or children will not be detained in such facilities. Needless to say, however, these decisions are not as significant as *Jones vs. Wittenberg* or *Wayne County Jail Inmates vs. Wayne County Board of Supervisors*, which also have a substantial impact regarding the jailing of adults.

It has been estimated that between 400,000 and 488,000 juveniles are held annually in juvenile detention facilities, with an average daily population estimated at 13,000 (NCCD, 1971). Thus more juveniles are held in juvenile detention than in jails and lock-ups. In 1965, it was reported that two-thirds of all juveniles in detention remained there an average of twelve days (NCCD, 1965). This time period varies markedly among jurisdictions; for example, a Louisville study reported an average length of stay of four days (Haarman, 1972). Intake pressure is also likely to be a factor in length of stay because many facilities report serious overcrowding—far beyond rated or bed capacities. The overall average rate of detention has been estimated at about 35% of court caseload size (NCCD, 1971). Guidelines from NCCD, however, recommend that no more than 10% of the caseload need to be in detention at any time.

Pappenfort et al. (1970) compiled a census of juvenile detention facilities that is the most comprehensive survey available. They found 10,875 juveniles in 242 juvenile detention units on a given day in March, 1966. Of these, 6,260 were children between the ages of 12–15 (the median age of all detainees being 14.7); 2,490 were between 16–20; 800 were 6–11; and 81 children were under the age of two. Obviously, many of these facilities held dependent and neglected as well as delinquent youth. Nearly 7,000 of these children were in 37 institutions that held 76 or more juveniles. Some 3,000 were in 71 institutions with 25–75 each, and some 1,500 were in 134 units with 25 or less juveniles. Children in the smaller units tended to be in the 15–20 year age group, while the majority of children in the large units were in the 12–15 age group. The highest proportions of young children were found in the largest agencies in the metropolitan areas suggesting that these areas apparently lack both formal and informal resources for children without homes.

The number of males was more than twice the number of females in these facilities. It was also observed, however, that females appeared to have longer average lengths of stay than males and that females were much more likely to be detained for status offenses. The average length of stay was one month for the total population.

Eighty percent of the facilities were in metropolitan areas and these units held 93% of all detainees. Although these areas held one-half of the detained youth of the country, the facilities themselves were in only 7% of the counties. Thus, most juvenile courts do not have a detention facility for which they are primarily or solely responsible.

Few professionally trained staff were observed in the detention facilities surveyed. Only 26% of them had full-time professionals trained in psychiatry, psychology, social work, or education. For the most part, professional services were contracted for and were provided on a part-time basis by persons not directly responsible to the administrator of the facility. Thus, the detention facility could not be assured of having professional services available when they were needed.

Nearly all (216 out of 242) were operated by county governments with eleven state, nine municipal, and six private units. Regional detention centers were operated in eight states, and two other states provided state subsidies for detention. In only twenty states was any type of consultation provided by the state to the local units even though many localities had few resources and lacked knowledge of new developments in detention programming.

Although 80% of the juveniles received some type of physical exam at admission, 29% of the units had no examination of any type. Less than one-half

had psychiatric or psychological examinations despite the assertion that nearly 80% of the juveniles were emotionally disturbed or ill. No arrangements were made for education in 23% of the units. Thus, if the purpose of detention is to provide secure custody for those requiring it and to facilitate observation and study so as to prepare the detained youth for later efforts at rehabilitation, then these data suggest that the goals are not being met. Determination is a "waiting period of enforced idleness that is destructive to the child and of little utility to the criminal justice system (Pappenfort, 1972).

Findings similar to those of Pappenfort were obtained by Sumner (1971) in a survey of California juvenile detention facilities. This is particularly noteworthy because California instituted detention hearings in the early 1960's and has been active in innovation of detention practices. Summer observed that few juveniles had defense counsel in detention hearings despite their right to it. Most hearings took less than three minutes. The overall rate of detention was 36% of the caseload with counties varying between 10% and 66%. Although police were not allowed to make detention decisions, they claimed that they, in fact, made more decisions than anyone else. Probation officers and other court personnel appeared to give tacit approval to this police behavior.

Blacks were detained more frequently than whites as were juveniles from broken homes and those with prior records. In fact, decision-makers reported that the prior record and history of running away were their main concerns in arriving at detention decisions. Few courts had even minimally adequate information systems so that accountability and quality control of decision-making were almost impossible.

Within states, detention practices vary widely, as the findings from a study of an Eastern seaboard state by Pawlak (1972) indicate. He observed rates of detention varying between 2% to 72% of the caseload. Moreover, little or no relationship existed between the presence of a juvenile detention facility and the jailing of youth. In accord with other studies, he observed that females had a higher probability of being detained than males; furthermore, they were more likely to be detained if they committed a status offense than if they committed a crime against person or property. Those juveniles who had prior court contact were likely to receive jail detention even when they were charged with offenses that were not a threat to the community. Race was a factor in differential detention, but, typically, it interacted with sex and social class so that a clear-cut pattern was difficult to discern.

The findings from these several studies of juvenile detention do permit some tentative conclusions about the facilities and the programs. They indicate quite clearly that many children are detained who do not require detention; that metropolitan areas appear to be particularly lacking in alternative means for the care of children; that conditions and programs in most detention facilities do not meet minimum levels of adequacy; that extreme variations in rates of detention among counties are not solely related to the presence of detention facilities; and that agencies lack information about their practices, so evaluation is almost impossible.

Jail and Detention Rates

An obvious question is what is the rate of detention relative to the need in the various states? Are there substantial variations in the rates of jailings and detention in juvenile facilities among the states? Are there variations within states even when population differences are taken into consideration? Any attempt at comparisons among the states is difficult because of the lack of adequate data collected at the same point in time. Examination of numerous surveys done over the past quarter century, however, suggest that there has been notable stability in the population of jails and detention facilities. There are two censuses available that provide some basis for comparison. One is the National Jail Census that was completed by the Department of Justice in March 1970, which we have already considered, and the other is the Pappenfort et al. census of juvenile detention facilities completed in March 1966 (Pappenfort, 1970).

TABLE 2.—NUMBER OF JUVENILES IN JAIL AND DETENTION, BY STATE

State (ranked according to child population, 5 to 17, 1970)	Number in jail [1]		Number in juvenile detention [2]	
	Number	Rate per 100,000 [3]	Number	Rate per 100,000 [4]
California	188	3.76	3,914	84.40
New York	4,550	—04.47	790	18.71
Texas	169	5.63	205	7.15
Pennsylvania	254	8.69	454	15.98
Illinois	106	3.70	473	17.75
Michigan	29	1.18	610	26.60
Ohio	203	7.20	593	21.77
New Jersey	126	7.01	389	23.63
Florida	142	8.83	641	45.17
Massachusetts			122	7.56
Indiana	249	17.97	225	17.40
North Carolina	37	2.79	73	5.49
Georgia	132	10.79	282	23.67
Wisconsin	79	6.57	78	7.06
Virginia	172	14.38	146	12.62
Missouri	55	4.65	163	14.69
Minnesota	73	6.95	49	5.05
Louisiana	61	5.87	83	8.16
Maryland	106	10.22	104	11.12
Tennessee	79	7.89	53	5.31
Alabama	87	9.33	60	6.23
Washington	40	4.55	229	29.58
Kentucky	78	9.25	73	8.69
Connecticut [5]			29	4.19
Iowa	41	5.52	10	1.39
South Carolina	41	5.70		
Oklahoma	48	7.51	19	3.14
Mississippi	71	11.67		
Colorado	47	7.99	101	19.27
Kansas	75	13.13	77	13.20
Oregon	59	11.04	158	31.60
Arkansas	45	9.05	18	3.58
Arizona	33	6.80	112	25.57
West Virginia	52	11.76	24	5.01
Nebraska	44	11.36	35	9.33
Utah	10	3.20	68	22.59
New Mexico	46	14.83	57	18.56
Maine	2	.77		
Rhode Island [5]				
Hawaii			36	18.27
Idaho	42	21.10		
Montana	53	27.04	4	2.05
New Hampshire				
South Dakota	26	13.90		
North Dakota	3	1.71		
Delaware [5]			22	16.29
Nevada	15	11.90	21	19.09
Vermont				
Wyoming	25	27.17		
Alaska	2	2.27	7	9.09

[1] LEAA jail census, March 1970.
[2] Pappenfort et al., Census of Children's Institutions, March 1966.
[3] Rates were calculated per thousand population, ages 5 to 17, U.S. Census publication, "General Population Characteristics: Final Report" PC (1)-B, 1970.
[4] Rates were calculated per thousand population, ages 5 to 17, estimates of the population of States, by age: July 1, 1965, with provisional estimates for July 1, 1966, "Current Population Reports: Population Estimates, Series P-25," No 350, U.S. GPO (1966).
[5] Jails are not locally administered, but rather are operated by the State government.

The findings in *Table 2* indicate that there are markedly different rates of detention when controls are imposed for size of the child population in the state. In seven states all children detained were held in jail, but the rate of jailing among these states varied from 1 per 100,000 in Maine to 27 per 100,000 in Wyoming. The two largest states, California and New York, both have high rates of child detention, but juvenile facilities are utilized extensively in the former state, while the latter has a large number of juveniles in jail. At the opposite extreme, there were seven states with no juveniles in jail and three of that number had no children detained in any facility. Some of these states may use state training schools for detention, but we have no information about this utilization, if any.[6] There are twenty-one states in which comparisons indicate more juveniles were held in jail than in detention, and several other states in which the distribution was nearly equal. Thus, the use of jailing was extensive.

At the present time we are in the midst of a survey of a representative sample of correctional programs of various types in sixteen states. Of the more than 700 youth responses analyzed thus far, 60% report having been in jail one or more times. Females rather than males report more frequently jailing despite the fact that the commitment offense for the majority of females is a juvenile status violation, not a misdemeanor or felony. Although more older youth reported having been in jail, 50% of those now between the ages of 13–15 report having been in jail one or more times in the past. As might be expected also, these youth

[6] There are statutory provisions in the Juvenile Codes in 24 states which permit detention in state training schools; only 8 prohibit such detention and in 18, there is no provision in the code.

disproportionately represented the minority and working class population of the states in which they were located. These data obtained in 1973 are entirely consistent with earlier data which we have already discussed. Thus, the picture appears to be of little change or perhaps negative change with respect to the jailing of youth.

Other responses from these same youth suggest that alternatives other than secure incarceration are insufficiently utilized. The data in Table 3 indicate that juveniles more frequently experience institutionalization than probation, foster home and other less stringent forms of intervention. It is also apparent from these findings that youth in institutions differ little from youth in community-based programs in terms of their experiences in jails and detention. Thus, there is little support in these data for the assertion that juveniles with more extensive experience in the criminal justice system are those who are institutionalized. Lastly, given the average age of the youth, approximately 16, these data point to a great deal of prior experience in the criminal justice system. A pessimistic prognosis for their future behavior and experience would, therefore, not be unusual. If we are to achieve higher rates of successful rehabilitation of juvenile delinquents, early intervention by the state into the lives of children will have to be rehabilitative rather than incarceration in jail where rehabilitation cannot take place.

TABLE 3.—CORRECTIONAL EXPERIENCES REPORTED BY JUVENILES[1]

Type of correctional unit	Average number of times: Institutionalized youth	Average number of times: Youth in community based programs
Jail	2.6	2.0
Detention hall	3.6	4.1
Training school	1.4	.5
Probation	1.7	1.5
Group or foster home	.8	1.0
Juvenile court	4.4	4.6
Police arrest	6.5	6.2
N	628	136
Average age	[2] 15.8	[2] 16.0

[1] Youth were asked: How many times in your life has each of the following happened to you?
[2] Years.

These comparison of state rates of detention and jailing and responses of youth about their experience are not conclusive evidence about utilization and outcome of jailing, but they do indicate that the problem is complex with few generalizations possible as to why minors are detained. Urbanized states have both high and low rates as do rural states. There is no clear pattern by region of the country, nor according to size of the child population. As we shall note subsequently in a discussion of juvenile codes, statutory provisions will not solely explain the pattern or rate. It appears instead that these patterns are an outgrowth of localism and tradition. The local community in the United States has much autonomy and discretion in the detention of adults and juveniles. Only in those states where state government has taken an active role in the administration and/or supervision of jails does the pattern show a consistent difference. In the other states it is possible for organizational practices to develop and endure with much variation from one community to the next. Lack of resources, lack of effort in trying to develop alternatives to detention, lack of accountability by decision-makers, and lack of adequate information systems that could monitor the jailing of juveniles and the reasons for detention, all contribute to the persistent use of frequent and unnecessary incarceration. Obviously, we have only scratched the surface in developing means for reducing the population of children detained in nearly all of the states.

Statutory Provisions re Jailing and Detention

Jailing. Statutory limitations can be an important constraint on the elimination of juveniles from jails. Although most statutes recommend against placement of children in jails, in only five states is there an explicit prohibition against jailing under all circumstances. The kind of facility in which a juvenile is detained is determined, in large part, by state statutes. If the state places strict

prohibitions on the placement of juveniles in jails or lock-ups, counties will be, in effect, forced to provide alternative detention facilities or not to detain children at all. The findings in *Table 4* reveal wide variations among the states in statutory provisions governing the placement of children in jail.

Table 4.—Statutory provisions governing jailing of juveniles[1]

Statutory Provision:	*Number of States*
Under no circumstances	5
If approved by department of social services	2
With a court order	13
Without a court order if 15–16	7
Without a court order if 12–14	6
Without a court order if a "menace"	4
In separate sections	13
Any time, any place	1

[1] These data are based on an analysis of all juvenile codes in the 50 States and the District of Columbia, as of Jan. 1, 1972.

The provisions which legislatures have enacted range from one Eastern state where only a nursing infant of an adult prisoner is allowed in jail to a neighboring state where there is no statutory prohibition in any form. Ten states require a court order only for detention in jail. Two states require approval by the State Department of Social Services. Thirteen states allow jail as a detention alternative if the child has reached a certain age. This age may be as low as twelve years or as high as sixteen. Four states allow the juvenile to be transferred to a jail or lock-up without a court order if he is deemed to be a "menace" in the juvenile detention facility. Ten states allow a juvenile to be jailed merely if no other other facilities are available, but add a requirement that they be kept in separate sections away from adult prisoners. Five other states only require separate sections, while two states have no prohibitions on jailing. As the findings from the Mattick and Sweet (1969) study of Illinois indicate, separation of juveniles may be largely fictious, for seldom is there effective inspection and monitoring. Furthermore, in cases where there is separation, the result may be solitary isolation, which apparently led to suicide in several instance (U.S. Senate, Judiciary Hearings, 1970). The unfeasibility of separate sections in jails was illustrated vividly in a recent report in Detroit where a 16-year-old boy was jailed in the Wayne County Jail with older males while awaiting trial, despite repeated attempts of his attorney for other arrangements. The jail administrator said:

> . . . because of jail overcrowding, the only alternatives for _____ are incarceration with even older prisoners or remaining with his present group . . . a completely separate cell for _____ was out of the question . . . the jail is caught between courts wanting offenders treated as adults and statutes requiring them to be specially cared for. (Benjamin, 1972)

Given the fact that juveniles are often assaulted, raped, or commit suicide in jail, it is unlikely that an argument can be made to support the assertion that a juvenile is jailed for his own protection. Moreover, studies have repeatedly reported that juveniles who are detained for status or moral offenses are held for longer periods of time than are those who commit serious felonies (Haarman and Sandefur, 1972). There is little doubt that at least some of this jailing is primarily for the convenience of the family or school.

Detention.

One statutory device used to keep juveniles out of jail is to require counties to provide specialized detention facilities for juveniles entirely separate from those for adults. This provision is not found frequently, however, probably due to the uneven distribution of cases among counties in nearly all states. Ten states require all counties to provide separate detention facilities, but as the Pappenfort et al. (1970) findings indicate, these facilities may be adjacent to adult jails in many locations. Seldom is there any specification in the statute about the type or quality of facility that it is to be provided. Eight other states require counties with large populations (generally over 100,000) to provide separate juvenie detention. Three states have state operated faciities. In the remaining thirty states, facilities are not required, but there is some type of en-

abling legislation which permits county boards to provide facilities if they choose to do so. Several states also have enabling legislation for regional detention centers. Thirty-six states specify that detention of juveniles is approved in court-approved foster homes or in licensed child-caring institutions. Only a minority of states have legislation which requires the segregation of dependent and neglected from delinquent youth. Obviously a change in this practice could be readily achieved through the use of foster homes were greater resources allocated to the latter.

Also of importance in controlling detention are the statutory provisions governing detention hearings, time limits for holding juveniles, and purposes of detention hearings. If a juvenile is taken into custody through the petition-summons or arrest route, the findings in Table 5 indicate that nineteen states require that a detention hearing be held within a certain period of time. There is, however, considerable variation as to the time period, with nine states requiring a hearing within 48 hours, five with 96 hours, and five stating that it should be held "promptly." In one state, a hearing may be held if the juvenile requests it. Seventeen states require only a court order, not a hearing, to place a child in detention, and again, there is considerable variation among these states as to the length of time in which a court order must be filed. In the remaining fifteen states, the statute does not require a court order or detention hearing in order to place a child in detention. Furthermore, there are no time requirements in these states as to when a petition need be filed apprising the juvenile or his attorney of the offense he has allegedly committed.

TABLE 5.—*Statutory Provisions for Detention Hearings*[1]

	Number of States
Statutory provisions:	
Hearing required within 48 hours	9
Hearing required within 96 hours	5
Hearing required, no time limit	5
Court order only, within 96 hours	11
Court order only, no time limit	6
No hearing or court order required	15

[1] These data are based on an analysis of all juvenile codes in the 50 States and the District of Columbia, as of Jan. 1, 1972.

The statutes typically contain little information as to what is to be determined in a detention hearing even if one is held. A detention hearing does not necessarily determine whether there is probable cause to believe the juvenile committed an offense. More likely, and with some statutory justification, a detention hearing determines only if there is reason to hold the child in detention either for his own protection or because it is likely that he will flee from the jurisdiction of the court. Because the criteria for detention are so ambiguous, it is not surprising that children are held in detention facilities or jails on vague grounds and with no clear determination that detention is in fact necessary.

The often-proposed argument that juveniles are likely to flee, and thus require detention, can be easily refuted by findings such as those from the Louisville court study which indicated that only 2.7% failed to appear in court.[6] More recently, findings from a demonstration project on home detention in St. Louis indicate no instances of a youth failing to appear and only 5% who committed new offenses while on home detention (Keve and Zantek, 1972). Furthermore, none of these offenses were assaultive in nature. In *In re John Doe*, the Alaska Supreme Court held that a child may not be detained pending adjudication if the court has been given reasonable assurance that he will appear unless "he cannot remain at home and no other alternative to detention remains." Obviously, in the latter situation, foster homes and shelter care are preferable alternatives.

A recent federal district court case, *Hamilton* vs. *Love*, held unconstitutional many features of an Arkansas county jail. The judge's opinion deals with constitutional issues which appear applicable to juvenile jailing and detention. The judge enunciates the test of "least restrictive means:"

"Having been convicted of no crime the detainee should not have to suffer any punishment as such, whether cruel or unusual or not . . . It is manifestly obvious

[6] The poorer risks regarding failure to appear were females charged with status offenses; males with a multiple offense history and charged with a serious felony were more likely to commit offenses while on release. Knowing this, however, permits consideration of these factors in detention decisions.

that the conditions of incarceration for detainees must, cumulatively, add up to the least restrictive means of achieving the purpose requiring and justifying deprivation of liberty.

". . . If the conditions of pre-trial detention derive from punishment rationale, such as retribution, deterrence, or even involuntary rehabilitation, then those conditions are suspect constitutionally and must fall unless also clearly justified by the limited and stated purpose and objective of pre-trial detention.

". . . If the state cannot obtain the resources to detain persons awaiting trial in accordance with minimum constitutional standards, then the state simply will not be permitted to detain such persons."

There seems to be little doubt regarding the applicability of these findings to many instances of juvenile jailing and detention.

Because of the limited scope of a detention hearing, eleven states have enacted provisions setting time limits on the length of detention prior to the adjudicatory hearings. However, with little effective monitoring of children in these facilities, it would be expected that the time spent in detention would be longer in many cases than the statute permits. Juvenile statutes typically contain no provision that there be any regular monitoring of courts and detention programs. Without such provisions, the system is severely handicapped because children, more so than adults, need to be located somewhere under some form of adult supervision. Thus, they are left in jail or detention because of the lack of referral to other facilities. This problem is frequently most severe in the children who are alienated and rejected by their parents and who are most in need of care. All too often they are charged with juvenile status offenses—truancy, incorrigibility, running away—not felonies. Such children may remain in jail or detention facilities for long periods of time with severe deterioration or death a far too frequent outcome (Judiciary Hearings, 1970, pp. 5077-5163). Few states implement provisions which permit alternatives to detention such as release on recognizance or promise to appear, bail, citations, or summons. Even where the statute encourages alternative forms of detention, these alternatives are utilized far less for juveniles than for adults. As Rosenheim (1970) suggests, juvenile detention units serve as "community storage facilities" for children who, for the most part, do not need nor should have secure custodial supervision. It is often argued that detention is necessary because the juvenile has "no place to go," but it is a sad commentary on this society when humane and open shelter facilities cannot be available to youth in need. Judge Lindsay Arthur of Minneapolis has stated that shelter homes provide more than adequate alternatives to the detention for a large proportion of the youth who are brought before this court.

Statutory provisions governing detention thus provide few constraints, except in a small number of states, against placing of children in jail or detention without a hearing or court order. The results of a California survey (1967) indicate many minors are detained without hearings one day or over a weekend when courts are not in session, and then released by probation staff or the judge because of unnecessary or inappropriate detention. Boches (1967) summarized this practice in his review of detention:

"In many counties, on every Monday, a large number of children who have been detained over the weekend are released without a petition being filed or without a detention order being sought. In the absence of a bail system, no alternative to compel release exists."

Obviously, practices such as these can be eliminated most efficiently if the codes are modified to prohibit explicitly the jailing of children and to prohibit assignment to detention without a hearing and court order, processed within 24 hours. In addition, codes can require the use of alternatives to detention that do not require any form of incarceration.

Action recommendations

The picture which has been presented of juveniles in jail and detention is such that the problem is not apt to be eliminated quickly. Our analysis, however, indicates that there are a series of steps which are imperative if jailing is to be eliminated and the general use of detention constrained We recognize that the states will continue to have primary control with respect to detenion and jailing practices, but the federal government could do a great deal to stimulate positive change through the provision of resources where such are needed and through the withholding of funds when abuses are observed. The recommendations which follow pertain to local, state, and in some cases, federal legislation and government practice.

1. Statutes should prohibit the commitment of juveniles to jail under any circumstances. Only those states which have strong prohibitions or have state control of jails have been successful thus far in eliminating the jailing of juveniles.

2. Statutes should provide for mandatory detention hearings with counsel provided and the detention decision the responsibility of the judge. Such hearings should be held within 24 hours of the juvenile's being taken into custody. It must first consider whether there is probable cause that he or she has in fact committed the act with which they are charged. The court then can decide whether detention is necessary because of the danger to others or because they are a serious risk in not being available to the court for subsequent processing. Although statutory provisions for mandatory hearings are the exception rather than the rule, such provisions are essential if detention and jailing is to be controlled (Ferster, 1969). Furthermore, it is now possible to develop criteria as to what is a clear danger and who is a risk. This should be done so that statutes can obtain the necessary provisions. We are in agreement with Rosenheim (1970) that jailing a child to protect him is inappropriate given the conditions for children in adult jails. It is difficult to see why self-destructive acts should ever be a basis for detention in jail. Hospitals and emergency clinics are far more appropriate referral agencies for the child who is a threat to himself.

3. Criteria for detention should be explicit and limited solely to acts which would be criminal felonies if committed adult. Wald (1968) has proposed that special civil actions and quasi-judicial mechanisms be substituted for juvenile court action in cases of truancy, incorrigibility, and other status offenses. Obviously, for this proposal to be effective community resources would need to be greatly enhanced, but implementation of this proposal would reduce criminal handling of much juvenile misbehavior.

4. As indicated above, it is recommended that judges be given the responsibility for decisions to detain, and constitutional rights available to adults should also apply in the case of juveniles in this decision-making. The Handbook of Juvenile Court Judges (1972) criticizes the indiscriminate use of detention as harmful to juveniles. They further specify criteria and standards for arrest, arraignment, and hearing so as to protect the child and his parents . . . ". . . The juvenile court has the sole responsibility for admission and release of these children and, therefore, should exercise caution and pay close attention to this particular process. Abdication of this authority to police officers, parents, educators and even detention personnel is inexcusable and will lead to the abuse of personal freedom guaranteed the child and parents, . . ." (Handbook, 1972, 21).

5. Rapid development of alternatives to incarceration of juveniles charged with criminal violations must be given high priority. Foster and shelter homes can provide alternative 24-hour supervision but of equal or greater importance is home detention with supervision and consultation to parents. The use of release upon the promise to appear could be implemented immediately in most jurisdictions for the majority of cases as the findings from detention studies in Louisville and St. Louis indicate. If this were done, the NCCD guidelines for detention of no more than 10% of the caseload could be achieved immediately in most courts. Although bail is negatively viewed by most students of juvenile law, it is available in more than twenty states. Some mechanisms are needed to facilitate the immediate release of juveniles who are charged with acts for which adults can be released on bail.

6. In view of the fact that there are seven states in which jail is presently the *only* available detention facility, it is obvious that regional detention units are needed for juveniles in these states. It is probable that some juveniles will have to be detained for limited periods of time, but because such centers are likely to be at a distance from the home of most offenders, the minimum age could be set at 15 years.

7. Jail inspections on a routine basis must be implemented in all states with the necessary resources and with inspectors responsible to the Department of Social Services or Supreme Court, rather than to the Department of Corrections, as is the case in many states today. These inspections must be frequent and mandatory so as to insure juveniles not being held in jail.[7] Frequent inspections

[7] An attempt was made to ascertain the number of suicides and serious acts of self-destruction by juveniles in jail. All of the agencies contacted indicated that such acts occurred, but no one had any data on their frequency.

must be accompanied by a comprehensive system for state-wide information collection and processing, and feedback if accountability and quality control are to be achieved. Such a system should permit randomized checking of detention populations and practices. The lack of routinely collected information about organizational practice is probably the single greatest constraint on change in corrections today.

8. Obviously, the use of jails for *sentencing* juveniles also must be prohibited explicitly. If it is necessary to sentence a juvenile to an institution, then a public training school or a private residential facility is where he or she should be sent so that an appropriate rehabilitation program might possibly be provided for him. It is overwhelmingly apparent that neither jails nor juvenile detention facilities have the staff and other resources for even a minimally adequate rehabilitation program. Mandatory jail inspection should insure that this practice does not continue.

9. Given the development of various alternatives to the use of jails and detention, it appears likely that higher age limits (for example, 15 years) could be established for detention. Such an action would mean that children 8–14 years would not be placed with older adolescents who may have committed serious felonies and might only socialize the younger person to deviant values and behavior.

10. Court defined and state-wide detention standards need to be established and distributed widely to all relevant agencies. Such information would reduce variable interpretations of statutes and highly disparate detention practices.

11. Legal counsel should be available to juveniles and parents immediately after detention takes place. Similarly, social investigations should not take place prior to a detention hearing and such information, when collected, should be made available to counsel.

12. The proposal of the National Task Force on Corrections for gradual state assumption of responsibility for all county and local detention is recommended. State consultation and supervision could begin immediately along with mechanisms for monitoring and supervising detention practices. Several proposals have been developed for statewide systems of approved and monitored facilities for detention so their implementation should be relatively easy (Norman, 1969). To encourage the development of alternatives for detention, the federal government could make special grants available for such purposes. In some states, activities of Youth Service Bureaus, for example, have resulted in the emergence of diversion and detention alternatives that are highly innovative and yet viable.

There are a variety of other recommendations which one could propose to reduce the jailing of children and excellent statements have been developed by the NCCD and many noted juvenile authorities. Throughout, one needs to bear in mind that far too often the outcome of juvenile contact with the criminal justice system has been behavior and attitudes which are more dangerous than those which led to the initial contact. Somehow this pattern must be reversed. Limitation of the mandate and domain governing juvenile detention along with modification of ineffective procedures, and of procedures which deny children fundamental civil and constitutional rights are at least the significant first steps to be taken.

Cases

Hamilton v. Love 328 F. Supp. 1182, (E. D. Ark. 1971).
In re Baltimore Detention Center (Baltimore City Court, August 2, 1971) 5 Clearinghouse Rev 550 (1972).
In re John Doe 9 Cr. L. Rptr. 2390 (Alaska Sup. Court July 9, 1971).
Jones v. Wittenberg 323 F. Supp. 93 (N.D.) Ohio, 1971).
Patterson v. Hopkins (N.D. Miss., September 23, 1971) 5 Clearinghouse Rev 478 (1971).
Wayne County Jail Inmates v. Wayne County Board of Commissioners, No. 173–217 (Circuit Court for the County of Wanye, State of Michigan, 1971).

References

Abbott, E. 1916—*The One Hundred and One County Jails of Illinois and Why They Should be Abolished.* Chicago: Juvenile Protective Association.
Benjamin, P. 1972—"Attorney to Fight Jailing of Boy, 16, With Older Teens." *Detroit Free Press* (November 25).
Boches, Ralph E. 1967—"Juvenile Justice in California: A Re-evaluation." Hastings Law Journal 19:73.

Cicourel, Aaron. 1968—*The Social Organization of Juvenile Justice.* New York: Wiley.
Dixon, Lynn and Davis, Stephen. 1972—*City Jails: A Call to Action.* Washington, D.C.: National League of Cities.
Emerson, Robert. 1969—*Judging Delinquents: Context and Process in Juvenile Court.* Chicago: Aldine.
Ferster, E. Z. and Courtless, T. 1972—"Juvenile Detention in an Affluent County." *Family Law Quarterly* 6 (Spring).
Ferster, E., Snethen E., and Courtless, T. 1969—"Juvenile Detention: Probation, Prevention or Punishment." *Fordham Law Review* 38 (December: 161–194.)
Fishman, Joseph. 1923—*Crucibles of Crime.* New York: Cosmopolis Press, 251–252.
Gottfredson, Don and Gottfredson, Gary. 1971—"Research–Who Needs It?" *Crime and Delinquency* 17 (January) : 11–22.
Governor's Crime Control Commission. 1972—*State of Montana Jail Survey.* Helena. 115+ pp.
Haarman, G. B. and Sandefur, B. 1972—*Analysis of Detention.* Metropolitan Social Services Department, Kentucky: Louisville and Jefferson County (May).
Handbook for New Juvenile Court Judges. 1972—*Juvenile Court Journal* eni 23 :1 (Winter).
Hughes, Thomas R. 1971—"Humanizing the Dentention Setting," *Federal Probation XXXV* (Sept.) : 21–26.
James, Howard. 1970—*Children in Trouble: A National Scandal.* David MacKay: New York.
Keve, Paul and Zantek, Casimir, 1972—*Final Report and Evaluation of the Home Detention Program, St. Louis, Missouri.* RAC–CR–64. McLean, Virginia: Research Analysis Corporation (October).
Klein, Malcolm, Cobrin, Solomon, McEachern, A. W. and Sigwidson, Herbert. 1971—"System Rates: An Approach to Comprehensive Criminal Justice Planning." *Crime and Delinquency* 17 (October) : 355–372.
Mattick, Hans and Sweet, Ronald. 1969—*Illinois Jails, Challenge and Opportunity for the 70's.* Chicago, Illinois: University of Chicago Law School.
Mattick, Hans and Aikman, Alexander. 1969—"The Cloacal Region of American Justice," *The Annals* (Jan.) : 109–117.
Moyers, Fred and Flynn, Edith. 1971—*Correctional Environments.* Champaign, Illinois: National Clearinghouse for Correctional Programming and Architecture.
National Council of Crime and Delinquency. 1961—*Standards and Guides for the Detention of Children and Youth.* New York.
1962—*Procedure and Evidence in the Juvenile Court.* New York.
1963—*Guides for Juvenile Court Judges.* New York.
1967—"Corrections in the United States." *Crime and Delinquency* 13 (January) : 1–112.
1967—*Survey on Corrections in the United States,* reprinted in President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report on Corrections:* Washington, D.C., United States Government Printing Office: 121.
1970—*Washington, D.C. Juvenile Detention Needs.* New York.
1971—*Juvenile Justice: A Study of Courts, Law Enforcement and Community Services for Juveniles in El Paso County:* Texas.
1971—*Secure Juvenile Detention Needs in Upper New York State.* New York.
Norman, Sherwood. 1971—*Guide for Use of Detention and Shelter Care for Police, Probation and Courts.* NCCD: New York.
O'Connor, Gerald G. 1970—"The Impact of Initial Detention Upon Male Delinquents." *Social Problems* 18 (Fall) : 194–199.
Pappenfort, Donnell, Kirkpatrick, Dee and Kirby, Alma M. 1970—*Detention Facilities.* Vol. 7 of *A Census of Children's Residential Institutions in the United States, Puerto Rico and the Virgin Islands, 1966.* Chicago: University of Chicago, School of Social Service Administration.
Pawlak, Edward J. 1972—"The Administration of Juvenile Justice." Unpublished Ph. D. Dissertation: University of Michigan, Ann Arbor.
Platt, Anthony. 1969—*The Child Savers: The Invention of Delinquency.* Chicago: University of Chicago Press.
President's Commission on Law Enforcement and the Administration of Justice. 1967a—*Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: United States Government Printing Office.

1967b—*The Challenge of Crime in a Free Society.* Washington, D.C.: United States Government Printing Office.
Ralston, William, Jr. 1971—"Intake: Informal Disposition or Adversary Proceedings?" *Crime and Delinquency* 17 (April) : 160–167.
Reiss, Albert, Jr. and Black, Don. 1970—"Police Control of Juveniles." *American Sociological* Review 35 (February) : 63–77.
Reuterman, N. A., Hughes, T. R. and Love, M. J. 1971—"Juvenile Detention Facilities: Summary Report of a National Survey." *Criminology* 9, #1 (May) : 3–26.
Rosenheim, Margaret. 1962—*Justice for the Child.* New York: Free Press.
Rosenheim, Margaret. 1970—*On Ice.* Unpublished paper, University of Chicago, School of Social Service Administration.
Sheridan, William H. 1967—"Juveniles Who Commit Non-criminal Acts: Why Treat in a Correctional System." *Federal Probation* 31 (March) : 26–30.
Sumner, Helen. 1971—*Locking Them Up.* Summary Report: *Crime and Delinquency* 17 (April) : 168–179; also in NCCD, *Locking Them Up: A Study of Juvenile Detention Decisions in Selected California Countries.* New York (1970).
U.S. Bureau of the Census. 1970—*General Population Characteristics: Final Report.* PC (1)–B40.
U.S. Department of Justice, LEAA. 1970—*National Jail Census.*
U.S. Senate Committee on the Judiciary. 1970—*Hearings of the Subcommittee on Juvenile Delinquency.* Washington, D.C.: United States Government Printing Office.
Velimesis, Margery. 1969—*Report on Survey of 41 Pennsylvania County Courts and Correctional Services for Women and Girl Offenders.* Pennsylvania Division of AAUW: Philadelphia, Pennsylvania (January).
Wald, Patricia M. 1968—"The Changing World of Juvenile Law: New Vistas for the Non-delinquent Child—Alternatives to Formal Court Adjudication." *Pennsylvania Bar Association Quarterly* 40 (October) : 37 : 43–46.
Weiner, Norman L. and Willie, Charles V. 1971—"Decisions by Juvenile Officers." *American Journal of Sociology* 77 (September) : 199–210.
Wolfgang, Marvin. 1972—"Making the Criminal Justice System Accountable." *Crime and Delinquency* 18 (January) : 15–22.

[NOTE.—Subsequently, correspondence was received relative to Dr. Sarri's testimony. The materials are as follows:]

PROBATE COURT,
JUVENILE DIVISION,
Detroit, Mich., January 7, 1974.

HON. BIRCH BAYH,
Chairman, Subcommittee To Investigate Juvenile Delinquency, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR BAYH: On September 10, 1973, a hearing was held by the Subcommittee to Investigate Juvenile Delinquency in Washington, D.C., at which you presided.

On September 11, 1973, a front page story was headlined in the Detroit News with a banner headline. The News story related that a 16 year old girl named Lynn had been presented to the Committee by Rosemary C. Sarri, Co-director of National Assessment of Juvenile Corrections at the University of Michigan. The substance of Lynn's statement was that at the age of 13 she had spent 17 days in a jail in Detroit and also, at the age of 14, she was in the Wayne County Jail in Detroit.

The Detroit News story quotes you as saying "* * * available evidence indicates the current juvenile programs have failed dismally."

"How in Sam Hill are you going to help a 14 year old girl by putting her in a jail cell with prostitutes?" (End of quote)

I enclose a copy of a proceeding conducted in the Wayne County Juvenile Court on January 4, 1974 and January 7, 1974.

The statements made by Lynn were grossly false.

First: On her first arrest she was not 13, but 15 years of age, and she was not put in jail 17 days but rather was in the Wayne County Youth Home within three hours after arrest.

There was no failure of the Juvenile Justice System and she was treated properly and legally.

Second: On her second arrest she was just short of 16 years of age and not 14. According to Police records, she was arrested when naked in bed with two men in a dope pad. She lied about her name and age and the Police kept her at Police Headquarters 12 hours until she told her true identity and age. She had represented herself as being 17 which is beyond the age of juvenile jurisdiction in Michigan.

The Police had her in the Wayne County Youth Home an hour after they learned her age was 16. She was at all times treated properly. She was never in the Wayne County Jail as she stated to the Committee.

A number of facts stand out:

First: The girl's statements were highly questionable and the situation was of such a nature that it would be naive to accept her statements without question.

Second: She was presented to the Committee by Dr. Sarri who made no check on the girl's statements.

Third: She was not cross-examined by you or any member of the Committee and her statements, although grossly false, were accepted without question or cross-examination.

Obviously, to cross-examine a 16 year old girl in such a setting would be cruel.

However, skillful questioning by a knowledgeable and competent person in a private conference should have established Lynn's "credibility gap."

Of course, the proper way to check the fact would have been to check the record in which case she would not have appeared before the committee.

Fourth: No one asked Dr. Sarri what efforts, if any, she had made to check the girl's statements.

Fifth: I would have checked the girl's statements had Dr. Sarri contacted me. I would also have told her that to accept the allegorical tales of children of the road is absurd. No person with any real knowledge of delinquency and of those children would seriously consider putting them before a Senate Committee.

Sixth: Putting this girl before the Committee and having her know that her false and absurd statements are accepted without question by social workers and by United States Senators is very damaging to the girl. It encourages her to be a con artist. She needs to associate with mature, understanding people who understand when she is obviously telling wild tales. She should be told to grow up. She will never really mature and be a normal responsible person if the adults around her believe her wildest tales.

Seventh: You received nationwide publicity on your comments relating to this girl's statements and your statements were a sharp attack on the Juvenile Justice System in Wayne County.

Eighth: The transcript of the proceeding of the Senate Subcommittee to Investigate Juvenile Delinquency on September 10, 1973 shows you as making sweeping charges against the Juvenile Justice System and criticizing the lack of justice of the Juvenile Justice System. Yet the hearing of September 10, 1973 conducted by you and purporting to be a fact-finding hearing was a witch hunt with procedures less valid than are used in any Juvenile Court in the nation, or in the witch trial in Salem in 1692. The true facts would have been disclosed by very normal procedures used every day by the Police.

We do not put children in jail in Wayne County and I am proud of my record in keeping them out of jail.

Unless the Committee to Investigate Juvenile Delinquency can resolve itself into an effective fact-finding committee, it has outlived any usefulness it may have ever had.

There are things in the transcript of the proceeding I am sending you (Wayne County Juvenile Court—January 4, 1974 and January 7, 1974) that might be of assistance in resolving the Senate Committee into an effective fact-finding committee.

As a beginning, the Senate Subcommittee to Investigate Juvenile Delinquency could inquire into the subject of Federal grants given for the purpose of establishing facts concerning the juvenile justice system.

First: What are the criteria for awarding such grants?

Second: Who makes these studies?

Third: What criteria are they using for fact-finding?

Fourth: Does the level or standard of operation used to establish facts and data even meet the minimal standards of the physical scientist for determining whether or not a car has defective lights?

Fifth: What measure of wisdom is being used in drawing conclusions from data that is being accumulated?

I raise these questions because Dr. Rosemary C. Sarri is Co-director of the National Assessment of Juvenile Corrections which has a $500,000.00 LEAA grant to study juvenile correctional facilities in the United States.

The situation was one where a very eminent behavioral scientist was presenting a very questionable child witness to a Senate Subcommittee. This is a situation that does not absolve the Committee from questioning what efforts, if any, had been made to get collateral or supporting evidence of this child's statements. Had any understanding person, really knowledgeable of children of the road ever really questioned her closely about her tales? Some of our workers here at Juvenile Court would have established Lynn's credibility gap in a private conference. An eminent behavioral scientist may or may not be able to effectively conduct such questioning.

In my opinion, one of the reasons that no questions were raised by you was that you obviously assumed that Dr. Sarri would never present a Senate committee with any statements that were not factual and that she would also have made the normal checks on the statements of any witness she presented.

Any policeman would simply have checked the records and files and have quickly established Lynn's vast "credibility gap." This is routine, simple every day work that is being done by people in positions that are relatively low salaried and whose performance is under sharp attack by Dr. Sarri as well as yourself.

You should read the entire transcript of the hearings held at the Wayne County Juvenile Court on January 4, 1974 and January 7, 1974 relating to the Senate Subcommittee hearing on September 10, 1973.

Sincerely,

JAMES H. LINCOLN,
Judge of Probate, Juvenile Division.

NOTE.—Transcript of the hearings held at the Wayne County Juvenile Court on January 4, 1974 and January 7, 1974 may be found in the files of the Subcommittee to Investigate Juvenile Delinquency.

NATIONAL COUNCIL OF JUVENILE COURT JUDGES,
Reno, Nev., January 22, 1974.

Hon. BIRCH BAYH,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: At the meeting of the Executive Committee of the National Council of Juvenile Court Judges, which was held in San Antonio last week, Dr. Rosemary Sarri spoke and answered some questions in regard to a witness whom she presented before your committee. Dr. Sarri admitted that the witness, a 16-year old girl named Lynn, had not been checked for veracity, and in all probability had lied to the committee. It appears at the very least that the girl had a vivid imigination which stretched a 15-minute stay at a police station waiting for her mother to pick her up to 17 days in jail. I was asked by the Executive Committee to call this matter to your attention, so that, if possible, the records can be corrected and that, if further witnesses are called, closer scrutiny will be given to their veracity.

As you know, our Council has always been happy to cooperate with you in legislation pertaining to needs of children, but the Executive Committee expressed a desire that we be given more opportunity to have input into the substance of such legislation rather than being called to testify in support of legislation already introduced. The chairman of our Legislative Committee, Judge George Raisin, is in Chestertown, Maryland, which is near Washington, and I am sure he would be happy to sit in with your subcommittee. Judge Walter Whitlatch of Cleveland is one of our Vice Presidents, who has had long experience in drafting legislation, and I am sure that he would be happy to participate in any efforts. I am also available at any time I may be needed.

I wish to assure you that our National Council continues ready to cooperate with your committee in furnishing factual evidence for the purpose of enacting federal legislation to provide adequate care for America's children.

Kindest personal regards.

Sincerely yours,

HOLLAND M. GARY, *President.*

NATIONAL ASSESSMENT OF JUVENILE CORRECTIONS,
THE UNIVERSITY OF MICHIGAN,
Ann Arbor, Mich., January 23, 1974.

MRS. ALICE POPKIN,
Staff, Senate Subcommittee on Juvenile Delinquency,
Senate Annex Building, Washington, D.C.

DEAR ALICE: Thus far I have not received a copy of the materials which Judge Lincoln sent to your office although your secretary said it would be sent to me. I need it if I am to prepare a reply.

When I was in San Antonio, the juvenile judges gave me a copy of materials which they received from him, but I do not know if it is complete or the same as that which you received. It was pretty incredible and I guess I had better not say more. The Judges in San Antonio were relatively lenient toward me despite the fact that I could not reply since I had not read the material. In any event, I must do something at least to protect the girl because the Superintendent at the Adrian Training School where she now resides is fearful that the whole thing might be released to the news media. There apparently is no longer any disagreement about the fact that the girl was in jail—only about where and how long. I am scheduled to see her again tomorrow evening in Adrian and will ask her about what has been asserted and I will also interview her mother about the events. If you have further suggestions, please let me know.

I regret that this occurred, but believe that it is part of the whole juvenile problem that we apparently do not wish to face in a straight-forward manner today. Certainly Milton Rector is having some of the same type of attack for the NCCD's position that status offenders should be removed from court jurisdiction.

Sincerely

ROSEMARY C. SARRI, *Project Codirector.*

FEBRUARY 7, 1974.

Prof. ROSEMARY SARRI,
Project Co-Director, National Assessment of Juvenile Corrections,
Ann Arbor, Mich.

DEAR PROFESSOR SARRI: Per our recent conversation would you please review the attached transcript as well as Judge Lincoln's materials and provide the Subcommittee with as complete a response as possible. Of particular concern are the several alleged factual discrepancies in Judge Lincoln's letter of January 7, 1974, to the Subcommittee Chairman, Senator Bayh.

I would appreciate an expeditious reply regarding these issues.

Sincerely,

JOHN M. RECTOR,
Staff Director and Chief Counsel.

Enclosures.

NATIONAL ASSESSMENT OF JUVENILE CORRECTIONS,
THE UNIVERSITY OF MICHIGAN,
Ann Arbor, Mich., March 25, 1974.

MR. JOHN M. RECTOR,
Staff Accountant Director and Chief Counsel, Subcommittee To Investigate Juvenile Delinquency, Senate Annex Building, Washington, D.C.

DEAR MR. RECTOR: I regret that it has taken as long as it has to provide you with a reply to your letter but a considerable amount of information had to be obtained. Since I have both teaching and research responsibilities, I was not able to drop all other activities and engage in a full investigation. I am now also well aware of the great disadvantages that a lay female has in trying to get information of the type which you requested. Nonetheless, I have tried to provide you in this statement with as much information as I could obtain and also to provide you with some additional sources of statements to collaborate testimony given at the Senate Subcommittee Hearings.

First of all, it should be recalled, and I am sure that Mrs. Popkin will verify this statement, that I was asked to bring two youths with me to testify. It was requested that I obtain youths who had some experience in adult jails. There was no attempt made to secure formal written testimony in advance. In fact, Mrs. Popkin specifically requested that I not prompt the youth or instruct them in what should be said. She informed me that the Senators and the staff would informally question the youths about their experiences. I was concerned about

the socio-emotional impact of testifying on Lynn and Kenneth and was assured by her that the experience would be an informal report by them. The statements were not sworn staetments as suggested by Judge Lincoln, nor was there an attempt to obtain collateral evidence in advance. We only verified that these juveniles, Kennth and Lynn, had some experience in jail. This verification was done with their probation and/or social workers or agency directors. We did not attempt to interrogate other officials in advance. In the case of Lynn, I had verified through her probation and case workers that she had been in jail and was assured by Mrs. Popkin that this was sufficient for purposes of the testimony which they required. As the events have unfolded, there is no doubt that Lynn was in several jails, regardless of the statements made by Judge Lincoln. The question that remains concerns the number of days which she spent in jail in Detroit and also the definition of what is in fact is a jail. It is clear in Appendix 4 which is attached that the Michigan jail inspector includes both city and county jails on his official list of jails; lock-ups are also frequently classified as jail facilities, particularly when persons are held for extended periods of time. Thus, in the testimony which was provided when Lynn and Kenneth talk about "jail," I am sure that their reference includes county and city jails and police lock-ups.

In the report that follows I have attempted to go through the testimony statements page by page and to indicate the corroboration which is provided to substantiate the statements that are made therein or further clarifications. Subsequently, there will be specific reference to the statements prepared by Judge Lincoln with respect to the testimony and the news story. It is apparent that there is discrepancy between the testimony and the news story. Both of the youth were interviewed by newspaper reporters following the testimony session. Those interviews took place in the hallway outside the hearing room. I was not present and cannot corroborate the type of information that was given but I do note that there are differences between the news story and the transcript of the hearing. That should be borne in mind since the news story was the basis of some of the statements made by Judge Lincoln. Ms. Sue Keagle, of the Adrian Training School staff, officially accompanied Lynn to Washington and she was present when the newspaper interviews took place.

Commentary on Testimony

Page 10, please see Appendix 1 for verification about the mid-western state referred to here. Data were obtained from the state of Illinois and letters attached from Anthony Zuharich, Chief, Bureau of Detention Standards and Services in the State of Illinois, provided this information as did Mr. Hans Mattick, Director of the Center of Criminal Justice at the University of Illinois. Their information was the basis of my statement about the increase in the jailing of juveniles in a single mid-western state.

Page 12, The reference to the statement here about PINS offenders is the following study: NCCD, Regional Detention: Secure Detention Needs in Upper New York State 1971, Sections 2.03–2.225.

Page 13, Edward J. Pawlak, "Administration of Justice in Eastern State," unpublished Ph.D. dissertation, University of Michigan, 1972.

Page 14, Reference: Governors' Crime Control Commission, "State of Montana Jail Survey," December 1971. The remaining references are all documented in my formal statement, copies of which were delivered in advance to the Subcommittee. I have rechecked that bibliography included in that statement and believe that those references are substantially reliable and valid.

Pages 25–30, in order to review the testimony and the allegations I visited Lynn at the Adrian Training School which is one of the state training schools for delinquent youth in Michigan. I interviewed her also on other occasions to secure information about her experience and reports. She had the opportunity to read the statement of Judge Lincoln that was submitted to you. She read it in my presence as did Ms. Sue Keagle, Director of Recreation at Adrian, who accompanied Lynn to Washington as her official chaperone. She was given the opportunity to read the statement because it has been circulated all over the United States; therefore, it seemed essential that she know what had been said about her in a situation which has great significance to her. She was quite upset about the details of several of the incidents and of the words used to describe her, but as this report indicates, she does not deny the events reported for 1972. She informed me that neither Judge Lincoln nor anyone from his staff asked her about her experience in jails nor did they make any request that she appear at the hearing conducted in Detroit on January 4, 1974.

The primary issues which have been raised regarding the testimony of Lynn on pp. 25–30 and pp. 37–40 involve the following question:

Dates, juvenile's age, and period of time during which Lynn was detained in jail;

Confusion about what is a "jail" in Detroit;

Length of time that Lynn was truant from her home or Oakland County juvenile supervision;

Jailing practices and policies in Michigan.

Senator Bayh invited Lynn and Kenneth to report about the experiences in an informal manner. One cannot verify Lynn's age at the time of the various incidents described in the testimony because she did not give her birthdate. Her birthdate is 9/17/56, and at the date of her testimony she was 16 years of age. She stated that she was in jail at age 12 but did not state where so her statement cannot be categorically denied. It is stated at several points and accepted by Judge Lincoln on the basis of his investigation that she was in jail in several places in Michigan. These jails undoubtedly included several police lock-ups. Her report that she was 13 at the time of her first jailing in Detroit is perhaps incorrect. It now appears that she was 14 rather than 13 at the time of the events described on page 25 and 26 when she reported being held in jail in Detroit, but she was not 15 or 16 as alleged. She does not state that she was held in the County Jail per se but rather she uses the generic term jail and said that she was held in Detroit. Based on our evidence, it appears now that she was held in the women's section of the Detroit Police Headquarters, 1300 Beaubian Street, Detroit, Michigan. The situation also was discussed with Robert McBride, Superintendent of the Adrian Training School.

Lynn strongly asserts that her testimony is true but that her stay of 17 days took place in 1971 and not in 1972. She did not report a date in the testimony. In all of his material, Judge Lincoln never dealt with 1971 except to say that her first arrest occurred in 1972. This she categorically denies. All of his testimony statements refers only to the 1972 processing. Her previous social worker at the Oakland County Juvenile Court, Mrs. Judy Bielfus Suttle, 2070 Kingston, Pontiac, Michigan was contacted by me. She told me that she herself picked Lynn up at the Wayne County Youth Home and was aware that Lynn had been held in the women's section of the Detroit Police Headquarters in 1972. Mrs. Suttle reported picking up Janice Wasserman, a juvenile friend of Lynn's at the women's section of the police department. She is willing to testify to you or to Senator Bayh to that effect, if desired. Mrs. Suttle also reported that Lynn had a case worker prior to that time at the Oakland Juvenile Court. Her name was Mrs. Judy Holmgren, now residing in Madison Heights, Michigan. She was the case worker for Lynn at the Oakland Juvenile Court in 1971. Sometime in late 1971 or early 1972 Lynn was transferred to Mrs. Suttle as her caseworker. Both of these women are no longer employed by the Oakland County Juvenile Court and do not have access to their records. Mrs. Suttle also reviewed information in the letter of Mr. John Dowsett in reply to the questions sent to Judge Moore by Judge Lincoln. (See Appendix 2) There were four questions included in that letter and Mrs. Suttle responded that the information provided was not accurate on the basis of her work with Lynn. She said that Lynn was truant for several months at a time and that her story about being out west for 8 months was entirely possible for she herself often had difficulty maintaining contact with her. She also stated that she was in custody for more than 205 days, as so stated in that letter prior to August 25, 1972. Here it should be pointed out that in "custody" apparently has different definition than that implied by Judge Lincoln. The term "in custody" is used as stated in the Michigan Juvenile Code, Section 14: "take into custody does not refer to holding in a locked facility." In other words the taking "into custory" refers to wardship or supervision not merely to physical incarceration. Suttle does not have access to the records at Oakland Juvenile Court at this time. Therefore, she cannot corroborate the exact dates of the events which occurred while Lynn was under her supervision but she did substantially refute the information provided by Mr. Dowsett on the basis of her knowledge of Lynn. It is also apparent that 399 days exist between July 22, 1971 and August 25, 1972, the two dates mentioned by Judge Lincoln in his letter to Judge Moore.

Lynn did not have notes when she delivered her testimony. After reviewing the testimony and Judge Lincoln's information, she indicated that the information on pages 28–29 refers to her experiences in 1972 when she was 15 years of age. This is the only time that she specifically refers to being in the Wayne County Jail and, again, she did state that she was not aware of the difference between the women's detention section of the Detroit Police Department and the Wayne County Jail. They are physically adjacent to each other and connected by tunnels so it is not surprising that a juvenile of that age could not differentiate between the two facilities. She described being taken to the 8th floor of the building and also described the physical surroundings that were later corroborated for us as the women's detention section of the Detroit Police Department.

When Lynn refers to "detention homes," on these pages of testimony, she says that she had in mind the Oakland County facilities, but she did recall being in the Wayne County Youth Home on at least two occasions in May 1972 and August 1972. She reported to me that the events, as described in the hearing report on January 4, 1974 and the statement of Judge Lincoln on January 7, 1974, were basically accurate except that there were certain modifications that she wished to make regarding crucial details of the event. She said that regarding the event on May 8, 1972 she was not the only juvenile, but also one Janice Wasserman was picked up with her. She also said that a fight had not transpired in the case as was described but rather that it had to do with a racial event, but did not remember it accurately. Lynn denied the statement that 1972 was the first contact that she had had with the Detroit Police Department. She said that she had several contacts before 5/8/72. Her social worker, Mrs. Suttle, also corroborated that she had such contacts prior to that time. Regarding the events of 8/11/72, Lynn stated that she was apprehended by the police, but that the description of her behavior and alleged involvement with being in bed nude with two males was not correct. She stated that she was living with one man at that time and was with him and that the other person ran into the room during the period of the police entrance.

On page 37 Lynn asserts that she was truant from Oakland County for eight months. Mrs. Suttle corroborated that she was gone for several months but unless she is able to get to her files, she cannot verify the exact dates. However, it apparently was for a much longer period of time than is implied in the statements submitted by Judge Lincoln. It should also be pointed our that Lynn talked to her mother who resides in Oak Park, Michigan on March 10, 1974. Her mother reported that Lynn was in jail several times and that she was away from home for months but she is unable to establish specific dates in 1971 and 1972 when she was in jail or living in a variety of other places and circumstances.

Page 38, my statement about being in custody here, referred to the general meaning of custody in the Michigan Juvenile Code and it can be corroborated that Lynn has been a ward of the court and/or of the state for the three-year period of time. Page 39 and 40, referred to Lynn being held in the Police Headquarters in Ann Arbor, Michigan after she was truant from the Family Group Homes in Ann Arbor.

Page 50, the statement made by me as follows: "Both Lynn and Kenneth, I think Lynn altogether has been in something like 26 jails and she is only sixteen years of age. . . ." With respect to this statement, I did not have any written information about the number 26, but as best as I can recall, the 26 may have referred to the number of days that these juveniles were held in jail. I have no information to indicate that Lynn was in 26 jails. At this point in the hearing there was no written statement covering this part of the discussion so that I do not have a personal record of what was said. Kenneth had also spoken about running away from home 27 times so since both of them are referred to in the sentence, and I do not have exact reference for the number 26, I cannot corroborate what it referred to. As a result I think that that particular sentence must be discounted at this point in time. When you asked me earlier about the testimony, I indicated that the reference to the number 26 should also be deleted since I did not have substantiating information for it.

That then is my commentary on the testimony of the hearing, but additional information must be provided with respect to some of these statements made by Judge Lincoln in his various documents. I will not attempt to refute the assertions made by Judge Lincoln about Lynn, as that seems quite inappropriate and would not accomplish anything. I made repeated attempts to obtain information from the Wayne County Jail and from the Detroit Police Department about the time spent by Lynn in either or both of their facilities. (See Appendix 3) I was finally informed by the staff member of the Detroit Police Department that I should have Lynn sign a written statement to be corroborated by the staff member from the Adrian School who accompanied her to Washington and that we should submit such a letter to the Detroit Police Department to obtain corroborat-

ing information. Such a letter was submitted and a reply was received from Lieutenant Wolinski indicating that we contact Judge Lincoln for further information despite the fact he does not control police holding. Similar responses were given at other contacts. I have included copies of the previous inquiry for your information (Appendix 3). The situation was discussed with Mr. Robert McBride, Superintendent of the Adrian Training School of the Michigan Department of Social Services where Lynn is currently placed. He was referred to several times in the testimony by Judge Lincoln.

Mr. McBride informed me that he talked with Lynn following receipt of the material from Judge Lincoln. He said that without prompting she repeated the story given in her testimony and he felt that her responses were plausible. Furthermore, he felt that there was no reason why she should tell him erroneous stories about her experience. She insisted to him that she was detained in an adult women's facility in Detroit for 17 days for possession of heroin and barbiturates in 1971. She also indicated that she was held again a year later for several hours. Mr. McBride also reported that he informed Judge Lincoln of this information and also that he had questioned other girls from Wayne County who were placed at the Adrian School. Several of these girls reported having been held in a jail facility in Detroit, either the Women's Center or the Wayne County Jail. Frequently they were unable to distinguish between the two facilities. When Judge Lincoln was informed by Mr. McBride of these statements by several girls from Wayne County, he is reported by Mr. McBride to have said the following, "Yes, but they were not held for 17 days."

Given this information from Mr. McBride, I contacted two persons at the state level in Michigan. One was Mr. Russell who is the Inspector of Jails for the Michigan Department of Corrections. He has provided me with reports on the number of juveniles held on probate order in county jails in 1972 and 1973 (See Appendix 4). Copies of these reports are attached for your information. The report for 1972 has some additional information which was provided by Mr. Jake Terpstra who is head of the Division of Licensing for the Michigan Department of Social Services. That includes the number of juveniles in the report on jails on probate order in 1972 and then subsequently obtained by Mr. Terpstra from the juvenile courts report of the number that they had a record of having sent to the juvenile court. Thus, it indicates that the jail inspector has a record of 2502 juveniles as reported in Column A of the 1972 Jailing of Children under 17 whereas in Column B the report by the Juvenile Court indicates 1095. When I asked Mr. Terpstra for an explanation he indicated that the juvenile courts tend not to report all of the juveniles who are in fact held in jail. Also enclosed is a copy of a letter prepared by Mr. Terpstra for Sheriff Preadmore who testified at the same hearing session (Appendix 5). The main thing to be noted from both of these reports is that a total of 19 juveniles were held at the Wayne County Jail in 1972 and 8 at the Detroit House of Corrections under probate order, and a total of 27 juveniles reported as being in the Wayne County Jail in 1973. This information sharply contrasts with the statement entitled "Prepared Statement of Judge James Lincoln" to be made part of the record of hearing dated January 4, 1974 and January 7, 1974. On page 3 of that statement, he says the following:

"Under Michigan Law, I am empowered to sign an order commiting a juvenile to jail when he is awaiting trial in a youth home and when his conduct is such that we are unable to contain him. This has happened approximately half-dozen times a year. They are boys and not girls. I have probably ordered two girls to jail in 13 years and no more. Even during the 1967 riot, I signed orders committing only 7 boys to jail."

Moreover, in his letter to Senator Bayh he also states that children are not put in jail in Wayne County.

The information from the jail inspector's report clearly indicates that many more juveniles were held in both 1972 and 1973 in the Wayne County Jail. I do not have the information as to how many of these were girls and how many were boys, but from the information provided by Superintendent Robert McBride there apparently have been several girls detained in jail facilities in Detroit. We have not indicated anywhere that the jailing of these children is the responsibility of Judge Lincoln nor have we indicated that he is taking action to jail children. Nonetheless, children are apparently spending time in jail facilities in Wayne County, and it is toward the eilmination of this practice that our activities have been directed. The letters of Mr. Terpstra and Mr. Paul Spata provide information about the Department of Social Services, rules governing the detention of children in Michigan (Appendix 6).

I realize that you wish to have specific corroboration regarding the 17 days statement of Lynn. However, I must inform you that I do not have investigation powers and so therefore, I am unable to proceed further with this investigation without severe jeopardy to a number of persons. Since your committee has investigative authority, I am sure that there are a number of persons who can assist you in obtaining further information and would provide sworn statements. Briefly I can indicate the following persons can be contacted for further information in this regard: Mrs. Judy Suttle, Pontiac, Michigan, Lynn's case worker, has indicated that she is willing to provide you with further information about her experiences with Lynn and also that she would be happy to recheck her files if it is possible to do so. She has also indicated that Lynn's mother would be willing to have her file opened for checking. Mrs. Judy Holmgren, who was Lynn's case worker in 1971 in the Oakland Juvenile Court and now resides in Madison Heights, Michigan, can also be contacted for information about her work with Lynn. Mr. Harold Silver, Wayne County Commissioner, apparently is very interested in the jailing of children in Wayne County and could be of assistance, we understand, in your investigation in this area. Mr. Gabriel Kaimowitz of the Michigan Legal Services for Children in Detroit has had experience working with juveniles in both Oakland and Wayne County and can provide you with additional information. Mr. Jacob Terpstra of the Michigan Department of Social Services would also be happy to provide you with additional material about the state as a whole.

We had considered contacting Judge Lincoln directly on this matter, but Mr. McBride and others indicated that the result might be a public investigation of Lynn. They strongly discouraged any such investigation, because Lynn is now making excellent progress and such an experience would be traumatic for her. Therefore, we have not talked with the Judge about any of these matters. Regarding Judge Lincoln's statement that the experience at the Hearing was harmful to Lynn and Kenneth, just the contrary appears to be the observation of the two adults from their agencies who accompanied these two young people to Washington. Dr. Lichenstein, a clinical psychologist, said it was a meaningful and helpful experience to Kenneth and Ms. Sue Keagle reported that it was meaningful and significant to Lynn. Since her experience in Washington, she has done exceptionally well in the school and group counseling program at Adrian.

I hope this information is satisfactory for your purposes. Please let me know if you need further material.

Sincerely yours,

ROSEMARY C. SARRI,
Professor and Project Co-Director.

Enclosures.

[NOTE.—Appendices 1 through 6 may be found in the files of the Subcommittee to Investigate Juvenile Delinquency.]

Senator BAYH. Our next witnesses, are two young people who have had experiences being in jail, Steve and Douglas.

STATEMENT OF STEVEN AND DOUGLAS [PSEUDONYMS], FORMERLY JAILED YOUTHS

Senator BAYH. Steve, do you want to start?

As I have indicated, I have talked with a lot of young people, and adults that have been in jails, but I have not been on the inside where I had no alternative but staying there. So, I will just ask you fellows to tell us what it is like. What has your experience been?

STEVE. I was arrested when I was 17 on narcotic charges, possession of narcotics and narcotic paraphenalia and a $25,000 bond was put on me, and I was placed in a tank. I was there for a few hours and then I was placed in a juvenile holding center.

Senator BAYH. Whatever happened to the case? Were you tried and convicted?

STEVE. Yes; I was tried and convicted and I received a 3-year sentence which I appealed and beat on appeal.

Senator BAYH. Were you sentenced actually to serve time in a youth center?

STEVE. No; I was sentenced to serve it in the prison.

Senator BAYH. At age 17?

STEVE. Well, I was 17 when I was arrested and I went to juvenile court. I was placed on 3 years' probation at first, and my probation officer said I violated my probation. And I went back to court and they gave me the original sentence back. And the reason for the violation of probation was that I was working at the time because the probation stipulated that I work. And I worked 20 miles from the probation center and it was very difficult to get there on time because I got off of work at the same time that the place closed, and was late leaving my urinalysis. They didn't seem to make any other arrangements. So, my probation was violated.

When I was arrested, I was using approximately $200 worth of heroin a day, and I received no medication. I was incarcerated for 10 or 11 days until bond was raised by my parents, which was rather high, and they would not allow any personal property bond. It had to be a cash bond.

Senator BAYH. Were you convicted on possession and use, or sale?

STEVE. Possession with intent to distribute, and narcotics paraphernalia. I was addicted at the time.

Senator BAYH. $200 a day?

STEVE. Yes.

Senator BAYH. Did you have financial means to support that kind of habit?

STEVE. Well, I had to sell it to support it.

Senator BAYH. Then you went cold turkey in the jail cell?

STEVE. Yes; 10 days.

Senator BAYH. What happened when you got out again? Did you find that that kind of therapy had broken your narcotic habit?

STEVE. Not hardly. I got out at 3:30 in the afternoon on a Friday and by 6 p.m. I was on it again.

Senator BAYH. That is the old story. Although you can temporarily break the narcotics habit by just locking someone in a jail cell, or a bathroom, you really don't deal with the problem. That person is not a different human being, able to break the habit when they get back on the street. Have you had treatment since that time?

STEVE. Yes; I have.

Senator BAYH. Has that helped you to break the habit? Are you now addicted?

STEVE. It helped me to break my habit and I'm not addicted now.

Senator BAYH. Tell us what it was like in the jail cell.

STEVE. When I originally went in, I was searched, and put in a drunk tank. I was there for a few hours and then transferred up to a juvenile block.

Senator BAYH. Were there adults in the drunk tank?

STEVE. Oh, sure.

Senator BAYH. Did they make any of the normal kinds of passes that I am told happen in that type of place?

STEVE. The usual fights; there are always fights. There are a lot of sick people in drunk tanks. I was transferred up to the juvenile block. They had taken most of my clothing. I didn't have shoes. It was in November and it was starting to get cold. They left the windows open in the cellblock and there was no heat. It was on the third floor of the jail so by the time the food came up, it couldn't be eaten because it was cold and, well, I couldn't eat it anyway because I had no medication. The jailers were constantly threatening you—things like cutting your hair, or throwing you in solitary confinement which actually consisted of a 4- by 6-foot cell with a window in it which was approximately 4 by 2 inches, and they gave you bread and water.

Senator BAYH. You were 17 at the time?

STEVE. Yeah.

Senator BAYH. What did that experience do to your head?

STEVE. I was pretty confused, you know.

Senator BAYH. You had to be pretty confused to be on heroin in the first place. You would admit that, wouldn't you?

STEVE. Sure.

Senator BAYH. Did that help?

STEVE. No; not on top of everything else. It made me more bitter, I would say, toward society. I had the feeling of wanting to strike back.

Senator BAYH. Then your first brush with an institution of law and order was when you were arrested for heroin possession while you had a $200-a-day habit? The first opportunity society had to do something about that habit, it locked you in confinement for over 11 days, where you went cold turkey and received no treatment, and after which you went back to the street and to your habit again?

STEVE. Yes.

Senator BAYH. Is there anything else you want to tell us about your experience? We are trying to understand what it is like to be put in a jail as a juvenile. Do you have any other experiences that you have had that you could share with us?

STEVE. Well, the jail cell was infested with roaches and they made no attempt to improve conditions. There were several small-scale riots about the conditions in the jail. And there was no attempt—the jailers were quite contemptuous and there was constant harassment.

Senator BAYH. Have you been in jail a second or third time?

STEVE. Well, when my probation was violated, I was brought back again. This time I was in an adult cell block. There were numerous fights. I witnessed a man near beaten to death because he would not take a shower. He was near beaten to death.

Senator BAYH. By whom?

STEVE. By other cellmates because he would not take a shower. And the guards, they just didn't do anything about it. They knew it would happen and they let it happen.

Senator BAYH. What sort of contact did you have with your cellmates? Did any of them give you a hard time?

STEVE. Sure.

Senator BAYH. Were you fearful for your life and safety?

STEVE. Sure. I mean, I was in fights myself. There are people you get put in with, people who have 16, 20, 25, or 30 years to serve with no probation and they feel they have nothing to lose. They just feel

they have nothing to lose later on and so it is a totally different environment. They will take your food and your blankets.

Senator BAYH. As someone who has been through this, do you feel it is the kind of treatment that makes it easier not to return to drug addiction or criminal violation? Does it give one the incentive one needs to walk the straight and narrow?

STEVE. No; not at all. It was just that I wanted to get out any way I could.

Senator BAYH. You were in the jail because of narcotic addiction, a terrible thing to be involved with. When you were in that adult cell block with people who had 25- or 30-year sentences, who had nothing to lose, were you familiarized with other types of crime, with the "tricks of the trade," so that you could have gone out to the streets and followed another pathway of crime?

STEVE. What else is there to speak about in jails but other people's cases? That is the conversation in the jails.

Senator BAYH. So, as a first-time offender, you were in a cell with three-time losers who had been there several times before?

STEVE. Well, for instance, some of the cellmates were in there for murder, and some for armed robbery. Sure, everybody talked about their cases.

Senator BAYH. Did they brag about what they were able to do, or how it could be done better?

STEVE. How they did their crime? It was an education, in a way.

Senator BAYH. It is not the kind of education you would recommend for others, is it?

STEVE. No, I wouldn't.

Senator BAYH. Douglas, what has been your experience?

DOUGLAS. Well, I was never in jail as a minor. I was arrested as a minor and kept in a lockup, or drunk tank, for about 4 hours until my parents came and got me, but that was the only experience I had as a minor in jail. That was just the typical lockup, just a couple of drunks and the stench and the smell. But not much else. I was only there for about 3½ hours.

Senator BAYH. What were you locked up for?

DOUGLAS. Grand larceny and possession of stolen property.

Senator BAYH. A car?

DOUGLAS. No; tires and some things stolen from a gas station. As for my most recent experience with jail, I have just left one and entered a drug rehabilitation program. I was in jail for approximately 2 months as an adult. I knew of at least five juveniles in the jail. They were just intermixed with the adults. There wasn't any separate place or anything for them. There was one juvenile that was in my cell block for awhile while I was there.

Senator BAYH. How old was he?

DOUGLAS. He was 17, and there was another one that I met when we went out for exercise. He was in another cell block but he was 17.

Senator BAYH. What were the offenses they were in jail for?

DOUGLAS. I don't know about the one out in the court, but the one in the cellblock was from New York, had moved to Arlington and was in for grand larceny.

Senator BAYH. Were you in the jail in Arlington?

DOUGLAS. No; Alexandria.

Senator BAYH. Alexandria. Were you there when that youngster set fire to his mattress, and burned himself to death?

DOUGLAS. Yes. In the cellblock above me.

Senator BAYH. How did that kind of tragedy happen?

DOUGLAS. You mean how did he do it or what brings it about?

Senator BAYH. Well, both.

DOUGLAS. He ripped open his mattress. You just get a fork or a knife and rip your mattress open and light it.

Senator BAYH. How is it possible to have people in confinement and pay so little attention to them, to let them set fire to a mattress and destroy themselves?

DOUGLAS. There is really no supervision at all, you know. It's like the guard is supposed to be making his rounds, at least the way I understand it, every hour, and they just don't come around. Sometimes when we finally catch one, we get him to turn the shower on, because it has to be turned on from the outside, and it will be on for 2 or 3 hours sometimes before somebody else will come around. The cellblock fills up with steam because it gets hotter and hotter. They come around, I guess, when it is convenient.

Senator BAYH. What was the reaction of the other inmates when this young man took his life?

DOUGLAS. It really wasn't surprising to anybody from the impression I got. Like somebody said "so the dude upstairs killed himself." It was just typical. You talked about it, and it didn't seem to be to anybody's surprise. It kind of surprised me.

Senator BAYH. You were barely an adult when you were put in the jail. You testified that juveniles were in the jail cell with you. Was there any kind of activity provided, any rehabilitative efforts provided for the juveniles that were in the jail with the adults?

DOUGLAS. No, there wasn't any different treatment. The treatment was just the same for everybody. They didn't make any exceptions. I think the only exception might have been when I was there I got out on the methadone program in the jail. I was told that if I hadn't been 18, if I had been 17, I wouldn't have been able to get on it.

Senator BAYH. I was in a facility in New York City, a juvenile institution, where half of the young men were there for drug-related offenses, and none of them could take advantage of a methadone program. In fact, the institution had no drug rehabilitation program at all.

DOUGLAS. Well, the first night that I got in there, they took me over to the jail. The police over at the lockup had told me, you know, that if I would act right and everything they would bring me over to the jail where I could get medicine and medication. As soon as I got over to the jail they told me they would send somebody up from the methadone program and take a urine sample. He said they have to take it and analyze it, and then they come back the next day and if it is positive give you treatment. I asked him what about tonight, tomorrow, while you are waiting, and he said, well, we will do it as quickly as we can. It will be sometime tomorrow or tomorrow evening. So, when it came time to go to the individual cells at 11 o'clock, I said I wasn't going to go in until I got some medication. They brought two guards in, and they dragged me down to isolation and left. I had no clothes on and there was no mattress or anything. They threw me in there until the next day when my lawyer came and brought people from the methadone clinic.

Senator BAYH. They threw you in solitary confinement without any clothes on?

DOUGLAS. Just my underwear. There was no mattress or anything. Just the cell, so you couldn't very well sleep.

Senator BAYH. Is there anything else you care to say about how the juveniles in the jail cell were treated?

DOUGLAS. I had already been there for about a month and although about 75 percent of the people there were black and I had been living with blacks in town, and I know a lot of people so I didn't have it that bad. But somebody who comes in on a marihuana charge or something else where he doesn't have experience with real hard-core people, doesn't really know what to expect. When he first comes into the cell, you talk to him and see how he feels and just by the atmosphere, you find out that this guy is vulnerable. Everything he has becomes vulnerable, like he becomes a scapegoat for the entire cellblock.

Senator BAYH. What do they do to a juvenile in that situation? You say he is vulnerable. What does that mean?

DOUGLAS. Well, whatever he has, candy, cigarettes, he has to give it up. If they don't like something he does, they just keep his food and he doesn't get to eat. If anything happens in the cellblock and the guards come around, he takes the blame for it.

Senator BAYH. What about physical beatings or sexual assaults?

DOUGLAS. I talked to one person out in the courtyard who had been just busted the night before. He asked if there was anywhere where he could be transferred because he was only 17 years old. He got in about 10:30 and had been threatened with rape and beatings if he didn't submit to them and everything. Then, when 11 o'clock came, they locked the cells up. So he came out the next morning, and he seemed really scared to me, you know. I said there is nothing I can do. I didn't want to associate with him because I was afraid for my own safety, you know. I didn't make any efforts to try to fight the jail system. Anyway, so he just expressed this to me. He was really scared and told me what happened and I said there is nothing I can do. Everybody is mixed up together in here, and I didn't see him again after that. I don't know if he was released or taken to a juvenile detention center or just didn't come back out to exercise. He is in a different cellblock and the only time I had an opportunity to see him was during exercise.

Senator BAYH. But he had been threatened with physical abuse or rape or other kind of intimidation?

DOUGLAS. Yes. And he had only been in for half an hour, 10:30, and at 11:00 they locked up the individual cells.

Senator BAYH. I want to thank you young men very much. I appreciate your taking the time to share with us the experiences that you have had.

[Following is a letter dated September 7, 1973, submitted by Douglas (pseudonym).]

SEPTEMBER 7, 1973.

SENATE JUVENILE DELINQUENCY SUBCOMMITTEE,
302 Senate Annex,
Washington, D.C.

On several occasions while I was in Alexandria City jail, it came to my attention the mistreatment of certain juveniles. This mistreatment consisted of sexual abuse, violence and unusual workloads.

As I stood outside in the exercise yard a young man who appeared to be approximately 16 or 17 walked up and told me he had just gotten busted the night before and that he was a juvenile and if I knew if there was any way he could be transferred to another place of detention or at least another cellblock because he was scared to go back to his cell because he had been threatened with rape the night before when he had arrived. He went on to tell me that he had arrived late in the evening and individual cells close at 11 o'clock and thus he escaped being molested, but they told him if he didn't submit he would not get his food when it was brought around or he would not receive canteen. I don't know what happened to him because a few days later he stopped coming out to exercise. (The only time I had the chance to talk with him was while we were both in exercise yard.)

On another occasion a young man who was 17 came into my cellblock. He was not sexually assaulted but he was used for every other purpose possible such as to clean the entire cellblock (consisting of five individual cells with a little outside walking space for the daytime when you were allowed out of your cell), to supply candy and cigarettes to other inmates of the cellblock and as a scape goat to take the blame for anything that went wrong. He did these things as far as I could see out of fear. He was never beaten or raped in front of me but it was the constant threat of such action that scared him.

I guess I was lucky because I was never in that type of situation because before going to jail I was associated with a lot of black people and lived with a black person for a while so when I went to jail I already knew how to react to blacks in general. But for most young white males coming into a jail they are looked on first as sex objects and second, as a means to obtain cigarettes and candy because they usually have money or parents and girlfriends keep them well supplied.

DOUGLAS (pseudonym).

Senator BAYH. Our next witness is Louis S. Aytch, superintendent of the Philadelphia County Prison. I understand that you are going to be accompanied by Mr. George Holland.

STATEMENT OF LOUIS S. AYTCH, SUPERINTENDENT, PHILADELPHIA COUNTY PRISONS, PHILADELPHIA, PA., ACCOMPANIED BY GEORGE HOLLAND, FORMER INMATE

Senator BAYH. We appreciate your being with us, Mr. Aytch.

Mr. AYTCH. Thank you very much.

It is a distinct pleasure to appear before you and your colleagues of the subcommittee to investigate juvenile delinquency. I am especially pleased to see that these hearings are intended as an inquiry preparatory to the development of Federal legislation, aimed at assisting local and State jurisdictions in operating a meaningful juvenile justice system. Discussion of any problem can produce certain positive outcomes, but the translation of discussion into meaningful Federal legislation is indeed a far more valuable undertaking.

I personally find it unfortunate that Federal guidelines and standards cannot increasingly be brought to bear on local jurisdictions throughout many sectors of the criminal justice field. If the level of public consciousness remains at the low level of enlightment characteristic of opinion during most of our history, I fear that Federal guidelines will conveniently be filed away—to die the slow but total death of public indifference and official disdain. Whatever conclusions your committee may eventually operationalize into Federal legislation, I hope that you will earnestly and vigorously utilize all the resources at your command to generate local acceptance and compilance. Important national problems such as juvenile delinquency bear no resemblance to the artificial political boundaries separating the States and local jurisdictions of this country. When the welfare of vast numbers of human beings is involved, the limiting perspectives and provincialism

separating citizens must be abandoned in order to serve the interests of all persons.

In appearing before the subcommittee this morning, I shall endeavor to offer a brief discussion of our involvement with juveniles in the Philadelphia prisons and hope to respond to the specific areas of interest noted in your invitation to appear today. I will offer a few possibilities for effecting changes in the broader field of juvenile detention and treatment and will be pleased to respond to any questions which you or the members of your subcommittee may have. I hope that my testimony will be a frank appraisal and recognition of the problems and tremendous deficiencies inherent in the area of inquiry which concerns us this morning.

The Philadelphia prisons serve as one arm of a broad, complex and entangled criminal justice system for an urban community composed of over 2½ million persons. During the course of 1 calendar year over 24,000 men and women pass through our county prison system. The majority of these persons are not convicted and sentenced felons, indeed, the vast number staying with us await the disposition of their individual cases. On a given day, 85 percent of the population is in a detentioner status. These are prisoners charged with a crime, but held without bail, prisoners unable to pay the bail, prisoners charged with violation of probation or parole, and persons awaiting sentence after conviction. With only 15 percent of the prisoner population serving short county sentences of less than 23 months it is perhaps a misnomer to consider our system as a prison in the traditional sense. The Philadelphia prisons serve primarily as the city jail and detention center for the city of Philadelphia.

The nature and extent of our direct involvement with juveniles is quite small when one considers the scope of the entire system. At present less than 60 juveniles are being held in the Philadelphia prisons. This figure represents slightly more than 2 percent of our total daily population, and 2.5 percent of the detentioner population. You will notice if you consult a chart of our juvenile population on page 18, that we have experienced considerable shifts in the numbers of young people sent to us by the courts. In past months we have noticed a reduction of the juvenile population, but I cannot intelligently suggest whether this is due to a general reduction in juvenile arrests or a conscious effort to keep younger persons out of the environment of an adult corrections facility.

Regardless of the small size of the number it is a very definite fact that during a calendar year over 600 persons under the age of 18 years old will be detained in the Philadelphia prisons, awaiting the disposition of the criminal cases pending against them. Preadjudication detention in Philadelphia is an accepted concept of the criminal justice process and still continues to be implemented, in part, through the detention of young people in an adult environment. At this point it may be helpful to sketch the nature and boundaries of the detention environment as it relates to our juvenile population.

Most juveniles accused of criminal acts are held at the city's youth study center and should preadjudication detention be necessary, it has been an accustomed policy to transfer juveniles to the city jail when extreme overcrowding exists at the youth study center. As overcrowding is a constant factor in the most extreme or unusual circumstances

no juvenile under the age of 18 would be remanded to our custody. In reality, the prisons serve not only as a facility to absorb overcrowding, but also as a place to send children or juveniles accused of severe crimes. The population is quite fluid, with the majority of the juveniles staying for a period of less than 6 months. All decisions relating to the detention of juveniles are made by the juvenile division of the family court.

Those juveniles held in detention have usually been accused of severe crimes, predominantly relating to crimes against persons or crimes against property involving firearms. Almost none of the young people are first offenders, indeed many have passed through the Philadelphia prisons on numerous occasions in the past. Compared with the crimes committed by our sentenced men and women, the crimes of which the juveniles are accused loom as infinitely more serious. This is not a value judgment on the issue of detaining these persons, but merely a commentary on the increasingly serious nature of juvenile crimes. Violence has played a major role in the lives of most of our juveniles, a fact which I will comment upon later as it relates to their behavior and response to the adult detention environment of the prisons.

All juveniles sent to the Philadelphia prisons are held in the house of correction. It is a medium-security institution built essentially in the 1880's, and with modification in the 1920's and again in the 1950's. The house of correction reflects the architectural imperatives of traditional Pennsylvania prisons with long cell blocks extending out from a center rotunda complex. All juvenile admissions are placed on the same cell block. This policy of segregation reflects the courts' practical interpretation of our legislative proscription against the incarceration of juveniles with adults. While the cell block is separate from the remainder of the institution—including the dining room, infirmary, and other service areas—over 700 adult offenders and detentioners are held in the other cell blocks of this facility. The law on separation is no doubt open to judicial interpretations, but the reality of the prison environment suggests that cell block segregation is not and could never be true separation especially when one considers that the entire operation of the house of correction relates to serving the needs of adult prisoners.

Senator BAYH. Let me interrupt you here to ask you to elaborate on that point because I think it is probably the most important point in your testimony. I have read it carefully and I am impressed. Three or four years ago, the subcommittee heard testimony about the Philadelphia system. I recall vividly the testimony of people being transported in metal-sided vans with the sun shining down on the top, and with various sexual assaults on the way to the cell block and to the court and back. I want to compliment you on the effort made to keep juveniles separate from adults. You point out in your testimony that most of the shortcomings described at that time have been eliminated, or at least lessened. Could you elaborate on how, even with the effort that you are presently making, it is still impossible to keep juveniles wholly segregated from adults?

Mr. ARTEN. Well, it is absolutely impossible because, I guess off-the-cuff I can say a little something. I tried to research, when we began accepting juveniles and, of course, the facts are very hard to come by. But, as early as 1937 we were receiving juveniles and they were referred to as "male offenders 16 years of age and above."

The tragedy of this is that there is just nothing for 16 to 18 youthful offenders to do. It is difficult to keep them completely separated. In order to reinforce my own thinking of this, I visited the house of corrections last night between 10 and 11 o'clock and there you see young men who have been locked in the cells basically, since Friday of last week when the school teachers went home. One-half is allowed out to watch television, no opportunity to use the gymnasium, very little opportunity to express the boundless energies they have. And I think this is the tragedy of it. It just shouldn't be in this day and age.

Senator BAYH. What is the track record of this treatment? Is it really having any success in dealing with the problems that cause young people to be locked up in the first place?

Mr. AYTCH. It has nothing, absolutely none, because we are limited in terms of resources and they are not really our responsibility. This does not mean that we do not have a responsibility to do the best that we can for them while they are there. But, as I said, we just act as an overflow for the youth study center and while we recognize the need, I think I would rather have a real expert, and that is Mr. George Holland, when he makes his comments, to just share with you some of his feelings when he first came to our center as a juvenile. And I think he has been with the system right on through until just a few months ago when he was released from Holmesburg and I don't consider myself the expert. I can share with you the problems, but I think the people who really lived there are the only people who really can give the impact.

Senator BAYH. Then, as a professional who has given a large part of your life serving in this capacity, you think it is fair to say that the way a young man is treated in the Philadelphia prison system, does not make the problem that brought him there any less severe, but rather more severe, so by the time he has passed through the system he has a bigger problem than when he was sent there to solve his problem?

Mr. AYTCH. Indeed he does.

Facilities for the juvenile population are virtually nonexistent. Official policy rightly demands that the juveniles be kept separate from the adults. Given the very limited facilities available for adult activity it is virtually impossible to structure the physical environment in a positive manner for this small sector of our total prisoner community. The major focus of daily life is the cell block. Except for attending classes, occasional use of the gymnasium, and certain other activities such as movies, all juveniles spend almost their entire tenure at the house of corrections on their block.

I personally consider this as totally unacceptable, regardless of the nature of their crimes and other behavior problems. So long as we must utilize existing facilities for both an adult and juvenile population the small juvenile population will be forced to suffer the major pangs of prison idleness and intense boredom. To allow the juvenile population freedom of access to existing facilities with the adults would not only be a violation of the law but could be also an evasion of my responsibilities to maintain prison order and provide for the personal safety of all incarcerated persons.

Juveniles remanded to the house of correction, regardless of the severity of their accused crimes, are adolescents, they are not adults. At this stage of life their physical energy is boundless, and it is not

surprising that physical confrontations and eruptions occur when this energy must be suppressed through enforced segregation and confinement on a housing unit. Access to recreational facilities does not begin to meet the needs of the population. This is perhaps one of the paramount problems of detaining juveniles in an adult setting. Cases of sexual attacks and incidents, though few in number, may be related in part to the enforced idleness and frustration of confinement.

One pervasive social subculture which touches almost every juvenile held in detention is gang participation. Perhaps more than any other urban center in the United States, Philadelphia finds itself compartmentalized and terrorized by a web of gang affiliations. Gang "turf" is not a term of the 1950's and 1960's, but a pragmatic aspect of unofficial boundary divisions within the city. Juvenile gangs with conflict orientations serve as the focal point for almost every young person in the house of correction. The juvenile cell block becomes in effect a microcosm of the gang world taken indoors under a common roof. At any given time numerous gang allegiances will be represented on the juvenile housing unit. The social dynamics of gang participation and involvement, override every other pressure of institutional adaptation, except perhaps the idleness of incarceration. Not even the system or the prison appears more significant as a focus of attitudes and behavioral adaptation. It is not uncommon for juveniles to hurl verbal abuse and insults in a variety of sensitive areas at each other without any recourse to physical confrontation. But should such abuse turn to the subject of one's gang, a physical confrontation will almost certainly result. New admissions are met by fellow "corner boys" who serve not only as reference points for adapting to the prison environment but also as allies and protectors should the situation demand concerted action on the part of the group.

The conflict subculture of the streets which demands the establishment of status and heart among its participants is replicated within the prison. Many juveniles will not be accepted on the block until undergoing some informal form of initiation which may involve conflict. It should not be surprising to anyone that dominant social and behavioral variables transcend the mere walls and barbed wire of a correctional setting. To many of the young people gang participation and conflict is indeed the only reality, the only status-bearing activity that they know. While we are not dealing this morning with the causes of gang participation, this social indicator does have substantial ramifications for the operation of the prison facility. As I mentioned earlier, the lack of facilities, especially recreational facilities, only serves to heighten the probability of releasing tensions and frustrations through less acceptable channels. Considering that a gang conflict subculture is the dominant social fabric among the juvenile population it serves as the major outlet. No amount of facilities or planned activities will remove the phenomenon of gang related conflict, but confinement does absolutely nothing to alleviate it and more likely encourages it.

Senator BAYH. This shows that we are really not coming to grips with the problem. It is worse instead of better.

Mr. AYTCH. Right, sir. One of the issue areas in your letter of invitation to appear before the subcommittee was staff training. Working with the juvenile population is certainly different from involvement with adults. The corrections officers assigned to the juvenile housing

unit at the house of correction have not received any specialized training related to youthful offenders and adolescents.

Senator BAYH. In your professional assessment, then, the problem of treating juvenile offenders is different from treating adults?

Mr. AYTCH. Indeed it is.

Senator BAYH. Yet in your system, where you have been making a real effort, those who are primarily responsible for attending to the needs of juveniles have not had the special training necessary?

Mr. AYTCH. That is right, and I was happy to hear your comment on the amendment I think you had to the LEAA bill. That, I think, might address this problem.

Senator BAYH. That amendment was one part of our effort to produce a major overhaul of the juvenile justice system. S. 821, the Juvenile Justice and Delinquency Prevention Act is another part. S. 821 would encourage juvenile institutions to provide specialized training for those adults who will deal with juveniles. Do you feel that is an important step in the right direction?

Mr. AYTCH. Yes; it is. I think it is. Once they are placed in a setting outside or where there are no adults. I can't overemphasize that.

Senator BAYH. One of the points that strikes me vividly in your prepared testimony, is your statement:

> If the only method available to society to get young people off the streets is detention, then we can expect support for this method.

Mr. AYTCH. That's right.

Senator BAYH. Could you elaborate on that? A lot of people are concerned about increased crime. The feelings of a father who wants his children and wife to be safe and secure in his home and the fears of the businessman who does not want to have somebody knock off his establishment, are legitimate. Please give us your thoughts on reconciling our concern about crime with our desire to keep youth out of jail?

Mr. AYTCH. Frankly, I think it is imperative that we look for new alternatives to the incarceration as a treatment modality. As a technique, imprisonment will not cure the social ills of young people. We still are doing the same things that I guess we have been doing ever since we have had a criminal justice system. We feel deterrence is the main factor and I just sort of think that we, particularly those of us in the field, that we had better begin looking for new alternatives. And I think it is incumbent upon those of us who are in the field to come up with recommendations and we should be given the latitude to experiment with different methods of dealing with young people and their problems. I think we have the professional know-how.

The problem is getting through the bureaucracy, the personal feelings of people so we can be able to implement.

Senator BAYH. I would like to explore that particular point. We have to recognize that some juveniles, like some adults, unfortunately present an immediate danger to society. Our system of justice has the responsibility of protecting society from the physical acts of human beings that prey upon it. Of those juveniles that come through the system in Philadelphia, do you have any way of assessing what percentage really need custodial care to prevent their preying on society tomorrow, the next day, or the next week?

Mr. AYTCH. Senator, I don't have any specific data, but I would suggest that a very small percentage of the juveniles in our custody would require the kind of security that is often uniformly provided. And I am basing this on my personal experience at the house of corrections where I was a warden where we had at one time some 68 young men who were held as gang killers. They were considered very vicious people. It so happened they were not involved in any school program. We were able through a volunteer group to set up a school program on the grounds in one of the cottages, and I think one of the most successful attempts that we have ever made without one escape. I am always reminded of the efforts of a citizen who happened to be a very dedicated person who for 3 years took juveniles from the house of corrections to a day camp each weekend. He never lost a child simply because of his personal involvement with them, because of his concern. The juveniles that were accepted for his program, he let them know that any help that they needed in any area, this would be given. So, I think while I do not have data to substantiate new alternatives, I think from practical experience that I have seen it works in a very beautiful fashion.

Senator BAYH. I am glad to hear you say that. I am a layman. I am not a professional in this area, but I am very, very concerned about it. I think I have studied it about as much as anybody on this side of the table. I have worked with a lot of youth groups in my lifetime on a voluntary basis. It is good to see someone like yourself who has had living experience with this and with whom I can agree. I have been having minor differences of opinion with the city administration in Washington about a $6.5 million detention center that they want to build. Judge Green has ordered that the existing detention home be closed down and that alternatives, small local houses, be explored. We were talking about spending $6.5 million to build a rigid, traditional kind of institution for 120 young men, when I think you are never going to have more than 20 or 40 who need maximum security, I think 40 is extreme. From your experience, would it not be in the best interest of the District to explore more compassionate, less expensive—but with great potential for success—alternatives, rather than building a center to put 120 kids away?

Mr. AYTCH. I would agree that it should be explored. And the adult population, we know that approximately 1 out of every 22 requires the kind of security that we uniformly attempt to provide to all. This, of course, is a big factor in the construction.

Senator BAYH. One out of 22?

Mr. AYTCH. One out of 22 adults.

Senator BAYH. Less than 5 percent?

Mr. AYTCH. That is right. But, that is why it is very difficult to get people to come up with the kind of resources necessary. I sort of think that, of course, as a corrollary to this, we will need certainly some professional evaluation to determine who that one person is. It is a very small percentage.

Senator BAYH. Let's look at what you said about the difficulty of getting people to come up with the necessary resources. How much economic efficiency is involved if you incarcerate 21 persons that don't need incarceration? I imagine that the per capita expense locking people in a secure, continual supervision situation like you have in

Philadelphia is rather significant. Wouldn't it be more efficient to provide alternatives, and wouldn't you have a higher degree of success, and more impact on the crime rate?

Mr AYTCH. Absolutely. Absolutely. And this is my argument. And I think it is a very key factor, and I think until we can recognize these facts we will still be hung up on large sums of money to build institutions that really provide more security than needed and lacking in services we do need.

Mr. Chairman, you asked in your letter about governmental feelings regarding juvenile detention. I believe that so long as creative alternatives remain unexplored, so long as youth initiated crime continues to mount, so long as society at large continues to place its priorities and energies in areas far afield of reversing the devastating cycle of poverty—so long will government, especially local government, opt for any method that provides the easiest solution to the immediate problem at hand. The preadjudication detention of juenviles is but one of a multitude of examples supporting this belief.

Each day I am aware of expanding interest, of the commitment of more persons to help their brothers make a decent life for themselves. Still the enormity of the problem seems continually to outdistance the efforts for solutions. History offers us grand examples of great civilizations which collapsed from internal decay rather than external attack. That so many young citizens are not able to find meaningful alternatives to obviously destructive and harmful life styles is a particularly insidious form of such decay. If we are not able to solve this problem, at some time in the future we may find that while we have not run out of problem, we have run out of society.

Mr. Chairman, after having turned a rather critical eye toward the issue of juvenile detention, it is incumbent on me to offer some recommendations for your consideration:

(1) Federal guidelines should be developed to preclude any incarceration of juveniles with adults. The scope of the prohibition should extend far beyond intrainstitutional separation. Juveniles should not be held, detained, or placed in any other type of custody where they will come in contact with an adult corrections environment. So long as any institution is forced to serve the needs of two distinct communities, the well-being of both groups will suffer. So long as juveniles relate to their detention as a step into the adult criminal world, no positive rehabilitative functions can be served. I would urge that every means available to you be employed in separating not only the physical location of adults and juveniles, but also the criminal sanctions and environment that characterize such settings. In other words, you can still build a beautiful new place and bring in the same old ideas and you have got the same old problems.

Senator BAYH. I couldn't agree more. As chairman of the District of Columbia Appropriations Subcommittee, I am fighting a battle about a new jail and a new detention center because I believe that unless you develop a more enlightened program, you will have a new, sterile environment that produces the same depressive results.

Mr. AYTCH. Right, sir.

(2) Federal control over the broad guidelines of funds distributed under the Safe Streets Act should be expanded. When funds from the Law Enforcement Assistance Administration reach the utilizing agencies, regard for Federal guidelines is often buried under the weight of local political interests and priorities. If taxpayers' money is to be virtually handed over to juvenile justice authorities or any other authorities in the criminal justice field, certain standards should be mandatory. Local jurisdictions are increasingly dependent upon these Federal funds for both new projects and the continuation of ongoing programs. Your commitment and willingness to demand compliance with certain guidelines as a prerequisite for initial and continuation funding would be a major step in the right direction.

(3) Public officials such as myself and others should constantly be held accountable for the operation of their various agencies. Public investigation, backed with the power of the purse, should be utilized to demand answers and meaningful explanations on an ongoing basis. If Federal commitment is weak and ill defined, or local commitment for that matter, you should not expect anything more from others.

(4) Federal resources should be made available for major research efforts, especially those with distinct policy orientations. Research efforts in the juvenile justice field should be interrelated and should focus on the development of alternatives to any existing program or strategy.

I guess in conclusion I can say that I do not have much confidence in what we have been doing in the past. And if I may, Senator, I would really like Mr. Holland, who has graciously agreed to come with me, and has been just recently released from our system, and really wanted to share with you, I would like for him to just discuss his feelings about his introduction to the prison system and what has happened to him and some feelings he may have.

Senator BAYH. Fine. I appreciate your testimony, Mr. Aytch. Mr. Holland, I appreciate your coming here to share your experiences. As I said to the younger witnesses, we do not want to embarrass anyone, but it is difficult for any of us who have not been in a situation where the door is closed, and there is no place else to go, to fully understand. It is hard, not only for us here, but for the average citizen to feel the consequences of our inability to come to grips with the problem constructively. We can't fully appreciate what our system does to human beings. I appreciate your willingness to help us understand. Please proceed.

Mr. HOLLAND. The first time when I was arrested as a juvenile I was about maybe 15, 14 or 15, and it was for truancy.

Senator BAYH. You were arrested for truancy?

Mr. HOLLAND. Yes. But the first offense, the first time they sent me for 30 days to the youth study center.

Senator BAYH. The youth study center?

Mr. HOLLAND. Yes. It was for psychiatric evaluation to see the reason why I was missing school. And then in the time that I stayed there, the only, you know, psycho—a lot of the help I got or received, it was just the normal questions they asked and they ask that throughout the whole system even through today. They still ask the same silly questions to me that really makes no sense to me, you know, as far as they ask you questions like, you know, draw a tree, a house, a cat, you know, and stuff like that. And the first time that I went to the youth study center I spent all night on the floor because they don't take you right up to the dormitory. What they do is they make you

sleep on the floor all night and they take you up the next morning with the groups that they bring in all throughout that day and that night, regardless, I mean depending on like I got out of court that particular day, the first time, maybe about 5 o'clock. It was late that evening. And I went to the youth study center to begin the 30 days. And I spent the night on the floor. And the next day they took us up, you know, and gave us clothes and everything, put us into this room and they spent 72 hours in the lockup without being able to talk to anybody, or read any kind of reading material at all.

And after that, after the 72-hour lockup, the only activities that you have at all is just really sitting around the room with the rest of the guys that are in the jail, just merely reading comics or playing pinochle or checkers and that is the whole day throughout the 30 days that I was there the first time.

The second time I came back was for truancy again, and that was for another 30 days and another psychiatric evaluation, and the same thing all over again. And after that I went home again, and I got arrested again for the same thing. And then they sent me indefinitely to a place called Kis-Lynn. And I spent 2½ years up there.

Senator BAYH. What is Kis-Lynn like?

Mr. HOLLAND. Well, it was a place, it was in a sense, you know, thinking back on it, and considering as far as it in relation to the juvenile situation now, because Kis-Lynn is closed, it is a lot better than most. I mean, as far as learning anything, I didn't learn anything, nothing there. I couldn't learn nothing there, but at least you had more freedom of movement.

Senator BAYH. How many young men were there?

Mr. HOLLAND. At Kis-Lynn? Quite a few. There was at least 9 cottages there like housing areas, cottages and at least 30 or 40 in each dormitory. And you didn't have no problem like homosexuality there and things like that, a few runaways occasionally, really because it was so far away from like Philadelphia, like. And, you know, this was like a first experience for, like me, and two others which was our first trip, going, you know, going away that far. And like two fellows with me wanted to run away. I was scared to run away because neither one of us or none of us, none of us knew the direction to get back to Philadelphia even if we did run away. And there the bad part of it was when you ran away from there, they put out a bounty on you, and any farmer in the vicinity would shoot at you or take you in. Most of them shot at you if they saw you instead of just taking you in. And that was a hassle.

Senator BAYH. Is that legal? I'm not saying it didn't happen, but is it legal, Mr. Aytch, for juveniles running away from Kis-Lynn to be open targets for anyone that wants to take a shot at them?

Mr. AYTCH. I am sure it is not legal, but nevertheless, I think if you find a juvenile center in an urban community, and say it is full of young kids from Philadelphia, a majority of whom may be of different ethnic background, you get people uptight. And it is often that it is conceivable that this kind of psychology would be understood.

Mr. HOLLAND. After I left Kis-Lynn I came home and stayed home for awhile and tried to get back in school to finish school. But, conflicts arose again, like between—like because I wanted to stay in school to get back into high school, right? But the same problems existed all

over again, and so I was arrested again for truancy. This time I was sent to the house of corrections, which was the first time I was ever there. I was like—I was scared to death of going there. But, I didn't, you know, I didn't know, because I didn't even know that I had any friends up there that I knew at the time. And the situation that you hear about in jail, you know, especially like the house of corrections, at that time it was pretty heavy, you know. And I went, and when I first went on the block the first night, I think I got there about 3 o'clock, but you didn't get upstairs to the cell area until about sometime that night, and even late as it was, everybody like I thought was probably asleep, but everybody was hollering out to you as far as what corner are you from, and this and that.

Now, through jail is where I believe I got most of my affiliation of getting involved with gangs because inside of there, it is like a thing where it's almost like a matter of survival. You have to do something, you understand, or like I say, quite a few other dudes that are there, like were in the area I lived in, and they was considered a different or opposite corner from where I was. And there was more, and I was the only one there, at least that is what I thought until the next morning. There was another dude across from me who I knew was from my way because we both got into a conflict and he was from Poplar Street and I got together the next day with another one from Poplar Street and we got together and we said that's where we was from.

Senator BAYH. How long were you in the house of corrections?

Mr. HOLLAND. Three months that time.

Senator BAYH. Then what happened?

Mr. HOLLAND. After that I moved, they sent me to D block.

Senator BAYH. Where?

Mr. HOLLAND. To D block.

Mr. AYTCH. That is the security block.

Mr. HOLLAND. At this particular time I was on E block in the house of corrections where you were waiting to go to court.

Senator BAYH. When you say 3 months, was that in the E block, or was that the whole period of time you were in the house of corrections?

Mr. HOLLAND. Yes; the whole period of time, I was in the E block and I spent the rest there, because at that time a riot had broke out down in the movie between I think Susquehanna Avenue and I think this happened the night before or 2 days before I got sent to D block. And then it started, it started between I think Susquehanna Avenue and another corner and they had pulled the legs off the bottom of the chairs to hit each other and this evolved into a whole jail riot, and it was D block against E block.

It was when I got transferred and didn't know if I would be getting in with anybody who came from E block. Luckily, I had two friends that was there from down my way and because they was there, you know, a corner in there, in a sense, then I didn't, I didn't get too much static from the rest of the block. But, I got along to the extent, there are a lot of things that you see, happen, inside jail, because of the name that my corner had at that time, it gave me protection. But, a lot of dudes, young dudes that come through that didn't have the same thing that I had, wasn't from nowhere, or couldn't say he was from anywhere, or was too scared to say he was from anywhere, they caught

it, you know. What I mean is I was just lucky that I had friends that I grew up with, that was down at my end that I knew, although I wasn't from that corner at that particular time. I had a different corner, but to say that I wasn't, then I couldn't call on them for help if I needed it in some kind of way.

See, there is a lot of dudes that come into jail who didn't, who don't want to get involved. If you are not already involved in a gang, when you come in there you don't particularly want to get involved in it, but it is a thing where you sometimes have to. You have to do something, you have to do one or the other, because you can't just go to a guard and complain about, you know, somebody messing with you. Like a cat from another corner decides to just come over, and, you know, mess with you, because you might be from nowhere or something like that. You can't complain to a guard about something like that because there is nothing he is going to do. He is going to look at you like you are crazy and tell you, you know, you go back and deal with it yourself the best way you can.

Other things, you know, would happen. Like one time just before I got sent to D block I was on E block and they put me in a cell with this guy from South Fulton or somewhere, and I guess the guy, you know, I was at that particular time, I wasn't like inside, I wasn't in a gang before I went there and considering everybody else inside of jail or that was there, I just was considered to be what you would call squareheaded because I didn't know the ropes, I wasn't from a gang and I wasn't considered a tough guy, but yet all in all I could always fight. I mean, I never had no problem as far as taking care of myself.

Well, this dude, for instance, the night we went, the first night I was in the cell with him, the cat got, you know, kind of funny with me, you know, because I guess the general way that I talked and all and the way of my attitude and I guess he figured, you know, he could take advantage of me or something. The whole thing developed into me having to hit the guy upside of the head with a table, and because of that nothing happened, no ruckus, and they caught us on the block and you know, I ran him out of the cell. The best thing they can do is change cells, and that is all, they moved me to another cell with others and that was just before I got sent to D block.

Senator BAYH. What happened when you got out of D block?

Mr. HOLLAND. When I got out of D block, when I first went on the D block, they assigned me to the Green House and I had to go for an initiation which I got from South Fulton.

Senator BAYH. What is an initiation?

Mr. HOLLAND. It wasn't really an initiation. That was just an excuse that they use because of two friends that I had on the block had, you know, had told them, told everybody on the block, you know, not to mess with me, right, because of regardless of whether or not I just come from E block or not, that I was one of their corner boys and not to mess with me. So, they waited until I got assigned to the Green House and while I was out in the Green House they decided to come over there and use that as an excuse and they told me that everybody gets an initiation. They initiated me, and I think I had to fight about two or three dudes, two dudes.

Senator BAYH. An initiation is having to fight somebody?

Mr. HOLLAND. Yes; I don't think it was an initiation, just an excuse to see how good I was, to see if I could hold my own.

Senator BAYH. What if you hadn't had the two friends to speak for you?

Mr. HOLLAND. Then I would have been on my own and they wouldn't have waited for me to get to the Green House by myself. It was just an excuse really to get me out of there. Now, I was out of there already and it is a thing where in other words, all I had to do really—I didn't really have to go along with the initiation I could have gone back and told them, my friends that they were trying to start a fight, which would have started a lot of other confusion. But instead, I went along with the initiation program, more so because I didn't know whether or not they were telling the truth and I guess my idea at the time was I thought maybe that that was a lie.

Senator BAYH. What happened after you got out of the house of corrections?

Mr. HOLLAND. After I got out of the house of corrections I tried to get back in high school and I went to high school that Monday after I got out and I tried to find out whether or not I was still enlisted. And the counselor downstairs told me to sign these papers. Now, first he sent me upstairs to the teacher, one of the teachers that I had and told him to send down my record stating that I was still in school. So, I went up and I asked him was I still in school and he said as far as he was concerned I was supposed to be in class that morning. So, I went back downstairs again and I told him, yes, I was supposed to be in class. She said, well, ask him to send down the records, and I will check with the records here, right? So, I figured that I was still in, you know, still in school since I had just come home and everything. And so then she brought back a piece of paper, and in the process while I was sitting waiting for her to get the records and bring me back a piece of paper, she asked me to sign it and at the time I didn't know too much about reading before I signed things, so I signed it. And I asked her is that all, and she said yes, you can go now. And I said where, to my room. And she said no, you just signed yourself out of school and that was it. Then I tried quite a few places to get back in.

Senator BAYH. Then what happened?

Mr. HOLLAND. Well, then after that I just started hanging with the gang on the corner, with the corner gang, doing all of those things.

Senator BAYH. How did you get back into the prison system?

Mr. HOLLAND. After I grew up, after I grew out of the gang, I got a job and worked at the Valley Forge Military Academy, and it was around this particular time after Valley Forge and a few other jobs, after that things really started, you know, getting hectic within the community, in the neighborhood, you know, I mean like I got like set up with a lot of things, and so I went to a Job Corps and I stayed there for about 6 months. And when I come home from the Job Corps drugs was introduced in the neighborhood by the time I come home, this was in 1967. And although when I came home I saw a lot of my friends and a lot of people I knew was strung out on dope, you know, and guys, you know, but my mother and father, you know wasn't like dudes I knew who might have had the family that was real clean, always real clean and their mothers and fathers would send them to school every day with suits on like, you know, and they play, they go to play in playgrounds, or something you know. And it is a thing where these dudes that I knew, I seen when I come home in 1967 was really going bad.

So, I kept away from it I guess as long as I could and then curiosity I guess, I guess you could say curiosity in a sense kept telling me, you know, you say to yourself you see all of your friends being torn down by it and you wonder what it is about that dope and stuff that gets you, makes you go. And so I said, I had kept telling myself that it could never happen to you. So, you try it. So, I tried it once with a friend. He gave me a little taste of something he had and so that started it. I kept away from it maybe for about that next week and then the next week I wanted some more. And another friend gave me some more. And you see, its funny, but drug addicts, it's funny, once they are hooked like, you know, somebody else gives it to them, you know, so I got booked on it before I realized it and I had to have it. So, that started it.

And the first arrest I had for drugs was for sale, use and possession and I was back in the jail again for that. No, the first arrest was for carrying a deadly concealed weapon, a knife, and possession of marihuana, but I got out on bail that time.

Senator BAYH. How old were you then?

Mr. HOLLAND. I was about 23.

Senator BAYH. You were arrested for carrying a deadly weapon, a knife, and possession?

Mr. HOLLAND. No; the weapon was the first one and possession of marihuana where a cop stopped us for some old excuse, and they arrested me for having—I didn't really at the time use marihuana. I wasn't, I mean—well, I was over at the playground playing basketball and some friends or a dude that was on the courts, I was watching the game, because I don't usually play basketball, and one of the dudes was playing and he asked me to hold his personal effects. And I took the personal effects that he had. And somebody asked me to do something, and I stuck the brown envelope that he handed me in my pocket at the time. I really didn't know too much about doing anything like marijuana or anything like that. I only had a few affiliations with dope itself and I stuck the bag in my pocket and forget about it. And when I gave him all his personal effects back I forgot the bag. And that night we were riding in a car, me and a few others, about four or five other dudes going to a party in West Philly and the police pulled us over. And they said it was something wrong with one of the back lights, which wasn't but anyway they pulled us over and they took me to the police station and they took me because me and another friend had knives. And the knives we had we worked with, they were issued, issue knives at work and I had put the knife in my pocket and I just didn't think about it.

Well, anyway when they told us to take everything out of our pockets, I just took the brown envelope out because they told you to make sure to take everything out of your pockets, and don't let us find anything in your pockets. Right, so I took everything out. I don't usually keep anything in this shirt pocket, but I just took it out and threw it on the table. I didn't even realize what it was until I looked at it and he said we got one and that was the charge for that.

Senator BAYH. You got probation for that?

Mr. HOLLAND. Yes; I got probation and $100 court costs and fine.

Senator BAYH. Then what happened?

Mr. HOLLAND. Then after that that's when really things got heavy and I got arrested for sale, use and possession.

Senator BAYH. Were you addicted then?

Mr. HOLLAND. Yes, I was. Yes, I was definitely addicted by then. When I got arrested for sale, I had to have it, but it wasn't a real bad habit, but it was a habit. But it wasn't as bad as it got after I got over the sale. I got off from the sale and it got worse.

Senator BAYH. How did you support the habit?

Mr. HOLLAND. Stealing, quite a few things. Robbing, burglary, sometimes. I didn't usually go in for burglary, but quite a few, you know, the usual ways.

Senator BAYH. Then, to summarize your experience, you started with two 30 day trips to an institution that was supposed to psychoanalyze you because of truancy?

Mr. HOLLAND. Yes.

Senator BAYH. Then you were sent to Kis-Lynn for truancy, and when you got out you were sent to the house of corrections for truancy. After all of that, you went back, tried to get in school, and mistakenly signed yourself out of school. So all of your early experiences with incarceration were actually the direct result of not being able to cope with the school situation?

Mr. HOLLAND. No, I wasn't—I wasn't able to cope with it. It was a thing where I was—from elementary school all the way up I was, when I first started school, I was considered an A student. All of my work, all of my school work and everything was done good. It was done very good. And, in fact, I skipped over kindergarten and I was placed in the first grade. And somehow I got pneumonia and chicken pox and I was taken out of school and went to a hospital. And when I come home from the hospital they skipped me up a few grades and by them skipping me up a few grades I was behind in my work and I couldn't keep up because I didn't know enough. It was mostly math, reading I was always exceptionally good at.

So, I could keep up with reading and generally writing. The writing wasn't as good because I didn't know how to write that good, but in the class that I was in when I come from the hospital they was writing and I just couldn't write but just so good and so the reading I kept up with. I kind of kept up with it as long as I could and then they finally said that I was too slow. So, they put me in the RE class. So, in the RE class, the first one I went to was in elementary school and I was doing all right. I had learned and picked up on my math and I had considered—well, the teacher I had at the time considered that I was qualified to be sent back to my regular grade. But the principal had changed and somehow the principal decided then any RE student would have to continue through regardless. And there was no way that you could get off, get out of RE class once you were placed in it.

Senator BAYH. When you were taken out of the normal class and put in the RE class, were you the youngest in the class?

Mr. HOLLAND. Some older and some younger, but not by that much though.

Senator BAYH. But you mentioned they had moved you ahead.

Mr. HOLLAND. No; see, it wasn't that the kids were that much older. Maybe a year, maybe a year and a half. RE class was like a separate section from the rest of the school.

Senator BAYH. I understand. In the original class when they moved you ahead, did they move you into a class with youth that were older than you were?

Mr. HOLLAND. Yes; not that much older but a little older, say like maybe a year.

Senator BAYH. At that age a year is a lot.

Mr. HOLLAND. Yes.

Senator BAYH. I appreciate your giving us your experience, Mr. Holland. I think that your story rather dramatically emphasizes one of the things we have heard stressed repeatedly, but never by someone who has actually been through it.

Mr. HOLLAND. Can I say something else?

Senator BAYH. Certainly.

Mr. HOLLAND. You said as far as juveniles are concerned, what effect does the prison system have on juveniles right now, right? None, besides creating a problem. When you send a juvenile to a place like the youth study center with the conditions that was at the youth study center when I was there, well, I don't generally learn anything. If you had a mind or you had a thought to do better or even as a kid then, I knew, I knew that I was generally wrong for leaving the school. But I felt without being able to discuss anything, even though I felt as though the reason as to why I was in school or wasn't, whereas if you go to court and you stand in front of a judge and he doesn't ask you why aren't you in school. You don't have time. And there isn't interest enough to explain because you have the truant officer standing there telling that you missed so many days and my mother was upset and you don't get a chance to talk to nobody.

So, at least when you get sentenced to an institution like the youth study center, it is not all what it is supposed to be, you understand. And when you get there and you spend some time and you look for some kind of help and you get none at all because there is no one near you can talk to, no one there that will listen to you and it is not because like at that time that I didn't try. It was just the simple fact that nobody actually cared. And then as far as the psychiatrist was concerned, when you would ask him different questions he would just stick to the same simple questions as far as what he asks and that was it. After you see him, then you don't see anybody else. It is a routine day everything, the same thing.

When I got sent to the house of corrections I was like forced into a situation at the time that I din't want to go into and that was getting involved with the gang. I stayed away from the gangs in my neighborhood up to the time that I got arrested and I got sent to the house of corrections. But, because of being in the house of corrections and being around them I had to get involved with the gang. And when I got outside I stayed involved with the gang. You understand? Then going to school is the same thing all over again and then when you grow up and when you get sent back, I mean in the house of corrections, I heard somebody say something about recreation or what does it have as far as what do you learn. You learn a lot of things, all wrong things within the house of corrections.

Althongh I was on the juvenile ward you still come in contact with the older dudes. You know what I mean? There was some dude on the block on D block, in fact, that had put their age down because they

looked young. And, you understand, like that was my first experience and you learn pimping and hustling and all kinds of things. I knew a lot about hustling and I didn't utilize it until after I got into drugs because I learned it in jail. I learned a lot. I learned about homosexuality. I had my first contact with even seeing or being in contact with homosexuality being in there, in the house of corrections. And the guards there, I seen dudes, I mean dudes that was, you know, just didn't have anybody like I had friends in jail, and like here is a dude and he ain't done nothing wrong.

He might have run away from home, right? And he is sent to the treatment, and he might be involved with cats that might have, you know, like I said, a gang, or he got busted for something like those harder crimes, a young dude. And with a younger dude or a weaker dude in jail. Well, these dudes prey on cats like that and take advantage of that, especially when they are in a gang situation. And like in jail where there is no kind of things where anybody even tries to deal with the tough problem of the gangs, not on the level as far as getting down and really finding out the issues as to why there is a gang war. If you ask in the jail the dudes today, like the day I got busted, somebody got busted for homicide or something and you ask him what did he kill the dude for, why did he kill him, and he won't know. He can't answer. He can't tell you why.

All he can tell you is that he was gang warring and he killed somebody. The majority of them get into there today and it is like the last time I was down there at Homesburg. And Homesburg is an adult institution, but you have juveniles in Homesburg like 18 and they consider at that age, they are being dropped down now, and 18 is considered an adult. Right? But, still to me they are not adults, they are still kids a lot of them. Some of them are 18 and 19 and are still kids. I see some come through that's like say 17 and 18 and that comes through Homesburg, and they get put in a cell with the qualified, bona fied stuffer, junkie, you understand, that's been a stuffer for say 20 years. And his whole conversation is generally on the line of dope. And then here's a cat that all right, he was in here for gang warring or something like that, which in itself, is bad but not really as bad as what this cat might be into and because he is rapping on, he's telling him about his experiences and he is glorifying them more than what it is.

And then this cat goes out and he gets hooked up on drugs or something like that. I have seen that thing, and I know a dude, one cat in particular, who listened to a guy and actually tried to pimp, you know what I mean, and he thought—he went out and he did all kinds of crazy things in the street when he got out because he listened to some weirdo in jail that's really, you know, talking out of the top of his hat. About something he probably don't know nothing about and something that he might have heard in jail. There are so many things where the majority of dudes in jail, especially older dudes, a lot of people, especially if they are on drugs, they have a habit of building things up. And they tell like a lot of young dudes who look up to a lot of older dudes what has been around and the ones that ain't on drugs, some of them don't want to get involved with it but some of them can't help but get involved with it because they run into it in jail.

They run into it in conversation, especially, since something like 55 percent of the people arrested today are on drugs, or have got some kind of affiliation with drugs. So you put all the drug addicts in jail and then you have got the kids in and maybe they are there for gang warring or something like that and they are into it. And, you know they actually, the younger ones, it is like I say, maybe they are not really into the drug scene but they get out of there and the only thing they get from it is dope. The young boys in Homesburg, they ain't conversing about gang war, they are conversing about dope or something like that.

Senator BAYH. Thank you. I appreciate both of you gentlemen letting us have the benefit of your experience. Mr. Holland, I hope we can profit by your testimony and your experience, and find ways to keep others from having that same experience. I truly appreciate your sharing it with us. Thank you.

Mr. AYTCH. Thank you, sir.

[Mr. Aytch's résumé and prepared statement is as follows:]

SYNOPSIS OF RÉSUMÉ OF: LOUIS S. AYTCH

February 12, 1972–present, superintendent, Philadelphia prisons.

May 1970–February 12, 1972, Prison warden, Philadelphia House of Correction.

August 1959–May 1970, Associate Warden and Director Social Services, Philadelphia House of Correction.

February 1956–August 1959, Social Worker, Philadelphio Holmesburg Prison.

November 1950–October 1954, Case Worker, Philadelphia County Board of Assistance.

EDUCATION

High School, Richland Parish High School, Delhi, Louisiana Graduated 1940. College, Southern University, Baton Rouge, Louisiana 1940-1943 (incomplete). Other, St. Joseph's College, Philadelphia, Pa. 1947–1953–B.S. Social Studies. Numerous in-service courses with the Philadelphia County Board of Assistance and Philadelphia Prisons. Certificate—1962 Temple University—courses in Deviate Behavior—Tests and Measures and Group Counseling. Correctional Management Institute—1970 Pennsylvania State University. Working knowledge of Spanish.

MILITARY SERVICE

1943–1946 U.S. Army—Instructor Basic Education Corporal—Honorable Discharge.

PERSONAL

Born February 6, 1923 in Mangham, La.; height—5'8"; weight—190 lbs.; Married—1946 (four children), Wife is Special Education Teacher.

MEMBERSHIPS

Philadelphia Regional Planning Council of Governor's Justice Commission. Penna. Association on Probation, Parole and Correction. The American Correctional Association. The Wardens Association of Pennsylvania, Corrections Group: Health and Welfare Council. Member Training Advisory Board Center For The Administration of Justice, Temple University. Middle Atlantic States Conference on Corrections.

AFFILIATIONS

Chairman—South Morton Area Committee: president—Germantown Settlement Homes, Inc.; member board of directors—Germantown Homes, Inc.; Committee member—Greater Philadelphia Federation of Settlements; Director—Germantown Settlement; Active in numerous church activities.

PREPARED TESTIMONY OF LOUIS S. AYTCH, SUPERINTENDENT OF THE PHILADELPHIA PRISONS, BEFORE THE SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY OF THE SENATE JUDICIARY COMMITTEE, SEPTEMBER 10, 1973

Mr Chairman. It is a distinct pleasure to appear before you and your colleagues of Sub-Committee to investigate Juvenile Delinquency. I am especially pleased to see that these hearings are intended as an inquiry, preparatory to the development of federal legislation, aimed at assisting local and state jurisdictions in operating a meaningful juvenile justice system. Discussion of any problem can produce certain positive outcomes, but the translation of discussion into meaningful federal legislation is indeed a far more valuable undertaking.

I personally find it unfortunate that federal guidelines and standards cannot increasingly be brought to bear on local jurisdictions throughout many sectors of the criminal justice field. If the level of public consciousness remains at the low level of enlightenment characteristic of opinion during most of our history, I fear that federal guidelines will conveniently be filed away—to die the slow but total death of public indifference and official disdain. Whatever conclusions your committee may eventually operationalize into federal legislation, I hope that you will earnestly and vigorously utilize all the resources at your command to generate local acceptance and compliance. Important national problems such as juvenile delinquency bear no resemblance to the artificial political boundaries separating the states and local jurisdictions of this country. When the welfare of vast numbers of human beings is involved, the limiting perspectives and provincialism separating cities must be abandoned in order to serve the interests of all persons.

In appearing before the Sub-Committee this morning, I shall endeavor to offer a brief discussion of our involvement with juveniles in the Philadelphia Prisons and respond to the specific areas of interest noted in your invitation to appear today. I will offer a few possibilities for effecting changes in the broader field of juvenile detention and treatment and will be pleased to respond to any questions which you or the members of your Sub-Committee may have. I hope that my testimony will be a frank appraisal and recognition of the problems and tremendous deficiencies inherent in the area of inquiry which concerns us this morning.

The Philadelphia Prisons serve as one arm of a broad, complex, and entangled criminal justice system for an urban community composed of over 2½ million persons. Durin gthe course of one calendar year over twenty-four thousand men and women pass through our county prison system. The majority of these persons are not convicted and sentenced felons; indeed, the vast number staying with us await the disposition of their individual cases. On a given day, eighty-five percent of the population is in a detentioner status. These are prisoners charged with a crime, but held without bail, prisoners unable to pay the bail, prisoners charged with violation of probation or parole, and persons awaiting sentence after conviction. With only fifteen percent of the prisoner population serving short county sentences of less than 23 months it is perhaps a misnomer to consider our system as a "Prison" in the traditional sense. The Philadelphia Prisons serve primarily as the city jail and detention center for the City of Philadelphia.

The nature and extent of our direct involvement with juveniles is quite small when one considers the scope of the entire system. At present less than sixty juveniles are being held in the Philadelphia Prisons. This figure represents slightly more than 2 percent of our total daily population, and 2.5 percent of the detentioner population. You will notice if you consult a chart of our juvenile population on page 18, that we have experienced considerable shifts in the numbers of young people sent to us by the courts. In past months we have noticed a reduction of the juvenile population, but I cannot intelligently suggest whether this is due to a general reduction in juvenile arrests or a conscious effort to keep younger persons out of the environment of an adult corrections facility.

Regardless of the small size of the number it is a very definite fact that during a calendar year over 600 persons under the age of 18 years old will be detained in the Philadelphia Prisons, awaiting the disposition of the criminal cases pending against them. Pre-adjudication detention in Philadelphia is an accepted concept of the criminal justice process and still continues to be implemented, in part, through the detention of young people in an adult environment. At this point it may be helpful to sketch the nature and boundaries of the detention environment as it relates to our juvenile population.

Most juveniles accused of criminal acts are held at the city's Youth Study Center, should pre-adjudication detention be necessary, it has been an accustomed policy to transfer juveniles to the city jail when extreme overcrowding exists at the Youth Study Center. As overcrowding is a constant factor of ongoing operations, so then is the transfer of persons to the city jail. Except in the most extreme or unusual circumstances no juvenile under the age of sixteen would be remanded to our custody. In reality, the Prisons serve not only a facility to absorb overcrowding, but also as a place to send children or juveniles accused of severe crimes. The population is quite fluid, with the majority of the juveniles staying for a period of less than 6 months. All decisions relating to the detention of juveniles are made by the Juvenile Division of the Family Court.

Those juveniles held in detention have usually been accused of severe crimes, predominantly relating to crimes against persons or crimes against property involving firearms. Almost none of the young people are first offenders, indeed many have passed through the Philadelphia Prisons on numerous occasions in the past. Compared with the crimes committed by our sentenced men and women, the crimes of which the juveniles are accused loom as infinitely more serious. This is not a value judgment on the issue of detaining these persons, but merely a commentary on the increasingly serious nature of juvenile crimes. Violence has played a major role in the lives of most of our juveniles, a fact which I will comment upon later as it relates to their behavior and response to the adult detention environment of the prisons.

All juveniles sent to the Philadelphia Prisons are held in the House of Correction. It is a medium-security institution built essentially in the 1880's, and with modification in the 1920's and again in the 1950's. The House of Correction reflects the architectural imperatives of traditional Pennsylvania prisons with long cell blocks extending out from a center rotunda complex. All juvenile admissions are placed on the same cell block. This policy of segregation reflects the courts' practical interpretation of our lgislative proscription against the incarceration of juveniles with adults. While the cell block is separate from the remainder of the institution (including the dining room, infirmary, and other service areas), over 700 adult offenders and detentioners are held in the other cell blocks of this facility. The law on separation is no doubt open to judicial interpretations, but the reality of the prison environment suggests that cell block segregation *is not* and *could never be true separation*, especially when one considers that the entire operation of the House of Correction relates to serving the needs of adult prisoners.

Facilities for the juvenile population are virtually non-existent. Official policy rightly demands that the juveniles be kept separate from the adults. Given the very limited facilities available for adult activity it is virtually impossible to structure the physical environment in a positive manner for this small sector of our total prisoner community. The major locus of daily life is the cell block. Except for attending classes, occasional use of the gymnasium, and certain other activities such as movies, all juveniles spend almost their entire tenure at the House of Correction on their block. I personally consider this as totally unacceptable, regardless of the nature of their crimes and other behavior problems. So long as we must utilize existing facilities for both an adult and juvenile population the small juvenile population will be forced to suffer the major pangs of prison idleness and intense boredom. To allow the juvenile population freedom of access to existing facilities with the adults would not only be a violation of the law but could be also an evasion of my responsibilities to maintain prison order and provide for the personal safety of all incarcerated persons.

Juveniles remanded to the House of Correction, regardless of the severity of their accused crimes, are adolescents; they are not adults. At this stage of life their physical energy is boundless, and it is not surprising that physical confrontations and eruptions occur when this energy must be suppressed through enforced segregation and confinement on a housing unit. Access to recreational facilities does not begin to meet the needs of the population. This is perhaps one of the paramount problems of detaining juveniles in an adult setting. Cases of sexual attacks and incidents, though few in number, may be related in part to the enforced idleness and frustration of confinement.

One pervasive social subculture which touches almost every juvenile held in detention is gang participation. Perhaps more than any other urban center in the United States, Philadelphia finds itself compartmentalized and terrorized by a web of gang affiliations. Gang "turf" is not a term of the 1950's and '60's, but a pragmatic aspect of unofficial boundary divisions within the city. Juvenile gangs with conflict orientations serve as the focal point for almost every young

person in the House of Correction. The juvenile cell block becomes in effect a microcosm of the gang world taken indoors under a common roof. At any given time numerous gang allegiances will be represented on the juvenile housing unit. The social dynamics of gang participation and involvement, override every other pressure of institutional adaptation, except perhaps the idleness of incarceration. Not even the "system" or the "prison" appears more significant as a focus of attitudes and behavioral adaptation. It is not uncommon for juveniles to hurl verbal abuse and insults in a variety of sensitive areas at each other without any recourse to physical confrontation. But should such abuse turn to the subject of one's gang, a physical confrontation will certainly result. New admissions are met by fellow "corner boys" who serve not only as reference points for adapting to the prison environment but also as allies and protectors should the situation demand concerted action.

The conflict subculture of the streets which demands the establishment of status and "heart" among its participants is replicated within the prison. Many juveniles will not be accepted on the block until undergoing some informal form of initiation which may involve conflict. It should not be surprising to anyone that dominant social and behavioral variables transcend the mere walls and barbed wire of a correctional setting. To many of the young people gang participation and conflict is indeed the only reality, the only status-bearing activity that they know. While we are not dealing this morning with the causes of gang participation, this social indicator does have substantial ramifications for the operation of the prison facility. As I mentioned earlier, the lack of facilities, especially recreational facilities, only serves to heighten the probability of releasing tensions and frustrations through less acceptable channels. Considering that a gang conflict subculture is the dominant social fabric among the juvenile population it serves as the major outlet. No amount of facilities or planned activities will remove the phenomenon of gang related conflict, but confinement does absolutely nothing to alleviate it and more like encourages it.

A tangible manifestation of the idleness-conflict phenomenon is the extent to which juveniles are involved in official institutional disciplinary proceedings. The juvenile population accounts for approximately eight percent of the number of persons in the House of Correction. They account for over twenty percent of the disciplinary infractions which eventually come before a formal hearing committee. A signifiant number of the infractions involve conflict situations between two or more persons. If the infraction is serious enough the person involved may be sent to a disciplinary block where confinement is even more pronounced than on the juvenile housing unit. Isolation from the population may serve to increase tensions and frustrations which are acted out in additional behavior eruptions. The cycle is a never ending circle so long as sufficient outlets are not available to challenge the all too present option of real or imagined gang conflicts.

Incarceration, especially strictly regulated confinement, such as is necessary at the House of Correction, produces a fantasy world for many of the juveniles. They are often quite disoriented from reality to begin with, giving undue emphasis to seemingly small or insignificant occurrences. Within the prison social system nothing is insignificant, and almost any incident could serve as a catalyst for aggressive behavior among one, two, three or more indviduals.

The Philadelphia Prisons have been making major strides in the area of providing meaningful service to our adult population. Major changes have occurred in the structure and personnel capabilities of the system which allow for numerous professional services and treatment and training programs. Funds received through the Law Enforcement Assistance Administration have given us the opportunity to develop projects that sat on the shelves for years for lack of sufficient resources and official motivation. Yet, almost none of the treatment and training programs are available to the juvenile population. They do not come under the full jurisdiction of the prisons, and all juvenile programs are developed by other authorities.

It is a sad commentary on any system that it can provide social service assistance, psychological counseling, vocational development, drug therapy, and numerous other services to some of its residents, while having to deny them to others. There is no overt intention to keep the juveniles beyond the pale of intensive personal service contacts, but it is impossible to alter a majority of hard-won programs to serve people who do not really fall under our jurisdiction and who we cannot mix with adults. Treatment and service opportunities which are currently being implemented for adults would certainly be much more efficiently opened to juveniles in a setting of their own. The criminal justice system cannot justify the lack of sufficient services on any grounds, and the doctrine of separa-

tion serves only to highlight the necessity to provide assistance oriented toward the specific problem areas of these younger persons.

Certain educational facilities are available to the juvenile populations. State law makes school attendance mandatory, and the Board of Education operates a reasonbly full eduction program in special classrooms at the House of Correction. Because of the small number of students and the lack of resources to implement diagnostic and achievement test batteries, persons of different capabilities and aptitudes are placed in the same classes. Fortunately, due to the small number of students and the large number of teachers the classes are quite small. One instructor carries out all instruction on an individual basis. Yet, whatever the benefits of this personal instruction, the student must still return in regimented fashion to his cell block after the conclusion of classes. Many juveniles indicate that the only stimulus to attend school is the chance it provides to leave the enclosure of the block. The education question points again to the negative implications derived from trying to provide a given service, however significant its value, in an environment that is not conducive or appropriate in its totality.

Medical care is available to every person in the Philadelphia Prisons, and major strides have been made in this area. Sick-calls are held on a daily basis, and emergency assistance is available on a limited basis. Many of our residents come to prison with undiagnosed conditions, and we are not able to carry out major diagnostic evaluations for each new admission. Emergencies do arise, but increased staff training and awareness coupled with the presence of more professional medical personnel have kept major problems to a minimum. One can very realistically argue that there should never be a medical emergency which we should not be able to handle, but given the problems of attracting an optimal number of doctors and the lack of resources to retain them, we will always be working with our backs to the wall in the field of medical services.

I have already noted the lack of meaningful rehabilitation programs available to the juveniles at the House of Correction, but I would be negligent if I did not reiterate that many of the people are not with us long enough for involvement in any meaningful program.

One of the issue areas in your letter of invitation to appear before the Sub-Committee was staff training. Working with the juvenile population is certainly different from involvement with adults. The correctional officers assigned to the juvenile housing unit at the House of Correction have not received any specialized training related to youthful offenders and adolescents. Yet, our correctional staff is increasingly involved in advanced training with emphasis on the behavioral sciences. Over 120 officers have completed an intensive eight week course which emphasizes the fields of psychology, sociology, psychiatry, and law. It has certainly increased their awareness and consciousness of the problems experienced by persons in a custody environment. But since all of our staff work in an adult offerender setting it is unfair to expect anything more significant than the transference of ideas about adults to the subject of juveniles.

Officers assigned to the juvenile block are a combination of youth and experience. Our day shift staff consists of two men who have worked with the juveniles for over twenty years. They are older men who bring a wealth of practical experience to their assignment, but they still must operate within the environment of the prison as a whole. Younger staff members who are able to relate in other ways in the young population often find the lack of outlets and facilities are frustrating. It is grossly unfair to staff who must constantly perform a police function without the benefits of having sufficient alternate options open to redirect energies during long periods of idleness.

I would urge that any person who works with other human beings should be selectively and carefully chosen. It violates every principle of humane behavior to inflict insensitive and uncaring staff on persons who have major problems of their own. Once correctional workers have been selected, special care should be taken to train them to recognize and respond to the peculiar behavior patterns and problems of various age groups. We ask too much of any person to expect him to be both policeman and counselor within the severe restriction of a single cell block in the city jail. People who really care about other persons may find their initiatives and feelings considerably dulled by the restrictions and general social dynamics of dealing with anyone in a prison setting.

Public and governmental attitudes concerning juvenile detention are difficult to isolate and it is perhaps presumptuous for me to speak for other authorities or vast numbers of citizens whose opinions I can only guess at. Certainly there are two conflicting groups on this question. Increases in violent street crime

have led to understandably expanded calls for tougher enforcement measures. Persons under the age of 21 now account for the largest percentage of all homicides, and gang killings are certainly a daily issue on the streets of Philadelphia. High levels of recidivism among juveniles suggest that individuals are committing repeated criminal acts, but with the length of time it now takes to dispose of a criminal case, any person held in detention will in effect be serving a prison term. Surprisingly, many persons serve more time in an untried or unsentenced status than they do after a conviction. The public who experiences the output of juvenile crime may only be arguing for incarceration for lack of other meaningful alternatives. I believe that public support for any choice of alternatives in the criminal justice field depends on the availability and success of the particular alternative. If the only method available to society to get young people off the streets is detention, then we can expect support for this method. One thing is certain; if public leadership does not move with dispatch to develop options for the treatment and development of delinquent youths, public pressure will crushingly be exerted for pure confinement policies.

Official government interest in these difficult problems is also elusive to isolate and define. The implementation of criminal justice in the United States has become one of the most complex monsters for both our social system and bureaucratic capability to cope with. So many people are in need of so many services that numerous meaningful contacts an attempts to help are often lost or destroyed by the larger environment in which they take place. Any governmental structure feels the necessity to make the system work as well as possible. Unfortunately what is good for the governmental unit may not always be good for the citizens. The virtual mountain of administration requirements, responsibilities, and jurisdictional deadlocks inherent in criminal justice systems, most often finds even the most sensitive and caring persons fighting to stay even.

Mr. Chairman, you ask about governmental feelings regarding juvenile detention. I believe that so long as creative alternatives remain unexplored, so long as youth initiated crime continues to mount, so long as society at large continues to place its priorities and energies in areas far afield of reversing the devastating cycle of poverty—so long will government, especially local government, opt for any method that provides the easiest solution to the immediate problem at hand. The pre-adjudication detention of juveniles is but one of a multitude of examples supporting this belief.

Each day I am aware of expanding interest, of the commitment of more persons to help their brothers make a decent life for themselves. Still the enormity of the problem seems continually to outdistance the efforts for solutions. History offers us grand examples of great civilizations which collapsed from internal decay than external attack. That so many young citizens are not able to find meaningful alternatives to obviously destructive and harmful life styles is a particularly insidious form of such decay. If we are not able to solve this problem, at some time in the future we may find that while we have not run out of problem, we have out of society.

Mr. Chairman, after having turned a rather critical eye toward the issue of juvenile detention, it is incumbent on me to offer some recommendations for your consideration:

(1) Federal guidelines should be developed to preclude any incarceration of juveniles with adults. The scope of the prohibition should extend far beyond intra-institutional separation. Juveniles should not be held, detained, or placed in any other type of custody where they will come in contact with an adult corrections environment. So long as any institution is forced to serve the needs of two distinct communities, the well-being of both groups will suffer. So long as juveniles relate to their detention as a step into the adult criminal world, no positive rehabilitative functions can be served. I would urge that every means available to you be employed in separating not only the physical location of adults and juveniles, but also the criminal sanctions and environment that characterize such settings.

(2) Federal control over the broad guidelines of funds distributed under the Safe Streets Act should be expanded. When funds from the Law Enforcement Assistance Administration reach the utilizing agencies, regard for federal guidelines is often buried under the weight of local political interests and priorities. If taxpayers money is to be virtually handed over to juvenile justice authorities or any other authorities in the criminal justice field, certain standards should be mandatory. Local jurisdictions are increasingly dependent upon

these federal funds for both new projects and the continuation of ongoing programs. Your commitment and willingness to demand compliance with certain guidelines as a prerequisite for initial and continuation funding would be a major step in the right direction.

(3) Public officials such as myself and others should constantly be held accountable for the operation of their various agencies. Public investigation, backed with the power of the purse, should be utilized to demand answers and meaningful explanations on an ongoing basis. If federal commitment is weak and ill-defined or local commitment for that matter, you should not except anything more from others.

(4) Federal resources should be made available for major research efforts, especially those with distinct policy orientations. Research efforts in the juvenile justice field should be inter-related and should focus on the development of alternatives to any existing program or strategy.

PHILADELPHIA PRISONS

Month	Juveniles held in detention		
	Number held in custody on last day of month	Total number of detentioners (system-wide)	Juveniles as a percentage of the total detention population
January 1967	89	1,432	6.2
April 1967	83	1,560	5.3
July 1967	76	1,471	5.1
October 1967	91	1,536	5.9
January 1968	77	1,634	4.7
April 1968	161	1,700	9.5
July 1968	147	1,715	8.6
October 1968	166	1,946	8.5
January 1969	114	2,021	5.6
April 1969	123	2,200	5.6
July 1969	137	2,263	6.0
October 1969	169	2,234	7.6
January 1970	153	2,148	7.1
April	167	2,159	7.7
July 1970	130	2,065	6.3
October 1970	120	1,975	6.0
January 1971	120	2,047	5.9
April 1971	102	1,996	5.1
July 1971	99	2,229	4.4
October 1971	135	2,083	6.5
January 1972	99	2,303	4.3
April 1972	64	2,324	2.8
July 1972	90	2,357	3.8
October 1972	126	2,372	5.3
January 1973	103	2,341	4.4
April 1973	97	2,356	4.1
July 1973	70	2,089	3.4

Senator BAYH. The next witness this morning is the Honorable Lois G. Forer, Judge of the Court of Common Pleas in Philadelphia. Judge Forer.

STATEMENT OF HON. LOIS G. FORER, COURT OF COMMON PLEAS, PHILADELPHIA, PA.

Judge FORER. Thank you, Senator Bayh.

Senator BAYH. We appreciate your taking the time to be with us.

Judge FORER. Well, it is a pleasure to be here. It encourages me to know that you are in charge of this subcommittee and continuing to work on this problem.

I am not going to read my prepared statement. You have it.

Senator BAYH. We will place it in the record in its entirety at the conclusion of your remarks.

Judge FORER. I do have some things that I feel I would like to say.

I have had the unusual experience, and perhaps I am one of the few lawyers in this country who have represented more than 3,000 indigent children brought before juvenile court. If you don't mind, I should like to call them children instead of juveniles, because if we say juveniles, it is dehumanizing. And almost everything we do to these children dehumanizes them, so at least let's call them people, not juveniles. Children.

Now, in addition to having had that extraordinary experience of representing these 3,000 indigent children at a time when the juvenile courts did not welcome counsel, part of this was before the *Gault* decision, part of it afterward, I am now a judge of a court of general jurisdiction where I see adult criminals. Most of them, of course, are graduates of our juvenile institutions. I should like first to call your attention to the problems that bring children into the jails because it seems to me that if we are concerned only with institutions we are seeing only the last stage, perhaps tip of the iceberg as they say. This last witness seems to me to typify the kind of child that I, in a big city, have dealt with. Your other witnesses are atypical, I might say, to the big city person. This last witness is not typical either because he is far more intelligent and far more articulate than the average person who comes before me as an adult accused of crime, or the children whom I represented who were accused of delinquency.

I think the first problem that we have to face with children is the fact of poor physical health. This may seem a long way from jail, but in my experience with these 3,000 young children, many of whom had truancy problems, I found that they were sick a great deal of the time. When I could prevail upon a neurologist to examine them without fee, I discovered that many of them were brain damaged. When they got to school they were called hyperkinetic. I am here to ask you, Senator Bayh, and the committee to consider very carefully a medicare program for children, because it is my experience, in a large city, and I have been all over the country watching what they do in other cities, that most of our inner city children never see a doctor unless they are in an accident, stabbed, shot, or run over. These children simply do not have adequate medical care. This may lead to many of their school problems.

Their second problem, of course, as our last witness dramatically pointed out, is school. Now it is a question of trying to fit the child to the Procrustian bed of the school system. There is crime in our large cities and, of course, crime is creeping out into the suburbs and rural areas. But we have to recognize that we have compulsory school laws. We live in a very complicated society, materialistic society, where everybody wants things that cost money, where success is measured by how much, how many things you have, like automobiles and so on. And you have to be able to earn the money to buy them or there is a temptation to steal.

Time and again, today, sitting in court, I will have a young man 20 years old before me and I will ask him if he has a job. He is up for some kind of stealing. He doesn't have a job. He has either dropped out or was pushed out of school at the 10th or 11th grade. What I do now is put him on probation and make as a condition of the probation that he get his general education diploma, his high school equivalency diploma. But, why should we wait until he is 20 and already has a criminal record? I think we have to have a radical change in the school system so that it takes into account the wide variety of children we have: Those who are brain-damaged, hyperkinetic, from deprived backgrounds, academically untalented, unmotivated, as well as the middle-class, upper-aspiring child with the concerned parent. We have all kinds of children and we need alternative kinds of school for all of these children. So, I am suggesting first that we need physical care

for these children because I think many of their problems arise out of ill health.

We don't have adequate statistics. But certainly we know that there is a close correlation between problems in school and problems with the law. Instead of concentrating on the law, let us concentrate on making the school a place where a child can stay safely, with relative happiness and learning something. When I say safely, I mean it as physical safety. In Philadelphia, as in many large cities, and some not so large, we do have problems of physical safety, gang problems. Schools are like armed camps. And if you come from the 36th Street corner and the Klan gang is sitting next to you, you are not going to learn much arithmetic when you know the fellow sitting next to you has a knife in his pocket or worse. These are things that it is not pleasant to say, but they are facts of life which we have to recognize.

Then we get to the law itself. I have asked leave to append to these remarks my proposed new juvenile court law, which I know you are familiar with.

Senator BAYH. If I might interrupt, Judge Forer is referring to the Columbia Human Rights Law Review article, "A Children and Youth Court: A Modest Proposal," I have the good fortune of having had an article, "Juveniles v. Justice," in that same edition. Also, I had the good fortune of writing a review of Judge Forer's book, "No One Will Lissen."

Judge FORER. Thank you, Senator Bayh. And I can't tell you what a comfort it is, I think it should be, for all of those who care about children, for the children themselves if they knew it, to know that you are chairman of this subcommittee.

Senator BAYH. Let us just say that we share a common frustration.

Judge FORER. I think there are certain things that we can do. Of course, it is always easy to put the blame on the other fellow. But, I think that we must have a new kind of a juvenile court law where the court cannot treat a child as a criminal because he doesn't go to school or because he runs away from home. I have often said that there is justifiable homicide. If you kill somebody when you are being attacked, you are not guilty of murder. If a child runs away from an intolerable home, there should be such a legal concept as a justifiable runaway. If a child is forced to go to a school that is intolerable, there should be such a concept as a justifiable truancy. I have proposed a totally restructured court, not one that is just a misnomer of a criminal court for children, but a count that also permits a child to be the moving party, to come into court and to demand his rights. This proposed law also includes a "Bill of Rights" for children which gives every child the right to a decent home, to a suitable education, to medical care and to freedom. That is, freedom unless he is convicted in a due process trial by proof beyond a reasonable doubt, that he has committed an offense which if committed by an adult would be a crime. And further, that he cannot be incarcerated for a longer period than an adult who is convicted of the same crime. None of this is the law today, despite the much talked about *Gault* decision.

Senator BAYH. Due process is a serious concern. Sometimes I think that as far as juveniles are concerned, many courts require proof of innocence beyond a reasonable doubt, not guilt.

Judge FORER. Right. This last witness said no one will listen, and the truant officer was there beside him. 90 percent of our children

are indigent who come before the court. But, 90 percent of our funds for free legal assistance do not go to children. It is more like 10 percent. I don't have the exact figures, but we spend a disproportionately small amount on the legal representation of children.

And if I may mention, just for a moment, on example of the importance of legal representation. A warden of a prison in Pennsylvania called me and said there was a child there that he couldn't do anything with because he kept saying that he was innocent and he would not conform to routine. Would you give him a new trial, he said, and maybe we shall be able to do something with him? I was a lawyer then, not a judge, and I represented the boy. Certainly there was no evidence that he was guilty. He was, with great difficulty, I might add, acquitted. Now, this hardly promotes a respect for due process of law or law and order or a sense of justice.

It bothers me very much that in many public schools in this country children refuse to rise for the Pledge of Allegiance to the flag, because they say it is not one Nation with liberty and justice for all. There is no liberty and justice for them and they sit. This is a very sad thing, I think, for people of my generation to see what has happened, I think we must change that, not by forcing them to stand, but by giving them equal justice.

Now, what can the Federal Government do? Obviously, enacting a new juvenile court law is a matter for States. But, the Federal Government can certainly adopt a medicare program for children which pays for medical care for children. Federal funds can be used, especially in the corrections field. Matching funds and grants, which require that the State enact or enforce a Bill of Rights for children, and abide by it. If a child is supposed to get a hearing in 24 hours, and he doesn't get one for 2 weeks, you don't just slough that off as a malfunction of the system. The Federal Government's power of the purse can be very compelling. With respect to the institutions themselves, I don't draw such a great distinction between adult institutions and institutions for children. In an adult institution there is somebody known as a jailhouse lawyer, a man who is wise in the ways of the world who writes petitions for the other inmates. And that is how Miranda and Gideon and many other people got out of jail. There was a jailhouse lawyer for them. There is no jailhouse lawyer in an institution for children.

When it comes to the question of child abuse in an institution, it is the word of the child against the word of an adult. And just the other day, like my friend Mr. Aytch, I dropped over to the youth study center for a visit. Our new director, who has made many changes, and opened the institution up to volunteers, showed me the wooden leg of a chair that a guard had used to beat a child with. How did the director find out about this? Because a volunteer in the prison itself told him. And I would urge that in any grant program that you make for institutions and justice for children that you include a program of child advocacy which makes enormous use of volunteers. The superintendent of an institution, no matter how compassionate and understanding he is and wants to be is limited. He can't be every place all at once. The greatest safeguard for everybody is to open the institutions to the public.

In a number of institutions we have volunteers who come in and teach. They teach what is needed the most of all, remedial reading.

I am always fascinated by jails that are sending their inmates to college. I don't disapprove of that, I think it is wonderful. But, I find the most dire necessity is for basic elementary reading. We have 16-year-olds who can't read at a third-grade level and they have normal intelligence. This is the kind of youngster who is in our institutions for children. They will be unemployable. There is no question about it. Therefore, I ask that in any program that the Federal Government funds there be a requirement that there be adequate elementary education. Not just a teacher who sits there and nothing happens, but that there be intensive remedial education, that there be volunteers who are in and out of those institutions on a regular basis. Volunteer grandparents are a wonderful thing, especially for children who come from broken homes, or homes where there is not much love. Here are older people who themselves are lonely and they come in for a couple of hours a day or a week and become volunteer grandparents. They are this child's lifeline to the outside world. If this child is abused, the volunteer is his spokesman.

The public defenders go regularly to adult jails. They seldom go to institutions for children, no matter what we call them, correctional instituions, cottages and so forth. And so I believe that it is terribly important that we have the public, through volunteers, in these institutions to prevent abuses.

I also think that we must have speedy public trials for children. As you know, in many States, it is still, by law and by custom the fact that the public is excluded from these hearings, the "5-minute children's hour" in court. Despite *Gault*, we still have 5-minute children's hours where youngsters who have run away from home, or become pregnant or have done something which is not a violation of the penal code are sent to an institution or started on a life of crime.

In closing let me suggest that I believe juvenile justice is a Federal matter because so much Federal money goes into supporting these institutions. I ask you first to consider physical health. Taking a child to a free clinic is not the same as having a doctor who gets paid a fee. We do provide such medical care for older people. Then we have to insure that children have rights, that they have a speedy public trial. We have to have the public in the institutions to be the surrogate parents for so many of our children. Because we live in a very complicated and difficult society, the parents are often unable to cope with the bureaucracy and the difficulties of society. Therefore, we must provide these substitute parents, these child advocates.

Senator BAYH. Judge, I appreciate your compassionate and compelling testimony.

I would like to get your response to a couple of questions. On the basis of your work with juveniles, how would you assess the impact of the "therapeutic" stay in jail, and of the philosophy that the problem is merely a lack of discipline. Is the kind of discipline that that child gets in the youth study center or the house of corrections for children over the weekend or for 2½ years really a prerequisite to the beginning of rehabilitation in a meaningful sense?

Judge FORER. Well, of course, it is my experience that a stay in a prison has no therapeutic effects. The things that happen we all know are truly horrendous. A child who is small, physically small, is subject to enormous abuse. We do have, in many cities, severe racial

antagonism, so a child who is in a mostly black institution who is white is in danger. A black child who is in a mostly white institution is also in danger. Nothing good can come of his stay in such an institution because he gets no education, no psychiatric. He may be diagnosed, but he is not treated. And physically, his health, nothing is done for him.

What I have found that has had an extraordinary therapeutic effect, and which astonished me, was that if you give a child a fair trial, we have found that fewer than 10 percent of the children whom we represented, who had had a real meaningful, fair trial and sometimes they would say, my goodness, it is just like television, those children had a low recidivism rate, less than 10 percent. I think there are many things that we can do other than lock people up while improving them.

And now as the judge in an adult court, I see people coming before me with records that long. They have been arrested and convicted repeatedly and jailed maybe 20 times. It hasn't done them the least bit of good. So, I think we have to start with what are their real problems, because this is just the manifestation.

Senator BAYH. Thank you very much, Your Honor. You have been very thoughtful. I wish there were more judges like yourself who could distinguish between therapy and compounding a felony.

Judge FORER. Thank you, Senator.

[Judge Forer's prepared statement and the article "A Children and Youth Court: A Modest Proposal" is as follows:]

PREPARED STATEMENT OF JUDGE LOIS G. FORER, BEFORE U.S. SENATE SUBCOMMITTEE HEARING INVESTIGATING JUVENILE DELINQUENCY

Senator Bayh, members of the sub-committee, ladies and gentlemen: I am deeply grateful to you for the opportunity to come to this public hearing and share with you some of my experiences with young people in trouble. It is most encouraging to me and to the many people in the legal profession and the general citizenry who are concerned with the rising crime rate among children and the failure of our institutions to help them, to know that this Sub-committee is devoting its attention to this serious problem. Nohing will affect the future of our country more than the way we educate, care for and treat the young people of today.

I regret to report to you that, with a few notable exceptions, we are failing; we are failing to give our young people an understanding of the importance of the rule of law in a democratic society; we are failing to educate our young people to live in a highly technological, complex and difficult world; we are failing to provide them with the skills they need to earn an honest living in a society which places so much emphasis on financial success and material possessions; we are failing to give them the medical care and treatment necessary so that they may grow up to be physically and emotionally healthy adolescents and adults; we are failing to give them a sense of compassion, kindliness and love toward other people because we do not treat our young people with compassion, decency and love.

I have had the unique and not altogether happy experience of representing, as a lawyer, more than 3,000 young people in trouble with the law under the Office of Economic Opportunity. The Philadelphia Office for Juveniles of Community Legal Services, which was the first and, I believe, the only law office in the country to provide legal counsel for children, was established in 1966, at a time when it was considered that a child accused of delinquency did not need the services of a lawyer. Indeed, many juvenile court judges and court personnel were of the opinion that legal counsel for children was undesirable.

As you know, on May 15, 1967, the United States Supreme Court in the Gault case ruled that children accused of delinquency, the euphemism for violations of law by children, were entitled to be represented by counsel. Unfortunately, both before and since Gault many children have been removed from their homes

and placed in jail-like institutions who have not committed any acts of delinquency. Juvenile courts are still placing such non-delinquent children, homeless and dependent children in jail-like detention centers and correctional institutions. In many communities a jail is the only facility available for an innocent child in need of a home. These children are not constitutionally entitled to legal representation although the effects of placing them in institutions are drastic, heartbreaking and deleterious. The effects on these children are, if anything, more serious and harmful than on children accused of delinquency.

Under the Constitution an adult is entitled to many legal safeguards such as the right to trial by jury, the right to a preliminary hearing in order to establish probable cause that he has committed a crime, a statutory limitation on the sentence which may be imposed, innumerable motions to suppress coerced confessions and illegally obtained evidence, and a wide variety of legal appeals and post-conviction remedies. I find it incredible and shocking these same rights that are not constitutionally mandated for all children.

A moment's reflection would indicate that children are the most vulnerable members of society and least able to protect themselves, but under the law they are afforded fewer protections than adults. It was my experience as counsel for thousands of children which forcibly brought to my attention these defects in the law, as well as the deplorable condition of many of our institutions for children. I have seen the failure of many agencies in our society, both voluntary and public, to provide children with the care and skills they need to survive in our society. All of these institutions through grants and purchase of care contracts are, in fact, supported by the taxpayers. But they are not accountable to the citizens.

As a trial judge sitting in adult court, I se a steady parade of graduates of our juvenile institutions who have not been rehabilitated or helped through their contacts with the juvenile justice system and institutions in which they were placed by the courts. On the contrary, many of them have been prepared for a life of crime. A significant proportion of these adults accused of crime have spent some part of their youth in institutions for juveniles and have had at least one contact with the juvenile justice system. In our inner cities, nine out of ten nonwhite boys have been in juvenile court at least once before the age of 18. I hasten to add that this does not mean that nine out of ten crimes are committed by such yougsters. The results of a survey reported by President Johnson's Commission on Crime and Delinquency in a Free Society reveals that nine out of ten college students when questioned by a research team admitted to having committed at least one act for which they could have been arrested. The crucial difference between their lives and the lives of ghetto children is, of course, that these predominantly white, middle-class youths were not arrested. They had no contact with the juvenile justice system.

The single, overriding attribute which characterizes children in trouble with the law and in institutions for juveniles is poverty. That is their principal crime. Other children, who are not poor, run away from home, play hooky from school, break windows, shoplift and commit hundreds of other offenses. Under our juvenile justice system their cases are "adjusted". These children are rarely brought to court and almost never institutionalized if they have middle-class parents who are willing to keep the child at home or send him or her to special school or to a psychiatrist. I am not, of course, referring to children accused of serious crimes of violence like homicide and mugging. These offenses constitute only a small but significant portion of the cases that come before the Juvenile Court.

Let me give you a few rather horrifying statistics. We must bear in mind that adult criminal statistics are unreliable and far from uniform. The same is true with respect to criminal statistics relating to children. What is considered a crime in one jurisdiction may not be a crime in another. Different communities report offenses differently. For example, a woman complains that she was raped by one boy; seven may be arrested and charged with rape. In some communities this appears as seven rapes and in some communities it appears as one rape. But with all these caveats, statistics can give us some idea of the size of the problem.

In 1968 there were 900,000 juvenile delinquency cases handled in juvenile courts across the country, involving 774,000 children. This constitutes 2.5% of all

children ages 10–17. Between 1960 and 1968 the number of juvenile court cases increased by 76.4% as compared with a 24.5% increase in the child population aged 10–17. The rate of increase was greatest in semi-urban or suburban areas, second in urban areas and least in rural areas. There was a slightly higher increase in girl offenders. But they still constitute fewer than 15% of arrests, and many of these arrests are for essentially non-criminal acts such as runaway. The combined increase from 1960–1968 for arrests of juveniles under 18 for criminal homicide, forcible rape, aggravated assault, larceny and auto theft as reported by the FBI was 78.5%. The increase from 1960–1968 for violent offenses against the person such as homicide, forcible rape, aggravated assault and robbery was a horrifying 124.1%.

Clearly, all the forces of society—police, schools, welfare, the church and the home are failing these children. One must concede that for children, who commit such offenses—bearing in mind, of course, that an arrest is not the equivalent of a conviction—must be placed in institutions. However, the majority of children in institutions have *not* committed violent or dangerous crimes. Many are not even accused of crime. Approximately 70,000 children are confined in jail-like institutions each year. In 1970 there were 7,800 juveniles confined in 4,037 adult jails; of that total 5,158 children 66.1% were not convicted. These children were either awaiting trial or were not accused of delinquency and were in jail simply because there was no other place for them. Pennsylvania, Indiana and Ohio alone have children in more than 200 adult jails.

At least one-third of all children in jails and jail-like institutions are there not because they have committed crimes but because they have run away from home, played hooky from school, have not adjusted to the school system or simply do not have suitable homes.

For these statistics, inaccurate though they may be, certain facts are undeniable. Crimes committed by young people are increasing at an alarming rate. Since at least two-thirds of all children who come through the juvenile justice system are subsequently arrested, it is also evident that our court system, own institutions for children have neither deterred crime nor rehabilitated these children.

Before devoting all of our thoughts to institutionalized children and considering possible alternatives to jail, I should like to call your attention to some of the conditions which I believe significantly contribute to the problems of young people. These are conditions which society can remedy now, if we are willing to revise our thinking and change our institutional patterns. In the long run, these changes will not cost as much as our present self-defeating system of courts and corrections. It is true that poverty, war, racism and political corruption all take their toll on children as they do on adults. Unfortunately, we cannot abolish these conditions in the foreseeable future. Nor can we restructure the family or eliminate slums immediately. The conditions to which I wish to call to your attention are susceptible of prompt remedial action.

First, is the matter of physical health. We are the wealthiest nation in the world with the most advanced and sophisticated medical science, but fully one-third of our children have inadequate medical care. The poor children whom I represented in juvenile court were seen by a doctor only when rushed to a hospital clinic in an emergency, having been stabbed, shot or run over in the street. They were not regularly seen by a pediatrician. They had little preventive medical care and their nutrition was deplorable. Many children miss a great deal of school simply because they are unwell and seldom are seen by a physician. We do not know what their ailments are or if their poor health contributes to poor school performance and antisocial behavior. We do know that the incidence of brain damage among children in trouble with the law is high, but there are no reliable comparative figures.

We also know that many of these children were battered babies and abused as young children. In the early school years they are often diagnosed as hyperkinetic. Later on they become school drop-outs or push-outs, more statistics of failure. They are also human beings who must go through life further disadvantaged and less able to cope with the problems of youth and adult life. How many of these illnesses could be alleviated by proper medical care, no one knows because these children are not *diagnosed* or treated. I am pleading with you today to establish a system of medicare for the children of America. Cer-

tainly, the health of the young is as important as the health and medical treatment of the aged. Without some public means of providing for payment of medical care for the children of America, we shall continue to have these problems.

Closely linked to physical health is mental health and emotional stability. Even with the Community Mental Health Centers now in existence, we do not have adequate care and treatment for emotionally disturbed children. In many of our communities the only place for a seriously mentally ill child is an adult psychiatric ward in a free hospital. Such wards contain adult alcoholics, prostitutes, psychotics and many of the irremediable problem people of society. These wards are no place for children and can only further contribute to their instability.

It is a truism and also a fact that most children who are in trouble with the law also have trouble with school. The records which I kept on the 3,000 children whom I represented, indicated that they were on the average two years below their normal grade in school. Many of them were of normal intelligence; but they were functional illiterate at ages 15 and 16. Often a child who could not cope with his school situation because of illiteracy was sent to a correctional institution as a delinquent. But in the correctional institution to which he was sent there was no schooling, and certainly no remedial reading. Very few correctional institutions have intensive remedial education courses, although some prisons make arrangement for inmates to attend local colleges. The vast majority of our prison population need elementary and high school education. For the majority of boys in trouble with the law, lack of education is one of their principle problems.

Functional illiteracy, of course, is directly related to unemployability. A great number of offenses committed by young people are offenses of stealing. Boys steal cars, hold up bars and gas stations; girls shoplift. All of our children are products of a society in which there is a premium on having things, expensive things. Children who realistically have no likelihood of getting a job and earning money to buy the desirable things that are advertised, that other people have and that they see around them on the streets and in stores are tempted to steal. Often such temptation proves irresistable.

The percentage of black males between the ages of 16 to 24 who are unemployed and not in the labor force or in school is 24.5%; a percentage far higher than for any other group in our society. This constitutes an increase of almost 5% in the two years from 1968 to 1970. Doubtless the rate has soared since then. The national average of unemployment is less than 5%. This group of young men has an unemployment rate more than 5 times the general population.

Therefore, before we can consider realistically the institutional needs and problems of children, we must take into account those factors which bring them into trouble with the law. I repeat: health, school and jobs are the three principle contributing factors to juvenile crime. Since all of us pay for the public schools, we have a right and a duty to demand that the schools be responsive to the needs of the wide variety of children who, under the law, are forced to attend school. We must have schools in which all of our children can learn the essential skills needed to survive in our complex society. We must have schools which are able to treat the emotionally disturbed, the academically untalented and the unmotivated child from a deprived home background as well as middle-class children. An adequate health care system for all children, a school system responsive to the needs of all children and a job market in which young people can find satisfactory employment would, I am sure, drastically reduce the crime rate.

I do not mean to suggest that all of these necessary changes in society would automatically eliminate crime. There are individual human factors of violence, vengeance, hatred and fear which, unfortunately, neither the medical profession nor the social sciences know how to control.

In my own city of Philadelphia 27 young people have been killed by other young people in the first 8 months of 1973. This kind of widespread homicide is a phenomenon which, unfortunately, has not been substantially alleviated by any of the anti-crime programs to date. It is a fact of urban life that many children are terrified, and with good reason, on the streets, in school, and in playgrounds and parks. Neither the police nor the courts have been able to stop the slaughter of children by children. Children who kill, maim and mug, however, are only a very small percent of the more than one million juvenile cases handled in our courts this past year.

If we turn to the 90% or more of children brought to juvenile court for less serious offenses, we must look closely at the legal system and how it functions. Does it deter crime? Does it teach respect for law? Does it rehabilitate? Unfortunately, the answer to these questions is "No." As a lawyer and a judge, I suggest that something is radically wrong with the juvenile court law. Something is wrong with a law that permits incarceration in jail-like institutions of 7, 8, and 9 year olds who have not committed a criminal act, by that I mean an act which if committed by an adult would be a crime. Under our juvenile court laws almost anything can be considered an act of delinquency; for example, running away from home, truancy, incorrigibility (which may mean anything from answering rudely, staying out late or failing to wash the dishes), and leading an idle and dissolute life.

For vague non-criminal actions children are brought into juvenile court and placed in the same institutions with children who have committed serious crimes. The courts of this nation provides one standard for adults and another for children. I submit that this violates the equal protection clause of the Constitution. In the case of *Commonwealth vs. Dianne Brasher*, the Massachusett's Courts held in 1971 that a statute providing for punishment, including imprisonment, for "stubborn children" is legal and constitutional. I also call your attention to the case of *Martarella v. Kelley*, recently decided by a Federal Court, in New York, which held that a child classified as a *person in need of supervision*, not a delinquent, may legally be placed in an institution with children who have committed criminal acts. The Pennsylvania Supreme Court in the *Wilson* Appeal held that a child may be deprived of his liberty and be incarcerated longer than an adult who committed the same act if he is receiving rehabilitative care. But in the very case in question the child was in the same institution as adult criminals and treated in exactly the same manner as the adults. Recently, in *McKiever v. Pennsylvania*, the United States Supreme Court has held that children are not entitled to trial by jury. Lawyers and judges must seriously question this separate and unequal system of law for children.

The *Gault* decision by the United States Supreme Court has been hailed by some as a Magna Charta for children. Many of us who see the daily operations of the juvenile justice system are far less sanguine. It is interesting that the United States Supreme Court did not see fit until 1966 to consider any case involving the many constitutional problems of children under the Juvenile Courts even though we have had juvenile courts since 1900. Does this say something about the priorities under the law of the rights of children, as compared with the rights of adults and the rights of property? The most fundamental change mandated by the *Gault* case was that children who may be incarcerated for delinquency are entitled to representation by counsel. The Supreme Court also ruled that a child was entitled to notice of the charges against him, the privilege against self-incrimination and the right to confront and cross examine his accusers. Despite this seminal decision, there has been really little substantive change in our juvenile justice system. Only a few states have adopted new juvenile court laws. None of these laws provides a child with the same constitutional protections as an adult.

To see how disadvantaged a child is before the law let us begin at the beginning of the process. First, one must note that at least 90% of the children brought before the juvenile court are indigent and do not have private counsel. Under most juvenile court laws there is no requirement that a child be arrested with a warrant. There are no provisions for challenging the legality of the arrest

prior to trial or for motions to suppress illegally obtained evidence. In very few jurisdictions is there any procedure for a line-up, a critical procedure to weed out mistaken identifications. Frequently children are jailed because of mistaken identity. Often when I represented poor black boys, I would have them exchange shirts. The supposed eye-witness never recognized the boy by his face but only by his clothes. I must point out that most clothing of poor children consists of standard items which can be found on hundreds if not thousands of other children. In few juvenile courts are there requirements that a child be brought before a judge within a limited period of time. In those jurisdictions which have such limitations, there are no procedures of release or suppression of evidence if the time limitations are exceeded. There is usually no requirement for a preliminary hearing at which probable cause for the arrest must be shown.

As for the trial itself, there are gross violations of many of the constitutional rights afforded adults. One must remember that most of these children are semi-literate, frightened and unaware of their rights. At least 90% of them are indigent and do not have private counsel. They have little, if any, understanding of court procedures. In very few juvenile courts does a child see his lawyer before the day of trial. It is obvious that such a child, confronted with a total stranger, who tries 20 to 30 cases a day, cannot possibly tell his so-called counsel what his defenses are. If he has any witnesses, it is too late to summon them. The trial itself is all too often what the President's Commission on Crime and Delinquency described as "the five minute children's hour".

Despite such perfunctory trials, the percentage of appeals from juvenile delinquency adjudications is astonishingly low. One reason is that unlike an adult in prison who has the benefit of a "jailhouse lawyer" to help him, a child does not. Almost all of the children in correctional institutions are ignorant of their rights. Few know how to write a letter to a lawyer or to whom to send such a letter. There are no provisions for stationery and stamps. Although lawyers regularly visit adult jails and detention centers, few lawyers ever go to juvenile institutions. The institutions frequently prohibit lawyers from seeing and talking to the children.

With respect to the conditions at the institutions for children of course, there is a wide variation. Some are new, clean and spotless. Others resemble the tiger cages in Viet Nam. I have seen a teenage girl lying on a filthy mattress on a stone floor in a bare cell. I have seen boys in solitary confinement, more familiarly known as "the hole", which is a dark dungeonlike room in which a child is held for days and even weeks without anyone to talk to, without anything to read and without any therapy or help whatsoever. I have visited many juvenile institutions. But I have seldom seen children outside playing even when the weather is nice and the sun is shining; I have seldom seen children in classrooms, despite law requiring that children in institutions receive an education. Children are often deprived of fundamental privacy and decency. For example, children are forced to shower with others under the eye of a guard. This rule is uniformly applied to boys and girls. Girls are routinely examined internally. They are subject to many other physical and psychic indignities.

I have seen and spoken with many children who have been beaten and physically abused. A superintendent of one such institution showed me the leg of a chair with which a counsellor had beaten a child. It is difficult for the most humane and conscientious of superintendents and supervisors to exercise adequate control over employees who quite properly are civil servants and have job tenure and legal rights. It is the word of a delinquent and often emotionally disturbed child against that of a respectable adult.

The first and most important reform in juvenile institutions is to remove from these jail-like institutions all children who do not require a security facility. At least one-third of all children in custody do not need such security either for their own protection or for the protection of society.

Eugene J. Montone, Executive Director of The Youth Study Center in Philadelphia, the detention center, states:

"Youth Study Center statistics indicate that 5,553 children were admitted to the Center in 1972. Further statistical evaluation disclosed that approximately 30% of these children need to be placed at another facility other than at a detention center. The 30% represent a large number of girls who are primarily mildly but socially and emotionally maladjusted who would better benefit from a placement in a Community Residential Treatment Center where close supervision and appropriate treatment are available."

In a study of one New Jersey institute for girls, more than 60% of them were incarcerated for runaway, pregnancy, truancy and acts which if committed by adults would not be crimes. Holding children in such institutions is very expensive. There is an almost one to one ratio of personnel to inmates. Three shifts of guards and other custodial personnel are required. There is apparently never enough money for teachers and therapists. But there is no shortage of funds for jails. In Montgomery County, Pennsylvania, four million dollars has been appropriated for a juvenile detention center. This money could be far more wisely spent for small group homes for the majority of children who do not need a security institution. These children should be receiving education, therapy and guidance rather than being jailed with children who have committed serious crimes. Instead, the neglected, dependent and homeless children and those who have committed minor infractions are receiving an advanced course in crime from real criminals with whom they are jailed.

In Massachusetts, the Correctional institutions for children were closed. There was no appreciable increase in the crime rate. I do not advocate such drastic measures. There are, unfortunately, some children who have killed, raped and mugged and must be held in a secure facility. There are some children so seriously disturbed that they are a clear and present danger to themselves and society. For these children small, secure, but humane facilities which also provide education and therapy are needed. For all other children, supervised homes in the community would be far preferable and much cheaper.

How do we safeguard the children in institutions? How do we ensure that children who are not criminals are not deprived of their liberty?

The principal safeguards against abuses are not merely laws establishing rights and setting standards for institutions, important as such laws are. The greatest protection to the children and the public which is paying for these institutions and for the entire juvenile justice system is to open the courts and the institutions to responsible public scrutiny.

Many juvenile courts by *law* or by custom hold closed hearings. This is an unfortunate relic of the hated Star Chamber proceedings of 18th Century England. The Constitution guarantees every person a "speedy, public trial." This provision should apply to children regardless of whether we call the trial of a child which may result in imprisonment a hearing, an interview or a conference. If a child can be deprived of his liberty, he should have a speedy public trial.

In some juvenile courts, women of the community are "court watching". Women in such organizations as the Junior League, the Fellowship Commission, the YWCA and the AAUW in chapters all over the country regularly attend juvenile court. They visit institutions for children. They are truly the eyes, ears, conscience and soul of each community.

I urge that this concept of citizen participation and surveillance of institutions for children and of the juvenile courts be adopted nationwide. Citizens should have the right and duty to visit every institution where a child is held. I am happy to report the Philadelphia Youth Study Center, which for decades closed its doors to the public, now welcomes volunteers in many capacities. Citizen volunteers serve as teacher aides, foster grand-parents and simply friends of children who are essentially without friends.

The 1970 White House Conference on Children recommended a Child Advocacy Program in each community. In Philadelphia and other cities and counties, citizens in poverty areas have established child advocacy programs. They see to it that children who need help—whether it be legal, medical or just a home—get that help. They are acting as temporary guardians for battered babies to see that

these helpless infants receive necessary medical care and a decent foster home. Children from the day of birth until adulthood need protection and help. If their own parents are unable to provide such protection and care, this becomes the obligation of society, especially in our nation that prides itself on being civilized and humane.

In summation, I urge you to consider the following essential legislation. First—a national medicare program for children; second—a juvenile court law that not only provides quasi-criminal proceedings and sanctions against children but also establishes a bill of rights for children and affords them a forum in which to assert these rights and obtain adequate remedies. I ask leave to append to these remarks such a proposed model law which should be enacted in every state; and third—an Act of Congress creating regional child advocacy offices to assist volunteer citizens in serving as advocates for children in their own communities, to monitor juvenile institutions and courts, to recommend needed facilities and programs for children and to oppose unneeded and inhumane jails. For every child who does not have parents who are capable of providing a good and loving home, medical care, suitable education and protection from the hazards of the street and unfeeling bureaucracies, there must be a child advocate.

I believe that the adults of America will respond to these needs if they are informed and given access to the institutions. I believe that we as a people do care. By holding these hearings you attest to your concern. We must remember that these are our children, our future and our nation.

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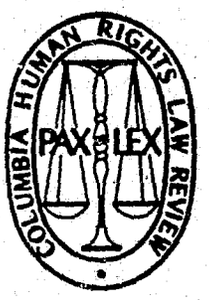

A CHILDREN AND YOUTH COURT: A MODEST PROPOSAL

By

Lois G. Forer

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A Children and Youth Court: A Modest Proposal

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INTRODUCTION

Since the turn of the century and the enactment of the first Juvenile Court Act,[1] juvenile courts have relied increasingly on the values inherent in sociology, psychology and psychiatry, rather than law.[2] This fact, combined with a natural paternalism towards juveniles, has caused an almost complete disregard by the juvenile courts of the constitutional rights and legal safeguards to which, as American citizens, children ought to be entitled. The sociological approach, though well intentioned, has been unsuccessful, resulting not only in indiscriminate incarceration of children in jail-like institutions but also in contributing to disrespect for the rule of law.[3] The

* Judge, Court of Common Pleas of Philadelphia; author, No One Will Lissen: How Our Legal System Brutalizes the Youthful Poor, John Day Co. (1970), Universal Library (1971).

1. Act of April 21, 1899, ILLINOIS LAWS § 21 (1899).

2. "The early juvenile court statutes showed a surprising solicitude for the child's legal rights." Clark, *Why Gault: Juvenile Court Theory and Impact in Historical Perspective*, in GAULT—WHAT NOW FOR THE JUVENILE COURT 5 (V. Nordin ed. 1968).

3. The dimensions of this failure are startling. The Senate Subcommittee to Investigate Juvenile Delinquency reported:

We know that over 100,000 children across the country are detained in jails or jail-like facilities, often together with adult felons, contrary to accepted correctional standards and, in many cases, contrary to State and local laws.

We know that less than five percent of our institutional personnel are involved in

shortcomings of the juvenile justice system can best be ameliorated by ensuring that children receive the full privileges and protections of the due process clause,[4] and by establishing a comprehensive bill of rights for children, with adequate procedures to enforce these rights.

The child, as I view him, is a citizen. The law must provide for him *both* the full panoply of constitutional rights guaranteed to adults (including those rights which one can extrapolate as coming into legal recognition), *and* the benefits which contemporary society owes to those members who are vulnerable and incapable of providing for themselves. This present juvenile justice system has largely ignored the former and assumed that the latter would be provided through its ministrations.[5]

Unfortunately, it is time consuming, wasteful and inefficient to attempt the reform of the juvenile justice system through litigation. Both federal and state courts properly refrain from rewriting state laws, and the decisions of the Supreme Court are but slowly and grudgingly being effectuated. It is almost five years since the *Gault* decision and, except for the increased presence of lawyers, the outmoded juvenile system has changed very little.[6] In order to have meaningful reform, the State legislatures must repeal the present juvenile court laws and enact new laws providing for a coherent system based on the realities of life in the seventies. They must create a court for children which functions like a court, its powers clearly defined and limited.

This article will present a new model law for children—the *Child and Youth Act*—designed to meet the needs and aspirations of young people today, predicated both upon a different concept of the Juvenile Court and upon a different concept of the rights and needs of children. It will begin

treatment or are even professionally qualified for rehabilitation. (92nd Cong. 1st Sess. Report No. 92-176)

Richard W. Velde, Associate Administrator of the Law Enforcement Assistance Administration, before that same subcommittee stated that 72 percent of those arrested at age 20 or under were rearrested within five years (March 31, 1971). Other studies indicate that more than half of the children now in correctional institutions are not even accused of a criminal offense. (Mangel, *How to Make a Criminal out of a Boy*, LOOK MAGAZINE, June 29, 1971.) In addition to the failure to produce a better record of rehabilitation, this "socialized" judicial system—designed to ameliorate the harsh effects of criminal law upon juveniles—has often delivered harsher penalties to juveniles than they would have received in traditional criminal courts. Finally, as Justice Fortas noted in In re Gault, 387 U.S. 1 (1966), the benefit of the juvenile court system in preventing juvenile indiscretions from unnecessarily haunting juvenile defendants in later years, has often not been realized.

4. In re Gault, 387 U.S. 1 (1966), although a significant breakthrough in establishing that children do have some rights, leaves many serious problems still undecided.

5. Waite, *How Far Can Court Procedure Be Socialized Without Impairing Individual Rights?* 12 J. CRIM. L. & CRIM. 339 (1922); H. LOU, JUVENILE COURTS IN THE UNITED STATES (1927); F. Allen, *The Borderland of Criminal Justice*, 11 WAYNE L. REV. 676 (1965).

6. Lefsteing, Stapleton & Teitlebaum, *In Search of Juvenile Justice:* Gault *and Its Implementation*, 3 LAW & SOC'Y REV. 491 (1966); Nordin, *supra*, note 2.

with a short explanation of the new court's scheme, followed by a survey of the procedures governing its operations, and an outline of a juvenile bill of rights. The final section will be the act itself, with citations to the existing *Uniform Juvenile Court Act* submitted in 1968 by the National Conference of Commissioners for Uniform State Law to the American Bar Association.[7]

The Courts

The CYA's most visible change is in its court structure. The proposed law establishes two separate fora—criminal and civil—with appropriate procedures and remedies (§ 3). This separation gives structural recognition to the difference in philosophy and technique required for a judicial proceeding to determine guilt or innocence of a delinquent act and one to determine such civil matters as custody, health, school attendance and the like.

The Civil Division. In the past the juvenile court, despite claims that it acts in the best interests of the child and community, has never seen its function as that of providing a forum where a child could bring an action to assert his claims against those who are allegedly infringing on his rights.[8] Therefore, in addition to the traditional civil subject-matter jurisdiction of juvenile courts—adoption and custody, mental health and parental rights—the civil division of the Child and Youth Court will be empowered to entertain "actions brought by or on behalf of a child to obtain redress for abuse, denial of rights or entitlements" (§ 4-B-1). This will enable the child to assert his rights against those who fail in their duty to him.

To accomplish this novel purpose, the civil division will have all the powers of any other court of record including the power to issue injunctions, mandamus and writs of habeas corpus (§ 6-B-6), and the power to cite witnesses for contempt.

The Criminal Division. The criminal division of the CYA will provide for children the substance of due process safeguards of adult criminal courts. *In re Gault* requires in juvenile delinquency proceedings the minimum components of a "fair and equitable hearing."[9] The CYA implements those minimum rights and provides further safeguards which are found in other areas of law.

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7. Enacted almost verbatim in N.D. CENT. CODE § 27-20 (1969).

8. In most jurisdictions a juvenile must go to the civil division of the court and establish a traditional cause of action. This is difficult both because juveniles lack many rights that "citizens" have and also because their parents or guardians are protected by law from being penalized for their violations of the juvenile's rights. *Cf.* In re Holmes, 175 Pa. Super. 137, 103 A.2d 454, (1954) *aff'd.* 379 Pa. 599, *cert. den.* 348 U.S. 973. The court reiterated the traditional law that juveniles do not have a right to liberty but only to custody.

9. *Gault* made (1) proper notice, (2) the right to counsel, (3) the right to confrontation and cross-examination of witnesses, and (4) the right against self-incrimination, constitutionally required in criminal juvenile cases.

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The Gault Rights

Notice. The Supreme Court responded most emphatically to the lack of notice given Gerald Gault and his parents. Justice Fortas, writing for the majority, said, "written notice [must] be given at the earliest practical time, and in any event sufficiently in advance of hearing to permit preparation."[10] But a timely petition of notice is unsatisfactory if it is not sufficiently particular to enable the child and his representative to meet the issues intelligently and competently. The CYA replaces the vague petition requirement of the UJCA which asks only for:

> a statement that it is in the best interest of the child and the public that the proceedings be brought and, if delinquency or unruly conduct is alleged, that the child is in need of treatment or rehabilitation. (§ 21)

with a petition specifying, with particularity:

> the offense allegedly committed by the child—including the date, time and place of the alleged crime or delinquent act. (§ 7-A-1).

Such particularity serves not only to put the defendant on notice of the charges lodged against him but properly limits the jurisdiction of the court to those specific charges.

Counsel. Consistent with *Gault*, the CYA requires that counsel be present at all adjudicatory proceedings "which may result in commitment to an institution in which the juvenile's freedom is curtailed,"[11] and that the child must be notified of this right and of his right to appointed counsel if he cannot afford his own (§§ 6-B-4; 6-D). In fact, the CYA requires that the petition include notice of these rights (§ 7-A-2). However, since representation of children is relatively new, many members of the bar have, themselves, not discarded the notion of *parens patriae*.[12] As a result they continue to make social judgments rather than legal ones. Thus the CYA, standing alone will not be enough; the judge must insure that the child not only have counsel, but that he have one that will defend him "effectively."

Confrontation and Cross-examination. The same rationale of "fair and equitable hearing" led the Supreme Court to require confrontation by and cross-examination of accusatory witnesses in juvenile actions.[13] Many traditional juvenile courts either lack the necessary contempt power to compel

10. 387 U.S. 1, 33.

11. *Id.* at 41; See also Powell v. Alabama, 287 U.S. 55 (1932); Gideon v. Wainwright, 372 U.S. 335 (1963).

12. The state has the power, under this concept of guardianship, over persons under disability such as minors, insane and incompetent persons.

13. *Cf.* UJCA § 58; ILL. REV. STAT. 1969, Ch. 37 § 704-6; People v. Y. O. 2404, 47 Misc.2d 30, 291 N.Y.S.2d 510 (1968).

witnesses to appear or choose only to exercise that power to require the accused child and his parents to appear. Few, if any, juvenile courts make available to the child subpoena to obtain witnesses in his own defense.

Privilege Against Self-incrimination. *Gault* also extends the privilege against self-incrimination to juvenile delinquency proceedings. The arguments against "judicializing" the juvenile courts assert that the introduction of due process interferes with the informal, "helping" nature of the courts and violates the principle of *parens patriae*. The specific content of this claim, as to the privilege against self-incrimination, is that juvenile confessions are somehow therapeutic and should be encouraged.

Rather than rely on the statistics of general failure of the juvenile court system, Justice Fortas attacks this argument directly. Citing a study by Wheeler, Cottrell and Romasco, Fortas points out that juvenile confessions, when followed by retribution, may cause a "hostile and adverse reaction by the child" rather than having the supposed "cleansing effect."[14] Furthermore, the veracity of a juvenile confession is even more questionable than an adult's, often coming, as it does, from a frightened child seeking approval from his elders.[15]

The other half of the traditional argument against "judicializing" juvenile proceedings is that they are not criminal in nature but merely civil inquiries, leading to the conclusion that the Fifth Amendment does not apply. The court wisely assays the reality of juvenile proceedings and says:

> A proceeding where the issue is whether the child will be found to be "delinquent" and subject to the loss of his liberty for years is comparable in seriousness to a felony prosecution[16] . . . (and later) . . . to hold otherwise is to disregard substance because of the feeble enticement of the "civil" label-of-convenience attached to juvenile proceedings.[17]

The CYA clearly recognizes that juvenile proceedings in its criminal division are more than "comparable" to criminal cases, but are equivalent.[18]

Beyond Gault

The Supreme Court limited its consideration of juvenile court practice to these minimal rights. It chose not to consider the pre-trial procedures,[19]

14. 387 U.S. 1, 51; *cf. also* RUSSEL SAGE FOUNDATION, JUVENILE DELINQUENCY—ITS PREVENTION AND CONTROL (1966).

15. Gallegos v. Colorado, 370 U.S. 49 (1962); Haley v. Ohio, 332 U.S. 596 (1948). Cases holding exclusionary rule applicable to certain juvenile confessions.

16. 387 U.S. at 36.

17. *Id.* at 50.

18. But see Appendix A of Pee v. United States, 107 U.S.App.D.C. 47, 274 F.2d 556 (1959) (cites decisions in 51 jurisdictions holding that juvenile cases are civil and not criminal).

19. 387 U.S. at 36.

post-trial penalties, and many aspects of the trial itself. The CYA provides specific procedures to cover the entire spectrum of the delinquency proceeding.

Pretrial. Absent a new statute, there is nothing to protect the child's rights during the early "critical stages" of a delinquency action.

The CYA changes the operative statutory language of offense from "delinquent act," a phrase so miscomprehended and imprecise as to threaten due process,[20] to "crime" (§ 2-2). It also substitutes the constitutional requirement for arrest—a warrant or probable cause—for the less demanding and vague standards of the other codes (UJCA § 1[illegible]—"reasonable grounds").

The Act abolishes the "intake interview" and limits the pre-trial hearing to determining (1) whether a *prima facie* case has been proven and (2) if it has, whether it is of such seriousness to warrant a trial rather than counseling (§ 7-B). If a *prima facie* case has not been made out or if the offense is trivial, then the juvenile cannot be put to trial.

Trial. From *In re Winship*[21] the code takes for its criminal division cases the now constitutional standard of proof—proof beyond a reasonable doubt. In *Winship*, the Supreme Court, again recognizing that the essence of the action was criminal, said that this standard is an "essential of due process and fair treatment."[22] More importantly, perhaps, Justice Brennan's majority opinion noted that the use of a more demanding standard would have no effect on the informality, flexibility or speed of the child's trial.[23] For the same reason the CYA requires the application of all the rules of evidence in its criminal division ("No hearsay or other inadmissible evidence shall be received.") (§ 7-E-9).

Jury Trials. The need for an act such as the CYA is nowhere more evident than in the discussion of the right to a jury for children charged with a serious crime. In *McKeiver v. Pennsylvania*,[24] the Supreme Court reverted to the discredited *"parens patriae"* concept, declaring: (1) that the jury trial would "remake the juvenile procedure into a fully adversary process, and [would] put an effective end to what has been the idealistic prospect of an intimate, informal, protective proceeding,"[25] and (2) that a juvenile trial is not criminal, but civil. In addition, Mr. Justice Blackmun's plurality opinion (joined by Chief Justice Burger, and Justices White and Stewart) based its decision on the conclusion that a jury is not a "necessary component of

20. *See* Gesicki v. Oswald, 336 F. Supp. 371 (S.D.N.Y. 1971), *aff'd without opinion* 406 U.S. 913 (1972).

21. 397 U.S. 358 (1970).

22. *Id.* at 361.

23. Opponents of the judicialization of juvenile courts consistently cite increase in cost of certain measures, both in time and money. This argument is not persuasive in regard to adult proceedings, and in juvenile cases, where the court is avowedly going out of its way to protect the interests of the child, it has even less weight.

24. 403 U.S. 528 (1971).

25. *Id.*

accurate fact finding" and that a juvenile defendant's rights will be sufficiently protected so long as there are conditions which guarantee his right to a public trial.

McKeiver v. Pennsylvania, supra, has been the subject of extensive criticism.[26] Significantly, in 1968, the United States Supreme Court in *Duncan v. Illinois* upheld the importance of the jury in criminal trials. The Court declared:

> A right to jury trial is granted to criminal defendants in order to prevent oppression by the government . . . to provid[e] . . . an estimable safeguard against the corrupt or overzealous prosecutor and against the compliant, biased or eccentric judge . . . Beyond this the jury trial provisions reflect a fundamental decision about the exercise of official power—a reluctance to entrust plenary power over life and liberty of the citizen to one judge . . .[27]

The saliency of this reasoning is no less strong in a trial of a child who by reason of his youth, inexperience and lack of resources is especially vulnerable to any abuse of power.

Public Trials. "[T]he right of the defendant to a public trial has long been regarded as fundamental in criminal procedure."[28] Many juvenile courts operate *in camera,* limiting the presence in the court room to the child, his parents and persons granted permission by the trial judge. In many juvenile courts the press is excluded by statute or by court practice (UJCA § 24(d)). The reason given for *in camera* juvenile court trials is the protection of the child from unfavorable publicity. The CYA would give the juvenile the right to a public trial in delinquency (criminal) charges. In civil matters, the child may request that the hearing be closed (§ 6-E-5). Thus, the abused child or the child with family problems could at his discretion avoid the publicity of a public hearing.

Speedy Trials. The CYA is committed to the right to a "speedy trial." The effect of a long trial period upon a young person can be overwhelming and the disruption of the child's life by incarceration can interfere not only with his schooling but also with his general development.[29] To minimize this effect, the CYA goes beyond Chief Judge Fuld's rule in New York

26. *Juvenile Jury Trial Case—A Regrettable 'Policy' Decision,* 32 LA. L. REV. 133 (1971); *Juries for Juveniles—A Rehabilitative Tool,* 11 J. FAM. L. 107 (1971); McKeiver v. Pennsylvania—*Juries and Juveniles—Parens Patriae Revived,* 5 IND. LEG. F. 197 (1971).

27. 391 U.S. 145, 156 (1968). Since fewer than 5% of adults accused of a crime demand jury trials, it is unlikely that the right to a jury trial would impose an excessive burden on the Children and Youth Court.

28. People v. Jelke, 308 N.Y. 56, 61 (1954).

29. *Cf.* Appendix to Justice Douglas' dissent in *McKeiver,* 403 U.S. 523, 563 (1970).

(which requires that criminal defendants be brought to trial within six months),[30] and requires that children be brought to trial within sixty days if they are not in detention and within ten days if they are (§ 7-E-1). Again, the argument against such a plan is the unconvincing claim for judicial economy. The Supreme Court's unanimous decision in *Barker v. Wingo*[31] not to set a "specified time period" which satisfies the constitutional requirement of speed for fear that it would be legislating or rule-making does not impinge upon the right and duty of the state legislatures to make their own judgments as to that requirement.[32]

Transcripts and Appeals. The CYA grants the right to appeal and to receive the transcripts of the trial in juvenile criminal cases (§ 8-B-1, 2). In *Gault* the Supreme Court refrained from passing on whether these protections were constitutionally required under the Due Process Clause. However, a recent Supreme Court decision indicates that the Court might not find that an appeal and a transcript of the trial are essential elements of due process.[33]

The right to an appeal, which is granted to all adults accused of a crime, is a necessary component of procedural due process. It provides an essential means for correcting error, bias, or prejudice which are inherent in all human institutions. When a child is deprived of his liberty, the need for the right to an appeal would appear to be obvious.

Bill of Rights. Procedural rights are worthless, however, without substantive rights. Section 5 of the CYA establishes definite substantive rights for juveniles, designed both to grant them rights as citizens and to insure them proper care, treatment and education.

First, the Act grants generally all of the privileges, immunities and protections guaranteed to adults under the Constitution, thereby statutorily, at least, eliminating any distinction between a child and a "citizen" (§ 5-8). Secondly, several provisions establish a broad array of personal rights ex-

30. In the spring of 1971 Chief Judge Fuld of the New York Court of Appeals proposed an Administrative Rule which would have required that any defendant held in detention for over 90 days be released on bail if the state could not bring its case (Judicial Administrative Rule 29.1). This rule was to go into effect on May 1, 1972, but the state legislature passed Chapter 184 of the 1972 New York Session Laws to supersede Judge Fuld's rule. The legislature's rule calls for the prosecutor to bring his case to the court within six months for a felony, 90 days for a misdemeanor punishable by over three months imprisonment and 30 days for a less serious misdemeanor. If the defendant is in detention, he must be released on bail in 90, 30 and 15 days respectively. However, the legislature's bill only requires that the state's case be ready; the trial may be delayed for a longer period if the court deems it necessary.

31. 407 U.S. 514 (1970).

32. *See* note 23, *supra.*

33. *See* Griffin v. Illinois, 351 U.S. 12, 14 (1959). *Griffin* did hold, however, that once a state grants the right to appeal generally, it cannot discriminate against some convicted defendants because of their poverty.

clusively for children: "the right to bodily safety and integrity and freedom from physical and mental abuse" (§ 8-1);[34] the right to medical, psychiatric and dental care (§ 8-2); the right to an education (§ 8-3); the right "to a home which provides food, shelter, clothing, care and recreation" (§ 8-4). More than mere policy statements, these rights set the groundwork for civil actions by the child himself to remedy the deficiencies in his life.

The Act specifically establishes rights and standards for the treatment of children incarcerated or removed from their homes pursuant to court order. The CYA extends the right to treatment doctrine[35] to require the provision of educational facilities and appropriate medical, dental and psychiatric care to the child who is in custody (§ 7-F-5).

The Act also implements the equal protection concept by providing in section 7-F-3 that "No order shall exceed the maximum period for which an adult could be incarcerated for the same offense."[36]

The common practice in juvenile courts is to use indeterminate sentencing. This practice reflects a philosophy which does not attempt to make the punishment fit the crime but attempts to make the punishment fit the criminal. The use of indeterminate sentencing both of children and of adults has caused much dissatisfaction.[37] Neither the prisoner nor the state knows the duration of the commitment nor the standards of conduct required for release. In an effort to permit the early release of children whose continued custody is not required either for the safety of the community or the rehabilitation of the child, the CYA requires that any order calling for over six months' confinement be reviewed by the court every six months (§ 7-F-4).

The Youth Services Board. An essential component of the Act is a comprehensive board composed of the Chief Judge of the Court, the county secretary of Welfare, representatives of the various professions involved,

34. This right combined with section 6 (the civil division subject-matter jurisdiction) will allow a juvenile the unprecedented right to sue to be released from parents or guardians who fail to provide these basic amenities. Although this may seem radically dangerous, the wisdom of the juvenile court judge should be sufficient to limit these actions to cases where a benefit for the child could be achieved.

35. *See* Wyatt v. Stickney, 325 F. Supp. 781 (M.D.Ala. 1971).

36. *Cf.* In re Charles Wilson, 264 A.2d 614 (Pa. Super. 1970) in which the court held that a child may be imprisoned longer than an adult only if three factors are present:

> (1) the juvenile must have notification at the outset of the proceedings of any and all factors upon which the state proposes to base its adjudication of delinquency, (2) the ultimate conditions upon which the findings of delinquency are based, and the facts supporting each of them, must be clearly found and set forth in the adjudication, and (3) it must be clear that the longer commitment will result in the juvenile's receiving appropriate rehabilitative care and not just in his being deprived of his liberty for a longer time.

37. A. M. Schrieber, *Indeterminate Therapeutic Incarceration of Dangerous Criminals: Perspectives and Problems*, 56 VA. L. REV. 602 (1970); D. A. Thomas, *Current Developments in Sentencing—The Criminal Justice Act in Practice*, 1969 CRIM. L. R. 235 (1969); *Dilemmas of Sentencing*, 44 CALIF. S.B.J. 332 (1969); D. Meure, *Indeterminate Sentencing in Tasmania*, 3 TASMANIA U.L. REV. 329 (1970).

and children. This board would be responsible for overseeing the institution to which children are committed and the effectiveness of the various rehabilitation programs, homes, training courses, and other social services utilized by the Court. The board would provide for coordination of services and institutions and accountability to the community.

PROPOSAL: CHILDREN AND YOUTH COURT ACT

Section 1. Purpose

The purpose of this Act shall be to establish a court for the adjudication of rights and remedies of children and transgressions of the law by children, to declare the rights of children and to provide procedures for the enforcement of said rights, and to provide interstate procedures to effectuate such rights and remedies.

COMMENT

This section eliminates the social welfare phraseology which may well be unduly vague as a standard. See *Gesicki v. Oswald*, 336 F. Supp. 371 (S.D.N.Y. 1971), *aff'd without opinion*, 406 U.S. 913 (1972). "Wholesome moral development", e.g., fails to meet the accepted tests of statutory precision. The purpose clause clearly establishes the court as a court to adjudicate civil rights and prosecute violations of law.

UJCA

SECTION 1. [*Interpretation.*] This Act shall be construed to effectuate the following public purposes:

(1) to provide for the care, protection, and wholesome moral, mental, and physical development of children coming within its provisions;

(2) consistent with the protection of the public interest, to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to substitute therefor a program of treatment, training, and rehabilitation.

(3) to achieve the foregoing purposes in a family environment whenever possible, separating the child from his parents only when necessary for his welfare or in the interest of public safety;

(4) to provide a simple judicial procedure through which this Act is executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced; and

(5) to provide simple interstate procedures which permit resort to cooperative measures among the juvenile courts of the several states when required to effectuate the purposes of this Act.

Section 2. Definitions

1. "Child" means an individual (1) who is under the age of 18 years,

COMMENT

This limits the jurisdiction of the court to the age of 18 rather than 21, and follows recent statutes establishing 18 as the age of majority.

UJCA

SECTION 2. [*Definitions.*] As used in this Act:
(1) "child" means an individual who is:
(i) under the age of 18 years; or
(ii) under the age of 21 years who committed an act of delinquency before reaching the age of 18 years; [or]
[(iii) under 21 years of age who committed an act of delinquency after becoming 18 years of age and is transferred to the juvenile court by another court having jurisdiction over him;]

2. "Crime" means an act designated a crime under the law, including local ordinances of this state, except summary motor vehicle violations, or under Federal law.

COMMENT

Crime is defined as a violation of the statute and is similar to the Model Act's definition of "delinquent act." However, summary motor vehicle violations are excluded from the jurisdiction of the Children and Youth Court.

UJCA

SECTION 2 (2) "delinquent act" means an act designated a crime under the law, including local [ordinances] [or resolutions] of this state, or of another state if the act occurred in that state, or under federal law, and the crime does not fall under paragraph (iii) of subsection (4) [and is not a juvenile traffic offense as defined in section 44] [and the crime is not a traffic offense as defined in [Traffic Code of the State] other than [designate the more serious offenses which should be included in the jurisdiction of the juvenile court such as drunken driving, negligent homicide, etc.];

COMMENT

One of the difficulties of the present law is semantics. The court is predicated upon the theory that it is not a criminal court, that

children do not commit crimes and that they are not punished. These are patently legal fictions. To clarify the role of the child and the court, obfuscating words are eliminated and the usual legal terminology is used.

3. "Delinquent Acts." Any child shall be guilty of a delinquent act who

1) Without cause repeatedly runs away from home; but there shall be recognized justifiable runaway from an unsuitable home.

UJCA

SECTION 2 (3) "delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation;
(4) "unruly child" means a child who:
(i) while subject to compulsory school attendance is habitually and without justification truant from school;
(ii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or
(iii) has committed an offense applicable only to a child; and
(iv) in any of the foregoing is in need of treatment or rehabilitation;

2) Without cause habitually refuses to attend school.

COMMENT

This section is in lieu of the "unruly child" provision of the Model Act. It is strictly defined and permits a runaway child to raise the defense that his home conditions are unsuitable and also that the school conditions are improper, illegal, or unconstitutional.

4. "Deprived Child" means a child who

a) is without adequate physical care, subsistence, education or medical and psychiatric care.

COMMENT

This subsection permits the court to take jurisdiction of a child who is denied necessary care by reason of the poverty of the parents. It does not permit a child to be removed from his home solely because of poverty but to obtain proper medical and other care.

b) has been placed for care or adoption in violation of law.

c). Has been abandoned, abused or mistreated by his parents, guardian, or other custodian.

d) is without a parent, guardian, or legal custodian.

UJCA

SECTION 2 (5) "deprived child" means a child who:

(i) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of his parents, guardian, or other custodian;

(ii) has been placed for care or adoption in violation of law; [or]

(iii) has been abandoned by his parents, guardian, or other custodian; [or]

[(iv) is without a parent, guardian, or legal custodian;]

5. "Shelter Care" means temporary care of a child who is not accused of or convicted of delinquency.

COMMENT

This prohibits the mingling of non-delinquent children with those accused or convicted of crime.

UJCA

(6) "Shelter Care" means temporary care of a child in physically unrestricted facilities;

6. "Detention" means temporary care of a child who is accused of crime or delinquency and awaiting trial or placement.

UJCA

SECTION 2 (7) "protective supervision" means supervision ordered by the court of children found to be deprived or unruly;

7. "Next Friend" means any person over the age of 18 who appears on behalf of a child for the purposes of litigation, protection, or care.

COMMENT

This section specifically permits someone other than the court officers or welfare department to act on behalf of a child. See Sec. 6-A-1, *infra.*

8. "Children and Youth Court" means the Children and Youth Court of this State.

UJCA

SECTION 2 (9) "juvenile court" means the [here designate] court of this state.

9. "Representative" means a parent, guardian, or custodian whose interest is not adverse to the child, a next friend or counsel.

COMMENT

This section recognizes that the interest of the parent, foster parent or agency may be adverse to the child and authorizes another party to represent the child.

UJCA

SECTION 2 (8) "custodian" means a person, other than a parent or legal guardian, who stands in *loco parentis* to the child or a person to whom legal custody of the child has been given by order of a court;

10. "Youth Services Board" means the Board established under Sec. 13 of this Act.

11. "Mental Disability" means such defect of intellect, emotional or psychiatric disorder which prevents the child from leading a normal life and requires special treatment.

Section 3. Court

The Children and Youth Court shall be composed of one or more judges learned in the law. It shall sit in two divisions—a civil division and a criminal division. The hearings of the two divisions shall be separate and apart. The dockets and records of the divisions shall be kept separately and labeled civil docket and criminal docket.

COMMENT

This establishes two divisions of the court with separate procedures and standards of proof.

Section 4. Jurisdiction

A. The jurisdiction of the Court shall be confined to children under the age of 18 and to persons charged with violating their rights or contributing to their delinquency. The jurisdiction of the Court shall cease when

the child reaches the age of 18 and no order issued by the Court shall be effective against a child after his 18th birthday.

B. The civil division shall have exclusive original jurisdiction over:

(1) All actions brought by or on behalf of a child to obtain redress for abuse, denial of rights or entitlements.

COMMENT

This is an entirely new provision. It would permit a child to bring an action for abuse, denial of care, change of custody, property rights, welfare rights, etc.

(2) adoption,

(3) mental disability,

COMMENT

A court for children is the appropriate forum to make such determinations and placements of mentally disturbed children.

UJCA

SECTION 3. [*Jurisdiction.*]

(a) The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this Act:

(1) proceedings in which a child is alleged to be delinquent, unruly, or deprived [or to have committed a juvenile traffic offense as defined in section 44;]

(2) proceedings for the termination of parental rights except when a part of an adoption proceeding; and

(3) proceedings arising under section 39 through 42.

(b) The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating thereto without regard to the other provisions of this Act:

[(1) proceedings for the adoption of an individual of any age;]

(2) proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law;

(3) proceedings under the Interstate Compact of Juveniles; [and]

(4) proceedings under the Interstate Compact on the Placement of Children; [and]

[(5) proceedings to determine the custody or appoint a guardian of the person of a child.]

[SECTION 4. [*Concurrent Jurisdiction.*] The juvenile court has concurrent jurisdiction with [_____] court of proceedings to treat or commit a mentally retarded or mentally ill child.]

(4) judicial consent to the marriage, employment or enlistment in military services, or medical, surgical or psychiatric treatment of a child if consent is required by law,

(5) proceedings under Interstate Compact on Placement of Children,

(6) proceedings to determine custody or appoint a guardian of the person of a child,

(7) proceedings under the Interstate Compact of Juveniles if the Juvenile is not alleged to be delinquent,

(8) proceedings for the termination of parental rights or emancipation of minor,

(9) proceedings for a writ of habeas corpus, unless the child is charged with or adjudicated guilty of an act of delinquency.

COMMENT

Many juvenile courts assume that they do not have the authority or jurisdiction to issue a writ of habeas corpus.

(10) all adults and institutions and organizations against whom a child has filed a pleading under this Act.

The Civil Division shall have concurrent jurisdiction with [. . .] court for the appointment of a guardian of the estate or property of a child and proceedings in which a child claims a right, interest, or entitlement in property.

COMMENT

This is a new provision and permits the court to act to protect the property interests of children.

C. The Criminal Division shall have exclusive original jurisdiction over:

(1) all criminal acts allegedly committed in this State by a child under the age of 18,

(2) all acts denominated delinquent under this statute and allegedly committed in this State by a child under the age of 18,

(3) proceedings under the Interstate Compact of Juveniles in which delinquency or crime is alleged,

(4) proceedings for a writ of habeas corpus arising out of detention or a charge of delinquency or adjudication for an act of delinquency,

COMMENT

Many juvenile courts have assumed that they lacked the power or jurisdiction to issue writs on behalf of children illegally confined.

The court would have the right and duty to determine whether a child committed to an institution is in fact receiving education, therapy and rehabilitation treatment.

(5) all adults alleged to have contributed to the delinquency of a minor.

Nothing in this section shall deprive a federal court of jurisdiction to determine the rights of a child.

Section 5. Bill of Rights [New]

Every child is guaranteed certain rights, privileges, immunities and entitlements which shall be provided by the State if the child's parents or guardian are unable or unwilling to do so, and which shall be enforceable by appropriate proceedings in the Children and Youth Court.

(1) Every child shall have the right to bodily safety and integrity and freedom from physical or mental abuse.

COMMENT

This permits a child to leave an intolerable home or institution and/or bring a proceeding to compel his removal and transfer to a suitable place.

(2) Every child shall have the right to medical, psychiatric and dental care.

COMMENT

If the parents are financially able to provide health care for their child, the court may order them to do so. If they are not, the court may require the appropriate public authorities to do so.

(3) Every child shall have the right to an education suitable to his intellectual, emotional and physical capacities.

COMMENT

This section would require the public schools to provide or purchase educational facilities for educable children who are retarded, emotionally disturbed, physically handicapped, or intellectually superior.

(4) Every child shall have the right to a home which provides food, shelter, clothing, care and recreation in a non-coercive, non-penal setting.

COMMENT

A child who has not been convicted of a crime or delinquent act could not be placed in a security institution. Group homes, foster parents and other substitute facilities will have to be provided for such children. The prohibition against peonage is significant since many institutions for children fail to provide the equivalent of a public school education and require the children to do the maintenance work of the institution, work in a factory within the institution or bind the child out to work on a farm, as a domestic servant or in industry without any compensation or at substandard rates of pay. The other provisions are necessary since it is not clear that children are protected by the Bill of Rights and the 14th Amendment.

(5) No child shall be arrested or apprehended without a warrant and no warrant shall issue except upon probable cause.

(See Section 7.)

(6) Every child shall have access to the courts for enforcement of his rights and to recover damages for wrongs suffered and for deprivation of rights, privileges, immunities, entitlements and property.

COMMENT

This section is an entirely new provision. In view of recent U.S. Supreme Court opinions and opinions of state courts, the legislature must declare that children have specific substantive and procedural rights and not rely on the assumption that the rights and privileges guaranteed under the U.S. Constitution to all "persons" will be extended to children under the equal protection clause or the due process clause.

Section 6. Procedures under Civil Division [New]

A. *Commencement of Action*

(1) Every action by or on behalf of a child shall be commenced by a pleading. A child may file a pleading on his own behalf or by a next friend. He may appear by next friend and/or counsel or *pro se*.

COMMENT

The entire civil proceeding brought by or on behalf of the child is new. Actions on behalf of deprived children are the closest approximation of this function.

(2) The Court shall provide for service of the pleading on the respondent and the subpoena of witnesses when the child, friend or counsel certifies that the testimony of such witness is necessary to the presentation or substantiation of the child's case.

COMMENT

Since most children are indigent or not in control of their own property, they will be unable to obtain witnesses unless subpoenas and service are provided by the court.

(3) The Court shall provide simple forms and assist the child in preparing his pleadings.

B. *Hearings*

(1) The rules of civil procedure shall apply.

COMMENT

There is no provision for procedural rules in the Model Uniform Juvenile Court Act. Few Juvenile Courts have adopted procedural rules.

(2) Unless the child is ill or too young to be brought to court, the child shall be present at all hearings.

(3) The child and/or his representative shall have the right to present evidence, to compel testimony and to cross-examine witnesses.

(4) The child and/or his representative shall be represented by counsel unless there is a knowing and intelligent waiver of the right to counsel. In any case in which it is alleged that the rights of a child under Sec. 5 of this Act, or under the Constitution of the United States or the Constitution of this state have been violated, and the child cannot afford to retain counsel, the Court shall appoint counsel for him. The child and/or his representative may request the appointment of any member of the bar, which request shall be honored unless good reason for not doing so is found.

The provision of counsel for a battered baby or an abused adolescent for protection of his life and safety, seems to be a proper extension of *Gault* and *Gideon*.

(5) All hearings shall be open to the press and public unless the child or his representative requests that the hearing be closed.

(6) The Court may issue injunctions, mandamus, writs of habeas corpus or take any other appropriate action to protect the rights and interests of a child.

(7) The Court may appoint a referee to take testimony and report to the Court. In all proceedings before a referee, the rules and procedures established for hearings before the Court shall apply and all the rights and privileges guaranteed to a child under this Act shall obtain.

(8) Decisions shall be made upon the preponderance of evidence adduced in court.

(9) The Court may where appropriate order psychiatric tests for the child and/or any adult subject to its jurisdiction and social investigations. All test results and reports shall be presented in court and made available to counsel for the child and other parties.

C. *Adjudications*

The court shall have authority to order appropriate parties (1) to provide medical, psychiatric and dental care, (2) to provide a suitable education, (3) to place the child in a suitable, safe non-penal home or shelter, (4) to remove the child from the home in which he was mistreated, (5) to terminate parental rights, (6) to appoint a guardian of the person and/or property of the child, (7) to award damages, and (8) to issue such writs and orders as may be appropriate to enforce the rights of the child and to carry out the purposes of this Act.

D. *Protective Custody*

(1) A child may be taken into protective custody:

(a) pursuant to an order of the Civil Division of the Court entered after a hearing.

(b) pursuant to an order of the Civil Division of the Court prior to a hearing.

(c) upon the verified petition of any responsible adult alleging that the child is being or has been abused, mistreated, neglected or abandoned and that the child's health and welfare will be jeopardized if the child is not taken into custody prior to a court hearing.

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See § 13(3), *infra.*

(d) by any responsible citizen who sees a child being abused, mistreated or endangered.

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SECTION 53. [*Protective Order.*] On application of a party or on the court's own motion the court may make an order restraining or otherwise controlling the conduct of a person if:

(1) an order of disposition of a delinquent, unruly, or deprived child has been or is about to be made in a proceeding under this Act;

(2) the court finds that the conduct (1) is or may be detrimental or harmful to the child and (2) will tend to defeat the execution of the order of disposition; and

(3) due notice of the application or motion and the grounds therefor and an opportunity to be heard thereon have been given to the person against whom the order is directed.

(2) A child taken into protective custody shall be placed in a hospital or shelter. His parent, guardian, custodian, or next friend shall be promptly notified. The child shall be permitted to communicate with counsel and friends. No child taken into protective custody shall be held in a jail, prison, correctional institution, or detention facility for delinquent children.

Section 7. Procedures under Criminal Division

A. *Initiation of Proceedings*

(1) Every proceeding shall commence with the filing of a verified petition specifying with particularity the offense allegedly committed by the child—including the date, time, and place of the alleged crime or delinquent act and a statement of the whereabouts of the child.

UJCA

SECTION 8. [*Commencement of Proceedings.*] A proceeding under this Act may be commenced:

(1) by transfer of a case from another court as provided in section 9;

[(2) as provided in section 44 in a proceeding charging the violation of a traffic offense;] or

(3) by the court accepting jurisdiction as provided in section 40 or accepting supervision of a child as provided in section 42; or

(4) in other cases by the filing of a petition as provided in this Act. The petition and all other documents in the proceeding shall be entitled "In the interest of _____, a [child] [minor] under [18] [21] years of age."

SECTION 21. [*Contents of Petition.*] The petition shall be verified and may be on information and belief. It shall set forth plainly:

(1) the facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interest of the child and the public that the proceeding

be brought and, if delinquency or unruly conduct is alleged, that the child is in need of treatment or rehabilitation;

(2) the name, age, and residence address, if any, of the child on whose behalf the petition is brought;

(3) the names and residence addresses, if known to petitioner, of the parents, guardian, or custodian of the child and of the child's spouse, if any. If none of his parents, guardian, or custodian resides or can be found within the state, or if their respective places of residence address are unknown, the name of any known adult relative residing within the [county,] or, if there be none, the known adult relative residing nearest to the location of the court; and

(4) if the child is in custody and, if so, the place of his detention and the time he was taken into custody.

(2) The petition shall be personally served on the child and his parent, guardian or custodian. Attached to the petition shall be a statement informing the child, his parent, guardian or custodian of his right to counsel and how to obtain counsel if he is indigent.

(3) If the child is in detention, a preliminary hearing shall be held before a judge or referee within 24 hours. If the child is not in detention, the preliminary hearing shall be held not sooner than 3 days nor later than 10 days after the filing of service of the petition.

B. *Arrest*

A child may be arrested:

(1) Pursuant to an order of the Delinquency Division.

(2) Pursuant to the laws of arrest for a violation of the penal code of this Act. Except for sight arrest, no child shall be arrested or apprehended without a warrant.

(3) Every child who is arrested shall be notified of his right to remain silent, his right to counsel and of the charges against him.

(4) Every child shall have the right to call a lawyer and his representative.

(5) The police shall immediately notify the child's parent, guardian, custodian or representative that the child has been arrested, his place of confinement and the charges against him.

(6) No statement given by a child who has been arrested shall be admissible unless made in the presence of his counsel or representative.

COMMENT

The laws of arrest are made applicable to juveniles under both statutes. There is no reason to use the circumlocution "taking into custody."

The legal standards for release on bail of adults are made appli-

cable to arrest of juveniles. Under Uniform Juvenile Court Act, Sec. 14, a child may be held in detention (jail), *inter alia*, "to protect the property of others" or because he has no person able to provide supervision and care. Protection of property is not a legally cognizable ground for detention of an adult. If a child has no suitable home, he should be placed under the "deprived child" rubric through the Civil Division.

UJCA

SECTION 13. [*Taking into Custody.*]

(a) A child may be taken into custody:

(1) pursuant to an order of the court under this Act;

(2) pursuant to the laws of arrest;

(3) by a law enforcement officer [or duly authorized officer of the court] if there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal is necessary; or

(4) by a law enforcement officer [or duly authorized officer of the court] if there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian.

(b) The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the constitution of this State or of the United States.

SECTION 14. [*Detention of Child.*] A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his detention or care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this Act.

SECTION 15. [*Release or Delivery to Court.*]

(a) A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:

(1) release the child to his parents, guardian, or other custodian upon their promise to bring the child before the court when requested by the court, unless his detention or shelter care is warranted or required under section 14; or

(2) bring the child before the court or deliver him to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment. He shall promptly give written notice thereof, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court. Any temporary detention or questioning of the child necessary to comply with this subsection shall conform to the procedures and conditions prescribed by this Act and rules of court.

(3) If a parent, guardian, or other custodian, when requested, asks to bring the child before the court as provided in subsection (2) the court may issue its warrant directing that the child be taken into custody and brought before the court.

C. *Detention*

(1) No child shall be held in detention pending an adjudicatory hearing unless:

(a) the offense charged is non-bailable, or

(b) there is substantial reason to believe that the child will flee the jurisdiction, or

(c) there is substantial reason to believe that the child is a danger to himself, or

(d) the child has no home.

COMMENT

This establishes the same standards for pre-trial detention of children as the release of adults on bail. Since few children have financial resources, bail for children would operate even more harshly and inequitably than it does with respect to adults.

(2) While in detention a child shall have the right to communicate with parents, friends and counsel and to receive regular visits at reasonable times. No child shall be held in solitary confinement.

(3) No child shall be held in detention in a place where adults accused or convicted of crime are incarcerated.

UJCA

Section 16(d) A child alleged to be deprived or unruly may be detained or placed in shelter care only in the facilities stated in paragraphs (1), (2), and (4) of subsection (a) and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent.

D. *Preliminary Hearings*

At the preliminary hearing the court or referee shall determine (a) if a prima facie case has been established, (b) if so, whether the offense is of such seriousness that an adjudicatory hearing is required, (c) if the charge is not serious, the referee may refer the child to the Youth Services Board for voluntary counselling and services. No referral to the Youth Services Board shall constitute an adjudication of crime or delinquency or be deemed a waiver of the child's rights. Any child may refuse the referral and no adverse implications or consequences shall attach. If the Court determines that the case should proceed to an adjudicatory hearing, the Court shall inform the child of his right to counsel. If the child has no counsel and is indigent, the Court shall appoint counsel. If the child requests the appointment of a designated member of the bar, the request shall be honored by the Court unless good reason is shown for not doing so.

COMMENT

Since representation of children is relatively new, many members of the bar are not prepared to defend a child but continue to make social judgments as to their views of the best interests of the child. The child's need for counsel who will defend him is of crucial importance.

UJCA

SECTION 10. *[Informal Adjustment.]*

(a) Before a petition is filed, the probation officer or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties with a view to an informal adjustment if it appears;

(1) the admitted facts bring the case within the jurisdiction of the court;

(2) counsel and advice without an adjudication would be in the best interest of the public and the child; and

(3) the child and his parents, guardian or other custodian consent thereto with knowledge that consent is not obligatory.

(b) The giving of counsel and advice cannot extend beyond 3 months from the day commenced unless extended by the court for an additional period not to exceed 3 months and does not authorize the detention of the child if not otherwise permitted by this Act.

(c) An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto shall not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding against him after conviction for the purpose of a presentence investigation.

SECTION 19. [*Petition—Preliminary Determination.*] A petition under this Act shall not be filed unless the [probation officer,] the judge or other person authorized by the court has determined and decided upon the petition that the filing of the petition is in the interest of the public and the child.

SECTION 20. [*Petition—Who May Make.*] Subject to section 19 the petition may be made by any person, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true.

E. *Trials*

(1) Trials shall be held no later than 10 days after the preliminary hearing if the child is in detention. If the child is not in detention, the adjudicatory hearing shall be held no later than 60 days after the preliminary hearing. Unless the child requests a continuance or good cause is shown for the delay, the criminal petition shall be dismissed and the record expunged if the trial is not held within the times specified.

COMMENT

This follows the rule of the New York courts which requires dismissal of criminal charges if the case is not brought to trial.

(2) Guilt shall be found only upon proof beyond a reasonable doubt.

(3) In all cases in which the child may be deprived of his liberty for a period in excess of six (6) months he shall have the right to trial by jury.

COMMENT

The U.S. Supreme Court has held in *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971), that the U.S. Constitution does not *require* a jury trial in cases of juvenile delinquency. The legislatures of the states are not precluded from granting a jury trial and, insofar as possible, providing substantive and procedural safeguards for children which approximte those Constitutionally guaranteed to adults.

(4) All hearings shall be stenographically transcribed and the record made available to the child and his representative without cost if the child is indigent.

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SECTION 24(c) If requested by a party or ordered by the court the proceedings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means. If not so recorded full minutes of the proceedings shall be kept by the court.

(5) All hearings shall be open to the press and the public.

UJCA

SECTION 24(d) Except in hearings to declare a person in contempt of court, [and in hearings under section 44,] the general public shall be excluded from hearings under this Act. Only the parties, their counsel, witnesses, and other persons accompanying a party for his assistance, and any other persons as the court finds have a proper interest in the proceeding or in the work of the court may be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency or unruly conduct are being heard.

(6) At the commencement of the hearing, the judge shall ascertain that the child knows and understands the nature of the charges against him and if he is not represented that he has knowingly and understandingly waived his right to counsel.

(7) The state shall present its evidence against the child after which the child may move for a dismissal of the charges.

(8) The child shall have the right to call witnesses on his behalf, to cross-examine the witnesses and shall have the right to remain silent. No inferences shall be drawn from the child's failure to testify.

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SECTION 27. [*Other Basic Rights.*]

(a) A party is entitled to the opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine adverse witnesses.

(b) A child charged with a delinquent act need not be a witness against or otherwise incriminate himself. An extra-judicial statement, if obtained in the course of violation of this Act or which would be constitutionally inadmissible in a criminal proceeding, shall not be used against him. Evidence illegally seized or obtained shall not be received over objection to establish the allegations made against him. A confession validly made by child out of court is insufficient to support an adjudication of delinquency unless it is corroborated in whole or in part by other evidence.

(9) No hearsay or other inadmissible evidence shall be received.

(10) The rules of criminal procedure shall apply. The child shall have the right to file pre-trial motions and to subpoena witnesses. If the child is indigent the court shall provide without cost subpoenas and service of process.

UJCA

[SECTION 18. [*Subpoena.*] Upon application of a party the court or the clerk of the court shall issue, or the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this Act.]

(11) Upon conclusion of the trial the court shall make a finding of guilt or innocence. If the court finds the child is innocent, he shall be promptly released and the record of his arrest expunged.

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SECTION 29. [*Hearing—Findings—Dismissed.*]

(a) After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a deprived child, or if the petition alleges that the child is delinquent or unruly, whether the acts ascribed to the child were committed by him. If the court finds that the child is not a deprived child or that the allegations of delinquency or unruly conduct have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding.

(12) If the court finds the child guilty, the court may call for a precommitment investigation and require such medical, psychological, and psychiatric tests as may be appropriate. No such tests or investigation shall be made prior to a finding of guilt. Pending such investigation the child may be held in detention for a period not in excess of 30 days. The reports of all investigations and tests shall be available to the child's counsel and representative. Upon a finding of guilt the Court shall inform the child of his right to appeal and his right to have counsel and, if he is indigent, to have counsel provided for him.

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SECTION 29(b) If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he is alleged to be delinquent or unruly it shall proceed immediately or at a postponed hearing to hear evidence as to whether the child is in need of treatment or rehabilitation and to make and file its findings thereon. In the absence of evidence to the contrary evidence of the commission of acts which constitute a felony is sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the court finds that the child is not in need of treatment or rehabilitation it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.

(c) If the court finds from clear and convincing evidence that the child is deprived or that he is in need of treatment or rehabilitation as a delinquent or unruly child, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.

(d) In hearings under subsections (b) and (c) all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of confidential information need not be disclosed.

F. *Pre-disposition Investigation*

The Court may order an investigation of the child's background, family, and school record prior to disposition and require psychiatric and other tests where appropriate. No investigation or testing shall be made prior to a finding of guilt. All such records shall be available to the child and his representative and the child may require the presence of any person making such reports and cross-examine him.

COMMENT

The investigation of children and their families prior to an adjudication is a gross waste of money and an invasion of privacy. Often the results are made available to the court prior to the hearing and affect the determination of guilt or innocence. There is at present no requirement that such reports be made available to the child's representative.

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SECTION 6. [*Powers and Duties of Probation Officers.*]

(a) For the purpose of carrying out the objectives and purposes of this Act and subject to the limitations of this Act or imposed by the Court, a probation officer shall

(1) make investigations, reports, and recommendations to the juvenile court;

(2) receive and examine complaints and charges of delinquency, unruly conduct or deprivation of a child for the purpose of considering the commencement of proceedings under this Act;

(3) supervise and assist a child placed on probation or in his protective supervision or care by order of the court or other authority of law;

(4) make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable;

(5) take into custody and detain a child who is under his supervision or care as a delinquent, unruly or deprived child if the probation officer has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this Act. Except as provided by this Act a probation officer does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this Act against a child who is or may be under his care or supervision; and

(6) perform all other functions designated by this Act or by order of the court pursuant thereto.

(b) Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

G. *Penalties*

(1) Upon a finding of guilt the Court shall have the authority (a) to commit a child to a suitable institution, (b) to place the child on probation, (c) suspend sentence, (d) refer him to the Youth Services Board, and/or (e) to order restitution within the financial capabilities of the child and/or a reasonable amount of public service within the physical, mental and emotional capacities of the child.

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SECTION 31. [*Disposition of Delinquent Child.*] If the child is found to be a delinquent child the court may make any of the following orders of disposition best suited to his treatment, rehabilitation, and welfare:

(1) any order authorized by section 30 for the disposition of a deprived child;

(2) placing the child on probation under the supervision of the probation officer of the court or the court of another state as provided in section 41, or [the Child Welfare Department operating within the county,] under conditions and limitations the court prescribes;

(3) placing the child in an institution, camp, or other facility for delinquent children operated under the direction of the court [or other local public authority;] or

(4) committing the child to [designate the state department to which commitments of delinquent children are made or, if there is no department, the appropriate state institution for delinquent children].

(2) Any order of commitment or probation may require the child to attend school and be conditioned upon the child attaining reasonable standards of educational proficiency and skills.

COMMENT

The Uniform Juvenile Court Act does not authorize restitution or service. Although many courts require restitution and some juvenile courts order work such as the removal of graffiti and repair

of vandalized property, the statutes authorize only incarceration and probation.

(3) No order shall exceed the maximum period for which an adult could be incarcerated for the same offense. The penalty for a delinquent act shall not exceed six months commitment, probation or order requiring service.

COMMENT

This act does not require a state to maintain juvenile correctional institutions. Any state adopting the proposed act may follow the example of Massachusetts and abolish such juvenile jails substituting community based treatment centers. Whatever institution or supervision is provided, this limits the period of control to the maximum penalty for an adult. See *In re Charles Wilson, supra,* holding that a child may be incarcerated for a longer period than an adult.

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SECTION 36. [*Limitations of Time on Orders of Disposition.*]

(a) An order terminating parental rights is without limit as to duration.

(b) An order of disposition committing a delinquent or unruly child to the [State Department of Corrections or designated institution for delinquent children] continues in force for 2 years or until the child is sooner discharged by the [department or institution to which the child was committed]. The court which made the order may extend its duration for an additional 2 years, subject to like discharge, if:

(1) a hearing is held upon motion of the [department or institution to which the child was committed] prior to the expiration of the order;

(2) reasonable notice of the hearing and an opportunity to be heard is given to the child and the parent, guardian, or other custodian; and

(3) the court finds that the extension is necessary for the treatment or rehabilitation of the child.

(c) Any other order of disposition continues in force for not more than 2 years. The court may sooner terminate its order or extend its duration for further periods. An order of extension may be made if:

(1) a hearing is held prior to the expiration of the order upon motion of a party or on the court's own motion;

(2) reasonable notice of the hearing and opportunity to be heard are given to the parties affected;

(3) the court finds that the extension is necessary to accomplish the purposes of the order extended; and

(4) the extension does not exceed 2 years from the expiration of prior order.

(d) Except as provided in subsection (b) the court may terminate an order of disposition or extension prior to its expiration, on or without an application of a party, if it appears to the court that the purposes of the order have been accomplished. If a party may be adversely affected by the order of termination the order may be made only after reasonable notice and opportunity to be heard have been given to him.

(e) Except as provided in subsection (a) when the child reaches 21 years of age

all orders affecting him then in force terminate and he is discharged from further obligation or control.

(4) Any order exceeding 6 months shall be reviewed every 6 months. Thirty days before the expiration of the six month period the child and his representative shall be notified of the forthcoming review and shall have the right to appear before the court to request a modification of the order and to present evidence with respect thereto or to submit the request in writing with supporting information. Upon review the court may modify the order but shall not increase the period of time in which the child is under its orders.

COMMENT

At present there is no system of review of juvenile sentences, no parole board, and no pardon for children. Their prolonged detention in jail or a jail-like facility is recognized to be detrimental and counter-productive.

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SECTION 37(b) Except an order committing a delinquent child to the [State Department of Corrections or an institution for delinquent children,] an order terminating parental rights, or an order of dismissal, an order of the court may also be changed, modified, or vacated on the ground that changed circumstances so require in the best interest of the child. An order granting probation to a child found to be delinquent or unruly may be revoked on the ground that the conditions of probation have not been observed.

(5) No child shall be placed in a detentional facility or a correctional institution in which adults are held. Every child shall have educational facilities and appropriate medical, dental and psychiatric care while in detention and correctional institutions.

Section 8. Appeals

A. *Civil* [New]

(1) Every person aggrieved by an order of the Civil Division shall have the right to appeal. A notice of appeal shall be filed within 45 days of the adjudication.

(2) The Court shall have jurisdiction to grant a stay pending appeal.

B. *Criminal Division*

(1) A child shall have the right to appeal any order of the Criminal Division, including the adjudication of guilt and/or the penalty imposed.

The appeal shall be filed within 45 days of the adjudication and shall specify the grounds for appeal.

COMMENT

An appeal on excessive sentencing has been recommended in adult cases for many years to correct gross inequities.

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SECTION 59. [*Appeals.*]

(a) An aggrieved party, including the state or a subdivision of the state, may appeal from a final order, judgment, or decree of the juvenile court to the [Supreme Court] [court of general jurisdiction] by filing written notice of appeal within 30 days after entry of the order, judgment, or decree, or within any further time the [Supreme Court] [court of general jurisdiction] grants, after entry of the order, judgment, or decree. [The appeal shall be heard by the [court of general jurisdiction] upon the files, records, and minutes of transcript of the evidence of the juvenile court, giving appreciable weight to the findings of the juvenile court.] The name of the child shall not appear on the record on appeal.

(b) The appeal does not stay the order, judgment, or decree appealed from, but the [Supreme Court] [court of general jurisdiction] may otherwise order on application and hearing consistent with this Act if suitable provision is made for the care and custody of the child. If the order, judgment or decree appealed from grants the custody of the child to, or withholds it from, one or more of the parties to the appeal it shall be heard at the earliest practicable time.

(2) The Court shall have jurisdiction to grant a stay pending appeal and/or to release the child from detention pending appeal.

The transcript of any civil and/or criminal trial shall be made available to the child without cost for the purposes of appeal upon certification by counsel that the child cannot afford the cost of the transcript.

COMMENT

There is no reason to grant a trial de novo if the original trial has been properly conducted and a transcript made. Retrial of a case imposes an undue burden on the child and his counsel. Since the rules of civil and criminal procedure are made applicable, appropriate post trial motions are available.

Section 9. Records

A. No adjudication of crime or delinquency shall be considered a criminal conviction. The records of the court shall not be released to any individual, organization, institution, or governmental agency without the

consent of the child and his representative if he is under the age of 18, or without the consent of the child if he is over the age of 18.

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SECTION 33. [*Order of Adjudication—Non-Criminal.*]

(a) An order of disposition or other adjudication in a proceeding under this Act is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of a crime.

(b) The disposition of a child and evidence adduced in a hearing in juvenile court may not be used against him in any proceeding in any court other than a juvenile court, whether before or after reaching majority, except in dispositional proceedings after conviction of a felony for the purposes of a pre-sentence investigation and report.

B. No civil records shall be made public or released to any individual or agency, public or private, without the written consent of the child if he is 18 years of age or older or with the written consent of the child's parent or representative if he is under the age of 18.

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SECTION 57. [*Sealing of Records.*]

(a) On application of a person who has been adjudicated delinquent or unruly or on the court's own motion, and after a hearing, the court shall order the sealing of the files and records in the proceeding, including those specified in sections 55 and 56, if the court finds:

(1) 2 years have elapsed since the final discharge of the person;

(2) since the final discharge he has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or adjudicated a delinquent or unruly child and no proceeding is pending seeking conviction or adjudication; and

(3) he has been rehabilitated.

(b) Reasonable notice of the hearing shall be given to:

(1) the [prosecuting attorney of the county];

(2) the authority granting the discharge if the final discharge was from an institution or from parole; and

(3) the law enforcement officers or department having custody of the files and records if the files and records specified in sections 55 and 56 are included in the application or motion.

(c) Upon the entry of the order the proceeding shall be treated as if it never occurred. All index references shall be deleted and the person, the court, and law enforcement officers and departments shall properly reply that no record exists with respect to the person upon inquiry in any matter. Copies of the order shall be sent to each agency or official therein named. Inspection of the sealed files and records thereafter may be permitted by an order of the court upon petition by the person who is the subject of the records and only by those persons named in the order.

Section 10. Expungement

Upon application of a child the record of his apprehension, arrest, preliminary hearing, hearing and/or adjudication may be expunged. Upon the

entry of such an order the records shall be physically destroyed and a certification of that fact shall be made to the court.

COMMENT

There is no right to a pardon for delinquency. This provision will protect a child from having his juvenile records prejudice him in adult life.

Section 11. Probation

The court of each jurisdiction shall appoint a chief probation officer who shall be qualified by training, experience and temperament. He shall be in charge of the probation services of the Delinquency Division of the Court and shall employ, subject to the civil service laws, such probation officers, assistants and supporting personnel as are authorized by law. The Chief Probation Officer shall be responsible to the court and to the Chief Juvenile Probation Officer of the state. Probation services shall be borne by the state.

The duties of the Probation Officers shall be to supervise children placed on probation by the Criminal Division of the court, to render reports to the court and to make pre-disposition investigations.

No social or other investigation of a child shall be made until after an adjudication of crime or delinquency by the court.

COMMENT

The role of the probation officer is limited to pre-sentence investigations and supervision of children found guilty who are placed on probation. The present practice continued in the Uniform Juvenile Court Act of having the probation office conduct investigations for the prosecution, social investigations and act as the "friend" of the child places incompatible and excessive powers in the probation officer.

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SECTION 5. [*Probation Services.*]

[(a) [In [counties] of over _____ population] the [_____] court may appoint one or more probation officers who shall serve [at the pleasure of the court] [and are subject to removal under the civil service laws governing the county]. They have the powers and duties stated in section 6. Their salaries shall be fixed by the court with the approval of the [governing board of the county]. If more than one probation officer is appointed, one may be designated by the court as the chief probation officer or director of court services, who shall be responsible for the administration of the probation services under the direction of the court.]

[(b) In all other cases the [Department of Corrections] [state [county] child welfare department] [or other appropriate state agency] shall provide suitable probation services to the juvenile court of each [county.] The cost thereof shall be paid out of the general revenue funds of the [state] [county]. The probation officer or other qualified person assigned to the court by the [Department of Corrections] [state [county] child welfare department] [or other appropriate state agency] has the powers and duties stated in section 6.]

Section 12. Revocation of Probation [New]

A probation officer may file a petition to revoke probation specifying with particularity the violations of law and/or the violations of the terms of probation. Such petition shall be personally served on the child and his parents or representative and shall contain a notice informing the child that he is entitled to be represented by counsel at the hearing to revoke probation and, if he cannot afford to retain counsel, how to obtain free legal representation. Not less than 3 nor more than 10 days after the service of such petition a hearing shall be held in the Criminal Division of the Court. The procedures and rules applicable to all hearings in Criminal Division shall apply. Upon a finding that the child has committed a crime or violated a material condition of probation, the court may revoke the order of probation and require the child to serve the penalty which could have been imposed. An order of revocation shall be appealable in the same manner as any other adjudication or order by the Criminal Division.

COMMENT

This follows recent court decisions requiring a due process hearing for the revocation of parole of an adult.

Section 13. Youth Services Board [New]

A Youth Services Board shall be established in each judicial jurisdiction of the state. It shall be composed of the Chief Judge of the Children and Youth Court or his delegate, the County Secretary of Welfare, three (3) adults designated by the Mayor, (county commissioners) one of whom shall be a lawyer, one a doctor, and one a social worker or educator, three (3) adults designated by the Governor, one of whom shall be a lawyer, one a doctor, and one a social worker or educator, three (3) children between the ages of 15 and 18 designated by the Superintendent of Public Schools in consultation with the heads of the non-public schools of the jurisdiction.

It shall be the duty of the Board:

(1) To visit and oversee all institutions and facilities in which children are placed or committed by the courts and to issue a public report annually.

(2) To recommend the establishment or purchase of such services as may be needed including, but not limited to, drug rehabilitation programs, half-way houses, youth homes, recreational programs, vocational training, psychiatric and counselling services.

(3) To oversee the operations of all services for children referred or committed by the Court.

The Youth Services Board shall examine the needs of the children of the community for group homes, foster homes, recreation, supplemental and remedial education, employment and training, crime prevention, physical and mental health care and render annual written reports to the governor which shall be public.

Upon the request of any child, parent, school teacher, social worker, doctor, lawyer or other person, or upon referral by the court, the Board shall ascertain the needs of the child and on a purely voluntary basis provide such shelter, care, medical care, treatment, education and training as the child requires. The Board may operate homes and shelters for children or contract with other agencies to provide such facilities. It shall contract with hospitals, mental health clinics, schools and other qualified agencies and individuals to provide necessary services.

The Board shall maintain accurate records of the children served and the services rendered. Such records shall be open to inspection but the identities of the children shall remain confidential.

Section 14. Mental Disability [New]

A petition may be filed by any responsible person over the age of 21, asking that a child be declared mentally disabled and that suitable education, medical and psychiatric care be provided for him. If the child denies that he is medically disabled or if the petition seeks to have the child placed in an institution, the court shall appoint counsel to represent the child.

Section 15. Immunity of Next Friend

Any person who files a pleading on behalf of a child as next friend, guardian, custodian or representative shall have immunity for any allegations contained in said pleadings, testimony or exhibits. Such person shall have access to the hospital records, school records, and other confidential information germane to the pleading to the same extent as a natural parent or legal guardian.

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SECTION 51. [*Guardian ad litem.*] The court at any stage of a proceeding under this Act, on application of a party or on its own motion, shall appoint a guardian ad

litem for a child who is a party to the proceeding if he has no parent, guardian, or custodian appearing on his behalf or their interests conflict with his or in any other case in which the interests of the child require a guardian. A party to the proceeding or his employee or representative shall not be appointed.

Section 16. Counselling [New]

The Court shall appoint a Chief Counsellor who shall be qualified by education, training and temperament to advise and assist non-delinquent children. He shall be responsible to the Civil Division of the Court. The Chief Counsellor shall appoint such assistants, and supporting personnel as are authorized by law, who shall be qualified and subject to the civil service law. The cost of counselling services shall be borne by the state.

The duties of the counsellors shall be, upon direction of the Court, to investigate cases of alleged child abuse, dependency, neglect, mental disability and such cases in which the child and/or his representative seeks the assistance of the counsellor in connection with any matter before the Civil Division of the Court. The counsellors shall report to the court. The counsellors shall at the direction of the court investigate suitable homes, care, education, treatment and employment and assistance for children whose cases are before the Civil Division and make reports to the court. Such reports shall be available to the child's representative and counsel.

Section 17. Institutions [New]

Every child in an institution, foster home or other facility shall receive the equivalent of public school education, medical, and dental care, and psychiatric care if needed. Upon the request of the Chief Administrator of the institution, or upon petition by the child and/or his representative, the court shall conduct a mental health hearing. Upon finding that a child is mentally disabled, the court shall order the child transferred to a suitable mental institution. Children in institutions shall have the right to have visitors and to communicate with counsel and next friend without censorship.

Any responsible citizen group shall have the right to visit and inspect every institution for children at reasonable times. The privacy of the children shall be respected.

Section 18. Referees

The Court may appoint referees learned in the law to conduct preliminary hearings under the Criminal Division and under the Civil Division to take testimony and report to the Court.

COMMENT

Note that the Model Act permits referees not learned in the law to conduct hearings and make final dispositions and adjudications. Many juvenile court laws prohibit preliminary hearings. E.g., Pa. 11 P.S. § 246(3). However, most courts have a preliminary procedure called "intake" which is conducted by social workers or probation officers not learned in the law. There are no rules or standards by which proceedings are governed.

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[SECTION 7. [*Referees.*]

(a) The judge may appoint one or more persons to serve at the pleasure of the judge as referees on a full or part-time basis. A referee shall be a member of the bar [and shall qualify under the civil service regulations of the County]. His compensation shall be fixed by the judge [with the approval of the [governing board of the County] and paid out of [_____]].

(b) The judge may direct that hearings in any case or class of cases be conducted in the first instance by the referee in the manner provided by this Act. Before commencing the hearing the referee shall inform the parties who have appeared that they are entitled to have the matter heard by the judge. If a party objects the hearing shall be conducted by the judge.

(c) Upon the conclusion of a hearing before a referee he shall transmit written findings and recommendations for disposition to the judge. Prompt written notice and copies of the findings and recommendations shall be given to the parties to the proceeding. The written notice also shall inform them of the right to a rehearing before the judge.

(d) A rehearing may be ordered by the judge at any time and shall be ordered if a party files written request therefor within 3 days after receiving the notice required in subsection (c).

(e) Unless a rehearing is ordered the findings and recommendations become the findings and order of the court when confirmed in writing by the judge.]

Section 19. Transfer of Cases to Adult Court

The Criminal Division may, after a hearing, transfer the case of any child over the age of 15 who is accused of crime to the adult court. Before making such a transfer, the Criminal Division shall find:

(1) That the child is mentally and emotionally able to understand the charges against him and intelligently cooperate in his defense.

(2) That the charge is sufficiently serious to warrant prosecution as an adult.

COMMENT

This section codifies the ruling in Kent v. United States, 383 U.S. 541 (1966), and establishes appropriate standards.

SECTION 34. [*Transfer to Other Courts.*]

(a) After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances, [or resolutions] of this state, the court before hearing the petition on its merits may transfer the offense for prosecution to the appropriate court having jurisdiction of the offense if:

(1) the child was 16 or more years of age at the time of the alleged conduct;

(2) a hearing on whether the transfer should be made is held in conformity with sections 24, 26, and 27;

(3) notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least 3 days before the hearing;

(4) the court finds that there are reasonable grounds to believe that

(i) the child committed the delinquent act alleged;

(ii) the child is not amenable to treatment or rehabilitation as a juvenile through available facilities;

(iii) the child is not committable to an institution for the mentally retarded or mentally ill; and

(iv) the interests of the community require that the child be placed under legal restraint or discipline.

(b) The transfer terminates the jurisdiction of the juvenile court over the child with respect to the delinquent acts alleged in the petition.

(c) No child, either before or after reaching 18 years of age. shall be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.

(d) Statements made by the child after being taken into custody and prior to the service of notice under subsection (a) or at the hearing under this section are not admissible against him over objection in the criminal proceedings following the transfer.

(e) If the case is not transferred the judge who conducted the hearing shall not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also a judge he likewise is disqualified from presiding in the prosecution.

Section 20. Transfer of Cases from Adult Court

Whenever it appears that a defendant in a criminal proceeding is under the age of 18 the court (or magistrate, or alderman, or other judicial officer) shall forthwith transfer the defendant together with a copy of all papers to the Children and Youth Court, which shall promptly conduct a waiver hearing under the provisions of Sec. 19 of this Act. If the defendant has reached the age of 18 by the time of his hearing in Adult Court, that court shall retain jurisdiction.

COMMENT

The Children and Youth Court has no jurisdiction over children who have reached the age of 18. Compare U.J.C.A. § 3.

SECTION 9. [*Transfer from Other Courts.*] If it appears to the court in a criminal proceeding that the defendant [is a child] [was under the age of 18 years at the time the offense charged was alleged to have been committed], the court shall forthwith transfer the case to the juvenile court together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. It shall order that the defendant be taken forthwith to the juvenile court or to a place of detention designated by the juvenile court, or release him to the custody of his parent, guardian, custodian, or other person legally responsible for him, to be brought before the juvenile court at a time designated by that court. The accusatory pleading may serve in lieu of a petition in the juvenile court unless that court directs the filing of a petition.

Section 21. Emancipation [New]

A child may petition the Civil Division Court to be emancipated. If the court shall find that the child is mentally, physically and emotionally able to choose his own residence, to maintain himself, intelligently to direct his education and training and employment, the court shall enter an order of emancipation. An emancipated child shall be entitled to retain his own earnings, choose his own residence and receive directly any rights, entitlements and benefits to which he may legally be entitled. An order of emancipation shall not terminate parental obligations.

COMMENT

This section permits a child of sufficient maturity to live without parental supervision if the court shall permit him to do so. Such emancipated child shall be entitled to receive his own public assistance payment.

Section 22. Venue

A. *Criminal Division*

A proceeding in the Criminal Division shall be instituted in the county in which the offense allegedly occurred. Upon request of the child and/or his representative, the proceedings may be transferred to the county of the child's residence. With or without the consent of the child, after conviction, the case may be transferred to the county of the child's residence for disposition. Certified copies of all documents and records pertaining to the case shall accompany the transfer.

COMMENT

No social investigations or records are made prior to conviction contrary to the procedure mandated under the U.J.C.A. The trial must be held where the offense allegedly occurred.

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SECTION 11. [*Venue.*] A proceeding under this Act may be commenced in the [county] in which the child resides. If delinquent or unruly conduct is alleged, the proceeding may be commenced in the [county] in which the acts constituting the alleged delinquent or unruly conduct occurred. If deprivation is alleged, the proceeding may be brought in the [county] in which the child is present when it is commenced.

SECTION 12. [*Transfer to Another Juvenile Court Within the State.*]

(a) If the child resides in a [county] of the state and the proceeding is commenced in a court of another [county], the court, on motion of a party or on its own motion made prior to final disposition, may transfer the proceeding to the county of the child's residence for further action. Like transfer may be made if the residence of the child changes pending the proceeding. The proceeding shall be transferred if the child has been adjudicated delinquent or unruly and other proceedings involving the child are pending in the juvenile court of the [county] of his residence.

(b) Certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the court shall accompany the transfer.

B. *Civil Proceedings* [New]

A civil proceeding may be initiated by or on behalf of a child in any county in which the child is physically present, in the county of the child's residence or in the county in which the events giving rise to the proceeding occurred. The Court may transfer the proceeding to any other county in which venue lies unless the transfer will work hardship or inconvenience on the parties.

Section 23. Non-resident Child

A. The Criminal Division upon finding that a child who has been convicted is a resident of another State may transfer the child to the Juvenile Court of that jurisdiction for disposition. The Court may not commit a child to an institution in another state. Whenever possible a child shall be committed to an institution in the county in which he lives.

If a child, while on probation, becomes a resident of another state, the Court may request the appropriate court of that state to accept jurisdiction and to continue supervision.

B. The Civil Division upon finding that a child who is under its jurisdiction has moved or is about to move to another county or state, or who is placed in the custody of a non-resident, may request the appropriate court

of that jurisdiction to provide supervision and/or services. With the written consent of the child's representative or counsel, the court may request such court to assume jurisdiction.

Whenever possible, a child shall be placed in an institution, in the county in which he lives. Placement with relatives or friends, whether within the same state or not, shall be preferred to institutionalization.

C. Upon acceptance of jurisdiction by the Court of another county or another state, the jurisdiction of the Children and Youth Court shall cease. All records and certified copies of the orders of the court shall accompany the transfer. All appeals or other petitions shall be addressed to the court accepting jurisdiction.

D. Where out of county or out of state supervision, care and protection is requested and granted, the requesting county shall bear the reasonable costs of such services including transportation.

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SECTION 39. [*Disposition of Non-Resident Child.*]

(a) If the court finds that a child who has been adjudged to have committed a delinquent act or to be unruly or deprived is or is about to become a resident of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar Act which includes provisions corresponding to sections 39 and 40, the court may defer hearing on need for treatment or rehabilitation and disposition and request by any appropriate means the juvenile court of the [county] of the child's residence or prospective residence to accept jurisdiction of the child.

(b) If the child becomes a resident of another state while on probation or under protective supervision under order of a juvenile court of this State, the court may request the juvenile court of the [county] of the state in which the child has become a resident to accept jurisdiction of the child and to continue his probation or protective supervision.

(c) Upon receipt and filing of an acceptance the court of this State shall transfer custody of the child to the accepting court and cause him to be delivered to the person designated by that court to receive his custody. It also shall provide that court with certified copies of the order adjudging the child to be a delinquent, unruly, or deprived child, of the order of transfer, and if the child is on probation or under protective supervision under order of the court, of the order of disposition. It also shall provide that court with a statement of the facts found by the court of this State and any recommendations and other information it considers of assistance to the accepting court in making a disposition of the case or in supervising the child on probation or otherwise.

(d) Upon compliance with subsection (c) the jurisdiction of the court of this State over the child is terminated.

SECTION 41. [*Ordering Out-of-State Supervision.*]

(a) Subject to the provisions of this Act governing dispositions and to the extent that funds of the [county] are available the court may place a child in the custody of a suitable person in another state. On obtaining the written consent of a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar Act which includes provisions corresponding to sections 41 and 42 the court of this State may order that the child be placed under the supervision of a probation officer or other appropriate official designated by the accepting court. One certified copy of the order shall be sent to the accepting court and another filed with the clerk of the [Board of County Commissioners] of the [county] of the requesting court of this State.

(b) The reasonable cost of the supervision including the expenses of necessary travel shall be borne by the [county] of the requesting court of this State. Upon re-

ceiving a certified statement signed by the judge of the accepting court of the cost incurred by the supervision the court of this State shall certify if it so appears that the sum so stated was reasonably incurred and file it with [the appropriate officials] of the [county] [state] for payment. The [appropriate officials] shall thereupon issue a warrant for the sum stated payable to the [appropriate officials] of the [county] of the accepting court.

Section 24. Non-resident Child

If the appropriate court of another state or county requests the Children and Youth Court to assume supervision, protection or jurisdiction over a child who has moved or is about to move into the territorial jurisdiction of the Children and Youth Court, the Court may do so. Such child shall have the right to petition the court for any remedies, relief or protection which would be available to a child under order of this court and shall be entitled to all the procedural and substantive rights under the Act.

The reasonable expenses of supervision, enforcement and protection shall be borne by the requesting jurisdiction.

COMMENT

This section avoids the difficulties of "residence" and enforcement of orders which would not be legally permissible under this Act. All transfers must be handled through the Children and Youth Court and cannot be made by and between probation officers. A child who has been transferred is guaranteed access to the Court where he is physically present. There is no provision for return of runaways, incorrigibles, etc., without court order. See, especially, U.J.C.A. § 43 which vests broad powers in the probation officer.

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SECTION 40. [*Disposition of Resident Child Received from Another State.*]

(a) If a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar Act which includes provisions corresponding to sections 39 and 40, requests a juvenile court of this State to accept jurisdiction of a child found by the requesting court to have committed a delinquent act or to be an unruly or deprived child, and the court of this State finds, after investigation that the child is or is about to become, a resident of the [county] in which the court presides, it shall promptly and not later than 14 days after receiving the request issue its acceptance in writing to the requesting court and direct its probation officer or other person designated by it to take physical custody of the child from the requesting court and bring him before the court of this State or make other appropriate provisions for his appearance before the court.

(b) Upon the filing of certified copies of the orders of the requesting court (1) determining that the child committed a delinquent act or is an unruly or deprived child and (2) committing the child to the jurisdiction of the juvenile court of this State, the court of this State shall immediately fix a time for a hearing on the need for treatment

or rehabilitation and disposition of the child or on the continuance of any probation or protective supervision.

(c) The hearing and notice thereof and all subsequent proceedings are governed by this Act. The court may make any order of disposition permitted by the facts and this Act. The orders of the requesting court are conclusive that the child committed the delinquent act or is an unruly or deprived child and of the facts found by the court in making the orders, subject only to section 37. If the requesting court has made an order placing the child on probation or under protective supervision, a like order shall be entered by the court of this State. The court may modify or vacate the order in accordance with section 37.

SECTION 42. [*Supervision Under Out-of-State Order.*]

(a) Upon receiving a request of a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to sections 41 and 42 to provide supervision of a child under the jurisdiction of that court, a court of this State may issue its written acceptance to the requesting court and designate its probation or other appropriate officer who is to provide supervision, stating the probable cost per day therefor.

(b) Upon the receipt and filing of a certified copy of the order of the requesting court placing the child under the supervision of the officer so designated the officer shall arrange for the reception of the child from the requesting court, provide supervision pursuant to the order and this Act, and report thereon from time to time together with any recommendations he may have to the requesting court.

Section 25. Children without Proper Care

A. The Civil Division of the Court shall upon finding that a child is without a proper home or lacks necessary care, after notice to the natural parents, legal guardian or person with whom the child was residing, shall enter an order placing the child in a suitable home and/or requiring that necessary services shall be provided for him. In making such an order the court shall be guided by (a) the best interests and needs of the child, (b) the preference of the child, and (c) the desirability of placing a child with relatives, friends, or in a home rather than in an institution.

Every order removing a child from his home shall be reviewed every six months. Every order requiring the furnishing of services to a child shall require regular reports to the court respecting the services rendered and the condition of the child.

UJCA

SECTION 30. [*Disposition of Deprived Child.*]

(a) If the child is found to be a deprived child the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child.

(1) permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child;

(2) subject to conditions and limitations as the court prescribes transfer temporary legal custody to any of the following:

(i) any individual who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child;

(ii) an agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child; or

(iii) the Child Welfare Department of the [county] [state,] [or other public agency authorized by law to receive and provide care for the child;]

(iv) an individual in another state with or without supervision by an appropriate officer under section 40; or

(3) without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 39 if the child is or is about to become a resident of that state.

(b) Unless a child found to be deprived is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

If the child has no suitable relative or next friend, the court may appoint an individual, voluntary or public agency to act as next friend of the child and to report regularly to the court with respect to his condition. The court appointment of a next friend shall not preclude the later appearance of another individual or agency who wishes to act as next friend of the child.

B. The Criminal Division, whenever it finds that a child is not guilty of the offense with which he is charged but it appears that he is without proper care, shall transfer the matter to the Civil Division for appropriate proceedings.

No child shall be placed pursuant to an order of the Civil Division in a place of detention or institution for children charged with or convicted of criminal offenses or delinquent acts.

UJCA

SECTION 38. [*Rights and Duties of Legal Custodian.*] A custodian to whom legal custody has been given by the court under this Act has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

(See UJCA § 30.)

Section 26. Mentally Disabled Child

If, at any time, it appears that a child under the jurisdiction of the Civil or Criminal Division is suffering from such severe mental disability as to require commitment, the court shall notify the appropriate authorities to institute mental health commitment proceedings or appoint a guardian ad litem for this purpose and shall suspend action on all pending matters. If the child does not have counsel, the Court shall appoint counsel to represent him in the mental health proceedings.

UJCA

SECTION 35. [*Disposition of Mentally Ill or Mentally Retarded Child.*]

(a) If, at a dispositional hearing of a child found to be a delinquent or unruly child or at a hearing to transfer a child to another court under section 34, the evidence indicates that the child may be suffering from mental retardation or mental illness the court before making a disposition shall commit the child for a period not exceeding 60 days to an appropriate institution, agency, or individual for study and report on the child's mental condition.

(b) If it appears from the study and report that the child is committable under the laws of this state as a mentally retarded or mentally ill child the court shall order the child detained and direct that within 10 days after the order is made the appropriate authority initiate proceedings for the child's commitment.

(c) If it does not so appear, or proceedings are not promptly initiated or the child is found not to be committable, the court shall proceed to the disposition or transfer of the child as otherwise provided by this Act.

Section 27. Termination of Parental Rights

The Court may, upon petition by a child, his representative or any responsible private or public agency, order termination of parental rights when

1) the parent has abandoned the child or

2) the parent has willfully and repeatedly abused the child.

The parents shall be personally served with a copy of the petition and notice of hearing and shall be informed of their rights to counsel. If the child is illegitimate and the father has acknowledged paternity, the father shall be notified. The child shall be represented by counsel. If the child does not have a representative, the court shall appoint a guardian ad litem to retain counsel and to protect the child pending the proceedings and to assure his appropriate care and placement if parental rights are terminated. Any responsible individual or public or private agency may serve as guardian ad litem.

An order of termination of parental rights shall terminate all rights of the parent to custody and control. The parent shall not be entitled to notice of any future proceedings affecting the child and the parent's consent shall not be required in any adoption proceedings. Such order shall not deprive the child of any rights of inheritance or other benefits to which he may be legally entitled from his natural parents.

COMMENT

Note that contrary to U.J.C.A. a child whose parental rights have been terminated will continue to inherit from his parent and receive social security, military, pension and other benefits.

SECTION 47. [*Termination of Parental Rights.*]

(a) The court by order may terminate the parental rights of a parent with respect to his child if:

(1) the parent has abandoned the child;

(2) the child is a deprived child and the court finds that the conditions and causes of the deprivation are likely to continue or will not be remedied and that by reason thereof the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or

(3) the written consent of the parent acknowledged before the court has been given.

(b) If the court does not make an order of termination of parental rights it may grant an order under section 30 if the court finds from clear and convincing evidence that the child is a deprived child.

SECTION 48. [*Proceeding for Termination of Parental Rights.*]

(a) The petition shall comply with section 21 and state clearly than an order for termination of parental rights is requested and that the effect thereof will be as stated in the first sentence of section 49.

(b) If the paternity of a child born out of wedlock has been established prior to the filing of the petition the father shall be served with summons as provided by this Act. He has the right to be heard unless he has relinquished all parental rights with reference to the child. The putative father of the child whose paternity has not been established, upon proof of his paternity of the child, may appear in the proceedings and be heard. He is not entitled to notice of hearing on the petition unless he has custody of the child.

SECTION 49. [*Effect of Order Terminating Parental Rights.*] An order terminating the parental rights of a parent terminates all his rights and obligations with respect to the child and of the child to him arising from the parental relationship. The parent is not thereafter entitled to notice of proceedings for the adoption of the child by another nor has he any right to object to the adoption or otherwise to participate in the proceedings.

SECTION 50. [*Commitment to Agency.*]

(a) If, upon entering an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall commit the child to the custody of [the State (County) Child Welfare Department] or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption, or in the absence thereof in a foster home or take other suitable measures for the care and welfare of the child. The custodian has authority to consent to the adoption of the child, his marriage, his enlistment in the armed forces of the United States, and surgical and other medical treatment for the child.

(b) If the child is not adopted within 2 years after the date of the order and a general guardian of the child has not been appointed by the [_____] court, the child shall be returned to the court for entry of further orders for the care, custody, and control of the child.

Section 28. Records

All records and files with respect to a child under the Civil and Criminal Divisions of this Court shall be kept separate and apart from the records and files of adults under the jurisdiction of the Court. The records of the child shall not be open to public inspection and their contents shall not be disclosed to any individual or public or private agency without the authorization of the Court.

SECTION 54. [*Inspection of Court Files and Records.*] [Except in cases arising under section 44] all files and records of the court in a proceeding under this Act are open to inspection only by:

(1) the judge, officers, and professional staff of the court;

(2) the parties to the proceeding and their counsel and representatives;

(3) a public or private agency or institution providing supervision or having custody of the child under order of the court;

(4) a court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court;

(5) with leave of court any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.

SECTION 55. [*Law Enforcement Records.*] Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 34, the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public; but inspection of the records and files is permitted by:

(1) a juvenile court having the child before it in any proceeding;

(2) counsel for a party to the proceeding;

(3) the officers of public institutions or agencies to whom the child is committed;

(4) law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and

(5) a court in which he is convicted of a criminal offense for the purpose of a pre-sentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a [parole board] in considering his parole or discharge or in exercising supervision over him.

Section 29. Expungement of Childhood Record [New]

When a child reaches the age of 18 and any time thereafter he may petition the Court to have his record expunged. An order of expungement shall operate to void and nullify the arrest and conviction.

COMMENT

This permits an individual, in effect, to obtain a pardon for childhood offenses. At present, since there is technically no crime, there can be no pardon and an adult cannot rid himself of his juvenile record.

Section 30. Costs and Expenses for Care of Child

(a) The following expenses shall be a charge upon the funds of the county upon certification thereof by the court:

(1) the cost of medical and other examinations and treatment of a child ordered by the court;

(2) the cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent;

(3) reasonable compensation for services and related expenses of counsel appointed by the court for a party;

(4) reasonable compensation for a guardian ad litem;

(5) the expense of service of summons, notices, subpoenas, travel expense of witnesses, transportation of the child, and other like expenses incurred in the proceedings under this Act.

(b) If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in paragraphs (1), (2), (3), and (4) of subsection (a), the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered payment shall be made to the clerk of the juvenile court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the (county) to the (appropriate officer) of the (county).

(Cf. UJCA Sec. 52 for identical provision.)

Section 31. Children's Fingerprints, Photographs

(a) No child under 14 years of age shall be fingerprinted in the investigation of a crime except as provided in this section. Fingerprints of a child 14 or more years of age who is referred to the court may be taken and filed by law enforcement officers in investigating the commission of a felony.

(b) Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints known to be those of a child shall be maintained on a local basis only and not sent to a central state or federal depository unless needed in the interest of national security.

(c) Fingerprint files of children may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.

(d) Fingerprints of a child shall be removed from the file and destroyed if:

(1) the child is not convicted of a criminal offense; or

(2) the child reaches 18 years of age and there is no record that he committed a criminal offense after reaching 16 years of age.

(e) If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe that they are those of a particular child he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprints shall be immediately destroyed.

(f) Without the consent of the judge, a child shall not be photographed after he is taken into custody unless the case is transferred to another court for prosecution.

(Cf. UJCA Sec. 56 for identical provision.)

Section 32. Rules of Court

The Supreme Court of this State shall within 6 months after the enactment of this Statute adopt rules of procedure not in conflict with this Act governing proceedings under it.

COMMENT

Many juvenile courts now function without rules of procedure.

UJCA

SECTION 60. [*Rules of Court.*] The [Supreme] Court of this State may adopt rules of procedure not in conflict with this Act governing proceedings under it.

Section 33. Short Title

This Act may be cited as the Children and Youth Law.

Section 34. Repeal

The following Acts and Parts of Acts are repealed. (Juvenile Court Law)

Section 35. Time of Taking Effect

This Act shall take effect 60 days after its adoption.

COMMENT

Summary motor vehicle violations are excluded from the jurisdiction of the Children and Youth Court. Other motor vehicle violations are dealt with in the same manner as other violations of law.

UJCA

[SECTION 44. [*Juvenile Traffic Offenses.*]

(a) *Definition.* Except as provided in subsection (b), a juvenile traffic offense consists of a violation by a child of:

(1) a law or local ordinance [or resolution] governing the operation of a moving motor vehicle upon the streets, highways of this State, or the waterways within or adjoining this State; or

(2) any other motor vehicle traffic law or local ordinance [or resolution] of this State if the child is taken into custody and detained for the violation or is transferred to the juvenile court by the court hearing the charge.

(b) A juvenile traffic offense is not an act of delinquency unless the case is transferred to the delinquency calendar as provided in subsection (g).

(c) *Exceptions.* A juvenile traffic offense does not include a violation of: [Set forth the sections of state statutes violations of which are not to be included as traffic offenses, such as the so-called negligent homicide statute sometimes appearing in traffic codes, driving while intoxicated, driving without, or during suspension of, a driver's license, and the like].

(d) *Procedure.* The [summons] [notice to appear] [or other designation of a ticket] accusing a child of committing a juvenile traffic offense constitutes the commencement of the proceedings in the juvenile court of the [county] in which the alleged violation occurred and serves in place of a summons and petition under this Act. These cases shall be filed and heard separately from other proceedings of the court. If the child is taken into custody on the charge, sections 14 to 17 apply. If the child is, or after commencement of the proceedings becomes, a resident of another [county] of this State, section 12 applies.

(e) *Hearing.* The court shall fix a time for hearing and give reasonable notice thereof to the child, and if their address is known to the parents, guardian, or custodian. If the accusation made in the [summons] [notice to appear] [or other designation of a ticket] is denied an informal hearing shall be held at which the parties have the right to subpoena witnesses, present evidence, cross-examine witnesses, and appear by counsel. The hearing is open to the public.

(f) *Disposition.* If the court finds on the admission of the child or upon the evidence that he committed the offense charged it may make one or more of the following orders:

(1) reprimand or counsel with the child and his parents;

(2) [suspend] [recommend to the [appropriate official having the authority] that he suspend] the child's privilege to drive under stated conditions or limitations for a period not to exceed that authorized for a like suspension of an adult's license for a like offense;

(3) require the child to attend a traffic school conducted by public authority for a reasonable period of time; or

(4) order the child to remit to the general fund of the [state] [county] [city] [municipality] a sum not exceeding the lesser of $50 or the maximum applicable to an adult for a like offense.

(g) In lieu of the preceding orders, if the evidence indicates the advisability thereof, the court may transfer the case to the delinquency calendar of the court and direct the filing and service of a summons and petition in accordance with this Act. The judge so ordering is disqualified upon objection from acting further in the case prior to an adjudication that the child committed a delinquent act.]

[SECTION 45. [*Traffic Referee.*]

(a) The court may appoint one or more traffic referees who shall serve at the pleasure of the court. The referee's salary shall be fixed by the court [subject to the approval of the [Board of County Commissioners]].

(b) The court may direct that any case or class of cases arising under section 44 shall be heard in the first instance by a traffic referee who shall conduct the hearing in accordance with section 44. Upon the conclusion of the hearing the traffic referee shall transmit written findings of fact and recommendations for disposition to the judge with a copy thereof to the child and other parties to the proceedings.

(c) Within 3 days after receiving the copy the child may file a request for a rehearing before the judge of the court who shall thereupon rehear the case at a time fixed by him. Otherwise, the judge may confirm the findings and recommendations for disposition which then become the findings and order of disposition of the court.]

[SECTION 46. [*Juvenile Traffic Offenses—Suspension of Jurisdiction.*]

(a) The [Supreme] court, by order filed in the office of the [_____] of the [county,] may suspend the jurisdiction of the juvenile courts over juvenile traffic offenses or one or more classes thereof. The order shall designate the time the suspension becomes effective and offenses committed thereafter shall be tried by the appropriate court in accordance with law without regard to this Act. The child shall not be detained or imprisoned in a jail or other facility for the detention of adults unless the facility conforms to subsection (a) of section 16.

(b) The [Supreme] court at any time may restore the jurisdiction of the juvenile courts over these offenses or any portion thereof by like filing of its order of restoration. Offenses committed thereafter are governed by this Act.]

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Senator BAYH. We will recess our hearing until tomorrow at 10 o'clock.

[Whereupon, at 1:30 p.m., the hearing was recessed to reconvene at 10 a.m., on Tuesday, September 11.]

THE DETENTION AND JAILING OF JUVENILES

TUESDAY, SEPTEMBER 11, 1973

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

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Cook, Hruska, Fong, and Mathias) met, pursuant to notice, at 10 a.m., in room 2228, Dirksen Senate Office Building, Senator Birch Bayh (chairman of the subcommittee) presiding.

Present: Senators Bayh and Mathias.

Also present: John M. Rector, staff director and chief counsel; Alice B. Popkin, special counsel; Mary K. Jolly, editorial director and chief clerk; Nancy L. Smith, research director; B. Elizabeth Marten, secretary; and Catherine van de Velde, secretary.

Senator BAYH. The subcommittee will come to order.

We are continuing our hearings this morning in our search to find the whys and wherefores of incarcerating young people, juveniles, in jails, the impact of detention itself as a therapy or as a punishment and in our continued effort to try to reform the entire system of juvenile justice.

Our first witness this morning is Prof. Philip G. Zimbardo of the Department of Psychology at Stanford, accompanied by Mr. Carlo Prescott, project consultant to Mr. Zimbardo, and a former inmate.

Professor Zimbardo, Mr. Prescott, we appreciate your being with us.

Please proceed with your testimony.

STATEMENT OF PROF. PHILIP G. ZIMBARDO, DEPARTMENT OF PSYCHOLOGY, STANFORD UNIVERSITY, STANFORD, CALIF., ACCOMPANIED BY CARLO PRESCOTT, PROJECT CONSULTANT, FORMER PRISON INMATE AND KGO COMMUNICASTER

Mr. PRESCOTT. Thank you, Senator Bayh. As a culprit on life parole, I thank the Department of Corrections in California for making my appearance here possible. I hope to be able to completely sustain why youths become adult felons as a consequent of their previous experiences in settings of police stations and detention facilities.

I am hoping I can relax enough to do so (because this committee setting is like those in which I have been sentenced) to share the profoundness of my experiences with all of you.

I am most aware of the fact that my experiences as a juvenile so well groomed me for what was to become some part of my adult life, a way of looking at things, a way of seeing your world, a way of not

relating it if possible to the things that were dear to me—I was programed to become an adult criminal.

I don't think I need to indulge the committee with the conditions of the country in the period which I was a juvenile delinquent, 1941, 1942, and 1943. My first arrest at 12 caught me in a specific kind of position which I really wasn't prepared for. I lived in an area in which the people kind of took care of themselves, a neighborhood represented by a cross section of individuals from various ethnic backgrounds, economic levels. I don't recall really developing any great hostility or my opinions and attitudes being shaped so firmly until after my induction to what was supposed to have been an experience that would help me.

Every judge and magistrate I ever stood in front of in juvenile court always said something about the community interests, or the best interests of the boy. And the contradictions that invariably followed after my booking and confinement in what they then called in euphemistic terms, the detention hall, which gave way later to what they called youth centers. There must be some distinction, but I didn't see any in my trips back to the detention hall—they are all just prisons.

I found boys like myself compelled to attract the attention of individuals who had neither cultural appreciation or understanding of their particular problem. There is a difference when an individual stands up and says in effect, you have no rules or regulations in society that I am compelled to respect. There is a difference when an individual stands up and says there are no rules of decency or of duty I must live by. I did not begin my criminal career as a social revolutionary, what I did was to steal two sandwiches from a truck. Part of my experience was to be lodged often in the city jail for a period of from 8 to 15 hours, dependng on how big their arrest quota for that night had been, and to face the attitudes of the individuals who were working in the station, who were working for that particular town, who were working against me.

I've had misdemeanors, or what would be considered misdemeanors, become felonies simply because the arresting officer felt that my attitude was poor. I've been classified as unemotional, without feelings, psychopathic, angry, distorted, evil, and I didn't really feel any of those things. But then, perhaps, if you understood a bit more about what it is to be arrested and be placed in a detention home in that period—I'm certainly not suggesting that you don't have knowledge of this; I'm simply saying from the standpoint of a child being booked and placed in that sort of a confine.

It's not so much that one revolts against the punishments they incur, but that the punishment doesn't seem to fit the occasion. I can't comprehend why the theft of two sandwiches would constitute being stripped and placed in a gown, which is certainly something to be questioned, but it is all the police allowed me.

Senator BAYH. Placed in a what?

Mr. PRESCOTT. Placed in a gown, cotton gowns, sir, and having your clothes taken away, which is seriously in question since it places such an emphasis on your manhood. And there, also, the State is proclaiming, the first rule and foremost rule, take away whatever gives a person a feeling of being important. I was held in a room without any contact whatsoever with other people, any other individuals, during a quarantine period, depending on the appearance of the local doctor and then you're hurried back into the main lockup, being placed in an environment where you're constantly in jeopardy of falling victim to the whims of those prisoners who have learned to gain the confidence of the guards there, who we called counselors. There is no way in which to profit from such an experience.

One of the things I noted after looking at the papers yesterday was that the young people who testified before this committee stayed away very strictly from the little problem of sexual assault. Perhaps some individuals think that only happens in adult prisons. Actually, doing time in juvenile prisons, or detention homes, can be much more dangerous, much more destructive, than if you are arrested and placed in a prison for adults. I suspect that they stayed away from the sex question because if you say that you were in such an environment people ask, "What about you?"

At the tender age of 12, 13, and 14 years, my keepers played a funny game called Battle Royal, which if you were good with your fists, invariably got you a championship fight without pay with the toughest guy in the jail, or your visits were forfeited, or you were called uncooperative, or you were locked in a cell and given tomato juice with castor oil. If one was to say these things happened, then you would really understand why there is no great inclination existing for anyone to attempt to resist being pushed around.

And I resented having been programed by a system that calls itself an aid and a help, and for years and years having to blot out the possibility of reacting normally to a society that has certain sets of rules for success. I don't think that any young person going into a youth center that emerges angry, suspicious, or distrustful with the knowledge that you must work with keepers, as marks, as fools who have all the power, can conceivably give rise to an adult who makes meaningful contributions to society.

There are other factors which I did not write about in my statement that exist. I hope that this esteemed tribunal will not construe that I ran out of stories. I ran out of time, I ran out of space. I didn't run out of stories.

What can I say about a system cruel enough to take the girl prisoners and place them directly across from the boy prisoners? Because of their lack of supervision, the girl prisoners would then be permitted to stand on chairs and show themselves (their genitals) outside their cell windows, and the keepers of the boys would then determine who should be trustees, who should mop and sweep outside the cell block so as to enjoy this exhibit—this hardly seems to be an attempt to change anybody's attitude in society's best interests.

I realize the era in which I went through juvenile detention centers was a long time ago. But recently, going back into the detention homes as an alleged rehabilitated prisoner from the Department of Corrections of the State of California, I found the same ennui, the same morbidity, the same psychologically torturous methods of making young people, boys and girls, concede to rules and regulations which are alleged to help them during the period of their confinement, are still in practice. Boys sent to cells for not raising their hand to request a slice of bread. I think it's too firm a discipline in an institution which should be helping young people.

The removal of an inmate from the general prison society, at least the restricted liberty to go and come, and to associate with the other prisoners—to be put in solitary confinement, is to me a punishment too harsh for talking loud or for horseplaying at the age of 13 or 14.

I emerged from this scathing encounter with a great deal of anger and contempt. I think that now more important is that my anger find a target with a constructive outlet, and I want to thank you sincerely for giving me a chance to express my feelings in this matter.

Senator BAYH. May I ask a question of you now, or would you prefer that we go ahead with the slides?

Mr. ZIMBARDO. I think a question would be fine.

Senator BAYH. I am trying to get an inside view, never having been on the inside. Although I have heard, and try to understand, it is not like having been locked up with no alternatives available.

You mentioned stealing two sandwiches. Was that your first contact with juvenile authorities?

Mr. PRESCOTT. No, sir. I think the first encounter was being involved in a loud and boisterous argument on a bus that was going downtown. And I was taken from the bus because one of the passengers felt that the argument had gotten out of hand. Although I had said nothing in the argument, I was taken off the bus and lodged in the detention home, or in the juvenile home, for creating a disturbance. I was detained there for 6 days.

The second time that I went to the detention home was a period in which, on the way home from a basketball game, we opened a panel truck door that was partially opened and took some day-old sandwiches from the back of the truck in a cardboard box. No guard; no one was injured. There was no need to force entry. And for that particular incident, I was charged with my first felony, second degree burglary.

Senator BAYH. I do not think you are saying that you need to post a guard on a pickup truck to make it illegal to remove its contents. Boys will be boys, but I do not think the owner of property has the responsibility of stationing a guard.

However, the response to that act, a felony charge, is ridiculous. What should be the proper response, in your judgment?

Mr. PRESCOTT. Well, I would think, Senator Bayh, since I very naturally talked to my fellow prisoners, that if the white boys arrested were charged with disturbing the peace for burning a car, or for an assault in a theater foyer, that I stood a chance of going to the youth authority at that time for a second degree burglary for two sandwiches, I would think and I would hope that, at least, if the punishment was going to be so severe, there would be equal punishment. And perhaps that sounds a bit vindictive, but——

Senator BAYH. What do you think the response should have been? Perhaps the boys that burned a car were not treated properly. I do not know. I would like to hear your view of how society ought to respond.

Mr. PRESCOTT. Now that I understand your question more completely, maybe I can be a bit more direct in answering.

First of all, society might conclude that any juvenile arrested that encounters an adult sees that adult as a direct representative of the entire society. It might take some precaution in being assured that the political feelings and racial contempt in the attitudes of people who

act out its interests, who safeguard its laws, do not bring their own personality, their own hates, their own contempts into play.

Society might realize that the detenion of even one youth for days and weeks and months out of that youth's life, is not to be treated lightly; that standing in front of magistrates who are sitting there to determine the degree of your guilt, or the extent of your involvement, or to consult your previous records to determine if you have been in front of that court any time before—it is kind of farcical when you compare it to the elaborate judicial system reserved for adults—not to imply that that system is perfect.

I would suggest that the detention in certain areas for the young be places where the most intelligent, the most compassionate, the most understanding people are required—or, I should say, allowed to work. It seems so frequent that that is the place that is the major attraction, in terms of employment, to individuals that bring personal hangups into the institution other than the rule book.

Senator BAYH. That is certainly our ideal. That is what we are striving for. The question is, how do we achieve that ideal when we are confronted with the present system.

I would like to hear as reflective a description as you can give of that first or second confrontation. As parents, and as Senators, we must strike a delicate balance in addressing ourselves to the competing values of society.

On the one hand, you have society feeling that anybody ought to be able to ride peacefully on a bus. On the other hand, you have the normal inclination of children to get involved in a ruckus while on that same bus.

You also have youth that, for plain devilment, tip over outdoor toilets or throw rocks that go through windows. That conduct should not be rewarded. Somehow, society must create a system that discourages that kind of act.

Our problem is when someone makes that relatively minor mistake, we treat it in such a way that it becomes a felony.

As someone who can remember that first ruckus on the bus or that first taking of the sandwiches, how do you think society should respond? Putting somebody in an institution with compassionate people is not a first step, is it? The very act of incarceration for those acts that you describe would seem rather extreme. There ought to be some other way of dealing with the youngster involved.

We talk about probation, counseling in the home, and other alternatives for the judge or arresting officer. Would that have worked better in your case than locking you up?

Mr. PRESCOTT. Well, first of all, as has been implied several times, if I interpret you correctly, I am not suggesting that the most infamous, disgusting act of stealing two sandwiches should go unpunished. I am saying that it should not be a misdemeanor in Piedmont and a felony in West Oakland.

I am saying wherever I am sent as a result of being arrested, I should not have to put emphasis on protecting my asshole first and my honor second.

I am saying that if, instead of following the bureaucracy and the protocol that seems to land certain people a job, that they hire some individuals that can distinguish between a need to beat upon and to

subject to the most horrifying experiences the young people that come into their grasp——

Senator BAYH. Apparently I am not phrasing the question correctly. I could not agree more with what you are saying.

What I am trying to learn is if there is a better response than locking you up? Should there have been a policeman or social worker who could have talked to your parents and said, "Mr. Prescott, little Carlo here got into a ruckus. We do not want that to happen again," and handled this behavior out of the institutional framework?

Would that have helped?

What we—the establishment—did in that situation obviously did not have the right impact. I am trying to learn if there is an alternative to the institutional structure, whether it is for 6 days or 6 months, or for a misdemeanor or a felony.

Mr. PRESCOTT. I understand specifically what you are saying now. You are asking me can I give a possible solution, or can I offer a panacea to the ills of the system. Yes, you are right, the system does not work. But some youngster out on the streets stealing watermelons out of a truck or breaking into a cleaners to take a suit because of his economic sitation is not necessarily at that point a dedicated criminal.

To answer you, I guess you have to get heavy to some extent, because your question is heavy. It would require that society stop putting emphasis on those that can teach you to count and compute with great accuracy and realize that in our midst are people who inspire trust and understanding. They come in all colors and shapes; they know how to work with people. They are catalysts.

And if these kinds of people in the community could run the kinds of homes where they put children who they do not put in orphanages. What do they call that, the——

Senator BAYH. The foster homes?

Mr. PRESCOTT. The foster home system has been such a failure that I would emphasize——

Senator BAYH. Have you been in a foster home?

Mr. PRESCOTT. No, I have never been in a foster home. But most of my constituents and colleagues in San Quentin and Folsom have.

What I would suggest is that there be some care in finding people in the community who first have an interest in youngsters and that youngsters then be permitted to compete—and that is what they do—to become involved in a community kind of situation where they would never have to go through the routinization and the methodical cutting off of freedom—what jail seems to do is cut off what you are doing. It teaches you to live with less freedom.

If they could be still left in the community, because, after all, coming out of jail, you still have the same situation, food, shelter, and dealing with people, not necessarily in that order. They can be placed in an environment where individuals could be concerned with their particular kinds of problems, and the money was available not to hire the cogs and those people to deal in more lucrative self-serving enterprises.

And in a sense, at least it could be determined what they want; what is bothering them, what is troubling them. I think that would be superior to the elaborate structures, the indifference, the kinds of bureaucracy it takes to run those prison structures. The kids get lost in the process.

Senator BAYH. How long ago has it been since the sandwich episode?

Mr. PRESCOTT. Let me think. 1943 or 1944, somewhere around there.

Senator BAYH. I am trying to remember back to 1943 or 1944, to some of the things I was doing at that time. Stealing a watermelon was sort of a male ritual.

Mr. PRESCOTT. You would remember if you had to stand on your tiptoes in the corner or run the risk of being hit on the kneecaps with a club, and your father was finally called and told to come to the station and pick up his "asshole" son. And they were honest and kind enough in his presence to release me.

Senator BAYH. Suppose, when you had the bus incident, the authorities had taken you off the bus, and down to the precinct house, had booked you, and had taken you home. And suppose then the judge had admonished you, put you on 6-months' probation, and talked to your parents. What kind of an effect would that have had?

Mr. PRESCOTT. Oh, they did that. But they did that after I rode in the police car with the cops and they talked about ramming the waterhouse up my rectum. That happened after I sat in the cold cell with the cooler on the 13th floor. That happened after they compounded a relatively minor incident into a felony. It happened too late.

They did that. Oh, they let me go a number of times. My mother was very eloquent, and they felt that I was perhaps underprivileged. They certainly gave me breaks. But it was too late.

Senator BAYH. Did these breaks come after the 6 days in confinement?

Mr. PRESCOTT. That came after I was detained in the hands of individuals who were recruited from a whole damned community with nothing but ex-cops, ex-probationary officers—I mean off-duty probation officers, off-duty highway patrol. You could ride from 40th and Telegraph up to Shattuck, and you could sit and watch the uniforms moving in this neighborhood. This is before the nonrestrictive covenant. This is before black folks could move into that area.

And they would hire people from that area with that kind of mentality to come down there and work. I never knew anybody that ever worked there that came from my neighborhood. I never encountered anyone that I had ever seen before in my life. It was like the schools; the teachers seemed to parachute in in the morning and exit at nighttime by underground tunnels or something.

Senator BAYH. I have not been there. That is why I keep asking these questions.

Mr. PRESCOTT. I do not mind answering these things.

Senator BAYH. What went wrong? Where was that first mistake made? You say they returned you to the custody of your parents, but it was too late. When did it become too late?

You mentioned a moment ago your first confrontation with authorities on the bus. Did you not say that for 6 days you were——

Mr. PRESCOTT. Yes, I was detained 6 days.

Senator BAYH. Was that the first time that the police ever contacted your parents?

Mr. PRESCOTT. Oh, they did not contact my parents. It was a weekend. I sat in jail in that gown in that room waiting for that stupid

doctor to stick me in the ass with that pin. They did not contact my parents until Monday.

Senator BAYH. Your parents did not know where you were for the whole weekend?

Mr. PRESCOTT. No, they did not. They had a policy, if you got arrested over the weekend, if in the daytime they had time to make a phone call, fine. They were vastly understaffed and there was no money for counselors.

Senator BAYH. How old were you?

Mr. PRESCOTT. Twelve, thirteen.

Senator BAYH. And that was the first experience you had with the police?

Mr. PRESCOTT. Oh, no, that was not the first experience I had had with the police. It was the first experience that I had being taken and booked and confined in a detention home.

Senator BAYH. What were your previous experiences?

Mr. PRESCOTT. Well, let's see. On one incident, a policeman came to my house to arrest someone who was living in a room that my mother had converted for living quarters. And directly after that, when this policeman would see me on the streets he would call me, preferably in front of my friends, and he would try to make it appear as if we were friends. And he began to ask me questions about the activities in the neighborhood. He wanted me to appear to be a stool pigeon. That was one of the incidents that I recall.

I recall another, just standing on San Pablo Avenue in a short-sleeved shirt with a warm breeze, you know, around me, speaking to a Caucasian girl that came by. A police car saw me, and came over and the cop pushed me up against the wall, searched me, told me to get my ass off the street, that he had better not see me in that neighborhood any more.

I had had other encounters with the police. I had not committed a serious enough offense to be arrested at that point. The bus ruckus did it.

Senator BAYH. But the first time you were arrested was on the bus?

Mr. PRESCOTT. Yes.

Senator BAYH. The first time you were arrested, you were locked up for 6 days and your parents were not advised until after the weekend?

Mr. PRESCOTT. Yes.

Senator BAYH. And this was your first experience being arrested?

Mr. PRESCOTT. As I recall, that was the first incident. I must concede that I have an arrest record. Most of my juvenile record, I never had a violent episode. I never had anything—major crimes, as they are called. They were all of that ilk, of that kind.

My whole juvenile record—well, for example, on one occasion, I was arrested for allegedly hitting a girl in the head 2 days before with a baseball bat. And she appeared in court perfectly healthy. In another incident——

Senator BAYH. Did you?

Mr. PRESCOTT. No; of course not. I hit her in the head with a baseball bat? I weighed about 130 pounds, and she was in court the next day, or 2 days later with no signs of a such a blow? No, I did not.

I was released, by the way. I do not think they ever thought I did it. It was one of the times when they gave me a break.

Senator BAYH. I am sorry to keep prying, but I am trying to understand. We have some missing links, and by getting your experience and the experience of the youth we heard from yesterday we hope to fill in those missing links.

Thank you very much.

Mr. PRESCOTT. That is what I came for.

Thank you very much.

Senator BAYH. Professor Zimbardo.

Mr. ZIMBARDO. I am happy to be invited to testify before this committee, as a citizen concerned about the deteriorating quality of life in our Nation, which, as far as I am concerned, is both the cause and a consequence of the crime rate we see.

Also, as a research psychologist, my interest is in trying to understand the determinants of antisocial behavior. That is, why do people behave in ways which violate the property and life of other people?

And in that capacity, I have become interested recently in why those convicted of antisocial acts and incarcerated end up much worse after their so-called "rehabilitation" in prison than they were before.

I should say right at the outset—I probably share this feeling with you—that until very recently I had no interest at all in corrections, prisons, or the criminal justice system. As I said, I am a professional psychologist. Social scientists who are interested in prisons and criminal justice are labeled criminologists and sociologists; they are interested in institutions. People who call themselves psychologists are interested in people; and therefore, I, and most of my colleagues, have never had any interest, really, in prisons or whatever happens in prisons.

In the last few years, in a sense, I have become radicalized, so that now I am personally dedicated to doing all I can to help transform jails, penitentiaries and prisons. At a personal level, I have always been interested in prisons. I grew up in a ghetto in the South Bronx, which, in fact, at that time was probably worse than West Oakland where Carlo grew up. And many of my friends, in fact, were put in prison and juvenile detention facilities.

I think, as I became a professional, as I became an academician, I tried to forget about that seamy side of life. Two things changed, or radicalized my consciousness. First, meeting Carlo very shortly after he was released from San Quentin, having spent nearly half of his life in prison, we being about the same age profoundly affected my thinking. And just seeing the difference between where I was at my age and he was at his age, coming from very similar backgrounds initially, made it obvious that he had lost all too many productive years for crimes and arrests that might have been avoided.

He made me aware of the reality that even though prisons are institutions, what happens in prisons happens to people. Now as a psychologist, I feel I should be interested in what prisons do, because they are doing it to people. So part of my concern in being here today and presenting the material I am going to present is to try to raise the general level of consciousness not only of other psychologists, but of legislators and others who have too long thought of prisons as a monolithic institution with rational goals and reasonable operating procedures. Prisons are irrational and unreasonable and must be drastically overhauled.

The kind of research we have done and are doing is designed to focus attention back on what happens to individual people, to human beings, to brothers and sisters who are arrested, whether or not guilty—and there is some evidence that they are not always guilty—especially when you are talking about juveniles who can get arrested when they are 12 or 13 and go through the system, invariably coming out much worse than when they went in.

The second thing that affected my consciousness is sitting behind a one-way screen watching unfold before me a kind of game, a game of cops and robbers, a very horrifying game that I helped devise. In this game, the Stanford Prison Experiment, we—Craig Haney, Curt Banks, Dave Jaffe, and I—took some middle-class, normal, healthy college students and had some of them play prisoner and some play guard.

We put them in an environment which was constructed to look very much like a jail. We did not tell the guards what to do, except to maintain law and order and to command respect of the prisoners. We gave them no training at all. We did not tell the prisoners what to do, except that they were to be prisoners.

The reason they were all doing this was to make $15 a day; the fee we were paying them to be subjects. They all expected the experiment to run for 2 weeks, which we too, expected. But I had to call an end to the experiment in only 6 days. I had to terminate it abruptly, because at the end of 6 days, there was so much evil, so much pathology emerging in the behavior of the guards, and of the prisoners, and of the staff that I could not allow the experiment to go on.

I should say, parenthetically, when we ended it the guards were very distressed, because they said, that they had the situation in total control. At that point, they had become so much like guards in their mentality that they thought the experiment was working beautifully and should continue, rather than that the experiment—like our real prisons in society—had become a nightmare and had to end.

Well, what I would like to do today is to try to share with this committee the experience that I had in watching this event occur. And I think it is especially important because, of the remark that you made earlier, Senator Bayh, that you, as I and most middle-class people, have never been in prison. So, in fact, what we have to rely on are "war stories," stories from people like Carlo, the young boys who appeared before this committee yesterday, novels about prisons and other indirect sources.

I testified before a House of Representatives committee in November 1971 on prison reform, which was instigated by the activities at Attica. And one after another ex-inmate or prison lawyer would come up and testify to the atrocities, while one after another, a guard or corrections official would come up and say he had never seen any. And here you have an epistemological conflict. Well, somebody must have been lying or else there were two truths about the same event. Who would you side with?

Well, invariably, we side with the police. We side with the establishment, because all institutions are designed to protect society; namely, those who have some affluence, some property, from people judged dangerous. Some of these dangerous people are put in mental hospitals, some of these people are put in prisons.

People are dangerous if their political attitudes are deviant, as we know from the current reports of suppression of outspoken critics in the Soviet Union and other countries. They are also dangerous if they want our property or other things from us which we do not want to give them.

Again, I, as you, have never been in prison. I did not want to have to rely on secondhand information, thus we decided to create a prison. In addition, all too long we have had misinformed stereotypes about the delinquent. It has been assumed by psychologists, sociologists, legislators, and especially by the police, that the juvenile delinquent is a phenomenon of the lower classes. These are minority-group kids, blacks or Chicanos if you are on the west coast, blacks or Puerto Ricans if you are on the east coast. They are slum dwellers who come from broken homes, who operate in gangs, or are psychiatric loners.

In addition, we have been led to believe that detected delinquency reflects undetected delinquency. That most delinquents get caught and learn to mend their ways after due process in the juvenile justice system.

I want to recommend to this committee a recent report—the citation for which I have in my statement—of a very interesting study done with 847 teenagers in a representative national survey, plus another 522 from Flint, Mich. This survey conclusively refutes each and every one of those assertions.

It turns out that only a very small percentage of delinquent acts is ever discovered, less than 5 percent. That is, each of these youngsters was asked on a checklist which of a series of criminal acts he had done, and for which acts he got caught, and for which was he arrested and sentenced. Only 5 percent of all of the delinquent acts that these kids committed were ever detected.

Second, it turns out middle-class white adolescents, especially males, commit as many or more delinquent acts, criminal acts, as do lower class adolescents. However, they are significantly less likely to be arrested for committing these acts. If they are arrested, the study shows the parents buy their way out of the system, either at the point of the police station or at the point of before trial or prior to sentencing and incarceration.

The seriousness of delinquent acts committeed by higher status white boys is even greater than the seriousness of the acts committed by their lower status peers. These acts are not done in gangs or by psychiatric loners. Typically, it is a social activity, surprisingly very much like that reported by Carlo, three or four boys together—call it high jinks—doing their thing.

It turns out these kids do not come from broken homes. The thing that predicts best the juvenile delinquency in this study is that these are kids who have poor academic performance, who have learned to be turned off in schools, thus are truants, and who have delinquent friends.

But perhaps the most important finding of this investigation should be summarized in the authors' words.

> Whatever it is that authorities do once they have caught a youth seems to be worse than doing nothing at all, worse even than never apprehending the offender. Getting caught encourages rather than deters further delinquency.

The last thing I would like to say before presenting the Stanford Prison slide show, which I think would help give us some feeling of

what could happen to these youngsters in a detention home, is some statistics which I found to be startling in the extent that they reveal injustice in our juvenile justice system.

It turns out that the majority of children who are arrested in California, in 1971, 55 percent of them—over 379,000 juveniles were arrested in California in 1971—were arrested for the charge of possessing "delinquent tendencies."

Now, I have tried to check what that means, and it turns out there is nothing more specific to this vague accusation. That is, in the 1971 statistics, where each of the major and minor offenses are itemized, they account for only 45 percent of the juveniles arrested. The majority of juveniles arrested in California, and it turns out, in other States as well, are booked by the police on this imprecise, catch-all charge of "delinquent tendencies." That means a policeman makes a judgment that no psychologist, no responsible behavioral scientist, would dare make; picking up a young boy or girl and on the basis of minimum information, diagnosing the problem as one of "delinquent tendencies."

Senator BAYH. Is "delinquent tendencies" defined with any great degree of specificity?

Mr. ZIMBARDO. No; it does not signify specific offense for which the arrest was made. That is, a policeman might get to know a kid—that is, to believe, for example, Carlo is a bad kid. He has seen him around. But there is no specific offense that is any more informative than someone thinks this child is bad generally. This is a very important point to me, that there should be some standardization which does not allow a policeman that much latitude in determining an arrest in the absence of specific criminal, or law violating acts.

Second, which is even more amazing, if you look at the statistics on the disposition of arrested juveniles, they further support the general statement Carlo made.

There are three things that can happen when a juvenile is arrested. The matter can be handled in the police station by the police; that is, they can give the kid a talking to and release him/her. Or they can refer him or her to another agency, or they can send the child to court.

The statistics in the 1971 California Handbook of Crime and Arrests provide us with an analysis of which of these three dispositions are followed by each community. In Beverly Hills, Calif., and in Los Altos, which are two of the most affluent communities in California, it turns out only around 200 or 300 juveniles were arrested last year. Whereas in communities of similar size, the average arrests were over 1,000. So fewer kids from the rich communities got arrested.

When they are arrested—and that is the point you were making, Senator—only 25 percent of all the juveniles arrested in Beverly Hills were sent to the court by the police. But in a neighboring community of El Monte, 78 percent of all the juveniles arrested were sent to court.

Senator BAYH. Were the offenses the same? Are there any indexes——

Mr. ZIMBARDO. These tables did not break it down that way. I will try to follow upon this point in future research.

If you look at Los Altos, which is near Stanford, a rich community, only 41 percent of juveniles who get arrested are sent to the court for processing. The rest get released by police after giving them a talking to and talking to their parents. In nearby Sunnyvale, which is an industrial, less affluent, community, 74 percent of the suspects are sent to the court by the police.

The most amazing statistics that I have discovered focus upon San Francisco County, where you have about the same number of arrests in two communities, San Leandro and Hayward. In San Leandro 1,300 juveniles were arrested, and that is a more affluent community than Hayward. Only 31 percent of those kids were sent to court, and then some smaller percentage of those get sentenced and processed through the jails.

In Hayward, a neighboring community, 1,900 children were arrested in 1971, and fully 99 percent of those were sent to the court.

Now, what that means is, it is not only affluence of the community.

Senator BAYH. Is the racial composition of the community an important factor?

Mr. ZIMBARDO. The latter is a more mixed neighborhood than the former. But, you see, it is not just race and it is not just affluence. It means in some local jurisdictions, you have a variance in whether the police chief or the mayor or the board of supervisors has a "get-tough" policy and declares, we need everybody through, or—what I think you alluded to earlier, Senator, on your own childhood experiences—a process whereby someone in the police station, or someone in the probation office, can talk to a youngster, find out how dangerous that kid is to the community, and if the child is really not dangerous, can give him a talking to, a reprimand, then let him go, or talk to his parents before letting him go.

The evidence from the study I cited earlier is conclusive in showing that if you compare kids who have committed delinquent acts, one group of which then gets arrested and goes to prison, the other group commits the same acts and gets released on their own recognizance or under parents' supervision, those who are arrested are significantly more likely to commit more acts of crime subsequently. The experience of imprisonment increases rather than reduces the probability a person will commit a crime.

I think this again supports Carlo's statement with fairly good statistics that starting from the same point, with juveniles who have committed a delinquent act, how you handle them at the very first stage, whether you are understanding and sympathetic can influence the entire course of the child's life. I strongly believe we need somebody in the police station, an ombudsman, somebody from the community who either speaks the child's language and with whom the child can identify, either in terms of racial background, or ethnic background, or just somebody who treats the child like a person who is in trouble rather than like somebody to be punished for delinquent tendencies.

Senator BAYH. You psychiatrists can analyze the ability to feel right and wrong better than those of us who have not had that training. I do not know how you define trouble, but in hearing some of Carlo's first experiences, I remembered that when I was a teenager a group of us went into an ice cream parlor after school to get cones. I do not know whether it was the size of the dips, or the mood of the girl dipping it out, or the mood of the kids involved, but we got involved in a rather heated argument before we left. Apparently, this

girl was so disturbed about the situation, although everybody paid and it was at most a matter of verbal abuse, that she called the police. They stopped us on the street, took our name, rank, and serial number, and said they were going to call our parents. That is the last time I ever gave an ice cream dipper any abuse. I wonder what would have happened if I had been locked in a jail cell over the weekend.

Mr. ZIMBARDO. That is exactly the difference I was trying to emphasize. I was not treated as if I had a problem. I was told I had done something wrong. Let me retract the statement about a person in trouble. I am not a psychiatrist, but a research psychologist, and one of the things that I am very much concerned about is the way in which some psychiatrists and clinical psychologists have misled you and me into believing that social problems are caused by problem people, rather than the other way around. They have focused attention on personality and character traits and on problem people. My concern is that wherever you have a social problem, the causes and solutions lie in changing the social situation; that what the psychiatric social workers have done and what psychiatrically-oriented criminologists have done is really given us a false stereotype of the incorrigible, the troublemaker, the problem child. And this is one of the ways in which not only juvenile reform but all social reform has suffered; where we now try to come up with a diagnostic profile of what the juvenile offender is like, rather than analyze the components of the life situation in which that act was committed and treat it at that level.

I agree with you, Senator. I could not agree with you more; that you should not be focusing on what is the child's personal problem, but what were the social circumstances under which he did what he did, and is he likely to do it again. All you really want to do is stop him from doing antisocial acts again. Legislators and law enforcers should not be in the business of trying to change values and character structure.

By emphasizing supposed personality traits—which all the latest research in psychology shows are not significant predictors of behavior—we commit a serious mistake. When you measure somebody's personality on a test of some kind and then you analyze the kinds of behavior that they engage in, it turns out surprisingly that knowing somebody's personality traits does not help you to reliably predict how they will behave in real life situations. On the other hand, knowing something about the social situation enables you to predict rather well how they will behave. But I think that gives me a perfect lead-in into the study.

Senator BAYH. Yes. We are going to be here for a long time, and it's getting late. I would like to continue to talk, but I think we had better see your presentation.

Mr. ZIMBARDO. What we did in this study is to rule out the possibility that any disturbance, any pathology that may have emerged—the kinds of things we hear about in prisons—could be attributed to the usual copouts that are given when people assign the blame to sadistic guards and psychopathic prisoners. After the riot at Attica many people said well what could you expect, after all, these are militant prisoners; they are psychopaths, otherwise they would not be in prison. After inmates are killed in prison by prison guards it is alleged that of course some guards are sadistic, bad apples in a good bushel.

We wanted to have a prison where everybody began perfectly normal; and so we interviewed them, gave them elaborate personality tests, screened out anybody with a history of crime or drug abuse. These were the cream of the crop of the middle class American youth; and what I would like to show you in brief——

Senator BAYH. These were Stanford students?

Mr. ZIMBARDO. No. These were students from all over the country. In the summer we get a lot of students from all over the country in the bay area; in fact, very few were Stanford students. Our sample, though small, is a cross-national one.

It is important to this committee to point out that most of the prisoners were juveniles, 17 to 20; and what we really are going to see now is the effects of pretrial detention. They were arrested by the Palo Alto police, who cooperated with us in this study, and they were put in pretrial detention for up to 2 weeks awaiting trial. So, in fact, this is an experience of white, middle-class juvenile youngsters arrested by the police, booked as you will see, and then put in pretrial detention.

And so, now what I want to show the committee and the others in this assembly is just how severe that experience can be. Remember our subjects know it is only going to last a short time, they are getting money for it, and have not committed any crime. We will witness the extent to which extremes of pathology can be brought out in good kids. You do not need evil people to commit evil deeds; all you need is the evil inherent in a detention or any total incarceration facility.

Mr. ZIMBARDO. The only thing I would like to say in conclusion is that I believe that reform of the present juvenile justice system requires more of the type of wisdom which I feel is beautifully articulated in the Senate bill 821 proposed by yourself and Senator Cook. And although I feel that the sweeping reforms purposed do require allocation of a lot of new funds, what we need equally are more adequate Federal regulations and guidelines for State and local treatment of juvenile suspects and offenders. In addition, I strongly urge you to establish evaluation procedures to assess whether your reforms and our tax money are doing what you hope they will. We must not allow today's reforms to become tomorrow's social problems.

Reform of the juvenile system of justice demands a much closer critical analysis of the psychological, social, and institutionalized aspects of arrest procedures, disposition, detention, and especially the legal aspects of due process which currently are being violated. The goal of any new legislation must be to change the entire quality of a child's experience when he or she becomes a juvenile criminal suspect. And we must focus our attention on every stage of this process, not only what happens after they reach prison, the conclusion of which, unfortunately for too many, like my partner, Carlo Prescott, is to end up in a place like San Quentin or Attica and end up with the kind of situations with which we have become all too familiar. Prevention of juvenile delinquency is where we must concentrate our efforts, not on improving the quality of confinement.

I want to thank you for having me appear.

Senator BAYH. I appreciate your letting us have the benefits of this experiment. It is an eye-opening experience. Some people who have considered the problems of incarceration think that the criminal justice system needs to take into consideration that, "Prisoners are mostly

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underprivileged, low intelligence, ethnic background, not average American types," and that guards are "undereducated, racist, underpaid, unsympathetic, callous individuals."

Your experiment shows that the vehicle used to provide so-called treatment drives anybody to fit one of those stereotypes; that you could put the guards on the inside and the prisoners on the outside and end up with the same.

Thank you both very much for letting us have your thoughts and the benefit of your study.

[Mr. Zimbardo's and Mr. Prescott's prepared statements are as follows:]

PREPARED TESTIMONY OF PHILIP G. ZIMBARDO TO U.S. SENATE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

I am happy to be invited to testify before this committee as a citizen concerned about the deteriorating quality of life in our nation (which is both a cause and a consequence of the escalating crime rate we are witnessing), and also as a research psychologist involved in trying to understand the determinants of anti-social behavior and the reasons why incarceration of those convicted of antisocial acts has been such a total failure.

I must admit that prior to two years ago, I had no professional interest in prisons, corrections or criminal justice. That was the province of the criminologist and some sociologists.[1] Now I am dedicated both professionally and personally to doing all I can to help transform the nature of jails, prisons and penitentiaries as drastically as is possible. This change in my consciousness was brought about by two experiences. First, my extended personal contact with Mr. Carlo Prescott, shortly after he was released from San Quentin, having spent nearly half his life in California youth and adult correctional facilities, made me aware of the reality that although prisons are institutions, the victims of imprisonment are always individuals. They are people, brothers and sisters who suffer beyond what any reasonable degree of retributive justice would demand, are often broken, and turned loose worse off than before they were "rehabilitated." My second radicalizing experience came from sitting behind a one-way screen observing the incredible pathology which became manifest in a group of mild mannered youngsters who were serving as subjects in an experiment I devised to simulate a prison environment. Although, in a sense, they were playing a game of cops and robbers, incarcerating them in a restricted area, depriving the mock prisoners of most of their rights, giving the mock guards institutional sanctions to exercise control and domination over their peers led inexorably to a social and personal pathology which was frightening to behold. The pathology of imprisonment was built on a foundation of privation of human and civil rights, the delight in exercising arbitrary control over others, institutional sanctions and rewards for the powerful, while the powerless had only rules and punishment for violation of rules. It should be clear that what was most frightening was not simply what I and my research colleagues saw emerging in these subjects but what we belatedly realized was happening to us and to virtually all those who were in various ways captives in this prison. Our human values imperceptibly changed to justify almost any act of degradation of the powerful guards against the incorrigible, trouble-making prisoners.

My intention today is to share with the members of this subcommittee some of the experiences and truths which this research generated by trying to recapture the emotional impact which the Stanford Prison Study generated. I will attempt to do so by means of an audio-visual presentation which chronologs the events and results of our study.

Then I will briefly outline some recommendations for reforms in the administration of justice to juveniles arrested for alleged criminal activities.

(1) PROFESSIONAL QUALIFICATIONS OR RELEVANCE TO MY TESTIMONY BEFORE THIS COMMITTEE

I am a professor of psychology at Stanford University (Stanford, California) where I have taught and done research since 1968. After receiving my B.A. from Brooklyn College, I was awarded advanced degrees from Yale University (M.S. in 1955 and Ph.D. in 1959). I have worked on the psychiatric ward of the West Haven Veteran's Hospital for one post-doctoral year. In addition to regular staff positions at Yale University and New York University, I have been a visiting professor at Barnard College, University of Hawaii, and Columbia University (as Klingenstein Professor of Race Relations). I was also a Fellow at the Center for Advanced Study in the Behavioral Sciences (Palo Alto, California, 1971–72).

My professional affiliations include memberships in the International Congress of Psychology, the American Psychological Association, the Canadian Psychological Association, and the American Association for the Advancement of Science, among others. I have published over fifty articles in professional journals and have authored a half dozen books on psychology. My books include: Influencing Attitudes and Changing Behavior (1970), Canvassing for Peace (1970), The Cognitive Control of Motivation (1969), Psychology and Life (1971), and Psychology for Our Times (1973).

My research program has been supported by grants from the National Science Foundation and the National Institute of Mental Health, and is currently funded by contracts from the Office of Naval Research. This research is in the general area of social-personality psychology. Specifically, my research has been concerned with uncovering the variables which encourage anti-social behavior, particularly violence and vandalism. My field studies of "car stripping" of abandoned autos in New York City were widely reported in the mass media, as were my studies relating anonymity and aggression. I have also studied extensively the techniques used by police interrogators to elicit confessions from suspects and admissions from witnesses. This research was reported in Psychology Today magazine and was presented by invitation to the National Conference on Law Enforcement (Boston, 1967). I have received a medal for distinguished research on problems related to crime and criminal justice from the Tokyo Metropolitan Police Department (August, 1972). I was an invited witness at a special Congressional Subcommittee hearing on Prisons and Penal Reform held in San Francisco in 1971 (my statements appear in Vol. 1 of the Committee's Proceedings).

Of further relevance to my expertise on prison-related issues are the following:

(1) Consultant to State Senator Michael O'Keefe (President of the Louisiana State Senate) on Juvenile Penal Reform Program.

(2) Organizer of two Office of Naval Research Conferences on military justice and military correctional systems.

(3) Participant in an American Association for the Advancement of Science symposium on prisons (December, 1972), which was aired on nationwide Public Television.

(4) Regular correspondent with over fifty inmates in prisons across the country (over 300 letters exchanged in the last two years).

(5) Extensive contacts consisting of literally hundreds of hours with ex-convicts, parole officers, prison guards, a former prison superintendent, a former prison chaplain, and correctional officers in juvenile detention facilities.

(6) Organizer of university courses on the psychology of imprisonment.

(7) The research project investigating the impact of incarceration, hereafter referred to as "The Stanford Prison Study" has been widely reported in the media [NBC–TV Chronolog (11/71), Life Magazine (10/15/71), the Washington Post and in over 100 other newspapers]. I am appending to this testimony a copy of the article which I and my colleagues Craig Haney, Curt Banks and David Jaffe published in the New York Times Magazine, 4/8/73). I have distributed over 400 copies of the formal report of this study in response to requests from correctional agencies, government departments, and several Governors' offices, in addition to criminologists and others interested in prisons.

(2) THE STANFORD PRISON STUDY

The research to be described in my audio-visual presentation before this subcommittee was conducted from August 14 to August 20, 1971. Preparatory pilot studies, pretesting, interviewing of potential subjects began in April of that year. This research was supported by the Group Effectiveness Division of the Office of Naval Research, and took place at Stanford University's Jordan Hall. The Palo Alto Police Department cooperated fully in the initial phases of the study (making the arrests, booking and detaining the "suspects" temporarily at Police Headquarters, then putting them in the Pre-Trial Detention Facility we had constructed at Stanford University).

In the Stanford Prison Study interpersonal dynamics in a prison environment were studied experimentally by designing a functional simulation of a prison in

[1] I could not avoid having a personal interest in what happened to juveniles judged to be delinquent since I was born and raised in a South Bronx N.Y.C. ghetto.

which subjects role-played prisoners and guards for an extended period of time. To assess the power of the social forces on the emergent behavior in this situation, alternative explanations in terms of pre-existing dispositions (that is, personality and character traits) were eliminated through subject selection. A homogeneous sample of about two dozen normal, average, healthy American college males was chosen after extensive interviewing and diagnostic testing of a large group of applicants recruited through newspaper advertisements. The subjects were from colleges throughout the United States and Canada who volunteered to be in "a study of prison life" in return for receiving a daily wage of fifteen dollars for a projected two-week period.

Half of these pre-selected subjects were randomly assigned to role-play prison guards, the others to the mock-prisoner treatment. Neither group received any formal training in these roles—the cultural mass media had already provided the models they used to define their roles. The mock guards were impressed with the "seriousness" of the experiment by the demeanor of the research staff; the prospective prisoners began to take their roles seriously when they were subjected to an unexpected arrest by the city police. After being processed and temporarily detained at the police station, they were escorted to the experimental setting. Uniforms and institutionalized differences in power further served to differentiate the two groups of subjects. The ages of the mock prisoners ranged from 17–20 years, most were juvenile.

Continuous, direct observation of behavioral interactions was supplemented by video-taped recording, questionnaires, self-report scales and interviews. All these data sources converge on the conclusion that this simulated prison developed into a psychologically compelling prison environment. As such, it elicited unexpectedly intense, realistic and often pathological reactions from many of the participants.

Our findings and conclusions are contained in the International Journal of Criminology and Penology, 1973, Vol. 1, pp. 69–97 and in the New York Times Magazine (April 8, 1973), both of which are appended.

(3) The Stanford Prison Slide Show

The Stanford Prison Slide Show was conceived and executed by me with the assistance of Gregory White.

The visual portion of the presentation consists of 104 slides (35 mm.) taken by me or by an assistant in my presence during the course of the experiment; they portray the actual events involved in setting up the study and the major events which occurred each day. The photos of the ten mock prisoners and the elevent mock guards, of he police arrests, and of the former prison chaplain were all taken as these events and encounters actually took place during the six days of the experiment and accurately portray the events they purport to describe.

The 30-minute tape-recorded narration which acccompanies the slides is my voice with additional appropriate sound effects taken from tape-recordings made during the experiment (e.g., the "warden" greeting the new inmates, the guards leading a count, prisoner #8612 having a nervous breakdown, etc.). The letter by mock prisoner #5416 and that by a real prisoner, Kelley Chapman of Ohio Penitentiary, were read verbatim from their original sources by my research assistants.

The purpose of preparing the Stanford Prison Slide Show was to convey in a relatively brief, inexpensive, and interesting format some of the basic conceptions and findings of the experiment that took place during this period. It was hoped that the visual and auditory impact of this presentation would aid in conveying its message beyond that of the printed words used in the formal documentation of the research. One objective of this presentation was to help raise the awareness of the general public, especially college and high school students to the need for their greater involvement in the administration of justice in our nation's prisons and juvenile facilities. Another objective was to convey to correctional personnel and legislators the need to carefully reappraise what the institution of prison is accomplishing by analogy to what our mock prison accomplished in such a short time.

What makes this research and its slide show presentation unique is that it is the first time anyone has demonstrated that a prison-like environment could elicit pathological reactions in carefully selected, normal, healthy, average young men. The power of this research lies in demonstrating how strong situational determinants are in shaping human interactions. It is not possible to resort to a correlation between "evil deeds" and "evil people"—our guards were not sadists, nor our prisoners "psychopaths." The young men in this prison were

all good to begin with, but when they were pitted against the evil inherent in a total environment of imprisonment, the situation overwhelmed the individuals. It is the use of a simple experimental design in this research which helps to focus our attention to the pathology of social situations and away from the traditional cop-out of blaming "problem people" for the existence of problem situations. The study, which was scheduled to last two weeks, had to be abruptly terminated after only six days because the role-playing had so merged with reality that half the mock prisoners had severe emotional disturbances (uncontrollable crying, rage, disorganized thinking, and somatic disorders), while all but a few of the guards behaved consistently in aggressive, dehumanizing ways toward the prisoners. These pathologies were completely alien in the medical, social, and educational histories of the volunteer subjects. Since the mock guards and prisoners were randomly assigned to one or another condition, there was no prior basis or rational justification for the behavioral and emotinal differences that emerged.

(4) SOME OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS CONCERNING THE JUVENILE JUSTICE SYSTEM

Our research essentially studied the consequences of short-term (preadjudication) confinement on juveniles and young adults.

We are forced to conclude that if real detention facilities and experiences even approximate those in the Stanford Prison Study, then thousands of arrested juveniles who are still legally innocent, are at this moment being brutalized to a degree that should not be tolerated by any nation which claims to be civilized, democratic and God fearing. Our mock prisoners, even with the knowledge of their innocence, a preestablished termination date, payment for participation, visits by parents, a chaplain and a public defender nevertheless, suffered real anguish, learned to hate the mock guards and began to despise the other prisoners and themselves for being so helpless and worthless in the eyes of their supervisors. Their emotional disturbance was transient because in part, the experience was limited in duration, because our staff spent a considerable time in group and individual "therapy" sessions with the subjects after the study was terminated, and because they returned to a rather comfortable middle class life style, not harassed further by the police.

Reform of the present juvenile justice system must begin with the type of wisdom so beautifully articulated in Senate Bill S.821 proposed by Senators Bayh and Cook. But though reform does require allocation of new funds and new laws and regulations, reform of the juvenile system of justice demands a close, critical analysis of the psychological, social and institutional aspects of arrest, disposition, detention and due process. The goal of this new legislation must be to change the quality of the experience a juvenile criminal suspect encounters at every stage of the process.

Some brief comments to this point follow:

1. The majority of juveniles arrested by police in California (as in other states) are charged with the offense of "delinquent tendencies" rather than any specific major or minor offense. In 1971, 55 percent of the 379,454 juveniles arrested in California were detained for this vague offense which allows too much latitude for individual interpretation by the arresting officer.

2. When a juvenile is arrested in California, as in other states, there are three possible dispositions: the police may handle the matter and at their discretion release the suspect; the matter may be referred to other agencies; or, the child may be referred to Juvenile Court or Probation Court. It is instructive to note that which of these alternatives is offered to a juvenile suspect depends not necessarily on the seriousness of the offense nor the dangerousness of the suspect, but is a function of the particular city or local jurisdiction in which the arrest is made. The wealthier the community, the less likely a suspect is to be arrested at all, and if arrested, the less likely the child is to be sent to trial. For example, in 1971, only 25 percent of all juveniles arrested in Beverly Hills, California, were sent to court by the police, while in less affluent El Monte (also in Los Angeles County), 78 percent of the juveniles were sent to court. Similarly, in Santa Clara county only 41 percent of those juveniles arrested in affluent Los Altos reach the court stage for a hearing, while in neighboring Sunnyvale, 74 percent of the suspects are sent to the courts. It is not merely differential affluence which leads to one juvenile suspect being released by the police without trial, possible conviction, sentencing and incarceration, while another arrested for the identical offense is not given this same benign treatment. The variations from

one city or county to another in the disposition of juvenile cases depend on a variety of factors, some political, some institutional, some of convenience, and some representing the prevailing attitudes of hard-line law enforcement versus a more sympathetic brand of administration of justice. The enormous disparity between two nearby communities within San Francisco County in whether arrested juveniles are released by the police or get processed into the courts is revealed in the comparison between:

(a) San Leandro, where only 31 percent of 1,334 juveniles were sent by the police to the courts in 1971, and

(b) Hayward, where fully 99 percent of 1,916 youngsters were referred to the courts.

(These statistics are from the 1971 reference tables of Crime and Arrests in California).

Thus, there should be an attempt to provide more adequate federal guidelines to insure a more equitable initial disposition of juvenile suspects, to guard against discrimination and injustice (due to wealth, race, ethnic group, local police or political policy).

3. In theory, there should be no difference between the treatment afforded adult and juvenile suspects. Both should be treated humanly, their rights honored and protected not violated, and a speedy determination of disposition made. Juveniles should receive *additional* attention and consideration only because of the greater traumatic impact arrest is likely to have on them.

4. Detention should be the last and least preferred alternative utilized in handling a juvenile suspect.

5. Bail should not be a relevant determiner of release.

6. Every juvenile suspect must be arraigned within 24 hours; have access to state-provided counsel at arraignment (if the family cannot afford counsel);

7. Determination should be made within 24 hours at to release eligibility;

8. The primary test for such release eligibility should be proof of having "roots in the community."

9. Social service facilities should be available in every community to readily provide such proof or lack of it to referees or judges.

10. If the child does not have a stable home in the community, the state has to provide a non-punitive home while awaiting trial.

11. New selection and training procedures must be developed and field tested so "juvenile counselors" available at each stage of pre- and post-trial detention can be evaluated and certified as to their competency to act as an adult caretaker representing the best values of our society.

12. Detention facilities must be built in close proximity to the chambers of local judges and offices of referees so they may have ready and daily access to the juvenile suspects. In Hawaii the juvenile court goes to the detention facility every day to review the detention status of each juvenile there, to assess whether the child can be returned to the community.

13. The major function of the referees or judge at pre-trial hearings should be to assess the *least* restraint deemed necessary to insure the child's appearance at trial.

14. In all detention facilities, there must be an ombudsman's office, responsive to the needs of the juveniles and not accountable to the local correctional or law enforcement system. The detention facilities and all prisons of any type (juvenile and adult) must be stripped of their cloak of secrecy. They must be much more opened to the community than they are at present. It should be easy for any law abiding citizen to have access to visiting a correctional facility being operated on his or her tax money—and not the impossible burden it is at present in many states.

15. Every effort must be made to create and sustain local community involvement in juvenile justice, care and detention. A report released last week (9/4/73) revealed that nearly a thousand children from the State of Illinois had been sent to Texas institutions in the last decade at a cost of about $8 million. Children with emotionally disturbed backgrounds, unwanted in Illinois homes and separated by the courts from their families were incarcerated in Texas.

The report by De Paul University law professor F. A. Kennan stated: Some of the children were miserable; all were educationally depressed; all suffered violations of their legal rights; many sustained permanent injury and will wear life-long scars on their bodies or spirits. Some ran away and were never found. Some died. These children "were banished to and warehoused in Texas by an efficient, mindless, heartless bureaucratic monster inexorably grinding its way

through children's lives." Kennan reported, "Everyone is responsible, so no one is or will be accountable." These and other abuses can only be stopped by campaigns designed to promote a new sense of community consciousness throughout the land. If we can treat our helpless children with such indifference and indeed, with such inhumanity, what hope is there that we will treat each other with any respect or care?

16. Juvenile offenders should be separately housed in holding facilities by age, maturity, and danger posed to the other juveniles. Repeated offenders should be separately housed from first offenders. Those being held for criminal offenses should be separated from wards of the state who are neglected and abused children or runaways in need of supervision.

17. It is hoped that the recommendations of this subcommittee will help to organize, integrate and humanize the local and state treatment of juvenile suspects and offenders. Due process safeguards for children must be more explicit and applied with greater uniformity to reduce the operation of prejudice and victimization of children of minority backgrounds.

18. It is important for the purposes of this subcommittee to consider the conclusions of a recent report which dispel many of the myths about "the juvenile delinquent" (R. Hanley & M. Gold, Psychology Today, September 1973, pp. 49-55): It has long been assumed that delinquency is a phenomenon of lower-class minority group (especially black), slum-dwelling children from broken homes who operate in gangs or are psychiatrically disturbed loners. In addition, we have been led to believe that detected delinquency accurately reflects undetected delinquency, and that most delinquents get caught and learn to mend their ways after being duly processed through the juvenile justice system. The data from surveys of 847 teenagers in a national sample and of 522 juveniles in Flint, Michigan consistently refute each and every one of these assertions.

Only a very small percentage of delinquent acts is ever discovered (less than five percent). Middle-class white adolescents commit as many or more delinquent criminal acts as do lower-class adolescents, but are less likely to be arrested for them. If they are arrested, their parents buy their way out of the system either before they are tried or before they are convicted and incarcerated. The seriousness of the delinquent acts committed by higher status white boys was even greater than that of their lower status peers. These acts were usually in the company of a few friends—a shared social activity. Poor academic performance and delinquent friends are better predictors of delinquency than whether or not there is stability in the home. But perhaps the most important finding of this investigation is summarized in the authors' own words: "Whatever it is that the authorities do once they have caught a youth, it seems to be worse than doing nothing at all, worse even than never apprehending the offender. Getting caught encourages rather than deters further delinquency."

19. Only children judged "dangerous" to themselves or their community by mental health professionals, corrections-based clinicians, and responsible, informed representatives of the child's community should be incarcerated for longer than 30 days. Under no circumstances should a child's ties with the community be severed. Instead, the primary function of juvenile detention facilities should be to strengthen those ties.

I thank the Subcommittee for the opportunity to express this viewpoint and wish to offer my services in any way they can be used to further the ideals represented in the legislation to improve the quality of administration of Juvenile Justice.

APPENDIX A

International Journal of Criminology and Penology 1973, 1, 69-97

Interpersonal Dynamics in a Simulated Prison

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Interpersonal dynamics in a prison environment were studied experimentally by designing a functional simulation of a prison in which subjects role-played prisoners and guards for an extended period of time. To assess the power of the social forces on the emergent behaviour in this situation, alternative explanations in terms of pre-existing dispositions were eliminated through subject selection. A homogeneous, "normal" sample was chosen after extensive interviewing and diagnostic testing of a large group of volunteer male college students. Half of the subjects were randomly assigned to role-play prison guards for eight hours each day, while the others role-played prisoners incarcerated for nearly one full week. Neither group received any specific training in these roles.

Continuous, direct observation of behavioural interactions was supplemented by video-taped recording, questionnaires, self-report scales and interviews. All these data sources converge on the conclusion that this simulated prison developed into a psychologically compelling prison environment. As such, it elicited unexpectedly intense, realistic and often pathological reactions from many of the participants. The prisoners experienced a loss of personal identity and the arbitrary control of their behaviour which resulted in a syndrome of passivity, dependency, depression and helplessness. In contrast, the guards (with rare exceptions) experienced a marked gain in social power, status and group identification which made role-playing rewarding.

The most dramatic of the coping behaviour utilised by half of the prisoners in adapting to this stressful situation was the development of acute emotional disturbance—severe enough to warrant their early release. At least a third of the guards were judged to have become far more aggressive and dehumanising toward the prisoners than would ordinarily be predicted in a simulation study. Only a very few of the observed reactions to this experience of imprisonment could be attributed to personality trait differences which existed before the subjects began to play their assigned roles.

Introduction

After he had spent four years in a Siberian prison the great Russian novelist Dostoevsky commented, surprisingly, that his time in prison had created in him a deep optimism about the ultimate future of mankind because, as he put it, if man could survive the horrors of prison life he must surely be a "creature who could withstand anything". The cruel irony which Dostoevsky overlooked is that the reality of prison bears witness not only to the resilience and adaptiveness of the men who tolerate life within its walls, but as well to the "ingenuity" and tenacity of those who devised and still maintain our correctional and reformatory systems.

Nevertheless, in the century which has passed since Dostoevsky's imprisonment, little has changed to render the main thrust of his statement less relevant. Although we have passed through periods of enlightened humanitarian reform, in which physical conditions within prisons have improved somewhat and the rhetoric of rehabilitation has replaced the language of punitive incarceration, the social institution of prison has continued to fail. On purely pragmatic grounds, there is substantial evidence that prisons in fact neither "rehabilitate" nor act as a deterrent to future crime—in America, recidivism rates upwards of 75% speak quite decisively to these criteria. And, to perpetuate what is additionally an economic failure, American taxpayers alone must provide an expenditure for "corrections" of 1.5 billion dollars annually. On humanitarian grounds as well, prisons have failed: our mass media are increasingly filled with accounts of atrocities committed daily, man against man, in reaction to the penal system or in the name of it. The experience of prison undeniably creates, almost to the point of cliché, an intense hatred and disrespect in most inmates for the authority and the established order of society into which they will eventually return. And the toll which it takes on the deterioration of human spirit for those who must administer it, as well as for those upon whom it is inflicted, is incalculable.

Attempts to provide an explanation of the deplorable condition of our penal system and its dehumanising effects upon prisoners and guards, often focus upon what might be called the *dispositional hypothesis*. While this explanation is rarely expressed explicitely, it is central to a prevalent non-conscious ideology: that the state of the social institution of prison is due to the "nature" of the people who administer it, or the "nature" of the people who populate it, or both. That is, a major contributing cause to despicable conditions, violence, brutality, dehumanisation and degradation existing within any prison can be traced to some innate or acquired characteristic of the correctional and inmate population. Thus on the one hand, there is the contention that violence and brutality exist within prison because guards are sadistic, uneducated, and insensitive people. It is the "guard mentality", a unique syndrome of negative traits which they bring into the situation, that engenders the inhumane treatment of prisoners. Or, from other quarters comes the argument that violence and brutality in prison are the logical and predictable result of the

involuntary confinement of a collective of individuals whose life histories are, by definition, characterised by disregard for law, order and social convention and a concurrent propensity for impulsiveness and aggression. Logically, it follows that these individuals, having proved themselves incapable of functioning satisfactorily within the "normal" structure of society, cannot do so either inside the structure provided by prisons. To control such men as these, the argument continues, whose basic orientation to any conflict situation is to react with physical power or deception, force must be met with force, and a certain number of violent encounters must be expected and tolerated by the public.

The dispositional hypothesis has been embraced by the proponents of the prison *status quo* (blaming conditions on the evil in the prisoners), as well as by its critics (attributing the evil to guards and staff with their evil motives and deficient personality structures). The appealing simplicity of this proposition localises the source of prison riots, recidivism and corruption in these "bad seeds" and not in the conditions of the "prison soil". Such an analysis directs attention away from the complex matrix of social, economic and political forces which combine to make prisons what they are—and which would require complex, expensive, revolutionary solutions to bring about any meaningful change. Instead, rioting prisoners are identified, punished, transferred to maximum security institutions or shot, outside agitators sought and corrupt officials suspended—while the system itself goes on essentially unchanged, its basic structure unexamined and unchallenged.

However, a critical evaluation of the dispositional hypothesis cannot be made directly through observation in existing prison settings, since such naturalistic observation necessarily confounds the acute effects of the environment with the chronic characteristics of the inmate and guard populations. To separate the effects of the prison environment *per se* from those attributable to *à priori* dispositions of its inhabitants requires a research strategy in which a "new" prison is constructed, comparable in its fundamental social-psychological milieu to existing prison systems, but entirely populated by individuals who are undifferentiated in all essential dimensions from the rest of society.

Such was the approach taken in the present empirical study, namely, to create a prison-like situation in which the guards and inmates were initially comparable and characterised as being "normal-average", and then to observe the patterns of behaviour which resulted, as well as the cognitive, emotional and attitudinal reactions which emerged. Thus, we began our experiment with a sample of individuals who did not deviate from the normal range of the general population on a variety of dimensions we were able to measure. Half were randomly assigned to the role of "prisoner", the others to that of "guard", neither group having any history of crime, emotional disability, physical handicap nor even intellectual or social disadvantage.

The environment created was that of a "mock" prison which physically constrained the prisoners in barred cells and psychologically conveyed the sense of imprisonment to all participants. Our intention was not to create a *literal*

simulation of an American prison, but rather a functional representation of one. For ethical, moral and pragmatic reasons we could not detain our subjects for extended or indefinite periods of time, we could not exercise the threat and promise of severe physical punishment, we could not allow homosexual or racist practices to flourish, nor could we duplicate certain other specific aspects of prison life. Nevertheless, we believed that we could create a situation with sufficient mundane realism to allow the role-playing participants to go beyond the superficial demands of their assignment into the deep structure of the characters they represented. To do so, we established functional equivalents for the activities and experiences of actual prison life which were expected to produce qualitatively similar psychological reactions in our subjects—feelings of power and powerlessness, of control and oppression, of satisfaction and frustration, of arbitrary rule and resistance to authority, of status and anonymity, of machismo and emasculation. In the conventional terminology of experimental social psychology, we first identified a number of relevant conceptual variables through analysis of existing prison situations, then designed a setting in which these variables were made operational. No specific hypotheses were advanced other than the general one that assignment to the treatment of "guard" or "prisoner" would result in significantly different reactions on behavioural measures of interaction, emotional measures of mood state and pathology, attitudes toward self, as well as other indices of coping and adaptation to this novel situation. What follows is the mechanics of how we created and peopled our prison, what we observed, what our subjects reported, and finally, what we can conclude about the nature of the prison environment and the experience of imprisonment which can account for the failure of our prisons.

Method

Overview

The effects of playing the role of "guard" or "prisoner" were studied in the context of an experimental simulation of a prison environment. The research design was a relatively simple one, involving as it did only a single treatment variable, the random assignment to either a "guard" or "prisoner" condition. These roles were enacted over an extended period of time (nearly one week) within an environment which was physically constructed to resemble a prison. Central to the methodology of creating and maintaining a psychological state of imprisonment was the functional simulation of significant properties of "real prison life" (established through information from former inmates, correctional personnel and texts).

The "guards" were free with certain limits to implement the procedures of induction into the prison setting and maintenance of custodial retention of the "prisoners". These inmates, having voluntarily submitted to the conditions of this total institution in which they now lived, coped in various ways with its

stresses and its challenges. The behaviour of both groups of subjects was observed, recorded and analysed. The dependent measures were of two general types: transactions between and within each group of subjects, recorded on video and audio tape as well as directly observed; individual reactions on questionnaires, mood inventories, personality tests, daily guard shift reports, and post experimental interviews.

Subjects

The 21 subjects who participated in the experiment were selected from an initial pool of 75 respondents, who answered a newspaper advertisement asking for male volunteers to participate in a psychological study of "prison life" in return for payment of $15 per day. Those who responded to the notice completed an extensive questionnaire concerning their family background, physical and mental health history, prior experience and attitudinal propensities with respect to sources of psychopathology (including their involvement in crime). Each respondent who completed the background questionnaire was interviewed by one of two experimenters. Finally, the 24 subjects who were judged to be most stable (physically and mentally), most mature, and least involved in anti-social behaviour were selected to participate in the study. On a random basis, half of the subjects were assigned the role of "guard", half to the role of "prisoner".

The subjects were normal, healthy males attending colleges throughout the United States who were in the Stanford area during the summer. They were largely of middle class socio-economic status, Caucasians (with the exception of one Oriental subject). Initially they were strangers to each other, a selection precaution taken to avoid the disruption of any pre-existing friendship patterns and to mitigate against any transfer into the experimental situation of previously established relationships or patterns of behaviour.

This final sample of subjects was administered a battery of psychological tests on the day prior to the start of the simulation, but to avoid any selective bias on the part of the experimenter-observers, scores were not tabulated until the study was completed.

Two subjects who were assigned to be a "stand-by" in case an additional "prisoner" was needed were not called, and one subject assigned to be a "stand-by" guard decided against participating just before the simulation phase began—thus, our data analysis is based upon ten prisoners and eleven guards in our experimental conditions.

Procedure

Physical aspects of the prison

The prison was built in a 35-ft section of a basement corridor in the psychology building at Stanford University. It was partitioned by two fabricated walls, one of which was fitted with the only entrance door to the cell block, the other

contained a small observation screen. Three small cells (6 x 9 ft) were made from converted laboratory rooms by replacing the usual doors with steel barred, black painted ones, and removing all furniture.

A cot (with mattress, sheet and pillow) for each prisoner was the only furniture in the cells. A small closet across from the cells served as a solitary confinement facility; its dimensions were extremely small (2 x 2 x 7 ft) and it was unlit.

In addition, several rooms in an adjacent wing of the building were used as guards' quarters (to change in and out of uniform or for rest and relaxation), a bedroom for the "warden" and "superintendent", and an interview-testing room. Behind the observation screen at one end of the "yard" was video recording equipment and sufficient space for several observers.

Operational details

The "prisoner" subjects remained in the mock-prison 24 hours per day for the duration of the study. Three were arbitrarily assigned to each of the three cells; the others were on stand-by call at their homes. The "guard" subjects worked on three-man, eight-hour shifts; remaining in the prison environment only during their work shift, going about their usual lives at other times.

Role instruction

All subjects had been told that they would be assigned either the guard or the prisoner role on a completely random basis and all had voluntarily agreed to play either role for $15.00 per day for up to two weeks. They signed a contract guaranteeing a minimally adequate diet, clothing, housing and medical care as well as the financial remuneration in return for their stated "intention" of serving in the assigned role for the duration of the study.

It was made explicit in the contract that those assigned to be prisoners should expect to be under surveillance (have little or no privacy) and to have some of their basic civil rights suspended during their imprisonment, excluding physical abuse. They were given no other information about what to expect nor instructions about behaviour appropriate for a prisoner role. Those actually assigned to this treatment were informed by phone to be available at their place of residence on a given Sunday when we would start the experiment.

The subjects assigned to be guards attended an orientation meeting on the day prior to the induction of the prisoners. At this time they were introduced to the principal investigators, the "Superintendent" of the prison (P.G.Z.) and an undergraduate research assistant who assumed the administrative role of "Warden". They were told that we wanted to try to simulate a prison environment within the limits imposed by pragmatic and ethical considerations. Their assigned task was to "maintain the reasonable degree of order within the prison necessary for its effective functioning", although the specifics of how this

duty might be implemented were not explicitly detailed. They were made aware of the fact that while many of the contingencies with which they might be confronted were essentially unpredictable (e.g. prisoner escape attempts), part of their task was to be prepared for such eventualities and to be able to deal appropriately with the variety of situations that might arise. The "Warden" instructed the guards in the administrative details, including: the work-shifts, the mandatory daily completion of shift reports concerning the activity of guards and prisoners, the completion of "critical incident" reports which detailed unusual occurrences and the administration of meals, work and recreation programmes for the prisoners. In order to begin to involve these subjects in their roles even before the first prisoner was incarcerated, the guards assisted in the final phases of completing the prison complex—putting the cots in the cells, signs on the walls, setting up the guards' quarters, moving furniture, water coolers, refrigerators, etc.

The guards generally believed that we were primarily interested in studying the behaviour of the prisoners. Of course, we were equally interested in the effect which enacting the role of guard in this environment would have on their behaviour and subjective states.

To optimise the extent to which their behaviour would reflect their genuine reactions to the experimental prison situation and not simply their ability to follow instructions, they were intentionally given only minimal guidelines for what it meant to be a guard. An explicit and categorical prohibition against the use of physical punishment or physical aggression was, however, emphasised by the experimenters. Thus, with this single notable exception, their roles were relatively unstructured initially, requiring each "guard" to carry out activities necessary for interacting with a group of "prisoners" as well as with other "guards" and the "correctional staff".

Uniform

In order to promote feelings of anonymity in the subjects each group was issued identical uniforms. For the guards, the uniform consisted of: plain khaki shirts and trousers, a whistle, a police night stick (wooden batons) and reflecting sunglasses which made eye contact impossible. The prisoners' uniform consisted of loosely fitting muslin smocks with an identification number on front and back. No underclothes were worn beneath these "dresses". A chain and lock were placed around one ankle. On their feet they wore rubber sandals and their hair was covered with a nylon stocking made into a cap. Each prisoner was also issued a toothbrush, soap, soapdish, towel and bed linen. No personal belongings were allowed in the cells.

The outfitting of both prisoners and guards in this manner served to enhance group identity and reduce individual uniqueness within the two groups. The khaki uniforms were intended to convey a military attitude, while the whistle and night-stick were carried as symbols of control and power. The prisoners'

uniforms were designed not only to deindividuate the prisoners but to be humiliating and serve as symbols of their dependence and subservience. The ankle chain was a constant reminder (even during their sleep when it hit the other ankle) of the oppressiveness of the environment. The stocking cap removed any distinctiveness associated with hair length, colour or style (as does shaving of heads in some "real" prisons and the military). The ill-fitting uniforms made the prisoners feel awkward in their movements, since these dresses were worn without undergarments, the uniforms forced them to assume unfamiliar postures, more like those of a woman than a man—another part of the emasculating process of becoming a prisoner.

Induction procedure

With the cooperation of Palo Alto City Police Department all of the subjects assigned to the prisoner treatment were unexpectedly "arrested" at their residences. A police officer charged them with suspicion of burglary or armed robbery, advised them of their legal rights, handcuffed them, thoroughly searched them (often as curious neighbours looked on) and carried them off to the police station in the rear of the police car. At the station they went through the standard routines of being fingerprinted, having an identification file prepared and then being placed in a detention cell. Each prisoner was blindfolded and subsequently driven by one of the experimenters and a subject-guard to our mock prison. Throughout the entire arrest procedure, the police officers involved maintained a formal, serious attitude, avoiding answering any questions of clarification as to the relation of this "arrest" to the mock prison study.

Upon arrival at our experimental prison, each prisoner was stripped, sprayed with a delousing preparation (a deodorant spray) and made to stand alone naked for a while in the cell yard. After being given the uniform described previously and having an I.D. picture taken ("mug shot"), the prisoner was put in his cell and ordered to remain silent.

Administrative routine

When all the cells were occupied, the warden greated the prisoners and read them the rules of the institution (developed by the guards and the warden). They were to be memorised and to be followed. Prisoners were to be referred to only by the number on their uniforms, also in an effort to depersonalise them.

The prisoners were to be served three bland meals per day, were allowed three supervised toilet visits, and given two hours daily for the privilege of reading or letterwriting. Work assignments were issued for which the prisoners were to receive an hourly wage to constitute their $15 daily payment. Two visiting periods per week were scheduled, as were movie rights and exercise periods. Three times a day all prisoners were lined up for a "count" (one on each guard

work-shift). The initial purpose of the "count" was to ascertain that all prisoners were present, and to test them on their knowledge of the rules and their I.D. numbers. The first perfunctory counts lasted only about 10 minutes, but on each successive day (or night) they were spontaneously increased in duration until some lasted several hours. Many of the pre-established features of administrative routine were modified or abandoned by the guards, and some were forgotten by the staff over the course of the study.

Data collection (dependent measures)

The exploratory nature of this investigation and the absence of specific hypotheses led us to adopt the strategy of surveying as many as possible behavioural and psychological manifestations of the prison experience on the guards and the prisoners. In fact, one major methodological problem in a study of this kind is defining the limits of the "data", since relevant data emerged from virtually every interaction between any of the participants, as well as from subjective and behavioural reactions of individual prisoners, guards, the warden, superintendent, research assistants and visitors to the prison. It will also be clear when the results are presented that causal direction cannot always be established in the patterns of interaction where any given behaviour might be the consequence of a current or prior instigation by another subject and, in turn, might serve as impetus for eliciting reactions from others.

Data collection was organised around the following sources:

(1) *Videotaping.* About 12 hours of recordings were made of daily, regularly occurring events, such as the counts and meals, as well as unusual interactions, such as a prisoner rebellion, visits from a priest, a lawyer and parents, Parole Board meetings and others. Concealed video equipment recorded these events through a screen in the partition at one end of the cell-block yard or in a conference room (for parole meetings).

(2) *Audio recording.* Over 30 hours of recordings were made of verbal interactions between guards and prisoners on the prison yard. Concealed microphones picked up all conversation taking place in the yard as well as some within the cells. Other concealed recordings were made in the testing-interview room on selected occasions—interactions between the warden, superintendent and the prisoners' Grievance Committee, parents, other visitors and prisoners released early. In addition, each subject was interviewed by one of the experimenters (or by other research associates) during the study, and most just prior to its termination.

(3) *Rating scales.* Mood adjective checklists and sociometric measures were administered on several occasions to assess emotional changes in affective state and interpersonal dynamics among the guard and prisoner groups.

(4) *Individual difference scales.* One day prior to the start of the simulation all subjects completed a series of paper and pencil personality tests. These tests

were selected to provide dispositional indicators of interpersonal behaviour styles—the *F* scale of Authoritarian Personality [1], and the Machiavellianism Scale [2]—as well as areas of possible personality pathology through the newly developed Comrey Personality Scale [3]. The subscales of this latter test consist of:

(a) trustworthiness
(b) orderliness
(c) conformity
(d) activity
(e) stability
(f) extroversion
(g) masculinity
(h) empathy

(5) *Personal observations.* The guards made daily reports of their observations after each shift, the experimenters kept informal diaries and all subjects completed post-experimental questionnaires of their reactions to the experience about a month after the study was over.

Data analyses presented problems of several kinds. First, some of the data was subject to possible errors due to selective sampling. The video and audio recordings tended to be focussed upon the more interesting, dramatic events which occurred. Over time, the experimenters became more personally involved in the transaction and were not as distant and objective as they should have been. Second, there are not complete data on all subjects for each measure because of prisoners being released at different times and because of unexpected disruptions, conflicts and administrative problems. Finally, we have a relatively small sample on which to make cross-tabulations by possible independent and individual difference variables.

However, despite these shortcomings some of the overall effects in the data are powerful enough to reveal clear, reliable results. Also some of the more subtle analyses were able to yield statistically significant results even with the small sample size. Most crucial for the conclusions generated by this exploratory study is the consistency in the pattern of relationships which emerge across a wide range of measuring instruments and different observers. Special analyses were required only of the video and audio material, the other data sources were analysed following established scoring procedures.

Video analysis

There were 25 relatively discrete incidents identifiable on the tapes of prisoner-guard interactions. Each incident or scene was scored for the presence of nine behavioural (and verbal) categories. Two judges who had not been involved with the simulation study scored these tapes. These categories were defined as follows:

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Question. All questions asked, requests for information or assistance (excluding rhetorical questions).

Command. An order to commence or abstain from a specific behaviour, directed either to individuals or groups. Also generalised orders, e.g. "Settle down".

Information. A specific piece of information proffered by anyone whether requested or not, dealing with any contingency of the simulation.

Individuating reference. Positive: use of a person's real name, nickname or allusion to special positive physical characteristics. Negative: use of prison number, title, generalised "you" or reference to derogatory characteristic.

Threat. Verbal statement of contingent negative consequences of a wide variety, e.g. no meal, long count, pushups, lock-up in hole, no visitors, etc.

Deprecation insult. Use of obscenity, slander, malicious statement directed toward individual or group, e.g. "You lead a life of mendacity" or "You guys are really stupid."

Resistance. Any physical resistance, usually prisoners to guards, such as holding on to beds, blocking doors, shoving guard or prisoner, taking off stocking caps, refusing to carry out orders.

Help. Person physically assisting another (i.e. excludes verbal statements of support), e.g. guard helping another to open door, prisoner helping another prisoner in cleanup duties.

Use of instruments. Use of any physical instrument to either intimidate, threaten, or achieve specific end, e.g. fire extinguisher, batons, whistles.

Audio analysis

For purposes of classifying the verbal behaviour recorded from interviews with guards and prisoners, eleven categories were devised. Each statement made by the interviewee was assigned to the appropriate category by judges. At the end of this process for any given interview analysis, a list had been compiled of the nature and frequencies of the interviewee's discourse. The eleven categories for assignment of verbal expressions were:

Questions. All questions asked, requests for information or assistance (excluding rhetorical questions).

Informative statements. A specific piece of information proffered by anyone whether requested or not, dealing with any contingency of the simulation.

Demands. Declarative statements of need or imperative requests.

Requests. Deferential statements for material or personal consideration.

Commands. Orders to commence or abstain from a specific behaviour, directed either to individuals or groups.

Outlook, positive/negative. Expressions of expectancies for future experiences or future events; either negative or positive in tone, e.g. "I don't think I can make it" *v.* "I believe I will feel better."

Criticism. Expressions of critical evaluation concerning other subjects, the experimenters or the experiment itself.

Statements of identifying reference, deindividuating/individuating. Statements wherein a subject makes some reference to another subject specifically by allusion to given name or distinctive characteristics (individuating reference), or by allusion to non-specific identity or institutional number (deindividuating reference).

Desire to continue. Any expression of a subject's wish to continue or to curtail participation in the experiment.

Self-evaluation, positive/negative. Statements of self-esteem or self-degradation, e.g. "I feel pretty good about the way I've adjusted" *v.* "I hate myself for being so oppressive."

Action intentions, positive/negative including "intent to aggress". Statements concerning interviewees' intentions to do something in the future, either of a positive, constructive nature or a negative, destructive nature, e.g. "I'm not going to be so mean from now on" *v.* "I'll break the door down."

Results

Overview

Although it is difficult to anticipate exactly what the influence of incarceration will be upon the individuals who are subjected to it and those charged with its maintenance (especially in a simulated reproduction), the results of the present experiment support many commonly held conceptions of prison life and validate anecdotal evidence supplied by articulate ex-convicts. The environment of arbitrary custody had great impact upon the affective states of both guards and prisoners as well as upon the interpersonal processes taking place between and within those role-groups.

In general, guards and prisoners showed a marked tendency toward increased negativity of affect and their overall outlook became increasingly negative. As the experiment progressed, prisoners expressed intentions to do harm to others more frequently. For both prisoners and guards, self-evaluations were more deprecating as the experience of the prison environment became internalised.

Overt behaviour was generally consistent with the subjective self-reports and affective expressions of the subjects. Despite the fact that guards and prisoners were essentially free to engage in any form of interaction (positive or negative, supportive or affrontive, etc.), the characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanising. Prisoners immediately adopted a generally passive response mode while guards assumed a very active initiating role in all interactions. Throughout the experiment, commands were the most frequent form of verbal behaviour and, generally, verbal exchanges were strikingly impersonal, with few references to individual identity. Although it was clear to all subjects that the experimenters would not

permit physical violence to take place, varieties of less direct aggressive behaviour were observed frequently (especially on the part of guards). In lieu of physical violence, verbal affronts were used as one of the most frequent forms of interpersonal contact between guards and prisoners.

The most dramatic evidence of the impact of this situation upon the participants was seen in the gross reactions of five prisoners who had to be released because of extreme emotional depression, crying, rage and acute anxiety. The pattern of symptoms was quite similar in four of the subjects and began as early as the second day of imprisonment. The fifth subject was released after being treated for a psychosomatic rash which covered portions of his body. Of the remaining prisoners, only two said they were not willing to forfeit the money they had earned in return for being "paroled". When the experiment was terminated prematurely after only six days, all the remaining prisoners were delighted by their unexpected good fortune. In contrast, most of the guards seemed to be distressed by the decision to stop the experiment and it appeared to us that had become sufficiently involved in their roles so that they now enjoyed the extreme control and power which they exercised and were reluctant to give it up. One guard did report being personally upset at the suffering of the prisoners and claimed to have considered asking to change his role to become one of them—but never did so. None of the guards ever failed to come to work on time for their shift, and indeed, on several occasions guards remained on duty voluntarily and uncomplaining for extra hours—without additional pay.

The extremely pathological reactions which emerged in both groups of subjects testify to the power of the social forces operating, but still there were individual differences seen in styles of coping with this novel experience and in degrees of successful adaptation to it. Half the prisoners did endure the oppressive atmosphere, and not all the guards resorted to hostility. Some guards were tough but fair ("played by the rules"), some went far beyond their roles to engage in creative cruelty and harassment, while a few were passive and rarely instigated any coercive control over the prisoners.

These differential reactions to the experience of imprisonment were not suggested by or predictable from the self-report measures of personality and attitude or the interviews taken before the experiment began. The standardised tests employed indicated that a perfectly normal emotionally stable sample of subjects had been selected. In those few instances where differential test scores do discriminate between subjects, there is an opportunity to, partially at least, discern some of the personality variables which may be critical in the adaptation to and tolerance of prison confinement.

Intitial personality and attitude measures

Overall, it is apparent that initial personality-attitude dispositions account for an extremely small part of the variation in reactions to this mock prison experience. However, in a few select instances, such dispositions do seem to be correlated with the prisoners' ability to adjust to the experimental prison environment.

Comrey scale

The Comrey Personality Inventory [3] was the primary personality scale administered to both guards and prisoners. The mean scores for prisoners and guards on the eight sub-scales of the test are shown in Table 1. No differences between prisoner and guard mean scores on any scale even approach statistical significance. Furthermore, in no case does any group mean fall outside of the 40 to 60 centile range of the normative male population reported by Comrey.

Table 1. Mean scores for prisoners and guards on eight Comrey subscales

Scale	Prisoners	Guards
Trustworthiness—high score indicates belief in the basic honesty and good intentions of others	$\bar{X}$ = 92.56	$\bar{X}$ = 89.64
Orderliness—extent to which person is meticulous and concerned with neatness and orderliness	$\bar{X}$ = 75.67	$\bar{X}$ = 73.82
Conformity—indicates belief in law enforcement, acceptance of society as it is, resentment of nonconformity in others	$\bar{X}$ = 65.67	$\bar{X}$ = 63.18
Activity—liking for physical activity, hard work, and exercise	$\bar{X}$ = 89.78	$\bar{X}$ = 91.73
Stability—high score indicates calm, optimistic, stable, confident individual	$\bar{X}$ = 98.33	$\bar{X}$ = 101.45
Extroversion—suggests outgoing, easy to meet person	$\bar{X}$ = 83.22	$\bar{X}$ = 81.91
Masculinity—"people who are not bothered by crawling creatures, the sight of blood, vulgarity, who do not cry easily and are not interested in love stories"	$\bar{X}$ = 88.44	$\bar{X}$ = 87.00
Empathy—high score indicates individuals who are sympathetic, helpful, generous and interested in devoting their lives to the service of others	$\bar{X}$ = 91.78	$\bar{X}$ = 95.36

Table 2. Mean scores for "Remaining" v. "Early released" prisoners on Comrey subscales

Scale	Remaining prisoners	Early released prisoners	Mean difference
Trustworthiness	93.4	90.8	+2.6
Orderliness	76.6	78.0	−1.4
Conformity	67.2	59.4	+7.8
Activity	91.4	86.8	+4.6
Stability	99.2	99.6	−0.4
Extroversion	98.4	76.2	+22.2
Masculinity	91.6	86.0	+5.6
Empathy	103.8	85.6	+17.2

Table 2 shows the mean scores on the Comrey sub-scales for prisoners who remained compared with prisoners who were released early due to severe emotional reactions to the environment. Although none of the comparisons achieved statistical significance, three seemed at least suggestive as possible discriminators of those who were able to tolerate this type of confinement and those who were not. Compared with those who had to be released, prisoners who remained in prison until the termination of the study: scored higher on conformity ("acceptance of society as it is"), showed substantially higher average scores on Comrey's measure of extroversion and also scored higher on a scale of empathy (helpfulness, sympathy and generosity).

F-Scale

The *F*-scale is designed to measure rigid adherence to conventional values and a submissive, uncritical attitude towards authority. There was no difference between the mean score for prisoners (4.78) and the mean score for guards (4.36) on this scale.

Again, comparing those prisoners who remained with those who were released early, we notice an interesting trend. This intra-group comparison shows remaining prisoners scoring more than twice as high on conventionality and authoritarianism ($\bar{X} = 7.78$) than those prisoners released early ($\bar{X} = 3.20$). While the difference between these means fails to reach acceptable levels of significance, it is striking to note that a rank-ordering of prisoners on the *F*-scale correlates highly with the duration of their stay in the experiment ($r_s = 0.898$, $P < 0.005$). To the extent that a prisoner was high in rigidity, in adherence to conventional values, and in the acceptance of authority, he was likely to remain longer and adjust more effectively to this authoritarian prison environment.

Machiavellianism

There were no significant mean differences found between guards ($\bar{X} = 7.73$) and prisoners ($\bar{X} = 8.77$) on this measure of effective interpersonal manipulation. In addition, the Mach Scale was of no help in predicting the likelihood that a prisoner would tolerate the prison situation and remain in the study until its termination.

This latter finding, the lack of any mean differences between prisoners who remained *v.* those who were released from the study, is somewhat surprising since one might expect the Hi Mach's skill at manipulating social interaction and mediating favourable outcomes for himself might be acutely relevant to the simulated prison environment. Indeed, the two prisoners who scored highest on the Machiavellianism scale were also among those adjudged by the experimenters to have made unusually effective adapatations to their confinement. Yet, paradoxically (and this may give the reader some feeling for the anomalies we encountered in attempting to predict in-prison behaviour from personality

measures), the other two prisoners whom we categorised as having effectively adjusted to confinement actually obtained the lowest Mach scores of any prisoners.

Video recordings

An analysis of the video recordings indicates a preponderance of genuinely negative interactions, i.e. physical aggression, threats, deprecations, etc. It is also clear that any assertive activity was largely the prerogative of the guards, while prisoners generally assumed a relatively passive demeanour. Guards more often aggressed, more often insulted, more often threatened. Prisoners, when they reacted at all, engaged primarily in resistance to these guard behaviours.

For guards, the most frequent verbal behaviour was the giving of commands and their most frequent form of physical behaviour was aggression. The most frequent form of prisoners' verbal behaviour was question-asking, their most frequent form of physical behaviour was resistance. On the other hand, the most infrequent behaviour engaged in overall throughout the experiment was "helping"—only one such incident was noted from all the video recording collected. That solitary sign of human concern for a fellow occurred between two prisoners.

Although question-asking was the most frequent form of verbal behaviour for the prisoners, guards actually asked questions more frequently overall than did prisoners (but not significantly so). This is reflective of the fact that the overall level of behaviour emitted was much higher for the guards than for the prisoners. All of those verbal acts categorised as commands were engaged in by guards. Obviously, prisoners had no opportunity to give commands at all, that behaviour becoming the exclusive "right" of guards.

Of a total 61 incidents of direct interpersonal reference observed (incidents in which one subject spoke directly to another with the use of some identifying reference, i.e. "Hey, Peter"; "you there", etc.), 58 involved the use of some deindividuating rather than some individuating form of reference. (Recall that we characterised this distinction as follows: an individuating reference involved the use of a person's actual name, nickname or allusion to special physical characteristics, whereas a deindividuating reference involved the use of a prison number, or a generalised "you"—thus being a very depersonalising form of reference.) Since all subjects were at liberty to refer to one another in either mode, it is significant that such a large proportion of the references noted involved were in the deindividuating mode ($Z = 6.9$, $P < 0.01$). Deindividuating references were made more often by guards in speaking to prisoners than the reverse ($Z = 3.67$, $P < 0.01$). (This finding, as all prisoner-guard comparisons for specific categories, may be somewhat confounded by the fact that guards apparently enjoyed a greater freedom to initiate verbal as well as other forms of behaviour. Note, however, that the existence of this greater "freedom" on the part of the guards is itself an empirical finding since it was not prescribed

à priori.) It is of additional interest to point out that in the only three cases in which verbal exchange involved some individuating reference, it was prisoners who personalised guards.

A total of 32 incidents were observed which involved a verbal threat spoken by one subject to another. Of these, 27 such incidents involved a guard threatening a prisoner. Again, the indulgence of guards in this form of behaviour was significantly greater than the indulgence of prisoners, the observed frequencies deviating significantly from an equal distribution of threats across both groups ($Z = 3.88$, $P < 0.01$).

Guards more often deprecated and insulted prisoners than prisoners did of guards. Of a total of 67 observed incidents, the deprecation-insult was expressed disproportionately by guards to prisoners 61 times; ($Z = 6.72$, $P < 0.01$).

Physical resistance was observed 34 different times. Of these, 32 incidents involved resistance by a prisoner. Thus, as we might expect, at least in this reactive behaviour domain, prisoner responses far exceeded those of the guards ($Z = 5.14$, $P < 0.01$).

The use of some object or instrument in the achievement of an intended purpose or in some interpersonal interaction was observed 29 times. Twenty-three such incidents involved the use of an instrument by a guard rather than a prisoner. This disproportionate frequency is significantly variant from an equal random use by both prisoners and guards ($Z = 316$, $P < 0.01$).

Over time, from day to day, guards were observed to generally escalate their harassment of the prisoners. In particular, a comparison of two of the first prisoner-guard interactions (during the counts) with two of the last counts in the experiment yielded significant differences in: the use of deindividuating references per unit time ($\bar{X}_{t_1} = 0.0$ and $\bar{X}_{t_2} = 5.40$, respectively; $t = 3.65$, $P < 0.10$); the incidence of deprecation-insult per unit time ($\bar{X}_{t_1} = 0.3$ and $\bar{X}_{t_2} = 5.70$, respectively; $t = 3.16$, $P < 0.10$). On the other hand, a temporal analysis of the prisoner video data indicated a general decrease across all categories over time: prisoners came to initiate acts far less frequently and responded (if at all) more passively to the acts of others—they simply *behaved less*.

Although the harassment by the guards escalated overall as the experiment wore on, there was some variation in the extent to which the three different guard shifts contributed to the harassment in general. With the exception of the 2.30 a.m. count, prisoners enjoyed some respite during the late night guard shift (10.00 p.m. to 6.00 a.m.). But they really were "under the gun" during the evening shift. This was obvious in our observations and in subsequent interviews with the prisoners and was also confirmed in analysis of the video tape interactions. Comparing the three different guard shifts, the evening shift was significantly different from the other two in resorting to commands; the means being 9.30 and 4.04, respectively, for standardised units of time ($t = 2.50$, $P < 0.05$). In addition, the guards on this "tough and cruel" shift showed more than twice as many deprecation-insults toward the prisoners (means of 5.17 and

2.29, respectively, $P < 0.20$). They also tended to use instruments more often than other shifts to keep the prisoners in line.

Audio recordings

The audio recordings made throughout the prison simulation afforded one opportunity to systematically collect self-report data from prisoners and guards regarding (among other things) their emotional reactions, their outlook, and their interpersonal evaluations and activities within the experimental setting. Recorded interviews with both prisoners and guards offered evidence that: guards tended to express nearly as much negative outlook and negative self-regard as most prisoners (one concerned guard, in fact, expressed more negative self-regard than any prisoner and more general negative affect than all but one of the prisoners); prisoner interviews were marked by negativity in expressions of affect, self-regard and action intentions (including intent to aggress and negative outlook).

Analysis of the prisoner interviews also gave *post hoc* support to our informal impressions and subjective decisions concerning the differential emotional effects of the experiment upon those prisoners who remained and those who were released early from the study. A comparison of the mean number of expressions of negative outlook, negative affect, negative self-regard and intentions to aggress made by remaining *vs.* released prisoners (per interview) yielded the following results: prisoners released early expressed more negative expectations during interviews than those who remained ($t = 2.32$, $P < 0.10$) and also more negative affect ($t = 2.17$, $P < 0.10$); prisoners released early expressed more negative self-regard, and four times as many "intentions to aggress" as prisoners who remained (although those comparisons fail to reach an acceptable level of significance).

Since we could video-record only public interactions on the "yard", it was of special interest to discover what was occurring among prisoners in private. What were they talking about in the cells—their college life, their vocation, girl friends, what they would do for the remainder of the summer once the experiment was over. We were surprised to discover that fully 90% of all conversations among prisoners were related to prison topics, while only 10% to non-prison topics such as the above. They were most concerned about food, guard harassment, setting up a grievance committee, escape plans, visitors, reactions of prisoners in the other cells and in solitary. Thus, in their private conversations when they might escape the roles they were playing in public, they did not. There was no discontinuity between their presentation of self when under surveillance and when alone.

Even more remarkable was the discovery that the prisoners had begun to adopt and accept the guards' negative attitude toward them. Half of all reported private interactions between prisoners could be classified as non-supportive and non-cooperative. Moreover, when prisoners made evaluative statements of or

expressed regard for, their fellow prisoners, 85% of the time they were uncomplimentary and deprecating. This set of observed frequencies departs significantly from chance expectations based on a conservative binominal probability frequency ($P < 0.01$ for prison *v.* non-prison topics; $P < 0.05$ for negative *v.* positive or neutral regard).

Mood adjective self-reports

Twice during the progress of the experiment each subject was asked to complete a mood adjective checklist and indicate his current affective state. The data gleaned from these self-reports did not lend themselves readily to statistical analysis. However, the trends suggested by simple enumeration are important enough to be included without reference to statistical significance. In these written self-reports, prisoners expressed nearly three times as much negative as positive affect. Prisoners roughly expressed three times as much negative affect as guards. Guards expressed slightly more negative than positive affect. While prisoners expressed about twice as much emotionality as did guards, a comparison of mood self-reports over time reveals that the prisoners showed two to three times as much mood fluctuation as did the relatively stable guards. On the dimension of activity-passivity, prisoners tended to score twice as high, indicating twice as much internal "agitation" as guards (although, as stated above, prisoners were seen to be markedly less active than guards in terms of overt behaviour).

It would seem from these results that while the experience had a categorically negative emotional impact upon both guards and prisoners, the effects upon prisoners were more profound and unstable.

When the mood scales were administered for a third time, just after the subjects were told the study had been terminated (and the early released subjects returned for the debriefing encounter session), marked changes in mood were evident. All of the now "ex-convicts" selected self-descriptive adjectives which characterised their mood as less negative and much more positive. In addition, they now felt less passive than before. There were no longer any differences on the sub-scales of this test between prisoners released early and those who remained throughout. Both groups of subjects had returned to their pre-experimental baselines of emotional responding. This seems to reflect the situational specificity of the depression and stress reactions experienced while in the role of prisoner.

Representative personal statements

Much of the flavour and impact of this prison experience is unavoidably lost in the relatively formal, objective analyses outlined in this paper. The following quotations taken from interviews, conversations and questionnaires provide a more personal view of what it was like to be a prisoner or guard in the "Stanford County Prison" experiment.

Guards

"They [the prisoners] seemed to lose touch with the reality of the experiment—they took me so seriously."

"... I didn't interfere with any of the guards' actions. Usually if what they were doing bothered me, I would walk out and take another duty."

"... looking back, I am impressed by how little I felt for them ..."

"... They [the prisoners] didn't see it as an experiment. It was real and they were fighting to keep their identity. But we were always there to show them just who was boss."

"... I was tired of seeing the prisoners in their rags and smelling the strong odours of their bodies that filled the cells. I watched them tear at each other, on orders given by us."

"... Acting authoritatively can be fun. Power can be a great pleasure."

"... During the inspection, I went to cell 2 to mess up a bed which the prisoner had made and he grabbed me, screaming that he had just made it, and he wasn't going to let me mess it up. He grabbed my throat, and although he was laughing I was pretty scared. I lashed out with my stick and hit him in the chin (although not very hard) and when I freed myself I became angry."

Prisoners

"... The way we were made to degrade ourselves really brought us down and that's why we all sat docile towards the end of the experiment."

"... I realise now (after it's over) that no matter how together I thought I was inside my head, my prison behaviour was often less under my control than I realised. No matter how open, friendly and helpful I was with other prisoners I was still operating as an isolated, self-centred person, being rational rather than compassionate."

"... I began to feel I was losing my identity, that the person I call ————, the person who volunteered to get me into this prison (because it was a prison to me, it *still* is a prison to me, I don't regard it as an experiment or a simulation ...) was distant from me, was remote until finally I wasn't *that* person, I was 416. I was really my number and 416 was really going to have to decide what to do."

"I learned that people can easily forget that others are human."

Debriefing encounter sessions

Because of the unexpectedly intense reactions (such as the above) generated by this mock-prison experience, we decided to terminate the study at the end of six days rather than continue for the second week. Three separate encounter sessions were held, first, for the prisoners, then for the guards and finally for all participants together. Subjects and staff openly discussed their reactions and strong feelings were expressed and shared. We analysed the moral conflicts posed by this experience and used the debriefing sessions to make explicit alternative courses of action that would lead to more moral behaviour in future comparable situations.

Follow-ups on each subject over the year following termination of the study revealed the negative effects of participation had been temporary, while the personal gain to the subjects endured.

Conclusions and Discussion

It should be apparent that the elaborate procedures (and staging) employed by the experimenters to insure a high degree of mundane realism in this mock prison contributed to its effective functional simulation of the psychological dynamics operating in "real" prisons. We observed empirical relationships in the simulated prison environment which were strikingly isomorphic to the internal relations of real prisons, corroborating many of the documented reports of what occurs behind prison walls.

The conferring of differential power on the status of "guard" and "prisoner" constituted, in effect, the institutional validation of those roles. But further, many of the subjects ceased distinguishing between prison role and their prior self-identities. When this occurred, within what was a surprisingly short period of time, we witnessed a sample of normal, healthy American college students fractionate into a group of prison guards who seemed to derive pleasure from insulting, threatening, humiliating and dehumanising their peers—those who by chance selection had been assigned to the "prisoner" role. The typical prisoner syndrome was one of passivity, dependency, depression, helplessness and self-deprecation. Prisoner participation in the social reality which the guards had structured for them lent increasing validity to it and, as the prisoners became resigned to their treatment over time, many acted in ways to justify their fate at the hands of the guards, adopting attitudes and behaviour which helped to sanction their victimisation. Most dramatic and distressing to us was the observation of the ease with which sadistic behaviour could be elicited in individuals who were not "sadistic types" and the frequency with which acute emotional breakdowns could occur in men selected precisely for their emotional stability.

Situational v. *dispositional attribution*

To what can we attribute these deviant behaviour patterns? If these reactions had been observed within the confines of an existing penal institution, it is probable that a dispositional hypothesis would be invoked as an explanation. Some cruel guards might be singled out as sadistic or passive-aggressive personality types who chose to work in a correctional institution because of the outlets provided for sanctioned aggression. Aberrant reactions on the part of the inmate population would likewise be viewed as an extrapolation from the prior social histories of these men as violent, anti-social, psychopathic, unstable character types.

Existing penal institutions may be viewed as *natural experiments* in social control in which any attempts at providing a causal attribution for observed behaviour hopelessly confound dispositional and situational causes. In contrast, the design of our study minimised the utility of trait or prior social history explanations by means of judicious subject selection and random assignment to roles. Considerable effort and care went into determining the composition of the

final subject population from which our guards and prisoners were drawn. Through case histories, personal interviews and a battery of personality tests, the subjects chosen to participate manifested no apparent abnormalities, anti-social tendencies or social backgrounds which were other than exemplary. On every one of the scores of the diagnostic tests each subject scored within the normal-average range. Our subjects then, were highly representative of middle-class, Caucasian American society (17 to 30 years in age), although above average in both intelligence and emotional stability.

Nevertheless, in less than one week their *behaviour* in this simulated prison could be characterised as pathological and anti-social. The negative, anti-social reactions observed were not the product of an environment created by combining a collection of deviant personalities, but rather, the result of an intrinsically pathological situation which could distort and rechannel the behaviour of essentially normal individuals. The abnormality here resided in the psychological nature of the situation and not in those who passed through it. Thus, we offer another instance in support of Mischel's [4] social-learning analysis of the power of situational variables to shape complex social behaviour. Our results are also congruent with those of Milgram [5] who most convincingly demonstrated the proposition that evil acts are not necessarily the deeds of evil men, but may be attributable to the operation of powerful social forces. Our findings go one step further, however, in removing the immediate presence of the dominant experimenter-authority figure, giving the subjects-as-guards a freer range of behavioural alternatives, and involving the participants for a much more extended period of time.

Despite the evidence favouring a situational causal analysis in this experiment, it should be clear that the research design actually *minimised* the effects of individual differences by use of a homogenous middle-range subject population. It did not allow the strongest possible test of the relative utility of the two types of explanation. We cannot say that personality differences do not have an important effect on behaviour in situations such as the one reported here. Rather, we may assert that the variance in behaviour observed could be reliably attributed to variations in situational rather than personality variables. The inherently pathological characteristics of the prison situation itself, at least as functionally simulated in our study, were a *sufficient* condition to produce aberrant, anti-social behaviour. (An alternative design which would maximise the potential operation of personality or dispositional variables would assign subjects who were extreme on pre-selected personality dimensions to each of the two experimental treatments. Such a design would, however, require a larger subject population and more resources than we had available.)

The failure of personality assessment variables to reliably discriminate the various patterns of prison behaviour, guard reactions as well as prisoner coping styles is reminiscent of the inability of personality tests to contribute to an understanding of the psychological differences between American P.O.W.s in Korea who succumbed to alleged Chinese Communist brain-washing by

"collaborating with the enemy" and those who resisted [6]. It seems to us that there is little reason to expect paper-and-pencil behavioural reactions on personality tests taken under "normal" conditions to generalise into coping behaviours under novel, stressful or abnormal environmental conditions. It may be that the best predictor of behaviour in situations of stress and power, as occurs in prisons, is overt behaviour in functionally comparable simulated environments.

In the situation of imprisonment faced by our subjects, despite the potent situational control, individual differences were nevertheless manifested both in coping styles among the prisoners and in the extent and type of aggression and exercise of power among the guards. Personality variables, conceived as learned behaviour styles can act as moderator variables in allaying or intensifying the impact of social situational variables. Their predictive utility depends upon acknowledging the inter-active relationship of such learned dispositional tendencies with the eliciting force of the situational variables.

Reality of the simulation

At this point it seems necessary to confront the critical question of "reality" in the simulated prison environment: were the behaviours observed more than the mere acting out assigned roles convincingly? To be sure, ethical, legal and practical considerations set limits upon the degree to which this situation could approach the conditions existing in actual prisons and penitentiaries. Necessarily absent were some of the most salient aspects of prison life reported by criminologists and documented in the writing of prisoners [7, 8]. There was no involuntary homosexuality, no racism, no physical beatings, no threat to life by prisoners against each other or the guards. Moreover, the maximum anticipated "sentence" was only two weeks and, unlike some prison systems, could not be extended indefinitely for infractions of the internal operating rules of the prison.

In one sense, the profound psychological effects we observed under the relatively minimal prison-like conditions which existed in our mock prison make the results even more significant and force us to wonder about the devastating impact of chronic incarceration in real prisons. Nevertheless, we must contend with the criticism that the conditions which prevailed in the mock prison were too minimal to provide a meaningful analogue to existing prisons. It is necessary to demonstrate that the participants in this experiment transcended the conscious limits of their preconceived stereotyped roles and their awareness of the artificiality and limited duration of imprisonment. We feel there is abundant evidence that virtually all of the subjects at one time or another experienced reactions which went well beyond the surface demands of role-playing and penetrated the deep structure of the psychology of imprisonment.

Although instructions about how to behave in the roles of guard or prisoner were not explicitly defined, demand characteristics in the experiment obviously exerted some directing influence. Therefore, it is enlightening to look to

circumstances where role demands were minimal, where the subjects believed they were not being observed, or where they should not have been behaving under the constraints imposed by their roles (as in "private" situations), in order to assess whether the role behaviours reflected anything more than public conformity or good acting.

When the private conversations of the prisoners were monitored, we learned that almost all (a full 90%) of what they talked about was directly related to immediate prison conditions, that is, food, privileges, punishment, guard harassment, etc. Only one-tenth of the time did their conversations deal with their life outside the prison. Consequently, although they had lived together under such intense conditions, the prisoners knew surprisingly little about each other's past history or future plans. This excessive concentration on the vicissitudes of their current situation helped to make the prison experience more oppressive for the prisoners because, instead of escaping from it when they had a chance to do so in the privacy of their cells, the prisoners continued to allow it to dominate their thoughts and social relations. The guards too, rarely exchanged personal information during their relaxation breaks. They either talked about "problem prisoners", or other prison topics, or did not talk at all. There were few instances of any personal communication across the two role groups. Moreover, when prisoners referred to other prisoners during interviews, they typically deprecated each other, seemingly adopting the guards' negative attitude.

From post-experimental data, we discovered that when individual guards were alone with solitary prisoners and out of range of any recording equipment, as on the way to or in the toilet, harassment often was greater than it was on the "Yard". Similarly, video-taped analyses of total guard aggression showed a daily escalation even after most prisoners had ceased resisting and prisoner deterioration had become visibly obvious to them. Thus guard aggression was no longer elicited as it was initially in response to perceived threats, but was emitted simply as a "natural" consequence of being in the uniform of a "guard" and asserting the power inherent in that role. In specific instances we noted cases of a guard (who did not know he was being observed) in the early morning hours pacing the "Yard" as the prisoners slept—vigorously pounding his night stick into his hand while he "kept watch" over his captives. Or another guard who detained an "incorrigible" prisoner in solitary confinement beyond the duration set by the guards' own rules and then he conspired to keep him in the hole all night while attempting to conceal this information from the experimenters who were thought to be too soft on the prisoners.

In passing, we may note an additional point about the nature of role-playing and the extent to which actual behaviour is "explained away" by reference to it. It will be recalled that many guards continued to intensify their harassment and aggressive behaviour even after the second day of the study, when prisoner deterioration became marked and visible and emotional breakdowns began to occur (in the presence of the guards). When questioned after the study about their persistent affrontive and harrassing behaviour in the face of prisoner

emotional trauma, most guards replied that they were "just playing the role" of a tough guard, although none ever doubted the magnitude or validity of the prisoners' emotional response. The reader may wish to consider to what extremes an individual may go, how great must be the consequences of his behaviour for others, before he can no longer rightfully attribute his actions to "playing a role" and thereby abdicate responsibility.

When introduced to a Catholic priest, many of the role-playing prisoners referred to themselves by their prison number rather than their Christian names. Some even asked him to get a lawyer to help them get out. When a public defender was summoned to interview those prisoners who had not yet been released, almost all of them strenuously demanded that he "bail" them out immediately.

One of the most remarkable incidents of the study occurred during a parole board hearing when each of five prisoners eligible for parole was asked by the senior author whether he would be willing to forfeit all the money earned as a prisoner if he were to be paroled (released from the study). Three of the five prisoners said, "yes", they would be willing to do this. Notice that the original incentive for participating in the study had been the promise of money, and they were, after only four days, prepared to give this up completely. And, more suprisingly, when told that this possibility would have to be discussed with the members of the staff before a decision could be made, each prisoner got up quietly and was escorted by a guard back to his cell. If they regarded themselves simply as "subjects" participating in an experiment for money, there was no longer any incentive to remain in the study and they could have easily escaped this situation which had so clearly become aversive for them by quitting. Yet, so powerful was the control which the situation had come to have over them, so much a reality had this simulated environment become, that they were unable to see that their original and singular motive for remaining no longer obtained, and they returned to their cells to await a "parole" decision by their captors.

The reality of the prison was also attested to by our prison consultant who had spent over 16 years in prison, as well as the priest who had been a prison chaplain and the public defender who were all brought into direct contact with out simulated prison environment. Further, the depressed affect of the prisoners, the guards' willingness to work overtime for no additional pay, the spontaneous use of prison titles and I.D. numbers in non role-related situations all point to a level of reality as real as any other in the lives of all those who shared this experience.

To understand how an illusion of imprisonment could have become so real, we need now to consider the uses of power by the guards as well as the effects of such power in shaping the prisoner mentality.

Pathology of power

Being a guard carried with it social status within the prison, a group identity (when wearing the uniform) and above all, the freedom to exercise an unprecedented degree of control over the lives of other human beings. This

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Pathology of power

Being a guard carried with it social status within the prison, a group identity (when wearing the uniform), and above all, the freedom to exercise an unprecedented degree of control over the lives of other human beings. This

control was invariably expressed in terms of sanctions, punishment, demands and with the threat of manifest physical power. There was no need for the guards to rationally justify a request as they do in their ordinary life and merely to make a demand was sufficient to have it carried out. Many of the guards showed in their behaviour and revealed in post-experimental statements that this sense of power was exhilarating.

The use of power was self-aggrandising and self-perpetuating. The guard power, derived initially from an arbitrary label, was intensified whenever there was any perceived threat by the prisoners and this new level subsequently became the baseline from which further hostility and harassment would begin. The most hostile guards on each shift moved spontaneously into the leadership roles of giving orders and deciding on punishments. They became role models whose behaviour was emulated by other members of the shift. Despite minimal contact between the three separate guard shifts and nearly 16 hours a day spent away from the prison, the absolute level of aggression as well as more subtle and "creative" forms of aggression manifested, increased in a spiralling function. Not to be tough and arrogant was to be seen as a sign of weakness by the guards and even those "good" guards who did not get as drawn into the power syndrome as the others respected the implicit norm of *never* contradicting or even interfering with an action of a more hostile guard on their shift.

After the first day of the study, practically all prisoner's rights (even such things as the time and conditions of sleeping and eating) came to be redefined by the guards as "privileges" which were to be earned for obedient behaviour. Constructive activities such as watching movies or reading (previously planned and suggested by the experimenters) were arbitrarily cancelled until further notice by the guards--and were subsequently never allowed. "Reward", then became granting approval for prisoners to eat, sleep, go to the toilet, talk, smoke a cigarette, wear glasses or the temporary diminution of harassment. One wonders about the conceptual nature of "positive" reinforcement when subjects are in such conditions of deprivation, and the extent to which even minimally acceptable conditions become rewarding when experienced in the context of such an impoverished environment.

We might also question whether there are meaningful non-violent alternatives as models for behaviour modification in real prisons. In a world where men are either powerful or powerless, everyone learns to despise the lack of power in others and in oneself. It seems to us, that prisoners learn to admire power for its own sake—power becoming the ultimate reward. Real prisoners soon learn the means to gain power whether through ingratiation, informing, sexual control of other prisoners or development of powerful cliques. When they are released from prison, it is unlikely they will ever want to feel so powerless again and will take action to establish and assert a sense of power.

The pathological prisoner syndrome

Various coping strategies were employed by our prisoners as they began to react to their perceived loss of personal identity and the arbitrary control of their

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lives. At first they exhibited disbelief at the total invasion of their privacy, constant surveillance and atmosphere of oppression in which they were living. Their next response was rebellion, first by the use of direct force, and later with subtle divisive tactics designed to foster distrust among the prisoners. They then tried to work within the system by setting up an elected grievance committee. When that collective action failed to produce meaningful changes in their existence, individual self-interests emerged. The breakdown in prisoner cohesion was the start of social disintegration which gave rise not only to feelings of isolation but deprecation of other prisoners as well. As noted before, half the prisoners coped with the prison situation by becoming extremely disturbed emotionally—as a passive way of demanding attention and help. Others became excessively obedient in trying to be "good" prisoners. They sided with the guards against a solitary fellow prisoner who coped with his situation by refusing to eat. Instead of supporting this final and major act of rebellion, the prisoners treated him as a trouble-maker who deserved to be punished for his disobedience. It is likely that the negative self-regard among the prisoners noted by the end of the study was the product of their coming to believe that the continued hostility toward all of them was justified because they "deserved it" [9]. As the days wore on, the model prisoner reaction was one of passivity, dependence and flattened affect.

Let us briefly consider some of the relevant processes involved in bringing about these reactions.

Loss of personal identity. Identity is, for most people, conferred by social recognition of one's uniqueness, and established through one's name, dress, appearance, behaviour style and history. Living among strangers who do not know your name or history (who refer to you only by number), dressed in a uniform exactly like all other prisoners, not wanting to call attention to one's self because of the unpredictable consequences it might provoke—all led to a weakening of self identity among the prisoners. As they began to lose initiative and emotional responsivity, while acting ever more compliantly, indeed, the prisoners became deindividuated not only to the guards and the observers, but also to themselves.

Arbitrary control. On post-experimental questionnaires, the most frequently mentioned aversive aspect of the prison experience was that of being subjugated to the apparently arbitrary, capricious decisions and rules of the guards. A question by a prisoner as often elicited derogation and aggression as it did a rational answer. Smiling at a joke could be punished in the same way that failing to smile might be. An individual acting in defiance of the rules could bring punishment to innocent cell partners (who became, in effect, "mutually yoked controls"), to himself, or to all.

As the environment became more unpredictable, and previously learned assumptions about a just and orderly world were no longer functional, prisoners ceased to initiate any action. They moved about on orders and when in their cells rarely engaged in any purposeful activity. Their zombie-like reaction was the functional equivalent of the learned helplessness phenomenon reported by

Seligman and Groves [10]. Since their behaviour did not seem to have any contingent relationship to environmental consequences, the prisoners essentially gave up and stopped behaving. Thus the subjective magnitude of aversiveness was manipulated by the guards not in terms of physical punishment but rather by controlling the psychological dimension of environmental predictability [11].

Dependency and emasculation. The network of dependency relations established by the guards not only promoted helplessness in the prisoners but served to emasculate them as well. The arbitrary control by the guards put the prisoners at their mercy for even the daily, commonplace functions like going to the toilet. To do so, required publicly obtained permission (not always granted) and then a personal escort to the toilet while blindfolded and handcuffed. The same was true for many other activities ordinarily practised spontaneously without thought, such as lighting up a cigarette, reading a novel, writing a letter, drinking a glass of water or brushing one's teeth. These were all privileged activities requiring permission and necessitating a prior show of good behaviour. These low level dependencies engendered a regressive orientation in the prisoners. Their dependency was defined in terms of the extent of the domain of control over all aspects of their lives which they allowed other individuals (the guards and prison staff) to exercise.

As in real prisons, the assertive, independent, aggressive nature of male prisoners posed a threat which was overcome by a variety of tactics. The prisoner uniforms resembled smocks or dresses, which made them look silly and enabled the guards to refer to them as "sissies" or "girls". Wearing these uniforms without any underclothes forced the prisoners to move and sit in unfamiliar, feminine postures. Any sign of individual rebellion was labelled as indicative of "incorrigibility" and resulted in loss of privileges, solitary confinement, humiliation or punishment of cell mates. Physically smaller guards were able to induce stronger prisoners to act foolishly and obediently. Prisoners were encouraged to belittle each other publicly during the counts. These and other tactics all served to engender in the prisoners a lessened sense of their masculinity (as defined by their external culture). It follows then, that although the prisoners usually outnumbered the guards during line-ups and counts (nine *v.* three) there never was an attempt to directly overpower them. (Interestingly, after the study was terminated, the prisoners expressed the belief that the basis for assignment to guard and prisoner groups was physical size. They perceived the guards were "bigger", when, in fact, there was no difference in average height or weight between these randomly determined groups.)

In conclusion, we believe this demonstration reveals new dimensions in the social psychology of imprisonment worth pursuing in future research. In addition, this research provides a paradigm and information base for studying alternatives to existing guard training, as well as for questioning the basic operating principles on which penal institutions rest. If our mock prison could generate the extent of pathology it did in such a short time, then the punishment of being imprisoned in a real prison does not "fit the crime" for

most prisoners—indeed, it far exceeds it! Moreover, since prisoners and guards are locked into a dynamic, symbiotic relationship which is destructive to their human nature, guards are also society's prisoners.

Shortly after our study was terminated, the indiscriminate killings at San Quentin and Attica occurred, emphasising the urgency for prison reforms that recognise the dignity and humanity of both prisoners and guards who are constantly forced into one of the most intimate and potentially deadly encounters known to man.

Acknowledgments

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References

1 T. W. Adorno, E. Frenkel-Brunswick, D. J. Levinson & R. N. Sanford. *The Authoritarian Personality*. New York, Harper. 1950.
2 R. Christie & F. L. Geis (Eds). *Studies in Machiavellianism*. New York, Academic Press. 1970.
3 A. L. Comrey. *Comrey Personality Scales*. San Diego, Educational and Industrial Testing Service. 1970.
4 W. Mischel. *Personality and Assessment*. New York, Wiley. 1968.
5 S. Milgram. Some conditions of obedience and disobedience to authority, *Human Relations* 1965, 18(1), 57-76.
6 G. Jackson. *Soledad Brother: the Prison Letters of George Jackson*. New York, Bantam Books. 1970.
7 E. Schein. *Coercive Persuasion*. New York, Norton. 1961.
8 H. Charrière. *Papillion*. Paris, Robert Laffont. 1969.
9 E. Walster. Assignment of responsibility for an accident, *Journal of Personality and Social Psychology* 1966, 3(1), 73-79.
10 M. E. Seligman & D. P. Groves. Nontransient learned helplessness, *Psychonomic Science* 1970, 19(3), 191-192.
11 D. C. Glass & J. E. Singer. Behavioural after effects of unpredictable and uncontrollable aversive events, *American Scientist* 1972, 6(4), 457-465.

APPENDIX B

The New York Times Magazine/April 8, 1973

Contents

The mind is a formidable jailer

A Pirandellian prison

The following article is the result of a research project at Stanford University conducted by Philip G. Zimbardo, professor of psychology, and three graduate-student colleagues: W. Curtis Banks, Craig Haney and David Jaffe.

In prison, those things withheld from and denied to the prisoner become precisely what he wants most of all.
—Eldridge Cleaver, "Soul on Ice."

Our sense of power is more vivid when we break a man's spirit than when we win his heart.
—Eric Hoffer, "The Passionate State of Mind."

Every prison that men build is built with bricks of shame,/ and bound with bars lest Christ should see how men their brothers maim.
—Oscar Wilde, "The Ballad of Reading Gaol."

Wherever anyone is against his will that is to him a prison. —Epictetus, "Discourses."

The quiet of a summer morning in Palo Alto, Calif., was shattered by a screeching squad car siren as police swept through the city picking up college students in a surprise mass arrest. Each suspect was charged with a felony, warned of his constitutional rights, spread-eagled against the car, searched, handcuffed and carted off in the back seat of the squad car to the police station for booking.

After fingerprinting and the preparation of identification forms for his "jacket" (central information file), each prisoner was left isolated in a detention cell to wonder what he had done to get himself into this mess. After a while, he was blindfolded and transported to the "Stanford County Prison." Here he began the process of becoming a prisoner—stripped naked, skin-searched, deloused and issued a uniform, bedding, soap and towel.

The warden offered an impromptu welcome:

"As you probably know, I'm your warden. All of you have shown that you are unable to function outside in the real world for one reason or another—that somehow you lack the responsibility of good citizens of this great country. We of this prison, your correctional staff, are going to help you learn what your responsibilities as citizens of this country are. Here are the rules. Sometime in the near future there will be a copy of the rules posted in each of the cells. We expect you to know them and to be able to recite them by number. If you follow all of these rules and keep your hands clean, repent for your misdeeds and show a proper attitude of penitence, you and I will get along just fine."

There followed a reading of the 16 basic rules of prisoner conduct. "Rule Number One: Prisoners must remain silent during rest periods, after lights are out, during meals and whenever they are outside the prison yard. Two: Prisoners must eat at mealtimes and only at mealtimes. Three: Prisoners must not move, tamper, deface or damage walls, ceilings, windows, doors, or other prison property. . . . Seven: Prisoners must address each other by their ID number only. Eight: Prisoners must address the guards as 'Mr. Correctional Officer.' . . . Sixteen: Failure to obey any of the above rules may result in punishment."

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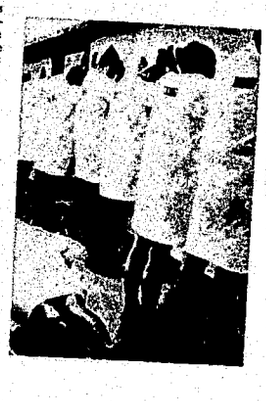

Snapshots of mock-prison life: Above, a guard in uniform, a naked prisoner; left, prisoners blinded with bags await a parole-board hearing; below, the oppressiveness of line-ups and ankle chains; bottom, a new prisoner is ushered to his cell.

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The mind is a formidable jailer

A Pirandellian prison

The following article is the result of a research project at Stanford University conducted by Philip G. Zimbardo, professor of psychology, and three graduate-student colleagues: W. Curtis Banks, Craig Haney and David Jaffe.

In prison, those things withheld from and denied to the prisoner become precisely what he wants most of all.
—Eldridge Cleaver, "Soul on Ice."

Our sense of power is more vivid when we break a man's spirit than when we win his heart.
—Eric Hoffer, "The Passionate State of Mind."

Every prison that men build is built with bricks of shame, and bound with bars lest Christ should see how men their brothers maim.
—Oscar Wilde, "The Ballad of Reading Gaol."

Wherever anyone is against his will that is to him a prison. —Epictetus, "Discourses."

The quiet of a summer morning in Palo Alto, Calif., was shattered by a screeching squad car siren as police swept through the city picking up college students in a surprise mass arrest. Each suspect was charged with a felony, warned of his constitutional rights, spread-eagled against the car, searched, handcuffed and carted off in the back seat of the squad car to the police station for booking.

After fingerprinting and the preparation of identification forms for his "jacket" (central information file), each prisoner was left isolated in a detention cell to wonder what he had done to get himself into this mess. After a while, he was blindfolded and transported to the "Stanford County Prison." Here he began the process of becoming a prisoner—stripped naked, skin-searched, deloused and issued a uniform, bedding, soap and towel.

The warden offered an impromptu welcome:

"As you probably know, I'm your warden. All of you have shown that you are unable to function outside in the real world for one reason or another—that somehow you lack the responsibility of good citizens of this great country. We of this prison, your correctional staff, are going to help you learn what your responsibilities as citizens of this country are. Here are the rules. Sometime in the near future there will be a copy of the rules posted in each of the cells. We expect you to know them and to be able to recite them by number. If you follow all of these rules and keep your hands clean, repent for your misdeeds and show a proper attitude of penitence, you and I will get along just fine."

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"main gate." Although our guards received no formal training from us in how to be guards, for the most part they moved with apparent ease into their roles. The media had already provided them with ample models of prison guards to emulate.

Because we were as interested in the guards' behavior as in the prisoners', they were given considerable latitude to improvise and to develop strategies and tactics of prisoner management. Our guards were told that they must maintain "law and order" in this prison, that they were responsible for handling any trouble that might break out, and they were cautioned about the seriousness and potential dangers of the situation they were about to enter. Surprisingly, in most prison systems, "real" guards are not given much more psychological preparation or adequate training than this for what is one of the most complex, demanding and dangerous jobs our society has to offer. They are expected to learn how to adjust to their new employment mostly from on-the-job experience, and from contacts with the "old butts" during a survival-of-the-fittest orientation period. According to an orientation manual for correctional officers at San Quentin, "the only way you really get to know San Quentin is through experience and time. Some of us take more time and must go through more experiences than others to accomplish this; some really never do get there."

You cannot be a prisoner if no one will be your guard, and you cannot be a prison guard if no one takes you or your prison seriously. Therefore, over time a perverted symbiotic relationship developed. As the guards became more aggressive, prisoners became more passive; assertion by the guards led to dependency in the prisoners; self-aggrandizement was met with self-deprecation, authority with helplessness, and the counterpart of the guards' sense of mastery and control was the depression and hopelessness witnessed in the prisoners. As these differences in behavior, mood and perception became more evident to all, the need for the now "righteously" powerful guards to rule the obviously inferior and powerless inmates became a sufficient reason to support almost any further indignity of man against man:

Guard K: "During the inspection, I went to cell 2 to mess up a bed which the prisoner had made and he grabbed me, screaming that he had just made it, and he wasn't going to let me mess it up. He grabbed my throat, and although he was laughing I was pretty scared. . . . I lashed out with my stick and hit him in the chin (although not very hard), and when I freed myself I became angry. I wanted to get back in the cell and have a go with him, since he attacked me when I was not ready."

Guard M: "I was surprised at myself . . . I made them call each other names and clean the toilets out with their bare hands. I practically considered the prisoners cattle, and I kept thinking: 'I have to watch out for them in case they try something.'"

Guard A: "I was tired of seeing the prisoners in their rags and smelling the strong odors of their bodies that filled the cells. I watched them tear at each other on orders given by us. They didn't see it as an experiment. It was real and they were fighting to keep their identity. But we were always there to show them who was boss."

Power takes as ingratitude
the writhing of its victims.
—Rabindranath Tagore,
"Stray Birds."

Because the first day passed without incident, we were surprised and totally unprepared for the rebellion that broke out on the morning of the second day. The prisoners removed their stocking caps, ripped off their numbers and barricaded themselves inside the cells by putting their beds against the doors. What should we do? The guards were very much upset because the prisoners also began to taunt and curse them to their faces. When the morning shift of guards came on, they were upset at the night shift who, they felt, must have been too permissive and too lenient. The guards had to handle the rebellion themselves, and what they did was startling to behold.

At first they insisted that reinforcements be called in. The two guards who were waiting on stand-by call at home came in, and the night shift of guards voluntarily remained on duty (without extra pay) to bolster the morning shift. The guards met and decided to treat force with force. They got a fire extinguisher that shot a stream of skin-chilling carbon dioxide and forced the prisoners away from the doors; they broke into each cell, stripped the prisoners naked, took the beds out, forced the prisoners who were the ringleaders into solitary confinement and generally began to harass and intimidate the prisoners.

After crushing the rebellion, guards decided to head off further unrest by creating a privileged cell for those who were "good prisoners" and then, without explanation, switching some of the troublemakers into it and some of the good prisoners out into the other cells. The prisoner ringleaders could not trust these new cellmates because they had not joined in the riot and might even be "snitches." The prisoners never again acted in unity against the system. One of the leaders of the prisoner revolt later confided:

"If we had gotten together then, I think we could have taken over the place. But when I saw the revolt wasn't working, I decided to toe the line. Everyone settled into the same pattern. From then on, we were really controlled by the guards."

It was after this episode that the guards really began to demonstrate their inventiveness in the application of arbitrary power. They made the prisoners obey petty, meaningless and often inconsistent rules, forced them to engage in tedious, useless work, such as moving cartons back and forth between closets and picking them out of their blankets for hours on end. (The guards had previously dragged the blankets through thorny bushes to create this disagreeable task.) Not only did the prisoners have to sing songs or laugh or refrain from smiling on command, they were also encouraged to curse and vilify each other publicly during some of the counts. They sounded off their numbers endlessly and were repeatedly made to do push-ups, on occasion with a guard stepping on them or a prisoner sitting on them.

Slowly the prisoners became resigned to their fate and even behaved in ways that actually helped to justify their dehumanizing treatment at the hands of the guards. Analysis of the tape-recorded private conversations between prisoners and of remarks made by them to interviewers revealed that fully half could be classified as nonsupportive of other prisoners. More dramatic, 90 percent of the evaluative comments by prisoners about their fellow prisoners were uncomplimentary and deprecating.

This should be taken in the context of an even more surprising result. What do you imagine the prisoners talked about when they were alone in their cells with each other, given a temporary respite from the continual harassment and surveillance by the guards? Girl friends, career plans, hobbies or politics?

No, their concerns were almost exclusively riveted to prison topics. Their monitored conversations revealed that only 10 per cent of the time they discussed escape plans, the awful food, grievances or ingratiation tactics to use with specific guards in order to get a cigarette, permission to go to the toilet or some other favor. Their obsession with these immediate survival concerns made talk about the past and future an idle luxury.

And this was not a minor point. So long as the prisoners did not get to know each other as people, they only extended the oppressiveness and reality of their life as prisoners. For the most part, each prisoner observed his fellow prisoners allowing the guards to humiliate them, acting like compliant sheep, carrying out mindless orders with total obedience and even being cursed by fellow prisoners (at a guard's command). Under such circumstances, how could a prisoner have respect for his fellows, or any self-respect for what he obviously was becoming in the eyes of all those evaluating him?

Life is the art of being well
deceived; and in order that the
deception may succeed it must
be habitual and uninterrupted.
—William Hazlitt,
"On Pedantry,"
in "The Round Table."

The combination of realism and symbolism in this experiment had fused to create a vivid illusion of imprisonment. The illusion merged inextricably with reality for at least some of the time for every individual in the situation. It was remarkable how readily we all slipped into our roles, temporarily gave up our identities and allowed these assigned roles and the social forces in the situation to guide, shape and eventually to control our freedom of thought and action.

But precisely where does one's "identity" end and one's "role" begin? When the private self and the public role behavior clash, what direction will attempts to impose consistency take? Consider the reactions of the parents, relatives and friends of the prisoners who visited their forlorn sons, brothers and lovers during two scheduled visitors' hours. They were taught in short order that they were our guests, allowed the privilege of visiting only by complying with the regulations of the institution. They had to register, were made to wait half an hour, were told that only two visitors could see any one prisoner; the total visiting time was cut from an hour to only 10 minutes, they had to be under the surveillance of a guard, and before any parents could enter the visiting area, they had to discuss their son's case with the warden. Of course they complained about these arbitrary rules, but their conditioned, middle-class reaction was to work within the system to appeal privately to the superintendent to make conditions better for their prisoners.

In less than 36 hours, we were forced to release prisoner 8612 because of extreme depression, disorganized thinking, uncontrollable crying and fits of rage. We did so reluctantly because we believed he was trying to "con" us—it was unimaginable that a volunteer prisoner in a mock prison could legitimately be suffering and disturbed to that extent. But then on each of the next three days another prisoner reacted with similar anxiety symptoms, and we were forced to terminate them, too. In a fifth case, a prisoner was released after developing a psychosomatic rash over his entire body (triggered by rejection of his parole appeal by the mock parole board). These men were simply unable to make an adequate adjustment to prison life. Those who endured the prison experience to the end could be distinguished from those who broke down and were released early in only one dimension—authoritarianism. On a psychological test designed to reveal a person's authoritarianism, those prisoners who had the highest scores were best able to function in this authoritarian prison environment.

If the authoritarian situation became a serious matter for the prisoners, it became even more serious—and sinister—for the guards. Typically, the guards insulted the prisoners, threatened them, were physically aggressive, used instruments (night sticks, fire extinguishers, etc.) to keep the prisoners in line and referred to them in impersonal, anonymous, deprecating ways: "Hey, you," or "You [obscenity], 5401, come here." From the first to the last day, there was a significant increase in the guards' use of most of these domineering, abusive tactics.

Everyone and everything in the prison was defined by power. To be a guard who did not take advantage of this institutionally sanctioned use of power was to appear "weak," "out of it," "wired up by the prisoners," or simply a deviant from the established norms of appropriate guard behavior. Using Erich Fromm's definition of sadism, as "the wish for absolute control over another living being," all of the mock guards at one time or another during this study behaved sadistically toward the prisoners. Many of them reported—in their diaries, on critical-incident report forms and during post-experimental interviews—being delighted in the new-found power and control they exercised and sorry to see it relinquished at the end of the study.

Some of the guards reacted to the situation in the extreme and behaved with great hostility and cruelty in the forms of degradation they invented for the prisoners. But others were kinder; they occasionally did little favors for the prisoners, were reluctant to punish them, and avoided situations where prisoners were being harassed. The torment experienced by one of these good guards is obvious in his perceptive analysis of what it felt like to be responded to as a "guard":

"What made the experience most depressing for me was the fact that we were continually called upon to act in a way that just was contrary to what I really feel inside. I don't feel like I'm the type of person that would be a guard, just constantly giving out . . . and forcing people to do things, and pushing and lying—it just didn't seem like me, and to continually keep up and put on a face like that is just really one of the most oppressive things you can do. It's almost like a prison that you create yourself—you get into it, and it becomes almost the definition you make of yourself, it almost becomes like walls, and you want to break out and you want just to be able to tell everyone that 'this isn't really me at all, and I'm not the person that's confined in there'—I'm a person who wants to get out and show you that I am free, and I do have my own will, and I'm not the sadistic type of person that enjoys this kind of thing.'"

Still, the behavior of these good guards seemed more motivated by a desire to be liked by everyone in the system than by a concern for the inmates' welfare. No guard ever intervened in any direct way on behalf of the prisoners, ever interfered with the orders of the cruelest guards or ever openly complained about the subhuman quality of life that characterized this prison.

Perhaps the most devastating impact of the more hostile guards was their creation of a capricious, arbitrary environment. Over time the prisoners began to react passively. When our mock prisoners asked questions, they got answers about half the time, but the rest of the time they were insulted and punished—and it was not possible for them to predict which would be the outcome. As they began to "toe the line," they stopped resisting, questioning and, indeed, almost ceased responding altogether. There was a general decrease in all categories of response as they learned the safest strategy to use in an unpredictable, threatening environment from which there is no physical escape—do nothing, except what is required. Act not, want not, feel not and you will not get into trouble in prisonlike situations.

And the only way to really
make it with the bosses [in
Texas prisons] is to withdraw
into yourself, both mentally
and physically—literally mak-
ing yourself as small as pos-
sible. It's another way they
dehumanize you. They want
you to make no waves in
prison and they want you to
make no waves when you get
out.
—Mike Middleton, ex-con,
The Christian Science Monitor.

Can it really be, you wonder, that intelligent, educated volunteers could have lost sight of the reality that they were merely acting a part in an elaborate game that would eventually end? There are many indications not only that they did, but that, in addition, so did we and so did other apparently sensible, responsible adults.

Prisoner 819, who had

Voice from the real world

Professor Zimbardo's research into the psychology of prisons has put him in touch with many real prisoners. Here are excerpts from a convict's letter.

I was recently released from "solitary confinement" after being held therein for 37 months. A silent system was imposed upon me and to even "whisper" to a man in the next cell resulted in being beaten by guards, sprayed with chemical Mace, blackjacked, stomped and thrown into a "strip-cell" naked to sleep on a concrete floor without bedding, covering, wash basin, or even a toilet. The floor served as toilet and bed, and even there the "silent system" was enforced. To let a "moan" escape your lips because of the pain and discomfort . . . resulted in another beating. I spent not days, but months there during my 37 months in solitary . . . I have filed every writ possible against the administrative acts of brutality. The state courts have all denied the petition. Because of my refusal to let "things die down" and "forget" all that happened during my 37 months in solitary . . . I am the most hated prisoner in ——— Penitentiary, and called a "hard-core incorrigible."

Professor Zimbardo, maybe I am an incorrigible, but if true, it's because I would rather die than to accept being treated less than a human being. I have never complained of my prison sentence as being unjustified except through legal means of appeals. I have never put a knife on a guard's throat and demanded my release. I know that thieves must be punished and I don't think I will be a thief when I am released. No, I'm not rehabilitated. It's just that I no longer think of becoming wealthy by stealing. I now only think of "killing." Killing those who have beaten me and treated me as if I were a dog. I hope and pray for the sake of my own soul and future life of freedom, that I am able to overcome the bitterness and hatred which eats daily at my soul, but I know to overcome it will not be easy.

Professor Zimbardo, as "superintendent" of the mock prison meets with a group of "prisoners" in numbered smocks.

gone into a rage followed by an uncontrollable crying fit, was about to be prematurely released from the prison when a guard lined up the prisoners and had them chant in unison, "819 is a bad prisoner, Because of what 819 did to prison property we all must suffer. 819 is a bad prisoner." Over and over again. When we realized 819 might be overhearing this, we rushed into the room where 819 was supposed to be resting, only to find him in tears, prepared to go back into the prison because he could not leave as long as the others thought he was a "bad prisoner." Sick as he felt, he had to prove to them he was not a "bad" prisoner. He had to be persuaded that he was not a prisoner at all, that the others were also just students, that this was just an experiment and not a prison and the prison staff were only research psychologists. A report from the warden notes: "While I believe that it was necessary for staff [me] to enact the warden role, at least some of the time, I am startled by the ease with which I could turn off my sensitivity and concern for others for 'a good cause.'"

Consider our overreaction to the rumor of a mass escape plot that one of the guards claimed to have overheard. It went as follows: Prisoner 8612, previously released for emotional disturbance, was only faking. He was going to round up a bunch of his friends, and they would storm the prison right after visiting hours. Instead of collecting data on the pattern of rumor transmission, we made plans to maintain the security of our institution. After putting a confederate informer into the cell 8612 had occupied to get specific information about the escape plans, the superintendent went back to the Palo Alto Police Department to request transfer of our prisoners to the old city jail. His impassioned plea was only turned down at the last minute when the problem of insurance and city liability for our prisoners was raised by a city official. Angered at this lack of cooperation, the staff formulated another plan. Our jail was dismantled, the prisoners, chained and blindfolded, were carried off to a remote storage room. When the conspirators arrived, they would be told the study was over, their friends had been sent home, there was nothing left to liberate. After they left, we would redouble the security features of our prison making any future escape attempts futile. We even planned to lure ex-prisoner 8612 back on some pretext and imprison him again, because he had been released on false pretenses! The rumor turned out to be just that—a full day had passed in which we collected little or no data, worked incredibly hard to tear down and then rebuild our prison. Our reaction, however, was as much one of relief and joy as of exhaustion and frustration.

When a former prison chaplain was invited to talk with the prisoners (the grievance committee had requested church services), he puzzled everyone by disparaging each inmate for not having taken any constructive action in order to get released. "Don't you know you must have a lawyer in order to get bail, or to appeal the charges against you?" Several of them accepted his invitation to contact their parents in order to secure the services of an attorney. The next night one of the parents stopped at the superintendent's office before visiting time and handed him the name and phone number of her cousin who was a public defender. She said that a priest had called her and suggested the need for a lawyer's services! We called the lawyer. He came, interviewed the prisoners, discussed sources of bail money and promised to return again after the weekend.

But perhaps the most telling account of the insidious development of this new reality, of the gradual Kafkaesque metamorphosis of good into evil, appears in excerpts from the diary of one of the guards, Guard A:

Prior to start of experiment: "As I am a pacifist and nonaggressive individual I cannot see a time when I might guard and/or maltreat other living things."

After an orientation meeting: "Buying uniforms at the end of the meeting confirms the gamelike atmosphere of this thing. I doubt whether many of us share the expectations of 'seriousness' that the experimenters seem to have."

First Day: "Feel sure that the prisoners will make fun of my appearance and I evolve my first basic strategy—mainly not to smile at anything they say or do which would be admitting it's all only a game. . . . At cell 3 I stop and setting my voice hard and low say to 5486, 'What are you smiling at?' 'Nothing, Mr. Correctional Officer.' 'Well, see that you don't.' (As I walk off I feel stupid.)"

Second Day: "5704 asked for a cigarette and I ignored him—because I am a nonsmoker and could not empathize. . . . Meanwhile since I was feeling empathetic towards 1037, I determined not to talk with him . . . after we had count and lights out [Guard D] and I held a loud conversation about going home to our girl friends and what we were going to do to them."

Third Day (preparing for the first visitors' night): "After warning the prisoners not to make any complaints unless *they* wanted the visit terminated fast, we finally brought in the first parents. I made sure I was one of the guards on the yard, because this was my first chance for the type of manipulative power that I really like—being a very noticed figure with almost complete control over what is said or not. While the parents and prisoners sat in chairs, I sat on the end of the table dangling my feet and contradicting anything I felt like. This was the first part of the experiment I was really enjoying. . . . 817 is being obnoxious and bears watching."

Fourth Day: ". . . The psychologist rebukes me for handcuffing and blindfolding a prisoner before leaving the [counseling] office, and I resentfully reply that it is both necessary security and my business anyway."

Fifth Day: "I harass 'Serge' who continues to stubbornly overrespond to all commands. I have singled him out for special abuse both because he begs for it and because I simply don't like him. The real trouble starts at dinner. The new prisoner (416) refuses to eat his sausage . . . we throw him into the Hole ordering him to hold sausages in each hand. We have a crisis of authority; this rebellious conduct potentially undermines the complete control we have over the others. We decide to play upon prisoner solidarity and tell the new one that all the others will be deprived of visitors if he does not eat his dinner. . . . I walk by and slam my stick into the Hole door. . . . I am very angry at this prisoner for causing discomfort and trouble for the others. I decided to force-feed him, but he wouldn't eat. I let the food slide down his face. I didn't believe it was me doing it. I hated myself for making him eat but I hated him more for not eating."

Sixth Day: "The experiment is over. I feel elated but am shocked to find some other guards disappointed somewhat because of the loss of money and some because they are enjoying themselves."

We were no longer dealing with an intellectual exercise in which a hypothesis was being evaluated in the dispassionate manner dictated by the canons of the scientific method. We were caught up in the passion of the present, the suffering, the need to control people, not variables, the escalation of power and all of the unexpected things that were erupting around and within us. We had to end this experiment. So our planned two-week simulation was aborted after only six (was it only six?) days and nights.

We've traveled too far, and our momentum has taken over; we move idly towards eternity, without possibility of reprieve or hope of explanation.

—Tom Stoppard, "Rosencrantz and Guildenstern Are Dead."

Was it worth all the suffering just to prove what everyone knows—that some people are sadistic, others weak and prisons are not beds of roses? If that is all we demonstrated in this research, then it was certainly not worth the anguish. We believe there are many significant implications to be derived from this experience, only a few of which can be suggested here.

The potential social value of this study derives precisely from the fact that normal, healthy, educated young men could be so radically transformed under the institutional pressures of a "prison environment." If this could happen in so short a time, without the excesses that are possible in real prisons, and if it could happen to the "cream-of-the-crop of American youth," then one can only shudder to imagine what society is doing both to the actual guards and prisoners who are at this very moment participating in that unnatural "social experiment."

The pathology observed in this study cannot be reasonably attributed to pre-existing personality differences of the subjects, that option being eliminated by our selection procedures and random assignment. Rather, the subjects' abnormal social and personal reactions are best seen as a product of their transaction with an environment that supported the behavior that would be pathological in other settings, but was "appropriate" in this prison. Had we observed comparable reactions in a real prison, the psychiatrist undoubtedly would have been able to attribute any prisoner's behavior to character defects or personality maladjustment, while critics of the prison system would have been quick to label the guards as "psychopathic." This tendency to locate the source of behavior disorders inside a particular person or group underestimates the power of situational forces.

Our colleague, David Rosenhan, has very convincingly shown that once a sane person (pretending to be insane) gets labeled as insane and committed to a mental hospital, it is the label that is the reality which is treated and not the person. This dehumanizing tendency to respond to other people according to socially determined labels and then arbitrarily assigned roles is also apparent in a recent "mock hospital" study designed by Norma Jean Orlofsky to extend the ideas in our research.

Personnel from the staff of Elgin State Hospital in Illinois role-played either real patients or staff in a weekend simulation on a ward in the hospital. The mock real patients soon displayed behavior indistinguishable from that we usually associate with the chronic pathological symptoms of actual mental patients: incessant pacing, uncontrollable weeping, hyperactive hostility, fights, stealing from each other, complaining. Many of the "mock staff" took advantage of their power to act in ways comparable to the mock guards by dehumanizing their powerless victims.

During a series of encounter debriefing sessions held immediately after our experiment, we all had an opportunity to vent our strong feelings and reflect upon the moral and ethical issues each of us had and we considered how we might react more mindfully in future "real-life" analogues of this situation. Year-long follow-ups with our subjects via questionnaires, personal interviews and group reunions indicate that their mental upset was transient and effective

ally specific, but the self-knowledge gained has persisted.

For the most disturbing implication of our research comes from the parallels between what occurred in that basement mock prison and daily experiences in our own lives—and we presume yours. The physical institution of prison is but a concrete and steel metaphor for the existence of more pervasive, albeit less obvious, prisons of the mind that all of us daily create, populate and perpetuate. We speak here of the prisons of racism, sexism, despair, shyness, "neurotic hang-ups" and the like. The social convention of marriage, as one example, becomes for many couples a state of imprisonment in which one partner agrees to be prisoner or guard, forcing or allowing the other to play the reciprocal role—invariably without making the contract explicit.

To what extent do we allow ourselves to become imprisoned by docilely accepting the roles others assign us or, indeed, choose to remain prisoners because being passive and dependent frees us from the need to act and be responsible for our actions? The prison of fear constructed in the delusions of the paranoid is no less confining or less real than the cell that every shy person erects to limit his own freedom in anxious anticipation of being ridiculed and rejected by his guards—often guards of his own making. ■

A mock prisoner enjoys the amenities of a "privilege cell" set up by guards to increase their psychological authority.

PREPARED TESTIMONY OF ANDREW CARLO PRESCOTT TO U.S. SENATE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

INSIDE WEST OAKLAND

My first arrest as a juvenile came as a result of an argument that erupted on a public bus between a middle-aged caucasian passenger and a brother of mine (a term used in certain areas to connote a friend of indisputable loyalty and devotion).

The argument centered on the Joe Louis vs. Billy Conn prize fight to determine the heavy weight champion of the world. Then as now, men chose sides on the basis of skin color, regardless of other common ties or the philosophy two individuals might share.

Fear and the typical anger spread through the bus. In Oakland the bus I took with my two friends Artimis Coleman and Leon Gaultney passed in front of the City Hall on Fourteenth and Washington Streets.

As the bus stopped in front of City Hall, which also contained the jail, a passenger went to summon the police.

The police came. My two companions and myself were physically removed from the bus at gun point, and lodged in Juvenile Hall after being booked. Being booked was always a trip. Amidst the strange language and attitudes of a strange group (there were no Black agents of justice in 1943), I was periodically questioned, fingerprinted and at intervals reminded that I should have a foot put in my ass for being a smart outwardly unemotional Nigger.

I was only severely frightened and confused. It was to be made perfectly clear, this was a typical approach to recording "serious" juvenile offenders. The insults and occasional blows upside the head and rough abusive expression were occupational hazards, the results—first, of being at the wrong place at the wrong time and secondly, for being Black.

A particular trick that comes to mind was for a cop to offer you a cigarette (even if you were less than 18), and a bench or stool to prop your feet on. If the case in question was cleared up—no problems ensued. But if, as a matter of course you chose not to implicate yourself in the effort to extend a minor offense into a felony—the policeman would use other techniques. For example, loosening his pistol in its holster, he'd sit on your extended legs propped on the stool or bench that he had given you. And dare you to move with the implication of a recently loosened gun in holster to quiet your nerves as your knees become numb. The message was clear. Confess and avoid torture!

I'm not referring to my treatment as an adult offender, that curious label that must mean, that anything can be done to obtain a—clearing up of the mess, a clearing of the books, in effect—a confession. No, the incident of which I refer to here occurred somewhere between my twelfth and thirteenth birthday. And the techniques employed by said guardians of the law were a system I found throughout my alleged career as a juvenile delinquent.

At the Juvenile Hall, the best example of effects before the cause was made manifest. Put in a room, my clothes taken, isolated from every other human there in that youth dungeon, I awaited the door to open twice a day. Once for breakfast, usually oatmeal or yellow corn meal mush with no hint of sugar and four ounces of milk in a paper cup. Dinner the last meal of the day generally consisted of the most popular vegetables produced on the County Farm, cooked for a minimum of six hours, and plain jello or a pudding. There were no books in the room or cell, and nothing to do but sleep or amuse one's self in individual sex games.

The horror of being arrested on Friday or Saturday can be explained here. The doctor who examined the boy prisoners did not work on weekends. There is no statistic to consult but I'm positive the incidents of violence, even death, inflicted by juvenile offenders on weekends to avoid solitary confinement for the weekend would be considerable.

This quarantine procedure was supposedly to allow the doctor to do a blood test and test you for hernia, whooping cough and measles. There was no exercise period for a new boy recently confined, no showers or visitors permitted to see you.

Juvenile Hall for male prisoners was divided into two sections. One area, a dormitory afforded group living among the younger boys. There they were, assumed safe from those factors that threaten the young and weak, but in practice it provided no safety for the defenseless. The scene was that a guard or counselor would determine who stayed in the dormitory. The game necessary on the part

of an older boy in the dormitory was simply to make the guard think he was a law abiding citizen—much as the conspirators in the Watergate case.

This then placed the older, stronger boys in a sort of vicarious supervisory capacity where they could extort: food, candy which we were allowed to purchase—and sex favors!

While the dormitory was much more relaxed, less supervised, and had longer exercise periods, it also resulted in more rapes among the younger, weaker boys.

For whatever reasons though arrested at twelve, I had barely time to select a bunk bed and put towel and soap down before I was moved to the section I shall write of now. It must be conceded I hailed from West Oakland (an area which produced the well known Black Panther Party), and this may have contributed to the decision. I sharpened my toothbrush handle the day I arrived in jail. This was discovered by an informer who raped children in the dormitory with immunity. He was later to lose vision in one eye after a fight with a youngster from my neighborhood . . . I didn't regret the decisions of my keeper to move me to the older boys' section. There I was capable of avoiding the constant harrassment for trying to survive the brutal setting.

The back cells or the section for boys up to "18" years of age were among the most significant environments in altering my life style I was ever to encounter.

As indicated, the cubicles of the back cell were most secure. In that era there was no Black or even token Minority hiring practices.

It was policed by guards from a totally different cultural experience than the boys there of any ethnic background. Aside from whatever was necessary to control 35 to 45 boys ranging from twelve to eighteen years of age, there was no empathy nor could any begin, due to the unwritten code that the guards worshipped.

If a guard hoped ever to secure permanent employment, he had to eliminate any personal involvement with prisoners. It was imperative in the name of that almost God-like term—*security*. . . . And security was maintained in a variety of methods, from determining by a merit system which boy would be allowed to see his Mother, the most frequent visitor by far to people in jail; to how late your cell door was open. Then the "culture" hour. An alley back of the row of cells gave the guard a chance to peer in and observe the criminal in masturbation and to deal with the infraction of the rules by cancelling visiting privileges.

Since the boys were confined from about six P.M. until 8 A.M. the next morning, music being piped into the cells was most desirous. Though permitted to talk from the cells, giving the guards a chance to consider your perspective on many levels, they employed an arbitrary system of reasoning who made the louder noise.

And next morning the list announcing who had lost radio listening privileges and depending on how intelligent and persistent a youth's parents were, even visiting privileges. This from guards who would attempt to instigate the young prisoners to emote so as to classify them as to offense, potential violence, and ability to adapt to society could be determined before sentencing occurred. Actually, none of the youths excepting a small percentage had been tried. It was a nightmare from which the coming of light does little to eclipse. Literally, conning or convincing the guards you liked and respected them was first on the agenda.

To be shown a nude photo of a woman or a woman and man in a sexual exchange was to have achieved the first leg of the hurdle or obstacle course.

But that position was rarely obtained by other than caucasian prisoners. Obviously, to be light or friendly with such a boy was the only way to share the booty of such a relationship: cigarettes, phone calls made to girls by some of the guards who approved of the prisoner's attraction to girls and the crushing of petty infringements, so you did not have to forfeit visiting rights or music piped into your cell.

And nothing could be certain—you were never secure. After all, the lords of the back cell for whatever whim, could cuff you alongside the head or create stories of your masturbation feats making you prey for those who did sex with men. Or even in certain instances, finding rope or sheets in your cell and developing an escape plot bringing the culprit to justice. For years in my town of Oakland before the Panther scare or the use of neo fascist groups to control and seek out and destroy said groups, there existed an entire No Man's region of Police, highway patrol and various law enforcement agents.

The area extended from Telegraph and 40th Street to Shattuck Ave. Here to ride by this strange village, this quaint province of armed people, was occasion to observe them cleaning their weapons. This was before the non-restrictive housing act, before Affirmative Action Groups let alone Fair Employment Department.

From this mania filled, blue suited ghetto came the counselors, the probation officers I dealt with in my youth, and in ways it was more deadly than the 38 specials they herded certain elements of society with.

There was a win for a youth caught up in Juvenile Court System. But the cost was great in terms of spiritual development. All you had to do was become the best liar, the most accomplished actor, expert psychologist, sensational fist fighter and assassin—not caring, trusting, or attributing importance to the group that condemns you.

The court room was a farce generally where a white haired pale skinned judge decided the degree of my guilt and the punishment it harnessed!

I had not assaulted or even argued the Louis-Conn Championship fight. Everyone knew in my neighborhood you did not address a white man first unless you were going to ask for a job! What had I done.

My return to the juvenile jail was even less spectacular. Coming home from a movie with three companions I opened a Dutches' Sandwich panel truck and helped myself to a box of sandwiches—split between hungry boys. I can't recall any ultra criminal intent. The truck was open, and it was parked on the street. I did not consider this burglary which is what I was charged with. Burglary in the second degree. Again the charge decided by a citizen from Policeville. My first felony charge. Really then, I decided I had no control over my own record—again no malice aforethought or criminal propensities went into either act against the Sovereign State of California! It was as if a role was assigned me. A role that called for an ever expanding performance. A role that is being projected on to young boys and girls even today. The traditional guidelines, the basic conditioning process is currently being employed.

Recently I was invited to Martinez Youth Center to speak to young people as Prison Reform Lecture, Advisor to the U.S. Government on Juvenile Delinquency.

The building was new, the structure was larger and there were more girls and boys than I ever thought could be naughty. The most striking thing was that I expected at any moment to be asked for my clothes and be given a gown (like years before) and led to isolation. The atmosphere is the same.

I witnessed a young boy sent to his cell for the duration of the meal by a Black guard for taking a piece of bread without first raising his hand. It is obvious this young caucasian boy is going to have even more things to work out since I recall my feelings about guards—his complexion, working on my case—I contend, forgetting to raise one's hand at dinner after years of different experiencing is no cause to forfeit a meal. I contend jail food, and what it lacks requires you eat all meals! And indeed it is serious to take one away from a prisoner.

In the girls' section where in this enlightened age I was permitted and delighted to speak, I found an interesting and intelligent group of girls being instructed in elementary grade subjects by an instructor over 55, male, with a nervous tick.

Like myself in my detention home days (as youth centers were so entitled then), there was great anxiety, among the children about parents' reaction to what is construed as flagrant misbehavior. Often with Black youth, the man saying you have wronged society is testimony enough to bring wrath from parents.

Unfortunately a really stagnant scene is either reintroduced or never altered by time, need, or the continuous failure of the system to society. While most assuredly of no great value are the captives of the system. Ask them—anyone ask them.

I am the son of peasants from the south, born in the depression years in an area that consisted of the foreign born, and their first generation offspring, who came looking for the golden streets in America and found instead the bread lines, the troop guarded warehouses of food, where disease with poverty and a multitude of social disadvantages lurked in the dimly lited streets.

I liked neither the Italians better for their brisk manner in living nor the Irishman, Jack Marshall, whose father sought comfort in a bottle along with my own father, Woogie. The Jew no better than the Christian, the affluent no more than the disinherited of this country, the irritable who vexed us all, no better than the pure of spirit. My mother, Indiana, taught me to give of myself generously and to receive of people.

I confess to being an active youngster, shy, prone to refuse a coin for going to the store from the old. I was so ashamed and dismayed at what years could do to the body and spirit. I spent my boyhood searching for an image a Black boy could admire within the endless sequence of Tom Mixes and Mickie Roonies. I harbored no larceny or contempt for society or individual.

I grew up and vomited until the State stepped in and rescued me from the spirit grinding transition of trying to be accepted by White America. I was given instead survival as a main theme in an arena of protesters of a social order that extended hunger instead of hope. Dissolution in lieu of support, and death if you failed the obstacle course in prison. I lost myself to feelings away at college in Quentin, Folsom, Chino and Vacaville.

What happened to the boy who walked the streets of America clad only in the denim clothes which was destined to be the uniform of his adult prison years? Did the theft of a sandwich or arguing in public constitute sedition? How could the folly of a few moments actually lead to frank brutality, open rage, murderous supervision from a social order which quarantined, isolated, brutalized, assaulted and labeled thereafter—bad and incorrigible—not even to be trusted with a job.

My first real crime was rebellion—against the establishment for denying my humanity and thus creating a wall between myself and the people of a society who willed my punishment.

By nature, I am not criminal—I only responded to the inequalities, defying the oppression and invalidating the lies of my tribe's inferiorities.

The Juvenile prison experience shaved me into a camp of confused, brutalized, unhappy and unloved youngsters whose crimes were sometimes no greater than my own—and they too were forced to hate to survive.

There was no place to run—no one to talk to—just rooms filled with souls screaming out in the darkness—but no one cared. No one bothered to make real, inquiries into the savage, perverted conditions—which were perpetuated by the keepers of boys. The younger weaker boys became prey for the stronger and older ones, unless their hate triumphed, and they became vicious quickly.

It was no wonder that most of our paths would lead to repeated acts of rebellion—for society had no procedure for really dealing with the so called "fallen" except horrifying them with punishment and emphasizing how to live with less freedom.

END OF EFFORT

In all of this ordeal the sustaining of what I thought my own worth gave me courage and if I learned to hate in order to dispute what apparently was thought of me I detested most the experiences that made it impossible for me to respect and regard the humanity of my *keepers*.

In time, my moods and causes alter, and surrounded by my sweet wife, Zel, and brothers like Zimbardo, even with my mind and heart inscribed with memories of youth prisons, I can still reach out.

I respect the humanity of all men—yet my humanity must and will be respected or I choose to exist no more.

Senator BAYH. Our next witness is Prof. Peter Smith, the School of Law, University of Maryland. Mr. Smith is going to be accompanied by Mr. Ken Witherspoon, psychology student who participated in the study of the Baltimore lockup.

Would you gentlemen identify yourself?

Mr. SMITH. My name is Peter Smith. I am a professor of law at the University of Maryland School of Law in Baltimore, director of the Maryland Juvenile Law Clinic. On my right is Michael Elder, an attorney in Baltimore City, and deputy director of Maryland Juvenile Law Clinic which has recently been created to provide a vehicle for training law students, also doing some general work in the juvenile area in Baltimore and Maryland in general. On my left is Kenneth Witherspoon who is in his third year at Vassar College. I still cannot get quite used to saying that. And Mr. Witherspoon will be testifying in a few minutes.

Senator MATHIAS. Mr. Chairman, I would like to take the opportunity to express particular welcome to Mr. Smith, Mr. Elder, and Mr. Witherspoon. I have had some personal experience visiting and inspecting some of the penal systems in Maryland. The work these men have been doing can bear very valuable fruit, and I welcome

them to the committee because I think it expands the area of the influence that they can have.

We are very glad to have you here.

Mr. SMITH. Thank you, Senator.

STATEMENT OF PETER SMITH, PROFESSOR, UNIVERSITY OF MARYLAND SCHOOL OF LAW, BALTIMORE, MD., AND DIRECTOR, MARYLAND JUVENILE LAW CLINIC, ACCOMPANIED BY MICHAEL ELDER, DEPUTY DIRECTOR, MARYLAND JUVENILE LAW CLINIC, AND KENNETH WITHERSPOON

Mr. SMITH. I think this committee has heard enough to know that the juvenile justice area is one of the great neglected areas in this country of major social problems. I think you also have heard enough and know enough to know that the area of custody—what happens to someone after he goes through the criminal or juvenile justice system and later gets placed behind bars—of all aspects of the justic system, is that the one that is farthest from public view.

Politicians do not appeal to convicted felons normally and for good reason—they are not allowed to vote. And I suppose that the juvenile detention system, whether it be pretrial or whether it be postadjudication institutions, of all the institutions, are even further from public view.

If you look at recent litigation throughout the country, you begin to see some attention—people suing the Baltimore city jail, the District of Columbia jail and so forth—but if you look at the litigation going around the country, you are hard-pressed to find anything that is going on in the area of the juvenile system. This area has almost been beyond the examination of the so-called poverty lawyers and public interest lawyers up to this point. So we are centering in on an area where it would be hard to find greater neglect, or about which the public knows less.

Now, I am going to talk to you only about my experience in Maryland, because I am going to give you my firsthand experiences, and that is where I have had it as far as the juvenile system is concerned.

As I am sure you frequently brag, Senator Mathias, Maryland is known as America in miniature. In fact, when it comes to the juvenile justice system, I believe that Maryland tends to be very much on the enlightened side in this country in terms of programs, in terms of the outlook and philosophy of its juvenile justice personnel, and in terms of its police officials and so forth.

So when I talk to you about Maryland, I want you to keep in mind that I am not from Mississippi; I am not from Arkansas where we have recently seen some of the most outrageous cases of brutality in prisons. I am talking from the vantage point of one of the Nation's largest cities in a rather enlightened State.

Now, your letter, Senator Bayh, asked me to comment on a number of specific things. In view of how time is slipping by this morning, I want to move right into them and be sure that I cover what you outlined in your letter.

Senator BAYH. We will put the exhibits you gentlemen have prepared in the record at the conclusion of your remarks, so just proceed as you feel fit.

Mr. SMITH. In 1970 the Federal district court in Baltimore rendered a decision which is still having major ramifications. For approximately 30 years in the State of Maryland, if you were 16 and 17 years old and you committed a crime in Baltimore, you were treated as an adult; whereas if you were 16 or 17 and you committed a crime anywhere else in the State of Maryland, you were treated as a juvenile. The historical basis for this discrimination is not well known and is not terribly important at this date. The fact is that it was the case.

This court decision which I was rather involved with and still am involved in seeking to implement, declared that distinction unconstitutional. As a result, literally overnight, thousands and thousands of persons who heretofore had been thought of as adults in Baltimore City suddenly became juveniles.

Senator BAYH. Is that good or bad for a juvenile?

Mr. SMITH. Well, there are a lot of answers that can be given to that, and you have to distinguish between the short run and long run. There have been many bad things that have happened in the short run, and I hope in the long run there will be good things.

In any event, you have this massive population that suddenly shifted, with the State not being prepared for it at all. Indeed, the State had abolished the distinction in 1966 but put off the implementation to 1969, and in 1969 put it off until 1970 and in 1970 put it off until 1971. That is when Judge Watkins said: "You are not putting it off anymore."

One of the problems raised by this decision was what do we do with juveniles who get arrested and have to be detained pending hearing. I am going to be talking this morning exclusively about the pretrial detention of juveniles in jail-type facilities.

To meet this problem the juvenile court judge in Baltimore decided to certify two sections of the Baltimore City jail as a juvenile detention wing. It was understood that the sections would be kept separate and that certain special arrangements would be made in supervising their operation.

This plan went into effect toward the end of the fall of 1970. By the spring of 1971 those of us who practice in this area and who are constantly talking with clients, which is the way you find out about these problems, came to believe that the conditions were terrible in the city jail.

So we went to the juvenile judge in Baltimore City, and he agreed to make an unannounced visit to the Baltimore City Jail juvenile detention wing. There had been many unannounced visits at Baltimore City Jail during the period, but I can tell you that this one really was a surprise. I accompanied the judge on that visit.

Senator Mathias, I am going to introduce for the record a number of documents which I will simply refer to by exhibit numbers, so that you will have them.

Senator MATHIAS. They will be included and printed in the record at the conclusion of your remarks.

Mr. SMITH. Thank you.

Exhibit A is a memo for the file that I prepared June 3, 1971, which gives a factual account of what we saw during approximately 4 hours in the juvenile detention wing of the city jail.

Now, I will go into just a very few of those details shortly.

I am also including as exhibit B a memorandum to the juvenile court judge from me stating what I thought ought to be done about the problem, including an examination of some of the legal issues involved in detaining juveniles pretrial.

In addition I am including as exhibit C, a followup letter to the judge, which brings his attention to a survey we made at this time of all persons in the juvenile wing of the jail to determine who they were, whether they really were juveniles, and how long they had been there. The results of this survey were very startling. We found, as this letter indicates, many persons who were there for months. There was tremendous comingling between juvenile and those who had been waived to adult authority. We found persons whose records had been completely lost. Indeed, we found one person who, according to the jail printout, was there. In fact he was not there, and was supposed to be at Crownsville State Mental Hospital, but was not at Crownsville, either. Yet he was supposed to be in custody. We spent weeks trying to locate him, and no one knew where he was.

Senator BAYH. Excuse me. Do you have any breakdown in your study relative to the number of juveniles who were retained compared to the number who were arrested or brought to the precinct house, perhaps admonished and put back in the custody of the parents?

Mr. SMITH. Not in this material. I can answer that generally by saying that the practice of Baltimore City, until a change was instituted this summer, was for the police officer to make an initial decision when he arrested the juvenile, if this was during the evening hours, as to whether or not he would be detained. If the officer wanted to detain him, he would contact a juvenile worker on the telephone, frequently waking him up out of a sleep; the juvenile worker said OK, he is detained. The child is normally brought to court on the next court day.

As far as I know, no one keeps precise figures, although we might be able to accumulate them, as to the number of juveniles who are detained by the police pending detention hearings against those who are not. We could do it by looking at overall caseloads.

Senator BAYH. I just wondered if you had that.

Mr. SMITH. We might be able to supply that.

After this examination of the city jail and considering the recommendations that were made—in what was a rather unusual type of proceeding because it was essentially secret and ex parte—the juvenile court judge issued a very far-reaching opinion on August 3, 1971, which I include as exhibit D. I just wish to refer briefly to a couple of paragraphs in that opinion.

He says:

> The import of this opinion is threefold: (1) That the conditions existing in the juvenile detention center are extremely poor and inimical to the well-being of those detained there; (2) we are dealing with children under the law who are only being detained pending trial.
>
> Without any malice being intended, the totality of the existing conditions for these youths amounts to punishment which is cruel and unusual; and whereas under the constitution of the law punishment of any kind for those merely awaiting trial is prohibited.

And in his opinion, which is very lengthy—I just want to refer to a couple of places—he makes findings of this type, and I am quoting. And this is not an inmate talking, or even an advocate. This is a judge

who has been a juvenile court judge in Baltimore city for a number of years speaking in his written opinion.

> Juveniles are totally mixed with those who are older, many who are awaiting adult trials for murder and rape and similar offenses, and many who have languished in the jail for a great many months with the idea of the debilitating and debumanizing effects which it usually produces.

Which, I might add, you saw a few minutes ago in the slide presentation.

> Cell occupancy: Except for some juveniles confined in maximum security section, almost all other juveniles are quartered two to each cell. The average cell contains approximately 42 square feet.

He goes on to say:

> The recommended minimal standard for the American Correctional Association is one inmate for 50 square feet. If the cells being used for those juveniles do not meet even minimal standards for one inmate, how totally inadequate they must be for two.

Just one other statement from his concluding remarks on his findings:

> General atmosphere: the general atmosphere which surrounds the juvenile delinquent detention center is one of almost total inactivity of young persons in miserable surroundings. There was literally an odor which permeates the entire area and which is very offensive in its nature. Although the inmates may become inured to the odors and conditions generally, nonetheless this institution is not a pleasant place in which to exist.
>
> The atmosphere rather is one that is entirely unhealthy, dreary, repelling, and depressing; and one which can absolutely stultify any reservoir of goodness and positive qualities which may lie within these young people.

I want to emphasize to this committee that just because we are talking about pretrial detention—which in Maryland ought not continue for more than 30 days but for various reasons frequently does—is no reason to pooh pooh the problem. My experience—and I speak from the view of a practicing lawyer, not an experimenting psychologist, so the perspective is different—is that real life demonstrates that the Stanford experiment that you saw this morning was not just a peculiar thing that happens to be because a bunch of college students were playing.

Now, it is interesting to note how difficult it is to make progress. The judge's opinion ordered that conditions be rectified with 60 days or else the jail would be closed, but in any event the authorities could not use the jail as a detention center for more than 1 year. In other words, they would have to close it August 3, 1972.

The legislature and the Governor of the State of Maryland, and the juvenile authorities have been talking ever since 1966 when the Rasin Commission report was issued—which studied many of these problems—about creating new juvenile detention centers. Of course, no community wants them, and it has never been done.

In October 1971, the judge issued a followup opinion which I have designated exhibit E in which he says he has reinspected the jail and that conditions are sufficiently improved to permit use of the facility for another 10 months.

On November 5, 1971, I received a call from someone who said that he had had occasion to visit the Baltimore City Jail, juvenile detention wing, in connection with a Federal funding project he was working with, and he described some conditions for me: That it was freez-

ing cold, temperatures around 50, the food was ice cold and conditions were generally miserable. This was 3 months or so after the initial decision, and a month after the decision saying well, now, the warden has pretty much cleaned things up so we can go with it for another 10 months.

The judge ordered an immediate investigation, instructing the Department of Juvenile Services to submit him a memo the following Monday, November 8, which the Department did. This report led to an opinion of the judge on November 10, which I refer to as exhibit F, announcing that a series of actions would have to be taken forthwith, and that he was closing the jail in 48 hours, and if they wanted to, they could reopen it, but only if they took a series of actions. The jail was closed within 48 hours. When I say the jail, I mean the two juvenile detention areas. All the juveniles were removed, and it has never been used again to house juveniles.

I want to read a couple of sentences from the memorandum from the Department of Juvenile Services that was sent on November 8, 1971, to the judge, a copy of which is attached to this opinion. This is written by the regional supervisor in Baltimore.

> This morning Mr. Lang conveyed to me your concerns as related to you by Mr. Peter Smith concerning conditions at the jail. Essentially the information which you have received is correct. With the change of temperature since last week, it is indeed 50 to 60 degrees in the jail. In no uncertain terms, it is cold in the jail.

He goes on to say that feeding is accomplished by carting food to the cells, and in most instances when the food arrives, it is cold.

He concludes by saying:

> I am sending a copy of this memorandum to Mr. Hilson, who is the State director, because I feel strongly that the present conditions in the jail are intolerable and bordering on the inhuman.

Now, this was 1 month later, you see. It is difficult to make progress. So the jail was shut down, and the juvenile training schools were then utilized more, but it was felt there was still a problem. How are we going to handle juveniles who are arrested?

A program then began of using northeastern and southeastern police district stations to house juveniles, and I want to address myself briefly now to this matter because you can see how the problem goes from bad to worse.

In Baltimore, as you know, Senator Mathias, we now have a central police district and eight districts called northeast, southeast, et cetera throughout the city. Each district has its own courtroom and has its own police lockup facilities. Southeastern district was designated as a place where 16- and 17-year-old males would go and northeastern where males younger than that and females would go until their detention hearing.

The detention hearing, under the law, must be held within 5 days after arrest. Normally it is held the next court day, but in the case of weekends and holiday weekends 2 or 3 days could elapse between arrest and detention hearing and occasionally, if there is a slipup, even longer could spent in the lockups.

Now, you cannot just walk in southeastern district and say, "I am Attorney Smith and I would like to look around. I'm a public interest lawyer," or "I am so and so, newspaper reporter," and if you could pr

probably wouldn't see it quite the way it is. So the way you find out about these matters is talking to clients. In August of 1972 I had a client who was transferred from Hagerstown adult correctional facility, where he had been illegally detained as an adult for 3 years because he had been wrongfully prosecuted as an adult and should have been prosecuted as a juvenile pursuant to the Federal court decision I mentioned earlier. He was not discovered when the decision came down, and continued until 1970 to be illegally incarcerated. So, after his 2 or 3 years of illegal incarceration, we filed a writ of habeas corpus. He was released and turned over to the juvenile authorities for processing.

He was placed in the Southeast Detention Center.

Senator MATHIAS. How old was he at that time?

Mr. SMITH. At that time he was 21 years old, and I might say—I'm not going to get into it here—but this has led to a whole series of other legal problems about what happens when you make mistakes about juveniles and then you bring them back and by now they are over 21. There is now a major case pending in the Maryland New Court of Appeals which we have litigated dealing with that. But that is another kettle of fish.

Now, he was sent there on Friday, and I had a funny feeling that we had better go and check out what was going on at southeastern district. So I sent a law student down there the following Monday morning, and he interviewed seven people, my client and six others who had been transferred pursuant to this problem, all of whom had been there since Friday. Last night about 12:30 or 1 o'clock in the morning when I was working on this material, I went to my file cabinets and I pulled out three yellow sheets, and you are entitled to see them here. These are my scribbled notes which I took in debriefing a very able law student who interviewed separately, about 2 or 3 hours earlier seven persons who were aged either 20 or 21. Two to a cell from Friday to Monday, cells of 6 by 8, feces and cockroaches over floor, two dogs in the cell next door, fleas around. Cells, three solid walls, barred front, not allowed cigarettes although families brought them. Cell had wash basin, toilet, wooden bench. No reading material, no mattresses, blankets and sheets. No toilet paper until Monday. Fan on all night. Cold in cell. Turnkey refused to turn fan off, and then I have a name here, which just for confidentiality I won't read the name of the respondent; one of the seven went to the hospital Saturday. There is a city hospital which happens to be located right next door to this lockup. Was told to return 7:30 a.m. Monday. Had appointment slip. We saw the appointment slip.

They refused to take him back and made a joke about it. Breakfast: One egg, cup of coffee. Lunch: One hamburger, cup of coffee. Dinner: Slightly different every day. Looked like ——— on a plate. One person in each cell slept on floor. Some didn't sleep on bench because it was rough. Visiting parents waited over an hour. Confined to cell 24 hours except for visits. Not supplied soap, toothbrush, shaving equipment. They have no personal effects. No physical abuse, but mental harassment. Gave them business, re their being juveniles. Dirt, trash and organic matter all over the floor. Roaches. Given nothing to clean cells.

Now, one has to decide whether what he is hearing are facts or fiction. One of the ways one does that is to evaluate witnesses. He also considers that when he speaks to seven different persons and there is almost a total agreement when they are being spoken with separately, and they do not know they are going to be interviewed, that there is a substantial chance that the bulk of the information is accurate.

These cases brought home to me the scope of this problem. It appeared that conditions were far worse than they were at the city jail, suggesting that we had won a great pyrrhic victory a few months earlier. We decided to look into the lockup problem further, and this past spring, in connection with the juvenile law seminar which I instituted this last spring at the law school, two students did a study of southeastern and northeastern lockup. I am going to introduce that into the record as exhibit G. The study was submitted to me in May of this year, and among other things, it has tables in it indicating what all of the persons who were interviewed thought about a whole series of lockup conditions.

Now, again these students cannot enter the lockups so the way the material was gathered was by speaking Monday morning in the courtroom lockup with all of the persons who had spent time there during the weekend, and doing this week after week after week until an enormous amount of information had been accumulated which means that inaccuracies are going to tend to cancel out.

However, we felt it was important to try to verify that things were as they appeared to be on the basis of our empirical study. To do this we arranged to have Kenneth Witherspoon, a college student, who is sitting on my left, go into Southeastern District in such a way that it would not be realized that he was anything other than a person to be locked up there. If the committee please, although I can assure you that this was done not only legally but in such a manner as to clear everything at every step of the way, just as a newspaper reporter doesn't like to reveal the way he gets his story, I think it is enough said that this was expeditiously accomplished, and that the plan was totally unknown to any but three or four human beings, and totally unknown by anyone at Southeastern District.

The plan was for Mr. Witherspoon to enter Friday afternoon at approximately 2 o'clock or 3 o'clock and to stay there until Sunday evening when, according to a part of the plan, he would be taken out, again by a totally legitimate process. Now, I emphasize that because I don't think you saw the slides that were shown early, Senator Mathias. Perhaps the underlying message of the Stanford experiment was that here it was an experiment with the kids knowing they were going to be detained, and yet the experiment had to be halted. Everybody knew they would not be beaten. Exerybody knew it was only 2 weeks with pay.

Now, Saturday afternoon, pursuant to arrangement, Mr. Witherspoon was visited by a legal representative, and this was for the purpose of seeing how things were going and debriefing him. He insisted on leaving.

Now, I spoke with Mr. Witherspoon before this experiment started and you will have a chance to hear from him shortly. You will see that he is a highly intelligent college student with an interest in this area who decided he would give us a hand, by going into the lockup

for the weekend. On Saturday afternoon he demanded out, and obviously we took him out.

Now, I would like him at this point to describe briefly his experience there, not in a mock, but in a real detention center, recently, and someone put there with no ax to grind, with no criminal record, put there for the purpose of observing accurately and objectively. When he finishes I have just a few other concluding remarks.

Oh, yes, why don't I introduce at this time as exhibit H a transcript of the debriefing of Mr. Witherspoon which occurred within approximately an hour after he was removed from the detention facility on that Saturday.

Senator MATHIAS. That will be included in the record at the conclusion of your remarks also.

Mr. WITHERSPOON. Senator, since my debriefing is going to be part of the record, I won't go into all the details of that.

I thought you would be more interested in hearing those things which affected me in such a way that I can still remember them very clearly now, as opposed to what I wrote an hour after I got out of the lockup. What I also want you to realize is that everything you hear is not the statement of a juvenile who has been in some trouble, or someone who has been picked up off the streets for stealing some sandwiches, but instead someone who was placed there to give an objective viewpoint of the lockup. Since I am a psychology student, I also looked at some of the psychological factors which were involved in the lockup.

The first thing I remember quite vividly is that when I went into the lockup, where they detained you until they took you to the juvenile detention center, someone stood up behind me with a chain while I was being asked my name, my address, and being searched. This I remember quite vividly because I have a morbid fear of chains, especially chains that are behind me and that I can't see. After that, I just sort of wondered. I couldn't understand any purpose in it. When at first he walked up behind me I thought that perhaps he was going to put some sort of irons on me or the chain was for the door of the lockup or something, but it wasn't. He held that, and he stood behind everybody that came in while I was waiting in the lockup.

When I went to the jail——

Senator MATHIAS. Just the sound of cold steel has a psychological——

Mr. WITHERSPOON. It doesn't even have to be the sound, just the realization of cold steel behind your back does it.

First of all, let me give you a few remarks about the cell. I was in there by myself. In my debriefing transcript you see a physical description of the cell. The distances I obtained from the fact that I know I'm five eight and a half. I just put my head up against the wall and estimated the rest. And everything else I just happened to remember.

Some of the things in the cell which upset me were, first of all, that there are no windows in the cell, and that the only way you could calculate time was by your meals. If you happen to hear a radio, which some of the guards or the turnkeys had, you might catch a time here and there.

I fell asleep on Friday night, I can't be sure what time. I woke up, once again I couldn't be sure what time, although it was some time

later. Then I heard on the radio it was 2:30 on Saturday morning, which sort of surprised me because I thought I had slept for longer than that. The cells, as other people who spoke to Dr. Smith said, were very cold. They were constructed of metal or some sort of cement. It looked like a brick to me. I can't be sure. All I know is it was very cold. The walls were cold and the cells were freezing. I actually got chills in the middle of the night when I was there.

Senator MATHIAS. What time of the year was this?

Mr. WITHERSPOON. It was the day of the first Oriole game.

Mr. SMITH. This was the first week of April, Senator.

Mr. WITHERSPOON. Even though there were no windows, you had perpetual light. The light was around you in such a way that there was no way for you to lay on that bench, and I tried in numerous positions, without having a light hit you in your face. I eventually took off my jacket and put my head face down into my jacket. The light was tilted at approximately a 45 degree angle, which means that if you slept away from the bars, the light would hit you in your face. If you tried to sleep at the bottom, the light was right outside the bars. And if you tried to turn your head to one side or the other, the reflections would hit you. It was really sort of a lost cause.

When I went to the lockup I had a piece of paper and a Flair pen which I was curious to see if they would take. They took that. They didn't search me well enough to get the piece of paper, and I also had some lead for a mechanical pencil inside my shirt pocket. I used the paper. I was going to use it for the dimensions of the cell and the conditions inside the cell, but it got pretty boring after about 2 hours. I used it to write poetry because there was nothing else to do.

The turnkeys got into some really inane conversations with some of the juveniles that were in the lockup. This is also described in the debriefing transcript so there is no need for me to go into that.

The reason I had to have out is because I have a bad stomach, and my stomach was acting up. I requested some milk from the turnkey. I requested it three times. He ignored me three times. The first time he may not have heard me, because I didn't want to cause too many waves. The second time I was a little more adamant about it because my stomach was beginning to hurt more, and the third time I almost screamed at him, so I am sure he heard me one out of the three times. At lunch on Saturday after requesting this from the turnkey, the kids in the other cells passed me down little tins of cream that came with the coffee. Five of them were given to me from the guy in the next cell. My assumption is that they passed it down cell to cell to give it to me because I requested milk

Other than that, I guess you can ask me questions. Everything else is in the debriefing transcript.

Senator MATHIAS. I think one of the paradoxes is that we call in Maryland the prison system the department of corrections.

Did you feel corrected at the time you were released?

Mr. WITHERSPOON. The only time I felt correct was when I requested Professor Smith to get me out.

Senator MATHIAS. We know as a matter of statistics that a very high percentage of all felons who are convicted in this country nationwide, have juvenile records, which would indicate the failure of the juvenile system to do the job of correcting when it has an opportunity to do it.

Now, presumably when a juvenile comes to a detention center for the first time, that should be a moment when his threshold of consciousness, his awareness of what is happening, the ability to correct any attitudes that he may have acquired as a result of his previous experience, would all be at the maximum. This would be the point in his life when he would be most open to new ideas and new suggestions.

Now, was there anything in the way you were treated at that point which would lead you yourself or anybody else who was in that system with you to believe that this was going to be a learning experience, or an experience in which you might in fact be corrected or improved?

Mr. WITHERSPOON. No.

Senator MATHIAS. I think that is the measure of the failure of the present juvenile system.

Mr. SMITH. Senator, I think it ought to be emphasized that the conditions in the Southeastern lockup which we discovered are conditions which existed not 10 years ago, but as recently as a few months ago. I think it should be pointed out that the individuals who were placed there last summer—and I have read from the interviews we have had with them—were, at our request, transferred to the Baltimore city jail, no paragon of virtue, which gives you an idea of what these lockups are like.

Now, including—I call your attention to the document I will introduce as exhibit I. It is a letter dated June 15, 1973, to the State director of juvenile services from the juvenile court judge, in which he indicates that he has examined the lockup, and there are going to have to be a number of changes, or else the lockups cannot be used.

It was at this time that we had been working with the State department of juvenile services. We had called their attention to the study we were doing. They were aware of it, and they moved on this matter. I am happy to report that, effective the end of July the Northeastern and Southeastern lockups have now been discontinued completely, and no juvenile is kept in the lockup at all. When he is arrested and brought to the police station, a juvenile worker is immediately contacted, and if the decision is made to detain him until the next court day, a police officer then drives him to the Maryland Training School, a juvenile institution. So there has been a very substantial improvement.

In addition, it is interesting to see what has happened as a consequence of a more thorough screening that has taken place since this program began in August.

Now, rather than a police officer calling up a juvenile intake officer at his home at 3 in the morning and saying, "I have so and so here, what shall I do with him," it is now mandatory that the juvenile officer go to the police station where the child is, interview the child and make a decision as to whether or not he should be detained.

In July there were 197 juveniles in Baltimore City detained pending a detention hearing, for an average of 9.3 detentions a court day. In August, with the advent of this new program, this has dropped to 141 persons or 6.3 a court day, which is a 50 percent drop.

The horrifying thing is to think that because of the lack of adequate screening of juveniles, we have had very substantial numbers of juveniles in the Northeastern and Southeastern lockup for a period of time who never had to be there at all, even for 24 or 48 hours.

Senator MATHIAS. Of course, let me digress for just a moment to say that that is a terrible problem with the entire criminal system across the country, not just with juveniles. The enormous prison population which is incarcerated today in pretrial detention, many of whom will not ultimately be convicted of the crimes of which they are charged, and yet they constitute a very substantial percentage of the American prison population.

Mr. SMITH. Well, I'm sure you know that in Baltimore City itself, where approximately 95 percent of the population of the Baltimore City jail is pretrial, 5 percent serving time for convictions.

Senator MATHIAS. Let me pause for just a moment.

We will enter into the record the last exhibit, I.

Mr. SMITH. Yes, that was exhibit I.

Senator MATHIAS. It will also be included as part of the record at the conclusion of your remarks.

Mr. SMITH. Now, in closing, I want to mention two additional items. The first is the difficulty there is in making progress in this area, despite the fact that we have a very enlightened director of juvenile services in the State of Maryland. I think this is so because so much of the problem is hidden from the public view. Indeed, many of the worst features of the lockups and so forth are not even known to those who administer these programs until somehow it is just showed under their nose.

Secondly, I want to include the positive as well as the negative. I was told yesterday by an official of the State department of juvenile services that commencing in November with what I believe is Federal money an experiment is going to be commenced in Baltimore City whereby 10 special workers will be hired, each of whom will be given a caseload of no more than 5 juveniles. The role of each of these workers will be to supervise the juvenile between the day of his arrest and the day of his trial, so that he may be released to his home instead of being detained. This program is extraordinary because it is going to require a minimum of three eyeball to eyeball meetings a day between the child and the juvenile worker. Hopefully, this will reduce substantially the number of detentions that are necessary in Baltimore City prior to trial. I say hopefully because you find that these could be pyrric victories, too, if the only result is that the judge and the masters place the best risks with the new workers and then detain just as many of them as they have in the past. This would not be progress. That is something we have to watch carefully.

Finally, in response to Senator Bayh's letter for information outside of Baltimore City, I point out that I am not personally familiar with what the situation is, but I have tried to survey it in the last few days, and it appears that in the major population counties, Montgomery, Prince Georges and Anne Arundel, juvenile facilities are now being used exclusively for pretrial detention. But in the rest of the State, it is more of a problem, particularly Baltimore County, and Worcester County—Ocean City—which of course in the summertime is a problem. In Baltimore County, during the course of the year there are several thousand juveniles detained, and in Worcester County last summer the estimated figure I have here is 50 detained. In those two counties, police lockups are used.

Now, I haven't personally observed the four police lockups that are used in Baltimore County, but from what I am able to gather, they are better than the Baltimore City situation, but they are a far cry from what I think this committee would consider to be minimally acceptable levels. I have received just yesterday a not very optimistic description of Ocean City.

Throughout the rest of the State, jails are used, and a jail tends to be a little bit better than a police lockup because at least there is a kitchen there where hot food is prepared hopefully, and there are exercise facilities. But even here, of course, it is just a tragedy that we still find it necessary, even for brief periods of time, to put juveniles in adult jails, even if they are in separated facilities. I think it is probably years ahead before the State department of juvenile services has adequate facilities to take all juveniles out of jail facilities.

Now, I think I have come to the end, Senator. I hope I haven't exhausted you. If there are any questions which Mr. Witherspoon, Mr. Elder or I can answer at this time, we would be glad to do that.

Senator MATHIAS. I have just two very brief questions.

The first is again this question of where do we go from here. The object of the correctional system is to correct, and there are very frightening prospects for the future when you consider that in many metropolitan areas 70 percent of all of the crime that is being committed today is being committed by juveniles.

Now, if that is the case, and if the juvenile system continues to do the kind of abominable job of correcting that it has done in the past, then this large number of juveniles who are already engaged in criminal activities will become the hardened criminals of the new, enlarged criminal generation in the years just ahead now. This is the price society is having to pay for its failure to attend to the juvenile problem.

It is not just a price that the juveniles themselves are paying; it is the price that all of us will pay as the injustice is meted out to the people immediately involved at the moment. But all of society will ultimately bear the burden.

Now, do you see any steps that can be taken which will advance the purpose of the system, the correctional purpose of the system?

Mr. SMITH. Well, Senator, that could occupy us, of course, for another 6 weeks at least. We are going to have to recognize two things in talking about steps. One is that we are going to have to break away from old ways; and two is that it is not going to be cheap.

Now, if I were to concentrate resources, looking at the justice problem in this country, crime, et cetera, where I would place it today would be in the juvenile area if I had to make the choice. And the reason I would do that——

Senator MATHIAS. Of course, that falls on very receptive ears here because Senator Bayh, chairman of the subcommittee, Senator Cook, and I have joined together in an effort to secure a larger share, for example, of the safe streets funds, the law enforcement administration grants earmarked for juvenile problems.

It seems to me totally ridiculous that, if 70 percent of your criminal problem is in the area of juveniles, only about 19 percent of the funds are spent on that particular problem.

Mr. SMITH. Well, it is a little bit like spending all of your money to construct devices to catch the proverbial horse rather than to build up

the barn. It is not only the 7 -percent figure you mentioned, it is the recidivism consideration. You look at your adult population; how much of your adult population has had no kind of juvenile record. Now, I cannot give you the figure, but I hazard a guess that it is not very high. So where do you go? It is just like when you are talking about legislation to deal with diseases. You do not forget all those who now have cancer; but if you are looking at the long term, you surely want to look for a cure. And if you are concerned about the problem, it seems to me you put resources where something can happen.

Now, as difficult as rehabilitation is, the older the person gets the more difficult it becomes; and it is astounding to see how when a—and I speak not only as a lawyer but as a parent—how firmly fixed attitudes are in a 4- or 5-year-old. They are very hard to change. I think we are going to have to give a lot of exposure to our juvenile system, to its faults, which is just barely beginning to happen now.

We are going to have to break away from the notion that if we throw children into the institutions, then everything is going to be fine. I have not addressed one word today to our juvenile post-adjudication institutions; and if you want to be depressed, Senator, go to the Maryland Training School and walk around and you will be depressed. Of course, as you know it is now being phased out as a postadjudication facility.

Except for detention, very little happens in our juvenile institutions by way of rehabilitation. There is not much difference between juvenile institutions and adult institutions except there tends to be somewhat less brutality and a little bit more concern; but sometimes I think it is marginal.

And we are going to have to come to grips with the fact that we simply cannot, despite public opinion, which wants us to throw people away, lock people up and throw away the key, because we do not throw away the key. That is what people fail to understand.

Senator MATHIAS. Right.

Mr. SMITH. The average period in Maryland in our juvenile institutions is 6 to 6½ months. In the adult institutions it is about 18 months. So we know that in the relatively short period of time they come out.

Senator MATHIAS. Almost 99 percent of the total prison population is back on the street again some day.

Mr. SMITH. That is right.

Senator MATHIAS. They are coming out, and the real question for society is what do they look like when they come out, what kind of people are they when they come out.

Mr. SMITH. I was interested to hear the figure that the previous witness gave about the survey showing that 95 percent of juvenile crime is not even reported; because what this tends to suggest is that for a person who commits crime, whether it is a juvenile or adult level, he does not get apprehended for the vast majority of his illegal acts. In the small number where he does, the odds are against his serving much time even if he gets convicted.

If we are putting people in prisons and juvenile institutions and having them come out worse, it is not an outrageous thought to suggest

that we would be better just closing the institution down and doing nothing.

Senator MATHIAS. In terms of the criminal generation which is now in the process of being educated in advanced criminal activity.

Mr. SMITH. That is correct.

Senator MATHIAS. Well, do you want to say just one word about the Maryland Juvenile Law Clinic?

Mr. SMITH. I would be glad to. This is a program which we just created this summer by virtue of cooperation with the Maryland law faculty which is contributing a good portion of my teaching time, and as a result of a Federal grant from the Law Enforcement Assistance Administration. We have established a seven-credit clinical program for third-year law students in Maryland in which we are going to take 15 students each semester. I will be spending about two-thirds of my time on this program and Mr. Elder will be full-time. We have an administrative secretary. Essentially, we are going to have an inhouse law firm in which the students, under our immediate supervision, will be representing juveniles in the Baltimore City Juvenile Court. In addition, students will be handling special kinds of research and litigation projects.

The program has a twofold objective from my point of view. Primarily, it is an attempt to do something with legal education that I think is long overdue, by making it come alive for the student and taking the student out of the classroom, tutoring him in how to become a lawyer.

The other thing which I hope it will do is, by exposing the students to some of the kinds of problems in this area, it will make them much more conscious later when they become members of the bar. And I hope as well that this clinic can become a focus in the State of Maryland for juvenile reform, institutional reform, court reform, et cetera, where we will have—and I may be coming to you some day for more money, Senator—where we would have the resources to not only teach students, but to teach juvenile court personnel, to teach people in the State juvenile services department, to have an ability to educate the public as to what is happening in this area, and generally serve as a resource in an area which is the seventh or eighth largest city in the United States. I think this program holds great promise.

Senator MATHIAS. Well, I know I speak for Senator Bayh as well as myself in hoping that you will give us a progress report on how the committee progresses and how it works. And I can assure you that if you are making progress, we will do everything we can to see that you have adequate funding.

Mr. SMITH. Thank you very much.

Senator BAYH. Thank you very much, Professor Smith, Mr. Elder, and Mr. Witherspoon.

Mr. SMITH. Thank you, Senator.

We will leave the exhibits with you.

Senator BAYH. Thank you very much.

[Exhibits A–I submitted by Prof. Peter Smith, University of Maryland School of Law, Baltimore, Md., and director, Maryland Juvenile Law Clinic are as follows:]

Exhibit A

Memorandum

To: File.
From: Peter Smith.
Subject: Visit to Baltimore City Jail on June 2, 1971.

On June 2, 1971, I made an inspection of the juvenile section of the Baltimore City Jail in the company of Judge Robert Hammerman. The inspection commenced at a few minutes after 2:00 p.m. and concluded shortly after 5:30 p.m. The tour included an examination of all of the cells in J section and K section, the classroom, the recreation room, the exercise yard, and the showers. During the course of the inspection, the judge and I talked to at least 50 of the approximately 180 persons incarcerated in J and K sections (the 50 figure is undoubtedly too low). Some of the conversations were brief whereas others lasted for several minutes. During the tour, we were in the company of one or more guards.

The following are some general and specific observations about conditions I observed and which were related to me by inmates:

I. General Observations

A. LACK OF UNIFORMITY OF TREATMENT

Information supplied by inmates as well as personal observations reveal a marked lack of uniformity in the operation of the facilities. For example, there was substantial variations in the number and extent of occasions for exercise in the yard, depending on the inmate who was speaking. Other differences in treatment concerning items as varied as the kind of mattress one received or the ease of obtaining pencil and paper, were sufficiently extensive so as to not to be explained simply by inaccurate descriptions by the inmates. I had the feeling that what went on at any particular time depended not so much on a firm policy fairly applied to all but on what guard might be on duty and on what that particular guard might think of a particular inmate.

B. AMALGAMATION OF WAIVED AND NON-WAIVED JUVENILES

At the beginning of the tour, I questioned the guard respecting the placement of waived and non-waived juveniles. He indicated that, with only an occasional exception, non-waived juveniles were in J section and waived juveniles were in K section. This statement turned out to be completely inaccurate, as the guard later conceded to me after hearing the comments of numerous boys. It is plain that there is a complete amalgamation of waived and non-waived defendants throughout both sections and that frequently an individual cell will contain a waived and a non-waived defendant. Except for particular assignments in the maximum security cells of K section, which is discussed below, where a defendant is assigned is the result of where there is an empty bed at that moment.

C. BREAKDOWN IN THE JUDICIAL PROCESS

An initial discussion with ten or twelve boys in J section revealed that only one of them was an unwaived juvenile who had been in the City Jail less than 30 days. All of the others were either waived juveniles who had been in the jail for many months or had not been waived but were awaiting some further step in the judicial process. Exactly what that further step was, many of them did not know. Numerous boys commented that they had been there for many months had had no contact with a lawyer, and did not know where in the judicial process they were. It is plain that the great bulk of persons in J and K section have been there considerably longer than a month.

The facts are obviously relevant to the reason for our visit; namely, conditions in City Jail, since the nature of those conditions is a particularly important matter if juveniles are being subjected to them for lengthy periods of time which they clearly are. Secondly, these facts cause one to ask some very serious questions about what is happening to the judicial process. How many persons presently residing in J and K sections are, for the moment at least, lost at some stage in the process? How many persons residing there have spent considerable time simply because attorneys representing them have sought delays for reasons more

related to the attorneys' busy schedule than the best interests of the client? How many persons residing in J and K section have had no contact whatever with an attorney and have no one at all looking after their interest in speedy disposition? In this connection, it should be mentioned that four juveniles, James Person, Robert Harris, Michael Stewart, and Walter Rich, have resided at the City Jail ever since last December when they were transferred there from Hagerstown as a result of implementing the juvenile age decision.

II. Observations of Specific Conditions

A. CONDITIONS INSIDE THE CELL

(1) Mattresses, blankets, and sheets

A number of boys informed us that they did not have mattresses for a week or more after they arrived at the jail. In at least one case, we observed a mattress which a boy was presently using, which was in fact a half mattress. The boy stated that he had been using that ever since he was in the jail. With respect to blankets, each boy was issued one of them. The blankets were uniformly of an extremely thin material, frequently raggy and worn through with holes. The boys uniformly stated that the blankets were never cleaned. With respect to sheets, the jail policy seemed to be the issuance of one clean sheet every Wednesday evening. Most of the boys indicated that they did receive that sheet but a number stated that significant periods of time went by when they were issued no sheet or continued to use a dirty one for more than a week.

(2) Lighting conditions

To the extent that the cells are lit, there are two light bulbs at the back end of the cell a couple of feet down from the ceiling and concealed behind a glass or plastic cover. One of the bulbs remains on all night and the other one is turned on during the day. The lighting is extremely inadequate and reading would not be an easy thing to do unless the individual sat or stood next to the cell door where he could get additional natural lighting from the corridor. In a number of cells, particularly maximum security cells in K section, there was no lighting at all. It was not clear from discussions with the guard whether there was an intention to repair the lighting or whether it would simply remain in this condition.

(3) Sinks and toilets

The sinks are provided with cold water only which makes the proper washing of one's hands a more difficult task. Generally the sinks appear to be in working condition although one sink was observed full of water and, according to the boy in that cell, had been in that condition for several days. The toilets contain no seats, are uniformly in a rusty and corroded condition, and appeared in many cases to be dirty. In one cell, there was a considerable amount of water on the floor around the toilet and this condition had existed for some time. In another cell the toilet was continuously running after use and the guard informed us that a guard would have to go behind the cell to shut it off. Several other cells were not in use because the toilets were not functioning. Several boys stated that some of the cells had been out of use for a period of weeks. One of the guards, when questioned about this, indicated that it had been very difficult to obtain parts to fix the toilets.

(4) Bugs

A number of boys complained about bugs being in the cells at night but some others did not seem to have this problem. While we were observing the cells, one boy killed two bugs and showed them to me. According to several boys, it had been several weeks since an exterminator had been to the cell blocks.

(5) Temperature of cells

A significant number of boys complained that the cells were very cold in the morning due to broken windows in the glass wall opposite the cell doors. I observed numerous windows broken in the wall and was told by several inmates that they had been in that broken condition for many months.

(6) General cleanliness of cells

Several boys talked about the general dirty conditions of the cells and particularly the toilets. Although the guard claimed that adequate cleaning implements were made available, a number of boys stated that this was not the case.

One in particular mentioned that he had received a couple of days previously some disinfectant for the toilet and that that occasion was the first time in months that he had received such material. When I questioned the guard as to whether toilet brushes were available, he left and came back a few minutes later with a "G.I." brush which he said was used to clean toilets.

(7) *Overcrowded condition of cells*

Virtually all of the cells in J section and the bulk of the cells in K section contain two boys. The cells are quite small, containing only a double decker bed, a sink, and a toilet without a seat. The strongest impression that I received in examining the cells was how small they were for one person, let alone two. Having two boys in a cell of that size, particularly for those boys who are not on any work detail and who spend virtually all of the day in the cells except for meals time (for the first four months of 1971, all meals were served in the cells), struck me as a living condition which most would not find acceptable for a large dog. To confine two human beings to such a small area for such a large amount of time struck me as being an intolerable condition.

B. HYGIENIC SUPPLIES

The boys uniformly stated that any hygienic supplies such as soap, toothpaste, and toothbrush, can only be obtained by purchasing them from the jail. If a person without any funds desires to purchase such items, he would be out of luck unless he could borrow them or have them supplied from home. Similarly, no inmate is supplied with a towel. Several of the boys stated that they had no towel and simply put their clothes on over wet bodies when they got out of the shower. One boy showed us a small cloth which purportedly was a wash cloth but looked more like a rag. This was his only means of drying himself. Another boy stated that he had not taken a shower in the three weeks that he had been in the jail because he was still waiting to receive a towel from home. The guard told me that he thought the reason the boy had not taken a shower was because he was afraid (the boy was white). When I confronted the boy with this information, he vigorously denied it and stated that he would take a shower immediately if someone would give him a towel.

C. TREATMENT OF MEDICAL CONDITIONS

Virtually every boy was questioned about the matter stated that it is very difficult to get medical attention. Several stated that they had made numerous requests to the guards to no avail. One boy stated that you have to be actually bleeding in order to get medical attention. Another boy showed us a stitch in his head which he wanted the doctor to remove but he had not been permitted to go to the infirmary. Another boy told me that he had been on narcotics when he was placed in the jail and that for his first night in jail he was kept tied down to his bed for several hours as he went through withdrawal symptoms.

An inspection of the medical facilities and a discussion with the head nurse revealed that nurses are on duty until 11:00 p.m. and that two doctors are present during weekday mornings. For emergencies during the night time hours, a third doctor is on call or the individual is taken to City Hospital.

D. EXERCISE AND RECREATION

For exercise and recreation, there is an indoor room containing a television set and a ping-pong table. In addition, there is a small outdoor courtyard which is used by inmates in J and K sections and is separate from the larger courtyard which is used by the general jail population. The extent to which inmates are permitted out of their cells for exercise vary considerably from inmate to inmate. A number of boys stated that they were out every day or almost every day. Others said that they were permitted out as little as once a week. The most typical case seemed to be one in which the boy was permitted to exercise two or three times a week, or perhaps as much as every other day. The extent to which the boys were permitted the use of the indoor room with the ping pong table was not clear. There were a number of boys in that room when we observed it and it may be that the individuals who use it with the most frequency are ones who are engaged in some work assignment, such as delivering meals to the lock-up section, and hence are out of their cells more frequently.

E. FOOD

When questioned about the quality of the food, the reaction of most of the inmates was to smile. When pressed for details, there were remarks ranging from "it's not bad" to "there are little worms in the food". Several boys indicated that milk was never served. Until early May, all meals were served in the cells but now all persons except those in the lock-up in K section eat in the cafeteria. We did not observe the cafeteria.

F. SCHOOL WORK

Immediately after arriving at J section we observed a classroom adjacent to that section. The guard told us that that was the room where the students received their classroom instruction in English, Math, etc. Upon learning this fact, we questioned a number of students about the classroom work and learned that an unspecified number were receiving some type of instruction and that classes took place every week day. After completing my observations, I remained rather unclear respecting the nature of this educational program and therefore checked into the matter this morning. I talked at some length with a Mr. Robert Wilson, a teacher with the City School System who is one of the teachers conducting the classroom work at the jail. He explained to me that the program started on March 1 and is designated School No. 740 of the City School System. Apparently the program was to have had two classes, each with one teacher and two aides, but that limits on funds and staff had resulted in there being one class. This class meets every morning, five days a week, between 9:00 a.m. and 11:30 a.m. The class contains 20 students and two aides. The students are taught English, Math, and Social Studies. The class is supposed to be limted to 15 boys but they have let in about 20. In addition to the regular morning classes, two teachers go to the jail in the afternoon between 1:00 and 3:00 p.m. and tutor certain of the class members on either an individual basis or perhaps on a very small group basis of two or three at a time. The tutoring is for those in the class who have the greatest need for basic education.

According to Mr. Wilson, there has been a turnover of about ten places in the class since it commenced in March. In other words, a total of about 30 boys have received classroom instruction at one point or another since the program's inception three months ago. Wilson tells me that there is a formal waiting list of at least 20 more boys to get into class and that many others besides those who have placed their names on the waiting list would sign up if they thought there was any chance of their having the opportunity to join the class. In fact, he says that his discussions with the boys in J and K sections reveal very few who have no interest whatever in the classes. He believes that most of the interest extends beyond simply being able to get out of one's cell during the period of the class. There would seem to be little doubt, however, that at least some interest in the class stems from the fact that it is a lesser evil than continued incarceration in the cell.

G. LIBRARY FACILITIES AND WRITING MATERIALS

According to one guard, there is a library for the use of the general jail population. The guard was not very clear in indicating the extent to which juveniles could use that library but I received the impression that, if it is theoretically possible, it does not in fact happen. A number of inmates were questioned about obtaining library books and at least one of them commented that there was not any real effort made to bring books around to the cells. Except in the case of one boy, the son of a minister, who was reading a pocketbook, and another by who had a Bible belonging to the jail, there was little evidence of books. This particular subject was not one which we discussed with any substantial number of boys and hence there may be relevant facts which we did not discover.

With respect to paper and pencil supplies, there appeared to be a variety of answers. A boy we spoke to immediately after arriving in J section indicated that he had no difficulty obtaining pencil and paper at no cost. Later on in the tour, a number of boys indicated that they could only get paper by borrowing it from someone else, and one boy in particular commented that the teachers would not permit the boys to remove pencils from the classroom.

H. MAXIMUM SECURITY CELLS

The maximum security cells J and K sections are located on one of the upper levels of K section. The cells are exactly the same as the other cells except for

the fact that in most of them the electric light was not working. The major difference in routine of those persons in these cells is that they are served all meals in the cells, are permitted out only to shower, exercise, and see visitors if visiting privileges have not been taken away. Persons are placed in these cells for three reasons: (1) because they have been discipline problems, been in fights, etc.; (2) because they are believed to be or suspected to be homosexuals and (3) for their own protection. By far the largest number of persons in these cells fell in the third category. Most of this third group was white. The guards stated that because of their color or their small size, they would be beaten if they were in the general population. A couple of the boys in this third category confirmed that they were afraid of what others would do to them. One in particular described an incident in which he was sexually assaulted by a much larger white boy. A couple of boys, however, stated that they had previously been in J section and had not had any trouble there. It appears that, at least with respect to those falling in the third category, they are kept in the maximum security cells for the entire pre-trial period that they are confined to the City jail. The result is that a group of individuals who have committed no infractions of rules are the persons who are most continuously confined to their cells.

Exhibit B

Memorandum

To: Judge Robert Hammerman.
From: Peter Smith.
Subject: Recommendations respecting juvenile detention facility at city jail.

In my letter to you of June 4, 1971, enclosing a memorandum to the file respecting our visit to the City Jail of June 2, I stated that a second memorandum containing recommendations would be forwarded to you shortly. You will find those recommendations below, as well as a number of supporting attachments. These recommendations are the result of consultations with Mr. Millemann following the jail visit and constitute his recommendations as well.

Two additional documents which are relevant to the matter under consideration are in preparation and I will forward them to you as soon as they are completed. The first is a detailed examination of the status of all persons incarcerated in J and K sections of the City Jail as of June 12, 1971. This study will indicate precisely why each person is being incarcerated, the stage of the judicial process where his case now rests, and the length of the incarceration in J or K section. This information is being compiled by personnel of the Juvenile Court Clerk's Office with the assistance of persons supplied by Mr. Millemann and me. The second document is a report by the Division of Environmental Hygiene of the Baltimore City Health Department. That report will be based on an unannounced visit to the City Jail to be made during the week of June 13.

I. Our Recommended Action

We recommend that juveniles no longer be sent to the Baltimore City Jail for pre-trial detention or for any other purpose.[1] This recommendation contains no exceptions. We have come to the conclusion that, so long as a person is deemed a juvenile and is thus within the jurisdiction of your Court, there are no circumstances under which it is appropriate for him to be incarcerated in the City Jail. In making this recommendation, we put to one side the question of what special treatment, if any, should be shown with respect to individuals who, although initially treated as juveniles, have been waived to adult jurisdiction. Since those individuals are beyond the jurisdiction of your Court, recommendations with respect to that group will obviously have to be directed to others.

This recommendation is based on the following considerations:

[1] You have been urged on two occasions to permit the use of the City Jail as a facility for detention of juveniles following a finding of delinquency. In our judgment you have properly rejected this request, one which we believe to be unwise as a matter of policy and also illegal since the City Jail is not under the supervision and control of any of the agencies specified in Ann. Code of Md., Art. 26, § 70–19(b). I am advised by personnel in the Juvenile Clerk's Office that there may presently be a few individuals incarcerated in J or K sections who have already been found delinquent. Information now being compiled will clarify this possibility. If this turns out to be the case, such incarceration will also be illegal under § 70–19 since it is incarceration following, not preceding, the finding of delinquency.

(1) You have the clear power to take such action;
(2) Such action is justified because of the nature of conditions in the juvenile section of the jail;
(3) Any alternative course of action which does not go this far would prove to be inadequate and very likely meaningless in light of the basic nature and limitations of the physical facility itself and the personnel who run it.

Should you wish to follow this recommendation, there remains the additional question of how much time should pass before it is implemented. The very reasons which compel us to make this recommendation cause us to conclude that every day which passes with juveniles being detained in the jail is another day that juveniles are living under intolerable conditions. Hence we believe that our recommendation should be implemented in a matter of weeks at most. The experience during the past year with respect to the proposed new facility in Prince Georges County is all the evidence one needs to conclude that waiting for the next facility to be built is not a tenable course.

II. Basis for Our Recommendation

A. The juvenile court judge clearly has the power to take the action we recommend

Article 26, § 70–12(a), which pertains to detention of a child alleged to be delinquent, prohibits such detention in a jail unless (1) adequate facilities have not been established and (2) "it appeared to the satisfaction of the court, or other person designated by the court, that public safety and protection reasonably require detention." Although the statute does not make clear who should make the judgment that adequate facilities have not been established, the statute is clear that the second condition[2] must be passed upon by the "court". Although the word "court" is not defined in the definition section (§ 70–1), the word "judge" is defined to mean "the Judge exercising juvenile court jurisdiction." Section 70–1(f). I think a fair construction of the word "court" in § 70–12(a) is that it should carry the same definition as the word "judge". This being the case, you, as the Judge exercising Juvenile Court jurisdiction, are the person with explicit statutory power to rule that the second condition in § 70–12(a) has or has not been met. Presumably juveniles are now being incarcerated in the City Jail, *inter alia*, because you previously ruled that the second condition of this subsection had been met. If you should now rule that you are no longer satisfied that the public safety and protection reasonably require detention of juveniles in the City Hall, such detention would be unlawful under statute even though adequate facilities have not been established.

In considering whether your previous finding under the second condition of § 70–12(a) should be withdrawn, it is fair to ask whether you would be justified in now concluding that public safety and protection do not reasonably require detention in the City Jail. To some extent, this inquiry founders on the absence of sufficient emperical data. For example, it is hard to assert or deny with certainty that juveniles presently detained in the City Jail would endanger public safety if set at large unless they were actually set at large. I venture to guess that there does not exist data with respect to acts by juveniles which endangered the public safety during the time they were in the custody of their parents. The fact is that considerations respecting what a person, juvenile or adult, may do pending trial which would affect the public safety are usually conjecture. Thus, I think you would be wholly justified, given existing evidence, in concluding that there is not a reasonable basis for a decision that detention of juveniles in the jail is necessary for public safety.[3]

[2] The two conditions in § 70–12(a) are *not* written in the disjunctive.

[3] It should be pointed out that, to the extent that § 70–12(a) relates pre-trial detention of a juvenile to the matter of protecting public safety, it is an unconstitutional "preventive detention" measure in violation of the Fourth and Fifth Amendments. Serious questions have been raised, and indeed are now being raised in the District of Columbia, respecting the constitutionality of statutes which condition pre-trial detention on considerations other than those which relate to the likelihood of the defendant appearing for trial. Naturally a juvenile, no less than an adult, enjoys a presumption of innocence and must be proved guilty beyond a reasonable doubt. *See In Re Winship*, 397 U.S. 358 (1970). In order to avoid questions respecting the constitutionality of the "public safety" part of § 70–12(a), it is perhaps wise to give that section a narrow construction or at a minimum require very substantial evidence respecting danger to the public safety before invoking the provision.

In addition to this constitutional problem, you will no doubt be interested to know that the Committee on Rules of the Court of Appeals, which has just completed drafting new Rules for the District Court, has approved a pre-trial release rule which limits judicial

Furthermore, the words "public safety and protection" in § 70–12(a) should be construed to refer not only to the narrow issue of whether a member of the public will be assaulted by a juvenile prior to trial if he is not detained, but to the broader meaning of those words. Article 26, § 70, which sets forth the purposes of the juvenile statute, makes it clear that the central feature of the law is to provide adequate care and protection to children through a program which removes the taint of criminality. In considering the meaning of § 70–12(a), this statement of purpose should be kept in mind. Rightly or wrongly, the drafters of the statute assumed that the interests of children would be better advanced by treating them in a non-criminal setting. While such an objective is in the best interest of individual children, it must also be viewed as being in the best interest of the general public on whose behalf the legislature acted. It is plain that, if the legislature was correct in its basic premise respecting how children should be treated, public safety and protection are advanced by not running the risk of placing children, even for short periods of time, in adult penal facilities.

B. JUVENILES ARE BEING DETAINED AT THE CITY JAIL IN A MANNER WHICH VIOLATES NUMEROUS PROVISIONS OF LAW AND MINIMAL STANDARDS OF DECENCY

(1) In considering the propriety of continuing to incarcerate juveniles in the City Jail, we again refer you to the underlying purposes of the Juvenile Causes statute as set forth in Art. 26, § 70. The statute seeks to provide for a wholesome mental and physical development of the child and to remove from the child the consequences of criminal behavior. We suggest that, given existing conditions in the juvenile wing, incarceration of juveniles at the jail for any period is at total variance with these purposes.

(2) It is plain from our recent visit to the jail that the provision of § 70–12(a) requiring juveniles to be kept entirely separate from adults is being violated at every turn. Not only are waived and non-waived juveniles in the same tier and hence constantly becoming in touch with each other but they are even in the same cell. It is obvious that either no effort has been made by jail authorities to separate the youngsters or such separations have proved to be administratively not possible.

(3) Conditions in the juvenile wing are in violation of numerous provisions of the Minimal Jail Standards adopted by the Maryland Department of Correction.[4] For example, section 4.02 requires separation of juveniles from adults. Section 6.02(b) provides that each inmate shall be provided with a clean mattress, sheet, and blanket. Section 6.02(c) states that each inmate shall be provided with cloth toweling. Section 6.02(1) provides that heating, lighting, and ventilation shall be reasonably adequate. Section 7.01 provides that reasonable medical complaints by inmates must be attended to by a doctor.[5] Section 9.03 states that visits by relatives, friends, and attorneys should be encouraged. Our recent visit to the juvenile wing revealed substantial violations with respect to all of these sections.[6] There may be numerous other violations of these jail regulations as well. The inspection which is being made by the Division of Environmental Hygiene should reveal information respecting health and sanitary conditions, particularly in kitchen and dining areas, which our inspection did not focus on.

consideration solely to the question of likelihood of returning for trial. A provision initially inserted by a subcommittee, which would have provided for stricter rules on detention in those cases where there was a probability of the defendant inflicting serious bodily injury or death upon himself or another person, was removed by the Committee. Interpreting § 70–12(a) to authorize or require pre-trial detention on the ground of public safety would thus run counter to the most recent expression of public policy on this question.

[4] A copy of those standards is appended to this memorandum.

[5] Appended to this memorandum is a copy of the letter of resignation submitted by Dr. Daniel Wilkerson to the City Jail Warden on May 14, 1971. This letter calls attention to some of the more serious deficiencies in the quality of medical care available at the jail.

[6] In one area, visits by outsiders, we had relatively few discussions with inmates. For your information, City Jail policy permits juveniles to receive visits from parents or relatives for 30 minutes on Wednesday and 30 minutes on Saturday. The overall visiting period on those days runs for a total of 2 hours but the time is divided into 4 separate periods for allocation to J Section East, J Section West, K Section East, and K Section West. Thus the total amount of parent or relative visitor time for any particular individual in the juvenile wing is a total of one hour per week. In addition, inmates are permitted to meet with attorneys Monday through Saturday from 9:00 to 11:00 or 2:00 to 3:00. The one hour per week for visits with relatives hardly seems to be a program which could be characterized as encouraging visits. Although time permitted with attorneys is much greater, the 3 hours a day does not appear to an attorney with a very busy schedule to be a policy which encourages contact between lawyer and client.

(4) Conditions in the juvenile wing of the City Jail violate due process and constitute cruel and unusual punishment. As previously indicated, certain conditions in the City Jail are in clear violation of explicit statutory or administrative provisions. Viewing conditions in this light, however, fails to put the focus on the totality of the circumstances. The memorandum submitted to you prior to our visit to the City Jail, entitled "Memorandum of Baltimore City Jail Conditions", set forth an account of conditions generally in the juvenile wing, on the basis of information which had come to our attention. A re-reading of that memorandum following our jail visit indicated to me that, while some conditions are better and others worse, the general thrust of that memorandum was quite accurate. We believe that locking up youngsters two to a small cell with release only for meals and for an hour of exercise every two or three days, particularly in view of the size and condition of the cells, is cruel treatment. In our view, this would be so even if the jail was living up to its legal responsibility to totally separate juveniles from other persons. I refer you to my memorandum of June 3, 1971 which sets forth in more detail the observations made of the physical conditions in the jail.

It should be kept in mind that all persons detained in J and K sections (with the possible exception discussed in footnote 1) are simply awaiting trial and hence are presumed to be innocent. Whatever may be said about the right of penal authorities to subject convicted persons to harsh conditions, there is no such right to impose those conditions prior to trial on persons who are presumed to be innocent. Recent court decisions have pointed out the distinction between pre-trial and post-trial confinement when considering whether that confinement violates constitutional rights. *See Hamilton* v. *Love*, F. Supp. (E.D. Ark., 1971), *Anderson* v. *Nosser*, 438 F.2d 183 (5th Cir., 1971), and *Jones* v. *Wittenberg*, F.Supp., N.D. Ohio, 1971).[7] The Court in *Hamilton* points out that it is not appropriate to judge the constitutionality of pre-trial confinement by reference to the cruel and unusual punishment clause of the Eighth Amendment: "Having been convicted of no crime, the detainees should not have to suffer *any* 'punishment' as such, whether 'cruel and unusual' or not." Slip opinion at 14. The *Hamilton* opinion goes on to point out that the only permissible conditions of pre-trial detention are those which involve the least restrictive means of assuring the defendant's appearance for trial. Slip opinion at 14–18. *See also Anderson* v. *Nosser*, *supra*, at 190 and *Jones* v. *Wittenberg*, *supra*, at 8 Crl 2440. We believe that, under this test, the incarceration of juveniles in the City Jail under present conditions violates due process. But even if the test be the Eighth Amendment, the City Jail does not pass. Although what is cruel and unusual in the constitutional sense is necessarily a subjective determination, we suggest that present conditions in the juvenile wing, particularly when viewed against the background of the statutory purpose of the Juvenile Causes Statute, can only be described as cruel and unusual.

An examination of the *Jones* opinion, which is attached, reveals a striking similarity with many of the conditions presently existing in the juvenile wing. In some respects the conditions in the juvenile wing appear to be clearly worse. For example, in *Jones*, visitors were permitted for three hours during the week. Furthermore, it should be kept in mind that we are concerned with the pretrial confinement of juveniles, whereas *Jones* concerned an adult facility. As the *Jones* case makes clear, the fact that cruelty is of a more refined sort and does not involve outright torture does not mean that it is cruelty any the less.

C. NO ALTERNATIVE COURSE OF ACTION SHORT OF REMOVING ALL JUVENILES FROM THE CITY JAIL WOULD ACCOMPLISH DESIRED OBJECTIVES

We have considered whether alternatives less far-reaching than the one proposed would accomplish the desired results. We have rejected such possibilities on the ground that they necessarily involve continued incarceration in the City Jail. We do not think that any directions that you might give respecting modification of treatment or living conditions would have more than momentary effect, if that. We say this for two reasons. First, it must be remembered that, whatever tinkerings can be made with respect to the juvenile wing, it remains part of a city jail which is designed for the incarceration of adults under penological precepts which, even for adults, would not be considered the most

[7] Copies of the full text of the *Hamilton* and *Anderson* decisions are appended to his memorandum. Also appended is an abridged version of the text of the *Jones* decision as it appeared in a recent edition of the Criminal Law Reported.

enlightened. The jail is simply not set up to deal with the special problems of juveniles. It is not a sufficient answer to say that the juveniles are (or at least could be) kept in a special wing. The fact remains that the facility is basically and primarily a jail. The personnel serve all portions of the jail and it is simply not possible under these circumstances to expect one sort of approach in dealing with sections J and K and another sort of approach in dealing with the remainder of the jail. So long as the prime mission of the facility is other than the treatment of juveniles, this latter objective will play second fiddle regardless of how many commands are given respecting oepration of juvenile tiers.

Secondly, putting aside the problem of the basic structure and mission of the jail, we have no confidence that the present warden has the will or the capacity to accomplish the internal reform necessary to correct present conditions. You are aware, of course, of the suit recently filed against the warden by Steve Sachs and the Legal Aid Bureau. Although the allegations in the complaint have not yet been proven in court, I can assure you that those allegations would not have been made unless the counsel involved were confident that they were true and could be proved. Since you are approaching this matter from the administrative rather than the judicial angle, I think it is appropriate for you to give at least some consideration to the allegations of treatment which are contained in the complaint.

There are other examples of the warden's lack of willingness to rectify problems relating to juvenile incarceration. For example, the one matter that was supposed to have been very clear from the start was that juveniles awaiting trials should be incarcerated separately from persons waived to adult jurisdiction. Even with respect to this item, it is plain that the warden has taken no sufficient steps to take care of this problem.

You may recall the recent incident involving attempts to obtain methadone treatment for City Jail inmates who are suffering from narcotics withdrawal. I am sure that Judge Harris, who sat on those cases, could give you some interesting insight into the willingness of the present warden to comply with court orders.

Finally your attention is called to a letter to the editor written by the warden which appeared in *The Evening Sun* earlier this month.[8] I think this letter, by a man who looks forward to being voted "Jailor of the Year", speaks volumes about the prospects of his taking the necessary steps to eliminate the conditions that now exist for juveniles in the jail.

If you should wish to have any further discussions or if I can aid you in any other way prior to your deciding upon a course of action, please call me.

Exhibit C

July 23, 1971.

Hon. Robert I. H. Hammerman,
Court House, Room 180,
Baltimore, Md.

Dear Judge Hammerman: In connection with the statement that you are now preparing on the juvenile incarceration problem, I want to bring one additional matter to your attention. Because of the absence of time and the need to put this information in your hands immediately, it will of necessity be in a very abbreviated form.

As I indicated to you in previous correspondence, your clerk's office in cooperation with clerks supplied by Mr. Millemann and me, examined the nature of the population in the juvenile wing of the city jail (sections J and K), using as a basis for the study the city jail printout sheet of June 11, 1971. As of that date there were a total of 204 persons incarcerated in sections J and K. Of those 204, 41 appear, on the basis of our research, to have been juveniles awaiting a hearing of some sort, either a waiver or trial on the merits. Of these 41, 8 appear to have been, as of June 11, 1971, detained beyond the period of 30 days allowed by statute. This latter statistic, while not directly relevant to the reason for my supplying you the data in this letter, is obviously relevant to other considerations involving the proper working of the judicial system.

The second major group of persons in Sections J and K on June 11, 1971 were individuals who had been given waiver hearings in Juvenile Court and had been waived. This group totaled 107 individuals. Of the 107, our information indicated

[8] A copy of this letter is appended.

that 12 were not actually waived until after being incarcerated more than 30 days. Since those 12 are now in fact waived, the legal period of detention is passed but it is nonetheless a fact of interest for future administration.

The third major catagory included persons awaiting hearings on the merits in capital or life sentence charges which, of course, do not proceed through Juvenile Court, at least in the absence of "reverse waiver". That group totaled 30 persons.

The remaining 19 individuals fall into a series of catagories as follows:

1. 1 person who had been charged with a capital offense, found guilty, and was awaiting sentence.

2. 3 persons who appeared simply to be adults awaiting trial. It does not appear in those cases that the individuals were ever waived from Juvenile Court. Nor does it appear that they were charged with capital or life sentence offenses.

3. 4 persons who appeared to be juveniles, each of whom was indicted for a non-capital, non-life sentence offense without any Juvenile Court waiver having taken place.

4. 1 person who was transferred to the city jail in January, 1971 pursuant to *Long v. Robinson* and who had, as of June 11, 1971, been given no juvenile hearing of any kind, detention or otherwise.

5. 2 persons transferred to city jail pursuant to *Long v. Robinson*, subsequently given waiver hearings in Juvenile Court and waived, and presently remaining in city jail following that waiver.

6. 1 person transferred to city jail pursuant to *Long v. Robinson* who should not have been transferred since he had been originally charged with a capital offense but nonetheless remains in city jail.

7. 1 person placed in city jail following a probation revocation. It appeared that this person was tried as an adult in some municipal court district, but we have not verified this fact.

8. 5 persons for whom no records could be found in either the Juvenile Court or the Criminal Court of Baltimore City. Your clerk's office is presently seeking to determine the reason for their incarceration.

9. 1 person who was carried on the printout sheet of the Juvenile Detention Section but whose tier is not indicated. The city jail claims that he was transferred to Crownsville and is not in the jail. Crownsville claims that he was released from that Institution some time ago. Criminal Court records indicate that he was sentenced to 5 years imprisonment in 1970. Thus far we have no idea where he is.

The above data is subject to further check and I am sure that certain individuals have been placed in wrong categories. Nevertheless I am confident it presents a generally accurate pitcure of the makeup of sections J and K. Numerous conclusions can be drawn and I will draw very few now. First, it is obvious that the great bulk of the persons presently incarcerated in the juvenile section are not juveniles. Putting aside for the moment the question of whether *waived* juveniles (whether by hearing or automatically) should be separately incarcerated from persons 18 and over,[1] the fact nevertheless remains that only a very small portion of those persons incarcerated in the juvenile wing are in fact juveniles in the legal sense. This fact in turn leads to two others. First, the fact that the true juvenile group is so small further demonstrates that juveniles are in constant daily contact with large numbers of persons who are not deemed to be juveniles, all of which is in violation of law and, presumably, of wise policy. Secondly, the fact that the true juvenile population is so small indicates the feasibility and practicality of totally ceasing to use the city jail as a detention center for juveniles since we are not talking about a very large population, it cannot be contended that removal of such persons from the jail and discontinuing further placement there is an administrative impossibility.

Another conclusion to be drawn from the data is that detained juveniles are not only mixing continually with large numbers of detained non-juveniles, but that many of the detained non-juveniles have been detained at the jail for long periods of time. Lack of time again prevents me from giving you a statistical summary of the average length of time that persons in the various categories have spent in the jail. We do have the raw data and I can assure

[1] I put this matter to one side not because I think it is unimportant but because I am anxious to put this letter in your hands immediately.

you that the time is substantial, running up to a year or more. We are all too familiar with what tends to happen to individuals incarcerated in places such as the city jail. The whole theory of physical separation of juveniles from adults stems from our acceptance of the fact that bad things happen to people spending time in our typical jails. Thus the fact that juveniles are not only mixing with non-juveniles, but are mixing with non-juveniles who have spent substantial time in jail is an additional relevant consideration.

In conclusion, I can only again urge upon you the recommendations contained in my June 16th memorandum. It seems to me that the above data simply further strengthens the logic behind those recommendations. I look forward to having your resolution to this problem.

Sincerely,

PETER S. SMITH.

P.S.—If you add up all of the sub-categories of individuals, you will note that they total 203, not 204 as indicated on page 1 of my letter. The discrepancy of 1 is accounted for by the fact that, after the categories on pages 2 and 3 were enumerated, I discovered 1 additional individual on the printout sheet for whom we have obtained insufficient information to place in any category whatever.

EXHIBIT D

SUPREME BENCH OF BALTIMORE CITY,
Baltimore, Md., August 3, 1971.

I am enclosing herewith a copy of my Memorandum Opinion dated August 3, 1971 with respect to the Juvenile Detention Center of the Baltimore City Jail. This release is for Tuesday, August 3, 1971 at 11:00 a.m.

The import of this Opinion is three fold:

1. That the conditions existing in the Juvenile Detention Center are extremely poor and inimical to the well being of those detained there.

2. That we are dealing with those who are children under the law and who are only being detained pending trial—they are still presumed innocent and many will be so found. Without any malice being intended, the totality of the existing conditions for these youths amounts to punishment which is cruel and unusual—and where under the Constitution and the law punishment of any kind for those merely waiting for trial is prohibited. In point of fact, these juveniles only awaiting trial do not receive nearly as humane treatment as those who are actually convicted and committed to institutions.

3. That for the Juvenile Court of Baltimore City to continue to use the Baltimore City Jail as a juvenile detention facility, numerous conditions will have to be corrected within sixty (60) days; and in no event will the Court use the Jail facility after one year from this date.

MEMORANDUM OPINION, JUVENILE DETENTION CENTER—BALTIMORE CITY JAIL

On May 4, 1971 Joseph A. Matera, Esq., Michael A. Millemann, Esq. and Peter S. Smith, Esq. met with me at their request to present and discuss a memorandum outlining the poor and inadequate conditions which they felt prevailed in the Juvenile Detention Center of the Baltimore City Jail. These attorneys were counsel for the plaintiffs in the federal court law suit of *Long vs. Robinson*, 316 F. Supp. 22, which resulted in the juvenile age being changed in Baltimore City from under sixteen to under eighteen. In this capacity these attorneys have retained an interest in the ensuing developments in the Juvenile Court as a result of this ruling. Since the initial meetings the various contacts and communications regarding this matter have been with Mr. Smith who, without formal designation, has in fact been the spokesman and representative of the group.

Shortly after the decision in *Long vs. Robinson*, decided August 6, 1970, this Court, after inspection, authorized the use of the sections of the Baltimore City Jail known as J and K as a juvenile detention facility in accord with certain specific provisos. These sections have continued without interruption to be used for this purpose. This Court acted under the authority vested in it pursuant to Article 26, Sections 70–11 and 70–12 of the Annotated Code of Maryland (1966 Replacement Volume).

On June 2, 1971 without prior notice, Mr. Smith and I visited the Juvenile Detention Center and spent three and a half hours observing conditions and talking to approximately fifty youths housed there. At the request of Mr. Smith certain Bureaus of the Baltimore City Health Department made inspections of the entire Jail, including the juvenile sections, in June of 1971. As a result of the observations made and the conversations held during the visit with Mr. Smith and I made to the Jail and the report of Mr. Smith of Mr. C. Edward Sachs, Director of the Bureau of Environmental Hygiene of the Baltimore City Health Department, dated July 1, 1971 (hereinafter referred to as the "report of the Bureau of Environmental Hygiene"), conditions have been found to exist which in the judgment of this Court are not satisfactory and cannot be tolerated.

I. FINDINGS

1. *Integration with adults.* The common condition which was found to prevail was the complete assimilation of juveniles with those who were of adult age (albeit young adult age) or those being legally treated through consummated waiver proceedings as adult offenders. The truth is that of the population in the juvenile section only about 1 out of 6 to 8 at a given time are there as juveniles. Juveniles are totally mixed with those who are older, many who are awaiting adult trials for murder and rape and similar offenses and many who have languished in the Jail for a great many months with the debilitating and dehumanizing effects which this usually produces. This co-mingling exists throughout—on the same tiers and often even in the same cells. It appears that little or no effort is made by the Jail authorities to have the situation otherwise. This is in clear violation of the mandate of this Court in August, 1970, is in clear violation of Article 26, Section 70–12(a) of the Annotated Code of Maryland (1966 Replacement Volume) and is in clear violation of Section 4.02 of the Minimal Jail Standards adopted by the Maryland Department of Correction (published October 4, 1967) (hereinafter referred to as the "Minimal Jail Standards").

2. *Cell occupancy.* Except for some juveniles confined in the maximum security section, almost all other juveniles are quartered 2 to a cell. The average cell contains approximately 42 square feet. Each cell has in this space bunk beds, a bureau, toilet and washbasin. It must be borne in mind that these youths do not engage in any work detail and spend most of the 24-hour day confined to the cell. Mr. Sachs, in his report of July 1, speaks of this condition as "the major deficiency of Baltimore City Jail" and that the "overcrowding of the cells in that 2 persons are housed in a cell that does not meet the existing recommended minimal standards of the American Correctional Association and the Maryland State Department of Corrections for the incarceration of *one* inmate." (Italics supplied). The recommended minimal standard of the American Correctional Association and the Maryland State Department of Corrections is 1 inmate for 50 square feet. If the cells being used for those juveniles do not meet even the minimal standards for *one* inmate, how totally inadequate they must be for *two*.

3. *Illumination.* To the extent that the cells are lit, there are two light bulbs at the back end of the cell a couple of feet down from the ceiling and concealed behind a glass or plastic cover. One of the bulbs remains on all night and the other is turned on during the day. The lighting is extremely inadequate for reading and would be very difficult unless the individual sat or stood next to the cell door where he might receive some additional natural lighting from the corridor. In a number of cells there was no lighting at all and in some less than two bulbs operating. In a letter to Dr. Neil Solomon, Secretary of the State Department of Health and Mental Hygiene, dated July 19, 1971, Dr. Robert E. Farber, Commissioner of Health of the Baltimore City Health Department (hereinafter sometimes referred to as "Dr. Farber's letter of July 19"), states that in the maximum security section of the Juvenile Detention Center approximately 60% of the electric lights are in need of repair. The report of the Bureau of Environmental Hygiene states that the "amount of light is inadequate for reading" and that with both lights burning it was an average of 4-foot candles as noted on a G.E. Light Meter. The Bureau states that 30-foot candles is the *minimum* that should be provided, thus pointing out that the present illumination is less than one-seventh of what the *minimum* standards call for. Section 6.02(1) of the Minimal Jail Standards requires reasonably adequate lighting.

The Bureau also found that the lighting conditions in the shower area were "poor," testing only 3-foot candles on the light meter where 20-foot candles should be the *minimum*.

4. *Toilets.* Complaint has been made of the condition of the toilets—none with seats, some broken. The Bureau has found that the toilet and washbasins are a one piece combination especially designed for correctional institutional use. Although some cells had toilets which were broken, these cells were not being

used during our visit. Some leakage of water was noticed on the floor in one or two instances. The responsibility for cleaning the toilets rests with each boy and he is provided with the implements for this purpose. The Bureau found the plumbing sanitation to be adequate.

5. *Hot water.* There is no hot water available in the washbasins of the cells. The report of the Bureau of Environmental Hygiene recommends that there be a hot water supply for each washbasin, the temperature of which can be controlled for security purposes.

6. *Mattresses.* Although the professed policy of the Jail is to provide each inmate with a mattress for his metal bunk bed, almost all of the juveniles with whom we spoke, said that this was not the uniform practice and that many youths are not issued a mattress when they enter and must wait until another leaves to secure his. The mattresses are foam rubber and a number are in poor condition and at least one was half of a mattress only. Section 6.02(b) of the Minimal Jail Standards stipulates that each inmate shall be given a clean mattress and replaced when necessary.

7. *Sheets.* As with the mattresses, the policy and the practice appear to differ, with every juvenile not receiving a sheet immeditaely upon entering. Section 6.02(b), hereinabove referred to, requires clean sheets for each individual.

8. *Blankets.* Each youth is appropriated one blanket. These blankets are uniformly of an extremely thin material, frequently ragged and worn through with holes. With no top sheet available, the type of blanket provided does not appear to give adequate protection in all cases.

9. *Clothing.* As far as can be determined, juveniles entering with clothes in extremely poor condition will be issued a pair of outer pants and also possibly a shirt. No underwear or socks are issued however.

10. *Laundry.* The laundry system appears to be a once a week proposition for sheets and for that clothing which may be issued by the Jail. One's own clothing, underwear and outer garments, is left to each individual to clean in his cold water basin in any manner he is able—if he be so inclined in the first place. Thus, the cleanliness of the juvenile's clothing is a very haphazard and uncertain matter.

11. *Hygienic supplies.* The youths with whom we talked uniformly stated that any hygienic supplies such as soap, toothpaste and toothbrush can only be obtained by purchasing them from the Jail. If unable to purchase these, the boy must either borrow them or have them supplied from home. This contradicts official Jail policy but the contradiction appears to have a basis in fact. Similarly, the unanimous comment of the boys was that they were not supplied with towels and if they could not provide their own from home then they would have to do without. Numerous boys spoke of drying off from showers with their clothes, a washcloth, rag or not at all. One boy stated that he had not taken a shower in three weeks because he was still waiting for a towel from home. Hand towels for use in the cells are not provided, which appears to encourage if not cause a lack of proper personal hygiene. Dr. Farber in his letter of July 19 recommends that hand towels be provided for each cell, acknowledging thus that this is currently a hygienic deficiency. Section 6.02(c) of Minimal Jail Standards stipulates that regular cloth toweling shall be provided each inmate for bathing and personal hygiene and that soiled toweling shall be replaced regularly.

12. *Broken windows.* A significant number of boys complained that the cells were very cold in the evening and early morning due to broken windows in the glass wall about 8 to 10 feet opposite the cell doors. Numerous broken windows were in fact observed and some reportedly have been in this state fr a period of months. The report of the Bureau of Environmental Hygiene found that about 5% of the window glazing in the entire Jail, but *particularly in the Juvenile Detention Center*, was broken, cracked or missing and recommended that this be replaced.

13. *Insects.* A number of complaints were made by juveniles of insects being present in their cells. Corroboration that this is so may be found in the reports of the Bureau of Environmental Hygiene and Dr. Farber's letter of July 19. The former states that "the window screening was either missing or having a large size screen opening that flying insects are permitted easy ingress, this would account for the numerous flies noted in the Juvenile Detention Area." The letter of July 19 speaks of the need of replacing missing and/or defective window screening and providing the type of screening that could prevent the reentry of flying insects.

14. *Maximum security.* One upper tier of Section K is devoted to maximum security. The cells are identical in physical layout with the rest of Sections J and K. The substantial difference in routine is that there is usually one to a cell and that those so confined are kept in virtual isolation. Their meals are served in their cells and the only opportunities to leave the cell confines are for a shower (which is not daily), for exercise (also not daily), or to see visitors (the maximum being twice a week for a total of one hour) if visiting privileges have not been taken away. Juveniles are placed into maximum security cells for three reasons: (1) because they have been disciplinary problems; (2) because they are or are suspected to be homosexuals; and (3) for their own protection. At the time of our visit the overwhelming majority of those confined fell into the third category. This was verified by an inspection of the records of each boy. A number of these youths acknowledged that they were indeed in fear of their safety and well being in other sections of the Juvenile Detention Center. The net result and terrible irony of the situation is that a group of boys who have committed no infractions of regulations are the ones most consistently sent to the maximum security section and continuously isolated in their cells. The analogy of killing the patient to cure the disease would not be totally inappropriate here.

15. *Showers.* There was no uniform comment as to the frequency of showers, but it clearly appears that one averages 2 to 3 showers per week. It is interesting to note that in the training schools where boys are *committed* after *conviction* of an offense they are given and required to take a shower every day. If the Department of Juvenile Services feels that proper hygienic policy dictates this with boys who are committed to an institution after conviction, it would appear to be somewhat incongruous to feel that those just being detained before a trial begins should need less.

16. *Food sanitation.* Several, but not most, of the boys spoken to complained of the occasional presence of bugs in their food. That there is likely to be some substance to this view can be gleaned from the report of the Bureau of Environmental Hygiene where it was noted that the re-inspection of the Jail on June 9, 1971 by the Bureau of Food Control of the Baltimore City Health Department showed that its recommendations of June 2, 1971 were not fully complied with, recommendations for proper rodent-proofing in the food areas and the elevation of food in the storage room to at least ten feet from the floor. The letter of Dr. Farber of July 19 indicates some improvement in the sanitary conditions surrounding food service and preparation since June 22, 1971 but pointed out that the Bureau of Food Control felt that more improvements were still needed in rodent and insect proofing.

17. *Medical treatmnet.* It was the consensus, if not even the unanimous view, of those boys spoken to that prompt attention to medical needs was hard to come by. Several stated that their requests of guards for medical assistance were ignored. One boy stated that only the letting of blood would achieve attention. Another showed us a stitch in his head which he wanted a doctor to remove but he had not been permitted to go to the infirmary. Another boy told of his first night in the Jail where he was strapped to his bed while going through withdrawal symptoms from narcotics.

Sick call is held once a week.

An inspection of the medical facilities and discussion with the head nurse revealed that nurses are on duty until 11:00 p.m. Doctors are present during weekday mornings and a third doctor is on call in the evening hours for emergencies. Recourse may also be had at the Baltimore City Hospitals.

18. *Recreation.* The facilities for recreation and exercise include a small open yard of rather narrow dimensions for juvenile use only which appears not to be adequate for a soft ball game, indoor area for the entire Jail population and adequate for basketball but used as well for chapel purposes, and an indoor recreation room for each of the two juvenile jail sections. Each recreation room has a television set and a ping pong table.

There seemed to be little uniformity in the use permitted of the recreation facilities. Some boys seemed to have use daily or almost daily, some once a week and most perhaps two or three times a week. The length of each use seems to vary from an hour to three hours.

19. *Visitors.* A parent or relative may visit a juvenile every Wednesday and Saturday for a maximum of half an hour each time—one hour maximum per week. Section 9.03 of the Minimal Jail Standards prescribes that visits by relatives and friends to an inmate "should be encouraged."

20. *Reading material.* There seems to be no systematic attempt to make available to the youths reading material such as books and magazines. A library is present in the Jail for the entire population but no effort to circulate these books among the boys was very evident.

21. *Pencil and paper.* Here again there appears to be no uniform policy of distribution. Some boys say that they have no problem getting pencil and paper, others say otherwise and that they must either get these supplies from home or borrow them from others if possible.

22. *Schooling.* Since March 1, 1971 the Department of Education has operated a school known as school No. 740 in the Juvenile Detention Center. This school is conducted in one room, five mornings a week from 9:00 a.m. to 11:30 a.m. with 20 students, one teacher and two aides. Subjects taught are English, mathematics and social studies. In addition to the morning classes two teachers go to the Jail during the afternoons between 1:00 p.m. and 3:00 p.m. and tutor certain class members either individually or in a small group of two or three.

23. *General atmosphere.* The general atmosphere which surrounds the Juvenile Detention Center is one of almost total inactivity by young persons in miserable surroundings. There is literally an odor which permeates the entire area and which is very offensive in its nature.

Although the inmates may become inured to the odor and conditions generally, nonetheless this institution is not a pleasant place in which to exist. The atmosphere rather is one that is entirely unhealthy, dreary, repelling and depressing—and one which can absolutely stultify any reservoir of goodness and positive qualities which may lie within these young people.

II. CONCLUSIONS

There are four major, fundamental principles and threads which underlie this area and which must be fully understood and kept closely in the forefront:

1. That we are dealing here with children—with those whom the law explicitly refers to, embraces as and concludes are children.

2. That the children we are dealing with are merely being kept in custody to assure their presence at their trial, that they have not been found guilty of committing any offense and are in fact at this point presumed to be totally innocent of any wrongdoing. This presumption is the fountainhead of our legal system, but one which receives consistent lip service but not as much service in practice.

3. That the treatment of those juveniles in custody awaiting trial should at least be the equal of and as humane as the treatment of juveniles who have been adjudged guilty of committing an offense and who are committed to institutions.

4. That cruel and unusual punishment even for those convicted of an offense is unconstitutional and that punishment *of any kind* of one who has yet to be tried is just as clearly unconstitutional.

The courts of our country, particularly the state courts are loathe to interfere with the internal operations of prison systems, requiring a very compelling showing to warrant intrusion. However, there is manifestly a far greater duty and obligation on the courts when we are dealing with conditions of incarceration of children. This is so by reason of the mandate of the Legislature and the fact that the juvenile courts of this state are equity courts, not criminal courts, with the broad powers inherent in equity.

This Court finds as a fact from the totality of the conditions that the treatment afforded juveniles in the Juvenile Detention Center of the Baltimore City Jail constitutes cruel and unusual punishment. This is prohibited by the Eighth Amendment of the United States Constitution which is made applicable to the states by the due process clause of the Fourteenth Amendment. Even if it could reasonably be argued that it is not cruel and unusual, I hardly think that it could reasonably be disputed that, regardless of the labels and euphemisms which may be attached and regardless of intentions, the net result is in fact the infliction of punishment. It is well established that punishment may not be imposed on even an adult, much less a child, who is in the pre-adjudicatory stage of proceedings. It is also firmly established by the law of this state that even when we are dealing with children who have actually been convicted of an offense, even at that point punishment is not the desirable alternative. Article 26, Sections 70 to 70–26 of the Annotated Code of Maryland (1966 Replacement Volume) constitutes the juvenile court law of this state. It was overwhelmingly enacted by the General Assembly in 1969 after much study and deliberation. Thus, the expression of intent by the legislators is a very contemporaneous one. Section 70 is the preamble and defines the purposes of the law. Subsections (1) and (2) state as follows:

"(1) To provide for the care, protection and wholesome mental and physical development of children coming within the provisions of this subtitle;

(2) To remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior, and to substitute therefor a program of treatment, training, and rehabilitation consistent with the protection of the public interest."

There have been three very recent federal decisions in the area of conditions in local penal institutions. The cases involved adults and for the most part those who have been sentenced after conviction, but did deal with the treatment of adults awaiting trial as well. The thrust of these cases goes very directly to the situation at hand and with even greater force.

On June 2, 1971 the United States District Court for the Eastern District of Arkansas (Western Division) published its opinion in the case of *Hamilton vs. Love*, ——— F. Supp. ——— (E.D. Ark. 1971). The Court said, at page 18 of the Slip Opinion:

"There can be no justification for 'punishment' of detainees whether 'cruel or unusual' under the Eighth Amendment, or not."

The United States Court of Appeals for the Fifth Circuit decided the case of *Anderson vs. Nosser*, 438 F. 2d 183 (5th Cir. 1971) on February 10, 1971. The Court spoke as follows:

"Where incarceration is imposed prior to conviction, deterrents, punishment and retribution are not legitimate functions of the incarcerating officials. His role is but a temporary holding operation, and then necessary freedom of action is concomitantly diminished . . . The purpose of incarceration of them was simply detention in order to assure presence at trial. Punitive measures in such a context are out of harmony with the presumption of innocence." Page 190.

The Fifth Circuit, at page 190, quoted with approval the language in *Butler vs. Crumlish*, 229 F. Supp. 565, 567:

"'It seems to be forgotten that an accused is not a convict and it is only strong necessity that compels his detention *before trial*. There is a restraint of liberty of his person which is unavoidable. It certainly should not be aggravated by the infliction of any unnecessary indignity.'" (Court's italics).

Finally, on February 17, 1971, in the case of *Jones vs. Wittenberg*, 323 F. Supp. 93 (N.D. Ohio 1971), Judge Don J. Young wrote:

"When the total picture of confinement in the Lucas County Jail is examined, what appears is confinement in cramped and overcrowded quarters, lightless, airless, damp and filthy with leaking water and human wastes, slow starvation, deprivation of most human contacts, except with others in the same sub-human state, no exercise or recreation, little if any medical attention, no attempt at rehabilitation, and for those who in despair or frustration lash out at their surroundings, confinement, stripped of clothing and every last vestige of humanity, in a sort of oubliette. . . . (Page 99).

If the constitutional provision against cruel and unusual punishment has any meaning, the evidence in this case shows that it has been violated. The cruelty is a refined sort, much more comparable to the Chinese water torture than to such crudities as breaking on the wheel. The evidence also shows that in this case at least, the punishment is unusual. . . . (Page 99).

Obviously, if confinement in the Lucas County Jail is a cruel and unusual punishment forbidden to be employed against those who are in jail to be punished, it is hard to think of any reason why it should be permitted for those who are only in jail awaiting trial, and are, according to our law, presumed to be innocent of any wrongdoing. For centuries, under our law, punishment before conviction has been forbidden. The Constitution does not authorize the treatment of a pre-trial detainee as a convict." (Page 100).

Judge Young then went on to quote from Blackstone to show how deeply embedded these concepts have been in our legal system over a period of centuries.

The conditions in the three cases cited above all have variances with those found in the Baltimore City Jail—some of the particulars are better or worse, as the case may be. What is significant, though, as previously mentioned, is that these opinions were directed at conditions in adult institutions and where most of the inmates had already been convicted of crimes. The courts spoke very decisively about the conditions which must exist for adults awaiting trial—how much more compelling and urgent their words become when we look at children waiting for trial in an institution designed and operated for adults.

We are dealing here with conditions which most directly and immediately affect the lives and physical and mental health of these youths. They should not and cannot be allowed to vegetate. The whole import of our new juvenile court law is towards the rehabilitation of our young people who have ventured into trouble,

and if we are not successful in our efforts with our young there is little hope left to us. This is even more applicable to those awaiting trial and presumed innocent—and many will be so found. Pre-trial detention is a necessity in a number of instances, but such detention must be of an enlightened sort which will serve the ends which have been proclaimed by the people's representatives in the Legislature and not cause debilitation or regression in these children.

When we have conditions where children still presumed innocent are warehoused two in one cell which does not even meet the *minimal* space requirements for one inmate; where they are a minority mixed in with a large group actually or legally being treated as adults; where those who may be model inmates but who are guilty of being physically vulnerable by reason of frail stature or the like, are sent to virtual 24 hour isolation for their own "protection;" where sanitary and hygienic conditions do not meet *minimal* standards of even adults who have been convicted; where conditions of health, physical recreation and contacts with family leave so much to be desired—then we have a system which lacks wisdom, which lacks decency and humaneness, and which lacks due process.

Some may possibly argue that a mitigating consideration is the fact that under the law a juvenile can be detained for no more than 30 days prior to trial. The simple answer, I believe, to this is that in many cases for good cause this period is extended, but that essentially whatever the number of days may be, the corrosive and destructive effects which, though not perhaps inevitable with every child, are quite real and likely, can take hold of a youth in a matter of just a few days or even hours.

An examination of the Minimal Jail Standards reveals the provisions of Section 704(c) that there shall be an Inspection Officer of the State Department of Correction who shall at least annually inspect each jail and similar local facility in the state. If he finds conditions to exist which do not meet the minimum standards promulgated he shall report this fact to certain specified authorities. If these deficiencies are not substantially corrected within 180 days, the Officer "shall order such place closed and all prisoners therein shall be transferred to a suitable place of detention. . . ." For some inexplicable reason Baltimore City is exempted from this closing and transfer mandate (possibly for the sake of expediency), and this raises the question of equal protection under the laws. Nonetheless, what is significant about this provision is the fact that the State through duly promulgated regulations has set forth a policy with respect to adults who have been convicted that they shall not be allowed to be confined in an institution which does not meet the minimum standards. Can any less be arranged for juveniles not at the time convicted of anything?

What is so ironic is that these juveniles who are presumed innocent and are awaiting trial are subjected to far worse conditions than their peers who have been convicted and committed to institutions. A juvenile who is convicted and committed can never be sent to the Baltimore City Jail but only to a training school. The conditions at the training schools leave very much to be desired but in comparison are so infinitely superior—a regular bed with proper bedding; clean clothing; proper sanitation; adequate hygienic supplies; recreation every day; the open air every day, many diversions, entertainment programs and field trips; regular religious worship; weekly family visits of well over an hour; frequent home visits for a period of several days; mixing only with their peers; adequate reading material; no solitary confinement for one's own protection. There can be no justification for this inconsistency and disparity of treatment between those juveniles awaiting trial and those tried, convicted and committed.

And how ironic indeed is the fact that it appears pretty clearly that adult inmates who live in the Death House at San Quentin Prison in California, who have been convicted of murder and rape and who have been sentenced to the gas chamber—that these men shall be living in an environment which is better and more humane than the children of Baltimore City who have the misfortune of being detained at the Baltimore City Jail even before they are tried. The Death Row murderers and rapists at San Quentin have good food, television sets, piped-in radio, education courses for all of them, access to nearly any type book, magazine or newspaper they might wish, visitors, unlimited correspondence, the right to purchase items from outside the prison and exercise that lasts 3½ hours each day. (Richard C. Welch, "San Quentin's Death House" *New York Times*, July 23, 1971, page 31). This Court certainly does not criticize the prevailing standards at San Quentin, but in all humaneness it is

incomprehensible that we can justify a far less enlightened standard of confinement for the children who are awaiting trial on noncapital offenses.

I would want to point out with great emphasis the fact that although I criticize the conditions which prevail in the Juvenile Detention Center of the Baltimore City Jail, I do not necessarily criticize the Jail authorities primarily for this. The Jail is an adult institution and not geared to maintain this type of operation. It has not had this kind of responsibility before. The truth is that the Jail, a Baltimore City agency, has undertaken this function at the request of and as an accommodation for the Department of Juvenile Services, the state agency charged with the responsibility for the pre-trial detention of juveniles. It is the belief of this Court that the Department has failed in its responsibilities, that after obtaining the consent and cooperation of Warden Hiram L. Schoonfield and the authorization of this Court, the Department has paid scant if any attention at all to what has been going on at the institution. This Court knows of no effort by the Department to monitor the setup and the program at the Jail, and this Court believes that to do so is the clear responsibility and function of the Department under the law. It must be at least the minimum expectation and promise to any juvenile detained at the Jail that his life not be in jeopardy, that he be free from any bodily assault, abuse or molestation, and that his physical, mental and emotional health be reasonably protected. The Department of Juvenile Services is the agency which is charged with the duty to assure that this climate does exist in the Jail or anywhere else—and if the Jail is not able to provide this, the Department must look elsewhere.

The common plaint that one hears is that existing resources, namely money, inhibits if it does not actually preclude the availability of the desired facilities. This cannot be accepted as a defense, for the lack of adequate resources cannot deny the vested rights which he has under the Constitution and the law. The Court, in *Hamilton vs. Love*, — F. Supp. — (E.D. Ark. 1971), addressed itself to this question, saying:

> "Inadequate resources can never be an adequate justification for the state's depriving any person of his constitutional rights. If the state cannot obtain the resources to detain persons awaiting trial in accordance with minimum constitutional standards, then the state simply will not be permitted to detain such persons. The final decision may, indeed, rest with the qualified voters of the governmental unit involved. This Court, of course, cannot require the voters to make available the resources needed by public officials to meet constitutional standards, but it can and must require the release of persons held under conditions which violate their constitutional rights, at least where the correction of such conditions is not brought about within a reasonable time." Slip Opinion (page 19).

In a like vein, the notewriter in "Constitutional Limitations on Conditions of Pretrial Detention" appearing in the Yale Law Journal, volume 79 (1970) at page 955, writes:

> "If the level of resources is always taken as given, it can justify anything—even depriving detainees to the point of starving them, were the level lower."

III. MANDATE

For this Court to continue to use the Baltimore City Jail as a detention facility for juveniles, it is the mandate of this Court, as follows:

A. Concrete action shall be taken on each of the conditions enumerated in Part I of this Opinion, in the following manner:

1. There shall be no integration or mingling of juveniles with those who are of adult age or who at the moment are being treated under the law as adult offenders. There shall be complete physical segregation of these groups at all times. A strong argument can be made for a Jail policy which segregates the young adult offenders from the remainder of the Jail population—this smacks of wisdom—but it cannot be done in a way where they become part of the juvenile jail population.

2. There shall be no more than one occupant in each cell. Since the inception of the use of the Jail in August, 1970, the average monthly strictly juvenile population has been 27, the highest monthly figure being 38 in December, 1970. This is a small enough figure to allow for this occupancy accommodation, but even if the figure were larger the same requirement would be made.

3. The illumination of the cells and all other areas shall be kept in good order and repair and shall meet the minimum standards and requirements set forth in the report of the Bureau of Environment Hygiene.

4. The present condition of the toilet facilities appears to meet the sanitary requirements of the Bureau of Environmental Hygiene. Although the Jail requires the juveniles themselves to maintain the cleanliness of the toilets and provides them with the equipment to do so, it shall be the responsibility of the authorities to assure that the proper standard of cleanliness is maintained at all times.

5. Hot water shall be made available in the washbasins of the cells in compliance with the recommendation of the Bureau of Environmental Hygiene.

6. Every juvenile upon his admission to the Juvenile Detention Center shall be issued a mattress which is in usable and sound condition, and replacements shall be made when necessary in accordance with the Minimal Jail Standards.

7. Every juvenile upon his admission to the Juvenile Detention Center shall be issued at least one clean sheet in good condition which shall be laundered at sufficiently frequent intervals and which shall be replaced when necessary.

8. Every juvenile upon his admission to the Juvenile Detention Center shall be issued sufficient blankets in good condition which will provide proper protection and warmth. These blankets shall be replaced when necessary.

9. Every juvenile upon his admission to the Juvenile Detention Center shall be issued those items of clothing which he may require to assure his proper dress.

10. The laundry service of the Jail shall be made available at sufficiently regular intervals for the cleaning of all bedding and of all clothing which the juvenile may have, whether such clothing is the property of the authorities or the juvenile himself.

11. The Jail shall provide each juvenile who may require the same, necessary hygienic supplies, such as soap, toothpaste, toothbrush, clean towels for the taking of showers and clean hand towels for each cell in accordance with the recommendation of Dr. Farber in his letter of July 19.

12. The windows in the walls opposite the cells and in all other areas of the Juvenile Detention Center shall be kept in continual good order and repair.

13. Defective window screening shall be replaced and all window screening shall be kept in good order and repair and shall be of sufficient kind and quality so as to protect the juvenile area from flying insects, all in accordance with the recommendations of the Bureau of Environmental Hygiene and Dr. Farber.

14. No boy shall be sent to the maximum security section of the Juvenile Detention Center for what is now termed "his own protection." With the elimination of the mixing of juveniles with adults and the placing of only one juvenile in each cell, many, if not most, of the problems affecting the security of certain juveniles should be resolved. The maximum security section shall only be used for those juveniles whose behavior is so disruptive that this action is an urgent necessity.

15. Each juvenile shall be allowed and required to take a shower every day.

16. The recommendations of the Bureau of Environmental Hygiene and Dr. Farber with respect to the sanitary conditions surrounding food service and preparation shall be complied with.

17. Prompt and effective medical attention and treatment shall be available. We are dealing with children whose needs are different from adults. There shall be sick call, as that term is presently understood and used every day.

There might be some abuses of this by certain juveniles but the strictest and highest standards of health care must prevail, and what abuses there might be will be a small enough price to pay for this service.

18. Big muscle exercise and recreational activity is to be made available to all juveniles every day for a period of at least one hour each day. This is a necessary outlet for the physical and emotional health of youngsters of this age. The Department of Juvenile Services has ample recreational facilities available within rather close proximity to the Jail which it could utilize for this purpose if it wishes.

19. Each juvenile shall be permitted visits by members of his family for a period each week totaling at least 2 hours.

20. The library facilities of the Jail shall be made available on a regular and systematic basis to the juveniles.

21. The Jail shall make available to each individual pencil and paper to meet the reasonable requirements of each youth.

2. Considering the relatively short period of detention for the average boy, the school program conducted by the Department of Education appears to be adequate. However, it shall be limited to juveniles only—because of the requirement of segregation of juveniles and even young adults and because of the fact that there is capacity for only twenty students at a time and these places should be filled with the juveniles.

23. Every effort shall be made to make the physical atmosphere of the Juvenile Detention Center as attractive as possible and to assure generally that the physical, mental and emotional health of each child shall be guarded and protected.

B. The changes directed to be made in paragraph A shall be done and completed within sixty (60) days of the date of this Opinion. For this Court to continue to use the Juvenile Detention Center at the Baltimore City Jail after that date will require that these corrections be made to the satisfaction of the Court. There shall also be a certificate in writing from the Director of the Department of Juvenile Services that he is satisfied that all changes called for have been implemented.

C. At the expiration of the sixty day period and assuming that this Court does continue to use the Baltimore City Jail as one of its detention facilities, the Regional Supervisor of the Department of Juvenile Services for Baltimore City shall certify in writing to this Court on the first and fifteenth day of each month that the conditions in the Juvenile Detention Center at the Baltimore City Jail meet all of the requirements set forth in this Opinion. This semi-monthly report shall also contain a list of the juveniles being detained at the Jail, their dates of detention, their current status and a list of those being held in the maximum security section with the dates and reasons therefor.

D. In no event shall this Court continue to use the Baltimore City Jail as a juvenile detention facility beyond one year from the date of this Opinion. The underlying necessity for the use of this institution is that certain juveniles require detention in a secure place prior to trial. The need for such detention is very apparent. However, I do not believe that the Baltimore City Jail is the only resource available to the Department of Juvenile Services. As a necessary expedient immediately upon the heels of the *Long vs. Robinson* decision, the use could I believe be justified. Ample opportunity, though, has existed for alternative plans to be made. One year from the date of this Opinion will be one week shy of two years of the date of the federal court decision.

It should be borne in mind that we are talking of an average monthly population over the last eleven months of 27 boys, not an extraordinarily high figure. I believe that it is well within the capacity of the Department of Juvenile Services to provide secure detention for this number in one of its existing juvenile institutions in rather close proximity to Baltimore. When confronted recently with the problem of aggressive youths at the Maryland Training School and the need for secure measures for these boys, the Department has had the resourcefulness to arrange for the conversion of two cottages from open to secure facilities.

Article 26, Section 70–12 (a) of the Annotated Code of Maryland (1966 Replacement Volume) provides that no child shall ever be detained in a jail after January 1, 1972. In its 1971 session, the Legislature has extended this deadline to January 1, 1975. The Legislature also orginally said that no child in need of supervision (truant, runaway, ungovernable) shall be kept in an institution where delinquent youths are housed after January 1, 1972 and this date was also extended three years. However, the Department of Juvenile Services has this month announced its policy to effect this separation of children in need of separation and delinquent children on August 1, 1971, stating it thinks it important to carry out the originally expressed intent of the Legislature and not delay any further although the law might permit it. I would think that the Department would feel likewise in this similar situation and would want to treat the legislative intent in a uniform and consistent way.

To allow the Department to continue to use the Jail for an additional three and a half years and perhaps even longer will never solve the problems which an adult jail poses—where under the most optimum of conditions and with the most genuine goodwill by all concerned, a jail can never really be an adequate and proper place to detain children, presumed innocent before trial. And those who subsequently are found innocent will still bear scars. Mr. Smith has urged upon the Court the proposition that the use of the Jail should cease immediately because it cannot properly be shown that any juveniles might be a threat to the public safety and thus in need of secure detention under Section 70–12 (a). The Court cannot agree with this thesis.

This Court is very much aware of the efforts which the Department of Juvenile Services has been making for a considerable period of time to have a regional detention center established in Baltimore City. The establishment of this facility would obviate the need for the Jail. The Department has been diligent in this pursuit but no fruits have yet come forth. However, this Court sees no justification in waiting until the cutting of the ribbon, which at its very earliest would be two years away. There is no reason why in the space of one year the Department cannot make at least some temporary provision for the secure detention of an average of 27 youths in a setting that is far healthier in every respect than the Jail. I would hope that the Department could do this in less than a year, but keeping in mind budgetary problems, relocation of units and other difficulties, this Court feels that one year is a reasonable period of time, particularly inasmuch as continued use after 60 days, in any event, would have to be on a completely different basis than heretofore.

In concluding, this Court wants to pay sincere tribute to Peter S. Smith, Esq. Recognition is the last thing which Mr. Smith would seek and this is even more reason why it is due him. Mr. Smith is an excellent lawyer, a vigorous and able advocate, but above all one who has a keen social conscience and who has dedicated his considerable talents and abilities to fulfilling the calls and demands of that conscience. This Court and our entire community is in his debt and we are fortunate to have him in our midst.

ROBERT I. H. HAMMERMAN,
Judge.

EXHIBIT E

SUPREME BENCH OF BALTIMORE CITY,
Baltimore, Md., October 8, 1971.

JUVENILE DETENTION CENTER—BALTIMORE CITY JAIL.

On August 3, 1971 I filed an Opinion with respect to the Juvenile Detention Center at the Baltimore City Jail and ordered that certain corrections would have to be made within a 60 day period for the Juvenile Court of Baltimore City to continue the use of this facility on a temporary basis. On Monday afternoon, October 4, 1971, I made an un-announced visit to the Jail to inspect the conditions. I spent two hours making such an inspection and I talked individually with a number of the juveniles detained there and talked in a classroom with 29 of the 31 juveniles there in an open "give and take" session. No jail personnel were present during my meeting with the group. Of the two boys not present, one was in Court and one was working in the commissary. During this session I questioned the boys and discussed with them each of the conditions which I spoke of in my Opinion and which I ordered corrected.

In accordance with Section III–B of my Opinion, on October 4, 1971 I also received a letter from Mr. Robert C. Hilson, Director of the Department of Juvenile Services, dated October 3, 1971, wherein he gave me a full report as to the status of each of the corrections which I ordered.

As a result of the letter from Mr. Hilson and my personal visit to the Jail, I am satisfied that there has been almost complete compliance with my mandate of August 3, 1971 and that as a result thereof, I find the conditions in the Juvenile Detention Center to be sufficiently satisfactory to allow continued use of this facility for the next ten months, which is the maximum period that I have allowed for such use.

I found the Center to be extremely clean and I found each and every cell to be very neat and tidy.

Integration with those waiting for adult trials has completely ceased. With an infrequent exception each boy has a cell to himself. There are a total of 30 cells in the J-East section of the Jail which is exclusively for juveniles. The

average daily population is 27. At the time of my visit there were 31 boys present and two cells were not being used because of defective plumbing. Repairs were to be made shortly. Thus on October 4, 1971 there were three boys who had to share cells. The illumination of the cells has not reached the level recommended but has improved considerably. Only two boys reported to me that they had difficulty reading in their cells. All of the boys reported that they were given adequate supplies to keep the toilets clean, and that hot water is now available to them each day through a system of transporting it from the shower area to the cells. Every bed contained a new or nearly new mattress, all the boys received clean sheets which are laundered and changed twice a week and each boy is issued a blanket in good condition. There were no complaints made to me by any of the boys about any of the bedding material, although it appears that the blankets are not being laundered on the regular basis that they are supposed to. I have been assured that this will be done immediately.

Clothing is available to those boys who may not have adequate personal items, but the complaint was voiced to me that they had difficulty in obtaining jail clothes during the period when they would want to wash their clothes and have them dry. I have been assured that this matter will be taken care of promptly. The cleaning for personal things is done by the juveniles themselves and they are provided hot water and the proper utensils for this need.

Arrangements for providing all necessary hygienic supplies have been made. All boys stated that they receive an adequate supply of clean towels and soap, although a few stated that they did not have toothpaste or a toothbrush. I have been assured that this will be remedied immediately.

Approximately five to ten percent of the windows opposite the cells are broken. A contract has been let by the City for repairs and the Jail is waiting for the contractor to do this work. The window screening remains unchanged but the Warden has requested the Board of Estimates to make the necessary repairs. Only one boy told me he was presently being bothered by bugs or insects. I would expect that proper insect repellent could meet this need on at least a temporary basis.

Maximum security is no longer being used for a boy's own protection but only for a juvenile who may prove to be extremely aggressive and unmanageable and thus a danger to the well being of others. At the time of my visit only one juvenile was being detained in this manner. I spoke to him and he told me that he would much prefer to be where he is than in the regular cell row. The jail authorities confirmed this and advised me that in his present confinement he is happy and passive but when mingled with the others completely hostile and aggressive.

The jail authorities tell me that each juvenile is permitted to take a shower everyday although some choose not to. The boys tell me that generally they are allowed to take only two showers per week. I have been assured that the daily availability of showers will be implemented immediately.

Mr. Hillson has asked Dr. Robert E. Farber to make a further inspection regarding the sanitary conditions of food preparation and service. My own inspection shows that there have been a number of improvements in this area and that all of the food being stored is now elevated above floor level.

I am satisfied that juveniles are receiving adequate medical attention and that their needs are being met as promptly as possible. I would not say that every boy would always feel that his physical needs are given as prompt and thorough attention as he would like, but no condition came to my attention which indicated any substantial dereliction in this area.

Outdoor recreational activity for a period of at least one hour is provided Monday through Friday, and during inclement weather the indoor gymnasium is used. I have been assured that this recreational outlet will be extended into the weekends with the imminent addition of a juvenile worker.

Each juvenile is able to receive two visits per week which seem to average about 30 minutes per visit. This does not conform to the two hours per week which I ordered but I do appreciate the extreme scheduling problems confronting the total jail population. Furthermore, I have been told by the juveniles that in situations of unusual importance boys are allowed to make telephone calls to their families and receive calls in such situations. Also, if unusual circumstances dictate, a boy is allowed to leave the Jail for a visit with his family.

Although the library facilities of the Jail are not available to the juveniles, the Department of Juvenile Services has made provision to make available to the youths appropriate reading material. The Department is also making avail-

able to all of the juveniles paper and pencils where necessary. The one complaint from the boys in this regard was the unavailability of stamps. I have been assured by the juvenile worker that this will be remedied immediately.

The school program that has been instituted by the Department of Education is available to the juveniles but space limitations of the classroom do not permit every juvenile to participate at a given time. Some also choose not to.

One of the most significant and enlightened changes which has come about as a result of my August 3, 1971 Opinion has been the placing of a full time juvenile worker into the Juvenile Detention Center whose sole responsibility is to serve the interests and needs of the detained juveniles. The Department of Juvenile Services selected Mr. Riley Simpson for this position. Mr. Simpson is a veteran member of the Juvenile Probation Department and one who has acquired considerable expertise in the drug area and other areas associated with deliquent youth. He enjoys a good rapport with these young people. I am satisfied that Mr. Simpson has done a very excellent job in representnig the interests of the juveniles and in talking with them it is evident that he has their respect and confidence. They were unanimous in saying that when he was on duty things moved very smoothly. One of my sharpest indictments in my August 3, 1971 Opinion was that the Department of Juvenile Services never paid any attention to what was happening in the Jail. By now assigning a full time worker there it can be clearly seen what an immense value such personal attention by the Department can have.

One of the complaints of the boys was that when Mr. Simpson was not on duty (he works Monday through Friday 8:30 a.m. to 4:30 p.m.) their interests and needs are not cared for as efficiently and expeditiously. I have no doubt that this is true by reason of the severe shortage of jail personnel. However, I believe that the Department can rectify this situation. The time for lights out for the juveniles is 8:30 p.m. Since my visit to the Jail on October 4, 1971 I have, through our Regional Supervisor, communicated with Mr. Hilson and have asked that an additional worker be assigned to the Juvenile Detention Center to work Monday through Friday from 4:30 p.m. to 8:30 p.m. and on Saturday and Sunday for a full eight hour day. Because of complicating factors such as the job freeze, wage freeze, etc. it will not be easy to accomplish this but nonetheless I feel it is very important and Mr. Hilson has assured me that such a worker will be made available and will be assigned. Because of personnel problems, this assignment probably will not be effected until three to five weeks from now.

Although every detail of what I ordered corrected has not been fully met at this moment, all of the matters of substance have been. Those areas which are very basic and fundamental to the physical and emotional health of the juveniles have been satisfied. We have no more integration with adults, there is one juvenile per cell, no improper use of maximum security, cleanliness in all of the cells and the entire juvenile area, proper and sufficient hygienic supplies and equipment, proper and laundered bedding items, hot water and the availability of daily showers, regular and sufficient physical recreation, adequate medical attention, better illumination, adequate clothing and regular communications with their families by way of visits, telephone calls and correspondence. The achievement of all of these important and meaningful improvements in a period of 60 days has not been an easy task. I would pay tribute to the Department of Juvenile Services and the Baltimore City Jail for this accomplishment. These two agencies have worked closely together and with great diligence to effect these changes and their responsiveness and efforts are entitled to respect and appreciation.

In conclusion, I must emphasize again that part of my mandate of August 3, 1971 whereby this Court will not use the Baltimore City Jail as a detention facility beyond August 3, 1972. As I mentioned in that Opinion, even under the most ideal conditions, a jail is not an adequate facility for the detention of juveniles who are waiting for trial and who are presumed innocent of any wrongdoing. As I also stated in my Opinion, the Department of Juvenile Services has been attempting to secure the funds and the site for a regional detention center. However, this is still something that although desperately needed still remains unconsummated. By August 3, 1972 the Department will have had two years from the date of the jurisdictional age change in Baltimore and one year from the date of my Opinion to provide an alternative facility for pre-trial detentes among the other juvenile institutions which the Department operates. I Department concurs with me that the Jail is not a suitable facility and in v

of such concurrence they certainly have more than sufficient time to provide this alternative. It is true that until a permanent regional center is constructed that even the alternative will not be the ideal but it will still be more satisfactory than continued use of the Jail. I would also point out that my authorization for the continued use of the Jail for the next ten months is contingent on the fact that I will receive the semimonthly reports calls for in my Opinion and that the conditions in the Jail remain at least on the level which they are at this moment.

ROBERT I. HAMMERMOND,
Judge.

EXHIBIT F

SUPREME BENCH OF BALTIMORE CITY,
Baltimore, Md., November 10, 1971.

JUVENILE DETENTION CENTER—BALTIMORE CITY JAIL

On Friday afternoon, November 5, 1971, complaint was made to me of conditions adverse to health at the Juvenile Detention Center of the Baltimore City Jail. The complaint centered on two conditions—the unreasonably cold temperature of the area and the fact that all food being served juveniles was cold on arrival. I immediately directed the Department of Juvenile Services to investigate the situation and have a written report to me on Monday morning.

The crux of the first complaint was that the numerous window panes which have been missing for a long time still have not been replaced, that because of defects certain windows could not be closed sufficiently, and that coldness pervaded the area, requiring many of the juveniles to either huddle in the cells or stand around with blankets draped around them. With respect to the food, the criticism was that by the time the food wagons arrived from the kitchen to the cell block area that all of the hot food had become cold.

I am attaching hereto a copy of the memorandum which I received on Monday, November 8, 1971, from Mr. Robert S. Bagley, the Regional Supervisor of the Department of Juvenile Services of Baltimore City. Mr. Bagley stated that "in no uncertain terms it is cold in the Jail." Memorandum further states that "the complaints of cold food are valid." Mr. Bagley concludes his memorandum by stating that "I feel strongly that the present conditions in the Jail are intolerable and bordering on the inhuman."

I paid an unannounced visit to the Jail on Tuesday morning, November 9, 1971, at 9:25, I observed the broken windows as I have before and the windows that could not be closed properly. I spoke to a number of boys and observed that many, if not most, of those on the first of the two levels (the tier most subject to exposure from the windows) had moved to the top bunk so that the ceiling and upper barricade of the cell would be an added buffer against the cold. They also move as far back in the corner as they can. I noticed one boy huddled under his blanket in the far rear corner. It should be noted that at the time of my visit the weather was not as severe as other recent days or times of the day.

The advent of cold weather has just begun. It will naturally become far more severe than it already is. In this weather each boy has only one thin blanket.

In my Opinion of August 3, 1971, I called for the elimination and correction of all improper conditions within 60 days. At the expiration of that period I found that there had been almost complete compliance with my original mandate. The broken window panes were not replaced but I was assured that this was imminent. Of course, the consequences of defective windows are substantially different now than over the summer months. The representatives of the Department of Juvenile Services in close contact with the Jail have advised me this week that in their judgment there has been procrastination in fulfilling the commitments made for improvements.

My Opinion of August 3, 1971 emphasized the fact that in the Baltimore City Jail we are dealing with those of juvenile age and those who are only awaiting trial and not any who have already been adjudicated. I pointed out that in any situation cruel and unusual punishment is unconstitutional, and that at the pre-adjudicatory stage of the proceedings any punishment is unconstitutional.

I feel that the Baltimore City Jail and the Department of Juvenile Services have had sufficient opportunity to make the Jail facility meet the minimum standards necessary for the proper housing of juveniles while they are awaiting a Court determination of their guilt or innocence. Efforts have been made to achieve this, but it is quite apparent that they have fallen short.

The most significant and revealing statement and position of all is that previously quoted—the observations of the Regional Supervisor of the Department of Juvenile Services of Baltimore City. To me it is a ringing indictment. It must be remembered that it was the Department of Juvenile Services which asked me in August of 1970 for the use of this facility and it is this Department which has the responsibility of running it and supervising it. If the Department is going to characterize its own facility as "intolerable and bordering on the inhuman," then I think the next step is apparent.

With the conditions which have been reported to me and which have been verified by the Department of Juvenile Services, with my own inspection, and with the description of conditions at the Jail by the Department itself, my mandate date, responsibility and duty is clear. I can no longer allow the use of this facility for juveniles. Accordingly, I will sign an order transferring all juveniles being detained at the Baltimore City Jail to another detention facility or facilities designated by the Department of Juvenile Services, said order to be effective on Friday, November 12, 1971. I will also state that in the event that conditions are subsequently corrected in a completely satisfactory way, I will allow the use of the Jail facility to be resumed, but in no event will any such renewed use be allowed to continue beyond August 2, 1972 in accordance with my mandate of last August.

ROBERT I. H. HAMMERMAN,
Judge.

Memorandum — NOVEMBER 8, 1971.

Re Baltimore City Jail.
To: The Honorable Robert I. H. Hammerman.
From: Mr. Robert S. Bagley.

This morning Mr. Lang conveyed to me your concerns as related to you by Mr. Peter Smith concerning conditions at the Jail. Essentially, the information which you have received is correct. With the change in temperature since last week it is indeed 50 to 60 degrees in the Jail. In no uncertain terms it is cold in the Jail. However, Mr. Simpson states that he has never seen the youngsters huddled together in cells with blankets to keep themselves warm. The fifty-eight broken windows have not been repaired and Lieutenant Ray of the repair shop has not corrected the situation.

Feeding is still accomplished by carting the food to the cells. This involves transferring the food across the courtyard and in most instances when it arrives at J East it is cold. Therefore, the complaints of cold food are valid. Mr. Conquest has advised me that at one point there was some discussion about putting armchairs in the cells. He further indicated that the Warden vetoed this idea, feeling that the youngsters could use the day room facilities just as the other inmates do.

I have no concrete means of documenting my feelings. However, based upon the reports which I have received from Mr. Simpson and Mr. Conquest, and my own observation it seems that the Warden has a very definite negative attitude toward instituting the changes which we have requested. The requests that we have made have all dealt with reasonable miscellaneous maintenance and matters of staff management which determines the adequacy and quality of supervision for our youngsters.

I am sending a copy of this memorandum to Mr. Wilson because I feel strongly that the present conditions in the Jail are intolerable and bordering on the inhuman.

EXHIBIT G

LOCK-UP FOR JUVENILES: A STUDY

(By Barbara Gold and Jeffrey Hannon)

PREFACE

Juveniles who are arrested in Baltimore City are held in lock-ups—large cells sectioned off into smaller cages called cells. Sixteen and seventeen year old males are taken to Southeastern Lock-Up in the police station on the grounds of Church Hospital. Younger males and all females are taken to Northeastern on Argonne Drive. They wait there until arraignments—which may be the next morning, but can be three or four days later if the juvenile is picked up on a week-end.

The conditions of these lock-ups are widely recognized to be deplorable—but, until now, there has been no careful study of what they are like and no careful examination of what might be able to be done about them. This study describes the conditions in these places and suggests some of the legal analysis that might be useful in changing or closing them. The study is based on interviews with about seventy-five juveniles at the Maryland Training School, the male lock-up room at the Baltimore City Courthouse, the female lock-up there, and the Group Home on Druid Lake Drive. Other interviews have been conducted with various officials of the Department of Juvenile Services, social workers who have visited clients at Southeastern, and lawyers who have also had clients there. One member of the reporting team visited Southeastern on numerous occasions, and an impartial adult observer-volunteer spent twenty-four hours as a juvenile detainee there. All of the information gathered from these interviews and observations has been collated for the following report:

SOUTHEAST

INTRODUCTION

"Ain't nothin' in there but a bench, a sink, and a toilet." And a sixteen or seventeen-year-old boy—but it was rare that a speaker included himself in the emphatic, guttural, angry, bitter, resigned, extraordinarily consistent descriptions of the Southeast Lock-Up, holding pen for sixteen and seventeen year old males who have been arrested by the Baltimore City Police, who have run away from some juvenile institution or other and been picked up, or who might be CINS, "children in need of supervision," guilty of no crime, possibly incorrigible, generally unwanted by parents or relatives.

There is more "in there" of course—like roaches, the live kind and the marijuana cigarette kind; and dirt—caking the base of the toilet and sometimes the seat, blackening the sink, darkening the walls; and graffiti all over the walls; and noise—from drunks throwing up (there are adults brought in here too on a regular basis, from kids yelling at turnkeys and from turnkeys yelling back (mostly about each other's mothers), from keys clanging and gates slamming.

And there's the smell—Southeastern stinks—no two ways about it—of urine, and alcohol, and unwashed bodies, and greasy food, and dirt—and fear. The smell is part of the place—sometimes (generally on Saturday night) it's awful, and sometimes just when you think you're getting used to it, it knocks you over all over again.

The story of Southeastern is however, as that consistent description so succinctly suggests, as much a story of what is not there as of what is: a youth incarcerated in Southeastern Lock-up for a period that can last from Friday evening until he is taken to court on Monday morning (or Tuesday if the Monday docket is too crowded)—does not get to take a shower (there isn't one), or brush his teeth (there is no toothbrush or toothpaste), or smoke, (no cigarettes allowed for juveniles), or read (no magazines or books), or write (no pencils and paper allowed or provided), or change his clothes (to what?), or call anyone (sometimes a kid who really begs will get a phone call but generally "they" do it for him), or watch TV or listen to the radio (there aren't any). He doesn't even really get a chance to sleep—the light in the corridor keeps the cell lit twenty-four hours a day; there is no mattress, no pillow, no sheets, no blanket. There are no towels for washing or soap to wash with. There's no hot water. He only gets toilet paper if he asks.

Food comes in, generally cold but sometimes warm, from a White Coffee Pot Family Restaurant—egg sandwich, coffee, and donut or sweet roll for breakfast; burger and coffee for lunch; burger or (sometimes) "platefood" for supper.

The food is shoved through a hole in the cell door.

SPECIFIC EXAMPLES

Andrew: white, sixteen, working a steady job, back to visit his family in Highlandtown and attend a wedding, picked up for a breaking and entering around the corner from where the police saw him walking, a little 'down' from qualudes when he was brought in, a little confused about what was happening.

The police thought Andrew was nineteen—he had a friend's I.D. as well as his own in his wallet. So they put him in the adult section of the lock-up—a center section not too different from the juvenile section—except that adults

get one phone call and are allowed to smoke—and they made plans to truck him away to Baltimore City Jail (where the 'grown-ups' go) as soon as possible.

When Andrew "came to my senses the next day, and told them everything they needed to know—including showing tatoos on his body with his correct name on them—they wouldn't believe me. I tried all night to get to the turnkey. I was hollering. And he came back and I asked if I could see the desk sergeant and he said 'no.' "

That was Saturday. Sunday, Andrew sat in the lock-up while the wedding went on without him. Sunday, a social worker who knew the family came to see him, was sent away because the visiting room (actually a tiny cubicle with a thick tiny pane of glass in a thick wall separating the prisoners' visiting room from the visitors') was being used for a lock-up too, returned and waited an hour until the room was cleared. Sunday, Andrew "laid paper over the toilet seat because it was too filthy to sit on."

And he stayed in the adult section—where he heard the screams of a man withdrawing from heroin, talked to a man who had been picked up for murder, saw a man across from him 'pop a pill' and refused one that was passed to him, and yelled through the walls to somebody he knew who had been locked into the juvenile section.

How did he know the acquaintance was there? The cells are thick metal on three sides, no windows. All an inmate can see is what's directly in front of his cell and a little to either side.

"Well, you just holler back and forth to see who's come in."

What else is there to do? "I just lay around. I asked for some heat, but they wouldn't turn it on. I asked them to shut the lights out so I could sleep, and they wouldn't. And the last two days I tried some push-ups."

On Monday, he saw the District Judge in the Southeastern Courtroom and was able to establish he was a juvenile. But by then the truck taking boys to the juvenile court in downtown Baltimore had left, and Andrew went back to his cell—in the adult section. Nobody seemed to care then or when all the yelling was going back and forth between adults and juveniles in the lock-up about Article 26, Section 70–12 of the Maryland Code which says, "No child shall ever be confined in a jail or other facility for the detention of adults, unless in a room or ward entirely separated from adults."

That section is titled "Detention or Shelter Care Facilities" and may or may not have been originally intended to apply to lock-ups—but the authors of the juvenile laws clearly thought keeping juveniles separate from adults was very important. Southeastern Lock-up may have rows of cells that are theoretically separate—one row on the end for juveniles, two center rows for adults, and another end row for women, but things don't always work that way. A public defender intern who is at Southeastern every day laid out that theory for me and then shrugged. "They can't keep the kids separate."

And they can't. The juvenile cell row is right at the entrance to the entire cell block and kids can hear and sometimes see most everything that goes on when someone is picked up and booked. One sixteen-year-old I talked to recently heard every detail of how "one dude beat up a chick because she tore up his pay check" and heard all the drunks who were brought in.

Andrew himself was more concerned at this point about his court appearance the next day and the impression he was going to make on the judge than about what cell he was in at Southeastern. He asked "three or four times" for a comb to straighten out his (short) blonde hair. He asked for a toothbrush and toothpaste since he hadn't brushed his teeth for three days. He asked for some soap to wash himself as best he could. He didn't get any of it.

A lawyer, called by the social worker, came to see Andrew, was told first he'd been taken to the Jail, then waited for an hour while the Southeastern police went through papers to assure themselves Andrew was really there.

When I saw him Tuesday (he had not been taken, as expected, to Juvenile Court yet), his face was puffy from lack of sleep, ridged from three nights on a wooden bench, and smeared with dirt. His hair was a mess. He smelled. And he knew it.

He was also scared: Almost 75% of the boys held at Southeastern end up being detained until their adjudicatory hearings.

Then there was Gregory: He ran away from home in another state, got to Baltimore, and wasn't sure quite what to do. A policeman picked him up late one Friday afternoon for loitering, and Gregory found himself in the court house in Baltimore and shortly thereafter handcuffed in the back of a truck on the way to Southeastern—to await a Monday morning court appearance when the authorities would decide what do with him.

I saw Gregory—seventeen, black, articulate, and scared—on Saturday at noon. He might have been brave when he ran away, but he certainly wasn't anymore.

"I woke up at 3 am—shivering and sneezing. Three cells down a guy was on an acid trip or something, and he was banging the bars.

"There's no way you can lay down and sleep anyway without being bugged by the outside light. And the bench is hard. I asked for toilet paper three times before they gave it to me.

"And there isn't any heat—so I had to keep my jacket on so I didn't have a pillow or a blanket or nothin. And the floor is cold, and the walls are cold metal, and the cold comes up through the cracks in the bench.

"And that guy was screaming, and there were little creepy, crawly things, like spiders, and a couple of unidentified small black bugs which might have been lice or crabs or fleas between the slats of the bench."

He ran his hands through his hair, shook his whole body to rid himself of the thought, peered at me through the thick glass square between us.

One night alone, in a cell, with nothing to do had been pretty upsetting. "I measured the room by pacing and also my arms, and the room was approximately 5½ by 6½ by 6½ feet by 8 feet. I could say that was fairly accurate because 8 feet is just about my maximum for jumping, and I could touch the ceiling just barely. I could get my fingers on it which would make it about 8 feet.

"Then I tried to get to sleep, tried to figure out a comfortable way to go to sleep. First of all, I'm a very squeamish person, and it was very hard to go to sleep with all that dirt between the cracks. But, by this time, it was fairly late so I figured I could give it a try.

"But I couldn't find a position so the light wouldn't shine in my face.

"The way the light shined in you couldn't sleep toward the bottom of the cell 'cause that would hit you right in the face, you couldn't really sleep on your back toward the back of the cell 'cause the light could still come in and hit you in the face, and if you tried to sleep on one side or the other you either got the light that was a reflection off of the wall or reflections off of the toilet and sink.

"So the best way to sleep was to curl up your arms under your jacket and put my face face down. But this didn't work too well 'cause the bench was so hard I had to constantly change positions. I fell asleep for a while. And I woke up and one arm and one leg was very, very numb so I got up and walked around."

And there was David who was picked up for assault on a Friday night in July. David was a heroin addict, and, by the second day, he was "throwing up and they didn't do nothin for me."

And there was Donald—seventeen with a carefully braided corn-row hair style under a white knit cap. The turnkey didn't go for Donald at all, kept yelling, "You're going to jail, boy," and "cussing out" Donald's mother in particular and his relatives in general.

"The boys cuss right back," Donald was frank, "But they (the turnkeys) start it."

There was a "mental case" a few cells down from Donald, and "he talked and kept hollering 'the Japs are coming' all night and shaking the bars."

Donald himself was grubby from being out all night. Did he clean himself up to go to court? "No. The sink was covered with grease and oil. And there was this terrible odor. I had to get used to it."

And there was Michael, sixteen, black, tall, thin, picked up in the middle of a fight. His face was bleeding. There was a cut on his leg. What happened when he got to Southeastern? Did a doctor take a look at him just to be sure something serious wasn't wrong? No way. "They took my things and put me in a cell."

And there was John who wanted a drink of milk. No way for that either. Four kids passed their little containers of coffee creamer down the line of cells to him.

COMMENT

There are no written laws against putting a boy by himself in a cell for one to three nights with only a toilet and a cold-water-on sink for company. There are no written laws against that cell being dirty and smelly. There are no written laws that say a boy who is going to court should have a chance to shower, comb his hair, brush his teeth, and put on clean clothes. There are no written laws that say he should have more than a wooden bench with big metal studs

holding it together to sleep on. There certainly aren't any written laws that say he should have a drink of milk.

There was a memorandum opinion (C.C.H. Prov. L. Rep. $13,041) from Judge Hammerman of the Supreme Bench of Baltimore City two years ago that laid down minimum standards for the detention of juveniles at the Baltimore City Jail, and those minimum standards included:

(1) "complete physical segregation of juveniles at all times and no integration or mingling of juveniles with those of adult age or those being legally treated as adults;

(2) "maintenance of clean toilet facilities at all times as a responsibility of jail officials not juveniles;

(3) "hot water provided for the cell washbasins;

(4) "a sound usable mattress;

(5) "one good clean sheet;

(6) "good sufficient blankets to provide proper protection and warmth;

(7) "necessary hygienic supplies such as soap, toothpaste, toothbrush, clean bathing towels and personal hand towels furnished to each juvenile;

(8) "proper rodent proofing;

(9) "prompt and effective medical attention and treatment with sick call every day;

(10) "library facilities available on a regular and systematic basis;

(11) "writing materials available to each juvenile;

(12) "every effort to make the physical atmosphere as attractive as possible and to assure that the physical, mental, and emotional health of each child is guarded and protected."

Judge Hammerman gave the authorities sixty days to comply with that directive and, when they didn't, he issued a second directive on November 12, 1971, closing the Baltimore City Jail juvenile detention wing. The only juveniles held at BCJ now are those who have been waived to the adult court.

There is a recent, frequently quoted case which makes no bones about the effect lock-up has on juveniles:

"It is difficult for an adult who has not been through the experience to realize the terror that engulfs a youngster the first time he loses his liberty and has to spend the night or several days or weeks in a cold impersonal cell or room away from home or family.

"The speed with which relatively innocent youngsters succumb to the infectious miasma of "juvy" and its practices, attitudes, and language is not surprising. The experience tells the youngster that he is 'no good' and that society has rejected him. So he responds to society's expectation, sees himself as a delinquent, and acts like one." *In re William M.*, 89 Cal. Rptr. 33, 473 P. 2d 737, 747, n. 25 (1970).

Whether or not these cases can serve as precedents for doing something about the Southeastern situation remains to be seen.

There are also regular rumors floating around the Department of Juvenile Services and around the courthouse that "soon"—possibly "this summer some time"—Southeastern will no longer be used for juveniles, that they will all be held at the Maryland Training School instead (phone conversation with Ed Lang 5/7/73). But there are "transportation problems" of all sorts involved in this—and the rumors always turn out to be just that anyway. Southeastern goes on despite them.

NORTHEAST

Conditions at Northeastern Lock-up, the holding pen for juveniles under sixteen, are physically the same as at Southeastern: immediate isolation for juveniles, lack of all amenities, incarceration in a cell that is separated visually but not verbally from adults.

The adults at Northeastern are almost all women which exposes the juvenile to louder screaming and more high-pitched verbal aggression (pace the movement).

There are, according to Tom McGee, intake officer at Northeastern, "rooms" in that lock-up which are sometimes used to hold girls or apparently-docile boys. These rooms are supposed to contain mattresses, blankets, and other amenities. None of our interviews disclosed anyone who had been held in a room instead of a cell however.

Despite the physical similarities of the set-up however, it does seem that, perhaps because of the absence of adult males, conditions are not as brutal at Northeastern as at Southeastern—or at least as physically brutal. Verbal expressions of contempt were far more freely expressed when prisoners were brought in at Northeastern than when they were brought in at Southeastern. (But this observation is based on only a few hours of observing from the waiting room and may be based on more variables than simply sex).

Ed Lang of the Department of Juvenile Services has suggested that separation of juveniles from adult women might however be beneficial. On May 7, 1973, he commented that it might be well to consolidate all juveniles at Northeastern if the adult women could be moved elsewhere. His remarks, however, might have been predicated on purely spatial considerations.

The Juvenile Lock-Up: A New Theory of Law May Be Needed

INTRODUCTION

Attempts to change, improve, or obliterate the current conditions of juvenile confinement and detention necessitate taking juvenile legal theory along a somewhat different path from that it has been following since the *Kent* decision in 1966. That decision laid the groundwork for a whole line of decisions granting and increasing procedural protections for juveniles, protections that concentrated on the trial aspects waiver, adjudication—of the juvenile process. That decision and the line of following cases gave the juvenile more and more of the protections the criminal law gave to adults.

That decision also represented a fundamental attack on the general "welfare" philosophy of juvenile law. Whereas pre-1966 juvenile law had assumed that the juvenile court was a beneficient parental sort of operation, an entity that would protect the child rather than indict him as a criminal, post-1966 juvenile law began to question that assumption, began to assert that true protection for juveniles could only be obtained by granting them the fundamental constitutional rights all other persons enmeshed in the legal process were granted.

The situation is well summarized by Sanford Fox who writes:

"The past decade has seen a number of objections voiced to the welfare philosophy of the juvenile court, objections which do not, however, at all involve or imply that the welfare of children is not a legitimate and priority concern of the state. Among the earliest of these were the juvenile court acts in New York and California, largely designed to respond to the objection that juvenile courts had become so deeply involved in ministering to the social and psychological needs of the children who came before them that they had lost sight of the equally important need to do so with procedural fairness and in a form that assured the accuracy of their determinations. The requiem for procedural informality was exemplified by the statement of purpose in the New York law which, instead of repeating the view that the courts were created in order to help and protect delinquent children, intoned that "the purpose of this article is to provide a due process of law (a) for considering the claim that a person is a juvenile delinquent or a person in need of supervision and (b) for devising an appropriate order of disposition for any person adjudged a juvenile delinquent or in need of supervision." "The Law of Juvenile Courts in a Nutshell" pp. 256-257.

Juvenile law reformers concentrated on obtaining procedural protections for juveniles—just as the first criminal reformers had concentrated on obtaining procedural protections for those accused of crimes. And then some juvenile law reformers, turned, as had some criminal law reformers, from procedural concerns to the more substantive areas of conditions of confinement.

A. B. U. Law Review note succinctly summarized the shift in emphasis by quoting one juvenile law authority who remarked "that advances directed towards assuring the juvenile greater procedural regularity in juvenile proceedings 'may not matter as much' to the children incarcerated by the juvenile courts as would improvements in the institutions themselves." "The Courts, the Constitution, and Juvenile Institutional Reform," 52 B.U.L.R. 33-34 (1972).

Doing something about conditions of confinement and detention in general and about Southeastern Lock-up in particular takes account of this possibility, and, because juvenile custodial law is still very much a developing area, taking action about Southeastern must be based, as was the achievement of procedural rights for juveniles, on carefuly drawn analogies between the custodial cases in the adult area and custodial cases in the juvenile area.

The task will not be easy. Adult law is based on "retribution" and "punishment." Juvenile law is based on "rehabilitation" and the labels are rarely helpful. One writer suggests "that society needs to focus on achieving the fundamental objectives of decency and humanity, rather than on the abstract notion

of 'rehabilitation.'" Allen, "The Juvenile Court and the Limits of Juvenile Justice," 11 Wayne L. Rev. 676, 685–86 (1964).

We are at once precipitated into a state of incipiency—not unlike that surrounding *Kent* when Justice Fortas wrote, "These contentions . . . suggest basic issues as to the justifiability of affording a juvenile less protection than is accorded to adults suspected of criminal offenses, particularly where, as here, there is an absence of any indication that the denial of rights available to adults was offset, mitigated or explained by action of the Government, as parens patriae, evidencing the special solicitude for juveniles commanded by the Juvenile Court Act." 383 U.S. 541 (1966).

We are once again in a time when realities must be faced and dealt with for the first time.

STATUTES

In Maryland, one turns immediately to the repeated concern of Section 70 that children be separated from any taint of adult criminality:

Section 70(2)—"To remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior, and to substitute therefor a program of treatment, training, and rehabilitation consistent with the protection of the public interest;"

And Section 70–12(a)—"A child alleged to be delinquent shall not be detained in a facility to which children who have been adjudicated delinquent may be committed, or in a jail or other facility for the detention of adults, unless (1) adequate facilities have not been established, and (2) it appears to the satisfaction of the court, or other person designated by the court, that public safety and protection reasonably require detention. No child shall ever be confined in a jail or other facility for the detention of adults, unless in a room or ward *entirely separated* from adults. After January 1, 1975, no child shall ever be detained in a jail or other facility for the detention of adults or in a facility to which delinquents have been committed." (emphasis added).

Do these sections suggest that Southeastern can be fought on the basis that children and adults are not separated, that children incarcerated there are in constant hearing and frequent sight of adults, that they are frequently housed in the same aisle, that the general adult incarceration situation is inherently damaging to children, and that other adequate facilities are available for holding juveniles?

Something more is needed. Southeastern is not technically a detention or shelter care facility.

PRETRIAL THEORY

One goes next to the pretrial theory of prison law, to a case like *Affleck* in which the court, in analogizing the conditions in a Boys' Training School to those held unconstitutional in a jail in *Jones* v. *Wittenberg* 323 F. Supp. 93 (1971) observed, that the *Jones* case "involved adult inmates; the instant case involves juveniles, who may not be treated like convicted criminals." *Inmates of Boys' Training School et al.* v. *Affleck* 346 F. Supp. 1354, 1365 (1972).

Affleck then went on to adopt the reasoning of another landmark prison case *Hamilton* v. *Love* 328 F. Supp. 1182, 1191 (1971). The *Affleck* court, quoting *Hamilton*, observed,

"It may be that the only permissible purpose for confining these awaiting trial juveniles is "to make certain that those detained are present when the cases are finally called for trial." *Ibid*, 1371.

The presumption of innocence attaches to juveniles awaiting trial. *In re Winship* 397 U.S. 358, 363 (1970). It may well be possible therefore to import the pretrial analysis wholesale into the entire juvenile area.

A. THE COURTS AND PRE-TRIAL DETENTION

"To provide for the care, protection and wholesome mental and physical development of children coming within the provisions of this subtitle; To remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior, and to substitute therefor a program of treatment, training and rehabilitation consistent with the protection of the public interest." Such are the overriding concerns and purposes of the juvenile system in Maryland, as expressed by the legislators in Section 70 (1), (2), of Article 26 of the Maryland Annotated Code. It is with these purposes in mind, that we must evaluate the need for an improvement in the conditions found at the detention lock-ups in Baltimore City. Sections of the N.E. and S.E. police station

lock-ups are used to detain juveniles pursuant to Article 26, Section 70–9 and 70–11. A child may be so detained for up to 5 days before he is given a detention hearing and if at that time he is ordered into detention he is held at the Maryland Boys Training School.

Article 26 Section 70–11, outlines the reasons for which a juvenile may be placed in detention. He is not to be placed in detention prior to a hearing on the petition unless; 1. The detention is required to protect the person and property of others or of the child; 2. The child is likely to leave the jurisdiction of the court; 3. He has no parents, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required; or 4. An order for his detention or shelter care has been made by the court pursuant to the provisions of this subtitle.

The important thing to keep in mind, no matter what the criteria used for justifying detention, is that the juveniles detained are "still presumed innocent and many will be so found.[1] It is this factor, that the courts have found to be the most significant when analyzing the need for a change in pre-trial jail conditions. It is our contention that the conditions in Baltimore City lock-ups (most especially S.E.) do not measure up to the Constitution under the traditional standards applied to prison conditions which exist in institutions reserved for convicted felons. Additionally, it is our feeling that one must apply a much more demanding standard of constitutionality in the case of juveniles detained prior to a hearing of any sort, all of whom are pre-trial detainees convicted of no crime or delinquent act and presumed innocent. As pre-trial detainees, they are being held for one major purpose only, to guarantee their appearance at trial. Thus, traditional prison policies and practices which derive their support from concepts of punishment, retribution and deterrence are totally inappropriate in a pre-trial detention facility. The use of lock-ups must find rational support only from the legitimate right of juvenile authorities to hold juveniles until their detention hearing, and, during such a holding period, to maintain necessary security.

This standard of constitutionality is not novel but has been accepted by several courts in very recent opinions. In *Hamilton* v. *Love*, 328 F. Supp. 1182 (E.D. Ark. 1971) the court held unconstitutional many features of the day to day administration of a county jail stating:

It is not really appropriate to judge the constitutionality of the conditions of . . . (county jail inmates') incarceration by referring to the 'cruel and unusual punishment" provisions of the Eighth Amendment. Having been convicted of no crime the detainee should not have to suffer any 'punishment' as such, whether cruel and unusual or not. . . .

It is manifestly obvious that the conditions of incarceration for detainees must, cumulatively, add up to the least restrictive means of achieving the purpose requiring and justifying deprivation liberty." *Id*, at 1191–1192.

. . . If the conditions of detainment are such that they can only be considered punitive, or as punishment, then, of course, the subjecting of such detainees to such conditions would violate the due process requirements of the Fifth and Forteenth Amendments, as well as the quoted provision of the Eighth Amendment. Manifestly, therefore, if the conditions of pre-trial detention derive from punishment rationales, such as retribution, deterrence, or even involuntary rehabilitation, then those conditions are suspect constitutionally and must fall unless also clearly justified by the limited stated purpose and objective of pre-trial detention discussed above. It is, of course, true that any deprivation of liberty, incarceration; or physical detention is, in reality, a form of punishment. Nevertheless, its use may still be justified if it meets the 'least restrictive alternative' test described above." *Id.* at 1193.[2]

Thus, the policies and practices of pre-trial detention facilities must be measured by a very demanding constitutional standard. This standard, the "least restrictive alternative test", applied commonly in First Amendment cases, *see e.g. Skelton v. Tucker*, 364 U.S. 479 (1960), requires that any denial of liberty in the case of a pre-trial inmate must be either rationally related to the object of pre-trial detention, assuring the presence of a person at trial, or justified by another compelling state interest.

Other decisions have recognized this principle. In *Jones v. Wittenburg*, 323 Supp. 93 (D.C. Ohio, 1971) the court also invalidated, on constitutional

[1] See Judge Robert Hammerman's opinion of August 3, 1971 on the juvenile detention section of the Baltimore City Jail.

[2] See generally, Comment, *Constitutional Limitations on the Conditions of Pre-Trial Detention*, 79 Yale L.J. 741 (1970).

grounds many practices and policies of a county jail. Adopting a test very close to that expressed in *Hamilton v. Love*, supra the court stated that:

"For centuries, under our law, punishment before conviction has been forbidden. The Constitution does not authorize the treatment of a pre-trial detainee as a convict, (Citation omitted) . . . . Therefore, in this dubious interval between the commitment and trial, a prisoner ought to be used with the utmost humanity and neither be loaded with needless fetters or subjected to other hardships than such as are absolutely requisite for the purpose of confinement only.' (Inmates) . . . are not to be subjected to any hardship except those absolutely requisite for the purpose of confinement only, and they retain all the rights of an ordinary citizen except the right to come and go as they please . . ." *Id.* at 100.

Accord, *Anderson v. Nosser*, 438 F.2d 183 (5th Cir. 1971) ("The treatment accorded plaintiffs . . . violated even those minimal 'standards of decency' mandated in the treatment of convicted felons . . . much less the standards which must be afforded those as yet unconvicted of misdemeanor offenses." *Id.* at 191); *Palmigiano v. Travisono*, 317 F. Supp. 776 (D.R.I. 1970) (The Court spoke of a need to intervene to protect the constitutional rights of inmates "in this case especially . . . (since) the plaintiffs herein are in the waiting trial section of the adult correctional institution and must be presumed innocent while in such status," *Id.* at 785); *Seale v. Manson*, 326 F. Supp. 1375 (D. Conn. 1971) ("Of particular significance in this case, and a factor that weighs heavily on the scale, is that the plaintiffs are unconvicted detainees whom the law presumes innocent. Unlike convicted persons, the State's only asserted interest with respect to these inmates is to ensure their presence at trial. (Citation omitted). Any limitation on the fundamental rights of unconvicted persons must find justification in legitimate advancement of that interest." *Id.* at 1379); *Hamilton v. Schiro*, 338 F. Supp. 1016 (E.D. La. 1970). *Wayne County Jail Inmates v. Wayne County Board of Commissioners*, Civil Action No. 173-217, (Cir. Ct. of Wayne Cty. Michigan 1971); *Rhem v. McGrath*, 326 F. Supp. 681, 690 (S.D.N.Y. 1970); ("The inmates of the Tombs are awaiting trial and have not been convicted of any crime. They are of course entitled to Eighth Amendment protection as much if not more than convicted inmates . . . ."); *Davis v. Lindsay*, 321 F. Supp. 1134 (S.D.N.Y. 1970); *Tyler v. Ciccone*, 299 F. Supp 684 (W.D. Mo. 1969).

Additionally, in the most recent major jail case, *Brenneman v. Madigan*, 343 F. Supp. 128 (1972), the court fully accepted the doctrine of *Hamilton*, supra *Wittenburg* supra as it proclaimed the rights of those imprisoned;

"Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system." (Citation omitted) Notwithstanding that imprisonment may deprive the convict of certain rights which would otherwise be his to enjoy, "A prisoner retains all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law." (Citation omitted) Thus, it has long been recognized that imprisonment cannot deprive him of the protection of the due process and equal protection clauses of the Fourteenth Amendment.

It is well established that "Prisoners do not lose all their constitutional rights and that the Due Process and Equal Protection Clauses of the Fourteenth Amendment follow them into prison and protect them there from unconstitutional action on the part of prison authorities carried out under color of state law." *Id* at 131.

As noted, security is considered a legitimate state interest but the courts will not automatically accept the deprivation of rights on that basis;

"Rejection of the right-privilege distinction as a sterile form of words also likewise cast doubt upon the logical difference between deprivations constituting 'punishment' and those presented as techniques for the maintenance of 'control' or 'security'. Presumably the consequence of labeling a deprivation a matter of control is that it may be imposed without procedural preliminaries. The distinction is unpersuasive. Substantial deprivations or rights even in matters called civil where no misconduct is alleged have not been permitted without due process. Reasons of security may justify restrictive confinement, but that is not to say that such needs may be determined arbitrarily or without appropriate procedures" Landman V Royster 333 F. Supp. 621, 645 (E.D. Va. 1971).

These standards and tests have not been ignored in the juvenile pre-trial detention setting. In *Martarella v Kelly* 349 F. Supp. 575 (1972) (USDC S.N.Y.

the court felt, "no doubt that the 8th Amendment prohibition of cruel and unusual punishment is not restricted to instances of particular punishment inflicted on a given individual but also applies to mere confinement to an institution which is "characterized by conditions and practices so bad as to be shocking to the conscience of reasonably civilied people." (Citation omitted) at 597. The court in *Lollis v N.Y. State Dept. of Social Services* 322 F. Supp. 473 USDC S.D.N.Y. 1970) felt that "two tests have been applied to determine whether the 8th Amendment applies "first, whether the punishment is disproportionate to the offense, second, the severity or harshness of the sanction as measured by "broad and idealistic concepts of dignity, civilized standards, humanity and decency" at 476. In accord with these decisions is a recent decision of *Inmates of the Boys' Training School v Affleck*, 346 F. Supp. 1354 (1972). Even in the opinion of Judge Robert I. H. Hammerman of the Juvenile Court of Baltimore found conditions similar to those in the City lock-ups to in violation of the standards of the 8th Amendment, when he closed down the juvenile detention center at the Baltimore City Jail.

Thus, conditions and resulting mistreatment must be measured by a due process standard embodying the concept of the "least restrictive alternative" and by traditional notions of cruel and unusual punishment. We suggest that under either test the lock-ups will not pass constitutional muster.

In particular some discussion is needed to evaluate the case law in five of the major condition deficient areas. (1). The Denial of Reasonable Medical Attention;

Authorities are under a Constitutional and common law rule to provide reasonable medical assistance to plaintiffs and their class. *Edwards v. Duncan*, 355 F. 2d 993 (4th Cir. 1966); *Talley v. Stephens*, 247 F. Supp. 683 (E.D. Ark. 1965); *McCollum v Mayfield*, 130 F. Supp. 112, 114-15 (N.D. Cal. 1955); *Austin v. Harris*, 226 F. Supp. 304 (W.D. Mo. 1964); *Coleman v. Johnston*, 247 F. 2d 273 (7th Cir. 1953; *Elsberry v. Haynes*, 256 F. Supp. 736 (W.D. Okla. 1966). This right is guaranteed by the Eighth and Fourteenth Amendments and its denial may be the basis for a Sec. 1983 suit. See cases cited directly above. The Fourth Circuit has recognized these principles as forthrightly as any court. Responding to an inmate's 1983 suit alleging a denial of medical attention, the Court stated that:

"We need not now decide whether a prisoner is entitled to every right not specifically taken away from him by law, and to judicial inquiry into alleged deprivations of such rights. The hands-off doctrine operates reasonably to the extent that it prevents judicial review of deprivations which are necessary or reasonable concomitants of imprisonment. Deprivations of reasonable medical care and of reasonable access to the courts are not among such concomitants, however. Prisoners are entitled to medical care and to access to the courts." *Edwards v. Duncan*, supra at 994.

One court's statement that "prison physicians owe no less duty to prisoners who must accept their care, than do private physicians to their patients who are free to choose," *Piscano v. State*, 8 App. Div. 2d 335, 340 188 N.Y.S. 2d 35, 40 (1959), applies with even greater force to the obligation owed pre-trial detainees as has been recognized by recent decisions. These decisions have recognized the right of inmates to:

(1) Have a reasonable medical examination upon entry into the jail

Wayne County, supra; Jones v. Wittenburg, supra; Hamilton v. Love, supra, and a regular exam or access to sick call thereafter; *Hamilton v. Love, supra; Jones v. Wittenburg;* (2) treatment for special medical problems, *Jones v. Wittenburg*, supra; (3) availability of a physician at all times, *Jones v. Wittenburg*, supra. Authorities have failed to provide any sort of medical services to juveniles locked up in the stationhouse detention areas.

(2) An inadequate nutritional diet

A claim of an inadequate nutritional diet does raise a constitutional question, see *Holt v. Sarver*, 309 F. Supp. 362 (E.D. Ark. 1970), and *Hamilton v. Love*, supra. Juveniles locked up in the detention facilities do not receive a wholesome nutritional diet though it will take a full development of the facts in this regard to evaluate the claim.

(3) Denial to plaintiffs of visits and phone calls

The right of association is guaranteed by the First Amendment. *Griswold v. Connecticut*, 381 U.S. 479,482 (1965). Jail, by definiiton, must interfere with the exercise of that right. But because some limitations on association inevi-

tably flow from incarceration, it does not follow that any and all restrictions are justified. Rather, as with all First Amendment rights, "any attempt to restrict those, liberties must be justified by clear public interest, threatened not doubtfully or remotely, but by clear and present danger." *Thomas* v. *Collins*, 323 U.S. 516 (1945).

The extent to which the Baltimore City Jail removes a person from his family and friends, far exceeds what may reasonably be expected from the fact of detention. No phone calls are by many of the turnkeys. Nor is an inmate often allowed a visit from his family and friends and if so it seldom lasts more than five minutes. In addition, many of the inmates parents do not even know where there child has been taken.

None of these restrictions are called for, much less compelled by detention itself. Again, such restrictions are particularly inappropriate for pre-trial detainees. See, *Jones* v. *Wittenburg*, supra and *Hamilton* v. *Love*, supra, (ordering pre-trial detention facility to allow unmonitored phone calls at reasonable hours): *Hamilton* v. *Love*, supra (ordering county jail to allow all inmates reasonable visits from any visitors, regardless of age, except ex-felons or those charged with a crime).

(4) *Access to writing materials*

In *Jones* v. *Wittenburg*, supra the court ordered that indigent detainees "be furnished, at public expense, writing materials and ordinary postage for their personal use in dispatching a maximum of five letters per week." Accord, *Wayne County* v. *Bd.* supra. Juveniles are allowed no writing materials whatsoever.

(5) *Access to reading materials, and necessary hygiene materials*

Also, constitutionally questionable is the refusal to supply or allow necessary hygienic materials, literature and other essentials of a minimal subsistence to plaintiffs free of charge. See, *Jones* v. *Wittenburg*, supra. Inmates are not provided either reading materials or hygienic materials no matter how long they are kept at the station house lock-ups.

As our study shows, the S.E. and N.E. lockups are seriously deficient in a number of critical areas. The above cited conditions are not the only deficiencies and it is evident thay some extensive changes must be made to make the conditions acceptable under the above outlined tests.

B. THE PROBLEM WITH THE IMPORTATION

There is an unavoidable problem with this importation: *Affleck* applied to juveniles who had been formally detained pending an adjudicatory trial. The pretrial cases apply to adults detained pending trial because of lack of bail or because of the seriousness of the crime. In both situations there had been some sort of hearing, a detention hearing—a bail hearing, an indictment—that formalized the detention.

No such formalization exists in the Southeastern situation. The nexus between the adult and the juvenile situations, while tempting to adopt and possibly eminently adoptable, cannot be simplistically applied. What we are dealing with is not a post-hearing detention but a brief period between when a child is taken into custody and when he is taken to that hearing. The situation during that period is equally distressing—and equally unmitigated—for adults. The conditions of Andrew's detention in the adult section were not markedly different from what they would have been had he been kept on the juvenile end of the lock-up.

There is statutory and case law governing when a child may be taken into custody (See Section 70–9) and statutory and case law governing what happens at the detention hearing and afterward (See Sections 70–11 and 70–12). There is a list of "Duties of Law-Enforcement Officers Upon Taking Child into Custody" in Section 70–10. But there is no law of the lock-up.

The B.U. Law Note seemed painfully aware of this deficiency when, at the conclusion of its analysis of the Baltimore Detention case, it commented,

"Standards with respect to minimum physical comforts, medical care, dietary sufficiency, and recreational facilities should be articulated on a case-by-case basis, but comparisons among institutions in different jurisdictions and within the same jurisdiction, as well as the standards set forth in adult prisoner litigation, can all serve as gudelines to be used and followed by courts in specific cases." B.U.L.R.33,56.

C. THE NEED TO PUSH DUE PROCESS FARTHER BACK

What is needed to solve the Southeastern situation is a PRE-pretrial analysis, and this may mean the recognition of a new way of emphasizing the procedural rights of juveniles, a way that pushes the due process rights back from the adjudicatory area where *Gault* and its progeny have left them to a point immediately after custody is taken.

Due process as the "sine qua non" of the juvenile process has been recognized by *Baldwin* v. *Lewis* 300 F. Supp. 1220 (1969) (reversed on grounds of failure to exhaust state remedies), a detention stage case.

D. FUNDAMENTAL RIGHTS

Additional cases have stated specifically that youths may not be denied fundamental rights because they are youths:

"Certainly those entrusted with the care and training of youths must be permitted some latitude in disciplining their charges. This does not mean, however, that even constitutionally permissible punishment which imposes serious restraints upon an individual's liberty may be inflicted without some measure of due process." *Wheeler* v. *Glass*, 473 F. 2d 983 (1973) (holding that treatment of mentally retarded youths in an Elgin, Illinois hospital (the movie the seminar saw?) was sufficient to state a claim of cruel and unusual punishment—may also be useful as a nexus case in straight adult and juvenile prison conditions area).

EQUAL PROTECTION

A. NO OTHER FACILITIES

One of the primary objections to making changes at Southeastern and in the lock-up situation in general is the claim that nothing else can be done, that there is no other way to deal with the many people arrested, that every convenience that can be expected during that short period of incarceration is being given. There are juvenile cases that hold that juveniles cannot be denied treatment rightfully due them simply because the authorities claim facilities for that treatment are not available. In holding that youths awaiting waiver summaries could not be sent to the DC Jail simply because Lorton was overcrowded, the court said, "There is no legal authority for diverting otherwise eligible youths to adult institutions due solely to lack of space." *U.S.* v. *Alsbrook*, 336 F. Supp 973 (1971).

And in a comment on *Alsbrook*, a DC judge in a later case said, "Individual statutory and constitutional rights cannot be suspended or compromised due to the failure of the criminal justice system to provide adequate facilities." *U.S.* v. *Lowery* 335 F. Supp. 519 (1971)

This repeated reluctance to place youths in brutalizing adult facilities simply because the District of Columbia had provided no viable alternative to those facilities may be useful in arguing that dumping juveniles in Southeastern lock-up—until even the visiting room has to be used to hold them—cannot be justified either.

Certainly the "no other facilities available" argument is used here to rationalize continued placement of juveniles in Southeastern. Transportation problems, crowded conditions at Northeastern, and the need to wait until the police department finds other ways to hold its adult women prisoners have all been invoked as reasons why alternatives to Southeastern are all too complicated to be tried.

B. THE BEST WE CAN

The "no other facilities" argument leads inevitably into the last defense for conditions at Southeastern: 'the custodians there are simply doing all they can with limited resources and great problems of time to make life in the lock-up as humane and as efficient as possible.' That sort of argument is becoming harder and harder to make convincing however. Lack of funds has been held no justification for continued brutality in almost all the prison cases.

In holding that patients in the Massachusetts Correctional Institutional Treatment Center at Bridgewater who were seeking heat were entitled to that heat, the court gave as its reasons for holding that the deprivation be ended:

"It cannot be because the plaintiffs are confined prior to trial, as distinguished from imprisoned, after conviction, that their treatment is not to be noticed, nor can it be any excuse for continuous, as distinguished from temporary accidental, inhumane treatment, if there were such, that the representatives of the state were doing *the best they could*." *Rozecki v. Gaughan* 459 F. 2d (1972) emphasis added.

Once More the Statute

Finally, however, the strongest argument against conditions at Southeastern lock-up may be one that returns to the goals of the juvenile statute itself, to the statutory urging that juvenile laws must "provide for the care, protection and wholesome mental and physical development of children." Section 70(1). Incarceration, however brief, at Southeastern certainly does not contribute to those goals. tI may, in fact be damaging in ways that go far beyond the mere temporal period of custody.

In the words of Dr. George Lynn Hardman, Staff Psychiatrist for the Roxbury Court Clinic in Boston and consultant to the Massachusetts Department of Youth Services, "Because the child's problems or problem are in no way being dealt with during the period in which he is confined in isolation, the child's behavior deteriorates rather than improves in the course of his isolation. The isolation of a child only inhibits that child's emotional development." *Inmates of Boys' Training School et al.* v. *Affleck* 346 F. Supp. 1354, 1366 (1972).

At Southeastern, boys are isolated in their cells from the moment of arrival. Their only contacts are, after that point, the most brutal adult contacts—other arrestees they hear being brought in, turnkeys, police department truck drivers.

Conclusions

Considerations of humanity and law combine to mandate that juveniles taken into custody by the Baltimore City police no longer be incarcerated, however temporarily, at Southeastern District Lock-Up. Every effort—beginning with negotiation and discussion with the authorities in charge and progressing, if necessary, to litigation with its attendant processes of discovery—should be bent toward this end. Conditions at Southeastern are so bad it is doubtful they can be brought up to what ought to be the minimum standards for handling and detaining juveniles.

Simply moving juveniles out of Southeastern to some other location will not however solve the problem of custodial care after juvenile arrest. There is no guarantee—particularly in view of observations at Northeastern (admittedly one of the least busy districts in the City)—that conditions in any other location will be markedly better. Simple relocation will not be the solution. The problem is more complex than that.

It is at once unreasonable to expect the City to abandon its current detention facilities and unreasonable to expect the City not to detain arrestees until some sort of hearing. It is also unreasonable to expect the City to create a Country Club for such detentions.

It is not however unreasonable to expect some provisions for the basic amenities of life. Such provisions can be Spartan, but they ought to be made. It is not unreasonable to expect a person—adult or juvenile—who has been convicted of nothing, who has not even had a hearing—to have decent accommodations. They can be along the line of an army barracks—but they ought to include a bed instead of a board, hygienic implements, hot and cold water, sanitation, reading matter (comics would be ok but something better could be made available) blankets, sheets, pillow, a change of clothing, a chance to shower, and real food. (It is likely that the present food situation is not only non-nutritious in its concentration on starches but also uneconomical for the City—the financial arrangements (if any) made with the White Coffee Pot Family Restaurant would be interesting to check—is there a discount or rake-off arrangement?)

It is also becoming less and less unreasonable to demand that some more immediate hearing and the possibility of bail be provided. These would at least have the effect of providing an arrestee with his or her due process protections far sooner than is now done. Businesses now operate until late hours, sometimes on weekends, and sometimes twenty-four hours a day. Perhaps courts should do the same. (This however is pushing much farther into the general need for improvement of the judicial process than the scope of this study permits.)

For now, it may be best to begin by seeking the list of amenities required by the Baltimore Detention case—and to move from there to the consideration of how procedural protections can be pushed farther and farther back in the juvenile justice process. Perhaps this list may mean that juveniles cannot be held anywhere in the lock-ups or jails of the City. If so, it is time to begin to deal with that possibility.

Appendix

Statistical Chart from Juvenile Interviews

	Yes	No
Juvenile-adult mingling	1	46
Single occupant in cell	40	7
Adequate lighting	13	47
Adequate ventilation		34
Issued bed clothes	21	47
General cleanliness of facility	26	26
Sink	24	21
Toilet	3	23
Bench		44
Allowed toilet articles	40	47
Toilet in operation	37	7
Sink in operation	24	10
Quality of food (fair or poor)	10	23
Presence of insects	20	37
Visits allowed	17	22
Phone calls allowed		25
Writing materials provided		47
Reading materials provided		47
Amusements of any sort		47
Recreation facilities or time		47
Allowed showers		47
Presence of hot water		47
Medical personnel, or daily sick call		47

	Good	Fair	Poor
General treatment by turnkeys	10	11	26
General treatment by inmates			47
Temperature of facility		18	[1] 29

[1] Cold.

Note: Number of medical problems reported 13 out of 47.

Interview of Wadsworth Robinson (Intake Supervisor—Juvenile Services) February 1, 1973

The juvenile services offices receives complaints from varying sources such as police complaints, walk-ins, schools, stores, and the dept. of social services. These complaints are handled by 15 intake-counselors, 4 supervisors and three evening intake supervisors (counselors). These are the people which can authorize detention for up to five days w/o a hearing (Rule 909, MRP). The department strives to bring the juvenile to court on the next court date. Male juveniles 16–18 are held at a juvenile lockup at SE police station. Female juveniles of all ages and males 15 and under are held at NE police station in a special juvenile lockup. Attached hereto is a sample of the detention form which must be filled out by the person who authorizes the detainment. Part of this form is sent to the parents and serves as notice to them of their siblings detainment by juvenile services. This authorization must be gotten by the police.

Article 26, sections 70–9, 70–11 set out the guidelines followed within the department. But there is still room for discretion. Every child detained has a petition written up on him or her. The court can authorize continued detainment pending disposition for up to thirty days but this detention does not take place at either NE or SE.

The courts hear approximately 20 cases a day, usually one master is designated each week to handle emergencies which are in essence detentions. Between Jan 1–15, 146 juveniles were detained. Mr. Robinson feels that one should look to a juvenile's past record of court appearances, whether he is a danger to person or property, will he flee the jurisdiction and the exact nature of the offense. Though the police have a brief course at the Academy dealing with the handling of juveniles, they seem "prone to locking up". However, this is no rubber stamp process, the counselors or super, use the criteria. But the police, who often use the phone, read the case to the couns. and they can cloud the facts if they wish to get authorization. This makes it sort of like a "game" and is one of the reasons for rapid detention hearings.

The major deterrent against the police calling in detetnions or for that matter holding juveniles is the immense paperwork involved. This is an immense hassle, a copy of the form which they must fill out is attached hereto, "police have to fight 10 devils to lock-up a juvenile" then can be pretty sure he really wants to do it. Mr. Robinson professed little knowledge of the actual situation at the lockups, either the physical problems or the inmate problems.

NE is also the home of police youth section and all the papers are kept there. For this reason among others the night intake-supervisor is stationed at the NE station. During the week this man is Tom McGee. Two other people fill in for Saturday and Sunday night.

Interview With Tom McGee, Intake Supervisor for Evenings During the Week February 5, 1973

There is a great deal of discretion by the police as to whom they pick up. The officer must go through the following steps, 1. a policeman must fill out the Juvenile custody report, which is attached hereto. There are three copies, one original desk copy, one to juvenile court and the third to the district. He must fill out one of these for every juvenile he stops whether or not he requests detention. He can at this time release the child to his parents who might wait six months for a court date. There were 21,000 custody shets filled out last year. 2, he must also file a field report-offense report which is equally involved. The system is certainly not efficient for every juvenile gets a custody report and a field report filled out on him even if he is just a suspect. Step 3, the officer decides if he wants detention, recently there have been more calls for crimes of a serious nature. McGee looks to the offense itself (violence, injured victim, hospitalization, as opposed to pickpocket or shoplifting), prior record (officer checks this before he calls), attitude of parents (may not want the kid). Additional circumstances (officer knows the kid or situation) also looks to threats if any, time of the offense (4 or 3 A.M. looks bad), where living (pertains to guarantee of appearance in court). There have been cases where young males have been "making it on the run" at 16-or-17, living in the YMCA.

McGee feels there is no deterrent to force the parents to bring the kids into court, since they are seldom held liable or fined. The child once detained, is allowed only the clothes he is wearing. He is given a complete search. The cells are clean and relatively bare "if you are going to have a deterrent, can't make things all that pleasant." Even if held over the weekend there are no showers, toothpaste (on back a map of layout of NE lockup). NE was chosen to house juveniles since it is not a busy district. There is a definite separation of juveniles and adults approximately one-third of total juveniles detained go to SE, there are too many guns—14 and 15 year old holdup men. The longest stay is usually one night but often juveniles are detained over the weekend.

Only about 3 times a month do complaints come in about CINS.

When detention is made, females and males under 16 go to NE and Males 16 and over go to SE. They are then sent to court on the next court date and a detention hearing is held where the court reviews the detention and decides if the child is to be detained or released to parents. The court is generally inefficient cause of increased paperwork which prevents them from handling more than 20 cases a day. During the week never more than 20 juveniles are detained. Double figures on a weekday is alarming.

Facilities

NE 24 cells (12 for juveniles), 6 rooms; toilets, sinks, and bench; toilets, sinks, beds (1 or 2); 3 meals a day from a local restaurant.

Rooms are reserved for old woman, young kids who are not likely to be destructive.

Cells no blankets or sheets, rooms yes, personal items taken and inventoried. Well lighted, air conditioned and heated

Inmates are not given writing materials

May have visitors (parents, minister, brothers)

Medical—if arrive with injuries go to hospital (Union), no sick call no incoming medical officers, SE go to City Hospital

There is no recreation provided, however parents can bring reading materials and magazines are provided. Inmates are fed in cell stay there the whole time except for visits. Cell is 19' by 10'

McGee feels the system is accomplishing very little, he is more for punishment and likes McDermott cause he is stern and strikes fear into the kids.

A Brief Note on What We May Be Doing to Juveniles by Locking Them up and on How Our Study Reveals That

When our subject could only remain in the lock-up for twenty-four hours, there was some speculation that either he was a "chicken" or the lock-up wasn't as bad as it was reputed to be. Neither of those speculations will really do—and a prison study reported at about the same time in *The New York Times Magazine bears* out that assertion. That study, based on a simulated prison situation, also found itself with subjects who could not go on with the study—although they knew, as did our subject, that the incarceration was strictly an experiment, that they could definitely be released. The report included one telling observation:

"In less than 36 hours, we were forced to release prisoner 8612 because of extreme depression, disorganized thinking, uncontrollable crying and fits of rage. We did so reluctantly because we believed he was trying to "con" us—it was unimaginable that a volunteer prisoner in a mock prison could legitimately be suffering and disturbed to that extent. But then on each of the next three days another prisoner reacted with similar anxiety symptoms, and we were forced to terminate them, too. In a fifth case, a prisoner was released after developing a psychosomatic rash over his entire body (triggered by rejection of his parole appeal by the mock parole board). These men were simply unable to make an adequate adjustment to prison life. Those who endured the prison experience to the end could be distinguished from those who broke down and were released early in only one dimension—authoritarianism. On a psychological test designed to reveal a person's authoritarianism, those prisoners who had the highest scores were best able to function in this authoritarian prison environment." Zimbardo, Philip, "A Prandellian Prison," The New Times Magazine, April 8, 1973, pp. 38, 48.

Obviously this takes this study into the psychological as well as the legal—but the study is worth noting carefully. Gregory's reactions were exactly what is described here: Although he is actually 22 years old, he nearly cried when he saw me. His body shook. He was relieved I actually existed (although he had seen me only the day before); he was laughing and crying at the same time. He was not deranged, not out of control in any way. He simply had to get out of prison.

What we may be doing to those juveniles who have to stay may be only partially reflected in the oft-repeated statistics about recidivism and the crime rate we see so often. What we may be doing may be cruel and unusual punishment of the most extreme (and least documentable) sort. It may be the deliberate destruction of the human mind.

Exhibit H

KW Transcript Debriefing

Barbara. From the time he was picked up at the court house at 4:00 p.m. to 4:10 p.m. when I extracted him from confinement. Now, Ken, why don't you tell us what happened to you starting from when you were taken into the court house locker. What was the first thing that happened to you there.

Ken. Well, okay, an interesting incident happened on my way into the locker really, I walked past this guy who was standing at the door and he said, "Walk over there." Since I had no idea what there meant I assumed he meant the other desk.

Barbara. This is the turn key who wore the green sweater?

Ken. Right.

Barbara. Okay.

Ken. So I started walking over toward the other desk and there is another guy. He was some old shriveled up white guy, I don't know what his name was and he was holding a chain and he stood up.

Barbara. The blond guy with the green sweater was pretty shriveled up too; go ahead.

Ken. The blond guy said I didn't mean that far. So I came back toward his desk at which point he said I didn't mean that close either. So I figured out about four blocks away would be the proper distance and he told me to empty my pockets. And as I was emptying my pockets the shriveled up white guy came over with the chain and he just like let me see that he had it and then he stood behind me and from that point on I emptied my pockets and glanced back to make sure the chain was where it was before and you know the guy at the lock up.

BARBARA. Okay, the lock up at the court house right.

KEN. The lock up at the court house kept a black flair pen that's all he kept. And he gave me back my cigarettes. Oh, he kept my matches too. And he gave me back my cigarettes, my change and some paper that I had. Okay . . . Then I went to the lock up and I was only there for about two minutes and I played a half a game of wist with some kids at which point he said: Now this old black dude that walked me out to the truck——

BARBARA. You were wearing handcuffs.

KEN. I was wearing handcuffs, right.

And he was a pretty nice dude but he said: "You kept always running away why did you run away. But I said something to the effect that well I just couldn't stand my parents and he said well you know them better than I do. And then one of the very funny things is that he walked past the guard and said sorry that I do this about your cigarette and then he held me by the handcuffs and he like took me to the truck and we drove to south eastern lock up. Wherever that's at. Okay, once again on the way out of the truck he didn't grab my handcuffs until he saw another policeman and then he grabbed my handcuffs and he like carried me inside. Okay, when I went inside I was frisked by this dude and this was a——

BARBARA. A cop?

KEN. A cop, right and I can't really remember what he looked like cause that first dude was turning my body toward the desk sergeant and like he just felt me up more and he took my cigarettes, that's all he took, he took my cigarettes.

BARBARA. They let you keep your paper and your pencil. He didn't feel my paper and he didn't feel my pencil because my pencil was in the top and he didn't do that thorough a search. So a little longer I went to a cell. Now chronologically what happened in the cell, I sat down in the cell and the first thing I started doing was just like observing the environment that I was in.

BARBARA. Where was the cell as you entered.

KEN. Okay, as you enter from the place where I was frisked it was two cells down.

BARBARA. Okay.

KEN. On the right, cause actually all the cells are on the right. Now the cell itself was room with three walls on the, okay as you enter the room on the left hand wall there is nothing except——

BARBARA. Okay.

KEN. On the right wall there was a toilet okay, starting from left to right. The toilet was about two feet off the floor, about from one foot from the top approximately eight feet tall, about one foot from the top was a vent and I assumed it was a heat vent, basically I could see where it had been discolored and cracked. And I assumed this was due to heat coming out of that vent.

BARBARA. Okay.

KEN. Okay, as you went over there was sink, both the toilet and the sink were clean and they both worked.

BARBARA. Well what about the rest of the cell?

KEN. I'm getting to that.

BARBARA. Okay.

KEN. Let me continue my description.

BARBARA. Okay, go ahead, continue.

KEN. And then there was a bench, now the bench was constructed of sort of a metal tray and suspended off the floor by five metal legs. Two in the front and three in the back. Okay. Now the cell was not directly up against the wall, it was about ¾ of an inch or an inch away from the wall. Okay this metal tray and there were four planks layed inside this tread. Now these planks were actually separated on they varied in degree but the average you know separation between the planks was about ¾ of inch sometimes it would be ½ next would be an inch, etc,, etc., etc.

BARBARA. Go ahead.

KEN. Okay, inside the grove, or inside these planks separation there was alot of dirt. I mean like it was absolutely incredible, the planks by the way were made of some very, very hard wood, my guess would be oak or maple. I don't know wood so I wouldn't be able to give you facts one way or the other, okay, there was alot of dirt, a couple of roaches that were in there.

BARBARA. Dead or alive.

KEN. I mean type of roaches when smoking joints.

BARBARA. Oh, oh.

KEN. That were in there, I saw some bits of plastic in there. Later on I assumed it was from spoons, it was just a lot of dust and a lot of dirt. I'd say it hadn't been cleaned out, the bed hadn't been cleaned out in a long time. Okay, then I proceeded to like sit down and begin to examine the room more carefully. The floor looked like it had just been scrubbed. I could tell that because mops leave a very, definite swirl mark, and you can feel the grit of dragged detergent when you walk into a room, okay. I could tell that the floor had been scrubbed by a mop but it had none been scrubbed that thoroughly. Now the way this room was built the walls were metal, okay, and below, okay, the walls at the base they came out about an inch and it was to me like a gigantic brick. I don't know what substance is maybe its dry clay or colored cement. Like I'm not sure about cement but like that's what the floor was. And in the corners there was dust, there's not as much dust at the base of the wall as it was from the top of this little thing that came out. Okay, I'm not sure what you'd call that. What would you call a thing that projects out from the wall there.

BARBARA. Base boards.

KEN. Base boards, right. The base board that out that was really dirty. And that and the floor got dirtier and dirtier around the toliet and under the bunk was filthy, absolutely filthy with dust, little creepy crawling things, like spiders and a couple of unidentified small black bugs which I think might have been lice or crabs or fleas. But I can't be sure because I didn't get close enough to look at them. Under the bed was really dark if the hadn't been under there I would have slept under there but that's another story and I tell you about that later on. Okay, now as for the walls, the walls were very, very dirty and I was wondering if the dirt was washable from the walls so what I did was I wet a piece of toilet paper under the assumption that if I could take a piece of wet toilet paper and get the dirt off.

BARBARA. Where did you get the toilet paper?

KEN. The toilet paper, I had a roll of toilet paper that had about four panels left on because I also wanted to ask the guy for more toilet paper later on since I didn't feel the urge right then you know, I used it. I took the toilet paper and I just like went to various places on the wall and scrubbed and not only did a lot of grime on the wall, I mean like this is very difficult, the wall is also like two shades darker than the dirt. Because on the toilet paper I was able to get a clear shade of green than the rest of the wall. Okay, so this was just with wet toilet paper. Okay, then I also tried to ascertain when the last time the wall might have been cleaned was. I went around and I looked for alot of kids in there had marked there dates on the wall, okay, was very very hard to determine but there was one pencil mark which was 1/19, I think, 1/19 or 29/73 which I was able to wash off which means if anybody had washed the walls before that they would have been able to wash that off too. Okay.

BARBARA. What was written on the wall.

KEN. Some of them were pretty good like "they jailed me but there's a million more".

BARBARA. Okay.

KEN. Okay, at this point I had a meal, okay, the meal consisted of ——

BARBARA. This is dinner right? Friday night?

KEN. Dinner, Friday night, right. I had a fairly warm turkey sandwich. The food I got was not cold, it was warm. It was edible. A turkey sandwich with gravy, mashed potatoes with the same gravy that was on the sandwich and sauerkrat and this was served to me in a plastic three-part sort of plate, if you know what I mean. Now, this was covered with a very, very thick sheet of cellophane type paper. A type of paper you know you see hamburgers wrapped in at the White Tower. Okay.

BARBARA. Where did it come from.

KEN. This came from Family Restaurant's White Coffee Pot.

BARBARA. How did you know that?

KEN. Cause I saw him take out of the bag. I wasn't sure of this until Saturday. Okay. But I knew the coffee came from there because it was on the cup, then I saw them taking the coffee and the egg sandwich was out of the same bag on Saturday morning.

BARBARA. Okay.

KEN. I think it is a fairly safe assumption that there is where it came from.

BARBARA. Fairly safe, yeah.

KEN. Now, I tried to get to sleep then on Friday night. I had no idea. You know I really lost track of time while I was in here. I tried to get to sleep

well I guess it was late on Saturday night after dinner mostly all I did was read the ——— and check out the floor. I measured the room by pacing and also my arms and the room approximately 5½ or 6 by 6¼ to 6¾ by 8 feet. I could say that was fairly accurate because 8 ft. is just about my maximum for jumping and I could touch the ceiling barely. I could get my fingers on it which would make it about 8 feet. Now, I tried to get to sleep, tried to figure out a comfortable way to go to sleep. First of all, I'm a very squimish person and it was very hard to go to sleep with all that dirt between the cracks. But by this time it was fairly late so I figured I could give it a try.

BARBARA. What did you have to sleep on. Blankets, pillows or something.

KEN. No, I had the bench and my trusty yellow jacket. So I tried to find a position where the lights would not shine in my face. I have to explain the light to you. The light was on the outside of the cell and the way the lights were divided there was one light for approximately each two cells. At least for as far as I could see down the hall and the chance that I had to look. Okay, now this light was approximately twelve feet from the floor this was outside on the opposite wall facing the cells. This light was turned downward at approximately a 45 degree angle. Now the way that this light shone into the cell, oh the bars in the cell were about 6 foot. I approximated this because I'm 5'8 and it was about 4 feet over my head not counting my hands, 4 inches over my head not counting my hands. And, the way that the light shone in it you couldn't sleep toward the bottom of the cell cause that would hit you right in the face. Now I also discovered that you couldn't really sleep on your back toward the back of the cell cause the light could still come in and hit you in the face and if you tried to sleep on one side or the other you either got the light that was a reflection off the wall or reflections off the enamel on the toilet and sink. So the best way to sleep was to curl up your arms under my jacket, cause that was what I was using as a pillow and put my face face down. But this didn't work to well cause the bench was so hard I had to constantly change positions. I feel asleep for awhile. And I woke up and one arm and one leg was very, very numb so I got up and walked around. This was the only time I could tell what time it was. I asked the turn key——

BARBARA. Turn key?

KEN. Turn key, right, I asked the turn key what time it was and he said 1:30 and I sort of flipped. Wow, you know I really thought it was about 5 or 6:00. Well, what I did then was I had some paper in my coat pocket and I just started, actually I started writing poetry because the statistics of the cell I could remember and I was really in the mood because I figured I could sleep better. And the turn key passed again and I think he saw me writing but he didn't say anything. I can't be sure whether he saw or not. What I do know that happened is that I fell asleep later on I guess it would be about 5:00, no about 6:00 and I woke up at breakfast. Breakfast was an egg sandwich, coffee with a container of sugar and cream and a wrapped donut. The donut was cold.

BARBARA. Was the coffee hot.

KEN. The coffee was drinkable hot. You know it was like the way you drink it. You know it wasn't boiling hot.

BARBARA. I like it boiling hot, go ahead.

KEN. The turn key said came in and said I'd like that pencil and paper that you have.

BARBARA. Was this the same turn key.

KEN. This was not the same turn key.

BARBARA. How did the second turn key know you had it.

KEN. I have no idea. My guess is that the other turn key might have told him. You know, or maybe the paper might have been somewhere where he might have seen it. Because it was under my coat and when I sleep at night I really twist and turn a lot, so he might have seen it while I was sleeping if he came on duty before then. So like I'm not sure how he found it. So I gave him this but there was only a couple of lines. I was composing a poem and that was about it. So I gave this to him and I got no more hassel. Now let's say a word about——

BARBARA. Did he say why he wanted it?

KEN. No, he didn't. I'd like to say a word about the night staff versus the early morning staff.

BARBARA. Okay.

KEN. The night staff was the most popular, very cool, like there are a couple of very interesting comments, for instance I guess around 3:30 or so they brought in some people they'd seen and they were talking to them. These were

drunks you know, I couldn't see them but I could hear part of what went on and the end the drunks ended up telling the guards they were really much nicer than the kids on the street. And the guard sort of laughed and went about his business. And also they are very, very cool with the kids. Like a kid wanted to use the phone and he would let them use the phone. Like there would be no hassel about it.

BARBARA. This was at night?

KEN. At night.

BARBARA. You're sure?

KEN. I'm very, very sure cause like I was in the cell right next to the phone, okay, and I could hear a click and conversation, blah, blah, blah.

BARBARA. Like saying what?

KEN. Like saying "Mom, will you come and get me," or "mom, they picked me up and they beat me on the way to the station", I heard that conversation very, very clearly and you know like the kid was crying and I think that's what made an impression upon me and then there were some cases that came in like that weren't really that interesting, like one dude had beat up a chick because she tore up his paycheck and there was that and there was also a?

BARBARA. Was that a juvenile?

KEN. No, this wasn't a juvenile, this was an adult.

BARBARA. How did you hear that case?

KEN. I heard it through the doors.

BARBARA. Okay.

KEN. At night it was fairly quiet about that time, okay, now let me switch forward now to the morning, okay?

BARBARA. Well wait, what was the other case you heard?

KEN. This was just, this was a juvenile, this was just some kid who was caught drunken driving and they told him to sleep it off and he would get a $25.00 fine in the morning. You know, and then they ask him if he wanted to call his parents then or if he wanted to call his parents in the morning when he sobered up and he chose to call his parents in the morning when he sobered up. They gave him that choice specifically as a matter of fact. Kay, now let me get to the morning.

BARBARA. Okay.

KEN. In the morning some more kids were brought in, this was a ritual basically cause I knew two of the kids that were brought in. One was a kid that was brought in for wandering around drunk. I'm not sure where they kept them but I assume they kept them some place until morning when they brought them through juvenile section. Yeah, that's what I think, cause they all came in at once instead of one at a time.

BARBARA. Well, how many came in, ten, two?

KEN. Five that I saw.

BARBARA. Okay, what time was this? Was it daylight?

KEN. I couldn't tell, it was about five minutes after they served me my breakfast. There was no window in my cell. It was perpetual what ever time the lights happened to be on outside the lights would shine in my cell.

BARBARA. But it was after breakfast?

KEN. Five minutes after breakfast, I know that because the guard went back and gave them breakfast, ask them if they want any. Okay, one kid been picked up wandering drunk and another kid that I used to work with this was when I was with a drug counselor in Baltimore was tripping out in nacitrite and that really upset me basically because he kept on, like I versed this pretty well he was flipped out and after awhile I felt he was getting more rational and he said look send me to a mental hospital just don't keep me locked up. I'm going to go crazy if you keep me locked up, I have to have space. Don't lock me up or if you have to lock me up put me in a straight jacket so I don't hurt myself. Like he just kept on repeating this and he took off his clothes and the only?

BARBARA. How do you know he took off all of his clothes.

KEN. Cause I heard the guards talking about it, you know, they were saying, can I use his name.

BARBARA. Yeah.

KEN. Okay, they were saying "Mike, keep your clothes on, Mike why are you taking your clothes off." Like the only comments they'd say were Yeah, wow, we got a real noodle this time and comments to that effect. I happened to know these kids and this really, really upset me.

BARBARA. Whose the kid, what's his name.

KEN. His name was Mike Edwards.

BARBARA. Where's he from?

KEN. I'm not quite sure where he is from but I met him at the youth development center at the YMCA.

BARBARA. Okay.

KEN. The other kid I also met at the Youth Development Center at the YMCA. His name was William Craig. Okay, so,

BARBARA. Okay, so it's morning, you were talking about the morning staff,

KEN. Well, the morning staff, the difference between the morning staff and the night staff was the night staff seemed to like keep things under control but they also seemed to act more like staff. You know, the morning staff appeared to me like over grown kids. They were caught in a lot of interchange with the prisoners, childish,

BARBARA. Like what?

KEN. Back and forth, one kid said, this is the kid in juvenile section, he said I need a stick to stir my coffee. The guy said use your fingers and the guy said I can't use my fingers to stir the sugar. The guy said what are you trying to be sarcastic or something can you spell that. And it went back forth and the guy said, the kid in juvenile said why can't you spell it that's why you're a pig cause you can't spell. And the guard said that's why you're back there cause I'm so dumb. And it was very childish. As I saw it it had no purpose except to make more noise. Cause everybody was getting into it.

BARBARA. Okay, morning, then what did you do, you finished your breakfast, you heard about these cases then what. What did you do for the rest of the morning. I mean its still breakfast time.

KEN. Yeah, well what I did for the rest of the morning was sit back and mentally compose poems because there was nothing else to do. Like I didn't have any contact with the other prisoners. I could have yelled out into the hall but, especially since there were two kids there that knew me anyway. Rather than have them yell back at me I chose to keep quiet because they knew damn well I wasn't juvenile.

BARBARA. Were other people yelling.

KEN. Yes they were except like for the most part the yelling was like talking to each other. Cause the only way to communicate with each other was to bang on the cell next to yours and then yell at your door. It would carry but that was the only way you had to communicate with someone in the cell next to you.

BARBARA. Could you hear anybody who was out.

KEN. Yes, I could, very definately.

BARBARA. How did you know they were out.

KEN. Well the first people I heard were adults, were people who came in at night. That's because they were drunk and very, very loud. One of them made a comment to the effect I've been in the state for 26 years and blah, blah, blah. That's why I knew he was an adult and also his wife or the female he was with sounded like very, very old.

BARBARA. What were they saying, IN addition to that.

KEN. This was just in conjunction with being picked up for doing something. And also some of them were adults because their alibi was they had just come out of a bar.

BARBARA. Okay, so you sat there all morning. Did you ask for anything like an aspirin or anything like that.

KEN. I had asked for aspirin and some toilet paper that night and I was given it. I was given the aspirin immediately. The toilet paper the guy said can you hold off for five minutes. I said sure. Okay, when they first make their rounds they would bring it to me. Which he did, almost immediately. In the morning, I have a bad stomach. My stomach was acting up and oh maybe I better back up a little bit.

BARBARA. Okay.

KEN. At night when I woke up it was freezing and I woke and I really had the shakes. I was shivering very, very badly and I ask the guy for a blanket and he said I'm sorry we don't have any. So like what I did was I sat up and pulled my jacket up and tried to make myself into a ball. One of the reasons that this room was so cold was because most of it was metal. Even under the wood is metal. So at night when the temperature drops you can not touch anything. I was shivering and a lot of people were up at that time. I don't know maybe it was just because they wanted to be up. I know I was up because it was cold. And I couldn't get away from the light that was shining in my face. Later on that morning I had a case

the ——— that's why I ask for the aspirin originally. Cause I could really feel my body was numb and I knew that I had to start ——— because I couldn't really feel myself getting weak I could see my vision start to blur especially when I start to come down with a cold or flu. I ask the guard in the morning for some milk. He ignored me. Completely ignored me.

BARBARA What did he say?

KEN. I said my stomach is upset could I have some milk please. And he ignored me in such a way that I can't really be sure if he heard me or not. I know I ask him for the milk twice.

BARBARA. What did he say the second time?

KEN. Well again he ignored me. I also ask him, if I could go to the cell with Mike Edwards who was tripping out. I ask him that three times.

BARBARA. This was the morning guy?

KEN. This was the morning guy. What did he say?

BARBARA. What did you say?

KEN. I said——

BARBARA. People don't normally do that in jails, what did you say?

KEN. When I was up in Boston I had a lot of time in helping people tripping out and could I go talk to him.

BARBARA. What did he say?

KEN. Nothing.

BARBARA. What did he say the second time?

KEN. Nothing.

BARBARA. What did he say the third time?

KEN. Nothing and also I remember that I passed my toilet paper down the cell because like there was none there so I ask him about three times. He gave it to me the third time.

BARBARA. How did you know to pass your toilet paper down the cell.

KEN. Cause the guy next to my cell banged on the cell and said hey can I have some toilet paper. So I gave him my toilet paper and said I'm going to pass it down cause people need it too. So I said that's alright.

BARBARA. Okay so he didn't let you go into the next cell and he didn't give you any milk. Then what? Did you have a towel?

KEN. No.

BARBARA. A cup to drink out of.

KEN. No, the night guard told me to keep my coffee cup in my cell. Which is what I did.

BARBARA. So that was really all you had to drink out of. What did you use for spoons or forks?

KEN. They gave us plastic spoons.

BARBARA. Did you see any roaches.

KEN. Yeah.

BARBARA. Since we have already discussed the little black bugs jumping around tell me about the roaches.

KEN. I killed six roaches and crushed them on the floor.

BARBARA. Okay, were there only six?

KEN. I killed all of them that I saw, I couldn't kill the whole population in the jail.

BARBARA. What about the dirt, was it just dust or was it real dirt?

KEN. Inside the cracks of the bench and on the walls it was real dirt, matter of fact the only dust was on the bench.

BARBARA. Did you ask if you could shave?

KEN. No.

BARBARA. Did you ask for wash soap?

KEN. No.

BARBARA. Did you ask for anything else that we didn't cover?

KEN. I asked for something to read in the morning but I was ignored again.

BARBARA. What did you ask specifically?

KEN. Hey, could I have something to read, could I have something to do man?

BARBARA. What did they say?

KEN. Well, it was the night turn key or it was the day time turn key and he said nothing. As a matter of fact he did that a lot, he just ignored people. Rather than answer them either way he would just walk by them.

BARBARA. Were there any racial comments or insults? Or remarks?

KEN. The insults weren't so much on a racial, more on the dumb kid line.

BARBARA. Like what?

KEN. You dumb kids got yourself in this mess along that line. I can't remember any specific remarks.

BARBARA. Okay, when they called you for your attorney visit what happened. What did they say?

BARBARA. This is the first time when I came in.

KEN. Okay, well before that let me say that when I went in on Friday and they ask me my age I said 17. The guy said well you really don't look 17. And the day turn key was giving breakfast and made a comment about my age and I was just looking up so I really didn't hear it. I can't be sure what he said, something about not looking 17 but I really can't be sure what the comment was so I won't even try to do that. Then, when I was going to see you I think he told me your attorney is in there and he looked at me and said you're an old 17. During the course of your first visit, you couldn't hear it probably but the turn key banged on the door and he made a comment to someone outside, I don't know who it was, and it was to the effect of don't you think he had had enough time in there with her. Which is when I told you, hey I think they're going to be coming through there in a minute.

BARBARA. Okay, when you got out from the visit what happened?

KEN. Nothing much, I just went back to my cell.

BARBARA. And then what did you do for the rest of the afternoon. Did lunch come?

KEN. Yeah, lunch came.

BARBARA. What was lunch, the butler brought your lunch, okay.

KEN. Lunch was a very, very strange hamburger, I swear if you cut it in half the meat was, cause half of it was onion and mustard which I couldn't eat anyway, so I threw it away, so I only ate the meat. And there was a hamburger, a sweet roll and—

BARBARA. Did you ask for milk again?

KEN. Yeah, I ask for milk again and a very strange thing happened. I ask for milk at breakfast and at lunch and the second time I ask for milk and I don't know if that's what initiated it, but I got three cartons of little cream. They just passed them down the cells and gave them to me, which was very nice.

BARBARA. You mean other kids just passed them down.

KEN. Other kids just passed them down.

BARBARA. Cause they heard you asking for milk.

KEN. Right.

BARBARA. But this had nothing to do with the guard.

KEN. No, definitely not.

BARBARA. Okay, after lunch then what did you do. How did you get rid of the rubbish from your lunch. Like the wrappings and things?

KEN. What I would do was stuff the stuff into one container, for breakfast and lunch it was fairly easy, but you put your stuffings into the cup and put the lid back on it and they pick them up. They have like little holes through the bars with a platform on it that you put your food on. And concerning the food the night watchman was the only one who gave it to me. He gave me the food. Like on the other side of the room he said here is your dinner and he gave it to me. The morning watchman who brought breakfast and lunch, I would just happen to glance up and it was there.

BARBARA. Okay, then what did you do after lunch, how did you get the rubbish out of your cell. You didn't tell me that yet.

KEN. Well I put it up there and the turn key would eventually dispose of it.

BARBARA. Okay, then what did you do for the rest of the afternoon?

KEN. Well, I waited for you and I slept.

BARBARA. You did sleep, was it quiet?

KEN. No, it wasn't quiet cause someone was banging on the cell, but I just thought and meditated.

EXHIBIT I.

SUPREME BENCH OF BALTIMORE CITY,
Baltimore, Md., June 15, 1973.

Re Southeastern and Northeastern Detention Centers

Mr. ROBERT C. HILSON,
Director, Department of Juvenile Services,
Baltimore, Md.

DEAR MR. HILSON: You are well aware of the recent publicity with respect to the juvenile detention facility at the Southeastern Police District. As you may be aware this Court has been deeply concerned about the conditions at

Southeastern for quite sometime and I have had a number of discussions with Mr. Edward J. Lang, the Deputy. Regional Supervisor for Baltimore City, about the continued use of Southeastern. For sometime Mr. Lang has told me that studies have been underway to see what changes could possibly be made. In talking to Mr. Lang after the recent publicity I find that no plan has been finalized although there is still some talk. I would emphasize to you that this has been a matter of personal concern not only to me personally but to the Masters of our Court and we have had discussions pertaining thereto.

On Tuesday afternoon, June 12, 1973, I paid an unannounced visit to both the Southeastern and Northeastern detention centers. As you are aware the Southeastern is for juveniles 16 and over and the Northeastern is utilized for those under 16. I shall first address myself to Southeastern.

Captain Simon J. Avara, the Commander of the Southeastern District, was not at the station when I was there but I did speak with the Acting Commander, Lieutenant E. J. Weichert, as well as to Sergeant O. N. Craig and Officer William Rosteki, a turnkey. I also inspected the physical detention area. I specifically questioned these gentlemen about a number of the conditions. I will set forth each of these conditions, what the present situation is and what I will require the condition to be if I am to continue to designate Southeastern as a detention facility.

Findings

1. FOOD

With respect to the food which is to be hot, Lieutenant Weichert acknowledged that by the time it reached the juveniles "it might be cooled off" and "is not what is called hot." It was shortly after these comments that Officer Rosteki joined the conference and he maintained that the food was always hot.

My order

All Food which is prepared to be served as hot food shall in fact be served to the juveniles in that condition or at least reasonably warm.

Findings

2. MATTRESSES AND BEDDING

It was acknowledged that no mattresses are provided and that the juveniles must sleep on a hard board. It was also acknowledged that no pillows, sheets or blankets are provided.

My order

Each juvenile cell shall be provided with a good and adequate mattress and each juvenile shall be provided with a pillow, pillowcase, sheet and blanket. New linens shall be provided at sufficiently frequent intervals.

Findings

3. TOILET ARTICLES

It was acknowledged that the juveniles are not provided with any toothbrush, toothpaste, towels, soap or a comb.

My order

I find this to be a very intolerable and totally inexcusable condition which certainly does violence to every basic percept of proper and civilized treatment of all incarcerated individuals but certainly most particularly juveniles. Each juvenile is to be provided with a toothbrush, toothpaste, a clean towel, soap and a comb if needed.

Findings

4. WRITING MATERIALS

It was acknowledged that the juveniles are not provided with any writing material of any kind—paper, pencil or pen.

My order

Appropriate writing materials and U.S. postage stamps where necessary shall be provided each juvenile upon request.

Findings

5. TELEPHONE CALLS

It was acknowledged that no juvenile is allowed to make any telephone call at any time during his period of detention.

My order

. I find this condition to be totally intolerable and inexcusable. Adults who are detained at Southeastern are allowed to make at least one telephone call—juveniles should certainly be afforded no less privilege. We cannot lose sight of the fact that we are dealing not only with juveniles but with juveniles who have been convicted of no offense and who are at that moment presumed to be innocent of any wrongdoing. It was stated to me at my conference that to allow the juvenile to make telephone calls also would provide a management problem just too difficult for the one turnkey on duty to handle. Notwithstanding, each juvenile shall be allowed at least one telephone call and a second call if he is detained more than two days. A telephone call shall mean a completed call and there shall be no charge to the juvenile for making this call if he is without funds.

6. ILLUMINATION

Findings

It was acknowledged that the three banks of florescent lights on the walls opposite each cell row remain on during the night. It was stated that this was for safety purposes in order for the turnkey to be able to determine that no juvenile is doing harm to himself in his cell.

My order

I do not see how it is possible for most people to attain any proper degree of sleep with a very strong illumination constantly on them. I do not believe that the safety factor is any different here than it would be at any other detention facility or in any juvenile facility for committed youths. Some modest illumination for security purposes would not be inappropriate but glaring illumination is. The illumination after 10:00 p.m. should be reduced so as to provide the maximum assurance of proper conditions under which to sleep.

7. READING MATERIALS

Findings

It was acknowledged that there are no reading materials of any kind provided the juveniles.

My order

This is not a healthy condition. Because of the nature of the detention facility for the period of time that a juvenile is there he is confined at all times to the cell area—there is no outlet of any kind provided for him. Although his confinement may be for only a relatively short period of time, the evils and consequences of boredom can very quickly manifest themselves. There is to be on hand a limited library of books and magazines which shall be made available to a juvenile upon request. The juvenile shall be made aware of this available service.

8. HANGING OF CLOTHES

Findings

It was acknowledged that there are no hangers or hooks in the cell upon which clothes may be hung.

My order

There shall be provided for each cell sufficient hangers or hooks for the hanging of clothes.

9. SUPERVISION

Findings

It was acknowledged that the entire cell block area—both juvenile and adult—is supervised by only one person—a turnkey. He is responsible for all adults and juveniles.

My order

I do not feel that this degree of supervision is adequate. As previously noted in the paragraph on telephone calls, Officer Rosteki, the turnkey, stated that it was impossible for one supervisory person to arrange for telephone calls by adults and juveniles alike—particularly on weekends. It is also my understanding that beyond his duties in the cell block area the turnkey has duties and responsibilities to perform for adult prisoners in the courtroom before judges and/or commissioners. I believe that it is imperative that there be on duty during the key hours a trained juvenile worker whose sole function and responsibility will be to aid the turnkey in the supervision and management of the detained juveniles and who will function in the capacity of serving the various needs of these juveniles as they may arise from time to time. This worker is to be on duty Monday through Friday from 10:00 p.m. to 6:00 a.m. and there shall be a worker on duty on Saturdays and Sundays from 8:00 a.m. to midnight.

The above is the list of conditions which I feel must be changed in order for this Court to continue to allow Southeastern to be used for detention purposes. There have been some allegations of the existence of certain other conditions. I am satisfied that the area is reasonably and sufficiently clean and in fact was completely repainted prior to the recent publicity. It is certainly impossible to expect total cleanliness at every point of every day but reasonable cleanliness is expected and I believe is adhered to. It was acknowledged that at certain times roaches or others of the bug kingdom might appear. However, it is the practice to periodically spray the detention area and to give an extra spraying whenever bugs are noticed. I am not convinced that there is any pronounced infestation of bugs but rather their occasional appearance which is a condition we find even in the best of homes and commercial buildings. At most times I do not believe that the odor is unusually offensive. There naturally will be certain times when conditions make for a very undesirable and obnoxious odor. There is a complete physical and total separation of juveniles and adults although they are in hearing range of each other. Although it might be more desirable otherwise I do not find this to be unduly offensive. There has been complaint made of inadequate heat during the winter. The gentleman I spoke to denied that this was a problem and I certainly was not able to make any independent judgment on this at this time of the year. I was assured by the gentleman I spoke to that whenever illness or an injury is apparent the juvenile is immediately transported to the Baltimore City Hospitals which is only a matter of yards away.

It was reported to me that sometimes it is necessary to place more than one juvenile in a cell. In my view this is totally unacceptable—there is no adequate room for two—there is room for only one to sleep—and although this is not a jail it is a temporary lockup and would not conform to the minimum jail standards of this state. It is my order that no more than one juvenile be placed in a cell at Southeastern.

The situation at the Northeastern District is considerably different. As you are well aware the detention area consists of two sections. One section is a conversion of the previous courtroom to five reasonably secure rooms where the non-aggressive juveniles under the age of 16 are housed. Three of these rooms are equipped for two juveniles each and the other two rooms for a single juvenile. The double rooms are adequate in size and with provisions to adequately handle two youths. The more aggressive juveniles and those where there may be an overflow are housed in two separate rows in the principal cell block and are physically separate and apart from the adult cells.

I inspected both areas and found conditions in the cell block area to be similar to those at Southeastern. The "courtroom" rooms were considerably better. For example, there were mattresses on regular beds with a pillow, pillowcase, sheet and blanket—and all of these were changed everyday. The illumination at night was not too unreasonable. I found that with respect to the youths detained in both sections that one telephone call was allowed. was given assurance that food which is prepared to be hot is served in that condition. I am also satisfied that the areas are kept in a sufficiently clean and healthy state. Where medical attention is indicated Union Memorial Hospital is used. There seemed to be no complaint about heat.

On the other hand, with respect to both sections I found certain conditions prevailing similar to conditions at Southeastern. These are the unavailability of toothbrushes, toothpaste, towels, soap, combs, hangers or hooks for clothes, writing materials and reading matter. I also was advised that there is only one turnkey on duty who is responsible for both the juvenile and adult cell block rea and the "courtroom" section. A matron is sometimes on duty as well. I do ot believe this to be sufficiently adequate supervision.

I do not intend to have this Court continue to authorize the use of the orthеastern District until all of my orders with respect to Southeastern are et at Northeastern as well.

I am well aware that the juveniles who are detained at these places are there sually overnight although over a weekend it may extend to one or two days. However, I feel that regardless of the length of a juvenile's confinement there

are certain minimum, basic and civilized measures which should be in effect at all times. I would reiterate what I previously mentioned—that we are dealing with youngsters who in the eyes of the law are presumed innocent. Even if these youngsters at Southeastern and Northeastern were convicted of an offense I would insist that the same standards be present. How much more compelling it is when we are dealing only with detained youngsters who are waiting for a judicial hearing. There is absolutely no question in my mind that even the most limited exposure by young people to some of the deleterious conditions which presently exist in these detention places can have very damaging effects and impact on them. I am not unaware that in providing some of the juveniles with some of the items which I would require will present some problems. I am not so naive to not understand that giving to some of these youngsters such things as books, magazines, writing implements, etc, that there might be some malicious destruction of them and/or abuse of their use. However, the possibility and even probability of some misuse and abuse cannot negate the need for providing them and cannot negate the fact that at all times and in all places those who are charged with the care and custody of juveniles must provide these young people with a civilized atmosphere. We must be concerned with their physical needs but must be just as sensitive and perhaps even more concerned with the needs of their emotions, feelings and reactions. This is where the greatest damage can be done in so many immeasurable ways if we fail in our duty to always treat civilly and humanely.

As you understand, Section 7-10 of Article 26 of the Maryland Code provides that children shall be detained at those places designated by the Court. This is to advise you and to serve notice that unless the conditions heretofore enumerated are corrected in the manner which I have ordered within thirty (30) days of the date of this letter, then at such time I will no longer designate the Southeastern District and/or the Northeastern District as places of detention for juveniles arrested in Baltimore City. If these conditions are met by this date, then I will require a biweekly report thereafter from the Regional Supervisor of Baltimore City certifying that the conditions in either or both of the facilities still being operated fully conform to the requirements I have set forth.

I am well aware that the directives contained herein may present certain problems to your department. However, I would point out again that this is a situation which I have discussed with your office over a period of many months. I feel there has been more than adequate opportunity to remedy the situation and I also feel that it does lie within your present capability to either correct the conditions or to provide an acceptable alternative within the period of time I have allowed. I might also add that the fact that there might be problems inherent in achieving a level of civilized treatment cannot in any measure serve to excuse for one moment the realization of the necessary standards.

I would also make it perfectly clear that I know how hard and diligently you have labored for a considerable period of time to try to secure a permanent regular detention center for juveniles that would primarily serve the Baltimore City youths. I know of your strong and complete commitment to the proper handling of detained youths and commend you for this. It is most unfortunate that notwithstanding your tireless efforts and the efforts of others that we have not yet succeeded in achieving the type of pure juvenile detention facility that we so desperately need. Hopefully the steps we are now taking may accelerate the achievement of our goal.

I am also anxious to state at this time that although I criticize some of the conditions at Southeastern and Northeastern, I do not intend in even the slightest manner to criticize the police officials who are responsible for these districts. The temporary housing of these juveniles is not something which they sought and is not something which they were happy to accept. At the very best these facilities are simply not designed to meet the needs of a proper juvenile detention center. The police officials have done their very best with what they have and what they have is terribly limited. Captain Simon J. Avara of the Southeastern District, Major E. L. Lawrence of Northeastern, Lieutenant Leo Fialkwicz of Northeastern and many other officers and men have been most cooperative and most hard working in this entire undertaking. I commend them for their dedication and am grateful to them for accepting a burdensome responsibility that normally should not have to fall within their purview. My criticism does not attach to them at all but rather to the fact that the State of Maryland

which under the law has the responsibility, has failed to provide these Baltimore City youths with the type of temporary detention facility that they need and must have.

In view of the prominent publicity which conditions at Southeastern have recently had and the very substantial concern and interest which has consequently been evinced by so many citizens, I am taking the liberty of releasing this letter for publication by the media on June 18, 1973.

Sincerely yours,

ROBERT H. HAMMERMAN, *Judge.*

Senator BAYH. Our next witness is Mr. Sid Ross, editorial consultant for Parade magazine.

Mr. Ross, we appreciate your being here. I note with a great deal of interest the article that you did about 10 years ago on this very subject; and I understand you have had a chance to go back and see what, if any, changes have transpired in that interim.

STATEMENT OF SID ROSS, EDITORIAL CONSULTANT, PARADE MAGAZINE

Mr. Ross. Yes, Senator, I wish there were changes. The story and some of the pictures that you have before you represent situations and conditions that I saw 10 years ago. I am sorry to say that during a recent survey of jails throughout the country last spring, I saw little, if anything, that had changed for the better.

During more than 25 years as an investigative reporter for Parade Magazine I visited hundreds of jails, juvenile detention facilities, and correctional and training schools all over the country. I might also mention that I visited hundreds of mental hospitals and prisons and institutions for retarded children.

And it is curious that in the mental hospitals I often saw children as young as age 8 who were incarcerated for many of the same "offenses"—and I use that word in quotation marks—for some of the same behavior that puts kids in jails.

I have also attended innumerable conferences, conventions, workshops, seminars, and so on dealing with the juvenile justice and corrections system; and the topics had not changed during the 25 years I have been interested in the subject.

It has left me with a depressing feeling of deja vu, or, the more things change, the more they are the same.

I will speak, however, briefly—I understand time is pressing—solely of my personal knowledge of jails, and specifically of preadjudication jailing of juveniles. I have seen juveniles in jails in almost 40 States, in big cities, small cities, county jails.

I find it difficult to exclusively fault the sheriffs and jailers. Jails are the very lowest rung on the correctional penal institution ladder. They usually get the leavings, the dregs, in terms of money, facilities, and staff. And speaking of staff, usually the staff at jails for both juveniles and adults are inadequate in every sense of the word.

Jails as they exist in this country offer only secure custody from the standpoint of the jailers. For juveniles, the custody is often not very secure. A recent LEAA survey revealed that 86 percent of U.S. jails had no exercise or recreational facilities; 90 percent had no educational or vocational programs; half of them had no medical facilities. This is true, based on my experience.

From my experience of what I have seen of jails and specifically in terms of juveniles is that they are just cells and bars—a sterile, degenerating, and at times brutalizing environment for children who are more often than not incarcerated not because they have committed horrendous offenses, but because the community or State has nothing else to offer.

So you find along with kids charged with burglary, robbery, assault, and murder, the dependent and neglected kids, truants, runaways, disturbed, retarded, victims of sexual abuse, victims of broken homes and so on.

And I want to stress that from my experience the operative word is victims, because again, many of these children, including those who have committed criminal acts, are in a very real sense the victims of society's failures.

In most of our jails—and this again is nationwide—the so-called juvenile section is a separate cell or cells are designed to segregate kids from older inmates allegedly for their protection. But depending on what comes in over the transom, the juvenile section may also at times house mental cases, aged, drunks, drug withdrawal cases, and so on. As a whole, I would call our Nation's jails "flophouses with bars."

I would characterize benign neglect as the usual treatment for juveniles in jails. Often they are literally kept in solitary confinement. But sometimes when you have a number of juveniles in jail at the same time neglect can turn into a frightening nightmare—intimidation, beatings, robberies, and homosexual rape. Instead of protective custody, you have a jungle, a ferocious jungle where the stronger and more vicious prey on the younger and weaker.

Sheriffs and jailers are understandably reluctant and unwilling to supply statistics or cite examples of assaults and robberies and rapes occurring in their jails. Actually I believe they really do not know. The victims are scared. Would-be squealers are not deterred because of some alleged code of honor but because they are afraid of retribution from other inmates.

As a 16-year-old boy in a southern jail whispered to me a few months ago—this boy had recently been raped by three older inmates—and I quote, "They warned me that they would split my ass way up to my bellybutton if I squealed." And this is the truth, and this is why a lot of the things that surface are only the little iceberg tip of what goes on in jails.

In the outline of S. 821 it says that a large proportion of adult arrests for serious crimes are those we failed to rehabilitate as juveniles. I agree. I agree, and would say that jail—that is, preadjudication jailing by juveniles—is starting off on the wrong foot as far as any thought of rehabilitation is concerned. It is counterproductive. It is also morally wrong, inhumane, and degrading in every sense of the word. There are and should be alternatives for most—probably 90 percent of the juveniles who are presently held in jail prior to adjudication.

Senator Bayh. I appreciate your long-time concern with the problems of juveniles, and the contribution you have made to prick the public conscience.

Let me ask your thoughts on that aspect. The very practical problem which confronts us who are interested in this from a legislative standpoint is how the Senate is going to keep people concerned.

We have the Houston tragedies, and suddenly there is a great outcry. We had a great outcry after Attica, too, and almost nothing has happened since then in terms of meaningful penal reform. How can we keep nothing from happening after Houston? Can we use this tragedy to get something positive done? Everyone is concerned about youth, their own youngsters and ostensiby others, but they really do not translate the problems discussed here in past months and years to a demand for legislative activity.

As someone who has spent a quarter of a century with a national publication, do you have any thoughts on that?

Mr. Ross. Well, I do, but I beg to differ with you, Senator. I do not think that people really care about kids. I think kids in general, along with the aged at the opposite end of the spectrum—that is, kids in trouble, aged in trouble—are probably the two most neglected elements of our society.

What we as a society have done in my opinion is that we have created fig leaves—the juvenile justice system, for hypocritical, going-through-the-motion exercise under the guise of allegedly protecting children. In fact, we do not protect children in trouble; we brutalize and victimize them.

And I think that—again, I am speaking only as a lay expert, not as a psychologist or penologist or legislator—I think that what we have to do is literally revamp the entire juvenile justice system just as for example in the State of Massachusetts the former director of the department of youth services, Dr. Jerome Miller, revamped the juvenile corrections systems. People had been saying for years that reform schools—that is, correctional schools or training schools are no damn good, and that they had to be improved and "reformed." Dr. Miller said the hell with that. What he did was close them, period. He abolished them, so there are no more reform schools.

And I think that this kind of approach has to be taken. The reform schools were not good, he closed them. And the State of Massachusetts is still afloat. The young hoods and young punks and muggers are not running rampant through the streets of Boston or Worcester any more than they were before, let alone any more than you find in my own city of New York or places like Chicago or Philadelphia.

We have to get away from the punitive approach. We have to get away from an approach which sees things in terms of justice and penology. We have to talk of these problems as social problems that society has a stake in; where we should not focus primarily on what the kid has done but rather on how society can help the child to straighten out.

Now, this is all very general, and perhaps not much help. But we literally have to revamp our thinking. If we start, for example, from the premise that the jailing of children is wrong morally and that it accomplishes nothing, then we go out and look for other methods and alternatives. In my statement I suggested some. None of these are particularly new, but they really have not been tried or given a chance.

Senator Bayh. Do you think it is malicious abuse of children or a misguided, subconscious desire to help that does the most harm in our penal program for juveniles?

Mr. Ross. Well, I would not characterize it as malicious or subconscious. Look, I am not a psychologist or a psychiatrist. But I find that

in many social problem areas, we as a nation, as a society, have a tendency to say, well, it has always been done this way; we will keep on doing it this way. And even where we find out that the way we do things is a failure—the recidivism rates, the rise in juvenile crime—we go on and on in the same old way—we just refuse to admit that perhaps we literally have to change our system of juvenile justice and corrections and try something else. It's an no longer use the old rationale that we do not have the money, we do not have the staff, we do not have the facilities. I submit that is a lot of hypocrisy. We have the money, staff and facilities for things we deem important and necessary.

I have heard a lot of talk when I went around visiting jails. A lot of sheriffs and jailers were saying hey, we are going to have the problem solved. LEAA is giving us money for a new jail. Well, I say the hell with that. New jails are not going to solve the problem for juveniles. Finding ways to keep kids out of jails—I would rather see the money spent that way. I would rather see it spent on innovative programs, even cockeyed programs that sound like pie in the sky, to keep kids out of jail.

Senator Bayh. You are familiar with S. 821, I notice a great deal of similarity between some of your suggestions and the provisions of S. 821.

Do you have any further suggestions or criticisms of that particular piece of legislation.

Mr. Ross. Well, I will say this, Senator. I read the bill twice, and the second time it almost put me to sleep because it is too dumn long for somebody like me.

But I think what I read in S. 821 is good. But I would like to try to impress on this subcommittee one caveat. The Federal Government, the U.S. Government, is going to give out money and establish certain standards and guidelines. Unless it really rides herd on all these programs we are going to wind up 25 years from now still trying to solve the juvenile delinquency problem.

Politicians are politicians—jailers are jailers, and sheriffs are sheriffs—you are going to have a tendency as with other programs in nonpenal areas, that they will remain the prerogative, the fiefdoms the satrapies of local groups and local politicians. If there is not the old U.S. marshal up there constantly watching and supervising, you are liable to run into trouble.

I also would think that what we need is for this Senate subcommittee itself to get up on its hind legs, and not just in hearings, but perhaps barnstorm the country and talk to people in different States; to go on television and say, look, these are the things that are happening to juveniles in jail. This is what it is costing us, not only in money and broken lives, but this is what it is costing us as a society. This is what we want to do via S. 821 to try to solve these problems.

I would like to see this subcommittee get public support. I think that with facets such as these, plus the support of the press, I think we could really get somewhere.

Senator Bayh. I certainly hope so. I appreciate the fact that you have been interested in these problems a long time and still have not given up.

Mr. Ross. No; I have not given up, and part of the reason is that I am a pessimist but not a cynic.

I am not optimistic after 25 years, but I still feel you have to put up a good fight for a good cause. I am very happy to see that this subcommittee is trying to do something about it. I think also this bill, if passed, will accomplish something.

Again I say, keep the kids out of jail. There are ways of doing it, whether via governmental agencies and programs, or via nongovernmental groups—citizens, big brothers, whatever. It can be done, and should be done, and it should be done not only for the good of the kids but for the good of society.

Senator Bayh. Thank you very much. I hope we can breathe a little optimism into your viewpoint in the rounds ahead, although I must admit our experience has not been without frustration and pessimism. But we are going to keep trying.

Thank you, sir.

[Mr. Ross' prepared statement is as follows:]

PREPARED STATEMENT OF SID ROSS, EDITORIAL CONSULTANT, PARADE MAGAZINE

The post-release period is critically important in a former inmate's relationship with society. But what of those who are under 18 and who are allegedly sex offenders or victims, children who are retarded, disturbed, incorrigible or beyond parental control, allegedly "predelinquent" or "in need of supervision," have anything in common with juvenile delinquents arrested for criminal acts or behavior? The answer is yes. In most parts of the country all are subject to "pre-adjudication" incarceration in jail for periods ranging from overnight to weeks and even months.

I do not imply that all, or even most of alleged juvenile delinquents clapped into jail are innocent angels. They have committed atrocious crimes and antisocial acts against person and property ranging from aggravated assault and armed robbery, to rape and even murder. Yet, thousands of juveniles are jailed yearly for behavior that would not be considered criminal if indulged in by adults.

Juveniles running afoul of the law are considered wards of society and are enveloped by an umbrella of protective statutes and procedures not accorded adults. But they are not entitled to bail, nor with few exceptions do they have attorneys. They are "adjudicated" at closed juvenile court hearings rather than tried in open court; again as a "protective" measure. In practice a juvenile court hearing is merely a euphemism for a trial. And in truth a juvenile judge possesses far more power over the fate of youngsters than an adult court judge has over older offenders.

As noted, the alleged juvenile delinquent's inequitous treatment begins before "adjudication." Although he is legally a child, he can be and is held in jail. This, despite the opinion of a prestigious organization such as the National Council on Crime & Delinquency that no more than 10 per cent of real or alleged arrested delinquents need to be placed in secure custody.

The most recent National Jail Census by the U.S. Department of Justice's Law Enforcement Assistance Administration noted that on March 15, 1970, in round off about 160,000 individuals were incarcerated in some 3,300 U.S. jails. Among them were 7,500 juveniles. Just over half (52 per cent) of the 160,000 were pretrial detainees, but two-thirds of the juveniles were in this category.

How can a civilized society countenance the jailing of thousands of children yearly for what are essentially non-criminal acts, or often only petty offenses? Or for that matter how do we protect society, or the juvenile drug addict by jailing him rather than handling him as a medical and social problem? I have no statistics, but I believe that suicides and suicide attempts are proportionately higher among juveniles in jail than for other inmates.

Ten years ago as an investigative reporter for Parade Magazine I spent almost six months looking into local and county jails all over the country. The results appeared in that publication's issue of Nov. 7, 1965, in an article titled: "Children in Jail." During a recent survey of jails I made last spring, it was sorry to find that little had changed. Yes, improvements had been made, but juveniles

were still being held in jail for the same behavior and offenses. Young children, often charged with non-criminal behavior (truancy, runaway, incorrigible, etc.) were often held in the same cell or jail area with older juveniles charged with robbery, burglary, car theft, assault, and so on. For the hardened kids it was no sweat, but for the others it was a brutalizing, terrifying, and dehumanizing experience.

Most juvenile courts, police, sheriffs and jailers I've talked to aren't happy about the jailing of juveniles, although I remember one law enforcement officer who stated flatly: "It teaches the little bastards respect for the law." While jail incarceration may be necessary for some alleged juvenile offenders, I don't think there are many people in the field who believe any longer that "a little taste of jail" will have a salubrious effect toward causing the young transgressor to mend his ways. Both the National Jail Association and the National Sheriffs Association have gone on record as opposing the jailing of juveniles, as well as of the mentally ill and alcoholics.

The jails and jailers, of course, have no choice as to the guests they house. They take juveniles because of archaic laws and practices, or because the community literally has nothing else available as an alternative. Even where specific non-jail juvenile detention facilities exist they frequently become overcrowded so that the excess overflows into local or county jail. This is true even in States where existing legislation prohibits the jailing of juveniles, or their detention in a penal facility containing adults.

Sheriffs and jailers usually make an attempt to "segregate" juveniles from older inmates. They do this by a fiction called the "juvenile section," usually a cell or area in another part of the jail. But there are the same bars, dirty sheets and mattresses, inadequate lighting and ventilation, starchy and unappetizing meals, and lack of any educational program whatsoever; let alone counseling or social services.

In many ways juveniles are worse off than adult inmates. For their own "protection" they are often kept locked up all day long in what amounts to solitary confinement. This practice is much more common for female juveniles, so that the men "won't get them." They are usually not allowed to work in or around the jail, condemning them to an even more sterile and monotonous existence than that suffered by older inmates.

The aforementioned LEAA survey also revealed that 86% of U.S. jails had no exercise or recreational facilities, and that 90% had no educational or vocational programs. Also, half of the jails had no medical facilities. For the kids I saw in jail, it was sheer, monstrous boredom or in many cases fear and fright. In several jails I saw youngsters asleep, curled in a fetal position. Most jails hadn't even the pretense of a library. It was comic books and a few magazines, sometimes a TV or a radio, or a greasy deck of playing cards. In only two jails I visited were juveniles allowed to make a telephone call. A few wrote letters but most of the time they slept, or tried to sleep.

"Hey, man! How about watering a nice, young human vegetable," a 17 year old boy in a midwest jail quipped to me. After bumming several cigarettes he stopped smiling and said bleakly: "You sure get terribly depressed in here. It's nothing, nothing, nothing to do and you get to feel that you're nothing, nothing, nothing." He said that he'd been in jail more than two weeks awaiting "trial" on a burglary charge. He was not sophisticated enough to know that juveniles are not tried, but adjudicated.

Urban jails are generally better, at least physically, than rural jails. Large cities and more populous counties are also more apt to have non-jail juvenile detention facilities, though in some cases these institutions may be as bad if not worse, than many jails. Most jails—at least those I have visited—are old, decrepit and almost invariably dirty places. Some could be called skid-row flophouses with bars. Many are overcrowded.

The Federal Bureau of Prisons and in some States, State jail inspectors check out local and county jails. They rely on little more than persuasion and "recommendations." The American Bar Association's Commission on Correctional Facilities & Services also points out that one-third of our jails function without any guidelines or legislative standards for inspection. Even where such laws and standards exist they are often ignored. Most jails are the fiefdom of the county sheriff or supervisor. Staff positions are often patronage appointments. In one southern State I recently visited, several counties paid jail guards as little as $60.00 to $100 a month. A State jails inspector told me that his department visited local and county jails "about once a year." But, he added: "We always notify them in advance to give them a chance to clean things up a bit. You know, if I really was to enforce the new State standards I could just about close up every damn local jail in the State."

Homosexual attacks on inmates have long been a seamy problem in jails and prisons. They are not uncommon on juveniles. In a southern jail I visited last spring, a frightened boy—"I'm not 17 yet"—whispered that he had been raped by three other inmates.

"They warned me that they'd split my ass way up to my bellybutton if I squealed," he told me. Although "scared stiff" he did manage to complain to one of the guards. He was later told that his assailants had been "bought up on charges."

I talked to one of the veteran guards in this jail. "The big problem is that there's quite a grapevine in this jail," the guard explained. "Inmates, especially the younger kids, are afraid and too intimidated to make a beef about an assault or rape. We're undermanned and can't watch the cells all the time, especially at night."

There is no question but that there are brutal and sadistic jail guards. More common, from what I have observed, are jail personnel who are calloused and indifferent toward inmates. Juveniles are more vulnerable to intimidation and attacks by fellow inmates. "In here you can get ripped off even for a bag of potato chips, a 16 year old boy in a western jail told me. "The guards don't interfere. Either they're not around or they let us knock hell out of each other. The only thing they worry about is suicide. That would make the newspapers."

In a fortress-like eastern jail built in the 1870's, I first talked to the warden. He told me that they incarcerated juveniles as young as 12 or 13. "We keep them separate but that's about it," he said. The "kids" sometimes languished in jail for weeks before the court could "work out some kind of disposition for them," the warden told me. "Most of the kids we get aren't criminal kids. They've got a rotten home situation or they're fed up with school, or they get busted for drinking beer, and so on. The crimes they commit are usually peanut stuff. We get some on sex charges but to tell the truth what usually happens you couldn't really call rape, if you know what I mean."

The jailed "kids" are held in a separate juvenile room" which features two large barred windows, bunk beds with lumpy mattresses and blankets smelling of sweat and urine, and a door fastened by a cheap padlock. The "kids" are kept locked up all the time. The door is only opened when meals are brought in. There is no exercise, nor any educational program for juveniles—let alone the older inmates. The county's probation and counseling service is a farce. At the time of my visit the "juvenile room" held two boys. One was a 15 year old picked up for violation of probation—truancy. His original arrest had been for robbery. The 17 year old had been charged with "runaway with a minor female." There was a color TV set in the room, but most of the time, the boys told me, they just "sat around." "You got to go crazy in here," the 17 year old said. "I just wish they'd let me go home," the 15 year old kept repeating.

In one of the larger southwestern jails I talked with a 16 year old girl, confined in the "female" section with an older "sex offender" girl. The latter was not present at the time—she was having her hearing. The cell was large but the windows looked as if they hadn't been cleaned in years, if ever. The 16 year old was a timid, frightened child. Guardedly, she intimated that the older girl had made sexual "propositions" to her. She was afraid to tell the matron, a hard-faced, middle-aged, unsympathetic woman who didn't attempt to conceal her antipathy toward these "spoiled brats who shame their parents."

The 16 year old girl had been arrested as a "runaway." "I had a big argument at home and stayed two days with a school friend," she told me. "My mother knew exactly where I was because she told the police where to go for me," she said. "All right, I don't get along with my parents. But why should they stick me in jail for that? This other girl here, she's stolen and so on. She's been in jail before. It doesn't bother her one bit. But me, I'm no criminal."

In a mid-south jail I saw a 16 year old boy who had been arrested for threatening to blow up his school. It was just bravado, actually. "I wanted to put a good scare in them and have them kick me out," he said. He admitted to being a chronic truant. He wanted to hitch-hike out west and get some kind of job there.

In this small and ancient jail there was no real "juvenile section." The boy was locked up in a downstairs "security room"—a small cell with a solid iron door except for a small heavy glass slit. The bedding was appallingly filthy—"Cockroach Playground," the boy called it. The barred window was closed and the cell was stifling hot. The boy had been there, literally in solitary confinement,

for more than a week, he had not left the cell once. His meals were brought in and sometimes the jailer would talk to him for a few minutes. He had only a few old magazines to read; no radio, let alone TV. With the thick door closed all the time he couldn't even hear other human voices. He had not received any visits by his family.

Ten years ago I saw many runaways in jail, some as young as age 11. The runaway phenomena has become a flood since then. Police often used to "turnstile" runaway children on the theory that it was better, and cheaper, for the next town or state to pick them up, house them and feed them, and get in touch with the parents. This isn't as common these days. There are also far more runaway girls than there used to be. Most of the runaways I saw in jail last spring were in the 15 to 17 year old age bracket. Also new, at least in my experience, were several boy-girl runaway companions.

Some had been picked up while attempting to hitch-hike, others while trying to panhandle small change. A few had been arrested for petty shoplifting and several for drug (marijuana) possession. For the most part they had committed no crime. They were "guilty" of being AWOL from the parental bosom, though several told me that they were "on the road" with their parents' consent or knowledge. Indeed, a few told me that their parents had said good riddance" or words to that effect.

While I do not advocate complete free will for juvenile runaways, I can see no justification for arresting and jailing them if they have committed no crime. I would think that youth hostels staffed by sympathetic counselors would be more appropriate in many cases; or immediate referral to Travelers Aid. For some, a juvenile detention facility might be needed—but not a jail.

I agree with the National Council on Crime and Delinquency's estimate that no more than 10% of arrested juveniles should be placed in secure custody. I would go even further in stating that I feel that many so-called "delinquency" cases need not, and should not be handled as law enforcement cases. Jail is a terrible stigma, a traumatic experience for children. We neither protect them nor society when we throw them into a jail cell, even for only a night. We have been using jails far too often in the field of juvenile delinquency, as a sweeping under the rug, cover up society's failure or unwillingness to deal properly and humanely with the problems of children in trouble.

Too many times I have heard the rationale that the do-gooders and bleeding hearts and starry-eyed idealists really don't know what it's all about; that the community or state doesn't have the money or facilities or trained staff and so on to handle delinquent kids differently. Well, Dr. Jerome Miller, former head of the Massachusetts Department of Youth Services, closed down all of that state's training or correctional schools in 1972 because he was convinced that they were no damned good as a "solution" to "reforming" delinquent kids. As far as I know, the Commonwealth of Massachusetts hasn't been overrun by young "punks, hoods and muggers" any more than my own New York City, Chicago, or Washington, D.C.

I submit that if we start from the premise that jailing of juveniles is wrong, futile, and counterproductive, that we can find some answers and alternatives. I can offer this subcommittee no blueprints or "magic bullets." But I do know that somehow our Nation always seems to find the finances, facilities, and skills to do the jobs we really deem important—be they Apollo moon shots or more and more interstate highways. In the language of politics, it's all a matter of priorities.

You here know, perhaps far better than I do, what must be done. If a community doesn't have good, non-punitive juvenile services and detention facilities and the properly trained people to staff them; it should get them. If juvenile courts and probation departments need more money and staff; give it to them. If the community or state can't or won't provide the necessaries, let the federal government step in with aid and assistance, while at the same time setting up proper minimum standards for all programs and facilities it finances, and riding shotgun to ensure that things are done right.

On a more immediate and modest level, I believe that police and juvenile authorities should place more reliance on release of arrested juveniles in the custody of parents, or in the care of older juveniles, release on their own recognizance pending adjudication. Even juvenile delinquents can be responsible people, if one could try "Big Brother" or "Big Sister" voluntary probation officers matching volunteer to child on a one-to-one basis, without putting the juvenile in jail.

We could make greater use of foster and group homes and child shelters; provide better and more easily accessible psychiatric and counseling and "rap session" services for disturbed and emotionally upset juveniles.

We could provide immediate and practical counseling and even financial help to troubled families; perhaps even have a round-the-clock "hot line" in the juvenile court via which families, or even kids themselves, could get help immediately.

I would be derelict in not uttering the cliche about community involvement and concern to help eliminate the jailing of juveniles, and to help provide better and more humane alternatives, after all, such concern and involvement might save John Jones' wife from being mugged on the street later on, or Mr. Jones getting his store ripped off.

I still remember two girls confined in a tiny cell in an Ohio jail, ten years ago. Aged 15 and 17, they had already been locked up for two days. Their "crime" was going on an all-night joyride with four boys. They insisted that there had been no sexual activity and wanted a doctor to examine them to prove it. They did admit to being discipline problems at home, but that was all. The police had picked them up on a technical charge of "runaway", on complaint of their parents.

The 15 year old was in tears when she spoke to me. "I feel like a criminal," she said. "I don't know if I'll be able to live it down in my whole life. Why couldn't they find another place to put us, beside jail? How can I face people again? Everyone will know I've been a jailbird."

(The following articles "Children in Jail" by Sid Ross and Ed Kiester, *Parade Magazine*, Nov. 17, 1963, and "Shut Down Reform Schools?" by Sid Ross and Herbert Kupferberg, *Parade Magazine*, Sept. 19, 1972 were subsequently received and marked "Exhibit No. 2" as follows:)

EXHIBIT NO. 2

[From Parade Magazine, Nov. 17, 1973]

CHILDREN IN JAIL

COULD YOUR FAMILY BECOME A VICTIM OF THIS NATION-WIDE SCANDAL?

(By Sid Ross and Ed Kiester)

The children on these pages symbolize a national evil, outrage and disgrace. Each year in this enlightened nation, they and hundreds of thousands like them are being thrown into the barred and gloomy cages we call jails. Children as young as 7 are sometimes held under lock and key, fingerprinted, compelled to associate with depraved adults and hardened older juveniles, even clapped into solitary confinement. Some remain in "temporary detention" a year or more. And yet many have committed only the most trivial offenses, while a large number—retarded, neglected, dependent or abandoned—have done absolutely no wrong at all. They are clapped into jail because there is no other place to put them.

These are the staggering findings of an exhaustive and thoroughgoing Parade investigation that covered every region of the nation. For six months reporters talked to judges, social workers, psychiatrists, sheriffs, jailers and parents and children about the problem of throwing youngsters into common jails. They disclose a shameful picture which indicts everyone and applies to almost every state, great and small, urban and rural, and affects every race, religion and income group.

They also found outrage pyramided upon outrage. In one Michigan town, Parade discovered an 11-year-old retarded boy who had been in jail 12 months awaiting admittance to an institution. In an Alabama county, Parade talked to a neglected 10-year-old boy who had been in jail 5 months. And in Union County, N.J., a reporter met a 15-year-old girl who had been incarcerated 6 months. The victim of a sexual attack, she was, as happens in many communities, being held for "her own protection" and to guarantee her appearance against the perpetrator in court.

This is not to say that reporters found our jails full of ruddy-faced innocents. On the contrary, many were hard, tough and hostile. But even these should not have been where Parade found them. To put them in an adult jail, expert after expert told Parade, frequently gave them "status" in the eyes of their peers.

Moreover, the argument most often advanced, for jailing children—that, in one policeman's words, "it teaches the little bastards respect for the law"—reporters found to be a failure. In two communities where "giving them a taste of jail" was followed as a matter of policy for all juvenile arrests, crime rates among the young had actually climbed since the policy went into effect.

JAIL IS NOT THE ONLY SOLUTION

Even more distressing was that the practice was so needless. Several communities have shown by example how children can be handled properly when they run afoul of the law. Interested organizations like the National Council on Crime and Delinquency, the National Sheriffs Association and the National Jail Association have urged that these special programs for handling youngsters be used in other communities.

Yet according to Sherwood Norman of the National Council on Crime and Delinquency, "the practice of jailing children is *increasing*, not decreasing—and at a time when we are supposedly more enlightened and have far better facilities than in the past." Norman estimates that 100,000 children are placed behind bars every year. Some other authorities say the figure may be as high as 300,000.

Ironically, the situation is growing worse at a time when, according to law, it doesn't exist at all in many places. A number of states have laws which say no minor child may be incarcerated in a detention facility also used for adults. In practice, however, this requirement is more honored in the breach than in the observance. "Juveniles facilities" often consist of one or two earmarked cells in the adult jail. They are often indistinguishable from the others, down to the bars on the windows.

Of course, not even separate juvenile detention centers are always a bargain. Often they are primitive and backward, and are just as inadequate as jails in failing to provide rehabilitative or treatment services.

Why does an advanced country like the U.S. allow the practice of jailing children to flourish? Experts agree that the chief reasons are penny-pinching, archaic laws, apathy and ignorance of the situation on the part of the public—and a punishment complex.

Hennepin County, Minn., is a stronghold of this kind of thinking. It has a 30-bed juvenile detention center, but authorities are so punitive-minded that it is always full, and last year 1,665 children "overflowed" into city and county jails. Minnesota law prohibits any child under 18 from being lodged in jail, but this has been interpreted to mean that kids may be kept in jail until they receive a hearing.

Yet the National Council on Crime and Delinquency maintains that not more than 1 child in 10 arrested should be detained in any type of facility. The NCCD says that 90 per cent of the cases could be disposed of by wise police work, effective round-the-clock probation service or by release in custody of the parents.

TEENAGE PRE-DELINQUENTS

Yet, statistics show, in some places as many as 30 to 50 per cent of children picked up are detained at least overnight; in certain parts of the country the figure is 100 per cent! And these are usually children whose punitive treatment may hurt them and society most: teenage pre-delinquents. "The young child from a solid family background can shake off the effects of a jail stay," Sherwood Norman says. "But the hostile child from a broken home is merely confirmed in his belief that all society is against him."

Can anything be done to stop the jailing of children? To do so, the National Council on Crime and Delinquency has been helping citizens to get approved detention centers. Such centers already are in operation in such major cities as Baltimore, Grand Rapids, Milwaukee and Oklahoma City. Moreover, they are now being established to serve rural counties.

One good program is in Maryland. The courts detain only the minimum 10 per cent, then send them to a top-notch diagnostic facility, the Maryland Children's Center, Baltimore. They stay 10 to 30 days, get complete psychiatric and physical checkups. The staff then recommends further treatment. The majority go back home for outpatient treatment.

But additional improvement is needed. The NCCD recommends the following four steps in every locality: (1) a program of admission control by courts and law enforcement agencies, so that only the 10 per cent of arrested children who need it should be placed in secure custody; (2) subsidized foster homes or other shelter facilities for dependent, neglected or delinquent children who need emergency removal from home but not secure custody; (3) legislation to (a) establish uniform state-wide standards for detention, and (b) place responsibility in an appropriate state agency for regional detention homes; (4) stronger probation and clinical and child care services.

Meanwhile, the NCCD suggests that you should do the following:

1. Find out the situation in your community. If children are kept in jail, protest. If they are kept in detention centers, visit the center; check on both physical facilities and welfare services.

2. Talk the situation up at your club, civic group or church group; investigate local and state practices; have speakers on the subject.

3. If state action is needed, bombard legislators for laws to abolish jailing of children and to provide proper centers and services.

"I feel like a criminal. I don't know if I'll be able to live it down in my whole life." "Why couldn't they find another place to put us beside jail? How can I ever face people again? Everyone will know I've been a jailbird."

The two girls talking were pretty young things aged, respectively, 17 and 15. PARADE found them in the Tiffin, Ohio, city jail, lodged in a locked cell with one tiny window. They had been there two days. The "charge" against these girls was that they had gone on an all-night joy ride with four boys. Both swore that "nothing had happened" during the ride and agreed to a doctor's examination to substantiate it.

The girls admitted they'd never gotten along with their parents. Now their parents seemed to be getting back at them by letting them cool their heels until they were good and ready to claim them. Under the law, officials of Seneca County and Tiffin city had to hold them on a technical charge of "runaway" until their parents took custody. "Holding" in this case meant jail.

The jail in Terre Haute, Ind., is a fright. It is laid out like a penitentiary, with a hollow square in the center. Prisoners look out on the square from two banks of cells, outfitted with sagging cots, filthy bedding and corroded plumbing fixtures. In the juvenile section, PARADE found the five Dearborn, Mich, boys above. They weren't angels. Three had quit school, one had a record of two arrests for auto thheft. In this case, however, all they had done was to borrow one boy's father's car and set off for Texas. Terre Haute police stopped them at 4 A.M. and put them in jail as "runaways." They had been there two days.

If these boys were ever to be saved, this was obviously not the way to save them. PARADE found them bitter, bored and bewildered—especially by the discovery that running away was a "criminal" charge. "We've done nothing wrong," one boy said. "We have money, yet they say we're vagrants. They say this will teach us a lesson and make us respect the law. That's a laugh!"

They call Harold Lee Bowman, 15, "incorrigible." When Parade discovered him in a tiny, cramped cell in Hopewell, Va. ("you can take three steps one way and three steps back"), he was in custody for the sixth time in five years. This time he had stolen $7.

Harold had obviously never had a chance. The child of poor parents who drank heavily and abused or neglected their children, he had often been shunted aside to relatives. In one two-month period he had lived in five different homes.

During one short stay in a training school, Harold had responded well. Yet back in his old environment, he got into trouble again. And he was psychologically defeated—"Everybody knows I'm worthless," he told a reporter. Obviously jail was not the place for Harold. "What can I do§" asked Mopewell juvenile officer Harold Copley. "The boy was stealing. The law says that he must be kept in juvenile detention until it takes its course. In this part of Virginia, unfortunately, that means jail."

Cora Tunney, 15, is a pretty and very intelligent girl. Parade found her weeping copiously after a night in solitary confinement in the juvenile quarters of the Tarrant County Jail, Fort Worth, Tex.

The charge against Cora was that she was "willful" and "impossible to discipline." Her father, with whom she had been at swords' points for some time, had her picked up after she had run away for the fourth time. She had been in jail five days. The matron had clapped her in solitary after she hooked up in a hair-pulling match with the two sex offenders who shared her cell.

Unofficially, Cora was listed as a "pre-delinquent." Parade found her shattered. "They took my thumbprint," she exclaimed. "Just like a criminal! I'll never forgive my father for putting me here. Or the rest of the community for letting him do it."

"We can't help a girl like Cora here," one of her jailers said. "All we can do is keep her locked up. To be realistic, there's no therapeutic effect in a jail stay."

Student inmates at the Maryland Children's Center, Baltimore, attend grade school classes. This center is one of the nation's better detention facilities.

You do not have to be a psychiatrist to know that Zack Gallini, 12, is emotionally disturbed. It's obvious from his agitated manner and uncontrolled crying. When Parade saw Zack, however, he was not under mental care, but in jail in Oregon City, Oreg.

According to the record, Zack had thrown a tantrum at home, broken furniture and threatened his mother with a knife. Zack claims not to remember the last incident. However he does remember the sheriff's patrol coming to take him away. They put him in a cell with some other boys, at which time they took his shoes away," "We have to go barefoot in jail," he says.

Zack was kept in jail three days, then referred to a child guidance clinic. Workers there found his father had been married three times; his mother four. The report said Zack was a victim of "general family disintegration." There was no telling what a stretch in jail might do to a thoroughly stricken and frightened boy like him.

NOTE.—Names of all children used in these case histories have been changed.

[From the Washington Post, Sept. 19, 1972]

SHUTDOWN REFORM SCHOOLS?

MASSACHUSETTS HAS, AND HERE'S WHAT'S HAPPENING

(By Sid Ross and Herbert Kupferberg)

BOSTON, MASS.—If Jerome Miller had his way, every reform school in the United States would be closed down tomorrow.

Who's Jerome Miller? He's a 40-year-old Ph.D. out of Minnesota who has been Commssioner of Youth Services for the Commonwealth of Massachusetts since October, 1969. In his three years in office, he has abolished the Bay State's system of training schools for youthful offenders. And he says the U.S. won't solve its juvenile delinquency program until all the other states do the same.

"Reform schools are no damn good," he says. "They neither reform nor rehabilitate. The longer you lock up a kid in them, the less likely he is to make it when he gets out. They don't protect society. They're useless, they're futile, they're rotten."

Dr. Miller has replaced Massachusetts' training school system with a network of halfway houses, group shelters, foster homes, forestry work, special counseling services, and community action programs. Of 2000 boys and girls who would otherwise be behind bars, only 100 hard-core, violent cases are still under confinement, being treated in special psychiatric care facilities.

Miller, who has had to defined his reforms against a spat of Massachusetts critics, cites killer Charles Manson as a classic example of the failure of training schools. Manson spent some of his adolescent years in a juvenile institution. Says Miller: "The lockup, maximum-security training school escalates the potentiality toward violence."

AMATEURS INTO PROS

Miller also cites the 60–80 percent rate of recidivism—or backsliding to criminal ways—among youths who have spent time in reform school. He agrees with the thesis that about all a reform school teaches "is how to make an amateur car thief a professional."

He charges that such standard reformatory punishments as taking away children's clothes, putting them in isolation, and making them scrub the floor with a toothbrush, are not only degrading but self-defeating. "These things don't change the kids, and they don't contribute to law and order," he says. "All they do is make a kid a thing, not a human being."

To get young offenders out of reformatories, Miller is ready to take the risk that they may commit crimes, even serious crimes, although so far there have been no major incidents involving youngsters in his program. "If any of our kids goes too far, we whisk him off the street," he says. "We feel that there's less peril and more potential in keeping him outside and working with him rather than locking him up for a time and dumping him out again—over and over again."

"FIRM BUT FAIR"

The youthful offenders whom Miller has "sprung" from such solidly established Massachusetts penal institutions as Bridgewater, Shirley, Roslindale, Oakdale, Lancaster, and Lyman haven't simply been turned loose onto the streets. Miller, a psychiatric social worker who got his dergee from Catholic University in Washington, D.C., and worked with U.S. Army stockade prisoners in England and later in the Ohio correctional system, says he opposes complete permissiveness and favors "firm but fair" limits when a child gets into trouble.

Instead of forcing such youngsters into the institutioned lockstep, he is placing many of them in approximately 100 "halfway houses" or "group homes" throughout the state. These are run by private organizations and agencies ranging from religious groups to a Black Muslim unit. They get their funds from Miller's Department of Youth Services—which he says is far less costly than paying for penal institutions.

PUNISHMENT SYSTEM

Group homes still maintain a certain amount of discipline and punishment, but Miller has found that residents are much more amenable to correction than they would be in reform schools. "Meting out penalties for wrongdoing is the role of the family," he explains, "and the group home is a type of family. If punishment is called for, it's given out by your own."

Parade visited a typical group home, the Libra Halfway House in Cambridge. Libra, which is for boys only, has a set of strictly enforced regulations, including rules against liquor and drugs. Among its residents are black and white youths. Some have jobs, some attend school, other are involved in counseling and other rehabilitation programs. All are on parole, and must check in every night. Violations of rules are punished with loss of privileges, confinement to the building, and the like.

Libra's atmosphere is fairly homelike, with girlfriends allowed to visit. After dinner, boys and girls alike sit around the kitchen table and talk.

"This is one of the things I like here," says a 17-year-old boy. "My girl can visit me like it was my own home. Well, it is my home, really. I've been here two months and I'm getting straightened out. I was in Shirley twice and Roslindale a few times. You were a nothing there. There was fights and stealing and punishment; it was like animals. I used to be bitter, but not now. I know I'll make it okay. Here you don't fool around—you'd be hurting yourself."

WANTS HER BABY

At the Kennedy House for Girls in Jamaica Plain, an old frame dwelling set back from the street, an unmarried 16-year-old mother holds her baby in her arms and says: "My big thing was running away from home. Then boys. I got pregnant. I want to keep my baby now—he's all I got—but my family is against it. I don't know what I want out of life, or what'll happen to me. But here they talk to you, they're straight with you, they understand you, and they've got a lot of patience."

Among the most visible of the rehabilitation projects instituted under Miller's let-them-out approach is an East Boston ice-cream parlor which is manned by 15 youngsters with delinquency records. Under the auspices of a non-profit enterprise called Community Aftercare Program (CAP), the young parolees and others are paid $1.75 an hour, 20 hours a week. "No one thinks of stealing," remarks a 15-year-old girl named Lynda, "because we'd be stealing from each other."

"It sure is great," adds 15-year-old Billy, originally picked up for car theft. "It's the first time I ever got paid for working, or that anybody trusted me with money."

The CAP ice-cream parlor is being bankrolled by a 21-year-old Harvard senior named Tom Wolfe, who laid out $5,000 of his own money. A number of college Youth Advocate Volunteers have enrolled in another one of Miller's programs, usually working as "big brothers" to delinquents on a one-to-one basis.

SUPPORT FROM GOVERNOR

Miller has received solid backing from Governor Francis Sargent, who appointed him to head the State's new Department of Youth Services following a series of scandals in the 1960's at several training schools, then run by the Youth Services Board. "I told the Governor exactly what I wanted to do when he was considering me for Commissioner," says Miller. "I told him I wanted to move away from punitive institutions to child care models. We want to be advocates for children, not jailers. We want to help them right in their own communities."

Miller also has the support of juvenile corrections experts throughout the country, many of whom would like to see their own states shut down their

reform schools, too. Milton G. Rector, executive director of the National Council on Crime and Delinquency, calls the decision to abolish the Massachusetts institutions "a courageous step in the right direction."

Although Miller is convinced he's on the right track, his reforms have also run into a barrage of opposition. His critics range from detention guards whose job are in jeopardy, to legislators who favor sterner methods of dealing with delinquents. He's been denounced as "permissive," "softheaded," and "a bleeding heart," and accused of "subverting the juvenile justice system" and "endangering public safety."

After heading up a legislative investigation of the DYS, State Representative Robert J. McGinn declared: "I think Miller is well-qualified and his ideas are good, but he's moving far too fast. There's not enough screening of the homes to which kids are sent, and there's not enough screening of the kids themselves before they're sent back into society."

State Senator Francis X. McCann, chairman of a special committee on state corrections, accuses Miller of making "a farce out of justice in Massachusetts" and recently advised him to "get on his bike and pedal back to Ohio."

COMMUNITIES OBJECT

Opposition has spilled out of the legislature into local communities, some of which are up in arms against the idea of halfway houses operating in their areas. In Malden last January an angry crowd at a meeting expressed such stiff resistance to having even carefully screened, non-chronic offenders in a house operated by a group called Adolescent Counseling in Development (ACID) that the project had to be shelved. It's still in limbo.

Dr. Miller, a rumpled, boyish-looking man who's married to a psychiatric nurse and operates out of a tiny, cluttered office in downtown Boston, is admittedly impatient and scornful of his critics. He's especially irritated by the argument that he's moving "too fast," and that he should have phased out the institutions gradually rather than clamping them shut practically at once.

"You almost have to force the community to do its job," he says. "There'll never be real progress without turmoil. You've got to move fast. You just can't change or modify the reform schools. Any reforms you make will get watered down and trickle away. The training schools are the backbone of the old system and have to be abolished. They're going the way of the almshouse."

Miller points to a recidivism rate in the group homes of only 18–20 percent—about a third of the reform-school rate—as evidence that the new approach is working.

SMASH OLD CELLS

A year after Miller took charge, he held a symbolic ceremony at Shirley Industrial School to signify his drastic changeover. On a dark and rainy winter night, 10 youngsters, at a signal from the new DYS chief, swung sledgehammers into the walls and bars of solitary confinement cells in which each had spent punishment time. They left the place a shambles.

In much the same way, Jerome Miller has made a shambles of the century-old delinquency reform structure of Massachusetts. In its place he has erected something he thinks will serve better and last longer—a system in which young delinquents are treated not as hopeless criminals but as erring humans who can win back their place in society.

Senator BAYH. Our next witness is Sheriff Kenneth Preadmore, representing the National Sheriffs' Association from Mason, Mich.

STATEMENT OF KENNETH L. PREADMORE, SHERIFF, INGHAM COUNTY, MASON, MICH., REPRESENTING THE NATIONAL SHERIFFS' ASSOCIATION

Mr. PREADMORE. Thank you very much for asking us sheriffs to attend and to participate in this because I think we probably p[lay] one of the most important roles in the detention of any organization in the country. We house more inmates. In other words, we are the general

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Miller points to a recidivism rate in the group homes of only 18–20 percent—about a third of the reform-school rate—as evidence that the new approach is working.

SMASH OLD CELLS

A year after Miller took charge, he held a symbolic ceremony at Shirley Industrial School to signify his drastic changeover. On a dark and rainy winter night, 10 youngsters, at a signal from the new DYS chief, swung sledgehammers into the walls and bars of solitary confinement cells in which each had spent punishment time. They left the place a shambles.

In much the same way, Jerome Miller has made a shambles of the century-old delinquency reform structure of Massachusetts. In its place he has erected something he thinks will serve better and last longer—a system in which young delinquents are treated not as hopeless criminals but as erring humans who can win back their place in society.

Senator BAYH. Our next witness is Sheriff Kenneth Preadmore, representing the National Sheriffs' Association from Mason, Mich.

STATEMENT OF KENNETH L. PREADMORE, SHERIFF, INGHAM COUNTY, MASON, MICH., REPRESENTING THE NATIONAL SHERIFFS' ASSOCIATION

Mr. PREADMORE. Thank you very much for asking us sheriffs to attend and to participate in this because I think we probably play one of the most important roles in the detention of any organization in the country. We house more inmates. In other words, we are the general

wastebasket of the court system. What they don't know what to do with, they dump on us and blame us for all the troubles.

One of the things of interest was the dissertations I have heard prior to this time from the gentleman of Parade Magazine—I think that is his publication—who did research 10 years ago and found that sheriffs provided more humane detention. I'm winding up 29 years in the business. I have worked in a Federal penitentary, State penitentaries and operated a juvenile area, both as a placement and as a detaining factor. If there is any answer to this, I think we would all be very happy.

One of the things which I, as representative of the Sheriffs of the State of Michigan, am not in favor of is jails, to a lot of people's amazement. We do not like jails, and we don't like what jails are, and in fact, most of the sheriffs wish that as we walk through our jail section in the morning, we didn't have to look at the prisoners behind the bars, and especially juveniles. But, unfortunately, this is something that has been with us and probably will be with us in the future, because when society says that they no longer can do anything and the political pressures accrue on the judicial system, they will take the juveniles and place them in detention facilities.

If you talk to me about jails, a jail to me is anyplace where you incarcerate individuals other than in their normal houses. In the statement which I presented to you, I wanted to be a little bit more lengthy so you would understand my philosophy, but unfortunately, one of the things is that you have to have a place to incarcerate people. I watch the operations of the do-gooders, the research psychologists, the psychologists, the social workers and the reform school area, because my county had the State reform school where they housed everything. Ninety percent of them were people that didn't want to take care of the children, so they dumped them into reform school, and the other 10 percent was for crime.

The old fashioned type of foster home care where you place children in an environment they are not used to. Blacks with whites and whites with blacks and vice versa.

Senator BAYH. When you say foster home care, what kind do you mean?

Mr. PREADMORE. Normally preadjudication in Michigan if you refer back to Michigan. Foster homes are where the court pays room and board for people to take these juveniles in, when they have to be removed from their own home. So this is prior to placing them in jail, and in many cases these are just normal people who have maybe one or two children of their own, and they try to carry on the same family attitude but not recognizing what they are dealing with. They sometimes offer the child advantages that when they do return back to their own home these advantages are then not available. Their social structure maybe does not allow them to have that good a home, it is a shock to the child, whether it be a foster home or a detention home or a jail. There's no doubt about it. And I think that basically we have to provide alternatives for this concept.

My feeling and the sheriffs of Michigan's feelings are that one of the hardest things in the business is the fact that the sheriff of the community is the last one to receive financial assistance to change the jail structures. The detention homes and jails reflect the attitude

of the community, whether or not it's in Baltimore or elsewhere. If they want a better jail, people should vote for it, but they don't.

Legislative-wise, I think that the mandates which you must present here is that you are going to have to require certain standards for the detention of juveniles. I serve on the American Bar Committee also, on Standards and Goals for the American correctional system.

Secondly, I think you should not disregard the use of the county jail system because after the court has failed to work with the social workers, with the caseworkers, with the psychologists in providing other alternatives, eventually they are placed in a jail setting simply because they cannot get along in the setting which the court has used prior to that time.

It is also notable that most jails are improperly staffed. The financial structure allows most jails to hire about the lowest caliber of person you can find, simply because the scale does not call for the high school graduate or the college graduate. I think we have to have a mandatory training concept for police and correctional officials. I think we have to have requirements before they can handle your child or my child in any correctional setting, whether it be a detention home or what it may be.

We have talents in every community that can be used to keep this child close to home. I think this is very important because only poor people go to jail, whether you're a kid or whether you're an adult. If you have money, well, you can hire a better attorney. You can hire and provide other special guidances. But poor people are in jail. Even at the juvenile level you must provide them with an alternative within the system. They must be able to continue their education. You must be able to teach them proper habits. You must have them working under child guidance personnel.

Senator BAYH. Sheriff, you mentioned a moment ago keeping youth close to their homes.

Would you give us your assessment of the California subsidy system which provides an incentive to keep the child in the county instead of sending him to a State institution. Rather than the counties paying the State to send the child to a State institution, the State pays the county to have him treated locally.

Mr. PREADMORE. Well, I disagree with State systems completely because the Federal and State systems have failed completely. They are bound to fail. When we in a local community can dump our product in the State institution, they get the destructive portion. Otherwise, we can do no more for them locally, then send them to a State institution.

I think the most meaningful place to work is in the community. This is where they have to return to. You can't move them from here and help them down 100 miles from home and then someday bring them back and interject them into the system. You have got to work within the system locally, you have got to bring in the talent which is there, through your educational system, through your social workers, job placement drug treatment persons. These are all in every community in the United States. Keep the child there and provide alternative means of detention whether it be the foster parent concept or a community based detention facility for the youngster. The minute you remove them from the local community and place them in large

groups of people, you are starting the destruction of that person, whether it be in the State penitentiary or in the State training school. You are removing him from the community where his roots are. You are putting him in with people who do not reflect his community. You are putting him in with a large group of people without the security capability where you could keep them separated from each other, so that more things do occur. The larger the institution, the more things happen.

I feel very seriously that the emphasis should be placed locally. I feel that we should be working through the Health, Education and Welfare, down at the level where prior to entry in school where they can be looked at and to determine whether there's psychological or physicial problems with them, more emphasis on homes, more emphasis on parental control.

This is a frightening situation nowadays with the breakdown of American life, and I don't know what's going to happen because the majority of our people in jail reflect a broken home, something like 28 to 30 percent, and with the breakdown now of marriage, I don't know what we are going to face in another 10 years.

So I feel we have got to place the emphasis locally. I have given you some examples. I happen to be blessed with being a neighbor of the Michigan State University, which is in my county. We've tied in very closely with their correctional courses. Our jail is more or less the field training area for the school of education, not only in the area of the guard training but also ideas in jail rehabilitation. I feel that the first thing that's got to be done is change the construction of the jail. All the moneys are going to the State. We are getting very little. We have to go to our taxpayers and fight like the dickens to get 5 cents, and they are pouring moneys all over the State to make bigger prisons or smaller prisons. Whatever the need might be.

We have problems hiring guards, getting the salaries up in order to attack the proper people for the job. Before you can be hired on my department, you have to be psychoanalyzed, and we have a very high training requirement. I can offer bonuses for college education, and all my night shift in my institution attends Michigan State University. The head of my jail is a clinical psychologist. Our intake referral person who studies inmates coming through the jail system is a graduate of Michigan State University, and we are receiving students who are earning their teaching degrees, to assist in our educational programs.

I have nine teachers on staff, and we've bummed and borrowed outdoor classrooms from HEW and HUD and wherever I can get them, and we conduct classes during the day. Model cities furnished me with a television studio, whereby we are projecting rollcall training courses for correctional personnel. We have a psychologist on staff who works with the drugs-oriented inmates. We have people who are on staff to work with the inmate when he comes in to determine whether he is mentally ill, whether he should be in jail or not, and these people have daily contact with the inmates at our institution to try to provide rehabilitation.

So far, we have reduced our daily population from 3 or 4 years ago when inmate population was 250 a day, and now I'm down to 130 per day, and we're running about 5,000 a year through the jail. Our re-

cidivism factor is less than 28 percent. We have job placement. We're signing contracts now with the industry whereby we are working together on the placement of our people and helping their people who have alcoholic and drug problems.

When our policemen or one of our deputies arrest a juvenile, they must take him to a juvenile detention facility. They cannot take him to jail. I cannot even have a detective question a juvenile in the county jail system. They can't even come on the property unless they are in the company of their parent, and that's the same with lockups and—

Senator BAYH. Is a juvenile any less locked up in a juvenile detention facility than in a jail?

Mr. PREADMORE. No; I don't think so. Anytime you remove him from his home, he is being locked up, he is being removed from his location.

We must treat juvenile delinquency locally, not at the State level. The States have had all the moneys. Now you have got to put it down where they live. You have got to work within the community with people from the community. And I heard one of the gentlemen talk about the food in jails. You know, one of the things that I had to learn was what soul food is.

Michigan State University dietician prepares my menus, and black inmates were complaining, and it wasn't because they weren't getting enough. It was because I didn't have soul food. I requested our black psychologist to discuss this with me. He told me what soul food was. And actually I could buy it cheaper, black-eyed peas, a little greens, and cook it in with the other food.

Well, it's the same with the Chicano, and it made a difference. So I think you have to work with the people in the community, so I can learn about the community. And I think this is the system, and I think the sheriffs play a very important part because whether they want to complain—and I know you are a politician as I am—politics is the name of the game, and that is dealing with people. If you are sensitive to the people, I think that you can react to them better. I know even in my jail alone we have 15,000 youngsters bussed in there from the school system every year to see what we are doing.

I go to the schools to work with them. I work with their parents and so on. I think that where you have got to work again is locally, decentralize your State warehouses, put them down to smaller units, and then we can start looking into the problem.

I don't want to go any further. I know that you have something scheduled at 2 o'clock.

Senator BAYH. There seems to be a unanimous feeling in the minds of witnesses, including yourself, that we need change.

An indispensable element of change, is the way we allocate our resources, money, and budget. How do I, as a Federal legislator, establish criteria that you, as a local public servant, can live with? In other words, if moneys were to be sent from LEAA with certain conditions on how they could be spent, such as a requirement that a certain percentage be spent in the juvenile area for certain services, would it be acceptable to you from a political standpoint?

Mr. PREADMORE. I am not dissatisfied, Senator, with your procedure. It may be a lot of people are; I am not. I think if you have got a constructive program and constructive attitude, you can procure the money. The problem is, as we get into the higher echelon, they do not listen to the practitioners. We have a very difficult time presenting our problem. We have theorists with the LEAA people at the top, and the State will say, if you have a program going, it's very difficult for me to get money now because my programs are working, and they say, well, you don't need any more. Just send it somewhere else.

Well, if you get a program working, then you use that as a model project for other programs that will work. We have just recently in Michigan tried to adopt new guidelines for jails, and I worked very hard on this particular project, and it was just taken to the legislature, whereby to build a jail you had to have a gymnasium, you had to have classrooms, you had to have clinics for intake, separate housing quarters so there is one person in one sleeping area, one cell area, many things, but because of the financial cost, it was turned back.

Yet, when you apply for LEAA funding, which under the part E, I think it's way down here somewhere, the chances of the local units getting any help is very difficult. Most of your money is being syphoned off to try to change the Atticas, you know, break the big prison up to little prisons all over the place.

Again, I stress that the area changes at the kindergarten area. You don't wait until a person graduates from college until you try to teach him. You have to start at the elementary level. By the time we get through destroying in the county jails and the city jails because of lack of personnel and lack of program and lack of community involvement, we just ship them down to the big place, and they haven't got a chance because they're kind of loose around the belt from the time they get there because they're exhausted. The prisoner has exhausted himself trying to fight the system.

So again, I think the direction of Health, Education, and Welfare on the preschool concept where you can work with the determined problem children, working in the jail system where you can provide educators into the jail or a detention home or wherever it may be that the youngsters are housed to keep up their education.

I think the more money is needed—a lot of it to change the physical aspect of the detention facility, be it a jail or detention home. You have still got to maintain security because these people are remanded there by the court because they won't reform, so you can't eliminate them, as much as we might like to.

Just like I heard here today, about the person who goes to jail. You take away the right to freedom but they are going to move back, and they are going to be yours and my neighbors someday, unless we can give them alternatives to the way of life that they are heading for, we have no chance with them.

So I think what we are looking for is alternatives to what we are doing.

Senator BAYH. Thank you very much for taking the time to give us the benefit of your experience. I compliment you on trying to provide an enlightened program in your own local jail facility.

[Sheriff Preadmore's prepared statement and appendix is as follows:]

PREPARED STATEMENT OF KENNETH L. PREADMORE, SHERIFF OF INGHAM COUNTY, MASON, MICH.

RÉSUMÉ

Kenneth L. Preadmore, Sheriff of Ingram County. Age 52, Born in Delhi Township, Ingham County. Married: Wife, Jacqueline; Daughter, Kathy, and Son, Scott. Address: 630 N. Cedar Street, Mason, Michigan. Graduate of Everett High School, Lansing, MI Class of 1939.

Military service

Four years in the United States Marine Corps. World War II, wounded at Guadalcanal, Solomon Islands. Received Purple Heart for wounds received and was Honorably Discharged from the Marine Corps.

Police experience

Two years with the Naval Prison, Great Lakes, Illinois in Administrative capacity.

One year at Southern Michigan State Prison, Jackson, Michigan as a Guard.

Twenty-five years with Ingham County Sheriff Department, beginning as Driver License Examiner; promoted to patrol duty, Detective, Chief Deputy Sheriff and elected to the Office of Sheriff in 1960, presently holding the same position.

Police training

Trained at Michigan State University in the following Courses: Police Administration, Traffic Safety and Criminal Investigation.

Attended special police courses with F. B. I., Michigan State Police, Michigan National Guard in Riot Training, Department of Natural Resources in Water and Snowmobile Safety and Enforcement plus other educational programs.

Police functions

Appointed by the Governor of the State of Michigan to the following: Michigan Law Enforcement Training Council; Michigan Crime Commission and Corrections Task Force with appointment to the Council on Drug Abuse & Alcoholism.

Appointed by the the American Bar Association to Commitee on Jail Standards Rules and Regulations.

Appointed by the Michigan Bar Association to Committees for the Revision of the Criminal Code and the Criminal Procedure respectively.

Appointed by the National Sheriffs Association to the Committee for the Revision of Jail Standards, Rules and Regulations.

Chairman of the Mid-Michigan Police Academy Council. Member of the Advisory Committee of Lansing Community College.

Awards

Special Award from Michigan Association of Public School Adult Education Jail Rehabilitation Program.

National Counties Association Achievement Award for the Jail Rehabilitation Program.

Michigan Veterans of Foreign Wars Policeman of the Year Award for the Jail Rehabilitation Program.

Mr. Bayh, Honorable Senators, I wish to thank you for your invitation to appear before this esteemed Subcommittee to discuss the role of the sheriff and the county jail, and in particular, the experience I have had in the use of jails for the detention of juveniles. I wish to inform the Honorable Senators that I am not a scholar and therefore this statement may not be as elaborate or contain the extensive research materials which are generally presented at a hearing such as this.

You have in your possession a resume of my professional career. Please note that my adult life has been spent in the field of police and correctional services. Therefore, the answers to your forthcoming questions will be drawn from my experiences in dealing with the related problems that confront you gentlemen. Hopefully, I may be of assistance to you in planning future legislative action relating to the problem of juvenile delinquency.

Attached to my statement you will find sections of the Juvenile Code of the State of Michigan that relate to the authority to detain juveniles in county jails in Michigan. I have also attached a copy of the 1972 Report from the Michigan Department of Corrections indicating the number of juveniles confined in Michigan County Jails in 1972; together with a copy of the major recommendations from the John Howard Associates, in accordance with a study of the Michigan Juvenile Judicial System. I have also included three pages of information taken from the *Standards and Guides for the Detention of Children and Youth* published by the National Council on Crime and Delinquency.

As a scholar, I would concur with the attached information, agreeing to all the recommendations from these studies. As a practitioner, I have to be more realistic and recognize that the County Jail System in the United States is a receptacle for the products of the judicial system. When all avenues of assistance from social workers, probation workers, social "help" programs, and family discipline are exhausted, the court has no other alternative than to remove from society this human product, and place it in a warehouse for as long as the Judge so orders. This warehouse may be a county jail, when no juvenile detention facility exists, or a juvenile detention facility when one does exist.

The John Howard Associates, the National Council on Crime and Delinquency, and many other groups and studies, recommend that juveniles not be placed in a county jail. This signifies the beginning of the deterioration of the juvenile. I believe that the placement of a juvenile in any detention facility creates a different atmosphere than the juvenile is normally used to within his home. You may call the detention facility a county jail, a juvenile home or a boys training school, but in any case, if jails are outlawed, you must create another type of jail to hold a juvenile securely.

The County Jail System in the State of Michigan is being used as a detention facility by the courts in accordance with the rules of the Juvenile Code. Referring to the enclosed Michigan Department of Corrections 1972 Report, 2,502 juveniles were housed in county jails during 1972. In our approaching discussion of this Report, you may be interested in the size of the counties and the number of juveniles being held in these counties. For example, Berrien County, a medium populated County in Michigan, housed 261 juveniles in 1972, while Wayne County, the largest County in Michigan, housed 19 juveniles in the county jail and 8 juveniles in the Detroit House of Correction. This would tend to indicate that the larger counties have more alternative housing or detention facilities than do the smaller counties.

To provide alternative detention facilities throughout the United States for the majority counties, which are small, would require a tremendous financial outlay and would require many years to accomplish. As a Sheriff, I know that county jails have to be used by the court system now and for many years in the future for certain types of individuals who must be removed from society. I do not feel that the county jail facility is necessarily any more harmful for the detention of juveniles than is a juvenile or detention home. A county jail, with proper segregation from adult offenders, medical and psychological services, and located in the community of the juvenile's family, could provide a more rehabilitative capability than a juvenile or detention home, which is generally supervised by a man and wife team. In the majority of cases, these people are not trained social workers or counselors, but are merely used as substitute parents while the juveniles are being detained away from their homes.

During my police career in Ingham County, I have had the opportunity to work with the Boys Training School, which was located in this County and operated by the Michigan Social Welfare Department. Many programs and ideas were placed in effect at the Boys Training School. During this period, it was necessary for Ingham County to house many of the runaways from the Boys Training School, and also, to detain juveniles from the age of 10 to 21 years because of their nonconformity to the rules and regulations of that institution and/or because of the commission of new crimes which caused them to be waived from the jurisdiction of the juvenile court and placed in adult criminal court.

Many of the juveniles that we received from the School had already established patterns of homosexuality, moral deterioration and lack of interest because of being confined with large groups of youngsters, whose cultural backgrounds, race, and religion were inconsistent with their own home environment. Many of the juveniles from the School committed criminal offenses and expressed preference to be housed in the county jail rather than being returned to the School. In conferring with these juveniles while they were committed to me for their safekeeping, I found that the conditions existing in state institutions and detention facilities were, in many cases, more harmful to them than being housed in the county jails and protected by the sheriff.

A problem area for the pre-adjudication detention of juveniles in jails lies in the fact that many jails are inadequate and not able to provide proper segregation or other related services that are so vital to the care of a juvenile. Inadequate segregation, which would allow the juvenile to be subjected to physical abuse by an adult offender, lack of proper medical services and exercise yards where the juvenile could safely receive physical exercise in the out-of-doors, poor food services, unsanitary conditions within the institution, the lack of proper budgets provided to the sheriffs by boards of commissioners and supervisors that do not allow the sheriffs provisions for decent bedding, clothing or laundering facilities, or any of the above-mentioned needs of a county jail, are the primary reasons why many of our jails are not fit to house juvenile persons.

In Michigan, jails in which juveniles are detained are in most cases, less than 20 years of age and do have proper segregated areas where they may be safely detained. In the State of Michigan, all jails, prisons, detention facilities and lock-ups are under the direct supervision of the Michigan Department of Corrections who promulgates rules and regulations which are then adopted by the State Legislature and become laws. The laws relating to construction, medical treatment, food service requirements, and health conditions provide a safe and sanitary detention facility needed to house both male and female prisoners in county jails. These laws also require local Boards of Commissioners to provide Sheriffs with sufficient funds to implement these services and to operate the county jail system. We are at the present time, through the Michigan Department of Corrections, initiating new rules and regulations that will require county jails to provide not only safe and human confinement areas with proper sanitary, laundry and medical facilities, but also rehabilitative programs to be available to the incarcerated persons.

Attached you will find a description of the Ingham County Jail Inmate Rehabilitation Program, which outlines services that are provided to any incarcerated person, juvenile or adult, in the Ingham County Jail. Our jail is being used by juvenile court judges in special cases for the confinement of juveniles in lieu of a detention home so that the juvenile may receive psychological, medical, counseling services, and continuing education programs that are not available through the Probate Court.

The lack of trained personnel is the most serious problem throughout the correctional system in the United States, and Michigan is no exception. Low salaries paid to the personnel within the institutions, not only in county jails but in training schools, state prisons, detention homes, lock-ups, and mental institutions, have created a system that can allow a frustrated sadistic type of person to be placed in a position of control in an environment where persons are held in custody. I sincerely believe that this situation, with this type of person, makes criminals out of those who are arrested.

In Michigan, we have established the Michigan Law Enforcement Training Council and require academy training of at least 256 hours before a person may become a police officer. These trainees must be of good moral character, mentally alert and meet certain standards, which include psychiatric and physical examination in order to become police officer. These requirements do not pertain to a person who is hired as a custorial officer. In Michigan, we have just established within the Department of Corrections, a division of jails and jailer training that will be providing training capabilities to all custodial personnel. This training, however, is not mandatory at this time.

Throughout the United States, the salary structure of custodial personnel is generally much less than that of a police officer, which does not make the competitive position when attempting to hire the high caliber person needed within the institution. As Sheriff of Ingham County, I have established a hiring practice whereby all persons hired to work within the institution must meet the same requirements as do those under the Mandatory Police Training Act of the State of Michigan. The base pay is that of a police officer, with a $200.00 bonus being paid for two years of college and a $500.00 bonus being paid for a bachelor degree. Each applicant is required to appear before a Psychiatric Board which determines if he is mentally alert and capable of assuming the duties of a correctional officer. A physical examination is also required. In addition, all personnel assigned to our night shift in the institution must be enrolled at Michigan State University.

The Law Enforcement Assistance Administration, Department of Health, Education and Welfare, Model Cities and the local Board of Education have assisted in creating programs for our detained juveniles and adults. It is necessary that services be provided to our inmates by professionals so they may provide them with alternatives to their present way of life. Examples of services which can be made available are as follows:

High School Graduation, GED completion, Adult Basic Education.

Vocational training by the use of teachers on staff provided through the local Department of Education.

Drug withdrawal and rehabilitation by medical assistance and psychological counseling.

Job placement in the community.

Clinics and follow-through counseling as provided through the Department of Health, Education and Welfare.

Alcoholic treatment programs, under the direction of the staff psychologist.

Assistance from the Alcoholics Anonymous Organization.

Volunteer programs in the area of job placement, housing and education.

The use of an Intake-Referral Coordinator, whose primary function is to interview and test each incoming juvenile or adult inmate to determine the needs of that person and refer him or her to an appropriate program. The Intake-Referral Coordinator works under the supervision of the Jail Correctional Administrator. In Ingham County, these positions were originally funded through the Law Enforcement Assistance Administration, and are now a part of the paid staff of the Ingham County Sheriff Department. The Jail Correctional Administrator possesses a Masters Degree in Clinical Psychology and the Intake-Referral Coordinator possesses a Bachelor of Science Degree.

These examples illustrate what is necessary to provide the talents needed to deal with the detained juveniles in our county jail system throughout the United States.

In this statement I have touched very lightly upon the problems of the use of a county jail as a detention facility for juveniles and have also highlighted some good reasons for the use of county jails for the detention of juveniles. As we discuss these various points, I will attempt to further elaborate for the benefit of the Committee, problems that I have observed during my career and my recommendations that might improve detention facilities for juveniles.

It is important that this Committee realize that the most logical place of detention for juveniles is in their home community; that the finances to construct proper facilities to house these juveniles must come from the tax base of the community and, in many areas of the United States, there is not sufficient moneys to provide the type of detention facilities that we are all in favor of. It has been the policy throughout the United States to spend enormous sums of money to create State Training Schools, State Prisons, State Departments of Social Welfare, Stat) Parole and Probation Officers. Very few funds have been expended at the local level.

It is my belief that the State Institutions that we now have are, in most cases, nothing more than warehouses where those who are incarcerated have very little chance of rehabilitation. In every community in the United States, there exists resources that can provide talents to work with the local county jails and detention facilities. I recommend that the United States Congress look more closely into working with the local units of government in financial assistance, rather than supplying total funding to the States who then distribute as little money as possible to the local units of Government.

I recommend that assistance in upgrading the county jails throughout the United States be given top priority by this Committee so that they can assist in providing detention facilities where the Juvenile may be detained safely under the care and control of the Sheriff, who is responsible to the Community. He has the ability to obtain all the talents which exist in the Community to assist the young juvenile offender while he is detained.

I further recommend that this Committee urge the Department of Health, Education and Welfare to spearhead a program to assist the sheriffs throughout these United States in developing a trained and professional staff in order to provide services to the detained juvenile.

I recommend that this Committee sponsor legislation and/or request States to sponsor legislation creating mandatory training acts for all custodial personnel employed in prisons, jails, detention homes, mental hospitals and State training homes for boys and girls! Without this training these unskilled persons will continue to destroy, intellectually and morally, the juveniles who are placed in their custody.

As I bring this statement to a close, I would like to call to the attention of the Committee the fact that the Sheriff in these United States is the elected police official of the County in which he serves. By statute, in many areas, this Official must provide for the safety and well-being of the citizens in his community, whether they are in their homes, at play, in school, or in jail. Therefore, whatever assistance which may be rendered by the Federal Government or the State Government in helping him to perform his duties is more than appreciated . . . it is needed!

I feel that with the proper facilities, and the proper financial strength, and with the Sheriff's specialized political knowledge of his community, he is the most appropriate person in local government to bring all of these talents in to play in order to help in the fight against one of this Country's most serious problems: Juvenile Delinquency!

PROBATE CODE—JUVENILES

712A.14 Juvenile in custody; detention areas; release; hearing; order of court; placement.

Sec. 14. Any municipal police officer, sheriff or deputy sheriff, state police officer, county agent or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or whose surroundings are such as to endanger his health, morals or welfare. Whenever any such officer or county agent takes a child coming within the provisions of this chapter into custody, he shall forthwith notify the parent or parents, guardian or custodian, if they can be found within the county. While awaiting the arrival of the parent or parents, guardian or custodian, no child under the age of 17 years taken into custody under the provisions of this chapter shall be held in any detention facility unless such child be completely isolated so as to prevent any verbal, visual or physical contact with any adult prisoner. Unless the child requires immediate detention as hereinafter provided, the arresting officer shall accept the written promise of said parent or parents, guardian or custodian, to bring the child to the court at a time fixed therein. Thereupon such child shall be released to the custody of said parent or parents, guardian or custodian.

If not so released, such child and his parents, guardian or custodian, if they can be located, shall forthwith be brought before the court for a preliminary hearing on his status, and an order signed by a judge of probate or a referee authorizing the filing of a complaint shall be entered or the child shall be released to his parents, guardian or custodian.

In the event the complaint is authorized the order shall also direct the placement of the child, pending investigation and hearing, which placement may be in the home of parents, guardian or custodian, in the boarding care of a licensed child care agency, or in a suitable place of detention designated by the court.

History: Add. 1944, 1st Ex. Ses., p. 120, Act 54, Imd. Eff. March 6;—Am. 1961, p. 151, Act 133, Eff. Sept. 18;—Am. 1961, p. 31, Act 30, Eff. Sept. 8;—Am. 1966, p. 67, Act 43, Eff. Mar. 10, 1967.

712A.15 Child under 19 years; detention, limitations.

Sec. 15. In the case of any child under the age of 19 years concerning whom a complaint has been made as hereinbefore provided, or a petition or supplemental petition or petition for revocation of probation has been filed, the court may order said child, pending the hearing, detained in such place of detention as shall be designated: Provided, That nothing herein shall prevent the court from releasing the child, pending said hearing, in the custody of a parent, guardian, or custodian, to be brought before the court at the time designated.

Detention, pending hearing, shall be limited to the following children:

(a) Those whose home conditions make immediate removal necessary;

(b) Those who have run away from home;

(c) Those whose offenses are so serious that release would endanger public safety;

(d) Those detained for observation, study and treatment by qualified experts.

History: Add. 1944, 1st Ex. Ses., p. 121, Act 54, Imd. Eff. March 6.

This section supersedes part of Sec. 18 of Ch. XII of Act 288 of 1939 which superseded part of Sec. 5 of Act 6 of 1907, Ex. Ses., Am. 1909, p. 762, Act 310, Eff. Sept. 1;—Am. 1911, p. 268, Act 164, Eff. Aug. 1;—Am. 1911, p. 450, Act 262, Eff. Aug. 1;—Am. 1913, p. 694, Act 363, Eff. Aug. 14;—Am. 1915, p. 555, Act 308, Eff. Aug. 24;—CL 1915, 2015;—Am. 1921, 1st Ex. Ses., p. 797, Act

Eff. Sept. 19;—Am. 1923, p. 145, Act 105, Eff. Aug. 30;—Am. 1927, p. 181, Act 127, Eff. Sept. 5;—CL 1929, 12838.

712A.16 Child under 17; confinement prohibited; exception, duration.

Sec. 16. (1) In case a child under the age of 17 years is taken into custody or detained, such child shall not be confined in any police station, prison, jail, lock-up, or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. However, a child 15 years of age or older whose habits or conduct are deemed such as to constitute a menace to other children, or who may not otherwise be safely detained, may, on order of the court, be placed in a jail or other place of detention for adults, but in a room or ward separate from adults, and for a period not to exceed 30 days, unless longer detention is necessary for the service of process.

Child care home, standards; use of jails.

(2) Provision may be made by the board of supervisors in each county or of counties contracting together for the diagnosis, treatment, care, training, and detention of children in a child care home to be conducted as an agency of the court or county, provided such home or facility meets licensing standards as established by the state department of social services. The court or a court approved agency may arrange for the boarding of such children in private homes, subject to the supervision of the court, or may arrange with an incorporated institution or agency approved by the state department of social services, to receive for care children within the jurisdiction of the court; or may use a room or ward, separate and apart from adult criminals, in the county jail in cases of children over 17 years of age and under 19 years of age within the jurisdiction of the court.

Detention home, superintendent, employees, compensation.

(3) In case a detention home is established as an agency of the court, the judge may appoint a superintendent or matron and other necessary employees for such home who shall receive such compensation as shall be provided by the board of supervisors of such county. Nothing in this section shall alter, or diminish, the legal responsibility of the state department of social services to receive juveniles committed by the probate courts.

Private homes, institutions or agencies, compensation.

(4) In case the court shall arrange for the board of children temporarily detained in private homes or in an institution or agency, a reasonable sum, to be fixed by the court, for the board of such children shall be paid by the county treasurer out of the general fund of the county.

History: Add. 1944, 1st Ex. Ses., p. 121, Act 54, Imd. Eff. March 6;—Am. 1963, p. 76, Act 65, Imd. Eff. May 8;—Am. 1968 P. 213, Act 150, eff. Nov. 15.

See Sec. 27 of Ch. XII of Act 288 of 1939, also C L 1929, 12841.

NOTE: See also Section 14 of this chapter and Compilers' §§ 722.553 and 750.139.

Sec. 16a.

History: Add. 1956, p. 227, Act 117, Eff. Aug. 11;—Rep. 1963, p. 311, Act 214, Imd. Eff. May 17.

712A.17 Hearings; jury; bond; counsel to represent child.

Sec. 17. The court may conduct hearings in an informal manner and may adjourn the hearings from time to time. Stenographic notes or other transcript of the hearing shall be taken only when requested by an attorney of record or when so ordered by the court. In the hearing of any case the general public may be excluded and only such persons admitted as have a direct interest in the case.

In all hearings under this chapter, any person interested therein may demand a jury of 6, or the judge of probate of his own motion, may order a jury of the same number to try the case. Such jury shall be summoned and impanelled in accordance with the law relating to juries in courts held by justices of the peace.

Any parent, guardian, or other custodian of any child held under this chapter shall have the right to give bond or other security for the appearance of the child at the hearing of such case; and in the event such child or his or her parents desire counsel and are unable to procure same, the court in its discretion may appoint counsel to represent the child. The attorney so appointed shall be entitled to receive from the county treasurer from the general fund of the county, on the certificate of the probate judge that such services have been duly rendered, such an amount as the probate judge shall, in his discretion, deem reasonable compensation for the services performed: Provided, That the prosecuting attorney shall appear for the people when requested by the court.

History: add. 1944, 1st Ex. Ses., p. 121, Act 54, Imd. Eff. March 6. See Sec. 12 of Ch. XII of Act 288 of 1939, also C L 1929, 12835 and 12836.

712A.18 Order of disposition of child.

Sec. 18. If the court shall find that a child, concerning whom a petition has been filed, is not within the provisions of this chapter, he shall enter an order dismissing said petition. If, however, the court shall find that a child is within the provisions of this chapter, he may enter an order of disposition which shall be appropriate for the welfare of said child and society in view of the facts so proven and ascertained, as follows:

Warning.

(a) Warn the child or the parents, guardian, or custodian and dismiss the petition;

Probation in own home.

(b) Place the child on probation, or under supervision in his own home, upon such terms and conditions (including reasonable rules for the conduct of the parents, guardian, or custodian, designed for the physical, mental or moral well-being and behavior of the child) as the court shall determine;

Placement in licensed boarding home.

(c) Place the child in a suitable board home, which if a home of persons not related to said child, shall be licensed as provided by law;

Placement in licensed private institution or agency.

(d) Place the child in or commit the child to a private institution or agency incorporated under the laws of this state and approved or licensed by the state department of social welfare for the care of children of similar age, sex and characteristics.

Commitment to public institution or county facility; religious affiliation; reimbursement of cost; notice to revenue departments; special guardian.

(e) Commit the child to a public institution or county facility or institution operated as an agency of the court or county or agency authorized by law to receive children of similar age, sex and characteristics. In every placement under subsection (d), or every commitment under subsection (e), excepting to a state institution, the religious affiliation of the child shall be protected, by placement or commitment to a private child-placing or child-caring agency/ institution, if available. In every commitment to a state or county institution or agency under this subsection, except when all parental rights are terminated, the order shall contain a provision requiring the parent or parents retaining parental rights to reimburse the state or county monthly for the cost of the care given the child to the extent such parent or parents are able so to do as shall be determined by the court. The amount of such reimbursement to be paid shall be included in the order of commitment of the child. It shall be the duty of the superintendent to notify the department of revenue of the date any child was received in the institution or agency when the order committing such child included an amount of reimbursement to be paid the state. The department of revenue shall collect the amounts so determined and credit them to the general fund of the state: Provided, That no collections shall be made after a child is released or discharged except delinquent accounts. The court in every order of commitment to a state institution or agency under this subsection shall name the superintendent of the institution to which the child is committed as a special guardian to receive any benefits due the child from the government of the United States, and such benefits are to be used to the extent necessary to pay for the portions of the cost of care in the institution would the parent or parents are found unable to pay;

Jail confinement for 17–19 year old children; parole; separate care.

(f) In the case of a child between 17 years of age and 19 years of age, commit for a period not to exceed 30 days to the county jail, or commit said child for such minimum term as the judge may determine to the Michigan corrections commission for correctional treatment and care. Parole shall be granted, rescinded, amended or revoked or discharge granted, by said commission in the manner prescribed by chapter 3 of Act No. 232 of the Public Acts of 1953, being sections 791.231 to 791.245 of the Compiled Laws of 1948, and any child violating parole shall be treated in accordance with the provisions of said chapter 3 of Act No. 232 of the Public Acts of 1953 and the period of time between the date of commitment and the date on which said child reaches the age of 21 years shall be considered in the maximum term: Provided, however, That any child so committed shall be confined and cared for separate and apart from persons committed by courts of criminal jurisdiction, and shall not be confined or subject to probationary or parole orders beyond his twenty-first birthday.

MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICH.

Juveniles held in jails on court orders for the calendar year 1972

Alcona	2	Lansing	96
Alger	6	Lapeer	6
Allegan	13	Leelanau	21
Alpena	--	Lenawee	4
Antrim	7	Livingston	87
Arenac	--	Luce	--
Baraga	1	Mackinac	19
Barry	--	Macomb	11
Bay	1	Manistee	19
Benzie	2	Marquette	3
Berrien	261	Mason	14
Branch	57	Mecosta	32
Calhoun	25	Menominee	20
Cass	32	Midland	71
Charlevoix	21	Missaukee	13
Cheboygan	12	Monroe	--
Chippewa	107	Montcalm	43
Clare	1	Montmorency	8
Clinton	12	Muskegon	362
Crawford	28	Newaygo	18
Delta	55	Oakland	3
Dickinson	19	Oceana	2
Eaton	4	Ogemaw	22
Emmet	24	Ontonagon	10
Flint	24	Osceola	15
Genesee	154	Oscoda	4
Gladwin	9	Otsego	38
Gogebic	18	Ottawa	30
Grand Traverse	43	Presque Isle	5
Gratiot	2	Roscommon	90
Hillsdale	32	Saginaw	3
Houghton	8	St. Clair	4
Huron	10	St. Joseph	68
Ingham	28	Sanilac	12
Ionia	20	Schoolcraft	17
Iosco	70	Shiawassee	77
Iron	2	Tuscola	16
Isabella	31	Van Buren	35
Jackson	4	Washtenaw	1
Kalamazoo	1	Wayne	19
Kalkaska	4	DHC	8
Kent	1	Wexford	9
Keweenaw	1		
Lake	20	Total	2,502

MICHIGAN JUVENILE JUSTICE SYSTEM SURVEY

(By the John Howard Association)

MAJOR RECOMMENDATIONS

1. The State of Michigan should develop, at the earliest possible time, a uniform system for the administration of juvenile justice statewide.

Part of the system model would be the Michigan Juvenile Justice Commission consisting of representatives from the Supreme Court, probate judges, probation officers and OYS–DSS. (Seemingly, representative public members should also be appointed.) This body would develop policies and standards which would guide the development of uniform practices.

2. The basic organizational structure of the Michigan juvenile justice system should be revised to provide a "mixed" administration that incorporates both county-operated systems (in the large counties only) and State administration

of all services in small counties. Policies established by the Michigan Juvenile Justice Commission would guide both types of administration.

This structure should be designed to guarantee minimum protections and services for all juveniles, while still allowing local initiatives to supplement basic services in the counties. While minimum standards would be met under either administrative structure, any county could provide services above minimum standards.

Under either administrative structure, the ratio of financing by the counties and State would be similar. Sharing on a 50/50 basis is recommended except that by approval of the commission counties with inadequate financing, in order to be guaranteed services meeting minimum standards, can be excluded from meeting the 50 percent financing requirement.

3. All children in need of supervision ("status offenders": runaways, incorrigibles and truants) shall be prohibited from confinement in detention homes and jails and from commitment to State training schools.

(The National Council on Crime and Delinquency, the National Commission on Criminal Justice Standards and Goals, and the John Howard Association, among others, recommend that "status offenders" or minors in need of supervision be excluded from the jurisdiction of the juvenile court. Frequently these youngsters will fall into either the dependency-neglect or delinquency status areas. Otherwise, they would be serviced by public or private agencies on a voluntary basis.)

4. Original complaints regarding dependency and neglect should be handled administratively by the Department of Social Services, with only a minimal amount of juvenile court involvement—when court orders are needed for custody and resolution of legal issues.

5. The juvenile court age should be raised one year to age 18. Subjects would be retained under jurisdiction for a maximum of two years but with cause being shown could be retained to age 21.

Approximately 20 percent additional staff and resources would be needed by the juvenile justice system to handle the 17 year old additions. Without the providing of necessary resources it will be sheer folly to raise the age limit.

6. The law should be amended to prohibit juveniles from being confined in jails, even as a temporary measure. This means that adequate resources must be provided in order to provide alternatives. These include a State transports tion system to utilize regional detention centers, the development of hold-ova facilities for short term care pending disposition or transfer to a regional detention facility, making some of the present non-secure "detention homes" secure and providing recognized, workable alternatives such as shelter care and "home detention."

7. The State law should be changed prohibiting juvenile courts from ordering any juvenile under 12 years of age confined in a secure detention facility.

8. The juvenile courts of the State should be reorganized according to realistic judicial caseloads. In some counties, several judges may be needed, while one judge may serve several small counties. Incidental to this, the use of referees should be greatly narrowed in both scope of responsibilities and actual numbers.

9. A comprehensive management information system should be developed for the State as a whole. The current CCPIS can serve as a basis for this. In addition, a county information system that allows a local inter-disciplinary review of the efficiency of the system, incorporating feedback channels to all agencies involved, should be developed.

10. The OYS/DSS trend toward decentralization (i.e., diagnostic processes and greater use of community based programs should be accelerated, with regionalization of state-wide facilities effected.

11. All staff working in the juvenile justice system should be supported by a strong training program. Professionalization of the many distinct specialities within the system should be developed within the next two years.

12. Staff available to the Michigan juvenile justice system should be deployed according to a comprehensive overall plan developed by the Michigan juvenile justice commission, partly controlled by minimum and maximum standards and partly by financing plans.

The State juvenile officer system should be abolished with these and all other staff "grand-fathered" into the county and State systems.

WHY NOT "FOSTER HOME DETENTION"?

"Foster home detention" is a misnomer, a self-contradictory term. Foster homes, boarding homes, and receiving homes are shelter facilities; they should not have the restricting features of a detention home.

Temporary foster home or boarding home care for children picked up for delinquent behavior and *requiring secure custody* is not a satifactory answer to the detention problem. Even when special diamond-wire screens are placed on the windows (making the home into a detention facility), the foster family home can keep only a limited number of the children who need to be held for court. When foster family or boarding homes are used for detention, the more disturbed and aggressive youngsters who have the *greatest* need for good detention care and skilled guidance are usually kept in the jail, where they get neither.

Detention facilities are improperly used for many children who might better have been left in their own homes. Other children, more neglected than delinquent, need immediate removal from their homes but do not require secure custody. Many of them can be better cared for by skillful temporary foster parents under good agency supervision.

Most youngsters who need detention care are breaking away from parental ties. They need vigorous activity and constructively directed group life. Neither the jail nor the boarding home can supply these.

WHY NOT JAIL DETENTION?

The case against the use of jails for children rests on the fact that youngsters of juvenile court age are still in the process of development and are still subject to change however large they may be physically or however sophisticated their behavior. To place them behind bars at a time when the whole world seems to turn against them and belief in themselves is shattered or distorted merely confirms the criminal role in which they see themselves. Jailing delinquent youngsters plays directly into their hands by giving them delinquency status among their peers. If they resent being treated like confirmed adult criminals, they may—and often do—strike back violently against society after their release. The public tends to ignore the fact that every youngster placed behind bars will return to the society which placed him there.

The case against jail detention today is stronger than it was fifty years ago because we know more about the causes of antisocial and abnormal behavior. We know that treatment is most effective when applied early. Should incarceration be necessary because effective treatment has *not* been applied early, we know that the detention experience must be either positive or negative. Adolescents cannot be held in a state of suspension.

One of the most common fallacies about jailing children and youths is that it is damaging to the younger ones but may have a salutary effect on the older, more sophisticated offenders. *The reverse is more apt to be true.* The younger or less sophisticated boy whose problems are not deep-seated is more likely to be shocked into reform by a jail experience than is a youngster with a serious record behind him. But detention of the former boy is unnecessary and can be demoralizing. In these cases, the prompt application of probation services after apprehension for delinquency and during the process of social investigation can do a more effective job than shock treatment. These services can discover and begin to remove the underlying causes of the child's behavior. The release of a child under these circumstances presents far less risk than the release on bond of an adult apprehended for a serious offense.

The "young criminal" and the "young hoodlum" whose record is serious and who is unlikely to respond to casework pending court disposition unquestionably needs detention, but it should be the kind of detention that begins the treatment process, not the type of incarceration that pushes him further from it.

The answer to the problem is to be found neither in "writing off" the sophisticated youth by jailing him nor in building separate and better-designed juvenile quarters in jails and police lockups. The treatment of youthful offenders must be divorced from the jail and other expensive "money saving" methods of handling adults.

WHY SECURE CUSTODY?

Correctional institutions in the United States have been criticized severely for their emphasis on locks and bars. Such criticism may well be deserved, particularly in our adult institutions where custody objectives overshadow reha-

bilitative programs. Most training schools for delinquent youngsters are open—that is, they have no locks, bars, and high fences. Why, then, is security recommended for detention homes?

For two reasons: The community has a right to immediate protection if the child cannot safely remain in his own home or be placed in a shelter facility, and the child has a right to constructive group activity and individual guidance pending court disposition. Children apprehended for delinquent acts or caught in an attempt to run away are in a greater state of tension while awaiting an uncertain future than they are after their longer-term placement has been decided.

When a temporary care home or institution for delinquents awaiting hearing has no locks and no window security, staff attention is constantly divided between program and alertness to potential runaway situations. Obviously, program suffers. While it is always possible to use a child's absconding as a means of learning more about him, there is also the likelihood that he will commit more serious offenses after he escapes. Obviously, the community suffers and the child himself is not being helped.

In a secure detention home, staff anxiety over runways is relieved for both staff and children so that full attention can be focused on program and individual and group guidance to make detention a constructive experience.

VALUE TO CHILD, COURT, AND COMMUNITY

The value of a detention home to the child, the court, and the community is questionable if it is considered merely a place to "put" children. If it is improperly staffed and lacks sound program and objectives, a new detention building is little more than a children's jail. Children cannot be stored without deterioration unless program and staff are provided to make the experience a constructive one.

A good modern detention home offers specialized services to the child, the court, and the community.

To the child, detention provides immediate protection against his own uncontrolled actions; protection from parents and others who would reject him along with his behavior; things to do which challenge his interest; group guidance which counteracts the ill effects of confining him with other delinquents; individual guidance which helps him use the detention experience to understand himself better so that he can come to grips with his problems; contact with persons in authority who are as concerned with his well-being as with his living within the law, thus introducing him to a new concept of authority.

To the court, detention provides assurance that the more disturbed boys and girls will be held in secure custody pending their court disposition. It not only assures their availability for interviews and court hearings, but provides opportunity for a report to the probation officer and the judge, based on short-term but intensive study. The report supplements the probation officer's social investigation and gives the court more complete information as a basis for the disposition.

INGHAM COUNTY JAIL INMATE REHABILITATION PROGRAM

The Ingham County Jail Inmate Rehabilitation Program (ICJIRP) is composed of various community agencies and organizations from Lansing, Michigan and the surrounding area which come to the jail and offer services to inmates. Participation in the program is volnutary.

The inmates first contact with the ICJIRP is through the Intake-Referral Coordinator. His primary responsibiilty is to interview every inmate arriving at the Ingham County Jail. The interview serves a two-fold purpose; first, it is important that the newly incarcerated inmate is aware of the ICJIRP services available to him and secondly, it is used to ascertain which of these services can be most beneficial for that particular individual. In order to accurately assess the latter function, social, vocational, personal, educational and other pertinent demographic or related information is routinely compiled during the interview. Based on this information, the interviewer's evaluation, testing, and the inmates expressed desires, a referral is made to the proper ICJIRP coordinator, counselor or agency.

Services offered to the inmate include classes taught by certified teachers from the Lansing School District. These classes range from instruction in basic

reading and writing skills to high school completion classes in mathematics, English, social studies, and art. A class in General Educational Development (GED) preparation is also available. The Ingham County Jail is a GED testing facility and the test can be administered during an inmate's incarceration.

The Drug Abuse Treatment Program offers services for inmates with drug or drug related problems. The services provided by this program include individual and group psychotherapy, medical services including in-patient detoxification where indicated and vocational placement services which include counseling and vocational placement. In addition, the Drug Program provides liaison workers between the jail and the community as a part of the aftercare program.

The Drug Program at the jail is part of the larger Comprehensive Drug Treatment Program which can offer additional services to former inmates through the North Side Drug Center, West Side Drug Center, the Drug Education Center in East Lansing, a Half-Way House and a Multi-Lodge.

Additional psychological assistance, counseling and recreational therapy is offered to inmates through Community Mental Health. Psychological counseling is available to inmates who do not have a drug or drug related problem. Recreational therapy is available to female inmates. The recreation program is seen as an integral part of the rehabilitation process.

An Alcohol Program is offered through the Tri-County Council on Alcoholism & Addictions in conjunction with Vocational Rehabilitation Services which operates under the State Department of Education. This program focuses on inmates who have been incarcerated with charges relating directly to the use of alcohol or inmates who have been found to have problems with alcohol in their past.

Vocational Rehabilitation Services provides significant input into the program via a part-time coordinator with a criminal offender caseload. Services available include mental and phyhical testing, vocational testing and training and a wide range of additional follow-through services.

Input from volunteers has been significant. Volunteer activities include a sewing class for female inmates, library services, advising for the inmate published periodical *"Rapport"* and tutorial assistance in the education classes. Volunteers are seen as *"plugging holes"* with respect to the total operation of the program.

Medical assistance is provided to inmates through the jail physician who spends 70% of his working time at the jail. The physician works closely with the Drug Program staff and other ICJIRP staff for purposes of medical assistance and referral.

Religious counseling is available to inmates through the jail chaplain. The chaplain provides inmates with regular Sunday services and is on an on-call basis for religious counseling during the week.

A comprehensive audio-visual system, complete with control room and studio, is currently installed at the jail. The implementation and utilization of such a system is seen as having much impact on the program. It will:

1. Provide inmates with a widen range of educational experiences available through commercial T.V. programming, educational T.V. programming, and *"canned"* educational tapes.

2. Provide inmates with opportunities for educational programming during the weekends and other times that instructors are not available.

3. Provide inmates the ability to attend class, who are otherwise unable to attend due to sickness (an average of 12 inmates are in the hospital dorm at any one time and are therefore, not able to attend class) or security considerations.

4. Provide inmates with a vehicle for artistic and self-expression through the use of in-jail inmate produced *"mini-productions."* This concept is seen as valuable for improving the self-image of inmates and thus contributes to a more positive mental attitude created by that improvement.

5. Provide inmates with physical fitness exercises (isometrics, etc.) which can be accomplished in the inmate living areas with a minimum of supervision. Sound physical conditioning contributes to the receptivity of rehabilitation efforts.

Direct service and individualized attention is provided during the pre-release and most-release period through a Vocational Placement Specialist and Follow-Through Counselor. These positions provide pre-release interviewing, testing and vocational counseling. The pre-release portion of an inmate involvement with the ICJIRP is an important one. At this time, needs and goals must be re-assessed as a result of an inmate's progress within the ICJIRP. Viable plans and objectives must be formulated for implementation upon release. These plans

are based on consultation with program staff, individual inmate needs and desires and vocational testing and evaluation. Contact and coordination with existing community services must be initiated before release so that an individual approach may become a reality.

The post-release period is critically important in a former inmates rehabilitation. It is during this time that the person must adjust to "society." Employment, education and drug problems are very real once again. Community involvement is seen as being the key for the completion of the former inmates rehabilitation. Various members of the ICJIRP staff are continually working with existing community agencies for purposes of former inmate placement. In many instances, former inmates are able to continue their involvement with the organizations that have offered services to him while incarcerated.

Increased community involvement is seen as having the most impact for the ICJIRP. Significant linkage is as follows:

1. *Comprehensive Drug Treatment Program.* Linkage with this organization has been established for inmates with drug or drug related problems. Admittance to the half-way house and multi-lodge, group and individual therapy sessions and many other services offered by the Comprehensive Drug Treatment Program are available to inmates who actively participate in the jail portion of that program. Such services are invaluable in the areas of follow-through and aftercare.

2. *Lancing School District.* Inmates who enroll in education classes at the jail are encouraged to continue their involvement upon release. A counselor from the school district is currently working with inmates about to be released so that there may be a smooth transition to classes offered in Lancing after release. In some instances, inmates are placed in classes taught by the same instructor who taught them while they were in jail.

3. *Youth Development Corporation.* Linkage with this organization is for inmates in the 17–19 year-old range. Services offered will complement efforts in the areas of follow-through including job training and placement, counseling services, and cultural enrichment.

4. *Vocational Rehabilitation Services.* A part-time caseworker, who has been assigned to a public offender caseload, is currently working with clients in jail and after their release.

5. *Community Mental Health.* A part-time psychologist from the Mason branch of Community Mental Health is working with inmates who have psychological problems which are not drug related. A recreational therapist is working with female inmates. Continued therapy is encouraged after an inmate is released.

6. *Tri-County Council on Alcoholism and Addictions.* A volunteer working under the supervision of this organization is currently working with inmates incarcerated for alcohol abuse charges. Involvement is encouraged upon release.

7. *Courts and Probation Department.* Linkage with these departments are continually encouraged. Manifestation of such linkage is apparent through increasing cooperation and communication.

8. *Michigan Employment Security Commission.* Contact with the M.E.S.C. has been established. Information provided has been beneficial in the areas of job placement and follow-through counseling.

9. *New Way In.* This newly established half-way house is currently accepting referrals. A former inmate was placed in employment in this organization.

Senator BAYH. We will recess this hearing until September 17, 1973, at 10 a.m.

[Whereupon at 1:25 o'clock p.m., the subcommittee was recessed until Monday, September 17, 1973.]

THE DETENTION AND JAILING OF JUVENILES

MONDAY, SEPTEMBER 17, 1973

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

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Cook, Hruska, Fong, and Mathias) met, pursuant to notice, at 10:45 a.m., in room 2228, Dirksen Senate Office Building, Senator Birch Bayh (chairman of the subcommittee) presiding.

Present: Senator Bayh.

Also present: John M. Rector, staff director and chief counsel; Alice B. Popkin, special counsel; Mary K. Jolly, editorial director and chief clerk; Nancy L. Smith, research director; B. Elizabeth Marten, secretary; and Catherine van de Velde, secretary.

Senator BAYH. This morning we resume our inquiry into the problems of the preadjudication detention of young people in secure facilities. Today we will be examining the extent, necessity, and conditions of detention of youth in juvenile detention facilities. Over 12,000 youth are held in over 300 juvenile detention centers around the Nation on any given day—almost 500,000 annually. Most of these youth are incarcerated prior to any conviction for a wrongful act. Frequently, they are not even accused of a crime, but only of running away, or of being beyond the control of their parents. Much detention is clearly unnecessary. Over 40 percent of detained children are released after appearing in court, often after a lengthy period in detention.

Last week the subcommittee heard testimony about the dangers of using jails for the preadjudication detention of juveniles. We heard moving stories from formerly jailed juveniles about brutalization and abuse by older inmates, as well as about the boredom of isolation in jails. Further, witnesses warned us that the solution is not merely to remove juveniles from adult jails and place them in juvenile detention centers. Any secure detention is traumatic for children and generally does nothing to discourage antisocial behavior.

Many juvenile detention facilities, like jails, do not provide the services that need to be supplied during any lengthy detention of children. Less than two-thirds of these detention centers have any form of medical services. One-fifth of the detention facilities are always overcrowded. Although the average stay of a juvenile in a detention center is 2 weeks, with many staying months, 19 percent of the detention centers offer no form of educational services. The same problems of brutalization, abuse, and neglect of children may be as present in juvenile centers as in adult jails.

Even where detention centers have adequate facilities, provide advanced educational, recreational, and therapeutic services, and employ compassionate staff, the incarcerated youth is still removed from his roots in the community, and still confined with others who are likely to teach the youth more sophisticated methods of crime. Seventy-six percent of these facilities do not separate dependent and neglected youth—those who have committed no wrongful act and who know little about crime—from those who have been adjudicated guilty of a criminal act. In such cases, detention may foster, rather than reduce crime.

The National Council on Crime and Delinquency has recommended that only 10 percent of juveniles arrested by police need to be detained. Yet, in few States does the detention rate dip below 20 percent and in some it is much higher. Moreover, the 1973 Report of the National Advisory Commission on Criminal Justice Standards and Goals set up by the Law Enforcement Assistance Administration suggests that secure detention should only be considered as a last resort.

Unfortunately, all too many children are thrown into detention centers who could be returned to the community, often because there is no other place for them. Few cities or counties are developing or utilizing meaningful alternatives in the community to secure detention. In exploring these issues, we hope to find innovative solutions to this problem. The Juvenile Justice and Delinquency Prevention Act, which I have introduced along with 24 cosponsors, will provide support for such alternatives. In addition, we are seeking other means by which the Federal Government can help prevent the incarceration of juveniles who have committed no crime, such as my Runaway Youth Act.

It is our purpose to make the public care and make the Government act. Only then will we be able to end the unnecessary detention of children.

Our first witness is Mr. Wayne R. Mucci, director of the Bureau of Institutions and Facilities, Special Services for Children of the City of New York, accompanied by the superintendent of Spofford, Mr. Ron Curylo.

I am glad to have you gentlemen here. Thank you very much.

STATEMENT OF WAYNE R. MUCCI, DIRECTOR, BUREAU OF INSTITUTIONS AND FACILITIES, SPECIAL SERVICES FOR CHILDREN, HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY, ACCOMPANIED BY RON CURYLO, SUPERINTENDENT OF SPOFFORD

Mr. Mucci. Thank you very much, Senator.

Let me say at first I am most appreciative of the opportunity to come down here and testify before the subcommittee because I have read the bill which the subcommittee is now considering, and I think it is a most important one, both to the detention programs which I am here specifically to testify about, and to the whole field of juvenile justice which has been a concern of mine for 4 or 5 years now.

I think briefly, if I might comment on juvenile justice in general, that we are deeply concerned about the field of adult corrections, but to the extent that juvenile justice has failed in this country, I think we can continue to see the great failure of adult corrections, too. So

I think that juvenile justice is the most important step in the whole system.

I realize my testimony is quite lengthy and I will attempt to summarize it.

Senator Bayh. We will put it in the record in toto. You may proceed to highlight your testimony.

Mr. Mucci. Thank you. I hope that there are some high spots.

Let me begin by saying the detention system in the city of New York is a very large one. Last year we handled about 7,300 children, and there have been years where as many as nearly 11,000 children have gone through the system. And the system is primarily one for the poor, for the disadvantaged, for the children who have failed in school, or perhaps better put the schools have failed them. They are primarily from minority groups. They have both educational and in many cases social and psychological disabilities.

The job of running a detention system in the large urban area, and I suspect there is no larger one in this country, is truly a tremendous one and a highly responsible one. I think we have made some progress, frankly a great deal of progress in the system of New York. In 1970 we had four secure institutions for juveniles. Today as I speak before you we have only one left. So, in the last 3 years the city has closed down three of them. In the past year we have closed down two. Actually Mr. Curylo, who sits beside me, has been with me in closing down those institutions. He has closed down every institution he has been the superintendent of.

Senator Bayh. What were the ages of the youngsters in these institutions?

Mr. Mucci. For delinquents and PINS, the ages for New York are 7 through 15. Previously for girls that went up to the age of 18, but a court decision, and I am sorry I do not have the name of it, of about a year ago, found that it was unconstitutional to treat girls differently than boys, so the PINS jurisdiction was made the same for girls as for boys, so it is now 7 to 15 for girls also.

Senator Bayh. What has happened to the youngsters who were in those institutions now that they are closed down?

Mr. Mucci. Many of them are going into—well, the city has really made a substantial effort here. We have developed a nonsecure program, which I would like to talk about in more depth, and many of them are going into the open shelters, which existed all along for neglected and dependent children. The Office of Probation and the City Department of Social Services have made great efforts first of all to keep kids at home, because I think among most authorities, the preference is, wherever possible, to provide the family with support which can keep children at home. Secondly, they are in our intensive probation programs, which has small caseloads which are working with those children. Thirdly, as I said, our nonsecure program. So, children are being diverted away from the institutional system with the preference of keeping them with their families. But, if that is not possible, they are placed in open setting, either shelters, and that is where the majority of the PINS children go now, or in our own nonsecure program which consists of foster homes and group homes. And I will get into that in a little bit more length later on.

Let me make one point about our existing institution; that is, Spofford, which is a very large and I think well known detention center. It may very well be the largest in the country. It unfortunately represents what is wrong with detention in this country. That is, it is a large jail-like structure. I think one of its corridors is about a seventh of a mile in length. It was built for custody and practically nothing else. That is the kind of system and the kind of thinking that has predominated juvenile detention for too long in this country, and I think that we will eventually phase out Spofford, too, just as we phased out the other three secure institutions. But, right now it presents an extremely difficult problem, both for the staff and for the children who are in there. And I am not happy with that institution, and I do not think anyone who sees it is happy with the institution.

Now, knowing the problems of institutionalization, what the city has tried to do is to develop a number of mechanisms to divert kids from these kinds of places. In the past year and a half we have opened up 83 beds for children outside of detention, the traditional detention systems, those which are institutions. These consist of foster homes, what is called an agency operated boarding home which is basically an apartment which is leased by my agency, and four group homes where children are placed awaiting their adjudication. As I said, these represent 83 beds, and we have had a great deal of success. What this shows, and shows dramatically, is that kids who were normally incarcerated, if you will, can now be placed in open settings and could have been placed all along in open settings with supervision and controls on the one hand, but where they are free to participate in the community schools, where they can come and go and develop uses of community resources. And let me say if you can keep a kid out of a detention institution, the chances are increased greatly that you will be able to keep him out of the training school system which is, of course, a continuation of the problem of detaining and incarcerating youngsters.

It is interesting the way we have organized this, I think, at least I feel, that it represents an advance. What we hope to do, but which we cannot do in every instance yet, is to keep kids from ever seeing the inside of an institution when the determination is that there is no need for it. And so children are interviewed right at the court. We have courts in all of the five boroughs, and we have what we call an assignment unit in the court. This consists of social workers who, after the judge has determined, that the child needs to be placed outside of his own home, and detained for the subsequent court process, the child is interviewed and all of the records, such as they may be, are gathered up by an assignment unit worker, and a determination is made as to whether or not he can be placed in an open setting. If that is the case, then he is taken to that open setting, and he is not placed in Spofford. This, of course, always does not work. There are children who come in very late in the day, or children who are picked up by the police and come in on the weekends. But, in a year and a half, we have had many hundreds of kids go through this program and it has worked.

We do have a relatively high rate of absconsion. That is the youngsters from time to time run away from these homes, but they always come back. There have been no serious incidents as a result of this, and we plan to expand this program substantially.

I think it is interesting to note that about 4 years ago we had an average daily census of 300 to 400 at Spofford and perhaps 500 in secure detention overall. The last set of figures that I checked specifically, were for August 31. We had 124 children, total, in the city of New York in secure detention, and we had been running for this year at an average below 150. We have had a 30-percent decline in admissions to detention during the past 4 years.

Senator BAYH. The figures that you cited a moment ago are significantly more than 30 percent. Maybe I am comparing apples and oranges. You said you had 500 in overall detention and 300 at Spofford. Were those the figures that you gave?

Mr. MUCCI. Oh, let me try to explain that. What I was talking about was yearly admissions. Let me go through the statistics which I feel are impressive. In 1969, I think we had about 10,700, if I remember correctly, admissions into the detention system. In 1972, we had 7,300 admissions into the detention system. That represents a decline of about 30 percent.

In addition to the number of admissions over a year's period, there is also the other problem that you have to be concerned about, which is the number of children who are in a secure facility at any one point in time. If you have few admissions, but children staying for long amounts of time, then, of course, the population will increase. Going back to the period of time when we had that high number of admissions, children were also staying longer. This meant that at Spofford, for example, we had an average daily population of 400 children in 1969. In 1972, we had an average daily population of, I think, 167. It is in my testimony. This is accounted for by two factors; the decline in the admissions and the fact that children are moving out of detention much more quickly. The average for boys, for example, has gone from 15 days to 11 days, and I think the average for girls has gone from 19 days down to 15 or 14 days. So, those two factors have led to a substantial decrease in the census. This year the number of children who are admitted to the detention system in the city will be around 6,500. It is still an awful lot of kids, but it would represent a 40- or 45-percent decline in the past 4 or 5 years.

Senator BAYH. Can you compare the recidivism rates of those who have first been before the court and then been released with those who formerly were detained? I mean, have you, in this relatively short period of time, a success or failure ratio that you can compare with the previous manner of operations?

Mr. MUCCI. Well, let me say this, that those statistics are just awfully difficult for any jurisdiction to keep. I have reviewed the recidivism rate as between say 1969 and 1968 and 1972. It stays fairly constant, 50 percent of the number of youths who come into the system, we will see back again. During this time I would find it very difficult to think that the crime rate in New York City has increased because of this kind of policy. My own personal opinion, and I do not have the empirical evidence to back this up, so it is only worth what it is worth, is that incarcerating kids often leads to their learning crime, their becoming perhaps more dangerous and more of a menace to the community than keeping them out. I think one of the things that we have found, for example, in the city is that there has been an increase in juvenile violence. Much of the population that we had before in

detention were so-called PINS, 50 to 60 percent of that population was PINS. I know, Senator, you are very familiar with the juvenile laws in the 50 States. PINS children in New York are what would be incorrigible perhaps, and defined as delinquents in other States. That is they are, well, they are truant from school, their parents find them beyond their control, but they have committed no crime in the same way that an adult has committed a crime. They are juvenile status offenders. Those were what were going into detention before, and I think by keeping them out we have probably decreased the criminality or the potential for criminality in that population. So, again, I could not relate it to any increase in crime. My impression would be, however, that we are helping decrease the crime in the city.

But, what we do have in detention now is, I think, an increasing incidence of very serious crimes. For example, I will give you a few statistics relating to homicide. Last year we had 76 homicides. My testimony says 78, but it is 76 homicides, held in detention in the whole year. This year, so far, through June we have had 72. If you look at the 30-day list if you scan that list, which is attached to the end of this testimony, you will see that nearly all of the cases are extremely serious, and that is what we are getting more and more of in detention now. If secure detention has a purpose, it is for these kinds of cases.

Now, that is a long answer to your question, but I think that that is the best that I can do, and that is really the way I feel about it.

Senator Bayh. How many young people, juveniles, do you have in detention in New York?

Mr. Mucci. At this moment, today?

Senator Bayh. Yes.

Mr. Mucci. I did not check the statistics.

Senator Bayh. Just give me an average.

Mr. Mucci. Today we probably have approximately 130 children in detention.

Senator Bayh. In the whole city of New York?

Mr. Mucci. In the whole city of New York. That is in secure detention. In our nonsecure program we probably have another 50. They are the ones with open settings and group homes, foster homes.

Senator Bayh. The reason I ask is that I am having a friendly difference of opinion with the city administration here in Washington, in my position as chairman of the District of Columbia Appropriations Subcommittee. They want to build a juvenile detention center to house 120 youngsters only 10 fewer than you have in the whole city of New York. I have temporarily persuaded them not to proceed, but there are a lot of people down there determined to go ahead.

Mr. Mucci. Let me say, I think that is an issue I addressed in my testimony in terms of one of my recommendations. Now, I find it hard to believe, Senator, that the criminality of the youthful population here in Washington is so much greater than the criminality of the youthful population in the city of New York.

Senator Bayh. Fortunately so does Judge Green and so does Senator Bayh. At this point we have been able to head that off. It seems to me the $6.5 million that they are going to put into that could be utilized in a much better way.

Mr. Mucci. It certainly could. It would seen to me that no jurisdiction, in terms of building new construction, secure construction, should consider anything over 50 beds, and if Washington feels that it has to go ahead, then I would take a long hard look at what you have got before I committed 1 cent to bricks and mortar. And I would think you certainly would set that as your outside limit here.

Senator Bayh. Well, you did not come here to testify on the problem in Washington.

Mr. Mucci. No, I did not.

Senator Bayh. Proceed with your area of expertise.

Mr. Mucci. Well, as I mentioned, we have had a great decrease in the number of juvenile status offenders coming into our detention. Again, on August 31, we had only six children, one boy and five girls, who were not charged with delinquency. They were charged with PINS in the detention system. They are all out now. We probably still have three or four today, but that represents less than 5 percent of the population. I would again predict that in 6 months to a year we will have no juvenile status offenders in any secure institution in the city.

Now, there are children who the family court and the judges of the family court feel must be taken out of their homes because of the family situation, or because of other circumstances where they have not committed an offense. These children should go, it seems to me, and are going to one of two places, either to our children's shelters, which have been primarily for neglected and dependent children, or into the nonsecure program group homes and group residences. I eventually think that it would be good if the jurisdictions did away with PINS and CHINS and all similar kinds of labels, and treat them as children in trouble, and not as children who have offended against society.

Let me turn briefly to some of the programing issues that we have in detention. As you have gathered, our goal in the city is to reduce to an absolute minimum the number of kids who have been in the security facility, while at the same time providing a community based alternative for those larger numbers who need to be in those kinds of programs. And I think we are well on the way to doing this, although one of the problems we are beginning to face more and more, and one of the problems I think other jurisdictions are facing, and as they go into it will face is a great amount of community resistance. Our success rate in terms of obtaining new sites for group homes or of obtaining sites for boarding homes or group residences is only around 50 percent. Sometimes we spend as much as 9 months on a site. We have a very complicated bureaucratic process, and we also have, in New York City, as you perhaps know, a great deal of community participation, and community control, and at any point we are apt to lose one of those facilities. I think that is going to be increasing in this country, particularly as concerns about crime seem to grow.

Senator Bayh. In other words, it is the old syndrome of people saying, "How terrible it is to lock youngsters up in the county jail. Something out to be done, but do not do it in my neighborhood."

Mr. Mucci. I just could not put it any better than that. That is it.

Let me turn though briefly, Senator, since I understand that this is of particular interest to the subcommitteee, to some of our institutional programs and our problems, as I do not see in the city of New York the chance, in the near future anyway, of doing away with secure detention programs entirely. The city is too big, it is too complex, and the social issues are too difficult. There will have to be a place for a

number of children will come before us who have to be detained. So, really what we have to do also, while we give our major emphasis to getting kids out of the system, we also have to do something about detention institutions for that small proportion who I think need them.

We have tried to do that in the city by attempting to instill perhaps a new philosophy on the old system, and let me say that is not easy. It is not something which is in no way an easy task. Mr. Curylo can testify to that perhaps better than I can. It is difficult on the staff; consequently it is difficult on the kids who have to relate to that staff. But, where we had a philosophy that detention was solely custody; that is, you held the child secure for the family court, you fed him properly, and you got him to court on time. We have tried to take a different approach; that is, we have tried to individualize programing. We have tried to give children immediate accessibility to social and clinical services, so any problems can quickly be identified, and we can contact the court, or try and get him into a psychiatric hospital, or to make plans for his placement and move him quickly out of detention. We have tried to instill in our staff the idea that although we do not expect the average 12-day stay to be a rehabilitative one in the sense of solving complex, long-standing problems, we expect it to be therapeutic. We expect if we are going to have a therapeutic environment that the children are going to have people to counsel with, and to talk to, that they are going to have access to good medical services.

We also have attempted to do much more in terms of seeing a child initially, and attempting to develop an inventory of his needs, his problems, and then develop a program which is suited to him. This is a great change from what has been previously done, and it is also a great change over the days when there were 400 kids in the institution. But now we are trying to do more. I think a problem with every detention center in the country that I am familiar with, is that you often expect one person, who may be well motivated, but very poorly trained to deal with 15 or 20 or 25 children all by himself or herself as the case may be. That just will not work. If you think of dealing with your own children, and I only have two, that sometimes even two seems to be too much for me. But, we have expected far too much of staff and we have got to reduce the staffing ratios. We are down to 1 to 10 now in counseling staff, about 1 to 8 in the social service staff. We have 4 part-time psychiatrists for 60 hours where we had 12 when I took over, and I still do not think that is enough. It is a step though, and I think that our staffing ratios are better than most detention centers in the country. Our costs are also higher, but the jurisdictions have to bear those costs.

Senator BAYH. When you talk about those staff to detention ratios do you count the youngsters you have in custody, or everyone who is a ward of the court at a particular moment?

Mr. MUCCI. In custody.

Senator BAYH. Could you tell me what has been done, if anything, regarding staff ratios for those who are not in custody? In other words, often probation programs fail. If you get a very well meaning and dedicated and experienced caseworker, with 100, 150 or 250 youngsters to supervise, it is doomed to failure.

Mr. MUCCI. Let me say that while probation is not my responsibility or under my jurisdiction, it is a family court related function, there has been increasingly serious problems in the city in that probation caseloads have been increasing. Consequently, to some extent, the effectiveness of probation decreases.

Senator BAYH. Well, do not the two have to proceed together? If we are decreasing the number of youngsters that are detained, then the number that are, are at least temporarily wards of the court, through probation or whatever, is going to go up. The need to have some sort of supervision is going to be greater as your custodial population goes down.

Mr. MUCCI. That is true. What has happened in the city is that the office of probation, through an LEAA grant, has tried to focus on those children who present the highest risk, and has developed, and here again I hope I get it correctly, intensive caseloads, where the caseload may be 1 to 15, which is a good ratio. They have also developed a day and night program, really alternatives to schools.

And as I said, many of the children who have been placed outside of their own homes, no longer go into detention, they go into the shelters, which I am also responsible for. So, I suspect with the focusing on that more difficult population that the city has succeeded in really having a better ratio and more care there, for a large number of other children, the ones who perhaps do not really need a great deal of service, they get less than before. But, I am not sure that it does not work out to be a fairly good mix overall. I would think that where we fall down in the city is providing support for families where so much of the problem stems. Over 50 percent of the children in our care come from families who are on public assistance, and from families that are broken, and I do not think that we are providing through the probation system or other systems either, the supports that are necessary. But I would definitely agree that to the extent that we shift the population and the census from an institutional one to one that is in the community, and that we do not increase the probation services, that would have a negative, or what is most likely to have a negative effect on a certain number of the children.

Senator BAYH. Is it your responsibility to deal with those youngsters who have been before the court and then returned home.

Mr. MUCCI. No.

Senator BAYH. Then I suppose you do not have responsibility for any supervision regarding the problem of truancy. That would not be in your regular field?

Mr. MUCCI. No; it is not. But, of course, it is a very serious problem, and it is one that I think everybody in the field is concerned about. So many of the problems stem from what happens in the school. I would say that the typical child who comes to us has literally been not participating in school for 2 or 3 years, and this is a substantial reason, it seems to me, for his getting into the trouble with the law in the first place.

Senator BAYH. We had a man sitting right where you are last week who had just gotten out of a long stay in an adult institution. In his earlier middle teens he had three trips before the judge for truancy. The first two times he was given a 30-day stay in a so-called benevolent

institution for psychiatric treatment, and the third time he went to the boys school. Then he was up, and he never came back down.

Of course, if we could deal with the problems in the home, and the problems in the school, then we would put you almost out of business which, of course, is what you would like to have happen.

Mr. MUCCI. Almost out of business, and it is what we would like to have happen. And really, you know, when you are talking about detention you are talking about an ex post facto response to a social problem, which to really get at the root of the problem should be attacked elsewhere. The problem is that it seems to be so massive and so difficult to do. I suppose it is easier for administrators like me to come and talk about how we are reforming the detention system. Well, we are reforming it, but, you know, those problems out in the community are still going to exist. And I think it is a cause for concern to all of us. But, how we attack it, I think far better minds than mine have put their wits to it.

Let me review some of the new programs that we have initiated in the detention. We now have a reception and orientation process so every child is seen by an interdisciplinary team so that a special program, if necessary, can be designed for him. We have begun drug programs, and you might be interested in knowing that the incidence of drug abuse among this younger population seems to be declining in New York City. We have instituted one which is of particular interest to me, a dramatic arts program and for the kids that participate in it, it seems very therapeutic. They work with the staff, and I think that it is an excellent thing.

We have developed an extended care program for children, those who stay in the institution for 30 days or longer. We have decreased the number of children who stay for a long period of time in detention substantially. I think that in 1969, again on August 31, we had 67 children in secure detention who stayed for longer than 30 days. On August 31 of this year we had 27. They are listed on the list. And for each one of them we developed a program which is more like a traditional therapeutic and treatment program, because nobody else is really dealing with these problems, and the court finds these cases extremely hard to move to the proper treatment.

Senator BAYH. You mentioned drug programs. Rikers is in your jurisdiction, is it not?

Mr. MUCCI. No.

Senator BAYH. It is not?

Mr. MUCCI. No. Rikers deals with youthful offenders and they come before the criminal court.

Senator BAYH. There were two things that alarmed me when I visited Rikers with the committee a couple of years ago. First, there was no drug treatment program on the island. Second, there was a million dollars worth of equipment from the manpower training program which had been purchased and run for 9 months, a year, or a year and a half before. Because of the cutbacks by the President in the amount of money available, that million dollars worth of equipment was just sitting there with no job-oriented skill development programs in the institution. If that is out of your jurisdiction, then I will not ask you to comment on whether that has been changed or not. But go ahead.

Mr. MUCCI. Well, of course, our hope is to keep them out of Rikers altogether so we will not need that equipment anyway.

But let me finally say that we are now in the process of appointing an ombudsman for our detention service. This really should be hopefully a significant innovation. I think as you have perhaps gone around the country and seen detention facilities, you see a great deal of despair, a great deal of apathy among the children, and that is really because many detention centers are very large, and what you have is an impersonality which permeates the whole structure. It is nobody's fault, it just happens because we have been in the tradition of building these large institutions for too long. My thought is that if we can have somebody who is not seen as a part of the administration, somebody who can relate to kids, who they can respond to and have free access to, that many of the small problems, and the big problems too, can be resolved by either administrative action of a superintendent, by his advocacy before the other agencies that impinge so much on the kids. These include the family court and the office of probation, legal aid, or social services. This kind of humanizing influence is drastically needed in detention centers, and I see the ombudsman as one way to do it. I suspect that an ombudsman from time to time is going to give me some problems, and I am sure that it is going to give Mr. Curylo some problems, and probably that is the nature of the thing. Somebody who is the child's advocate is going to be on the wrong side of all of us at some time, but I think that it is absolutely necessary in something we are totally committed to. We are going to have him appointed by December 1. I think that this perhaps more than many of the other things I have talked a bout will again change the tenor and the tone of that facility.

But, while we have made progress in changing the nature of our secure institution, there are certainly some outstanding problems. The problems that we have are very similar to the problems that other jurisdictions also have. The first is the physical setting of Spofford. As I said, it is jail-like, and I think there is no getting around it. When you have kids in a jail-like setting it is not conducive to either treatment, rehabilitation, or perhaps even good child care. Again we are trying to do as much as we can within that context. While I think a great deal can be done, I do not think a facility like that should ever be built again. Unfortunately the problem is that when jurisdictions start building them, they are building them to last. Spofford is going to last and last and last, and what we have got to do to eventually phase it out is to find some way of trading it off so that it is put to some sort of use within the city, because it was built in 1958, and the city has an investment in it. But it should not have children in there.

But I am sure you are perhaps even more aware of the problems with these large structures than I am. I would suggest and suggest very strongly that no structure, secure structure be built for more than 50 children. And I would also say that where a jurisdiction confines children in jails with adults, either charged or adjudicated offenders, that has just got to be stopped. You know, it is a good way to turn a serious criminal out in the community.

The second problem that I had in detention, and I suspect most of my colleagues have, is the problem of education. In my opinion our public school system, particularly in an urban area, has helped con-

tribute to the problem that leads kids to detention settings, whether secure or nonsecure, or leads kids before the family court in the first place. I think that what education does inside of the detention center only continues that problem, and the problems that children have had with the educational system. As I said, by the age of 12 or 13 a lot of our kids have not been going to school for 2 or 3 years, and in many instances I get the feeling that because they have had a learning problem, or because they have not competed in the same kind of middle-class ways that are so valued by schools, that they have, well, they have certainly not been encouraged to stay in that school system. Some of them have been pushed out in the streets, and then their serious problems with the law begin. But we have the same kind of programing too often by the educational system within institutions and centers, and so the kids are just turned off there too, and they become restless, and the teacher becomes bored and restless. I would like to suggest to this subcommittee that this should be an educational priority, but that the educational establishment, it seems to me, has shown little, if any, interest in the problems of educating kids in institutions, unless it is in a high-priced private institution where we have people who pay lots of money for it. I would suggest that this subcommittee should have a panel of highly qualified people to consider the problems of education within the institution. This panel should develop a curriculum, a way of doing things which is different from the old way, and which can be distributed and disseminated to all of us who need this so badly. I am not a professional educator, and I do not profess to have any answers to this problem. But I know it is an extremely serious one.

The next problem I would like to comment on is the problem of mental health and psychiatric attention and facilities for children. As I testified, the rate of homicide and violent crime among juveniles seems to be increasing, while our overall rate of incarceration of juveniles is decreasing. Well, it is pretty much the case that we are going to be holding these kids in some kind of program for a period of time.

Many of the children, these violent offenders, seem to me to be seriously disturbed. I am not a psychiatrist, but it also seems to me that our mental health system finds too many ways to exclude these youth from it. I find that psychiatrists tell me when we have a child, a violent or suicidal child, who may actually have hallucinations, that either these kids are too violent so, therefore, they cannot be in a psychiatric setting, or they are sociopathic, which means that they have been defined by the mental health community as untreatable by psychotherapeutic means, or there are no beds for them. And what they tell me all too often is that these juveniles need a secure setting, and really what they mean is something that has locks on the doors, and since I have got some locks on the doors of the detention center, that is where these kids should be. They need treatment more than any other class of kids that I can think of, for their own, and for the community's sake but they are just excluded. I do not know what or how legislation can help. Perhaps fellowships or stipends should be specifically awarded to people who are getting training in mental health, for psychiatrists to go into treatment of the offender. Scholarships and stipends could be awarded to those who do work in the facilities and programs for people who work in detention centers and training schools and adult correctional institutions. Maybe legislation should particularly encourage the development of very small psychiatric and clinical units, with perhaps no more than 6 to 10 violent offenders whose criminal behavior seems to have come from psychiatric disturbances. Perhaps psychiatry can solve 10, 15, or 20 percent of the problems that we have. For those 10, or 20 percent where it can make an impact, it does not now do so. Our most serious offenders do not receive proper treatment from the mental health community. This is a sad and dangerous state of affairs.

Finally, let me talk about staffing and training. My experience has been, particularly in New York, that while the civil service system has great limitations, the selection standards that we have been able to employ, that is, basically 2 years of college or an equivalent experience in child care, have enabled us to recruit highly from the minority community. And 90 percent of our population in detention is black and Spanish-speaking. This is a poor man's system. We do not have a problem with staff coming from different ethnic groups, or having different value systems from the children who they are charged with counseling and supervising, as is the case in many systems. We often can recruit highly motivated and talented people. But what happens, it seems to me, is that we have not been able to reinforce this basic talent, this basic understanding, this basic sympathy. We have not reinforced it with training. And I think this is a problem throughout the detention system in this country. What happens is that the stresses and strains, the difficulties of interpersonal relationships, and the high turnover of children, causes the job to become a frustrating one. There are situations that come up time and time and time again that the staff member is unable to cope with. His morale decreases, and presently you find the quality of child care decreasing. Incidentally, combining all of that with systems that are subject to serious overcrowding, then I think that one of the results that we have all been concerned about throughout the country in detention centers and other kinds of correctional programs, is violence of kids versus kids, staff versus kids. While I believe that we have made real inroads in that, and I do not think we have a brutality problem in New York, it is poor training, overcrowding, disturbed children that fosters it. But to return to my main point, I would like to suggest that there is a system for our policemen where the Federal Government supports the training of police officers through the FBI. Whether they do that on a large enough scope I do not know. But so far as I can recall from my knowledge of the field, there is no similar kind of program financed by the Federal Government which would provide training for the counselors, the social workers or for the psychiatrists and other personnel working with children who are in detention. I would like to suggest that serious consideration be given to providing some sort of an academy, or a process by which good, high-standard training can be developed. As a matter of fact, when I had first considered this testimony I had not had an opportunity to read the bill which has been presented by this subcommittee and introduced by Senator Bayh.

One of the elements of that bill would provide for this kind of training at the Federal level. I think that is sorely needed. While we have a comrehensive plan for training in our own system, localities just have serious problems in getting up the funds, and I think it is a Federal responsibility, or it perhaps becomes a Federal responsibility by default

because the localities do not seem to be able to do it. I think to the extent that the bill, 7821, would encourage this approach, it is much, much to be hoped for.

I have two things to say in conclusion. One is the problem of the increasing violence which we face in New York, which leads me to believe that we are going to have a continuing need for a secure detention setting. Such a setting should be much smaller, and all efforts should be made to keep kids out of these settings. I think that there should be a substantial increase, as I said, in the staff training, in support for mental health resources, particularly for these disturbed and violent youths. And I think also that the Federal Government has an important role to play in this.

But second, I think also that we should be seriously considering how far we can go in our efforts to develop community programs. We can go much further in New York, and our plans for this year are to expand our nonsecure program by approximately 30 more beds, so that about at any point in time of the kids detained in the city at least 40 percent will be detained in open settings. That would mean that we will average somewhere around 125 or 130 kids in secure detention for this year. It will be decreased next year.

The question is, for New York, how much further can we go? What proportion of those juveniles can be placed in communities? I really do not know. It is to some extent going to be a question of learning and taking what I think is a well calculated and justified risk in some instances. But that is the serious issue which I think confronts us, and one which I think that many more jurisdictions will be facing. In order to get jurisdictions to perhaps confront and face this issue more directly, one suggestion I would make for Federal legislation is that monetary incentives should be given to developing community-based facilities. I will take, for example, my own State of New York. At the present the city and State share equally in the costs of detention care, whether or not that care is in a secure, locked facility, or in an open group home kind of facility. We each pay 50 percent. I think that a two-pronged approach should be enacted legislatively. The subsidy, the amount of money available for group homes, foster homes, and other kinds of open community facilities should be greater than the amount of money you can get for building a big, locked facility and keeping kids in it. I would suggest for New York that the subsidy should be 75 percent for open facilities and perhaps only 50 percent for the ones that are not.

Secondly, if construction exceeds a certain size, and I put 50 as the outside number for the largest jurisdictions, there would be no financial support, because where you get financial support to build bricks and mortar, people are tempted to use it because, frankly, they may think it is easier. The flack, the difficulty of establishing a community program has been great in the city, but in the end we have got to encourage these efforts and the system will be much better off for it. But to the extent that we still encourage people to build these large old style jail-like structures, unfortunately the tendency is going to be to do it. We have had successes in really stopping that in New York and I do not think we will ever build a large one again. As a matter of fact we are planning to close down our shelters now, and move into small reception centers. Our first shelter is scheduled for closing on November 13 of this year, but it is a long and tedious task.

Now, in reading the bill before the subcommittee I found that if it needs strengthening, and I would give it a high endorsement in its present state, but if it needs strengthening I would suggest that a positive incentive for open programs be developed, and that large construction be discouraged. I think I have gone on long enough, and I certainly thank you.

Senator BAYH. Thank you very much, Mr. Mucci.

Did Mr. Curylo have any comments here?

Mr. CURYLO. No. Mr. Mucci has amply discussed the problem and the direction that we are taking.

Senator BAYH. We thank you both for your time and your efforts. I hope that you continue your study of our legislative efforts, and feel free to make this kind of suggestion. The purpose of this bill is to assist a system where there are almost no alternatives available to the judge. Perhaps we should condition expenditure of funds in the disincentive-incentive manner that you described. That is what we are trying to accomplish, and the carrot and the stick approach is sometimes a very good one, and, unfortunately, necessary.

Well, thank you both, gentlemen. We appreciate your testimony very much.

Mr. MUCCI. Thank you, Senator.

[Mr. Mucci's prepared statement is as follows:]

PREPARED TESTIMONY OF WAYNE R. MUCCI, DIRECTOR, BUREAU OF INSTITUTIONS AND FACILITIES SPECIAL SERVICES FOR CHILDREN HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY

I appreciate the opportunity to testify here, because in my opinion the pre-adjudication detention of juveniles is one of the most crucial elements of the juvenile justice system, and at the same time one of the most overlooked. Because I believe that New York City's experience—its problems and successes—is important, I will begin with a short overview of the present system, and the changes which have occurred recently. During the past few years, these changes have been far reaching.

I will attempt to keep my remarks brief.

DETENTION IN NEW YORK CITY

Our City's system is a large one. It now handles about 7,000 children a year. These youngsters are primarily from lower class backgrounds and minority groups. Fifty percent of them come from broken homes; a high proportion of them come from families who are receiving public aid. In general, we have seen a continuing rise in the number of detained children who can be classed as disturbed. Almost all of them are educationally deprived as well, and many of them have learning disabilities. The rate of recidivism for this group verges on 50%. These are not middle class, middle income children; these are children from the urban ghettos who represent a multitude of problems in terms of appropriate and effective care.

As I will explain later, until very recently our detention population was much larger and based solely on secure institutions: in 1970 there were four of them. In the past three years three institutions have closed, two within the past year. During this time the population held for detention has greatly decreased, and the system's diversity in terms of alternative non-institutional programs has greatly increased. The present detention system in New York consists of only one large institution, Spofford Juvenile Center, which holds both boys and girls, and a series of institutional alternatives consisting of foster homes and group homes, of which we are most proud.

Spofford, completed in 1958, is a traditional detention center. It has a capacity of nearly 300, and it is highly secure with locks, detention screens and a high

wall around the outside. In general, it is a typically forboding, impersonal, overly large institution where the major design concern was secure custody. In my opinion the construction of Spofford (one of its north south corridors measures 750 feet, 1/7 of a mile) was a terrible mistake, and no jurisdiction should ever construct a like facility. Eventually, it will be phased out just as the other institutions have. Unfortunately, Spofford, while perhaps larger, is similar in design and concept to many if not most of the juvenile detention centers in this country.

Our non-secure detention program was initiated by a Law Enforcement Assistance Administration grant to the New York City Office of Probation, through the City's Criminal Justice Coordinating Council. At that time in early 1971, the detention system was administered by the Office of Probation, and much credit is due that agency for its planning of non-secure detention alternatives. The LEAA grant, along with three secure detention centers was transferred to the Human Resources Administration, Special Services for Children in November of 1971. Since that time we have opened:

20 foster homes, with space for 40 children
1 agency boarding home with space for 5 children
4 group homes, with space for 38 children

From the time the first foster home opened in the winter of 1971, children have been diverted from the secure facilities and into open settings while awaiting court adjudication. This is accomplished by screening children for the program as they come before the court while they are at the court. We have established an assignment unit for this purpose in each of the boroughs of the City. The total unit consists of nine social workers and two supervisors located in the Family Courts as well as case aides who provide transportation and supplementary support and supervision. The unit reviews the records of and interviews children remanded for detention by the Court. Based upon guidelines which have been developed over the past two years, a decision is made then and there at the time of the interview as to whether a child can be placed in a foster or group home. Arrangements are then made with the location receiving the child, and he is transported there, most often by a case aide, but sometimes by the social worker who interviewed him.

I should note that not all the children who should be in this program are immediately placed there. There is the problem of children detained by the police at night and on the weekends, and there are children who are at first rejected and go to the detention center but who later are seen as good candidates. To overcome these problems as much as possible, we have stationed an assignment unit worker at Spofford to further review the youths at the institution.

During the next six months, we plan to increase our non-secure capacity from its present 83 to 112. This will mean that if we can operate the program at about 85% of capacity which is a difficult but obtainable goal, at any one time 95 children will be in open settings. Thus, during the coming year I expect that at any one point in time approximately 40% of the children who the Family Court detains (either because in the court's judgement they may flee or commit a crime, the legal basis for such a decision) will be held in open, home-like settings. In a city as diverse and complex as New York—and frankly, a city with the poverty and complex social problems as ours has—this strikes me as real progress. An extremely important question which I believe now begins to confront us is how much further can we go in reducing our detained juvenile institutional population.

DECLINE IN DETENTION POPULATION

Along with the developments of non-secure detention one of the most dramatic changes has been the decline in children held for detention. The table below shows the number of admissions into detention for the five year period 1968–1972.

NUMBER OF ADMISSIONS

	Boys	Girls	Total
1968	7,040	3,039	10,079
1969	7,350	3,408	10,758
1970	6,159	2,856	9,015
1971	5,679	2,568	8,247
1972	5,111	2,200	7,311

In four years, the number of admissions has dropped by 30%. In 1969 the average daily census in secure facilities climbed to nearly 500. The overcrowding—and its effect on child care—was literally intolerable. At Spofford, for example, the daily census in 1969 rose to over 400, and the average census was over 300 for the whole year. By 1971 the average daily population at Spofford had decreased to 167, so far this year (1973) it has been averaging less than 150. On August 31st, there were 124 children held in secure detention in New York City. While summer counts are usually low, the population at risk numbers approximately 1,000,000 children, and I believe that few jurisdictions of similar size have a lower juvenile detention census than we do.

These changes can be attributed to two basic factors:

1. The conscious effort by the City and the Family Court to find alternative placements for PINS children[1] during their adjudication, including intensive probation efforts, increasing use of open children's shelters and increasing supports to families. Such children are not before the court for having committed a crime, but were, in the past, often remanded to secure detention facilities in great numbers. For many years, those concerned about the legal rights and treatment of juveniles have raised serious questions about the rationale for placing such children in detention centers (and training schools as well).[2] Adults, of course, could not be held under such circumstances. Three years ago, from 50 to 60% of the children in detention centers consisted of PINS children. On August 31st New York City had six—1 boy and five girls, or slightly less than 5% of the population. If a PINS child is remanded to detention, it is our policy to place him in our non-secure program. I think the judges of the Family Court have learned a great deal over the past few years—namely that you don't have to lock large numbers of youngsters up. In fact, in my opinion doing so represents a highly irresponsible and destructive policy. It does the great majority of the children no good whatever and many of them in fact are harmed by such an experience. Further, it diverts scarce resources from those few who may need such care. I should mention that such alternative placements for PINS are still controversial among many within and without the juvenile justice system. My own opinion, based firmly on practical experience is that genuine PINS should never be placed in locked detention settings. Laws allowing this should be repealed.

2. The second factor important in decreasing the secure census population is that children stay a shorter length of time. In 1969, for example, the average length of stay in detention for boys was 15 days, for girls 19 days. At the present time, the figure for boys has fallen to 11 and girls to 15. It should be noted that the majority of children are held in detention for a much shorter period of time. Approximately 50% of those admitted stay less than ten days. On the other hand around 25% of the children are extended stays, which we define as over 30 days. Such lengthy stays increase the average and represent a continuing concern. But here too there has been substantial progress. At the end of August 1970, 67 children were being held in secure detention longer than 30 days, on the same date in 1973, the number had fallen to 27. The speed up in dispositions has come about through a cooperative effort by our Bureau, the Office of Probation and the Family Court. For example, our caseworkers now encouraged to and do become involved in the future planning for children who are likely to be difficult to place, and consequently stay in detention too long. Previously, detention social workers were only to concern themselves with the child while in the institution and thus their valuable knowledge and insight was often lost. They now are required to work closely with the probation officer, who is responsible to the court for recommending plans and recently we began sending our recommendations directly to the judge hearing the case. In addition we have instituted a "30 day list" which is sent to each court, the Administrative Judge of the Family Court and each chief probation officer. I have attached a copy of this—which serves to remend these officials that we are concerned that they take action, and not leave a youth sitting in detention. Problem cases, i.e., children with difficult problems, have a way of remaining on and on.

[1] PINS are Persons in Need of Supervision and may be remanded to detention by the Family Court if the judge feels he or she may not appear for the hearing or may commit a crime. Such children are not before the court for any crime but for truancy being "out of control", or running away and the like. They are the so-called incorrigible children, who in many other jurisdictions, are still classified as delinquents.

[2] A recent New York State Appeals Court decision held that PINS children could not be held with delinquents in state training schools. That decision did not apply to detention centers, but obviously must have an effect on a judge's willingness to remand a PINS to detention.

The results of everyone working hard to get children out of detention have been effective, as the statistics demonstrate. A perhaps more dramatic illustration of this effect is the extent to which the City's policy of phasing out institutions has been implemented: On August 14, 1972, there were three detention institutions for juveniles in New York City; Spofford, Manida and Zerega. On August 15, 1973, only Spofford remained. The target dates for closing Zerega on August 15, 1972, and Manida a year later were formulated in the fall of 1971, at the time the Human Resources Administration assumed jurisdiction over the detention system. I think that everyone involved was concerned as to whether the goal was realistic; it was and our system is much the better for the actions we have taken. We now have plans to close one of our oldest children's shelters in November of this year. We've been able to close two locked institutions during the past year, and are clearly moving away from institutionalizing children at a fairly rapid rate. It is our intention to keep on doing so.

PROGRAMMING IN DETENTION

Let me turn now from this brief overview of the system, and the changes which have been occurring in it, to some of the programming issues which we have faced in administering detention in New York. Our overall goal has been to reduce to an absolute minimum the number of children who are ever held in a secure facility, and to develop and diversify the community based programs available to the court when it is felt that the child must be temporarily placed outside his home. Consequently our priority has been to expand the foster home and group home program as rapidly as possible. It is a fact, though, that in a city such as New York, there will undoubtedly be a continuing need for a secure setting and thus attention must be given to providing the best possible care within that context. Therefore, I would like to address some of the steps which we have taken in our institution as well as to discuss some of the continuing problems. Finally, I would like to examine some of the more general system-wide problems in detention, and address as best I can, the questions raised by the Committee which were not previously answered.

INSTITUTIONAL PROGRAMS AND PROBLEMS

We have attempted to strengthen the institutional programming at Spofford in a number of ways. It has not been an easy task, and I would be much less than candid if I were to tell you that I am satisfied now. In any large organization old structures are rigid, ways of doing things, merely because they have been done that way for years become their own justification. Questions about the validity and effectiveness of the status quo just are not asked. The inertia that bureaucratic structures build up, and the resistance to change, covert and in some cases overt, is well known. This inevitably makes change, and what I see as progress slow.

When we took over, the detention centers in New York had for years been seen as custodial facilities. Their main function was viewed as providing a secure facility for the courts, clean and with proper food. This resulted in a highly regimented, rigid atmosphere. I should say that when there were 400 youngsters at Spofford—and in this regard I have had counselors tell me that they had to supervise alone 40 or 50 or 60 children in a dormitory—there is nothing else that could be done but to provide secure custody.

But this attitude and resistance to change is one which we have had to confront. In trying to instill a new philosophy we have not attempted the impossible, i.e., to conduct a sophisticated traditional treatment program for children who on the average will stay with us for about 12 days. On the other hand, far greater stress is now placed on (1) individualization of programming, (2) accessibility to casework and psychiatric intervention early, and (3) the development of a more therapeutic environment. We have tried to insure for all children, good child care practices. In doing this we have attempted to lessen the distance between resident and the staff, to make sure that when a child has a problem someone is there to listen, to make a good initial assessment of each child's needs and place him in living units and programs accordingly, to define classes of children who need particular programming and provide the program—some of which in long term cases in fact becomes a "treatment" program in the traditional sense—and, as I mentioned before, to become more deeply involved in planning for the ultimate disposition of the case. In addition, and this is particularly important, the staffing ratios have been changed dramatically. For example, when

we first assumed control over Spofford, there was one counselor for every 20 children. Anything beyond custody with this level of staffing is likely to be pure luck. Now there is at least one counselor for each ten children and often the ratio is better. The social work staff has been doubled, from seven to fifteen, and the number of psychiatric hours available has risen from 12 to 60; we now have four part-time psychiatrists instead of one.

Given this far more favorable staffing, we have been able to introduce a number of new programs designed to meet the goals we established:

A reception and orientation process, where every child coming into the institution has an opportunity to meet with representatives from the school, social services, counseling, recreation and administration for the purpose of initially designing the best program for him taking into account any special needs and special abilities. At this time, his initial medical examination is also accomplished. His rights, the family court process and the rules of the institution are also described to him.

Specialized programs for particular kinds of problems have been begun. For example we now have a special drug program, in conjunction with Day Top, a well known city program using professionals and ex-addicts as counselors, where youths participate in group therapy and plan with the court and Day Top for their release. A dramatic arts program through Theatre for the Forgotten has proven highly successful as has a recreation program concentrating on crafts directed by Play Schools, a well known educational innovator.

An extended care program for children detained longer than 30 days, has been initiated. Each child is considered by an interdisciplinary team and an individual program worked out, which may consist of any one or combination of special school work, psychiatric counseling, additional casework, recreation, etc. as the case may dictate. Each case is reviewed weekly so that whenever necessary, the program can be modified. Here, the program for some is similar to what would happen in long term treatment. Long term planning with the court and Probation Office is emphasized, particularly in these cases.

We are now in the process of locating social services and caseworkers on the dormitories where the children are—in the past, as has been the custom in far too many institutions—social workers and other "treatment" personnel have lived in splendid isolation from their clients and from the counselors who deal with the children day to day.

An ombudsman for the youth at the detention center will be appointed shortly. This, if it works as I hope, should be one of our most significant innovations. Often, institutions become impersonal, mechanical places, and those in them feel they have no one to talk to, no one to listen to them, or to right the wrongs which they feel have been done. This is particularly the case in a large detention center, where there is often little opportunity for a child to develop a close relationship with a staff member. Children will have complete access to him and it will be his duty to listen and then act to solve their problems. The ombudsman will of course be primarily concerned with problems in the detention center, but I also expect that he will be an advocate on the child's behalf with regard to other agencies such as the Family Court, Probation and Legal Aid which also exercise such great influence in the child's life at this time.

I should add here that the whole process which we have been undergoing in New York has resulted in a great strain on staff. None of the programs I've mentioned existed 18 months ago, and, of course, two institutions have recently been closed.

PROBLEMS IN DETENTION

Let me turn now to some of the specific problems which I find are common to detention, particularly as regards institutions. To a greater or lesser degree, we experience them in New York.

1. Physical Setting

As I noted, the physical setting of Spofford is poor, although it is fairly representative of the type of construction, and thinking which unfortunately has dominated the field of juvenile detention. Perhaps the best thing that can be said about these jail-like structures are that they were built to be permanent. The atmosphere of these buildings, however, does not seem to be conducive to a therapeutic milieu. It is probably unlikely that the need for secure settings can be eliminated entirely—in New York anyway, I'm sure this is the case. But the numbers of people in these settings can and should be reduced as

should the size of such facilities. Large institutions for children have not provided satisfactory care for those in them. Their management is extremely difficult, and the impersonality which seems inevitably to occur is a major roadblock to a high standard of care for troubled children. I would suggest that no jurisdiction, even the largest, build a facility with a capacity greater than 50, and 50 would be an outside limit. Additionally, I don't think children should ever be held in an adult jail, which I understand continues to be a practice, particularly in more rural areas.

There are three extremely serious problem areas in detention programming which must be nearly universal. They are among the most serious problems confronting us.

2. Education

The majority of the youth held in detention would, I suppose, be defined by educators as educational failures. They just haven't made it in school, and are far behind in the traditional academic subjects. It seems, unfortunately, that the further they fall behind, the less interest the school system has in them. Many eventually, at the age of 12 or 13 spend far more time out of school than in it, and this is often an important factor in their problems with the law. Too often, the only educational programming which detention centers offer is the very same kind of classroom approach which the child has rejected in the community. This is a serious problem in our own system, which is independently administered by the Board of Education. We have spent a great deal of time working with Board personnel on this.

Individualization and creativity with regard to curriculum should be at a premium in detention centers especially so because teaching conditions are extremely difficult; unfortunately they are not.

Although I am not an educator, I understand that the technical problems are discouraging—if 50% of the secure detention population is held for a period covering only five or six school days, surely the task of having an educational impact is immense. But I think that education in detention settings has been of little or no interest to the educational establishment. The result is bored, restless kids and bored teachers. I would like very much to see a thorough study of the problem under University auspices, and a model curriculum designed, which could be circulated to each local jurisdiction and Board of Education.

3. Mental Health and Psychiatric Facilities

One of the problems that detention administrators attempt to cope with is the great diversity of behavior and psychological problems represented by the institutionalized population for which they are responsible. A detention institution which has open intake is the end of the line; it readily becomes a dumping ground for the problems other child welfare authorities cannot or will not handle. It is expected to be all things to all people, temporarily.

Unfortunately, the mental health community provides very little help to the juvenile justice system. There seems to be a real reluctance to attempt to deal with the juvenile offender. There are too many reasons for excluding delinquents and alleged delinquents from the mental health system; suicidal children are merely seeking attention, children involved in violent crime are either sociopathic or so violent as to endanger others, those otherwise acceptable can't be accepted because there is no bed space. Psychiatric hospitals therefore are hesitant to accept remanded children from the court, particularly when assaultive or violent behavior is involved. Often such children are in psychiatric programs only a short time, or will not be accepted at all, because the setting is not "structured," or because the child is "sociopathic" and therefore presumably untreatable by psychotherapeutic means. Apparently, it is better that he be kept in a detention center, which has the structure (meaning that it is locked) and therefore is more suited to meet the child's needs. That attitude, it seems to me, denies treatment to those who most badly need it.

Our experience with the psychiatric hospitals and the mental health professionals administering them has been unsatisfactory. Through cooperation with the City Department of Mental Health we are now attempting to open up psychiatric facilities and programs to institutionalized children, and to the Family Court. Day treatment programs are being established for court children, and a new psychiatric unit for remanded children is being planned in one of the City's most well known hospitals. But we still have a long way to go. This is a nation wide problem, and deserves to be addressed at the highest levels.

4. Staffing and Training

A good program cannot be run without a carefully selected and well trained staff. Yet, in my experience, detention systems throughout the country are weak in staff selection and training—particularly training for counselors. In New York, our civil service qualifications for counselors require high school graduation and at least two years of college, or a satisfactory equivalent in previous experience. That standard allows an adequate selection of well-motivated, sympathetic, often highly talented persons—the great majority of whom come from the Black and Spanish communities. This is especially important given the ethnic makeup of our institution, where over 90% of the children are from minority groups.

But adequate selection must be re-enforced with good training. Only the unique person doesn't need it, and no large organization can ever be totally staffed with unique people. The strains and difficulty in personal relations in institutions are great, as are the range of children's problems and needs. Often, untrained staff find themselves unable to cope with the problems with which they must constantly deal. Frustration increases and morale decreases. In too many cases, their work becomes just another job and in effect, they serve their time too. Many, through virtue of passing civil service exams are promoted to supervisory positions without ever having been trained in methods of management or supervision. Thus the care, management and treatment of children readily deteriorates.

Ideally, training should begin prior to the person's setting foot on a dormitory, and continue throughout his tenure. Our institutions never had a strong training system, and this remains perhaps our weakest area. We are beginning to remedy this defect, but again, much more remains to be done. Efforts so far include:

(1) a two week orientation period, consisting of classroom and supervised on the job training for all new employees.

(2) seminars conducted by our psychiatrists with counselors, social workers and recreational personnel.

(3) case conferences on dormitories led by social workers in which all members of the dormitory team participate.

We have also developed, with the assistance of the Human Resources Administration's Office of Training a comprehensive training plan for all levels of staff, with initial emphasis on middle management and supervisory personnel, and subsequent focus on counselors. We want particularly to emphasize areas such as adolescent development and psychology, coping with behavioral and emotional problems, handling aggressive behavior, techniques of counseling and supervision, and the legal rights of children.

CONCLUSION

In conclusion, I would like to consider briefly the changing nature of the City's detention population, and some of the related issues.

The vast majority of children now held in secure detention are charged with delinquency, not juvenile status offenses. The amount of violence, perhaps to some extent associated with the re-emergence of gangs in New York City, seems to be increasing. For example, in 1971, 59 children were held in detention on homicide charges. The number rose to 78 in 1972, and through August of this year, we have already held 72 children on such charges. This year will set a record. Homicide cases present particular problems in detention, because they tend to stay for lengthy periods. What has been designed as a temporary care program thus has to adjust to providing long term care. A substantial number need good psychiatric care and should be in such settings, yet, as I have noted, such resources are extremely limited. Detention thus becomes the place where they stay while ultimate disposition is determined. Often, this is to their detriment.

A second issue relates to the continued expansion of community programs, and reduction of institutional population. I previously noted that it was likely that we will continue to require secure facilities. We do have to be concerned with the safety of the community, and violent, dangerous offenders have to be contained. They should of course, be smaller than our present ones.

The question is how many children are still being held in secure detention who need not be. Put the other way, how many more can be placed in the community consistent with their, and the community's safety? We plan to expand our non-secure program in the City by about 30 more beds, and right now, I think that this represents our present limit. We are presently handling extremely

difficult children in open settings, and proving that it can be done safely. Group homes for any class of kids are deeply opposed in many areas. As an illustration we have developed a major group home program for long term placement of basically dependent and neglected children—in the face of stiff and growing opposition. Of the sites we select, we lose over 50% because of community opposition. Many jurisdictions will be confronting this problem in the future, and it's a difficult one to deal with.

There is one further recommendation which I would make. Federal and State Legislation should, in my opinion, encourage the development of community based detention programs and decrease the institutional census. Often this is not the case. In New York, for example, the State pays 50% of the cost of detention care—regardless of the type of facility. A real incentive would be to increase the reimbursement to 75%, and provide no support for any new secure program over a certain size, depending upon the jurisdiction's population. Federal programs such as LEAA should also follow this policy.

CHILDREN IN DETENTION 30 DAYS OR MORE AS OF AUGUST 31, 1973

Name	Docket No.	Birth date	Charge	Administrative date	Last remand date	Next remand date	Days in detention	Court, parole officer and judge	Reason for delay
Julio	D/10592/73	Sept. 3, 1958	Order of detention and stolen car.	July 19, 1973	Aug. 22, 1973	Sept. 5, 1973	44	Brooklyn, no parole officer, Judge Duberstein.	Boy goes back to court for disposition hearing.
Anthony	180437	Jan. 13, 1960	Warrant, robbery	July 29, 1973	Aug. 24, 1973	Sept. 21, 1973	33	Manhattan, Parole Officer Toone, Judge Otten.	Parole officer still exploring possibility of placement.
John	179972	Dec. 10, 1957	Sodomy and attempted rape.	July 1, 1973	Aug. 21, 1973	Sept. 7, 1973	60	Queens, Judge Moshoff	Awaiting placement, pt. 4.
Henry	178268	June 25, 1957	Homicide	June 19, 1973	Aug. 13, 1973	Sept. 24, 1973	73	Brooklyn, Judge Zukerman	Remand for hearing.
William	574873	Sept. 4, 1958	do	July 27, 1958	Aug. 15, 1973	Sept. 4, 1973	43	Brooklyn, Parole Officer McTawn, Judge Zukerman.	To be admitted to the new lease program.
Hector	176931	Feb. 22, 1958	Warrant, sodomy and assault.	July 11, 1973	Aug. 20, 1973	Oct. 1, 1973	50	Bronx, Judge Matthew	Hearing, appointment of parents. P/P to father.
Raymond	956/73	June 29, 1958	Murder, attempted murder, possession of dangerous weapon.	Mar. 20, 1973	Aug. 13, 1973	Sept. 13, 1973	155	Manhattan, no parole officer, Judge Guererio.	Awaiting placement at division for youth.
Tyrone	146/73	June 22, 1957	Attempted robbery and assault.	Apr. 23, 1973	Aug. 20, 1973	Sept. 4, 1973	220	Manhattan, parole officer Jones, Judge Flecny.	For disposition and hearing.
Victor	2388/73	May 10, 1958	Homicide	July 16, 1973	Aug. 6, 1973	Sept. 20, 1973	47	Queens County	Do.
Theodore	221/73	Sept. 29, 1956	Murder, possession of dangerous weapon.	Apr. 12, 1973	July 18, 1973	Sept. 4, 1973	109	Queens County, parole officer Boland, Judge Guardino.	Awaiting placement, Job Csrps.
Elvin	180366	June 10, 1959	Violation of parole	July 25, 1973	Aug. 21, 1973	Sept. 5, 1973	37	Brooklyn, parole officer McIntyre.	For report priviiege to advance.
Lisa	648173	Aug. 7, 1957	Homicide	May 18, 1973	July 13, 1973	Sept. 21, 1973	104	Kings, parole officer Streeter, Judge Roache.	Finding of Manslaughter on Aug. 15. Awaiting psyt chiatric test for placemen plan.
Blanca	Unknown	Sept. 2, 1958	PINS	May 25, 1973	Aug. 31, 1973	(1)	99	Bronx County, parole officer Smith, Judge Reieg.	Rejected by several placements. Parents want her to be placed. Parole officer recommends placement at DFY.
Valerie	176918	Dec. 10, 1957	Delinquencies	July 30, 1973	Aug. 17, 1973	Sept. 10, 1973	31	Brooklyn, parole officer Forbes.	Youngster has been accepted by DFY. Vacancy.
Jerome		Aug. 4, 1960	Pardon withdrawn	July 23, 1973	Aug. 15, 1973	(2)	36	Brooklyn, Judge Roache	Waiting 2 weeks for placement and no further information available.
Donald		May 30, 1958	Warrant, burglary	do	Aug. 24, 1973	Sept. 7, 1973	39	Queens, parole officer Rubenfielt.	Placement at Lincoln.

CHILDREN IN DETENTION 30 DAYS OR MORE AS OF AUGUST 31, 1973—Continued

Name	Docket No.	Birth date	Charge	Administrative date	Last remand date	Next remand date	Days in detention	Court, parole officer and judge	Reason for delay
Carmen	Unknown[1]	Sept. 29, 1957	PINS	June 29, 1973	Aug. 20, 1973	Sept. 4, 1973	62	Kings, Judge Palmer	Aunt refuses to take youngster home Placement being explored. Presently on referral to St. John's children service for Poss. PI in Group H.
Valentine		Apr. 5, 1958	Rape and warrant	July27, 1973	Aug. 27, 1973	Sept. 20, 1973	33	Manhattan, Parole Officer Hall Judge Fleary.	RE pt. 4.
C. Carter, Darrel	194073	Dec. 4, 1960	Assault, homicide	June 26, 1973	Aug. 28, 1973	Sept. 19, 1973	67	Bronx, no parole officer, Judge Matthews.	No finding.
Steven	180392	Oct. 23, 1957	Murder	July 26, 1973	Aug. 27, 1973	Sept. 17, 1973	35	Brooklyn, no parole officer, Judge Zukerman.	Rem hearing.
George	178319	Jan. 15, 1959	Homicide	July 12, 1973	Aug. 17, 1973	Sept. 7, 1973	49	Brooklyn, Judge Zukerman	Do.
Robert		Dec. 21, 1958	V.O.P.	July 24, 1973	do	Sept. 4, 1973	39	Queens, Parole Officer Mosbee, Judge Dickman.	Awaiting placement at DFY.
Amanda	S/68673	June 15, 1958	PINS	June 7, 1973	Aug. 23, 1973	Sept. 10, 1973	85	Manhattan, Parole Officer Plowden, Judge Caputo.	Exploring placement.
Kenneth		Oct. 14, 1957	Reclass endang	July 31, 1973	Aug. 17, 1973	Sept. 7, 1973	32	Brooklyn, Judge Berman	Awaiting repot to Project Return.
Steven	180371	Sept. 20, 1960	Warrant delinquency.	July 25, 1073	Aug. 28, 1973	Sept. 11, 1973	37	Bronx	Pos. ATD to await DFY.
George	976673	Feb. 22, 1958	Petty larceny, criminal miscellaneous.	July 6, 1973	Aug. 20, 1973	do	57	Brooklyn, Parole Officer Feechan, Judge Ramirez.	To be admitted to the new lease program.
Lindsey		Apr. 18, 1960	Homicide and rape	June 26, 1973	Aug. 28, 1973	Sept. 19, 1973	67	Bronx, Judge Matthews	For disposition and hearing.

[1] Unknown.

[2] DFY PI pending.

NOTE.—Subsequently, correspondence was received from Mr. Ruben Birnbaum, a teacher at Spofford School, regarding Mr. Mucci's testimony. The relevant materials follow:

YONKERS, N.Y., *September 24, 1973.*

HON. BIRCH BAYH,
U.S. Senate, Washington, D.C.

DEAR SENATOR BAYH: I address this letter to you to express some thoughts on the recently reported (N.Y. Daily News, Sept. 18) testimony of Mr. Wayne R. Mucci before the Senate Juvenile Delinquency Subcommittee.

My thoughts come as a teacher assigned to the Spofford Juvenile Center and as the individual who in 1969 provoked and sustained the probes into the practices of the institutional management which eventually led to the removal of the Probation Department and the succession by the Human Resources Administration and Mr. Mucci.

Historically it has been characteristic of each successive management to signal its failure by flailing about irresponsibly at imagined causes near and far to the juvenile centers seem to be ending with the same scapegoating.

It is with great regret that Mr. Mucci's own frustrating experiences in running cation facility which is one of the finest and most innovative to be found anywhere. It is significant to note in the context of his testimony regarding the school that Mr. Mucci has never at any time been in the school!

Particularly, I am concerned with his negative appraisal of the Board of Edu-

About the time that Mr. Mucci's testimony was being reported, the news media were also reporting the assault on five juvenile counselors by inmates, resulting in the hospitalization of all five with grave injuries. Mr. Mucci was shortly afterwards loudly drowned out before a meeting of juvenile center employees who assembled to him that they have no confidence in him and that they could no longer function in an atmosphere of anarchy created by his failure to define rules of conduct and order.

An effective administrator must create with resolve rules and structure within which the institution and its ancillary facilities can function. Mr. Mucci has promulgated no such rules, but has instead fancifully blamed the size of the structure, the school, the psychiatric hospitals, and other blameless victims of poor leadership.

His own so-called "open-facilities" have been a secret failure in that large percentages of youths assigned have absconded, many within hours of arrival.

Reverend William Kaladjian of the Bronx County Society For the Prevention of Cruelty to Children, a few days ago accused Mr. Mucci's administration of a "blackout" on facts regarding these "open-facilities."

I would suggest to you that the committee has been grievously misinformed and misled. May I further suggest to you that it would have been more worthwhile for the committee to have heard testimony from certain whole and informative for the committee to have heard testimony from certain impeccable legislators who spent months intensely studying the facilities, hearing testimony, interviewing youngsters and employees, and drafting recommendations which were largely ignored by Mr. Mucci.

May I take the liberty to commend to you State Senator Abraham Bernstein who served on the investigating Joint Legislative Committee. Also, and above all, City Councilman Robert Postel of the New York City Council, and the Reverend William Kaladjian, mentioned above. These responsible person and Judson Hand of the New York Daily News whose award winning series spurred the reform movement could better inform a Senate Committee seeking guidance for future legislation.

I appreciate your interest and hope that some thought will be given to these brief comments.

Sincerely,

RUBEN BIRNBAUM.

MR. RUBEN BIRNBAUM,
Yonkers, N.Y.

OCTOBER 9, 1973.

DEAR MR. BIRNBAUM: Thank you for your letter of September 24. It is vital to our investigation of juvenile detention that we continue to receive information from persons such as yourself. With your permission, I would like to forward your letter to Mr. Mucci for a reply, and to include both your letter and his response in the record of the hearings.

With warm regards,

Sincerely,

BIRCH BAYH, *Chairman.*

YONKERS, N.Y., OCTOBER 14, 1973.

HON. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH, Thank you for your serious and concerned response to my 24 September letter taking issue with certain remarks of Mr. Wayne Mucci in testimony before the Senate Juvenile Delinquency Subcommittee.

You state that with my permission you would like to forward a copy of my remarks to Mr. Mucci for his reaction. Please consider that permission given.

My only regret in having written this previous letter is the extreme limitation which a letter imposes on conveying the full picture of facts and historical information which bear on the subject.

However, if it were necessary to transmit that most salient point about which the entire failure of the juvenile detention system in New York revolves, I would want to say to you that the complete and utter lack of a code of conduct and behavior and goals is certainly the most eligible candidate. No ancillary service, be it educational, medical, or psychiatric, can function in an air of complete chaos and anarchy. To date, no code has ever been practically devised and implemented to encourage structure and order in the lives of the youngsters committed to the care of the Juvenile detention system. Quite to the contrary, unbridled violence and acting out of the most terrifying kind has been condoned by the simple act of negligence and failure to direct otherwise.

When I wrote my last letter, the newspapers carried accounts of the brutal beating of five counselors by youngsters armed with clubs and chairs. Each was hospitalized with grievous injuries.

As I write this letter, two weeks later, I must report to you that a teacher was stabbed in the abdomen by a youngster wielding a fork. The instrument penetrated several inches, narrowly missing his lung.

Where I to write to you again in a week, I would be again able to report another one or two or more acts of equal gravity, all unpunished.

Last summer a teacher was bodily smashed head first into a wall by a six foot, two-hundred pound, youth. Somewhat later, following his release from a hospital for a concussion, a female teacher's fingers were servered from her hand by a youth attempted to snatch her keys for an escape.

The thumb and index finger of my own right hand are numb still after several months following a bite which I have been advised by the Juvenile Center physician, crushed a nerve.

These are incidental instances which come to mind hurredly.

Each and every day of every year, youngsters are beaten viciously by others and counselors, teachers, and medical personnel are assaulted verbally and physically.

The teaching staff is composed of approximately forty persons, all licensed personnel, none with less than a masters degree or its' equivalent, and at least eighty percent with the equivalent of a doctorate degree in each specialized area. They are family people of serious intent and responsibility, as I consider myself. By what stretch of anyon 's imagination can a program of any sincerity function in this atmosphere?

In my 1969 testimony before State Senator Abraham Bernstein's investigatin body, I outlined and recommended a program of behavior modification whereby the inmates would be rewarded and penalized for good and bad acts. I recommended further that those of the inmates whose intent indicated a willingness to live cooperatively with their peers and adult workers should have this information submitted to court with the youngsters knowledge as an incentive. The concept and the details of the plan which I recommended was adopted by Senator Bernstein and subsequently by State Senator John Dunne's Joint Legislative Committee. The subsequent Stone Commission investigation substantiated the facts and disorder which I originally brought to public attention in 1969, as did the report of the Citizen's Committee for Children, and that of Councilman Robert Postel, and several others.

Incredibly, to date, no such plan has ever been implemented. Free wheeling violence and disorder is still widespread and the staffs of each function in the center are deeply demoralized. Self-serving rhetoric and grandiose philosophical speeches can not replace competent management.

Frequently incompetence, in my experience, can shroud the simple solution to a problem through a complexity of reasoning and logic, all quite irrelevent to the problem.

The Spofford Juvenile Center is a modern facility with the incredible ratio of approximately five adults to each youngster. This is an institution with a fully staffed modern school, a modern infirmary, a swimming pool, and an otherwise full potential to do an effective job. How can anyone in seriousness presume to testify before a Senate committee that the failure which we all asknowledge, is due to a faulty buliding design, or incompetent teachers, or the "reluctance" of doctors to perform their duties?

I hope that my point comes through wtih sufficient clarity to encourage you and your committee to seek the testimony of workers within the complex when hearings of this nature occur.

With all respect I suggest to you that the legislators who concern themselves with these problems need not hear excuses far afield from the truth, as it is known by those close to the problem.

The problems of juvenile detention in New York are soluble. . . . easily so, and without money. The problem is competent administration at the heart of the problem, with information and imagination.

Thank you again for your interest and attention.

Sincerely,

RUBEN BIRNBAUM.

MR. WAYNE R. MUCCI, NOVEMBER 8, 1973.
Director, Bureau of Institutions and Facilities, Human Resources Administration,
New York, N.Y.

DEAR MR. MUCCI: I am enclosing copies of letters received from Mr. Ruben Birnbaum, teacher at Spofford School, regarding your testimony before the Juvenile Delinquency Subcommittee. As part of our effort to gain a deeper understanding of the problems of juvenile detention, and to view the problems from all perspectives, we plan to include Mr. Birnbaum's letters in our hearing record. I thought you would appreciate the opportunity to supplement your testimony by responding to the criticisms of Mr. Birnbaum for the record.

With warm regards,

Sincerely,

Enclosures. BIRCH BAYH, *Chairman.*

NOTE: There was no response from the Bureau of Institutions and Facilities.

Senator BAYH. We next have two juveniles who have had experience with the juvenile justice system in the State of Wisconsin. Linda and Dennis.

Dennis, I understand you would like to be called Zig. Is that the way you pronounce it? We appreciate very much your taking the time to be with us. Could you just tell it to us like it is. Do you want to start, Linda?

STATEMENTS OF LINDA AND DENNIS

LINDA. Yes. How I got in Madison was I had run away from my dad. Me and Dennis were busted and we were brought to D.T. and were there for a month, until our custody was changed to Wisconsin. Toward the end of the month we had a court hearing, and I was placed in a group home. Do you want to know about jails, for instance?

Senator BAYH. Well, first let me check this. Running away was what caused you to be arrested?

LINDA. Right.

Senator BAYH. Where was your home originally?

LINDA. The longest place I ever lived was in Minnesota. That is where my mom is.

Senator BAYH. Were you living with your father?

LINDA. No. First I was living with my mother, and I had not seen my dad for 3 years. I wanted to see what he was like, and so I went down to Waukegan, Ill. That is where my dad was.

Senator BAYH. And going from your mother's home to your father's home was running away, and that is what caused you to be arrested?

LINDA. Right.

Senator BAYH. That makes a lot of sense, doesn't it? You do not need to say yes to that.

So, then you were arrested, and then what happened?

LINDA. I was placed in D.T., detention.

Senator BAYH. What sort of a place is that?

LINDA. It is for juvenile delinquents that have been busted for burglaries, running away, dope, et cetera.

Senator BAYH. What other kinds of people were in there? Were there some pretty rough characters in there, or were they all like you; did they all run away?

LINDA. Nobody that I knew was that rough.

Senator BAYH. What transpired inside of that cell? There you were, placed in a cell for the first time. You had tried to go from your mother's home to see your father, and you are arrested for running away. Then you were put in jail with all sorts of other characters. What sort of conversation goes on? Is this the treatment that makes you want to walk the straight and narrow? Do you tend to hear the bad experiences of other girls? What happens there?

LINDA. A lot of conversation does go on. A lot of the guys are bragging about jobs they have pulled off, cars——

Senator BAYH. Wait a minute. You were incarcerated in a detention center where the guys and girls are together?

LINDA. The guys—wait a minute. OK. I will explain this a little better. You get up to D.T. It is the third floor, and the guys and the girls are together. And then when they are not together, when it is time to hit the sack, the girls went upstairs, and the guys stayed downstairs, so we were together during the daytime.

Senator BAYH. And you had a chance to share experiences?

LINDA. Right.

Senator BAYH. Now, tell me about the experiences they shared with you.

LINDA. Like I said——

Senator BAYH. You had committed the tremendous crime of wanting to go from your mother's home to see your father. What were the others in there for?

LINDA. Mostly being busted for dope, and pulling off robberies and ripping off cars, and maybe hitting cops or whatever.

Senator BAYH. Can you think of any specific tales that were told that would be helpful in giving us an idea of the kind of experience this was?

LINDA. Yeah. There are so many.

There are so many stories that go on up there.

Senator BAYH. Most of us have never had the experience of being arrested and thrown in jail. I do not want to embarrass you, but if you can give us an idea of what it is like, it will be helpful. I do not think anybody on the outside can ever appreciate the conditions or the kind of experiences that one has on the inside, particularly when the act that put you there was the act of wanting to go see your father after not having seen him for 3 years. That is why I asked

the question, to give us the flavor of what it is like inside that detention cell.

LINDA. Everybody is uptight for one thing. There was conversation about wanting to break out. There was plans to break out but, that never went through.

Senator BAYH. What about the experiences of the other youngsters?

LINDA. I cannot remember the exact things because it has been like a year since I have been up there. But like a friend of mine, Tom, ripped off a cop car, and he got busted, and he smashed up the cop car, and he came back and was really bragging about it. He was in and out and just doing the same thing over and over. And some others doing things like—a lot of dope was talked about up in the detention, and the experiences they had with dope, and why they took it. There was dope snuck up in D.T.

Senator BAYH. There was dope in the center itself?

LINDA. Right, right; if you want to do it, you know, you could do it.

Senator BAYH. How could that happen?

LINDA. Ways of sneaking up, crushing it up and putting it in your shoes, or melting acid into a piece of paper or whatever.

Senator BAYH. Who put you in the jail?

LINDA. Who put me in the jail?

Senator BAYH. Yes; were you ever before a judge? Were you tried? Did you have a hearing before you were first put in that detention center?

LINDA. No; no.

Senator BAYH. Who put you there? Was it the arresting officer?

LINDA. Right.

Senator BAYH. How long was it before you had the opportunity to see a judge?

LINDA. A month.

Senator BAYH. A month?

LINDA. Yes.

Senator BAYH. You just sat there?

LINDA. Yes.

Senator BAYH. Did you have a lawyer? Did your parents communicate with you?

LINDA. I had a legal aid lawyer, and the hassle, I guess, was changing the custody from Minnesota. My mom had custody in Minnesota. That is what they said took so long. And meanwhile I did stay up there.

Senator BAYH. And you did not see a judge at all during that period of time?

LINDA. No.

Senator BAYH. Thirty days?

LINDA. Yes.

Senator BAYH. What happened when you did see a judge?

LINDA. I was placed in a group home soon afterwards.

Senator BAYH. Where are you living now?

LINDA. I am living in Sanburg House. It is a group home, and I really like it a lot.

Senator BAYH. Are you going to school?

LINDA. I am in my last year. I have a job; planning on going to college.

Senator BAYH. Is it better than sitting in the detention home?

LINDA. Really. I just—I went crazy.

Senator BAYH. I do not want to ask embarrassing questions, but we hear all sorts of tales. We have had some personal documentation from those who have been in jail about sexual abuse and misbehavior, and about physical intimidation and abuse that is directed at some of the prisoners and some of the inmates. Did you experience this or hear any of it discussed while you were in that detention center?

LINDA. Well, when I got up there guys and girls were talking, and one day there were some juveniles talking about a girl and a guy who went in the kitchen and had sex.

Senator BAYH. In the detention center?

LINDA. Right.

Senator BAYH. Is that part of the therapy?

LINDA. No; the staff did not know about it, but that is just what I heard. But, that has gone on in jails.

Senator BAYH. Were the other girls you were incarcerated with at night all young ladies?

LINDA. Like it is kind of hard to explain. You go upstairs, and you get there and there is a cell block. In the cell block they have different smaller cells. We were put in the cell block, but there were women next to us in other cell blocks.

Senator BAYH. One of the most tragic kinds of experiences I would think a young lady like yourself could have was brought to our attention here last week. We had a girl who was kept in a jail cell or a block where other women were being kept, some of whom were prostitutes. So, instead of rehabilitation you had the older women telling the younger girls the tricks of the trade, how not to be caught. That is why I asked the question.

LINDA. Yes; I was in jail before I was in Madison for running away. It is a long story to tell my background because I have been all over. I was in the Minnesota jail, and these guys were in there. I don't know, they got to go out to school and that sort of stuff, and then they weren't locked up until that night or something like that. I was lying on the bed, and all of a sudden I saw a leg up on the top of the ceiling. The ceiling starts coming out, and they asked me if I wanted to escape. I said sure, you know, and they brought me down to the cell block. I was drinking pop and smoking cigarettes and everything. About 2 hours later one of the guys said if you don't have sex with me we are not going to help you out. It just so happened that the other guy was cool, and he got me out of there and lifted me up back down to my cell. And that has happened.

Senator BAYH. That is a therapeutic experience.

Zig, what has been your experience?

DENNIS. Well, basically the same.

I was with Linda at the time she got picked up. We were arrested for hitchhiking on the interstate, and we were supposed to be behind the fence. At the time the officer did not know we had been running away. So they took us up to the detention and found out later, which is really what breaks me up, was because we really did not do a whole lot wrong, you know. We just sat up there close to a month with nothing to do, you know, except reading books, wondering what are we doing up there because we did not really do that much wrong. We were

messed up. What were we doing with these other kids that, you know, rip off and brag about this.

Senator BAYH. What other kinds of young people were they? The only crime you committed was hitchhiking on the interstate highway, and you were put in jail for 30 days. Did you have a chance to see a judge?

DENNIS. No. They found out the day afterwards that we were running away, you know, from Waukegan.

Senator BAYH. How old were you then?

DENNIS. Seventeen.

Senator BAYH. Why did you run away?

DENNIS. From my old man, you mean?

Senator BAYH. You were out running away and I just wondered why.

DENNIS. Well, it just wasn't cool where I was at. I had just got out of an institution and I went to visit my mother, and it didn't work out there. So, I thought maybe I could give my dad a try, and it didn't seem like it was working out there. I met Linda, after not seeing her for about 3 years, and we just said well, this is really not cool. She had some friends in Minneapolis, and so we said, "Let's go."

Senator BAYH. What other institution had you just left?

DENNIS. You probably never heard of it. It's called Home on the Range for Boys. It's a ranch-farm deal out in North Dakota.

Senator BAYH. Did you like that?

DENNIS. No.

Senator BAYH. How did you get there?

DENNIS. Well, I didn't really know about it at the time. It was all set up for me; and I was just playing a dumb kid. The next thing I knew, I was there. I didn't know why, but I was there.

LINDA. My mom had placed him in the home.

Senator BAYH. Your mom placed him in the home?

LINDA. Right, and got my uncle—he's rich—anyway, my dad was supposed to come and get Dennis to go and live with him, and the same day my mom got my uncle to get a helicopter, and they took him down to the ranch. Like I had just found out that day that he was leaving, and I was shocked.

Senator BAYH. Well, what sort of an experience was it in the detention center? What other kinds of guys were in there with you? Linda talked about somebody stealing a police car. Just what sort of conversations went on?

DENNIS. The other people were just bragging about what they had done, you know, hitting stores and getting a lot of money.

Senator BAYH. What is the impact on somebody like yourself who has run away, if you are sitting there in a detention center for juveniles, and hear the stories from these other young people who have done other kinds of very criminal acts—not just running away or hitchhiking, but stealing police cars, and other things? What sort of impact does that have on you?

DENNIS. Well, it freaks me out, because it kind of affected me when I got out. It was the first time I had been in detention. Hearing all of the stories and things, I thought, wow. It just stuck in my head, because it was the first time, you know. And we sat up there for quite a long time, just listening to these people rap around about what they had done.

Senator BAYH. Was that the first time that you had been arrested?

DENNIS. Was that the first time I was arrested? Yeah.

Senator BAYH. How long ago was that?

DENNIS. It was about a year ago.

Senator BAYH. Well, what has happened to you since that time? Have you stayed out of trouble?

DENNIS. No. I have been busted for, you know, things like ripping off stores, you know.

Senator BAYH. Burglary?

DENNIS. Yeah, which I had never done until I came out.

Senator BAYH. Where did you get that idea? Was that related to some of the things you had heard while you were sitting in that detention center?

DENNIS. I think it has to be, because, you know, before I went there, I didn't rip off. Well, I would rip off a pack of cigarettes, but I didn't bust windows and grab loot and money, you know. I think that it did have some effect on me right after I got out. The idea stuck in my head—well, why don't you give it a try, everybody else is doing it.

Senator BAYH. What are you doing now?

DENNIS. I am going to school, finishing up my last semester in the 12th grade.

Senator BAYH. How old are you now?

DENNIS. I am 18.

Senator BAYH. Thank you very much. I appreciate the insight you have shared with us. I know this is not an easy thing to do, but it is helpful to us in trying to keep this situation from happening and in dealing in a more humane and intelligent way with the problems that young people have. I thank you for helping us.

DENNIS. Sure.

Senator BAYH. Our next witness is Mr. Dan Starnes, the regional director of the Southern Service Center, National Council on Crime and Delinquency, Atlanta, Ga. Mr. Starnes, we appreciate your being with us.

STATEMENT OF DANIEL P. STARNES, REGIONAL DIRECTOR, SOUTHERN SERVICE CENTER, NATIONAL COUNCIL ON CRIME AND DELINQUENCY, ATLANTA, GA.

Mr. STARNES. Mr. Chairman, I have been asked to give testimony before this subcommittee to investigate juvenile delinquency on the problems of detaining youth because of my own experiences in doing the same thing in my own home State of Georgia. And I appreciate the invitation to be here. I understand that you will have to be leaving shortly, so I will not read the statement that I have prepared, but it has been given to you.

Senator BAYH. We will include it in the record, in toto, at the conclusion of your remarks. If you wish you may highlight your testimony.

Mr. STARNES. My testimony, sir, is really based on the experience I had in directing the public education project in Georgia and dealing or really delving into different problems in the criminal justice system. One of those resulted in a documentary film on juvenile justice entitled "Mission Possible?: Juvenile Justice in Georgia," which is really asking throughout the documentary, is it possible for juveniles to receive justice through the system that exists in the State. And I have taken from the script of that documentary several exmples, and I will just touch on them.

Senator BAYH. Did you have anything to do with I think the CBS documetary on the Atlanta Juvenile Justice System?

Mr. STARNES. I talked to the lady who produced that and put her in touch with several people that were in the film; yes, sir, I did.

Senator BAYH. I thought that was an exceptional film. It is too bad it was not shown more frequently.

Mr. STARNES. I was glad that so much time was spent in Atlanta. It is an hour long documentary, and I think about three quarters of that focused on a particular problem in Atlanta, which is not all that uncommon, really

Senator BAYH. It is not unique to Atlanta. The presentation of the broad scope of the problem was particularly apropos, since we too often tend to look at juvenile delinquency as a lower income, ethnic problem. The segment showing a ride through suburbia in a car with the police chief, and the focus on the mother who had to work to sustain a middle level of income, demonstrated that problems of middle-class youth may lead to delinquency.

Mr. STARNES. You mentioned the CBS documentary, and I might mention for your information there will be another documentary called "The Juvenile Court." That is 2½ hours in length, and it is going to be on national educational television, nationwide, the first day of October. And unfortunately, I am afraid it is very realistic in that it shows how the Juvenile court operates probably in most places, and I am afraid from what I have heard from someone who has previewed it, that it is "pre-Gault." It does not permit due process for juveniles, and shows some very archaic methods of dealing with delinquents. That would be of interest, I am sure, to you.

Several of the situations that we highlighted in our documentary, which will be shown a little later, I understand, really describe some of the inappropriate uses of detention. We started out with a review of a national best seller, by Howard James, Pulitzer Prize winner, "Children in Trouble; a National Scandal," and we reviewed what Mr. James found in the Fulton County Detention Center in Atlanta, which describes some pretty bad situations, and then went to the juvenile judge. We had a walk-through and a show-through of the detention center and talked with the judge about the practices now. And he stated that unfortunately conditions have been even worse at times than described in the book.

Another situation was in one of the State-owned regional detention centers which showed a 14-year-old boy and his older brother who had been detained over a month at the time we visited there, for a situation that everyone agreed was not a condition of delinquency but a family problem, being dependent and neglected. The children had been removed from their parents, who are separated, and the boys went to visit their father, kept running away from their mother to see their father, and eventually were detained, and over an extended period of time.

The State officials feel that at least 75 percent of the children kept in the regional centers are there inappropriately; that they need not be detained, that they can be dealt with better in other ways in the community.

Another situation we encountered was in Macon, the county detention home, and I have got to add that I hate that term "home," attached to any detention facility. I am afraid it connotes something positive in the minds of most people, and they think of it in terms of being a long-term placement; a place where a child lives. And it is detention, it is not a home. It is a temporary secure place for a person supposedly who is of a danger to himself, or to society, or who will not in all probability show at the time of the hearing. But, the situation we encountered there was of a 15-year-old girl being brought in in handcuffs. It was her first time to be apprehended. She was there because he mother signed a petition against her charging her with ungovernable behavior. As it turned out she cursed her parents, she used abusive language to them, and the mother, in her efforts to head off further trouble, had her picked up and detained. She was there in isolation for 5 days until she had a hearing.

Conditions, the physical conditions, at most of the county-owned facilities are bleak and barren, and very jail-like. They are lacking in programs for children, and we found very little to be proud of.

In contrasting our State regional detention facilities with the county facilities, I feel much better about what we found there in that they are a part of a unified system that is well supervised and directed, and it has standards for its personnel. Qualifications, certain qualifications are required for every position. They do have remedial education programs with qualified teachers. They have trained social workers in each of these regional centers, and there seems to be much better effort to deal with the problems of children that come there.

Let me just briefly give you a history and a description of our system—I use that term loosely—of justice for juveniles in Georgia, and I think a brief description and a history of how it developed is in order. It illustrates, I think, one of the major problems, that being the fragmentation of the system.

We have 159 counties, only 35 of these counties have juvenile judges and only 5 of the 35 are full-time juvenile judges. In the other 124 counties, the superior court judges wear two hats and sit as juvenile judges on occasion. The State provides supervision in all 159 counties for the children who are released from institutions, the Youth Development Centers, or training schools as they are better known. The State also provides probation service in 139 of those counties, with the other 20 counties having their own county-operated juvenile probation program. Seven out of these 20 counties have their own detention facilities, which they share with other counties, along with seven regional detention facilities I mentioned, that are operated by the State. Some of the counties, though, are so far from these regional facilities and these county facilities, too, that they use the jail instead of the place designated for that county to place juveniles.

It goes back to 1967 when we had only seven county-owned facilities, and that was when the State started building regional centers. The remaining 152 counties used the county jail to detain a juvenile unless the county commissioners were willing to pay the per diem rate to one of the seven county facilities. At a per diem rate, it was costly to the nonowning county, and the common jails were often occupied by youth under 17. In fact, in 1963 a statewide survey indicated that on any given day there were at least 100 children in common jails of the State. In some of these jails turnkey fees were charged so that the

youth was not released to his parents until the parents were able to pay room and board to the sheriff. In the majority of the common jails, there was no separation of facilities, so the youths shared the same cell or the bullpen with whoever happened to be detained, a murderer, or whatever.

Senator BAYH. There were no separate facilities in a majority of the jails?

Mr. STARNES. In the majority of the common jails, yes, sir, that is right. They were separated from adults in many cases only through the use of solitary confinement. And to further complicate this problem, in the rural parts of the State where the superior court judges sat as juvenile judges, the youth remained in jail until the judge made his rounds of the circuit, and the circuits varied in size from one to eight counties, the average being four counties in a circuit, so it would not be unusual for a juvenile to stay in jail for several months, and almost always prior to his being adjudicated delinquent.

There have been several things to occur that have helped alleviate that for the most part. First, we have a statewide court service worker program now, where State employees are placed in each of these judicial circuits to provide probation and after-care service, and they make prehearing planning for juveniles; and help speed up this period of time; lessen the period of time from detention to hearing.

Another is the construction of regional detention centers to serve the several counties in that area, and this is at no cost to the county of residence of the child.

And another factor that has helped bring this almost to an end is an annual grant by the State legislature to the counties that own and operate their own detention centers in exchange for making bed space available to children who live outside of that particular county. These last two items have sort of helped create a network of detention facilities so that there is a place of detention for juveniles, especially designed for juveniles, designated for every county in the State.

Even though we have this network of detention centers, we still have children being kept in the common jails, and on any given day, it ranges from 30 to 50 children in jails in Georgia. We intend to sponsor legislation in January when the 1974 General Assembly of Georgia convenes to prohibit the use of jails for detaining juveniles. I understand there are only five States now that have a prohibition against the use of jails for juveniles. We hope to be the sixth State, and I was encouraged by your bill, S. 821, to see that there is included in that a provision to prohibit the use of jails for juveniles.

There have been several developments in the State in recent years, though, that offer some encouragement for the lessening of the use of detention. There is being developed now a system of attention homes based on the concept developed I believe first in Boulder, Colo., where children who do not need secure detention are placed in homes, just an alternate place to stay, until their hearing comes up, until the court makes a disposition of the case. We have five that will be opened 2 weeks from today, four more by the end of the year, and this is through LEAA money.

At your request, I submitted to you back in January some information about the other community-based services that were developed during the past year in Georgia. That includes day care centers for

delinquents, children who can stay in their own homes during the night and come during the day. Many of these, most of these, in fact, are children who have had school-related problems, and we are still having children committed to our institutions in the State of Georgia just because they are truant from school. There are remedial education programs and well-rounded guidance and counseling programs for these children, recreation and cultural enrichment programs.

We have group homes for delinquents, both in-house and half way out of the institution type homes for children who need an alternate place to live, something other than their own home. And the most encouraging thing to me, though, is the intensive supervision units where a counselor has a maximum caseload of 10 children to work with on a very intensive basis in the community, working with children as a group and as individuals, counseling with parents as groups and as individuals, with very close supervisory relationships. More attention is being given to these children and families and it has resulted in less trouble for these children, and they are only the higher risk children. But there is less trouble with these children returning to delinquency or acts of crime than the children who are coming out of the institutions and going into the normal caseloads of 50 or more. These programs were developed with LEAA funds. This is encouraging. We hope to see them expanded. I am encouraged by the attitude of State officials there in Georgia to provide alternatives to incarceration, not only in detention centers but in training schools.

Senator BAYH. Your statement is very comprehensive. I believe your record would prove that your approach is a lot closer to dealing with the problem than the way we deal with it now. Is that a fair assessment?

Mr. STARNES. I think so. Another thing that has helped us, and would provide more help in the future so far as detention is concerned, is standards for detention, such as have recently been adopted by our State board of human resources, that take effect the first of November of this year. I have added a copy of those standards for your use. These were developed with input from people working in the juvenile justice system, both at the administrative and the supervisory level, and the line staff as well.

Senator BAYH. Have you given attention to what can be done to help a child remain at home, by dealing with the problems of the child, or the parents, or with the composite problems of the home? Also, there is the problems of keeping the child in school, of truancy. Do you have any special programs to deal with those two areas?

Mr. STARNES. Well, yes, sir. I concur in the statement made earlier about the education system, and it contributing to the problem in the juvenile justice system. I think too often the schools have used the court as a dumping grounds and pushed kids out of school, so that rather than them being dropouts, I think many of them are kickouts or pushouts. But, the school system in our State has not dealt positively with their behavior problems. I think more attention needs to be given to this by the education system itself. School social workers need to be in every school system to deal with the behavior problem at the earliest point of recognition.

I think one encouraging development is the development of youth service bureaus or programs such as the youth service bureau concept that try to divert kids from the system and deal with the problems at the earliest level. The National Council on Crime and Delinquency has helped promote these, and is continuing to, and this has been one of the major efforts we have supported in our State in the past year. Through LEAA money again we have developed five pilot projects of this nature in Georgia. Unfortunately, this may be true in other States as well, but in Georgia, a concept that is proven workable someplace else is not accepted until it is tried and proven on a pilot project basis in our State. So it is going to have to be proven over the next year that this kind of approach in the community, dealing with the problem at the earliest point of recognition, keeping kids out of the court, can be effective in reducing the referrals to the court.

You mentioned education. I think the education of our judiciary is something that is very poor. Our history has been in Georgia of a good training program for judges through their own associations, the Juvenile Court Judges Association and the Superior Court Judges Association, but those who need it the most, unfortunately, do not participate in these programs.

Senator BAYH. I have talked to a lot of those judges who are leading the way. It is not that we do not have the experience. It is not that we do not have better ideas. It is not that we have not embarked upon a better approach. The question is how do you shed light into the darker corners?

Dr. STARNES. I think too many times they do not have the alternatives, either, that they need at their disposal to make some intelligent kind of disposition to provide the kind of service that they may recognize as needed by a child. I think this is where our department of human resources has led the way because most of our countries in Georgia are too poor to provide services at the local level, and they have had to look to the State to provide these. And I think justice for juveniles is an idea or concept that is beginning to take place, take hold in our State. Our legislature has been a tremendous help. They are slowly but surely becoming educated in this area and are putting more money into these kinds of services. I think they set a precedent in the last session in the spring of 1973 for unifying our system of detention. Maybe they did not realize they were doing this, but through local legislation that was agreed to by the majority of the legislators, they appropriated money for the State to assume the administrative responsibility of one county operated detention center. That county center is now in the State system, and other counties, including Bibb County, which we focus on in the film, have had tremendous problems and are now considering the same thing. Bibb County wants to get out of the business of detaining children altogether, and they are in negotiations with the State department of human resources now to assume that responsibility for them. The facility, unfortunately, is such that it cannot be used, and their local legislators must ask for money to build the regional center in Macon to replace that one.

That bothers me to some extent, this continued building. Whenever a facility is constructed, unfortunately, it is used. Our regional centers have been overused, and we show the one regional facility in the film, and we focused on where the boys had to double up in their rooms. They were built to hold a maximum of 30 children, and they had taken more children than they could appropriately care for. And

as of March 1, this past spring, they have set intake controls, population controls, and they are now caring only for the number they were designed to deal with. I think these alternatives, though, can be used instead of detention. One fortunate thing about these centers, though, is that they are all under the State department of human resources which has responsibility for mental health programs, physical health programs as well, and some of these facilities can be, or the programs of these facilities can be shifted to focus on other needs such as the retarded child. We have a tremendous problem of retardates being committed to our juvenile problem. Retardation is, and that needs to be addressed. But, there are a lack of facilities for retarded children. There are already plans in the works now to convert one large training school into a facility to deal specifically with the retarded delinquent. So, there is that ability to refocus programs, and use facilities for special programs or to make different kinds of use of facilities that we have.

Senator BAYH. Mr. Starnes, I understand you are going to show us a segment of this film related to the detention business. I appreciate very much your sharing your experience in Georgia, and I hope we can work with you. Any other ideas you may have in the future would certainly be welcome.

Mr. STARNES. Thank you, sir. Our office here in Washington, I believe, works closely with your counsel.

Senator BAYH. We appreciate that very much. Let us now turn to your film.

[Mr. Starnes prepared statement and "Standards and Goals" for the detention of children and youth in the State of Georgia is as follows:]

PREPARED TESTIMONY BY DANIEL P. STARNES, STATE DIRECTOR, GEORGIA COUNCIL OF THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY

Mr. Chairman: I have been asked to give testimony before this U.S. Senate Subcommittee to Investigate Juvenile Delinquency as it probes into the problems of detained youth because I have recently probed into those problems in my state—Georgia.

As State Director of the Georgia Council of the National Council on Crime and Delinquency, I have directed a public education project for the past year and a half that resulted in the production of several documentary films on different aspects of criminal justice in Georgia. One of those documentaries was filmed in January and February of this year and released in April. It is entitled "Mission Possible?: Juvenile Justice in Georgia," a 29 minute look into that system with a focus half of that time on detention facilities, programs and problems. As the title implies we asked throughout the film if Juvenile Justice in Georgia was a mission that is possible. The script for that film is being submitted to you, but believing the old saying that a picture is worth a thousand words it is my hope that you will view the film when it is shown later today, for the bleak and barren conditions shown in two of the detention centers must be seen to be understood.

One of the basic problems of juvenile detention in Georgia is that it is part of the "juvenile justice system" that is terribly fragmented. A brief description of that "system" and its development illustrates my point.

Of the 159 counties in Georgia, only 35 have juvenile judges, and only five of them are full-time juvenile judges. In the other 124 counties Superior Court Judges wear two hats and on occasion hear juvenile cases. The state provides supervision in all 159 counties for children released from juvenile institutions. The state also provides probation services in 139 counties, with the other 20 counties have their own detention facilities which they share with other counties along with 7 regional detention facilities operated by the state. Some counties

are so far from a juvenile detention center that they place their juvenile suspects in jails prior to trial.

Until 1967, the State of Georgia had 7 county-owned juvenile detention facilities. The remaining 152 counties used the common jail to detain a juvenile unless the County Commissioners were willing to pay the per diem rate to one of the seven county-owned facilities. As a per diem rate was costly to the non-owning county, the common jails were often occupied by youth under 17 years of age. In fact, a 1963 survey indicated that on any one given day, more than 100 youths were detained in the common jails of the state. In some jails "turn-key" fees were charged so that the youth was not released until the parents were able to pay room and board to the Sheriff. In the majority of the common jails, there was no separation of facilities, so the youth shared the same cell and/or bull-pen with the town drunk, rapist, murder, or whomever was detained, for whatever reason. In some counties juveniles were separated from adult prisoners only through the use of solitary confinement. To further complicate the problem in the rural counties of the state, where Superior Court Judges sat as Juvenile Court Judges, youth remained in jail until the judge made the "rounds of his circuit." It was not unusual for youth to remain in jail for several months, almost always prior to the youth having been adjudicated delinquent.

Three major factors have helped to bring the above mentioned practices almost to an end. First, the state initiated the Court Service Worker program which placed full-time juvenile probation and aftercare staff in all the judicial circuits. This staff assisted in bringing cases to the attention of the court and reducing the length of stay in detention. Second, the state constructed 6 Regional Youth Development Centers to be used to detain youth for counties with no facilities, at no cost to the county of the youth's residence. In 1972, another county built a detention center, two more regional centers are soon to be built, and as of July 1 this year the state assumed responsibility at the request of one county for its detention facility. Third, the seven counties owning their own detention facilities were given annual grants through the State Department of Human Resources to provide detention services to youth in certain selected counties.

Items two and three above resulted in the State of Georgia creating a "network" of juvenile detention facilities made up of seven regional centers and seven county-owned (and state subsidized) centers and there is now a detention center designated to serve each and every county in Georgia. Georgia is one of the few states in the nation with such a detention system, and now no child should have to be detained in a common jail. Yet some counties continue to place their juvenile suspects in jail prior to trial. Despite attempts to keep children out of jail there are still 30 to 50 children in Georgia jails on any given day.

I suspect that relative to her population, Georgia probably has more detention resources than any other state.

Back to our findings while filming the documentary. We began our story with a review of a 3 year old national best seller which made the Fulton County Juvenile Detention Center in Atlanta infamous. That book was *Children in Trouble: A National Scandal*, by Pulitzer Prize winning author Howard James. I quote from that book:

"In Atlanta I found a horrible detention home behind an attractive facade in the shadow of a new $18,000,000 stadium. The home is constantly overcrowded. On the February morning I was there 191 children were locked up in a place built for 144. It houses delinquent children, retarded youngsters and those classified as dependent and neglected—including babies too small to walk. All children over 10 years of age are mixed together—those who have been abandoned or mistreated by parents and who have never committed a crime are locked in with hoodlums. The boys section is constantly being torn apart by angry youths who sometimes seem to be in control of the institution. One boy was stabbed with a plastic toothbrush handle that had been rubbed into a stiletto on a cement wall. Rooms were built for one child but they housed two. Youngsters on the upper bunks kick the ceiling out. Security screens are constantly being ripped from windows; there is only one man to make repairs and he is always days behind in his work. I found one boy locked in a solitary confinement cell without a bed. The room reeked with the stench of urine and feces. Garbage apparently several days old littered the floor. The youngster insisted he was kicked in the stomach because he refused to follow orders. The guard, a mammoth man, contended that the child was pushed and not kicked."

We then asked Presiding Judge Tom Dillon if conditions in the Fulton Center were really as bad as the book says they were and he stated that circumstances

were often more serious than indicated in the book. There had been as many as 190 boys detained at one time in the area designed for 72. And while the center had a mental health program, an academic program, a gymnasium and an athletic field, the overpopulation prevented the use of those programs and the boys were kept in their cells. Some of the children detained were not there for criminal offenses but for such things as being neglected and dependent and they were not always kept separate from those charged with crimes.

The first of this year Judge Dillon passed an order setting priorities of detention and separating the dependent and neglected children from those charged with delinquency. Now more attention is being given to the need for using secure detention for those children referred to court. Alternate plans are being made now for some children.

In our filming we came across an all too common example of the inappropriate use of detention—this time at one of the state's Regional Youth Centers. A 11 year old boy and his older brother had been locked up for a month on the day we were there—locked up for something everyone agreed did not involve delinquency so much as family problems. The boys parents divorced and simply swapped mates with another couple. The boys were ordered to stay with their mother, but they kept running off to their father. Other problems led to their detention which, due to court delays, dragged on until they were finally sent to their father. The program at that detention facility is better than at many others, but it is designed for delinquents, not victims of family problems.

State authorities indicate that at least 75 percent of the youngsters detained in their regional centers do not need that type for care. They feel that most children could be dealt with more appropriately by *not* being detained. Too often the courts rely on the use of detention because other services are not immediately available—such as emergency shelter care or emergency foster homes, or too few professional probation counselors or Court Service Workers to supervise children in the community prior to a court hearing. These situations continue despite the fact that detention is designed to hold securely the youth who is dangerous to himself or others, and/or those who are likely to abscond before a court hearing is held.

Finally, such practices led the State Department of Human Resources to place intake and population controls into effect March 1 of this year. Since then the regional centers hold a maximum of 30 children—the number they were designed to serve. Judges and court workers are now being forced to develop alternate plans for many children.

The state is assisting by expanding its community based services. Among those services is a new program of "Attention Homes," designed to provide a temporary place of abode for children who do not need secure detention, a place to stay until a more stable living plan is developed. This will help avoid the stigma that is attached to being detained. Through a federal grant from the Law Enforcement Assistance Administration (LEAA) 9 such "Attention Homes" will be opened this year—5 two weeks from now, and 4 more by the end of the year.

Another county operated detention center visited was the Bibb County Detention Home, which serves the Macon area. I personally detest the use of the word "Home" attached to any detention facility. That word connotes a place of permanent residence and positive feelings are attached to the word by many people, when in fact detention is by law supposed to be short term security. The situation observed and filmed at Bibb County was another example of the inappropriate use of detention.

A petition had been filed by the mother of a fifteen year old girl charging her with using abusive language to her parents. Her mother wanted to head off further trouble so she had the girl picked up and detained. She arrived in handcuffs, even though it was her first time ever to be locked up. The charge was minor—ungovernable. She was detained in a clean but barren and cheerless cell for five days before the court hearing was held.

One teacher was employed and on that day he had five children who couldn't read or write, and some bright children in the same class who wanted to fail philosophy. That teacher has since left for further training, but the Superintendent said that he himself had not had time for additional training. He is a former paint and body mechanic and he and his wife have worked there day and night for more than seven years and he said, "that's on the job training."

There is a small play area outside the Bibb County Center but the children are out only an hour or so every week. The Superintendent told us there just weren't enough people to keep children from jumping the short fence and running away. Bibb County gets paid by the state to take children from five other counties. The state pays almost two thirds of the budget, but only about a third of the children are from outside Bibb County.

Our film has had an effect on the Bibb County Detention Center. Officials there were unaware of some of the conditions and practices and when confronted with them they were concerned enough to appropriate money for four new staff positions. The Judge is taking a greater role in overseeing the practices of staff, and county officials are interested in abandoning the detention business altogether and giving that responsibility to the state. That is also being considered by one other county in Georgia.

I have been to eleven of the 14 county and state juvenile detention centers in Georgia, and have found personnel in all to be well intended and sincere in their efforts to deal with children in trouble, but in several situations, such as the Bibb County Center, they lack the direction and supervision by well trained directors. There has also been a lack of qualifications and inservice training for personnel in those centers. On the other hand, I have found the Regional Centers operated by the state to be well coordinated and unified in their approach, applying the same standards and programs in all centers. Those programs include remedial education, recreation and counseling by qualified social workers.

Beside the Attention Homes" development other events have taken place in the past two years that have had a bearing on the future of detention in Georgia. Some of those events follow.

The Georgia Council of the National Council on Crime and Delinquency adopted the position in 1971 that there should be a unified system of detention of juveniles statewide, under state operation, in order to rectify some of the problems mentioned.

Operating funds have been made available on an annual basis to the counties owning their own detention facilities for several years and the total amount varied from $600,000 to $1,000,000 per year. There was no authority attached to require that certain standards be met. Consequently, these county facilities have operated with very little assistance in uniform administration. It is quite possible that the Georgia General Assembly, during the 1973 Session, set a precedent by allocating to the State Department of Human Resources funds to take over the operations of the Cobb County Detention Center. One other county requested "State take-over" but did not have its legislators provide the funding. Several other counties have expressed interest in moving to a unified system of state operation.

Another positive development has been the allocation of Federal Funds through the LEAA to the State Crime Commission of Georgia for an objective, professional evaluation of the needs of the county-owned and operated detention facilities and their capability to satisfy basic objectives of detention care. The proposed study is a comprehensive one covering: 1. secure custody with physical care, 2. a constructive and satisfying program, 3. individual guidance through social casework and groupwork, and 4. provision for observation and study of children. The study calls for recommendations in the areas of admission control, detention (including program, medical care, physical hygiene, staff qualifications and training, school, and treatment), building modifications, and overall administration and planning. The study has definite implications for the future of the independent county facilities and the state system.

Another encouraging development has been the formulation of Standards and Guides For the Detention of Children and Youth of Georgia. These standards were prepared by the committee composed of persons working in the field of juvenile corrections and included personnel from both county and state operated detention facilities, probation and court service personnel, judges and their representatives, licensing personnel, supervisory personnel from the Department of Human Resources, and myself. These standards have been adopted by the State Board of Human Resources and take effect November 1 this year. The Standards and Guides are attached for your inspection. I must add that they are the minimum desirable standards for detention of juveniles and were patterned after the Standards and Guides for Detention developed by the National Council on Crime and Delinquency.

The 1973 General Assembly of Georgia passed an Act to provide minimum standards for every detention facility in the state that holds persons charged with or convicted of either a felony, misdemeanor or municipal offense. The Georgia Council of NCCD worked with a legislative Jail Standards Study Committee for 2 years looking into the problems of jails and focusing attention on the need for standards that would provide for full-time jailers, security meas-

ures, fire and health inspections and other matters. That law becomes effective January 1, 1974. Coincidentally we will soon release a documentary film on the problems of Jails in Georgia. Meanwhile we still have 366 local jails in Georgia with conditions including overcrowdedness, lack of supervision, idleness, and intermingling of prisoners of all ages and degrees of criminality. Some of our jails do not even maintain full-time jailers even when there are prisoners confined. That is going to change.

Periodically some grievous occurrence brings attention to jail conditions, but usually it takes only a short time for the public to forget it. Four inmates died of smoke inhalation in the Rabun County jail in the spring of last year. The riots in Augusta in the spring of 1970 were sparked by the jail death of a retarded juvenile brought on by a brutal game being played by several unsupervised young inmates. Jails are notorious not only in Georgia, but throughout the country as a constant source of verified reports of filth, perversion, sadism, and corruption. In the nation, two million men and women go through these places every year, including at least 100,000 youngsters under 18. Most states have statutes that recommend against placement of juveniles in jail, but in only 5 states is it prohibited by law. The Georgia Council of NCCD plans to sponsor legislation in the 1974 General Assembly of Georgia that will add Georgia to that number of states that prohibit the use of the common jails for juveniles.

As more states consider following that practice and as they mandate minimum standards for detention of juveniles, they will have to take a hard look at alternative ways of providing for youngsters in trouble. It is my hope that the citizens of this nation will realize that programs such as the attention homes described above and the day centers like "The Connection," shown in our film are more effective and more humane ways of treating juvenile offenders, as well as being more economical to operate.

We must also begin to focus attention on preventing delinquency and diverting children from the juvenile justice system with programs like the Youth Service Bureau, which is operating in many communities throughout the country and proving to be successful in saving lives and money.

Change comes slowly, but in the area of detention we have made a good start in Georgia. But the burden of responsibility to hasten change is on those of us who are familiar with the problems that need correcting. We must offer workable solutions to those problems and ask for public support to bring about the necessary changes. This is a job that must be done.

Standards and Guides for the Detention of Children and Youth in the State of Georgia

Foreword

The Children and Youth Act, Section 14(p), places the responsibility and legal authority for establishing detention standards for the State of Georgia in the Department of Human Resources and its predecessors and successors. The Commissioner of this Department requested that a committee be formed for the purpose of drawing up these standards. This committee was composed of persons working in the field of juvenile corrections and included personnel from both county and state operated detention facilities, probation and Court Service personnel, judges and their representatives, licensing personnel, supervisory personnel from units providing services to youth in the Department of Human Resources, and a representative of the National Council on Crime and Delinquency. The standards which have evolved are the result of a number of meetings of this group and are the minimum desirable standards for detention of juveniles.

Before standards are established, it is first necessary to define "detention." According to one definition, detention is the *temporary care* of children of juvenile age, in a physically restricted facility pending court disposition or transfer to another jurisdiction or agency. If detention is used properly, these are children who have or are alleged to have committed delinquent acts and for whom secure custody is required for their own or for the community's protection. Detention is *not* a final disposition of the court. The *Juvenile Code*, passed as Act No. 697, Senate Bill 105, at the 1971 Session of the Georgia General Assembly states, in Chapter 24A–14, Section 24A–1401: "DETENTION OF CHILD. A child taken into custody shall not be detained . . . prior to the hearing on the petition unless his detention . . . is required to protect the person or property of others

or of the child or because the child may abscond or be removed from the jurisdiction of the court . . . or an order for his detention . . . has been made by the court pursuant to this Code." It is made clear that such detention is intended *only* for the delinquent child for, after stipulating what the places of detention for a delinquent child *can* be, the Code, Section 24A–1403, paragraph (d), reads: "A child alleged to be deprived or unruly may be detained or placed in shelter care *only* in (1) a licensed foster home or a home approved by the court: (2) a facility operated by a licensed child welfare agency; or (3) any other suitable place or facility, designated or operated by the court." This paragraph of the Code specifically excludes a detention home or center for delinquent children as a placement for deprived or unruly children. Definitions of the three classifications of juveniles as the Code applies are found in Chapter 24A–4, Section 24A–401, paragraphs (f), (g) and (h).

Youngsters picked up for delinquency are susceptible to the influence of other delinquents and often seek delinquency status. To place them together in jails, in jail-like or makeshift detention facilities, or even in new detention homes without the right staff and program is to promote delinquency. The Department of Human Resources is responsible for the inspection of detention facilities to see that minimum standards are being met.

Throughout these standards, reference to the "detention consultant" is to the person or persons designated by the Department of Human Resources to inspect detention facilities in the State of Georgia; reference to the "administrator" is to the person charged with the responsibility of running the detention facility; reference to "children" is to those of juvenile age who are placed in detention under the authority of the Juvenile Code. Large type denotes required standards and italic provides explanatory philosophy.

Standards for Juvenile Detention

I. General statement of purpose

A. These standards apply to all facilities for the detention of juveniles without regard to sponsorship.

B. Regular inspections, at least annually but preferably quarterly, will be made by appropriate staff from the Department of Human Resources to insure compliance with these standards.

C. Reports of the detention consultant will be made available to the Administrator and other proper authorities, i.e., the judge or funding authority.

D. The administrator or his appointed representative shall report immediately to his immediate supervisor and the detention consultant the death or serious injury of any child or staff member.

E. The detention consultant shall have the right of entry to any portion of the facility at any time. He shall have the right to confer with any employee or child in privacy without interference.

F. No child or employee shall be punished or threatened with punishment for talking with the detention consultant.

G. If any serious abuses, derelictions or deficiencies are found and not corrected within a reasonable length of time, determined by the consultant and administrator of the institution, the commissioner of the Department of Human Resources shall report the same in writing to the Governor.

H. Any appeals on the recommendations of the detention consultant should be submitted to the commissioner of the Department of Human Resources, or his delegated appointee, within 10 days.

I. A copy of these standards shall be posted in every juvenile detention facility in the State.

J. Provisional approval of a facility not meeting minimum standards may be granted for a period of twelve months. If, at the end of twelve months, there is evidence of positive efforts to remedy deficiencies, a second period of provisional approval, not to exceed twelve months, may be granted.

K. These standards become effective November 1, 1973.

I. Admissions

a. Only children who are alleged to be or adjudicated delinquent (or unruly under certain circumstances) in accordance with the Juvenile Code (revised by 1971 session of the general assembly) shall be detained in a detention facility. Conditions prescribed in the Juvenile Code shall be met.

Neglected or abandoned children "with no other place to go" should not be committed to juvenile detention facilities. It should be clearly established that

detention facilities are staffed and programmed for the delinquent child, and that this type of programming for the neglected or abused child is, at best, a form of governmental abuse.

b. All money and personal property shall be surrendered upon admission of a child. A written record of these properties shall be signed by both child and the admitting employee and receipt given to the child. This list shall also be signed by both the child and the releasing employee upon the discharge of the child. The receipt is to be relinquished at this time if the child still has it. Illegal articles or weapons shall be turned over to local law enforcement officials or properly disposed of according to local procedure. The proper receipt and care for personal property of children in detention is the first means the detention center staff has of letting the child know they care about him/her as an individual. Violating a child's personal property rights, no matter how incidental the item, can only lead to mistrust and resentment by the child.

c. Upon admission each child shall be given a shower and issued clean clothing. This is an indication of the detention center's role in the child's welfare. Clean clothing and a shower for each new admission also reduces the possibility of infections and diseases.

d. Necessary linens shall be issued upon admission and clean linens shall be issued at least once weekly.

e. No child shall be admitted if intoxicated, visually under the influence of drugs, or shows evidence of being ill or injured, until examined by a physician.

f. Children remaining in care 72 hours or longer shall be given a medical examination, including a blood test for venereal disease, as required by law, and such other tests deemed necessary by the examining physician.

G. Upon admission a record shall be compiled for each child: including the following:

1. Date and time of admission
2. Full name
3. Date of birth
4. Sex
5. Race
6. Height
7. Weight
8. Color of hair and eyes
9. Home address
10. Name, address and phone number of legal guardian
11. Religion
12. Name of family physician
13. Any prescribed medication in use
14. Any physical defects, handicaps or unusual symptoms
15. Reason for detention
16. Names of persons delivering and receiving the child
17. Name of school and grade level achieved
18. Notification of parent and guardian that child is being detained
19. Name of assigned court representative and notification of same
20. Copy of authority to detain

III. Records

A. *Children's records.*—1. In addition to identifying information obtained the time of admission, records shall be established for each child to include the following:

a. Log of behavior, both positive and negative, adjustment and emp observation
b. All disciplinary infractions
c. Actions taken to adjust disciplinary or adjustment problems
d. Any accident, injury or health problems
e. Reports of physical examinations and health or medical attention provide
f. Visitations
g. Runaways
h. Participation in group disturbance or violence
i. Reports of social, psychiatric or psychological evaluations
j. Date and reason for discharge and to whom discharge was made
k. Parental permission for special privileges
l. Record of leave from institution

2. Records shall be maintained in a confidential manner. However, they be made available to juvenile court officials by request and shall be subje

review by the detention consultant. Pertinent information will be furnished when a child is transferred to another child-care institution.

An important benefit from a child's stay in detention is the opportunity for trained staff to provide meaningful behavioral observations about him. Behavioral records are also important to probation and court staff who must develop plans for the child after his period of detention. Although behavioral observation is an important function of detention staff, it must be emphasized that children should not be detained purely for observational reasons, nor should the detention home be used as a referral resource for clinical observation.

B. *Staff Records.*—Records of individual employees shall be maintained and shall include:

1. Identifying information
2. Qualifications
3. Character and employment references
4. Employment history
5. Employment date
6. Evidence of pre-employment physical examination
7. Result of annual test for tuberculosis
8. Training record

C. *Statistics.*—Daily, weekly and monthly population statistics shall be recorded and made available to appropriate officials upon request. A copy of the monthly report will be sent to the youth services unit of the Department of Human Resources on a standard form furnished by the State.

The maintaining of a central statistical file is extremely important in measuring the needs for and of institutional services on a statewide basis. Sharing of population information can also aid local facilities in projecting population trends, budget needs and staffing patterns.

IV. Staff

A. There shall be at least two staff members on active duty at all times. When girls are detained, one staff member must be female. It is desirable that a minimum of three staff members be on active duty at all times.

B. There shall be a minimum of one full-time staff member for every two (2) beds in the facility. This may include supervisory and administrative staff assigned to detention, child care attendants, teachers (if paid by court or local board of education), clerical, and other staff carrying out duties directly concerned with detention. Only staff assigned to tasks directly concerned with physical care, examination, training and treatment of children in detention will be counted.

It should be noted that these are minimum requirements for staffing juvenile detention facilities. Physical differences in building design and variations in local programs and procedures may dictate additional staff patterns and requirements.

Child care staff should be physically present with their assigned children during their time of duty, except while children are sleeping. The use of mechanical equipment, such as monitoring devices and electric doors, are designed to supplement staff, not replace them.

Child care staff should be carefully selected and specially trained to supervise daily programs for children in their custody. A physical body on duty does not represent adequate staffing, nor responsible programming.

C. A forty-hour work week shall be established for all employees.

D. No child care staff shall "live in" the detention facility.

E. Administrators employed after January 1, 1974, shall have a college degree.

F. Child care staff employed after January 1, 1974, shall have a high school education or G.E.D. certificate.

G. There shall be on duty in the facility at all times an adult who, by definition of job or delegated authority, is responsible for the administration of the facility.

H. Initial orientation and in-service training for staff shall be provided on a continuing basis.

Child supervision and care

A. *Discipline.*—1. Corporal punishment shall not be permitted.

2. No child shall be deprived of food as a method of discipline.

3. Isolation shall be permitted only in those situations where a child is out of control, continually refuses to obey reasonable and lawful commands, is a threat to himself or others, or upon the direction of a physician as a temporary health precaution.

4. No period of isolation shall be longer than twenty-four (24) hours except in unusual circumstances and with the written approval of the administration.

5. Any room used for isolation shall be comfortable, well lighted and provided with water and toilet facilities. The room shall be monitored.

6. Discipline which is dehumanizing shall not be permitted.

7. When a child is transferred to an adult detention facility, a complete report must be made by the administrator and a copy kept as part of the child's file.

8. The authority of the staff for administering discipline and privileges shall not be delegated to the children.

An established policy of discipline is essential for operating any juvenile institution. The type of children who need detention require constant supervision and firm but fair treatment. Limits for behavior should be established and maintained consistently between staff members. Disciplinary action should be administered as soon as possible after the offense and have direct relation to the seriousness of the act. Children should be given prior notice of the results of rules and infractions and their consequences.

B. *Work.*—Required tasks are an important part of teaching responsibility to children. A rewards system for children in detention is desirable. Work should not be used as punishment.

1. Children may be required to perform such duties as:
   a. Making own beds
   b. Cleaning own rooms
   c. Cleaning group living areas and activity areas
   d. Cleaning institutional offices and grounds
   e. Helping in the kitchen
2. Children shall not be required to perform such duties as:
   a. Personal services to staff
   b. Cleaning or maintaining areas away from the detention facilities
   c. Replacing employed staff

C. *Recreation.*—1. Supervised periods of time for both indoor and outdoor recreational activities shall be provided daily.

2. Unless restricted for health, disciplinary or security reasons, all children shall be encouraged to participate in planned recreational activities.

3. Arts and crafts supplies, books, current magazines, games and other indoor recreational materials shall be provided.

4. Appropriate athletic equipment shall be provided for outside activities and kept in good repair.

Large muscle play as well as quiet games and activities are necessary for any age child. These activities should be planned and serve a daily program objective. Activities that do no more than fill idle time should be avoided, although supervised free time should be allowed daily. It is recommended that the per diem expenditure for arts and crafts and recreational materials be set at a minimum of 10¢ per child.

D. *Religion.*—1. Religious needs of children shall be met in cooperation with local religious groups and/or churches.

2. No child shall be required to attend religious services. No punitive action will be taken toward a child refusing to attend such services.

E. *Education.*—Children in detention are not exempt from the compulsory school attendance laws; however, programs in the classroom should be adapted to the needs of the individual child.

1. A program of academic and/or vocational instruction shall be provided for children detained longer than 72 hours.

2. Every detention unit of 30 beds or more should have at least one full-time teacher. It is recommended that this person have a college degree.

F. *Visitation and correspondence.*—It is important that children in detention maintain family ties and contacts. Supervised visiting periods provide an excellent opportunity for children and parents or other family members to build more positive relationships.

1. All facilities shall provide for visitation by parents, legal guardians, legal representatives, and any other approved visitors. Parental visits will be encouraged as soon as feasible after admission.

2. Visiting privileges shall be subject to rules and regulations of individual facilities and may be revoked upon violation of these rules and regulations. Rules shall be posted in the visiting area.

3. Visiting hours shall be scheduled on a regular basis and schedules shall be made available to children, employees and visitors.

4. No child shall be derived of or denied the right to see his attorney of record.

5. All children shall be allowed to correspond in writing to parents and family, legal guardian, court officials, attorneys, clergy, public officials, and the detention consultant.

6. The detention facility shall provide writing materials and postage.

G. *Daily routines.*—1. Any male staff member entering the girls' quarters shall be accompanied by a female staff member.

2. Any child confined to room or cell shall be visually observed at least once every ¼ (one-fourth) hour. The administrator or designated representative shall talk to the child at least once during each one-half (½) day to assess his need for continued isolation.

3. Ample periods for rest and sleep shall be provided. Schedules shall not be planned for convenience of staff but shall meet the needs of the children.

4. At least eight (8) hours each night shall be provided for sleep.

5. Soap, wash cloths, towels, toothbrushes, toothpaste, combs, toilet paper and other comfort items and articles for body hygiene shall be provided for each child. Types of above items should conform to security requirements.

6. All children shall be required to bathe at least daily.

H. *Health.*—1. There shall be available to each staff member a written plan for appropriate actions in medical and dental emergencies.

2. There shall be provisions for psychological and/or psychiatric examinations in cases where the administration deems this would be helpful in reaching a decision concerning a plan of care for the child.

3. Arrangements should be made with at least one licensed physician for the medical care of the children.

4. Standard first aid supplies shall be available in the facility and all staff members should be knowledgeable in their use. This training is recommended as a part of the staff development program.

5. In case of serious illness or injury, parents or guardians and court officials should be notified.

6. All drugs and medical supplies should be kept securely locked and administered only in accordance with the directions of a physician. A permanent record should be kept showing date, time, medication, ailment and person administering all medication.

7. If there is indication that a detained female is pregnant, a physician should be consulted and his plan of care and treatment followed.

8. Payment for medical and dental services not provided routinely by the detention facility is the responsibility of the detaining court.

VI. *Physical plant*

A. Each detention facility must provide secure custody and meet health and safety regulations as prescribed by the division of physical health and the state fire marshall. An evacuation plan, in case of fire or similar emergency, shall be posted prominently.

B. Space must be provided for education, recreation, dining and living in addition to the rooms used for detention.

C. There must be a bed for each child detained. Each room must be designed for single occupancy with a minimum of 500 cubic feet or air space and a minimum of eight (8) feet ceiling height.[1]

D. Facilities must be kept clean and well lighted.

E. A secure outside play area with appropriate recreational equipment, good visual supervision and a minimum of 150 feet by 150 feet for each 30 children, shall be provided.

[The transcript for "Mission Possible? Juvenile Justice in Georgia," is marked "Exhibit No. 3" and is as follows:]

[1] Recommendations for standards on furnishings and design may be obtained from "Standards and Guides for Detention of Children and Youth", published by the National Council on Crime and Delinquency, Continental Plaza, Hackensack, N.J. 07601.

EXHIBIT NO. 3

"MISSION POSSIBLE?: JUVENILE JUSTICE IN GEORGIA"

One of a series of documentary films on Georgia's Criminal Justice System

Written and Produced by Daniel P. Starnes, State Director, Georgia Council of the National Council on Crime and Delinquency

Assisted by Gene Stephens, School of Urban Life, Georgia State University

Adapted and Narrated by Ray Moore, Senior News Analyst, WAGA-TV Atlanta

RAY MOORE. This film is one of a series on Georgia's Criminal Justice System. In this particular episode we'll look at the Juvenile Justice System in Georgia.

Treating juvenile offenders differently from adults—under the law—is a twentieth century innovation. Different treatment was begun for the humanitarian reasons of helping children instead of punishing them, but it has not necessarily proven to be better. For one thing, differential treatment has meant confinement for many children for behavior which would not be illegal if they were adults, such as truancy from school, or running away from home—even if a child fled to escape drunken, abusive parents. It has only been since 1967 that juveniles have been afforded by law basic civil rights when charged with offenses that could lead to curtailment of their freedom. Even today, in many states—including Georgia, juveniles still seem to get what experts call the worst of the two worlds. That is, they are expected to behave better than adults and they can be confined for many acts which would not be illegal if they were adults. And in Georgia, as in other states, there is a problem of fragmentation of the juvenile justice system. Of the 159 counties in Georgia, only 35 have juvenile judges. In the other 124 counties Superior Court Judges wear two hats and on occasion sit as juvenile judges. The state provides supervision in all 159 counties for children released from juvenile institutions. The state also provides probation services in 141 counties, but 18 counties have their own juvenile probation services. Eight of these 18 counties have their own detention facilities which they share with other counties, along with 6 regional facilities operated by the state. Yet some counties are so small and so far from a juvenile detention system that they place their juvenile suspects in jails prior to trial. Despite all attempts to keep children out of jail there are 40 to 50 children in Georgia jails on any given day. Is Juvenile Justice in Georgia a mission that is possible?

RAY MOORE. Let's begin our story with a review of a 3 year old national best seller which made an Atlanta juvenile center infamous.

"Some three and a half years ago Pulitzer Prize winning author Howard James wrote about Atlanta's Juvenile Justice System in a book called *Children in Trouble: A National Scandal.* 'In Atlanta I found a horrible detention home behind an attractive facade in the shadow of a new $18,000,000 stadium. The home is constantly overcrowded. On the February morning I was there 191 children were locked up in a place built for 144. It houses delinquent children, retarded youngsters and those classified as dependent and neglected—including babies too small to walk. All children over 10 years of age are mixed together—those who have been abandoned or mistreated by parents, and who have never committed a crime are locked in with hoodlums. The boys section is constantly being torn apart by angry youths who sometimes seems to be in control of the institution. One boy was stabbed with a plastic toothbrush handle that had been rubbed into a stiletto on a cement wall. Rooms were built for one child but they housed two. Youngsters on the upper bunks kick the ceiling out. Security screens are constantly being ripped from windows; there is only one man to make repairs and he is always days behind in his work. I found one boy locked in a solitary confinement cell without a bed. The room reeked with the stench of urine and feces. Garbage apparently several days old littered the floor. The youngster insisted he was kicked in the stomach because he refused to follow orders. The guard, a mammoth man, contended that the child was pushed but not kicked.'"

RAY MOORE. "Fulton Juvenile Judge Tom Dillon sees children in trouble there in his courtroom. He also oversees their incarceration in many cases. We asked Judge Dillon if Fulton Juvenile was really as bad as the book says it was."

Judge DILLON. "Circumstances were often, over the past months, more serious than indicated in the book. We have had, in my experience, over 190 boys alone on the floor in a facility built for 72."

RAY MOORE. "How many today?"

Judge DILLON. "There are 51 boys on the floor, I believe, today."

RAY MOORE. "Which means in effect that you have no more than one person to a cell now whereas you might have had two to three in a cell?"

Judge DILLON. "That is correct."

RAY MOORE. "How has this come about?"

Judge DILLON. "We passed an order, effective the first of the year, setting priorities of detention. When the rooms are filled up the priorities go into effect and those that must be detained are kept and those who do not have to be detained are released. We haven't had to release anyone as yet, as a matter of fact."

RAY MOORE. "Some of the children you have here are not for criminal offenses but for such things as child neglect. Are they kept separate from other children?"

Judge DILLON. "They are kept in a separate section from those who are charged with crimes."

RAY MOORE. "That hasn't always been the case, though?"

Judge DILLON. "It was not the case until the first of this month." (January, 1973).

RAY MOORE. "How do you handle a child who is placed in solitary confinement? What is in the room?"

Judge DILLON. "There is nothing in the room except the child who is placed there. It's a barren room. The child is kept there typically for an hour, two hours, three hours. This is the only means of severe discipline that we have; we do not administer whippings or spankings at all."

RAY MOORE. "How would you summarize the difference in the conditions of juvenile detention home at Fulton County three years ago versus the way they are today?"

Judge DILLON. "Now the County has a mental health facility here. The county has a gymnasium, an athletic field and other programs available. But when there is that kind of population we simply can't use the programs. All we can do is simply incarcerate, and in fact, jail the boys. Now we are using the recreation field, we are using the gym and we are being able to use some of the behavior modification programs in the mental health department."

RAY MOORE. "Judge Dillon deals with offenders who are 16 years old and under. The 17 year olds are handled now in adult courts. But beginning July 1, 1973, a new law says the sometimes rough and rugged 17 year olds must be judged and housed as children. Even without the added load, the Fulton Juvenile Detention Center near Atlanta Stadium has sometimes had 190 boys in cells designed for a maximum of 72. The problem was so bad that the county was considering spending a million and a half dollars to build a new addition, but when Judge Dillon took over as Chief Judge late in 1972 he took drastic steps to cut the population. For instance, if a boy can be released and his parents are slow coming for him court officials just take the boy home. Or if parents in New York don't send money for a bus ticket to get their son home Fulton County buys a ticket and sends the parents a bill. Some pay, some don't, but the bus ticket is often cheaper than housing the child for several days. These and other measures have now cut the Fulton Center's population to well under capacity. But what's going to happen when the 17 year olds are shipped into here and other juvenile centers around the state? Judge Dillon is threatening to turn away inmates from five other counties which now use the Fulton Center: Coweta, Carroll, Heard, Meriwether and Troup. But that will mean turning away $300,000 a year that the state pays Fulton to house youngsters from outside the county. The Judge says Fulton loses money on the deal anyway, that the legislature failed to put up all the money that was promised and that the state should have gone ahead with plans to build a new state center in Elberton. But the head of Georgia's juvenile program, Charles Ray, admits that the state is behind in its payments to Fulton. Still, he thinks the state has saved money and young lives by not building another prison. Instead of two and a half million dollars for an institution, a million dollars of state and federal funds were spent on setting up facilities for treating delinquents in the community. And even if the 17 year olds do come into the system Ray says that through increased use of out-patient type community facilities, he feels these new youths can be handled without overcrowding the system. Ray says truants, runaways and ungovernable children should be taken out of the institutions. That space could then be used to handle the serious 17 year old offenders."

RAY MOORE. "The young man who has written his name across these walls as well as his art work notes that he has been in 'junile' 50 or 60 times, jail once, YDC twice." "Then he says 'this is my damn last time up here.' "I wonder if it is."

RAY MOORE. "A 14 year old Stephens County boy doesn't know it, but he is lucky to be in a Regional Youth Development Center—in Gainesville. Tommy is lucky because he's in the newest and one of the best of the six centers in Georgia. Some years ago he might have wound up in a county jail, tender bait for a sexual assault and a criminal education by the old timers. But in Gainesville his quarters are neat, clean and bright. The boys have to double up, but the girls have individual rooms. There's a classroom, more personal attention. Boys like Tommy, who has failed four grades, often make some remarkable progress. The State Department of Human Resources built and operates this center for children from 22 counties. So the surroundings have improved, but the court system has not. Tommy and an older brother had been locked up for a month on the day we were there—locked up for something everyone agreed did not involve delinquency so much as family problems. Tommy's parents divorced and simply swapped mates with another couple. The two boys were ordered to stay with their mother, but they kept running off to their father. And juvenile authorities had been told that he drinks. During a family argument eighty pound Tommy knocked out his 16 year old sister. So his mother had him arrested. That was on Saturday, December 30th, and Tommy remembers what they told him then."

TOMMY. "What they told me before I come in was that both of us would go to court Tuesday. That was Saturday."

RAY MOORE. "The law says a child must have a hearing within 10 days, but these boys waited 24 days. I was told their court Service Worker had the flu. The Mountain Circuit has no juvenile judge, so the Superior Court Judge Jack Gunter, who had just taken office, heard the case along with his other load. After listening to the family fuss the Judge ordered more investigation, and the days of detention for the children dragged on until they were finally sent to their father."

RAY MOORE. "Charles Ray, head of the Juvenile Justice Program in the State Department of Human Resources, likes to visit "The Connection," in Decatur. For here he can look with pride at a success story—a living demonstration that some children who get in trouble don't have to be sent to reform school. They stay in the community."

RAY MOORE to unidentified boy at "The Connection."—"When did you first get in trouble?"

BOY. "I was about nine years old."

RAY MOORE. "What was that?"

BOY. "I was chasing chickens."

RAY MOORE. "Then last year Jimmy stole a motorcycle. In the old days he would have been kept in a Reform School and perhaps graduated as a real criminal. Instead he's at 'The Connection' during the day and home at night. 'The Connection' is one of four day centers operated by the State Department of Human Resources. Fifteen year old Jimmy goes to school here, plays and talks with his buddies."

JIMMY. "We have a group meeting from 11 to 12. The group meets and decides things—like—if you are not going to school and you have been missing a lot of school, they make a decision for you to go. The group pretty much has the power over school."

RAY MOORE. "Who makes the rules around here?"

JIMMY. "The group; everybody in the school; all the boys."

RAY MOORE. "You make your own rules?"

JIMMY. "Yes."

RAY MOORE. "What happens when you break the rules?"

JIMMY. "Go back to the group and go in front of the group and they decide on something. It's usually pretty fair, though."

RAY MOORE. "Punishment, you mean?"

JIMMY. "Yea—like we can't hit ping pong—like sometimes when the boys get mad and throw a ping pong paddle down on the table and put a big old slice in it. If you do that you can't play ping pong for a week, or something like that."

RAY MOORE. "On this day he has had a minor fuss with his parents because he stayed away from "The Connection' two days straight, even though the rules say it's okay to skip two days a month."

SARA SCHMIDLIN, Director of The Connection—. . . Frequently a child, when he gets into trouble, is really trying to give his parents a message. He's trying to tell them something that he's not getting at home or that he wants. And what

we're about is to try to help him tell he parents more directly, without having to get into trouble."

RAY MOORE. "How do you do that?"

SARA SCHMIDLIN. "Well, this case in point: we're going to take the child home today, he doesn't want to go home, but we're going to take him home, talk to his parents, show how their taking all of his privileges away from him is only making him angrier and instead of trying to punish him now, now is the time to maybe talk. Because he is growing up. Part of his getting into trouble was to say I want to be free too, and they have trouble letting go."

RAY MOORE to Jimmy. "Going to stay out of trouble from now on?"

JIMMY. "Yes."

RAY MOORE. "What makes you think you will?"

JIMMY. "My head—I don't think I'll go back."

RAY MOORE. playing ping pong with Boy. "Jerry is 15 and has been arrested eight times since he was 9 years old. He has only one eye but he is tough at this table."

. . . "See, I blew it.—Go ahead serve.—Your play."

RAY MOORE. "Across from the ping pong table one child has drawn a story: 'This is the cage the group was in;' that cage being the DeKalb Juvenile Center, with the DeKalb Court placed here, 'where the group started.'

'Past here,' which is The Connection,—'respect people written here. And 'the group ends here,' in the home—with this inscription, 'we came a long way baby, to get where we got to today.'"

RAY MOORE. "Sixty years ago bad girls in Georgia, who were shipped to Adamsville, used to take care of the hogs down in that hollow. There were some complaints in the records of 1912 that the hogs weren't being slopped properly. . . . And as late as 1961 officials were shaving girls heads to keep them from running away. Now the toughest job is K. P., and not all girls at this Youth Development Center are bad; most are runaways and hard to control because their parents sometimes haven't known how or sometimes haven't tried. Fourteen year old Gladys' father bought a dog chain and chained her to the bed for two weeks. Alice could go home now, but she has no home and foster parents are scarce for teenage girls. Fifteen year old Virginia has spent almost her full pregnancy period here, while her husband was in jail. She began labor while we filmed these scenes. The next day she had a little girl. And you wonder about the chances for her baby. Thirteen year old Ruth is in isolation. She had been promoted to a group home on campus, but when she felt she wasn't being accepted by the group, she ran away."

RUTH. "Some of the girls that had a bad attitude up there said that, you know, the social worker thinks I had a bad attitude, and I was talking to my social worker and the social worker up there and they thought that I needed to work on it within the next week and this was the next week, and I didn't see how I could change my entire attitude in one week."

RAY MOORE. "Do you think you have a bad attitude?"

RUTH. "I think I had a bad attitude for two days—yesterday and day before, but I think that was all. Other than that I thought I was getting along fine."

RAY MOORE. "She's a bright girl, but she sat for hours staring at a wall where obscenities are scrawled along side prayers. The prayers may have worked. She's back in the group home now and accepted. And here's why one teacher likes to teach them."

KAREN BRAND. "I prefer teaching out here to teaching in public schools for two basic reasons. The most important one is the kids themselves. These kids are, to me, more honest and genuine in their loves and their angers than most of the other children I have worked with. I find that there is not a dumb kid in my class, and I find that I can, through the classroom situation here, prove that almost everytime. The second season is the classroom situation; the classes here are small, it allows us time for individual attention and to let each girl progress at her own rate."

RAY MOORE. "In the old days Adamsville used to be called a reformatory, then a training school. And now it's one of four Youth Development Centers run by the State Department of Human Resources."

RAY MOORE. "A South Georgia girl left this letter on the bulletin board—'I know some girls here are saying their mother doesn't love them because they were put here, but they're wrong. I'm thankful my mother loved me enough to want the best for me, even if I found out the hard way.'

RAY MOORE. "So we see there has been progress at Adamsville, both for the girls who have always been there and the new influx of boys. But what's the situation in other parts of the State? Middle Georgia for example:

RAY MOORE. "The Bibb County Detention Home, just outside Macon, is about to get a new tenant. Her fifteenth birthday was two days ago and yesterday her mother filed a petition asking that she be picked up and brought here. She arrives in handcuffs, even though it's her first time ever to be locked up. The charge is minor—ungovernable. The Admissions Officer has trouble hearing her soft answers to his questions. Tears rolled down her cheeks. Juvenile Probation Officer, Beatrice Simmons, says this girl comes from a good background, a well educated family. But she was using abusive language to her parents and her mother wanted to try to head off more serious trouble. Mrs. Simmons wants her in cell number 12, separated from the other children so she'll have time to think. The court hearing comes in five days; meanwhile she will be one of about 27 children housed in an old place built like a jail instead of a juvenile detention center. The cells are clean but barren and cheerless. A hulking teenager accused of murdering a six year old child is locked in one of them. There's a small play area outside but the children get out only a hour or so every week. Superintendent George Quick told me there just weren't enough people to keep children from jumping the short fence and running. Apparently there is no money to build a better fence. Bibb County gets paid by the State to take children from five other counties. The state pays almost two thirds of the budget, but only about a third of the children are from outside Bibb County. On this day school teacher Larry Pannell had five children who couldn't read or write, and some bright children in the same class who wanted to talk philosophy. The teacher has enrolled for special training to equip himself better for his job. Superintendent Quick says he himself hasn't had time for additional training. He is a former paint and body mechanic and he and his wife have worked day and night here for more than seven years now. Quick says "that's on the job training." "

RAY MOORE. "Jim Parham is the Daddy of Georgia's improved juvenile justice system. In 1963 he wrote a report on Troubled Children. Among other things, he discovered an average of 100 children a day were kept in jail with common criminals, that there were only seven professionally trained people in the state program, and that less than half the counties had foster care. Parham wrote a program to change that. Then Governor Sanders and the legislature bought it, and now no child should have to go to a county jail and most can be treated in their own communities."

RAY MOORE. "What's the difference in putting a child in an institution and having him still based in the community?"

JIM PARHAM. "Well, in the comunity you have a chance to work more closely with his family, you have the chance to work with the school situation, you have a chance to get him employment, you have a chance to see how he functions in a normal social situation. He has a chance to test himself against temptation, you have a chance to educate him and help him learn how to exercise that vital self control, which is really your aim—to help him learn how to exercise self discipline and self control. In an institution you obviously place him in a confined situation and a regulated situation; he's not allowed the normal community contracts—you don't have the kind of opportunities really to teach and share that you have in a community setting. For the great majority of young delinquents it's much preferable to have them in a community program, much preferable!"

RAY MOORE. "What's the comparison of the costs?"

JIM PARHAM. "The cost of a community program will range from a thousand dollars to a couple thousand dollars a year, depending on the intensity of personal service you provide. An institution would run from six thousand to nine thousand dollars a year per child to operate the program, that's not counting capital outlay costs—which are ten thousand to twenty thousand dollars a bed."

RAY MOORE. "So you figure if you can keep a child in the community you save children and you save money?"

JIM PARHAM. "Right. It's not only more effective and more humane, it's economical to the state."

RAY MOORE. "What's in the future for the juvenile corections in Georgia?"

JIM PARHAM. "I think we're going to continue to improve. We have improved drastically over the past ten years, and we now have statewide juvenile detention, statewide juvenile probation. I think we are going to see a greater emphasis on improving community based programs as alternatives to institutions. I think we are going to see the development of Youth Service Bureaus to even divert youngsters from ever having to get into juvenile court or the juvenile offender system because we know that once they get in and they are labeled, they are more likely to stay in. So we are going to see the development of some preventive services of that sort. We're going to see greater and greater emphasis on how to keep youngsters out of institutions with intensive programs, such as we talked about."

RAY MOORE. "The Youth Service Bureau idea is especially appealing to the National Council on Crime and Delinquency, the nation's largest crime fighting citizens organization. NCCD Youth Services Director, Sherwood Norman, expands on the concept."

SHERWOOD NORMAN. "The emphasis seems to be on getting the youngster to change his ways and yet not to solve the problems which the youngster has in the home, in the school and in the community. Those are the problems with which he needs assistance and which the school itself and the home needs assistance. Probation officers in these minor cases that would not bring an adult to trial can't possibly give them that kind of service. The Youth Service Bureau is in the community working with community problems as the court cannot—it isn't set up that way. The court is a judicial function."

RAY MOORE. "Now that we've seen the system, how do we analyze it? What does it need? For answers to these questions we asked a couple of experts. Robert Croom, a professor of criminal justice at Georgia State University, and Daniel Starnes, director of the Georgia Council on Crime and Delinquency. First, Professor Croom."

ROBERT CROOM. "One of the major problems facing the juvenile court is that it's called upon to work just with the individual child, separate from the family situation. A promising alternative to this is the family court sort of approach where the court would be called upon to work with the totality of family situations, including marriage counseling, pre-divorce counseling, counseling that would continue throughout the divorce, and after the divorce also, offering continuing support to the various family members in the changed family situation that existed then. It would also be involved in the allocation of alimony, and the granting of custody and a whole range of things related to family problems."

RAY MOORE. "Wouldn't that be pretty expensive?"

ROBERT CROOM. "Possibly so, but the only alternative is to do things as we are doing them now, and that might be expensive in terms of time and people."

DANIEL STARNES. "There is a need for citizen participation in this juvenile justice system as volunteers in a one-to-one relationship with children who are already under the official supervision of the court, children who are on probation or aftercare. We need professional people who have professional skills to offer, and just lay citizens—anyone who has an interest and a concern, a love for children—there is a way that they can be used. We could use them also as volunteers in the diversion programs to keep children from the court, as well as in the area of changing the system—to make it more responsive to the children in trouble and to make it a more progressive system. For information on citizen involvement or participation in the juvenile justice system, people can call the National Council on Crime and Delinquency in Atlanta."

RAY MOORE. "So the mission to obtain justice for juvenile offenders may be a possible one, but there are some road blocks. More than 30,000 children a year are directly affected by decisions of the juvenile justice system of Georgia. On any given day 1,600 Georgia children are incarcerated: Fifty in county and city jails; a thousand in the state's four long term Youth Development Centers; and the rest of the eight county operated urban detention centers or the six short term state operated Regional Youth Development Centers. Another 8,500 children are under probation supervision on any given day. Experts say that to judge a child delinquent destroys his self respect and his ego. To lock him up, they say, is to give up the fight to save him. Statistics bear them out. Well over half of the juvenile offenders are repeaters. Once the child begins to think of himself as bad, he plays the role of the bad child. In many cases the child is forced into this role because of the sins of his parents. He's confined not because he steals or assaults, but because he has no real parents or family life—he has no place to go."

The answers then lie in some new approaches—a *Youth Services Bureau* to provide help for children in trouble, help without the necessity of laws and courts. A *Family Court System*, to handle all problems related to the family, to provide expertise and domestic problem solving for the family. An expanded volunteer services program involving thousands of Georgians in helping children in trouble on a one-to-one basis. Three hundred *more professional juvenile probation super-*

visors, so that the caseloads can be reduced from the present unmanageable load of 90 children per supervisor to the recommended maximum of 35.

Expanded community based programs designed to provide needed individualized services for troubled youth while keeping them in their own communities and out of institutions. State administration of all juvenile correction programs to alleviate the current fragmentation, and the philosophy adopted by all Georgians that labeling children delinquent, or confining them, should be last resorts, used only after all else has been tried and failed. Adoption of this philosophy and these programs may well determine whether this is a mission possible, to provide juvenile justice in Georgia.

PLEASE NOTE.—At the time this film was made, the Juvenile Court Act of 1971 was in effect and that law provided for the age limit for juveniles to be raised to 18 effective July 1, 1973. That law was changed by the 1973 Georgia General Assembly which passed a bill on the last day of the 1973 session (the day this film was released) that keeps the juvenile age limit at 17 rather than increasing it to 18 as indicated in this film.

Senator BAYH. The next witness today is Dr. Iris F. Litt, assistant director, Division of Adolescent Medicine, Montefiore Hospital, Bronx, N.Y.

Dr. Litt, we appreciate your being with us and giving us your expert testimony in this particular area as far as young people are concerned.

STATEMENT OF DR. IRIS F. LITT, ASSISTANT DIRECTOR, DIVISION OF ADOLESCENT MEDICINE, MONTEFIORE HOSPITAL, BRONX, N.Y.

Dr. LITT. Thank you for inviting me.

Senator BAYH. We are pleased to have you here.

Dr. LITT. Most of the testimony that you have heard today has been directed toward the conditions within detention facilities for children. I would like to shift the emphasis somewhat to the conditions which exist within the children themselves.

The Division of Adolescent Medicine at Montefiore Hospital has had the experience over the past 5 years of setting up and operating a comprehensive medical program for the children within the juvenile centers operated by the Human Resources Administration of New York City. Our experience over the past 5 years has been with the examination, treatment, and followup of 31,000 detainees, all under the age of 16. I would like today to share with you some of our findings, suggestions, and recommendations.

If I could draw your attention to the table 1, Senator, I think the numbers in that table best describe what I am trying to say; namely, that with comprehensive screening and evaluation, one finds that the children who are admitted to the detention facilities are not well physicially. They are at risk for a number of diseases. They also suffer from preexisting poor health and much of the preexisting poor health is further complicated by an antisocial lifestyle and in addition to these factors——

Seantor BAYH. How does an antisocial lifestyle affect their health?

Dr. LITT. That would then be, in addition to those other factors I mentioned, it would be the individuals who are involved in drug abuse for one and suffer the medical complications that result from it as well as venereal diseases and unwed pregnancy in the adolescents which are other problems relating to that category.

In addition to these two factors, you have all of the common medical problems of adolescents, regardless of socioeconomic backgrounds. So the children, when we have seen them in the detention facilities, really fit into these three large categories.

Now with that as background, we have found almost half of the children admitted to the facility have some medical problems, to say nothing of the dental problems, which are very common, and the psychiatric problems——

Senator BAYH. Does your data include psychiatric problems?

Dr. LITT. No. Not including psychiatric or dental problems, we found that almost half of them had a physical condition requiring immediate or long-term medical care.

Senator BAYH. What percentage have psychiatric problems?

Dr. LITT. Well, our program does not include psychiatric care so I really can't give you an expert estimate of that, but I would certainly think that a number would be in need of psychiatric help as Mr. Macci indicated earlier.

The next number in the table indicates the illnesses detected through screening tests alone. I really want to emphasize that point because, in addition to comprehensive medical history and physical examination, just by doing appropriate and rather simple laboratory tests, we have detected almost 20 percent of the total group having a condition which needs intervention either immediately or in the long run. This would include illnesses like anemia, urinary tract infections, tuberculosis, liver abnormalities, particularly hepatitis and so forth down the line.

The next number refers to those children requiring admission to the infirmary, which is operated at the facility and run by the Montefiore staff. And there were close to 2,000 admissions within that period of 5 years.

The next to last category is that of the children admitted to the inpatient adolescent service at Montefiore Hospital operated by the same professional staff which operates the medical service at the detention facility. That number of 369 represents the total in 5 years of individuals who needed medical services that could not be provided within the detention facility, namely, surgery or very intensive medical care.

The present comprehensive medical program was begun July 1, 1968, under an affiliation contract between Monetfiore Hospital and Medical Center and the city of New York. The professional standards for the program, as well as the recruitment and training of the health staff, thus became the responsibility of the division of adolescent medicine at the Montefiore Hospital and Medical Center and the Albert Einstein College of Medicine.

Accordingly, the facility was staffed and training programs were set up for health professionals within the detention facility. These consisted of a medical director and attending physician, pediatric interns and residents rotating on a monthly basis from the Montefiore training program, medical students, nurses, a dental hygienist and dental intern as well as a part-time oral surgeon, pharmacists, laboratory technicians, and supportive secretarial and clerical personnel. All of this, as I say, was funded with an affiliation contract between the hospital and the city of New York.

We feel that all of these services are necessary to provide adequate care for this population; it being at a very high risk population in medical illness. In addition, you heard that the average length of stay for the children in this type facility was less than 2 weeks. Some people might be surprised at that and question the validity of putting all of those resources into this temporary detention facility. Our experience, however, has been that quite a bit can be accomplished through medical care even within a 2-week period of time. Moreover we obviously found that a number of children left the facility with medical problems still present or needing further long-term treatment. As a result of that need, which we, incidentally, appreciated after the first year of operations of the program, we designed, and were able to establish, a program of care for the children after they left the facility. This program until adolescent after-care program was funded through a grant from the Federal Emergency Employment Act to the department of social services.

The last table, Mr. Chairman, table 3, indicates—and this is for 1 year; all of the other statistics are for 5 years—in the first full year of operations of the program there were slightly more than 1,000 children who were referred we reached care after discharge and 79% of them were successfully linked up with a health facility in their own community. For many others, members of the family were similarly referred for care, hopefully before they would have to get to a detention facility to receive such care.

Senator BAYH. How would that group that you studied—the 3,000 detainees and the 15,000 requiring medical care—compare with a controlled population of young people walking down the street that were not detainees? Do we have any data on that?

Dr. LITT. That is a difficult number to come up with because all the experiences with adolescents are in medical centers where patients have sought treatment because they felt acutely ill. In fact, none of a few of these 15,000 children felt ill or would have sought medical care were it available to them so it is hard to really draw a line to compare it to any other population.

I would suspect that some of the problems common to adolescence related to their rapid growth and development are problems which are probably common to both groups, were a study to be made, but I would suspect that in the other category, the controlled group category, children who have congenital abnormalities not operated on at this time of 15. I would suspect that would be higher in any group coming from an inner-city area.

Senator BAYH. I ask because I am trying to find the cause for the first acts that lead to a ruined life. It would be helpful in understanding these causes if we could find a controlled nondetainee group. Is any information available? Has any study like that ever been conducted?

Dr. LITT. Not really, and we have looked far and wide for this fact, before setting up the program we attempted to get some figures so we could appropriately gear up our services and the only figure was quoted to me—and I really can't give you an authoritative reference to it—it was something like 15 percent of adolescents require the services of a doctor in any one year, 15. Now our own experience would suggest that it is truly closer to 50 percent but I really don't know if it is a valid comparison.

Senator BAYH. Were all of this 31,000 sampling of detainees inner-city residents?

Dr. LITT. The majority. A very small percentage were runaways from other States who may have been middle class but I would say 99 percent probably would represent the inner city of New York, all five boroughs. In a few instances, we can perhaps draw some inferences about cause and effect in children who have congenital abnormalities or have anemia or are suffering from subclinical condition. In a few of them we have been able to see or postulate that their poor performance in school and their truancy might have been related to their health status but I really can't say this is true for all of them.

So that, in essence, our experience has been that the population in the detention facility is very much at risk so far as medical conditions and, second we feel that a lot can be done even within a short period to meet the health needs of such a group, and third, that health provides a good handle for dealing with adolescents who might not be otherwise amenable to professional intervention. For example, a number of drug using adolescents we come across feel that they don't have a problem and are really not ready for intervention with their drug problem per se. When found to have a liver function problem or a form of hepatitis, however, as we found in 39 percent of the drug users coming into the facility——

Senator BAYH. Did you say 39 percent?

Dr. LITT. Thirty-nine percent of the drug users coming into the facility who, by the way, appear to be healthy and have no symptoms but with the appropriate liver function tests, which are simple blood tests, 39 percent were found to have abnormalities of their liver, a form of hepatitis.

Senator BAYH. How long does it take a person with that particular form of the disease to go from looking perfectly normal to appearing ill?

Dr. LITT. That is interesting, because the majority of them never develop symptoms, and probably would never have had their problem detected if it weren't for that test. They go on to have liver damage but usually recover or they can continue to have these abnormalities for as long as a year. It is a form of chronic persistent hepatitis usually which is quite common among drug users. And as far as what their eventual outcome is, Senator, we really don't know parenthetically because there has really never been a comparable group of adolescents who were drug users who were studied with these tests; so it is really unfair to draw conclusions based on experiences of others with adults who are not drug users, which is the only group we have any data on right now.

But getting back to my original point, that these particular individuals who were not ready to accept help for their drug problem were amenable to coming back and seeing the physician on a regular basis because of their liver problem. Frequently, once a certain amount of trust developed between the patient and the doctor, we were then able to draw upon the expertise of other people who might be able to help them with their basic problem and so they were more amenable at that point.

So that for many of the adolescents, focusing on their health problem proved to be a very worthwhile goal in terms of their eventual

rehabilitation and some have continued to come back for medical care after leaving the facility. Many children have had a positive experience and for some of them it is the first positive experience with an authority figure.

A number of organizations have become interested in the problem of health care in detention facilities of late and amongst these is the AMA, which is now looking into the problem, the Academy of Pediatrics youth committee also, which has done a survey of detention facilities and their health programs and has now come out with health standards for juvenile court facilities which will be published in the September issue of the journal of the Academy of Pediatrics.

One of the items which I would strongly suggest is that these guidelines for care be made mandatory in facilities which received funds for detention of juveniles, Federal funds, and that——

Senator BAYH. Would that requirement be applicable to nonsecure detention institutions as well as secure?

Dr. LITT. Yes, we have recently expanded our program so that we are serving the children in the nonsecure programs in the Bronx and we found that this is very valuable because, when the nonsecure program attempted to get medical care through ordinary means; namely through resources already in the community, they found that they really had difficulty getting the kind of attention and kind of comprehensive care that these particular children really require. In other words, the children who have had poor medical care in the past and really need more resources, I think, than the ordinary adolescent weren't getting them. So, yes, I think it is applicable to the nonsecure programs as well.

Another part of that, and something that I didn't really write in my prepared statement is that the formula for reimbursement to municipalities who do have such priorities that they do sponsor good health care programs in their detention facilities should really be adequate. It is a credit to New York City's system, the Department of Social Services, that they have found this to be a priority and have placed the appropriate dollar value on having such a program and I would guess that there aren't many other municipalities which could afford to do this even if they were appropriately motivated.

The other part of the problem is not only devleoping guidelines for health care and implementing them, but probably more important is being able to train health professionals in the special problems of the institutionalized individual be it an adolescent or an adult. I strongly suggest that enabling legislation be passed to establish within medical schools free-standing departments of institutional medicine or prison medicine which would be taught by a group of physicians, lawyers, criminologists, sociologists, et cetera, who would have expertise in the area so that you could develop this as an area of special interest and try to attract quality physicians to its practice.

I think you will find if you look at most detention facilities that the practice of institutional medicine is a second job for many physicians or it is the place where physicians go when they are about to retire. This is obviously not true all over, but I think in the majority of facilities.

Senator BAYH. Let me ask you a nonmedical question. We have heard that from 50 to 90 percent—and I expect the range is actually 75 to 90 percent of those incarcerated, both young and old, can be

be treated and rehabilitated in a noninstitutionalized setting. The momentum of established programs however, is as near to perpetual motion as we experience on this earth. Do you believe we are just adding to the momentum of maintaining the established programs if we provide a special institutional branch of medicine?

Dr. LITT. I think that it is a very valid question and certainly, if you could guarantee there would be no more prisons or no more prisoners or detainees in the country 10 years from now, then it would be very inappropirate to do this. But on the other hand, there are institutions that aren't all punitive and these probably will always exist. For example, we provide medical consultation to the Job Corps in which there are 50,000 adolescents in institutions. They are not detention facilities. There are many such programs.

Senator BAYH. Is that the same kind of problem as trying to deal with detainees?

Dr. LITT. Very similar. Anyway, it should be. There should not be a difference.

Senator BAYH. Then that would be the same as the Army?

Dr. LITT. Yes. The Army you could say is another institution. I think there is a special expertise really required over and above the basic training in pediatrics or internal medicine that—well, for example, just looking at one very small area in the hospital where all doctors train, they are the ones who are responsible for the disposition of their patients and, when they prescribe a diet, they expect that it is going to be fulfilled. When you are working within an institution, it is not the medical aspect that is the most important and it is not the doctor who determines the disposition of the patient.

So he really has to know both sides; both the medical and the institutional and really know enough about the system to really help his patients within it.

Another recommendation which would hopefully improve the quality of care within all institutions would be possibly establishing some program for a medical school and tuition or post graduate training for individual physicians who would agree to give a certain amount of time in actual institutional work following graduation and completion of their training. Along with that possibly would be the funding for training in institutional and prison medicine. This is an acute need these days, since most fellowship training programs have been eliminated due to cutbacks to NIH funding. I would think it would be an opportune time to attract quality people to this area because there aren't that many fellowships available in more recognizable areas of post graduate training.

Senator BAYH. In your table 2, breaking the type of affliction into diagnostic categories, did you take into account vision difficulties? From a nonmedical standpoint, I wonder if vision should be assessed also?

Dr. LITT. Table II is the breakdown for those who require admission to the infirmary or the inpatient hospital adolescent unit so that it would not have included problems of vision which you are absolutely correct are very common problems in the detained population.

Senator BAYH. Was there any effort made to see if there were vision abnormalities?

Dr. LITT. They are screened. I'm sorry but I don't have that figure immediately available.

Senator BAYH. Could you get them for us?

Dr. LITT. Yes.

Senator BAYH. The reason I ask is that one major problem in the juvenile delinquent population is truancy, and one apparent cause is that the students aren't learning to read. You can't read unless you have good eyesight. It would be interesting to find this out. We have a number of case histories of Johnnie or Suzy being given a pair of glasses and suddenly they were A or B students where previously they caused the teacher all sorts of problems. It would be interesting to get what number among those 31,000——

Dr. LITT. I can get that. There has also been a study done in the Bronx, not by us, by where it indicated that they screened school children in the Bronx and found a very high incidence of visual disturbances, particularly in Puerto Rican females in the Bronx. I might be able to supply you with that.

Senator BAYH. Could you get that?

Dr. LITT. Yes; and similarly, hearing is another one that fits into that same area.

VISUAL PROBLEMS DETECTED UPON ADMISSION SCREENING

January 1, 1972–December 31, 1972—187 of 3,745=5 percent.
January 1, 1973–June 30, 1973—150 of 1,778=8 percent.

Senator BAYH. What does this type of treatment that you provide cost on a per patient basis?

Dr. LITT. We are up to close to $150 per patient per year, which may seem like a lot but for the basis of comparison, Senator, the figures for the Job Corps, which I am also familiar with in the other hat that I wear, there the cost would be $331 per patient per year. Admittedly the patients stay somewhat longer but not really that much.

Senator BAYH. Could you explain that per year figure?

Dr. LITT. This would include the cost of the entire screening procedure which every individual who goes into detention receives so this would be the 31,000 over the 5 years, yes.

Senator BAYH. That applies to the initial screening?

Dr. LITT. Everything.

Senator BAYH. Does it also apply to the followup treatment?

Dr. LITT. Yes. It applies to the followup treatment. The costs of hospitalizing in the infirmary that $1,900 figure. It does not include the 300-some-odd who were admitted——

Senator BAYH. You mean the 369?

Dr. LITT. Right. The 369 admitted to the inpatient unit. It does not. That is not included.

Senator BAYH. The average stay at the detention facility was? weeks?

Senator BAYH. Does that include any followup treatment that may be necessary after child X, who is there for 2 weeks, goes out on the street and needs additional care for another 2 months? Is that included?

Dr. LITT. No. It would include the cost related to getting the individual to a resource facility in his own community. In the after care program, the costs would be figured into that, but the ongoing care for most of our detainees would be obtained from medicaid reimbursements. Most of our patients are medicaid eligible and would be funded through that system.

Senator BAYH. I am concerned about the cost. I do not need to be sold on the value. I am convinced that that is a sound investment that ought to be taken for granted. I am always searching for dollar and cent figures to prove to those who don't believe in this kind of treatment that it is still a good investment if you take into consideration the $7,000 per year, which it costs to keep an average male in the Federal penetentiary.

I am also curious, Doctor, as to what the initial reaction of the medical staff and the professional people at the hospital was when they were asked to deal with these youth?

Dr. LITT. That is an interesting question. As you can imagine, the reactions were mixed. I think we in the division of adolescent medicine were enthusiastic about the opportunity to, one, see what the incidence of illness was in this population and have an opportunity to try out a new model of delivery of health care. I am not sure that everybody shared that enthusiasm with us, particularly the nursing staff in the inpatient unit, who were initially worried about bringing these "criminals," and that is in quotes, into their hospital. I may add that the children who are admitted to the adolescent in-patient service are treated in exactly the same way as all of the other patients that are there. That means there are no locked doors within the adolescent service area and there has been a runaway rate of less than 5 percent over the 5 years. But in any case, after a year the nurses got together and voluntarily admitted that they found there was really no difference and there was no way that they could tell the children from the detention facility from the other children admitted to the adolescent services. So that they were won over during the first year.

Senator BAYH. Were there any stolen narcotics? Was there any purse snatching or nurse molesting or any of the horrors one might envision with this kind of group?

Dr. LITT. No. I really think there has been excellent rapport and I think the adolescents responded very well to the type of care they got and the attention they received. There really have been no major problems of that nature.

Senator BAYH. You have had a very impressive experience. I appreciate your taking the time to bring it to us.

Dr. LITT. Thank you.

[Dr. Litt's prepared statement is as follows:]

STATEMENT BY IRIS F. LITT, M.D., MEDICAL DIRECTOR, JUVENILE CENTER SERVICE, DIVISION OF ADOLESCENT MEDICINE, MONTEFIORE HOSPITAL AND MEDICAL CENTER, ALBERT EINSTEIN COLLEGE OF MEDICINE

The testimony you will hear from others today will, for the most part, be directed toward the conditions within detention facilities for children. The experience of the Division of Adolescent Medicine at Montefiore Hospital and Medical Center has had as its focus, rather, conditions within the children detained in such facilities themselves. The five year experience of establishing and operating a program of health care delivery within a children's detention facility suggests that even a short period of detention may be appropriately utilized to detect and treat health problems and may often serve as a pivotal point in a youngster's total rehabilitation. We have further demonstrated that such a model of health care delivery may be utilized by youngsters in Non-Secure detention as well.

The Juvenile Centers of New York City were established for the temporary detention of children between the ages of 8 and 18 years from all 5 boroughs. They are placed in secure detention because of alleged "delinquency" or their classification as "persons in need of supervision" for an average stay of 14 days. After first being operated by a private board of citizens, then by the Office of Probation, the Centers are currently administered by the New York City Human Resources Administration. Approximately 6,000 children are admitted per year with boys outnumbering girls in a ratio of two to one. The average census of the facility is now below 250 compared with approximately 400, five years ago.

After adjudication of their cases by the Family Court, the majority of teenagers return home on probation while approximately twenty percent are transferred to State Training Schools. The remainder may enter local drug rehabilitation programs, homes for unwed pregnant girls or small school programs.

Prior to the Montefiore Hospital affiliation program, medical care was provided, in the typical pattern of most child detention facilities, by a local physician who visited the center for a few hours each week and a small staff of nurses. Medical evaluation of the children was cursory with no routine diagnostic screening program and no program of upgrading or education for the nursing staff. Children who became acutely ill were sent to wait in the busy emergency room of a nearby municipal hospital, often handcuffed to the accompanying guard. The infirmary was small, poorly lighted, hot in summer and cold in winter and dirty, with no system of communication between the children locked in their rooms and the nurses' station.

THE PROGRAM

The present comprehensive medical program commenced on July 1, 1968 under an affiliation contract between Montefiore Hospital and Medical Center and the City of New York, which included dental but excluded psychiatric care. The professional standards for the program, as well as the recruitment and training of the health staff, thus became the responsibility of the Division of Adolescent Medicine at the Hospital and the Albert Einstein College of Medicine, rather than of the facility's administration.

The program is designed to provide quality patient care, professional and patient education and a system of collection of health data. A modern, cheerful health center was constructed within the detention facility comprised of a complete dental unit, pharmacy, laboratory and recreation area for patients, a 17 bed infirmary, as well as examination and treatment rooms. As health needs of the detained population were recognized, the original staff was expanded to its present panel of a Medical Director and attending physician, pediatric interns and residents rotating on a monthly basis from the Montefiore training program, medical students, 17 registered and 1 practical nurse; full time dental hygienist and dental intern as well as part-time oral surgeon; pharmacist; laboratory technicians and supportive secretarial and clerical personnel.

Patient care is provided in an ambulatory as well as in-patient setting. The ambulatory program is divided into a screening evaluation of all new detainees and a sick call and medication dispensation system for those in residence. In-Patient care is provided within the facility's Infirmary or at the Adolescent In-Patient Unit at Montefiore Hospital (both operated by the same professional staff).

Intake screening begins at the time of admission on a 24 hour basis. The screening process is a joint effort of the team of nurses, doctors, dental hygienist and laboratory technicians. At the time of admission a complete medical record is begun, or continued in the case of the patient who had had a previous admission. All patients are routinely screened for anemia, urinary tract infections, tuberculosis, syphilis and gonorrhea. All girls are tested for pregnancy while drug users are screened for liver function abnormalities. Immunizations are brought up to date. Additional tests are done if requested by the examining physician. The dental hygienist offers instruction in care of the teeth and schedules the large number of patients requiring further dental care with the dentists at the Juvenile Center.

A complete medical history and physical examination are performed within 24 hours of admission. Thirty-one thousand patients have been so evaluated since the inception of the Montefiore Program. For most of these youngsters, this represents the first thorough examination since infancy. Consequently, the fact that approximately 50% of the healthy-appearing adolescents admitted for detention are found to have physical illness, exclusive of dental or psychiatric problems, may not be surprising. (Table I.)

These health problems generally fall into three categories: First, those common to all adolescents during the period of rapid growth and body change that in the essence of adolescence. In this category are the orthopedic, gynecologic, endocrinologic and dermatologic conditions which plague teenagers of all socio-economic backgrounds. The second category is that which encompasses the medical or physical complications of the life style of some adolescent patients and includes venereal disease, unwed pregnancy and complications of drug abuse. Four and one-half percent of the girls, with an average age of 14.5 years were found to be pregnant at the time of admission. Most were previously unaware of their pregnancy and none had used any form of contraception. One-third of the adolescents admitted to the facility have been found to be users of drugs. On the basis of screening liver function tests on those drug users who had no symptoms of hepatitis and who had negative physical examinations, 39% or 3,700 were found to have a form of hepatitis. The third large category of illness includes those usually discovered at an earlier age but, because of the pattern of poor medical care available to the youngsters' families, were not detected until the time of their examination at the center. Congenital abnormalities, ranging in severity from heart disease, kidney and endocrine defects to hernias requiring surgery make up the bulk of this category. The majority of these defects could have been corrected surgically at a younger age, at a lesser cost to the patient and to society. In some cases, the presence of these defects may have actually contributed to the youngster's school difficulty with resultant truant behavior, and may have, in fact, been a factor in their difficulty with the law.

In addition to the screening process, ambulatory services are provided to children in residence who feel the need to see a doctor or those who require follow-up care for conditions detected at the time of admission screening. Much of the usual frustration generated by difficulty in obtaining medical care within institutions is eliminated by the system whereby a child need only write his name on the daily "sick call" list in the dormitory to guarantee seeing the doctor. A weekly surgery clinic as well as gynecology and prenatal clinics have been established at the Juvenile Center in addition to the full range of consultative and diagnostic services available to the Juvenile Center's patients at the hospital proper. An efficient system of dispensing and recording medication doses in each patient's chart was established and operated by the pharmacy staff assigned to the center.

There have been approximately 2,000 patients admitted to the infirmary at Juvenile Center and an additional 400 patients transferred to the Adolescent In-Patient Unit at Montefiore Hospital in the five years since the program has been in operation. (Table II) The high incidence of illness detected in these detainees, coupled with the short period of detention, results in a number of children leaving the center before their medical problems have been completely treated or evaluated. To insure that this first step towards patient education about health needs, detection of health problems and initiation of therapy would not be the last, a program of medical after care was established. Through this program, previously unemployed or underemployed workers, hired through a Federal Emergency Employment Act grant, were trained by our professional staff to contact the adolescent and his family and arrange for ongoing health care for him and other family members after his release from detention. (Table III)

All the medical services available to detained children have recently been made available to the children in the Non-Secure Detention Program within the Bronx.

In addition to quality health care delivery, the presence of a discipline other than law enforcement within a closed detention facility has had the advantage of introducing innovations to the administration. For example, the refusal by the medical staff to lock patients in their infirmary rooms was initially greeted with concern, if not alarm, by the custodial staff. The subsequent experience that no staff members were injured by this practice prompted an "open door" policy in the rest of the facility. The admission of nearly 400 teenagers from the center to the non-secure setting of the Adolescent Unit at Montefiore Hospital and the subsequent escape rate of less than 5% also reinforced the concept that non-secure detention may be an appropriate alternative for many of these youngsters. Another, perhaps more subtle, implication of an independent medical staff is the freedom to report suspected abuse of children by the custodial staff. Moreover, medical surveillance of all injuries sustained by the children in detention has resulted in prompt correction of safety hazards and the creation of a health and safety committee for the facility.

SUMMARY

In summary, the experience of the Division of Adolescent Medicine's affilia-
tion with a youth detention facility has shown that detainees suffer from pre-
existing poor health, further complicated in many by their anti-social life-style
This incorporation of a system of health care delivery into a medical center
medical school program has the advantage of supplying superior personnel, in-
service training and a multitude of services not usually available to a detention
facility. As a result, much can be done medically for detainees, even during a
short period of remand. Moreover, easy access to quality medical care tends to
reduce tension and frustration within a detention setting and, for the individual
adolescent, frequently represents a rare non-punitive experience with authority
figures. Lastly, we believe that such a program provides health professionals in
training with a valuable opportunity to be exposed to the turmoil and frustra-
tion, as well as the rewards of institutional medicine.

SUGGESTIONS FOR PROPOSED FEDERAL LEGISLATION

(1) Incorporating the guidelines for "Health Standards for Juvenile Court
Facilities" as promulgated by the Academy of Pediatrics into requirements
for all child-caring institutions receiving federal funding.

(2) Enabling legislation and funding to establish within medical schools
free standing, departments of institutional (or prison) medicine which could be
composed of physicians, lawyers, criminologists, psychiatrists, psychologists,
penologists, sociologists, etc. who would teach a core curriculum to students of
the health sciences (medicine, nursing, dentistry, etc.).

(3) Federal stipends for medical school tuition or post-doctoral training to
those physicians who agree to give service within institutions following com-
pletion of training.

(4) Funding for followship training in institutional or prison medicine.

TABLE I.—*July, 1968–June, 1973: Health problems in juvenile detainees*

Detainees screened	31,3
Total requiring medical care	14,5
Illnesses detected through screening tests alone	6,0
Children requiring hospitalization in infirmary	1,3
Children requiring admission to In Patient Adolescent Unit	3

TABLE II.—July, 1968–June, 1973: *Diagnostic categories of health problems identified in patients admitted to infirmary or in-patient adolescent unit*

Infectious	1,1
Metabolic	1
Traumatic	1
Neoplastic (tumors)	
Toxic	1,2
Congenital	1
Allergic	
Psychiatric	
Miscellaneous	2

TABLE III.—June, 1972–June, 1973: *Adolescent after care program*

Total number referred following discharge	1,0
Total number successfully treated	7

[Subsequent materials submitted for the record were marked "Exhibit No. 4 and 5" and are as follows:]

EXHIBIT No. 4

Title: Prisons, Adolescents and the Right to Quality Medical Care: The Time Is Now.

Authors: Iris F. Litt, M.D., Assistant Professor of Pediatrics, Michael I. Cohen, M.D., Associate Professor of Pediatrics.

From: Division of Adolescent Medicine, Department of Pediatrics, Montefiore Hospital & Medical Center, and the Albert Einstein College of Medicine, Bronx, New York.

ABSTRACT

One of the many frustrations of prison life appears to be lack of access to quality medical care. In an attempt to alleviate this problem, a comprehensive medical program was established within a teenage detention facility through an affiliation agreement between the municipal government and a university medical center. The experience of the initial 42 months with 22,595 inmates has shown that approximately one half of a detained population suffer from preexisting poor health, frequently worsened by an antisocial lifestyle. Nonetheless, much can be accomplished in the prevention and treatment of disease within a prison setting. Moreover, practices within such a facility may be favorably influenced by the presence of a helping discipline such as medicine. In addition, training opportunities exist for both health professionals and inmates which have not heretofore been appropriately utilized.

Recent events at the Attica, Rikers Island and San Quentin penitentiaries have focused attention on the frustrations and inadequacies of this country's prisons. Among the problems highlighted has been the delivery of health care in penal institutions. Medical care in such settings is typically provided by an individual physician, assisted by a few nurses, and is crisis oriented. Little health rehabilitation is undertaken and programs of preventive medicine or of health education are rare. A recent editorial in the medical literature ended with the plea that physicians would "cast . . . an occasional thought for the needs of the sick and for the way of life of the healthy who are involuntary guests of our society." [1]

The experience of the Division of Adolescent Medicine of Montefiore Hospital and Medical Center over the past 42 months with adolescent prisoners suggests that the medical needs of those in detention, whether adults or adolescents, may be well served by a team of health professionals with the backing of a medical center. In addition, much is to be gained in the area of staff education by the medical center providing support for such a program. To encourage other medical centers to become involved in this heretofore largely neglected area of health care, we report this experience.

BACKGROUND

The Juvenile Centers of the City of New York were established for the temporary detention of children between the age of 8 and 18 years from the five boroughs of the City who are either adjudged "delinquent" or "persons in need of supervision." They are placed in detention by the Family or Juvenile Courts for an average stay of two weeks while disposition plans are completed by probation officers. The centers at present are operated by an executive branch of the municipal government, the New York City Human Resources Administration. There are approximately 6,000 admissions each year. Boys outnumber girls in a ratio of two to one. Between 200 and 400 teenagers are in residence at one time, housed within two facilities located about 7 miles south of Montefiore Hospital in a high population density, high crime, area of the Bronx, and relatively inaccessible by public transportation. The mandate of temporary, yet secure, detention, high turnover rate and a small custodial-counseling staff, has precluded meaningful rehabilitation programs within the centers to date, although all children attend school and participate in recreational programs.

[1] Robinson D: Prisoners as patients. New Eng J Med 287: 101–102, 1972.

After leaving the center, a majority of the children return home on probation. Twenty percent are transferred to State Training Schools (juvenile prisons) and the remainder may be placed in smaller municipal or state penal programs either urban, suburban or rural in locale. Local drug rehabilitation programs also receive a number of these youths.

Prior to the Montefiore Hospital affiliation program, medical care was provided by a physician who visited the centers for one hour each weekday, assisted by nurses. There was no program of upgrading or in-service education of the nursing staff, no routine diagnostic screening program for the inmates and medical evaluation usually consisted of an apparently cursory physical examination. Only "court-ordered" laboratory procedures such as the VDRL, vaginal smears for gonococcus and pregnancy tests for girls who were home runaways, or electroencephalograms on those who "acted out", were consistently performed. Those in need of emergency care or hospitalization were cared for in the busy emergency room of a nearby municipal hospital. The infirmary was a small dark area with peeling paint, poor ventilation, broken venetian blinds, dirt encrusted window screens and an illuminating system which was deemed secure, but offered little light. There was no system of communication between patient rooms and the nurses' area. Furthermore, the children were locked in their rooms at night which contained neither sinks nor toilets. The program now operates out of a modern, cheerful area designed to meet patients' and physicians' needs. A complete dental unit, pharmacy, laboratory, modern equipment for diagnosis and treatment and a recreation room, now exist, in addition to an 18 bed infirmary and appropriate examination and treatment rooms.

METHODS AND MATERIALS

The Montefiore Hospital program, under an affiliation contract, commenced on July 1, 1968 and consisted of three components: quality patient care, professional and patient education and health data collection. The service program consisted of a system of delivering care to those more seriously ill teenagers in need of hospitalization within the infirmary at the S. Center or on the Adolescent In-Patient unit at Montefiore Hospital. An ambulatory program was designed which segregated the general medical screening of new admissions and ongoing care for those already in residence. The latter was divided into "sick-call" and "medication call" programs and several specialty programs.

Intake screening was performed at the time of admission to the facility by nurses who evaluated the need for immediate attention by a physician and if none existed, they obtained and recorded vital signs, height and weight and implanted a tuberculosis screening test. The following day, or immediately if indicated, the patient was seen by a medical house officer who obtained a medical history and performed a complete physical examination. The following diagnostic tests were regularly performed on all inmates in a laboratory set up on the premises and staffed by two technicians: urianalysis, hematocrit, sickle cell anemia screening test, and VDRL. A pregnancy test and vaginal culture for gonorrhea were obtained on all sexually active females, while liver function studies were routinely obtained on all drug users. Immunization innoculations were brought up to date. The patient was screened by a dental hygienist who offered instruction on the care of teeth and referred those in need of further dental care to a dental intern and oral surgeon within the center's health area.

Services to those inmates in residence consisted of a twice daily "sick call". The centralized medical area and infirmary at S. Center staffed by nurses and house officers also supplied a 24 hour telephone consultative service to the other center. The infirmary was available at all times for emergency care with transshipment of patients to Montefiore Hospital if the situation warranted.

Medications were dispensed by nurses and pharmacists utilizing a unit dose system after preparation by the pharmacy staff from Montefiore located in the prison. Weekly clinics were established at the center for surgical, prenatal and

gynecologic problems. Daily dental clinics at the center to effect emergency, as well as restorative, care are now in session.

The infirmary was used for inmates with communicable diseases, drug withdrawal, severe infections, trauma, gynocologic disorders and a variety of medical problems of a more serious nature. Those patients in need of surgical or intensive medical care were transferred to the In-Patient Adolescent Unit at Montefiore Hospital.

An average of 2,000 patients leave the center each year who require after-care for unresolved medical problems. Previously, the only mechanism available for dealing with this problem was submission of letters to the patient's parents or guardian with no method for determining whether adequate follow-up care was being received. For this reason, a follow-up program utilizing family health workers was designed and became operational in 1972. The program guarantees that those teenagers found to have medical problems while at the center will be enrolled in an appropriate health facility near his or her residence and that other members of the family with the same condition will be identified and similarly treated.

Training is considered to be a vital function of this prison health program. Twenty nurses, three pharmacists and two laboratory technicians are involved in ongoing inservice training through conferences, visiting attending physician rounds and periodic rotations back to Montefiore Hospital where they received their initial training. A resident, intern and medical student from the Albert Einstein College of Medicine participate in the program, including a night call rotation for a 4 to 6 week period. Staff phsicians at the prison have full time academic appointments at the Albert Einstein College of Medicine and participate in all aspects of the Division of Adolescent Medicine at Montefiore Hospital.

RESULTS

In the 42 months since the program was instituted 22,595 patients have been evaluated. Forty-six percent of these presumably healthy teenagers were found to have medical problems. A list of the most common of these, found on the basis of laboratory screening alone, is found in Table I.

Of the drug users, 2,689 or 30 percent, were found to have elevations of SGPT values at the time of admission to the center. Liver biopsy was performed on 49 of those whose chemical abnormalities persisted for at least three months with the finding of chronic persistent hepatitis in most.[2] The diagnosis of venereal disease was based either on the finding of a positive VDRL, confirmed by a positive FTA test, or a positive culture for gonorrhea on Lester Martin media. Only one patient was found to have active pulmonary tuberculosis but 427 adolescents received isoniazid therapy because of a positive tuberculin skin test of indeterminate duration. Of 3,077 patients tested, 318 were found to have sickle trait although no patients with homozygous sickle cell disease were detected. Counseling of those with the trait was conducted by the Nursing Supervisor.

The diagnosis of pregnancy was made upon admission in 4.5 percent of the girls with an average age of 14.5 years. None of these patients had used contraception. Only 15 percent chose to have an abortion, despite easy availability of elective termination of pregnancy in New York State since 1970.

Asymptomatic urinary tract infection was diagnosed in 308 patients (245 females and 63 males) on the basis of a urine culture showing greater than 100,000 bacterial colonies performed after the screening urinalysis revealed pyuria.

One third of the teenagers entering the center have been identified as drug abusers on the basis of medical history and physical examination.[3]

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[2] Litt, I F, Cohen M I, Schonberg, S K, Spigland I: Liver disease in the drug-using adolescent. J of Ped 81, No. 2: 238–242, 1972.

[3] Litt I F, Cohen M I: The drug-using adolescent as a pediatric patient. J of Ped 77, No. 2: 195–202, 1970.

There have been 1,427 patients admitted to the infirmary; in addition, 306 patients required transfer to the Adolescent In-Patient Unit at Montefiore Hospital. An analysis of admission diagnoses for these groups is found in Table II.

DISCUSSION

Rotation through the medical service of a detention facility exposes health professionals from all disciplines to a group of patients who have had little prior medical care at a time when their social and emotional problems are of greater concern to them than physical ills. As many of the medical problems are inextricably related to the patient's social environment, the role of the health professional goes beyond that within the traditional hospital setting. It is not sufficient, for example, to diagnose and treat peptic ulcer disease in the teenaged girl at the center. One must ask where the patient will go for follow up medical care and how the court's disposition might affect the disease process or its therapy. In addition, consideration must be given to whether incarceration in a penal institution may effect disruption in patho-physiology as in diabetes, asthma, peptic ulcer and epilepsy, as well as complicate the differential diagnosis of amenorrhea. The medical students and house officers rotating through the center rapidly become proficient in identifying physical signs of drug abuse, in taking a drug abuse history, in treating narcotic and barbiturate abstinence syndromes and in detecting and treating the somatic consequences and complications of drug abuse.[3] Less tangible effects of this exposure accrue from the inevitable process of introspection that accompanies a short, but intense, relationship with the young drug user, from the frustration of seeing a patient detoxified and returned to his original environment, only to return again to prison once more addicted; from the conflict of the confidentiality of the doctor-patient relationship; as one relates to the courts and the importance of knowing that the disposition resides ultimately with the judiciary, not with the doctor as in a traditional hospital setting.

Although our experience has been with teenage "prisoners", the system of delivering medical care described herein could be equally applicable to a detained population of adults. Adult prisoners, for the most part, also come from inner city areas and would therefore be expected to suffer from many of the same medical problems as the adolescents described here. Reports of medical complications in adult heroin addicts, who might constitute a significant proportion of the prison population, suggest that they have additional problems, such as tuberculosis, ulcer disease, and tetanus.[4]

In a long-term secure detention facility a full-time staff of health professionals: physicians, nurses, laboratory technicians, pharmacists, dentists, dental hygienists, and social workers may also serve the inmates in a training capacity, teaching selected, responsible inmates to function as paramedical personnel and health aides. This would not only provide additional skilled manpower for the in-prison medical service, but would also serve as an excellent rehabilitation program for some prisoners. It would offer meaningful work activities during the period of their detention, as well as training and experience that would assist them in obtaining employment after release.

The presence of a discipline other than correction or law enforcement within the closed detention facility has the advantage of introducing innovations to the administration. For example, the refusal to lock adolescents in their rooms in the infirmary area was initially greeted with concern, if not alarm, on the part of the personnel. Subsequent experience that no staff member was injured by those whose rooms were not secured prompted the adoption of an "open door" policy in the rest of the facility. The admission of more than 300 teenagers from the center to the nonsecure environment of the Adolescent Unit at Montefiore Hospital with an "elopement" rate of 5 percent also reinforced in some probation and correctional personnel the concept that many teenagers did not need secure detention. Partially as a result of these observations, a program of foster home and small group home placements for many of these adolescents is now operational and expanding in New York City.

In summary, the experience of the Division of Adolescent Medicine affiliated with a youth detention facility has shown that the detained population suffers from preexisting poor health by virtue of lack of medical care prior to detention and that certain medical conditions are by-products of the life-style of those

[3] Litt I F, Cohen M I: The drug-using adolescent as a pediatric patient. J of Ped 77 No. 2: 195–202, 1970.
[4] Sapira J D: The narcotic addict as a medical patient. Am J Med 45: 555–588, 1968.

who eventually become imprisoned. Much can be done medically for detainees, even during a short period of remand and opportunities for epidemiologic surveillance of illness are great. Easy access to quality medical care also reduces tension and frustration within a prison setting. It is suggested that certain carefully selected prisoners detained for a long period of time may be excellent candidates for training as allied health workers by the medical staff. Lastly, we believe it is beneficial for health professionals in training to be exposed to the turmoil, the frustration and also the rewards of prison medicine if we hope to alter the life style of the imprisoned.

TABLE 1.—Health problems identified in 22,595 adolescents through medical laboratory screening procedures upon admission to a youth detention facility.

1. Hepatitis, subclinical	*2,689	4. Pregnancy	397
2. Venereal disease	507	5. Sickle cell trait	318
3. Tuberculin positive	427	6. Urinary tract infection	308

*Refers to abnormal serum chemical analyses performed on 7,272 drug users and not necessarily acute viral hepatitis.

TABLE 2.—Diagnostic categories of health problems identified in 1,703 teenagers either admitted to the prison infirmary or referred to the in-patient adolescent unit during a 42 month period.

1. Infections:		4. Neoplasms:	
Respiratory	218	Malignant	4
Cardiovascular	20	Non-malignant	22
Dermatologic	90	5. Toxic Reactions:	
Central nervous system	5	Overdose syndromes	45
Venereal	170	Abstinence syndromes	*209
Gastrointestinal	67	6. Congenital Malformations:	
Hepatic	185	Genitourinary	66
Genitourinary	24	Cardiac	7
Dental	9	Other	17
Other	34	7. Allergic Problems:	
2. Metabolic Problems:		Asthma	22
Diabetes	30	8. Psychiatric disorders	45
Hematuria	21	9. Miscellaneous problems	201
Proteinuria	17		
Hypertension	7		
Other	25		
3. Trauma:			
Skull	45		
Extremities	69		
Other	29		

*An additional 701 patients were detoxified on an ambulatory basis.

EXHIBIT No. 5

PRELIMINARY REPORT

NATIONAL SURVEY OF HEALTH CARE IN INSTITUTIONS FOR DELINQUENTS,

VICTOR EISNER, M.D. AND ROBERT I. SHOLTZ, M.S.

Juvenile delinquents come largely from populations with poor health[1] and from families accustomed to receiving episodic care for illness rather than continuous pediatric care for their children.[2] For this reason, one would expect a high incidence of health problems among institutionalized delinquents, similar to the incidence among enrollees in job-training programs[3] and other groups of adolescents.[4] Traditionally, poor health has been seen as one of the causative factors of delinquency[5] and although this view has given ground to sociological

[1] MacIver, R. M. The Prevention and Control of Delinquency. New York, Atherton Press, 1966.
[2] Delsher, R. W. and O'Leary, J. F. Early Medical Care of Delinquent Children. Ped 25: 320–335: 1960.
[3] Eisner, V.; Goodlett, C. B. and Driver, M. B. Health of Enrollees in Neighborhood Youth Corps. Ped. 38: 40–43: (Jul) 1966.
[4] Salisbury, A. J. and Berg, R. B. Health Defects and Need for Treatment of Adolescents in Low Income Families. Pub. H. Rep. 84: 705–711: (Aug) 1969.
[5] U.S. Children's Bureau, Health Services and Juvenile Delinquency. Washington, U.S. Dept. of HEW, C.B. Publ. No. 353: 1955.

theories [6] several authors [7,8,9] have described electroencephalographic abnormalities among groups of delinquents.

The Children's Bureau, in cooperation with the National Association of Training Schools and Juvenile Agencies, recognized these considerations when it published standards for training schools in 1957.[10] They recommended a thorough examination of each child admitted to the school, comprising a medical history, a physical examination, laboratory examinations, and eye and ear examinations. These were to be followed by treatment, and if necessary, the institution was to plan for continuation of the treatment after the child's release.

These standards apply only to training schools to which delinquents are sent after adjudication. They apparently do not apply to detention centers in which juveniles are held pending disposition by courts. Standards for health care in detention centers were published in 1961 by the National Council on Crime and Delinquency.[11] Since detention is supposed to be a short-term process, they did not demand extensive health services, nor did they prescribe more than a superficial search for health problems. They recommended a brief examination of new admissions for evidence of abuse or communicable disease, medical histories from the child and from his parent, and dental examinations where possible. When health problems were discovered they were to be reported to the court, and recommendations made to parents. Only emergency or short-term treatment was to be provided.

Little is known about the effect of these recommendations. To our knowledge there has never been a national study of health care in institutions for delinquents. Various communities have studied local institutions, and in 1967 the Minnesota Chapter of the Academy of Pediatrics, with the cooperation of the Commissioner of Corrections, surveyed detention centers in that state.[12] As a result of this survey, other groups of pediatricians began to make similar studies in their own states. At the same time, the Youth Committee of the American Academy of Pediatrics interested itself in the problem. In 1971 it authorized the present study.

Approximately 50,000 children are confined at any one time in training schools and another 10,000 in detention centers.[13,14] Since 2500 counties out of the 3100 in the United States do not have juvenile detention facilities,[15] other juveniles are held in county jails. The number of these is uncertain. While the National Council on Crime and Delinquency [16,17] estimates that 50,000 to 100,000 children under juvenile court age are held in jails and police lockups, Low [18] estimated the figure at about 18,000 and the U.S. Department of Justice, in its 1970 jail census [18] found only 7,800. Shifting definitions complicate the estimates: some jurisdictions include 17 and 18 year olds among adult offenders, for example, and the Department of Justice's definition of a jail excluded all lockups which did not have authority to hold prisoners 48 hours or more.

The present study consists of site visits by pediatricians to a probability sample of detention centers and training schools in the United States. No jails or police lockups were included nor were "youth" prisons in states where these are distinct from juvenile facilities. At each institution in the sample, the pediatrician looked for the presence of or absence of certain specific aspects of an ideal health program, and made value judgements on other aspects of the program based on his professional experience. The results of this survey may be interpreted as a professional judgement of the status of health care of all delinquents in these institutions in the United States.

[6] Eisner, V. The Delinquency Label: The Epidemiology of Juvenile Delinquency. New York, Random House, 1969.

[7] Jenkins, R. L. and Pacella, B. L. Electroencephalographic Studies of Delinquent Boys. Am. J. Orthopsych. 13: 107–120: 1943.

[8] Low, N. L. and Dawson, S. P. Electroencephlalic Findings in Juvenile Delinquency. Ped 28: 452–457: (Sept) 1961).

[9] Williams, D. Neural Factors Related to Habitual Aggression. Ment. H. Dig. 2: 14–18 (Jan) 1970.

[10] U.S.D.H.E.W., Children's Bureau and Nat. Assn. of Training Schools and Juvenile Agencies. Institutions Serving Delinquent Children: Guides and Goals. Children's Bureau Publ. No. 360, 1957.

[11] National Council on Crime and Delinquency. Standards and Guides for the Detention of Children and Youth. New York, NCCD, 2nd Ed., 1961.

[12] Schroeder, A. J. Personal communication.

[13] Low, S. America's Children and Youth in Institutions 1950–1960–1964. A Demographic Analysis. U.S.D.H.E.W., Welfare Adm., Children's Bureau Publ. No. 435, 1965.

[14] Jackson, L. T. and Ligons, D. C. Statistics on Public Institutions for Delinquent Children 1966. U.S.D.H.E.W., S.R.S., Children's Bureau Stat Series No. 89, 1967.

[15] Brewer, E. W. Detention Planning: General Suggestions and a Guide for Determining Capacity. Washington, U.S. Dept. H.E.W., Children's Bureau Publ. No. 381, 1960.

[16] National Council on Crime and Delinquency. Corrections in the United States. Crime and Del. 13: 1–281: (Jan) 1967.

[17] National Council on Crime and Delinquency, Directory of Juvenile Detention Centers in the United States. NCCD, 1968.

[18] U.S. Dept. of Justice, Law Enforcement Assistance Administration. 1970 National Jail Census. Nat. Crim. Justice Information and Stat. Service, Statistics Center Report SC-1 1971.

METHODS

With the aid of an advisory group drawn from members of the Adolescence Committees of the Northern California and Southern California Chapters of the American Academy of Pediatrics, a questionnaire was prepared and pretested. (Appendix A) The instructions used with the questionnaire (Appendix B) and the questionnaire form itself listed the areas to be visited and personnel to be interviewed. Surveyors were told that answers should reflect their professional judgement and the standards of good pediatric practice.

A random sample, stratified by the type and estimated size of institution, was drawn from the most recent directories of detention centers [17] and training schools.[19] (The newer 1970 Directory of Correctional Institutions and Agencies [20] became available to us too late for inclusion in the sample frame. It listed 8 detention centers and 25 training schools opened since the directories had been published. The combined population of these 33 institutions was 2,016, thus the sample frame actually contained about 97% of the children in detention and training schools.) The sample consisted of 45 of the 322 training schools listed, and 34 of the 272 detention centers.

Physician surveyors were recruited with the help of the American Academy of Pediatrics, and its local chapter chairmen. Fifty-two physicians, of whom 42 were members of the Academy, volunteered to visit one to three institutions each. They averaged 43 years of age, with none over 65 and only one under 30. The majority (27) were in private practice. They had graduated from medical school an average 17 years previously, with only one who had left school less than 6 years before the survey. About half (23) were members of Adolescence committees of their professional societies. Nearly all (46) were male.

Sixty-seven of the site visits were completed, giving a completion rate of 85%. Non-returns were distributed throughout the sample, so that all strata were represented among the completions. Since the only known reason for non-completion was failure to obtain a volunteer physician for the site visit, we do not believe that the non-completions constitutes a bias.

RESULTS

A. *Population in Institutions*

Calculations based on the populations of the institutions actually surveyed allow us to estimate the total population in detention centers and training schools. About 64,000 children were in these institutions in the Spring of 1971. Of these, 53,000 were in training schools and 11,000 in detention centers. These figures do not differ significantly from our initial estimates of 50,000 in training schools and 10,000 in detention centers. Table I shows that about 14% of the inmates of training schools and 51% of the inmates of detention centers were in small institutions (arbitrarily defined as ones with inmate population less than 100). Four out of five inmates were boys, and 43% were white. (Table II)

B. *Administration of Health Program*

Seventy percent of the institutions studied had health programs administered by physicians. Generally this was not the physician who rendered primary health care in the institution. When a physician was not in charge of the program, either a nurse or the superintendent of the institution was responsible.

The administrator had an active health council to assist him in only a quarter of the institutions. All of the health councils included a physician and nearly all included a nurse. Most of them also included a psychiatrist, a psychologist, a social worker, a dentist, and the chief administrator of the institution.

The governmental body which ran the institution hired the physicians for most of the detention centers and many of the training schools. About half of the

[19] Carpenter, K.S. Directory of Public Training Schools Serving Delinquent Children. USDHEW, Welfare Adm., Children's Bureau, 1966.

[20] American Correctional Association Directory: Correctional Institutions and Agencies of the United States of America, Canada and Great Britain, The Association, 1970.

training schools had physicians hired directly by the institution's superintendent. About two thirds of the physicians were paid according to the time they spent. A fee-for-service pattern of payment was used in about 40% of the small institutions, but in only 20% of the large ones.

Deficiencies in the administration were noted in a substantial number of institutions. In about one institution out of five no permission for medical treatment was obtained for inmates. Medical records were judged unsatisfactory in the same number. One institution out of four failed to review medical records when an inmate was discharged. In one out of five no arrangements were made for needed follow-up treatment after discharge. These deficiencies were commoner in small institutions than in the large ones; thus only half of the inmates in small institutions would have some arrangement made for seeing that medical care started in the institution would continue. The surveyors judged that the administrative structure of the program interfered with effective health care in 22% of the institutions.

C. *Environment of Institution*

The surveyors reported that the general feeling within most of the institutions they visited emphasized rehabilitation rather than custory or punishment. Punitive feelings were found only in a few of the large detention centers. These facilities detention centers held only 1% of the inmates.

Most of the institutions had adequate physical facilities for their inmates. Only a sixth were overcrowded, and most of these were the short-term detention centers. Nearly all kept bedding and clothing clean. Diets were adequate in all of the institutions surveyed, whether or not there was a dietician (which there was in over half of the institutions). Food was attractively served in nearly all of the training schools and three fourths of the detention centers.

The surveyors felt that many of the small institutions did not separate inmates appropriately by age. The risk of homosexual assault did not diminish however when inmates were separated appropriately by age; precautions against such attack were deemed inadequate in one out of seven of the large institutions and in only one out of 20 of the small ones. These figures mean that nearly 5,000 inmates are confined in institutions where these precautions were judged inadequate.

Facilities for health care were generally good in training schools. Nearly all had adequate facilities for emergency care and care of illness, including access to laboratories and X-rays. Most also had adequate facilities (either in the institution or by referral) for dental care. With the exception of dental care, this was true also of large detention centers. However, half of the inmates of small detention centers did not have adequate facilities available for care of illness or for dental care. Large institutions generally had available adequate pharmacy services and consultation with specialists. These services were unavailable to a quarter of the inmates of small institutions.

Nearly all of the institutions had adequate recreation, general education, and compensatory education programs, although detention centers were less likely than training schools to offer compensatory education.

D. *Medical Procedures at Admission*

The overall impression of the surveyors was that most of the inmates had good or excellent assessments of their health when they entered the institution. Only 9% of the inmates were in institutions where the health assessment was considered "inadequate": these children were mainly in small institutions, both detention centers and training schools. However, nearly a third of the children in the institutions with populations under 100 had inadequate health assessments.

Elements of the health assessment surveyed were the medical history, the physical examination, and screening tests. Nearly all (94%) of the children were in institutions where a medical history of some sort was taken, and the overwhelming majority of the histories were taken by a physician or a nurse. However, the surveyors judged that only 70% of the children were in institutions where the history was adequate. Detention centers and small training schools frequently did not obtain a history. Parents were less available in training schools, especially the large ones, than in detention centers, and more than half of the inmates had to give their medical histories themselves. In many instances, the total time allotted to the medical history was five minutes or less. (Table III)

Physical examinations (Table IV) showed more variability with the type of institution than did the medical history. About 85% of the inmates received adequate physical examinations, but only about half of those in detention centers or small training schools. In the large training schools over 97% of the inmates received adequate physical examinations. Nearly all of the examinations were performed by physicians who took adequate time for the task. The major deficiency in this area of health assessment consisted in not doing the examination at all.

All institutions, even the large training schools, performed screening tests less often than physical eaminations. Table V shows the proportions of inmates in each type of school who were in institutions which routinely performed various types of test on each new admission. Heights and weights were usually taken, and dental screening, tuberculin testing and vision screening were ocmmon. Hearing screening and urinalysis for protein and sugar also were common procedures, but a microscopic examination of the urine was routinely done for only a minority of the inmates.

Once problems had been identified, the surveyors found that they were handled well. Practically none of the large institutions gave inadequate care for health problems picked up at admission, and the small institutions gave adequate care to four out of five of their inmates. Altogether only 5½% of the inmates were in institutions where inadequate care was given for problems found at entry.

The institutions were far less likely to provide immunizations than they were to provide treatment for specific problems. Table VI shows that nearly all the training schools provided tetanus and smallpox immunizations when necessary, but other types of immunization were given far less frequently and detention centers were much less likely to give immunizations of any sort than were training schools.

E. *Treatment of Illness*

The quality of care for illness varied with the size of the institution. All of the large institutions had regular sick calls. Small institutions were less likely to do so; 15% of the inmates of small detention centers and 39% of the inmates of small training schools were in institutions which had no sick calls, or sick calls less often than once a week. Institutions which held sick calls usually gave good care at them; inadequate care at sick calls was nearly always found in small institutions. Nevertheless, the surveyors thought that doctor-patient relations were poor in a third of the institutions, and that care was frequently given with inadequate consideration of the patients' dignity and feelings.

Table VII shows the proportion of inmates who could expect good or excellent care for drug problems, suicide threats, emotional problems, and learning problems. Large institutions were more likely to handle these problems well than small, and training schools more likely than detention centers. Despite the obvious need, a fifth of the inmates in detention centers could look forward to inadequate treatment of acute drug toxicity, and a quarter would receive inadequate care if they threatened suicide.

Many institutions have standing orders covering medications for inmates or treatment of minor illness. With a few exceptions, these were judged to be appropriate.

F. *Dental Care*

As stated above, many institutions did not have adeqaute facilities for dental care of the inmates. The observers judged that two-thirds of the inmates received good or excellent dental care despite this. Even detention centers, which nor-

mally hold inmates only for short stays, provided good dental care to about 40% of their inmates, and training schools provided it to three quarters. The types of care given are shown in Table VIII. Emergency care and extractions were available to nearly all the inmates of training schools, and even prostheses were available to two-thirds.

G. Overall Assessment of Program

At the conclusion of the survey, the question was asked, "In your opinion, is the overall health program of this institution inadequate, barely inadequate, good, or excellent?"

The responses to this question are shown in Table IX, as percents of inmates of each type of institution. Only 7.4% of the inmates were in institutions with inadequate programs and 81.4% were in institutions with good or excellent programs. The inadequate programs were mostly in small institutions, both detention centers and training schools. Only half of the inmates of small training schools or detention centers were in institutions where the programs were rated "good" or "excellent".

H. Effects of Survey

The very fact of studying a subject creates interest in it. For this reason, each of the surveyors was asked what effect the survey had on practices in the institution. Most responded that they observed none, or that not enough time had elapsed to tell. However, several specific results were reported. In two states, authorities requested consultation on health programs from the local Academy of Pediatrics chapter for all of their institutions for delinquents, and in one other state, they requested similar help from the State Department of Health. In six other states, the surveyors reported that the superintendents of one or more of the institutions included in the sample requested further consultation. In half-a-dozen institutions, the surveyors were able to observe specific changes following their inquiries about such areas as sanitation, screening examinations, or psychiatric help.

In addition to these specific effects of the survey, the need to recommend surveyors led two local chapters of the Academy of Pediatrics to establish Youth Committees.

Discussions and conclusions

The first impression one obtains from the results detailed above is that the standards for health programs are fairly-well met, especially by detention centers. In general, detention centers provide for more extensive health services than specified by the National Council on Crime and Delinquency.[11] Training schools generally have adequate facilities and use them appropriately.

The present survey was not designed to measure health care against the written standards, but to compare it to the "standards of good pediatric practice" (Appendix A). By these standards, the health programs in all of the large training schools were "adequate" or better. However, the story is different in training schools and camps with less than 100 inmates, where 40% of the inmates, about 3,000 juveniles, were in institutions with "inadequate" health programs. Detention centers, were inmates stay for shorter times, had fewer programs judged inadequate but the 16% of inmates of detention centers with inadequate programs amounted to 1,700 individuals.

In general, the physician surveyors found the technical performance of physicians in the institutions to be satisfactory albeit frequently impersonal. Physical examinations were generally done well, treatment was given, and standing orders were appropriate. Deficiencies tended to be in other areas, ranging from inadequate facilities through inadequate provisions to handle problems that were not strictly medical, to inadequate arrangements to provide continuity of care after discharge. All of these problems were worse in small institutions than in large ones. While published standards differentiate between detention centers and training schools, the quality of health programs actually appears to depend more on the size than the type of the institution. Obviously, large institutions can more readily provide facilities of any type than can small ones.

But facilities do not need to be within the walls of an institution to be available. To find inadequate facilities at small institutions suggests that these

institutions are not making enough use of existing facilities in the outside community. The quality of health care given to involuntarily confined children should not depend on the size of the place of confinement. One might argue also that it should not depend on the type of institution. The rationale for lower standards of care in detention centers comes from the temporary nature of the child's stay in the institution. According to the National Council on Crime and Delinquency[10] the average stay of a child in a detention center is twelve days. This means that half of the children in detention, or about 5,500 children, will stay twelve days or longer. One need only ask what health services would be provided for children staying in private camps for twelve days to see the need for health services beyond a superficial examination and emergency treatment.

Standards for the care of children in institutions for delinquents are a part of the more general problem of standards for the health care of children away from home, or in the custody of persons other than their parents. This is a legitimate concern of pediatricians, although one to which little attention has been given. This survey suggests a need to develop and promulgate new standards for such care. Such standards should include guidelines for determining the extent of medical care and other health program activities which must be provided. They should also include standards of program administration to facilitate the provisions of comprehensive care, and they should be as feasible for use by small institutions and foster homes as by large institutions.

It should not be necessary for a child to be imprisoned in order to obtain adequate health services, but in the present state of distribution of health care in the United States, a detention center or training school may provide a child's first opportunity to receive comprehensive health services. The finding of "adequate" services for most of the juvenile delinquents in institutions should not obscure the parallel finding that only a quarter of the inmates were in institutions providing "excellent" care. Forty five thousand children are confined in institutions where the health programs were rated less than "excellent".

Health programs for delinquents can best be improved by local action. This survey, which visited only an eighth of the institutions in the country, has already stimulated improvements in a few programs. It has shown that superintendents of training schools and detention centers will welcome help in these areas, and will cooperate in improving health programs.

Summary

Physicians surveyed health programs in a random sample of United States training schools and detention centers for juvenile delinquents. The quality of health programs and the health care given to delinquents were found to be generally acceptable, but not optimal.

Health care in these institutions can be improved by local action. However, the published standards for health programs appear inadequate, and need revision by appropriate national organizations.

ACKNOWLEDGMENTS

The authors wish to thank James B. Gillespie, M.D. of the American Academy of Pediatrics for his help in organizing the recruitment of volunteer physicians to make site visits at the institutions surveyed. Far more members of local chapters helped with the survey than we can name here. The list includes chapter chairmen and members of Youth Committees in nearly every state, as well as the 52 physicians who made the actual site visits. Without the help of all of them, we could not have accomplished the survey. We also wish to thank Drs. Arthur Bolter, Henry B. Bruyn, E. C. Curtis, Frank E. Dudenhoeffer, Alexander Hatoff, George H. Lowrey, and John A. Knowles for their help in planning and pretesting the survey.

We are indebted also to George M. Kuznets, Ph.D., who gave invaluable help in designing the sample.

The survey was carried out with the help of General Research Grant No. 5-S01-RR-05441 from the National Institutes of Health, U.S. Dept. of H.E.W. to the University of California School of Public Health, Berkeley.

TABLE I.—POPULATION OF INSTITUTIONS FOR DELINQUENTS IN THE UNITED STATES BY TYPE AND SIZE OF INSTITUTION

	Small institutions [1]	Large institutions [2]	Total
Detention centers	5,634	5,455	11,089
Training schools	7,447	45,139	52,586
Total	13,081	50,594	63,675

[1] Less than 100 inmates.
[2] 100 or more inmates.

TABLE II.—POPULATION OF INSTITUTIONS FOR DELINQUENTS IN THE UNITED STATES BY RACE AND SEX

	White	White with Spanish surname	Negro	Other and unknown	Total
Male	22,077	5,170	18,636	6,347	52,230
Female	5,200	751	3,895	1,599	11,445
Total	27,277	5,920	22,532	7,946	63,675

TABLE III.—MEDICAL HISTORIES

[Expressed as percent of all inmates of institution of each type who are in institution which takes history in the manner shown. For example, in the 1st column 100 percent would be all inmates in training schools; 73.4 percent of them were in training schools where an adequate history was taken]

	Training school	Detention center	Small institution [1]	Large institution [2]	Total
Adequate history	73.4	53.8	48.0	75.6	70.8
History taken by physician or nurse	80.2	71.6	68.3	81.4	78.7
No history or history taken in 5 minutes or less	51.3	35.9	48.5	48.7	48.6
History taken only from child	61.7	28.6	35.3	61.2	55.9

[1] Less than 100 inmates.
[2] 100 or more inmates.

TABLE IV.—PHYSICAL EXAMINATIONS

[Expressed as percent of all inmates of institution of each type]

	Training school	Detention center	Small institution [1]	Large institution [2]	Total
Adequate physical examination	92.2	49.7	51.0	93.5	84.1
Physical examination not done	6.6	18.0	34.2	2.0	8.8
Physical examination not done by physician	0	6.8	3.9	.5	1.1
Physical examination done in 5 minutes or less	5.7	30.8	15.5	8.7	10.1

[1] Less than 100 inmates.
[2] 100 or more inmates.

TABLE V.—ROUTINE PERFORMANCE OF SCREENING TESTS

[Expressed as percent of all inmates of institution of each type]

Type of test	Training school	Detention center	Small institutions [1]	Large institutions [2]	Total
Height and weight	94.6	68.7	72.5	94.7	90.1
Dent[illegible]	89.4	39.8	50.5	88.5	80.1
Tuberculin	85.7	49.1	60.8	84.2	79.1
Vision	82.5	53.0	47.6	73.2	70.1
Urine sugar	67.6	38.7	53.4	64.8	62.1
Hearing	68.9	28.5	10.0	75.2	61.1
Urine protein	66.2	38.7	53.4	63.6	61.1
Urine microscopic	38.1	38.7	42.4	37.2	38.1

[1] Less than 100 inmates.
[2] 100 or more inmates.

TABLE VI.—IMMUNIZATIONS GIVEN

[Expressed as percent of all inmates of institution of each type]

	Training school	Detention center	Small institution [1]	Large institution [2]	Total
Tetanus	93.1	67.4	70.3	93.4	88.6
Smallpox	82.3	37.9	65.3	77.0	74.6
Polio	77.1	44.2	56.0	75.4	71.4
Diphtheria	57.0	55.7	68.7	53.7	56.7
Measles	48.3	33.4	45.6	45.8	45.7

[1] Less than 100 inmates.
[2] 100 or more inmates.

TABLE VII.—GOOD OR EXCELLENT CARE OF SPECIAL PROBLEMS

[Expressed as percent of all inmates of institution of each type]

	Training school	Detention center	Small institution [1]	Large institution [2]	Total
Emotional problems	82.5	40.9	51.9	81.3	75.3
Learning problems	75.1	29.7	44.3	73.1	68.2
Acute drug toxicity	63.1	62.2	46.6	67.2	63.0
Suicide threat	66.0	47.6	45.0	57.4	62.8
Chronic drug abuse	65.2	48.9	35.3	69.4	62.4

[1] Less than 100 inmates.
[2] 100 or more inmates.

TABLE VIII.—DENTAL CARE AVAILABLE

[Expressed as percent of all inmates of institution of each type]

	Training school	Detention center	Small institution [1]	Large institution [2]	Total
Emergency care	97.6	70.3	75.2	97.4	92.8
Extractions	91.0	34.3	66.7	84.9	81.1
X-ray	84.6	37.8	60.9	80.5	76.5
Fillings	84.6	32.0	59.2	79.7	75.5
Prophylaxis	70.2	18.8	29.2	69.5	61.2
Prostheses	64.5	25.2	41.7	61.8	57.6

[1] Less than 100 inmates.
[2] 100 or more inmates.

TABLE IX.—OVERALL ADEQUACY OF HEALTH PROGRAM

[Expressed as percent of all inmates of institution of each type]

	Training school	Detention center	Small institution [1]	Large institution [2]	Total
Inadequate	5.6	15.7	32.9	0.8	7.4
Barely adequate	8.0	26.2	15.8	10.0	11.2
Good	59.5	50.3	39.1	62.7	57.9
Excellent	26.9	7.8	12.2	26.5	23.5
Total	100.0	100.0	100.0	100.0	100.0

[1] Less than 100 inmates.
[2] 100 or more inmates.

Senator BAYH. The last witness today is Mr. John T. Shope, director of the Mecklenburg County Juvenile Diagnostic Center, Charlotte, N.C.

Mr. Shope, we appreciate your being with us this morning and again I am sorry for the delays that have inconvenienced you and delayed your testimony. We appreciate your staying with us.

STATEMENT OF JOHN T. SHOPE, DIRECTOR, MECKLENBURG COUNTY JUVENILE DIAGNOSTIC CENTER, CHARLOTTE, N.C.

Mr. SHOPE. Thank you very much, Senator Bayh.

As I am sure all of the other people who have been before your committee today have said, I appreciate the opportunity of coming here and appearing. Let me give a little background as to my experience in the area of juvenile detention before I start.

I was the director of the facility in Atlanta when CBS did their special there, also when Howard James did his publication showing the trouble there. At present I am director of the Juvenile Diagnostic Center in Charlotte, which is basically a juvenile detention facility that provides some psychological testing services to children that are in need of secure custody. So my experience has been basically in these two institutions: One is a large 114-bed facility in Atlanta and then there is the small 30-bed facility in Charlotte which, by the way, has an average population of about 17.

My experience in the area of juvenile detention on a national scope comes from me being immediate past president of the National Juvenile Detention Association and being in contact with many, many of the people working in detention facilities in the Nation. The first thing I wanted to do was, well, would be to define what I feel is the detention process and also to define what I feel is a juvenile detention facility, of course, being the process of keeping a child in secure custody pending court disposition in this case. A juvenile detention facility is any institution which provides secure custody for children separate and apart from the adults pending court disposition or pending transfer to another agency.

Senator BAYH. When you say secure, you mean a locked facility where the stay is not voluntary?

Mr. SHOPE. Yes; and the in the professional field I think there is a problem here of semantics. I feel that juvenile detention facility means per se that: secure custory. I disagree with the theory that every child in our institutions now need this, but when I am saying juvenile detention facility, I am talking about a secure custody facility and want to clarify that point. House detention or detention of the individual for probation services or detention for case services on a preadjudication basis, to me this is not basically a secure custory—

Senator BAYH. What about 30 days in jail before seeing a judge?

Mr. SHOPE. That is definitely a process of detention but it is not a detention facility.

Senator BAYH. But the impact on those that are detained is probably the same?

Mr. SHOPE. Yes; very much so. That is again the process of detaining but yet is not a detention facility as I see it.

Now, I wanted to skim through the presentation that I have prepared today. I would just like to make it a part of the record and then skim through some of the points I feel are very important.

First of all, I think the concept of having a juvenile detention facility separate and apart from an adult facility is a direct consequential outgrowth from the philosophy that created the juvenile court system itself. If we are to be able to individualize the needs of child-

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Now, I wanted to skim through the presentation that I have prepared today. I would just like to make it a part of the record and just then skim through some of the points I feel are very important.

First of all, I think the concept of having a juvenile detention facility separate and apart from an adult facility is a direct consequential outgrowth from the philosophy that created the juvenile court system itself. If we are to be able to individualize the needs of children that appear before the juvenile court, then our institutions must be geared basically to deal with the problems of juveniles and not adults.

I think, at surface value, the concept of providing juvenile detention facilities in lieu of adult jails, is a good one but that is at surface value. If through the creation of a juvenile detention facility in a community, children who need secure custody can be spared from the criminal environment and stigma of the adult lockup and from all of the negative things that go with being in an adult lockup, if these can be eliminated by being in a juvenile detention facility in a community, then I think we can accept that as being a positive reason for creating such facility. Too often, however, the building of a physical plant is the first step a community takes in establishing a system of juvenile justice.

Alternatives to temporary incarceration as a resource to the community are very rarely tried. They are very rarely attempted until existing juvenile facilities become dangerouly overcrowded and then we go to other alternatives.

I want to give the Georgia situation because I am familiar with that, as an example. In the early 1960's, as Mr. Starnes' presentation shows, the general citizens in Georgia became very alarmed at the number of juveniles being detained in the local county jails in that State and, as a direct result of this, the regional system was established and suddenly overnight we had six new regional detention facilities to supposedly take care of the problems of juveniles on a predisposition basis. Now the problem I think with this type of emotional reaction to the problems of children being in jail is that with this creation of juvenile facilities to take the children out of jail, we guaranteed that more and more and more juveniles would be incarcerated simply because there were no intake procedures built into this system. Within a year's period of time every new regional facility that was constructed was overcrowded. The problem also was with the judges, the 30 or more judges that had authority to commit children on a temporary basis to these institutions received no training and no orientation as to what the use of these facilities should be. So what we did in Georgia, because of the planning aspect, was to expand from a situation where we had some children being held in the county jail to one where we probably increased the number of children in secure custody threefold or fourfold on an average daily basis.

So what I am saying here is that, in an emotional appeal to get kids out of the jails, let's not create juvenile jails as the alternative.

Senator BAYH. You said the number detained was increased threefold, or fourfold as a rsult of this new benevolent approach?

Mr. SHOPE. Right; to get them out of jail we created institutions that provided more bed space and so we put more back into juvenile jail and to me I think we are harming more kids in secure custody than I think were harmed in the adult jails if you balance the good and bad of adult versus juvenile. And the numbers we are now keeping in secure custody—and when I say "We, I am not in Georgia any more—but the number of individuals, kids in secure custody in Georgia has increased because of this benelovent effort. That is what I am saying, that in creating an emotional appeal to get the children out of the jails, let's be sure we don't create juvenile jails in its place and guarantee that more secure custody will be the result.

In 1958 the National Probation and Parole Association, which is now the NCCD, had a publication called "Standards and Guides for the Detention of Child and Youth" and it pretty well summed up the status of juvenile detention in this country at that time. I don't really think that has changed much on a national scope. I think it has changed considerably in certain locations such as New York and some other areas where detention populations have decreased, but in other places there are also new facilities constructed almost every month. Again in many cases on the part of the community new facilities are created after an emotional appeal to the community to get the children out of the adult jails.

Specifically I have been asked to discuss some of the areas I feel are problem areas to the administrator of a facility. I guess my experience in Atlanta will be a good background for problems in the area of administrator of a facility.

Now, I think the main problem that a detention administrator faces, and this is my own personal opinion, is not in running his institution but it is in continually redefining to the community, the police, to the law enforcement, to the probation department, to the social welfare people in the community, and to the general community as a whole, the function of the facility to see that it is not misused and does not become dumping ground for kids needing a variety of community services.

I think that the first function of the administrator is not to worry about the day-to-day problems in house, but to see that his institution is not misused. I think the problem of the detention administrator carries an awesome moral responsibility to the children he has in his care and I am particularly concerned with the move in this country to provide children with legal rights, without, in many States, guaranteeing that the moral rights of these children are also protected. I will go into that in a little bit.

I think legally every administrator in this country is protected if he has a signed court order saying that child is remanded to his custody. I think since the *Gault* decision, proper due process procedures have been applied in most juvenile courts.

I particularly know of no juvenile court that is operating in complete disregard of *Gault*. There might be some on the verge of disregard, but I know of none that have not been affected directly by *Gault*. My whole concern about that decision and the legal implications that are followed is that we have missed the whole point. We have been so involved with developing legal due process for kids that we really haven't develop the services that *Gault* needed.

We have passed legislation to establish due process but yet we haven't created the services that Gerald Gault needed so he could benefit through due process. The Gerald Gaults will probably still go to training school but in the situation we are operating in in this country now, Gerald Gault would have due process. This is my concern in the area of legal process and legal rights of children.

Senator BAYH. What would you recommend we do in the disposition of Gerald Gault if it were done not merely according to due process but according to a true concern for the moral rights of that young person?

Mr. SHOPE. I think that that gets into my recommendations about types of alternatives for the court system. We would have everything

from youth service bureaus to foster care and get away from this traditional foster care of maw and paw with an extra bed and a per diem of $3 per day with each child that comes; with no program. There are a variety of services that would keep Gerald Gault from going to training school that I could recommend. I think that is the important point. Our juvenile system still sits in the position of a parent. We commit children to institutions and they are still in our custody in juvenile court. So, if we are going to do that, we are going to have to provide the services that we would provide our own children. If our children were having a dental proble, they would get to the dentist. If our children were having a medical problem, they would go to the doctor. If our children needed psychiatric care, they would go and receive that. These are the types of things I am saying are the moral responsibilities we owe those children.

Getting back to the way a community somehow reacts to the legal process involved to assure that children that are being detained, for instance, have legal safeguards, Senator, in North Carolina they have a statute that was just changed. It says that a child that is being held in secure custody has to have a formal hearing within 5 calendar days. It was changed from 5 days to 5 calendar days simply because the attorney general interpreted 5 days to mean 5 days under the old civil procedures system. So now we have to have a hearing within 5 days for that child. Because North Carolina has some very rural areas, the district court judge who sits as juvenile court judge and the chief probation officer were the only two people in the local community that could make detention decisions. In other words, they could make the decision to detain a child or not. So rather than creating a system of intake screening, the State passed this year a new law that allows the clerk of the superior court to make this decision if the judge so designates. So really, what we have done is broaden the funnel in our State for finding a mechanism to make it legal to detain children, and this is the way the bill passed that a child cannot be detained without someone who has legal authority to make that decision, making that decision. So we passed a law that gave this legal authority to 100 different people.

Senator BAYH. I am sure there are a number of court clerks that are very dedicated people throughout North Carolina, but what does that statute giving the clerk the power to detain a child require of the clerk in terms of training, experience, and educational background regarding the problems of children, juvenile delinquency, and due process?

Mr. SHOPE. In North Carolina there are 100 counties and 100 different clerks and it requires only that he be elected.

Senator BAYH. Only that he be elected?

Mr. SHOPE. In all of the communities it requires the district court judge to designate him. In other words, he would designate him by written order on file. Now in how many counties this is being done I am not sure. We haven't had a chance to see what is happening. In my county I know this is not being done. Our judges don't feel that responsibility should be passed down to the clerk of the superior court because it is a terrific responsibility. Probably the key to the whole juvenile system is in the intake processing of children.

I think, probably, the second most important area from the standpoint of the administrator of the detention facility is the delicate role he has in, No. 1, developing a good program within his institu-

tion, and I am saying good, sound detention programs, but yet at the same time turning around and telling the community why some children shouldn't be there simply because he has this good program. In other words, this sounds rather redundant, I guess, but it is a terrific problem for the administrator. I would define a good program as being a variety of things, everything from group counseling to medical care to positive recreational activities to positive adult-child relationships, then how can you convince the community that the child should not be there in order to get those programs?

This is a tremendous ongoing problem of the detention administrator.

Chuck Simonson from Akron, Ohio, made a presentation a couple of years ago entitled "Is a Good Detention Program Contributing to Juvenile Delinquency?" It is the type of situation where the community feels, "look, we've got a terrific place to keep the children so we will commit more there," and "they've got a good program there so we will commit more."

My own personal opinion is this, and that is, it is detrimental to confine a human being. It is just not the nature of man to be confined. I look on juvenile detention—and it is my field—as a necessary evil, but an evil that must be controlled and must be properly used. It is my own personal opinion that from 30 to 50 percent of all kids that are in secure custody in this country today do not need to be there.

At the particular point of intake there are some alternative programs that could be tried prior to that decision to place him in custody——

Senator BAYH. 30 to 50 percent is about the lowest estimate I have heard.

Mr. SHOPE. That is my opinion. Atlanta is 75, Charlotte is probably about 25. That is my opinion of Atlanta and Charlotte combined.

Senator BAYH. You work in Charlotte now?

Mr. SHOPE. Yes. And I think New York City is a good example of how alternative programs can be used rather than locking the kid up prior to adjudication.

Now we haven't talked or I haven't heard much mentioned about post-adjudication of delinquent children. That wasn't mentioned in the letter to me, but to me that is another real touchy point and that is the number of runaways and truants and ungovernables that we have—and I noticed on Mr. Mucci's daily log there the number that are just waiting in suspense for something miraculous to happen before they are released, you know, waiting for placement, is usually the single most used line on a detention memo "hold for placement; probation officer trying to work out resource." And normally that is not there. Maybe a relative will show up from out of town to take the kid to live with him but normally it doesn't happen. And a lot of these kids, after adjudication, after they have been found ungovernable, after they have been found guilty of a status offense, they are simply waiting for something to happen. In many cases, this is done by the judges because they don't want to send the kid to a training school, and they don't want to commit him to a long-term institution, so the child spends a lot of his time just waiting in suspense. And the detention facility, of course, catches the brunt of all the emotional behavioral problems that are involved with the 30- or 60- or 90-day stay.

I think, on a national level, there is a very, very critical situation developing in the area of preadjudication detention of children on status offenses. I see it in our area and most of the administrators I know of are seeing it in theirs. A large number of juvenile detention facilities and juvenile courts are experiencing this community pressure to "do something about the runaway problem." I think the situation and the incidents that happened in Texas have put a tremendous amount of pressure and had a tremendous effect on the national image and feeling of "we have to do something about runaways." I think detention facilities are catching the brunt simply because they are the existing facilities. The juvenile court system is the existing system and the detention facilities are the existing facilities and they are going to be misused unless alternative programs are created. Rather, I should say they are going to be continued to be misused at a larger rate simply because they exist.

I am very concerned about the philosophical justification for our undisciplined and our ungovernable, what we call the status offense, category of child. To me the philosophy is this and that is we have laws in our statute books in the States that allow the courts to deal with these types of children simply because and the only logical reason being, the reason we want to prevent children from running away and we want to see that the children go to school and we want to see that the children obey their parents is to prevent them from eventually becoming delinquents or from becoming criminals; yet in most communities the only institutions and the only facilities that these children have to be served are the same institutions and the same services and the same facilities that handle the delinquent children. So to use a local expression, we are trying to prevent the kid from becoming scratched by throwing him "right into the briar patch" so to speak. There is no logic behind it. There is no philosophical logic behind the statutes dealing with the undisciplined or the ungovernable or the runaway children if it is not to prevent them from becoming juvenile delinquents and yet the children use the same institutions that the juvenile delinquent children use.

There is just no logic behind it.

Now this is the fourth major problem in the area of administrator of the detention facility and that is the problem of staff and staff training. I think Mr. Mucci put it real well as far as the problems involved with keeping a well-qualified and well-trained staff. In 1969, in my own facility in Atlanta, I had a 75-percent turnover rate of male staff. It is just impossible to operate any type of effective ongoing program with that type of turnover. I think many factors contribute to this. I think the inability of administrators to provide staff time for training is one factor. I think that pressures involved in working in a lockup facility is certainly another factor. Where the child care staff ratio versus the children is so high that physical control rather than individual guidance becomes the watchword. It becomes the only measurable quantity that a community can see, you know, how many kids did you have run away from your facility? And if you didn't have any you must be doing well. If you had some, you weren't doing well. You know, the judge doesn't get upset if you don't have any so this is how we measure the effectiveness of the detention program. There is no way I know of measuring the negative psychological effects that detention has on the children who shouldn't be

there. I think the only national staff training program that I have had experience with in the area of people working in the area of juvenile detention was an LEAA funded—no, it was an HEW funded program, at Southern Illinois University that lasted from 1968 I think, to about 1970. It lost its Federal grant, but I think it made a tremendous impact. For one thing, it did a complete survey of existing juvenile detention facilities in the country and that was the first survey I know of that was ever done which included everything from educational level of staff to data capacities and so on. It was just a very comprehensive type of study on that. On top of that they did some real sincere and some real good staff training for administrators and also for line staff out of their campus at Southern Illinois University. But again, their function has been removed and there is no national effort to do training in the area of juvenile detention staffing. The National Juvenile Detention Association, of which I was, and have been connected since 1968, is trying to do it on a membership dues basis and we have trained about 650 staff people in the last 2½ years; but it is an effort that requires financial contribution on behalf of all of us involved as well as those that attend these training sessions.

The second area that I wanted to cover today was suggested in the letter of invitation and was my evaluation of existing facilities in relation to physical conditions, recrational programs, medical programs, and rehabilitative programs; that is, of juvenile detention facilities in the country as a whole, and that was very, very difficult to do. They range in size from as little as 5 beds to the new facility in Chicago, which will have a capacity, when it is open next month, of 550 juveniles. They range in physical description from those that are dungeon-like—and Mr. Starnes mentioned one in Bibb County, Ga.—to those that are considered by local communities to be motels and get criticism for being so nice and having such a good program.

I think that the Omnibus Safe Streets and Crime Act had a terrific impact on improving facilities in the last 5 years, though I think, that basically, construction funds will probably be cut off at this point. I think probably that is a good thing to do too. I think it is generally accepted that all detention centers should provide recreation, group discussion, schooling, individual guidance, and opportunities for religious services on a voluntary basis and also constructive work experience.

A survey of 167 homes conducted by SIU, in 1971 indicated that a substantial number of detention homes are falling short of the recommended program standards. I know this survey is 5 years old and I am sure there have been some tremendous changes made in those 5 years, but I still think basically that statement is true. Of the 167 detention centers surveyed at that time 90 percent had organized recreation programs, which is kind of unheard of, only 90 percent, it looks like 100 percent would have recreational programs for the kids. 74 percent had school programs, 63 percent used volunteers, 81 percent required constructive work, and only 20 percent used any type of group treatment techniques. The amazing thing about this, I feel, is that 25 percent of detention homes surveyed at that time didn't have any kind of school program at all and of those that did have schools it is very questionable as to the type of school program they had.

There have been some innovative school programs developed in the country in detention facilities. My concern in the area of school is that every State now has a compulsory school attendance law yet 25 percent of detention facilities that operate aren't sending their kids to school and we are keeping them in there for things like truancy and ungovernable behavior and yet we turn around and violate the law by not having an effective school program.

I think the availability of emergency medical services for children in detention centers in the country is basically good, although many facilities cannot afford nor does their size necessitate regular medical staff. I think almost every facility has access to emergency medical care, but what I feel is lacking, in my own personal opinion, is the medical diagnostic services that would discover medical problems that could be contributing negatively to a child's normal adjustment within the community.

I think that proper staffing and training of staff working directly with children in juvenile detention facilities is an important and key aspect to improving programs within facilities in this country. The types of staff that I and most administrators I know and associate with and are eager to recruit must still possess a little trace of physical prowess and a trace of being camel-like in their ability to work long hours for fairly meager earnings under tense secure situations. They still must possess some of those characteristics, but, most importantly, they must possess an extreme compassion for children, have the ability to see behavior as an outward symptom of other problems, set liberal, yet definite, behavioral limits without the use of corporal punishment, be able to counsel or rap with the poor ghetto delinquent child and a variety of others, possess writing and communicating abilities that allow good observation summaries, project a father or mother image, be able to make rough diagnoses of behavioral signs that indicate a need for other agency resources, recognize medical problems and their symptoms, and possess the ability to accept change.

Getting on down a little bit to my evaluation of the necessity and justification of the detention of alleged delinquent and status offenders and neglected children, now, first of all let me say this is my opinion. In Atlanta I operated a facility that detained in excess of 6,000 children per year. Our intake office was, in my opinion, the open end of a large funnel. The intake unit was not staffed with workers trained to provide proper screening processes for children. The atmosphere was one of reversed screening. Children were brought directly to the center by the local police departments, processed into the facility and then some efforts made to release those whom the workers felt should not be detained. So, as a result of this procedure, the police department's apprehension rate had a direct immediate effect on the detention program and we detained as many there as they had detained in the entire city of New York. This situation has been changed somewhat, but basically that is a good example of how some intake processes operate in getting children into secure custody.

Going down to the rate of detention of kids in the country, I think basically somewhere between 10 and 20 percent of the number of police referrals to the court is the recommended maximum rate of detaining. This means that, if 5,000 children are referred to the court by the

police each year somewhere between 500 and maybe 700 kids should actually be detained. In the survey that SIU did in 1968, again 72 percent of all of the detention facilities contacted had detention rates above this maximum recommendation and——

Senator BAYH. When you say referral, does it denote some judicial process?

Mr. SHOPE. Yes. A petition or taking legal steps to see that he is brought before the court.

Senator BAYH. How about these youths who were runaways, picked up for hitchhiking, and kept in the jail for 30 days? Is that considered a referral to court?

Mr. SHOPE. No. What is considered as a police referral if they sign a petition. In other words, if they make a copy of charges and arrest ticket against the child and he came and brought the child to the court's attention, well, that 10- to 20-percent figure applies to all police referrals. I see that as a fairly good indication and a fairly good percentage to use in measuring rates of detention. Really what has the greatest effects here is how many do the police refer and do they handle a lot at the station captain's office and send the child home with a warning or do they pass on everything that comes into the juvenile court? That has a lot to do with it. Basically that 20-percent maximum detention rate is fairly representative.

I would like to skip down to my recommendations and they cover basically some of the topics that have been discussed. I think many States are moving—well, first of all, most States that I now of have moved to remove neglected children out of the detention facilities by prohibiting it through State legislation. A few States are moving to remove status offenders from the detention process. I agree with this legislation and support it but I am not convinced that it will result in services being developed for these types of children. I think the tragic result of some of this type of legislation will be that children will be reclassified one step. Neglected children will be charged with being ungovernable if they don't stay in foster homes and ungovernable children who are put in foster child care and violate probation if they run away will be charged with being delinquent. So you have to be very careful in making legislation that prohibits detention of certain types of children simply because of what they are called because that can be easily changed by the local court system by calling them something else and then being able to detain them.

As a detention administrator I can assure that secure custody should not be the first step that a community takes for the runaway, the truant, or the discipline problem child.

Now, I respectfully make the following recommendations to you to be considered by the committee:

First, Federal funding of institutional construction of juvenile facilities should be stopped until alternative programs are initiated in the local communities. An example of which would be things like: Programed and staffed group homes, intensive preadjudictation supervision services, the development of a system of emergency open care facilities with professionally trained staff and intensive daily programs, the development of youth service bureaus.

Second, a national training academy should be established for juvenile correctional personnel with specific emphasis on juvenile probation, juvenile detention, community alternatives and long-term institutional care.

Third, a Federal funded accreditation program should be initiated for local correctional facilities, including juvenile institutions.

The American Correction Association has an accreditation prgram going now and juvenile facilities are having input on that and it should be supported by the Federal Government.

Fourth, a professional consultant assistance program should be initiated to aid local communities in developing effective juvenile justice programs and this could be a branch of the Federal juvenile training academy that I recommended.

I think most of this is included in your legislation.

Fifth, a system of financial aid to local school systems for providing school programs in juvenile correctional facilities should be initiated.

I think juvenile detention has long been the black sheep of the juvenile justice system. I am a true believer, if the wheel doesn't squeak it doesn't get any oil. For that I appreciae being able to appear before this committee.

Senator BAYH. I appreciate your taking the time to be with us today and allowing us to have the benefit of your experience. I hope we can take advantage of your expert testimony and do something about correcting the problems you have described from firsthand experience. I hope we can continue to call on you for advice and counsel, and that you will feel free to give it.

Mr. SHOPE. I give my advice too often.

Senator BAYH. That is like the fellow who told me advice doesn't cost anything unless you use it, and then you proceed at your own risk.

Thank you. We appreciate your being with us today.

[Mr. Shope's prepared statement is as follows:]

PREPARED STATEMENT OF JOHN T. SHOPE, DIRECTOR, MECKLENBURG COUNTY JUVENILE DIAGNOSTIC CENTER, CHARLOTTE, N.C.

Senator Bayh, distinguished members of this Subcommittee to Investigate Juvenile Delinquency, Ladies and Gentlemen:

Let me preface my remarks before you today by expressing my sincere gratitude to you for allowing me to appear before this important committee. Those of us working in the area of Juvenile Justice appreciate your continued concern and support.

As I understand the purpose of these present hearings, they are "to investigate the extent, nature, and necessity of preadjudication detention of alleged juvenile delinquents in jail, and juvenile detention facilities."

I appear before you today as an individual with direct administrative experience in two types of juvenile detention facilities: a large 144 bed institution in Atlanta, Georgia, and a 30 bed facility in Charlotte, North Carolina. My remarks to you will be based upon direct experience from operating these institutions and indirect experience accumulated by visiting, studying, and observing numerous other facilities and programs throughout the nation.

To make certain that we have the same information base in our discussion of juvenile detention, I would like to offer a generally accepted definition of the juvenile detention process and a generally accepted definition of a juvenile detention facility.

The process of juvenile detention is "the temporary care of children in physically restricting facilities pending court disposition or transfer to another jurisdiction or agency".

A juvenile detention facility is "any institution that provides temporary secure custody to children of juvenile court jurisdiction, separate and apart from adults, pending court disposition of their cases or transfer to another jurisdiction or agency".

The concept of having a facility for temporary care separate and apart for adult facilities is a direct consequential out-growth from the philosophy that created the juvenile court system. Certainly if we are to have a juvenile court system that responds appropriately to the individual needs of children who are brought before it, the institutions that are a part of its system must be staffed and programmed to do likewise.

At the surface value, the concept of providing juvenile detention facilities in lieu of adult jails is a good one. If through the creation of a juvenile detention facility in a community, children who need secure custody can be spared from the criminal environment and stigma of the adult lockup, some justification for its creation can be argued.

Too often, however, the building of a physical plant is the first step a community takes in establishing a system of juvenile justice.

Alternatives to temporary incarceration, as a resource of the community, available to the court, are rarely attempted until existing juvenile facilities become dangerously overcrowded. They are rarely used as a first step, simply because the community need is difficult to measure, and consequently, difficult to place an economic value on.

An example of how facilities are built before alternatives are developed and tried could be shown by the state of Georgia's system of regional detention homes.

During the early 1960's several citizens' groups in Georgia became alarmed at the number of juveniles held annually in the state's local jails. An emotional appeal was heard throughout the state to remove children from adult lockups. The immediate response was not one of creating community alternatives for children who weren't in need of secure custody, but the building of seven regional detention centers to serve the state. As a result of their construction, alternative programs were never given an opportunity to develop. The flaws in the Georgia regional detention program were evident almost immediately: no intake controls were developed, no specific guidelines were established for the use of these new facilities and no training as to the functon of the facilities was given to the more than thirty judges who had authority to place children in these facilities. As a result, all seven of the facilities were experiencing overcrowding within the first year of operation. Also, because no prohibitive legislation was passed by the state legislature in Georgia, jail detention of juveniles continues in that state at the discretion of the local judges. In my opinion, the end result of an emotional effort to remove children from jails in that state is a hodge-podge system of understaffed juvenile detention facilities whose mere existence results in mis-use of the temporary secure custody facility and its function.

In 1958, the National Probation and Parole Association published Standards and Guides for the Detention of Children and Youth. This publication summarized the problems of temporary secure custody for juveniles as it existed at that time.

"The detention of children and youth awaiting court hearings has been one of the most neglected areas in the correctional field. Community efforts to do something about it on a 'step by step' basis have seldom resulted in programs beyond the first custodial step—a jail-like makeshift, or a fine new building without satisfactory staff and program. Even when something has been done about the facilities, their use has often been taken for granted instead of carefully controlled".

I have been asked by this sub-committee to discuss some specific areas in my testimony before you today.

The first is the area of problems arising from the preadjudication detention of juveniles, from the point of view of both an administrator and the juveniles well-being.

In my opinion, the major problem that administrators of juvenile detention centers face is the child-advocacy role that he must assume to see that his facility does not become the dumping ground for children needing a variety of community services. The role of the facility must be continually re-defined to judges, probation officers, welfare workers, and the general community. The value of a detention center is not that it is a place to "put children", but for those children needing secure custody, the facility should provide "immediate protection against their own uncontrolled actions; protection from parents and others who would reject them along with their behavior, things to do which challenge their interest; group guidance, which, counteracts the ill effects of confinement with other delinquents; individual guidance which helps them use the detention experience to understand themselves better so that they can come to grips with their problems; and contact with persons in authority who are as concerned with their well-being as with their living within the law".

The job of a detention administrator carries with it an awesome moral responsibility to the children in his care. Legally, every administrator has protection if the children in his custody are being held under a proper court order. Since the Gault decision of 1967, proper due process procedures have been adopted to protect the legal rights of children in the juvenile court system. I know of no juvenile court system that is operating in complete disregard to the *Gault* decision. It is my opinion that the basic problem—the development of effective services to children like Gerald Gault—have been shadowed by the rush to protect the child's legal rights.

To give you an example of how moral responsibility can be ignored by a state's concern to provide legal safeguards, I need go no further than my own State of North Carolina.

In May of this year our State Legislature expanded the North Carolina General Statutes relative to the decision making process for the detention of juveniles to include, where approved by the Chief District Court Judge, the Clerk of the local Superior Court. Thus, almost overnight, authority was given that could eventually allow 100 different local government employees to begin making the decision to detain children up to five calendar days. Although these individuals are familiar with the juvenile system in our state, they are not properly trained to do effective detention intake screening.

The detention center administrator is placed in a delicate role of developing good positive programs within his facility for those children who need secure custody and then preventing mis-use of his facility for children who dont need secure custody simply because he has a good program.

The longer I work in the area of juvenile detention, the more I am convinced that the practice of detaining children unnecessarily, even in the best physical facilities and even for as short a period of time as a few hours, may contribute to, rather than prohibit, further delinquent behavior.

On the national level, an extremely critical situation is developing in the area of pre-adjudication detention of children on "status" offenses, especially children alleged to be runaways. A large number of juvenile detention facilities and juvenile courts are experiencing increasing community pressures to accept a larger number of these children. Many parents would rather have their child in custody in a detention facility than to "not know where they are". It is my opinion that the traditional juvenile justice system, especially its institutions, are not capable of offering the types of services these children need.

The philosophical justification for having "undisciplined" or ungovernable" statutes is to keep children from eventually becoming delinquent. It is rather ironic, therefore, that in the majority of communities in this country the only facilities, services and institutions that are available to this category of child are those that also handle delinquent children. To use a local means of expressing this "its like throwing a child in the briar patch to keep him from getting scratched".

I list the fourth problem area of the administrator as that of staff and staff training detention facilities have, in my opinion, one of the highest personnel turnover rates in the corrections profession. During 1969 I experienced a male staff turnover rate in my facility in Atlanta of 75%. Many factors contribute to this; the inability of administrators to provide staff time for training; pressures involved in working in a custody facility; a child staff ratio so high that physical control rather than individual guidance, is the measurable quantity; salary levels a scale below all other juvenile justice system employees (a 1971 survey indicated a minimum of $167.00 per month and a maximum of $1,050.00 per month).

Staff training of juvenile detention employees has been limited to programs funded by L. E. A. A. or programs developed by local institutions. In 1969 and 1970, Southern Illinois University in Edwardsville conducted several training programs for detention personnel under a federal grant. Since the expiration of this grant project, the National Juvenile Detention Association, a non profit organization founded by detention employees in 1968, has been the only natioonal organization involved in training of line staff detention employees.

The second area suggested for discussion in my invitation to your committee is an evaluation of existing facilities in relation to physical conditions and their recreational, medical, and rehabilitative programs.

Juvenile dentention centers in this country vary in physical size from the "livein" home, serving as few as five children, to the large urban institutions with

capacities of over 500. Their physical conditions span the extremes of being "dungeon like" to those that are critized by the community for being "motels". With the availability of federal funds through the Omnibus Safe Streets and Crime Act, however, physical conditions of those facilities in general have been improved tremendously during the last five years.

It is generally recommended that all detention centers should provide recreation, group discussion, school, individual guidance, an opportunity for religious services on a volunteer basis, and constructive work experience. The survey of 167 homes conducted by the S. I. U. project in 1971, indicated that a "substantial number of detention homes are falling short of the recommended program standards".

Of the 167 detention centers surveyed, 90.4% had organized recreational programs, 74.8% had school programs, 65.3% used volunteers, 81.4% required constructive work, and only 20.9% used group treatment techniques.

Thomas Hughes (A Study of the Educational Program that Exists for Juveniles in Detention Homes in the United States, Southern Illinois University, 1972) has indicated:

"Juvenile detention is a relatively isolated field. Education as a sub-system within the detention experience reflects that isolation. Special programs, procedures, education level, materials, and the like are unavailable information on any national scale. If the detention educational experience is to have impact upon the positive development of the child's self concept . . . it will require a systematic look at what seems to have a positive educational effect during a youngster's stay in detention."

One of the amazing results of the 1971 survey was the percentage of juvenile detention facilities that had no regular school program (25%). This is especially concerning when children are being detained for alleged law violations . . . yet every state requires compulsory school attendance.

The availability of emergency medical services to children in detention in this country, I feel, is basically good. Although many facilities cannot afford nor does their size necessitate regular medical staff, almost every facility has access to emergency medical care. What is lacking, in my opinion, is medical diagnostic services that would discover medical problems that could be contributing negatively to the child's normal adjustment within the community.

Proper staffing and training of staff workers directly with children in juvenile detention facilities is the important key to a sound detention program. For many years, our society saw the role of all institution correctional workers as pure custody oriented. The important feature in hiring staff was the individual's physical prowess, his ability to follow operational procedures, and a "camel-like" characteristic of being able to work long hours under tense conditions, for meager earnings.

The types of staff that I, and the majority of the administrators I know, are eager to recruit must still possess a trace of these characteristics. More importantly, however, they must possess an extreme compassion for children; have the ability to see behaviors as an outward symptom of other problems; set liberal yet definite behavioral limits without the use of corporal punishment; be able to counsel or "rap" with the poor ghetto delinquent child or the sophisticated upperclass undisciplined child; possess writing and communicating abilities that allow good observation summaries; have knowledge of behavior change techniques that range from group counseling to behavior modification; project a father or mother image; be able to make rough diagnosis of behavior signs that indicate a need for other agency resources; recognize medical problems and their symptoms; and possess the ability to accept change.

The child care staff in our juvenile detention centers are usually the first adult in the juvenile system that a child has prolonged contact with. To be an effective worker he must have a basic academic educational background, but most importantly, he must have continued in-staff training to expand the before-mentioned characteristics to adapt them to the custody situation.

The joint Commission on Correctional Manpower and Training in their study, *Juvenile Detention Manpower Survey, 1968, gives the following educational level background for the child care staff:*

	Percent
Less than high school	1
High school	58
Some college	37
Bachelor's degree	3
Master's degree	1

Staff training is the key to good continued program in any juvenile detention center. The S. I. U. survey indicates that only 46% of the detention centers surveyed had some sype of in-service staff training program. In some instances staff training consists of a well organized, regularly scheduled program using outside resource persons and professional trainers. More often, however, staff training can best be termed staff meetings, with no professional resource persons and more geared toward staff orientation.

My evaluation of the necessity and justification of the present degree of detention of alleged delinquent, status offenders, and neglected children is just that . . . my own opinion.

It, however, is based upon my experience with children in detention facilities. In Atlanta, I operated a facility that detained in excess of 6000 children per year. Our intake office was, in my opinion, the open end of a large funnel. The intake unit was not staffed nor the workers trained, to provide a screening process for children apprehended by the police. The atmosphere was one of reverse screening. Children were brought directly to the center by the local police departments, processed into the facility and then some efforts made to release those whom the worker felt should not be detained. As a result of this procedure, the police department's apprehension rate had a direct immediate effect on the detention program.

The S. I. U. Study of 1969 indicated approximtaely 488,800 admissions to juvenile detention facilities in the United States during 1968. (This figure excludes jail detention totals). The S. I. U. study recommends a 20 per cent detention court. Although this recommended percentage would vary slightly in the urban areas where felony rates are higher, I feel it is a good percentage to use in measuring rates of detention. If this percentage were applied to those homes surveyed in 1968, approximately 72% had detention rates higher than this recommended maximum.

The majority of states have now adopted legislation that prohibits placing neglected and abused children in detention facilities with alleged delinquent children. A few states are moving to prohibit the detention of children charged with "status" offenses. Although I agree with this legislation and its intent, I am not convinced that it will result in services being developed to help these children solve their problems. As a detention administrator I can assure you that secure custody should not be the first step a community takes for the runaway, the truant, or the undisciplined child.

I respectfully make the following recommendations to you for consideration by this committee:

(1) Federal funding of institutional construction of juvenile facilities should occur only after alternative programs are initiated in the local community. An example of local alternatives to incarceration should include:

A. Program and staffed group homes.

B. Initiative pre-adjudication supervision services.

C. The development of a system of emergency open care facilities with professionally trained staff and intense daily program.

D. The development of Youth Service Bureaus.

(2) A National Training Academy should be established for juvenile correctional personnel with specific emphasis on juvenile probation, juvenile detention, community alternatives, and long term institutional care.

(3) A federal funded accreditation program should be initiated for local correctional facilities, including juvenile institutions.

(4) A professional consultants' assistance program should be initiated to aid local communities in developing effective juvenile justice programs. (This could be a branch of the Federal Juvenile Training Academy).

(5) A system of financial aid to local school systems for providing school programs in juvenile correctional facilities.

In summary, juvenile detention appears to have become a permanent aspect of our society's system for responding to juvenile law violators. Regrettably, in many communities, it also fills a void in the juvenile service system that tends to attract every child that is "unattached" to non-existant services.

To quote from Tom Hughes:

"The detention home generally is considered the 'black sheep' in the family of juvenile serving agencies. Juvenile judges often misuse detention; juvenile probation departments quite often regard the detention home as simply a 'providing ground' for persons they may later employ; many of the other community agencies see detention an unnecessary evil; the general public is often misinformed concerning the purpose and function of detention."

There are some indications however, that the situation may be improving. The advent of L. E. A. A. funds have provided the monetary incentive for improved programs within the institutions as well as alternatives in the community.

The potentially most significant development is the formation several years ago of the National Juvenile Detention Association. The association has as its goals:

"To interpret and promote the concepts of juvenile detention services at the national, state and local level; to define the mission and interpret the detention process; to establish and review detention standards and practices; to develop standards of personnel practices; to stimulate the development and operation of training property for detention staffs; to work for legislation in support of adequate detention practices; to encourage more creative writing in the field; to facilitate the collection and dissemination of data; to stimulate research; to serve as a form group and to provide liaison with other organizations and professional groups".

Members of this committee, I appreciate your kind attention and your concern.

Senator BAYH. We will recess our hearings pending the call of the Chair.

[Whereupon at 2:30 p.m. the subcommittee recessed subject to the call of the Chair.]

APPENDIX

(Additional statements and articles submitted for the record)

APPENDIX No. 1

NATIONAL SHERIFFS' ASSOCIATION,
Washington, D.C., September 5, 1973.

SENATE JUVENILE DELINQUENCY SUBCOMMITTEE,
302 Senate Annex,
Washington, D.C.

The NSA feels strongly that juveniles should not be incarcerated in the same facilities with adults. While recognizing that this is done in many jurisdictions because of space and/or money limitations, we nevertheless strongly oppose this practice and consider it to be detrimental to the entire criminal justice process.

This is not a new concept nor idea with us but was expressed in our Constitution and By-Laws which date from 1940 when our Association was founded. Enclosed is a copy of these.

Please let us know how and when we may be of service again.

Cordially,

FERRIS E. LUCAS,
Executive Director.

Attachment

OFFICIAL CONSTITUTIONAL OBJECTIVES OF THE NATIONAL SHERIFFS' ASSOCIATION

The name of said corporation shall be the National Sheriffs' Association.

The office of the corporation shall be in the Washington, D.C. metropolitan area with the location to be approved by the executive committee, and the corporate office shall be in Columbus, Ohio.

The purposes for which said corporation is formed, are:

. . . To advocate the elimination of the county jail as a facility for detention of juveniles, alcoholics, and mentally ill. . . .

APPENDIX No. 2

DEPARTMENTAL COMMITTEES FOR COURT ADMINISTRATION,
FIRST AND SECOND JUDICIAL DEPARTMENTS,
New York, N.Y., September 24, 1973.

Sen. BIRCH BAYH,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: I am pleased to enclose the following reports which were recently released:

Problems related to detention and placement of children.

Report on legal representation of indigents in the family court within the city of New York.

Cordially,

SHIRLEY MITGANG,
Counsel.

Enclosures.

Problems Related to Detention and Placement of Children

A Report prepared by The Subcommittee on Detention and Placement of Children for the Subcommittee on Liaison with Public and Private Agencies of the Departmental Committees of the Appellate Divisions, First and Second Departments

Subcommittee on Liaison with Public and Private Agencies

Hon. Francis T. P. Plimpton, Chairman
(Bethuel M. Webster, Esq., former Chairman)

Hon. Lawrence H. Bernstein
Ruth Brooks
Hon. Leo Brown
Hon. Eugene R. Canudo
Winslow Carlton
Richard Charles, Esq. (resigned)
David F. Cohen, Esq. (resigned)
Hon. I. Leo Glasser
Joseph A. Grazier, Esq.
Hon. Manuel G. Guerreiro
George H. Heyman, Jr. (resigned)
Hon. Anthony M. Maria
Walter A. Miller, Esq.
Hon. William H. Mulligan (resigned)
Hon. Jawn A. Sandifer
Elizabeth T. Schack
Hon. Hilda G. Schwartz
Hon. Joseph Stone
Hon. George A. Timone (deceased)
Hon. Joel J. Tyler
Hon. John A. Wallace
Hon. Jacob T. Zukerman

Hon. Jacob Markowitz, Liaison member, Subcommittee on Scope, Procedural Program

Subcommittee on Detention and Placement for Children

Ruth Brooks, Chairman
Hon. I. Leo Glasser
Elizabeth T. Schack
Hon. Joseph Stone
Hon. John A. Wallace
Richard A. Williamson, Esq., Consultant

Staff:
Shirley Mitgang, Counsel
Joshua Bar-Lev, Esq.
Jonathan T. Shearer, Esq.
Philip A. Greenberg, Law Assistant
Donald S. Klein, Law Assistant

Findings and Recommendations

In the course of its investigation of the Appellate Division's role in designation of detention facilities for children, the Subcommittee became aware of other serious and inextricably related problems. The Subcommittee therefore submits the following report and recommendations to the Appellate Divisions, First and Second Departments, and urges their immediate action to implement such of those recommendations as are within the authority of the Appellate Divisions and to give strong support to the implementation of all the other recommendations.

I. Detention

Detention is defined as "the temporary care and maintenance away from their own homes of alleged juvenile delinquents and persons in need of supervision held for or at the direction of the Family Court pending adjudication of alleged juvenile delinquency or need for supervision by such court or pending transfer to institutions to which committed or placed by such court or while awaiting disposition by such court after adjudication."[1] Detention facilities can be categorized as two types: non-secure facilities and secure facilities. A non-secure detention facility is defined as "a facility characterized by the absence of physically restricting construction, hardware and procedures. Non-secure facilities may be boarding homes, group care facilities or institutional facilities."[2] A secure detention facility is, conversely, defined as "a facility characterized by physically restricting construction, hardware and procedures. Secure facilities are limited to institutional facilities."[3] The term "non-secure institutional facility" is defined as "a detention facility designated to provide care for more than 12 children and which is operated pursuant to Part 5 ["Child Caring Institutions"] of the rules of the State Board of Social Welfare."[4] The term "secure institutional facility" is defined as "a detention facility designed to provide care for more than 12 children, and which is operated pursuant to the provisions of this Part." [Part 9 "Facilities for the Detention Care of Children"][5]

By statute, after a delinquency or PINS petition has been filed, a child may be ordered detained in two situations:

"(a) there is a substantial probability that he will not appear in court on the return date; or

"(b) there is a serious risk that he may before the return date do an act which if committed by an adult would constitute a crime."[6]

The Subcommittee has found that in actual practice children are remanded to detention facilities for reasons other than those authorized by statute. For example, children are remanded to detention facilities because the child refuses to return home or the parent of the child refuses to take the child home, or because the child requires medical care which would not otherwise be provided, or because there is a substantial probability that the child might engage in conduct harmful to himself if returned home.

The lack of resources, both public and private, to aid a child and his family frequently leaves the Family Court judge with little or no alternative but to order detention. Consequently, detention is necessitated by the grim realities of the situation facing the Family Court. The judge is confronted daily with cases which do not meet the statutory criteria for detention but in which reasonable persons might agree that it is not wise to send the child home.

The Family Court has, in effect, become the place to which children who may be delinquent or persons in need of supervision are brought only because they are beset with emotional, psychological and social problems which are rooted in poverty, deplorable housing and a destructive home environment. The Family Court is resorted to because society has not addressed itself to the causes of the child's internal turmoil, nor provided community resources that would offer the necessary remedial services. The Family Court has become the safety valve through which the frustrations of a substantial segment of the community are vented in the vain belief that the Family Court has the resources or the facilities with which to alleviate these problems.

The problem is not solely resources for the Family Court but resources for families *and* the Family Court at three crucial points—before families ever turn to the Family Court; when families and children come to the Intake Bureau in the Family Court; and when the Family Court has assumed jurisdiction over a family and children.

Preventive services in the community, readily available to distressed families, could alleviate situations in which people now feel helpless and look to the Family Court as the only potential source of help. The lack of such services is documented.[7] Although the focus of this Committee is not the development of preventive services but rather the service needs for families who do come to the Family Court, we recognize that some services needed by children before the court would, if provided in communities, help to keep some families out of court.

Therefore, the Subcommittee recommends that:

1. Services be provided by public and voluntary agencies for children and their families within their own communities that would enable a child to remain at home when appropriate. These services might include specialized centers which can provide intensive supervision and education during the day, 24 hour homemaker services, and counseling. They should service children who are before the court and those who are not.

For the child and his family who should temporarily be separated, whether or not the family is in court, there should be available residences to which a child can go voluntarily for a brief span of time. Such a facility would help to relieve family tensions and might thereby avoid the necessity for coming before the court. For those children who are before the court, it would certainly relieve the tensions intensified because of their court appearance.

Therefore, the Subcommittee recommends that:

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[1] Social Services Law § 371(18); 18 NYCRR § 9.1(a) [New York State Board of Social Welfare Rules.]
[2] 18 NYCRR § 9.1(b)(2). See also Social Services Law § 371(19)(b). See 18 NYCRR § 9.1 (g) (h) and (l) for definitions of boarding homes and group care facilities.
[3] 18 NYCRR § 9.1(b)(1). See also Social Services Law § 371(19)(a).
[4] 18 NYCRR § 9.1(j).
[5] 18 NYCRR § 9.1(k).
[6] Family Court Act § 739.
[7] Committee on Mental Health Services Inside and Outside the Family Court in the City of New York, Juvenile Justice Confounded, Pretensions and Realities of Treatment Services (1972).

2. Residential facilities be provided for children in court on juvenile delinquent or Persons-in-Need-of-Supervision petitions who require a place to live but who can continue in the community without being in a detention status. Similar facilities must be developed also for children who are not before the court.

The development of these resources and those described in Recommendation 1 should reduce the number of children brought to court. They should certainly reduce the number of children who might otherwise be detained.

For those children who do require detention, the problem arises of secure versus non-secure. Some children require secure detention because nothing short of locked doors will prevent their absconding. Other children do not. Included in this latter group are children who will run away if put in their own home but not if given another place to stay.

Therefore, the Subcommittee recommends that:

3. The Department of Social Services be required to establish additional non-secure detention facilities for children for whom a petition of delinquency or of Person-in-Need-of-Supervision has been filed.

The operation of detention facilities has basically been carried out by public agencies, but now private agencies are interested in developing and operating, under contract with government, some non-secure detention facilities.

The private agencies have operated placement facilities (not detention facilities) in which children have been placed by order of the Family Court after a dispositional hearing. The private agencies have always selected the children for whom they were willing to provide care and rejected the others. If private agencies are to operate non-secure detention facilities, the right to assign children to those facilities must be exercised by the government, not the private agencies.

Therefore, the Subcommittee recommends that:

4. To the extent that the Department of Social Services purchases non-secure detention services from private agencies, the Appellate Division should require, as a criterion for designation, that these agencies accept children from the Family Court without restriction except as to age and sex.*

II. SERVICES TO ENABLE FAMILY COURT TO HELP ALL CHILDREN

For families in court on juvenile delinquency, PINS, neglect and abuse petitions, certain auxiliary service personnel, such as probation staff, psychiatrists, physicians, and psychologists, are needed to provide information that would enable the judge to better understand the problems besetting the child and family and to select, from the meager resources available to him, the most desirable course for coping with those problems. Statutory provisions exist regarding these services,[8] however, those statutes have either not been implemented at all or have been implemented inadequately.

It is the deplorable void of services that renders the Family Court ineffective and constantly compels judges of the court to select the *least* undesirable alternative. Detention or "holding" or placement often becomes necessary because the Office of Probation has no staff to make home visits, or because there are no home-maker services available or because there are no family counselling services or because there are not the many other services, too numerous to list, which would enable the Family Court to realize its true potential for serving the people of this State.

A. *Office of Probation*

Although the State of New York has established workload standards for probation officers and the City of New York has theoretically authorized sufficient probation positions, the effect of the job freeze has been to reduce the number of staff in the Office of Probation, and thus sharply cut back the services to the Family Court. The Subcommittee notes that the staff of the Office of Probation was reduced by some 50 positions in the 1972–1973 budget; this was in addition to maintaining controls which limit the amount of personnel that can be hired despite the need for probation staff.

These cut-backs, freezes and controls have hampered the effective operation of the Family Court and have seriously prejudiced the lives of children for whom the Family Court bears responsibility.

*See Recommendation V, *Designation of Facilities for the Questioning, Detention or "Holding" of Children Under the Family Court Act*, a report submitted by the Subcommittee on Liaison with Public and Private Agencies of the Departmental Committees of the Appellate Division, First and Second Departments, December, 1972 page 3.

[8] Family Court Act §§ 251 252, 253, 255 and 1027(g).

Therefore, the Subcommittee recommends that:

5. Strong efforts be made to obtain for the Office of Probation the necessary funding and staffing so that it can render effective service to the court.

B. *Mental Health Services*

Freezes and cut-backs have also adversely affected the Bureau of Mental Health Services of the Family Court. Despite the fact that a large federal grant was secured for on-the-spot courthouse assistance to judges (the Rapid Intervention Project), it must be borne in mind that the Rapid Intervention Project is only an arm of the Bureau of Mental Health Services. It is the Bureau of Mental Health Services which still provides, and which will continue to provide, the major portion of clinical services to the Family Court, and the Rapid Intervention Project is by no means a substitute for that Bureau. Authorized positions of psychiatrists and psychologists remain unfilled with the result that dispositions in custody cases and in child neglect and child abuse cases are intolerably delayed and, again, the lives of children are seriously prejudiced.

The Subcommittee has been advised that even when psychiatrists and psychologists in the Bureau of Mental Health Services of the Family Court have completed clinical examinations, the reports of these evaluations have been delayed in going to the judges of the Family Court for as long as three months because of lack of clerical personnel to type them. Because of the unconscionable delay caused by the lack of a typist, no dispositional plan can be begun or made, and the life of the child hangs in limbo. For want of a typist, a child may be lost.

Therefore, the Subcommittee recommends that:

6. Strong efforts be made to secure for the Family Court the necessary personnel for its own Bureau of Mental Hygiene.

Authorization for the appointment or designation of physicians, psychiatrists and psychologists has existed since at least September 1, 1962 but has never been implemented at all.[9] Medical examinations are not available to judges of the Family Court except by way of remand to a City hospital, the personnel of which are neither responsible to nor responsive to the Family Court. Where such remands are made, transportation to the hospital of the child or adult to be examined presents serious problems. When the child or adult to be examined does reach the City hospital he is not infrequently summarily rejected for hospital admission by an intern who furnishes no report to the Family Court of the medical basis for the rejection. Not infrequently, admission to the hospital is refused, without an examination, because the patient resides in another county. If a panel of physicians were available, medical evaluations could be made on an out-patient basis by a specific physician to whom the judge could turn and hold responsible for information and reports.

Such provision as may be necessary for compensating physicians on the panels should be made by the appropriate authority.

Therefore, the Subcommittee recommends that:

7. The Family Court appoint or designate (pursuant to the Family Court Act § 251) a panel of physicians, to conduct medical examinations when ordered by a judge of the Family Court.* In the event that sufficient personnel is not authorized for the Bureau of Mental Health Services of the Family Court, as indicated in recommendation number 6, then the Family Court should also appoint or designate (pursuant to Family Court Act § 251) a panel of psychiatrists and psychologists to conduct examinations when ordered by a judge of the Family Court.

Authorization also exists by statute[10] for the designation by rule of court of private institutions to conduct medical (including psychiatric) examinations of parties. This designation has not been made.

Therefore, the Subcommittee recommends that:

8. The Appellate Divisions designate (pursuant to Family Court Act § 251(d), and 22 NYCRR 2501.8) private institutions "qualified" to conduct physical or psychiatric studies or observations for purposes of the Family Court.

III. DESIGNING PROCEDURES TO MEET THE NEEDS OF THE CHILD RATHER THAN THE AGENCIES

The Subcommittee has found that too often procedures are tailored to the convenience of agencies, public and private, rather than to the needs of the child. This sometimes causes unnecessary suffering which must be avoided.

[9] Family Court Act §§ 251 and 1027(g).

*Such a panel would service all persons, adults as well as children, within the jurisdiction of the Family Court.

[10] Family Court Act § 251(d).

The Subcommittee notes that for years applications for placement with a private agency have been sent to only one such agency at a time; this practice has been at the insistence of the private agencies. Apparently the position of the private agencies is that this reduces the duplication by their staffs in considering the child for placement. The result has been prolonged detention or "holding" of a child in a shelter facility or in a destructive home setting. If the claimed inconvenience to the agencies is measured against the proven harm to the child, the necessity for terminating the practice becomes self-evident. This practice is illustrative of procedures tailored to the conveniences of agencies rather than to the needs of the child.

Therefore, the Subcommittee recommends that:

9. The practice that application be made for placement to only one private agency at a time be abolished. Applications should be made simultaneously to several agencies.

The Subcommittee has been advised that children sent to municipal hospitals by an order of the Family Court have sometimes been refused admission because the child and his parents reside in a county other than that in which the hospital is located. For example, a child whose parents reside in Bronx County may be brought before the Family Court in Kings County. The Judge presiding may then direct a remand of the child to Kings County Hospital for a medical or psychiatric evaluation or care pursuant to Family Court Act §§ 232(b) or 251. The child may be refused admission to Kings County Hospital for no reason other than that his parents resides in the Bronx. This refusal of admission may exist despite the opinion by the Family Court psychiatrists (upon which the remand was predicated) that the child is psychotic and in need of hospitalization. The child then spends the night in a police station or, if transportation is immediately available, is transported to a municipal hospital in the Bronx.

The Subcommittee has also been advised that children sent to municipal hospitals by an order of the Family Court have sometimes been refused admission either arbitrarily or because some hospital official is not present to approve admission of the patients. For example, a qualified psychiatrist attached to the Rapid Intervention Project may have diagnosed a child as psychotic and in need of hospitalization. The child is remanded to the municipal hospital for a period of up to thirty days based upon that diagnosis. Not infrequently the child may be rejected for admission to the hospital after a cursory examination by an intern or resident. The result is that the child will be returned to the Family Court if that court is still in session. If the court is not in session the child will be taken to a shelter, a detention facility, a police precinct, or released inappropriately to his parents. In either event, the child will not have received the medical attention which a qualified court psychiatrist determined to be necessary.

Therefore, the Subcommittee recommends that:

10. Municipal hospitals in New York City should accept children remanded by the Family Court irrespective of the county in which the child's parent resides.

When a child within the jurisdiction of the Family Court is remanded to or placed by that court with the Commissioner of Social Services clearance must then be obtained from the allocations unit of the Department of Social Services for the physical acceptance of that child at a facility which that unit designates. The responsibility for transporting the child from the courthouse to the designated facility falls upon a uniformed court officer who generally uses his own automobile for that purpose. When a remand or placement is made in the late afternoon it is not unusual for a child to be kept in the courthouse until 7 or 8 P.M. before the necessary clearance is obtained. The court officer must then transport the child to the designated facility which may be distantly located from the courthouse.

It sometimes happens that the allocations unit will refuse to grant the necessary clearance until it is assured that the child is not suffering from a communicable disease and insists upon a prior medical clearance before it will physically accept the child or designate the facility to which the child should be brought. There are no physicians in the family court nor has a panel of physicians been designated or appointed from which one could be selected to examine the child. The court officer must then transport the child to a municipal hospital and wait until an interne or resident can examine the child. If the child is not in need of hospitalization the court officer is then left with the child and is at a loss as to what to do next. Judges of the family court have been called at home at all hours of the night by frantic court officers who seek guidance and instruction.

In one recent case eight children were remanded to the Commission of Social Services by the family court in Kings County. The allocations unit refused to grant clearance until the children were physically examined by a doctor. There was no doctor in the Brooklyn Family court and there was no transportation available for bringing the children (the oldest was nine and the youngest was one year old) to a hospital. The allocations unit was finally, at 5 P.M. induced by the judge to clear the children for acceptance. The last child left the courthouse at 7:30 P.M. and seven court officers were obliged to transport the children in their own vehicles to five different locations which were scattered between the far reaches of the Bronx and Far Rockaway in Queens.

The implications of this deplorable practice are quite serious. For example: (1) The liability of the City of New York may be staggering if a child being transported in the private automobile of a court officer was injured in a collision. (2) The liability of the City of New York may be staggering if the child being transferred was disturbed and jumped from the moving automobile. (3) The liability of the City of New York may be staggering if an infant is suffered to remain in an empty courthouse until late in the evening without food, without trained supervision and something untoward were to happen to that child.

The subcommittee strongly urges that the Commissioner of Social Services assume responsibility for all children remanded to or placed with him which would include the transportation of those children, the securing of medical clearance and the provision of all other services which may be required for the health or safety of the children.

Therefore, the subcommittee recommends that:

11. The commissioner of Social Services assume responsibility for all children remanded to or placed in his care and provide the necessary transportation, medical and other appropriate services immediately upon remand or placement.

The subcommittee has been advised that persons frequently abscond from state hospitals to which they have been certified. The hospitals avoid continuing responsibility for such persons by the administrative expedient of "discharging" them. No notice of their unauthorized departure is given to the family court nor is any effort made to obtain a warrant to secure the apprehension and return of those persons. The mentally ill who may be a danger to themselves and others are thus permitted to remain at large. The family court becomes aware of this circumstance when those persons again appear in court on new petitions or when a frightened family is startled by their unexpected re-appearance and reports that fact to the court.

State hospitals must be impressed with the necessity of establishing effective and orderly procedures for informing the family court when a patient who has come into their care by virtue of a family court proceeding absconds so that a warrant may be issued to secure his apprehension and return.

Therefore the Subcommittee recommends that:

12. When a person who is mentally ill is in a State hospital by virtue of a Family Court proceeding, a procedure must be established for informing the Family Court if that person absconds and for securing a warrant for his return.

The subcommittee submits this report and its recommendations with full awareness of the necessity for the increased expenditure of funds and of the fundamental changes in existing practices and procedures which would be required if the recommendations were adopted. The problems to which this report is addressed, however, are urgent and portend serious implication for the future of the family court and for the future of a substantial segment of the community which that court was created to serve.

The subcommittee believes that the lives of children, the confidence in societal institutions and respect for law as a positive force in shaping the destinies of families should not be measured in terms of dollars nor be sacrificed to any vested interest in preserving existing practices and procedures.

It is in that firm belief that the subcommittee hopes that its report will be favorably received and that its recommendations will be adopted and swiftly implemented.

OCTOBER 9, 1973.

MS. SHIRLEY MITGANG,
Counsel, Department Committees for Court Administration, Appellate Division Court House, New York, N.Y.

DEAR MS. MITGANG: Thank you for the copies of the recently released reports of the Departmental Committees for Court Administration. With your permission, I would like to include the report on "Problems Related to Detention and

Placement of Children" in the record of the hearings on juvenile detention which we are presently conducting.

With warm regards,

Sincerely,

BIRCH BAYH,
Chairman.

APPENDIX No. 3

CHILDREN'S DEFENSE FUND,
JUVENILE JUSTICE DIVISION,
New York, N.Y., October 2, 1973.

Hon. BIRCH BAYH,
U.S. Senator, Chairman, Committee on the Judiciary, Subcommittee to Investigate Juvenile Delinquency, U.S. Senate, Washington, D.C.

DEAR SENATOR BAYH: I have been following the newspaper account of your Hearings with interest. I hope that you will continue to open up many of the areas concerning juvenile delinquency which have been left in far too murky an atmosphere.

I was troubled by a report in the *Daily News* of September 18th on your hearings of the preceding day, in which you were quoted as finding that:

New York's record, with only about 180 juveniles in pre-trial detention in the entire city, (is) significantly better than in most of the nation.

I fear that this improved situation is due in large part to the fact that the New York law gives jurisdiction to the family court over delinquents only up to the age of 16, as compared to the 18-year old jurisdiction in the majority of cities. The result is, as the census figures show, an inordinately large number of minors over 16 in city jails.

I bring this to your attention only because the definition of juvenile delinquency clearly affects whether children will be found in detention or jails, and I know that you are looking into the question of continued use of jails for children or youths.

With every good wish,

Sincerely,

JUSTINE WISE POLIER,
Director, Juvenile Justice Project,
Children's Defense Fund.

OCTOBER 9, 1973.

Hon. JUSTINE WISE POLIER,
Director, Juvenile Justice Project, Children's Defense Fund,
New York, N.Y.

DEAR JUDGE POLIER: Thank you for your letter of October 2. As you note, the problem of the definition of "juvenile" is a significant one, which must be considered in any investigation of the detention or jailing of juveniles. In the interest of clarifying the New York practice in this regard, I would like to print your letter in the record of our hearings on juvenile detention. If you would like more complete information on this issue included in our record, do not hesitate to send me an additional letter or statement.

I am very heartened by the work of the Childen's Defense Fund. I hope you will continue to keep the Subcommittee informed of your valuable efforts to secure justice for juveniles.

With warm regards,

Sincerely,

BIRCH BAYH,
Chairman.

APPENDIX No. 4

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, SECOND SESSION

Vol. 120 WASHINGTON, MONDAY, MARCH 11, 1974 *No. 31*

Senate

S. 821—THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Mr. BAYH. Mr. President, I am pleased to announce that the Senate Subcommittee to Investigate Juvenile Delinquency, on March 5, 1974, reported unanimously to the full Judiciary Committee, S. 821, the Juvenile Justice and Delinquency Prevention Act of 1974.

I was joined by my distinguished colleague from Kentucky, Senator MARLOW W. COOK, the ranking minority member of the subcommittee in introducing S. 821 on February 8, 1973. S. 821, as reported by the subcommittee, is substantially similar to the bill we introduced. We are gratified by the cosponsorship of this bill by 23 distinguished colleagues: Senators ABOUREZK, BIBLE, BROCK, BURDICK, CASE, CHURCH, CRANSTON, GRAVEL, HART, HUMPHREY, INOUYE, KENNEDY, MATHIAS, MCGEE, MCGOVERN, MONDALE, MONTOYA, MOSS, PASTORE, RANDOLPH, RIBICOFF, TUNNEY, and WILLIAMS.

S. 821 provides for Federal leadership and coordination of the resources necessary to develop and implement at the State and local community level effective programs for the prevention and treatment of juvenile delinquency. The bill establishes a new Juvenile Justice and Delinquency Prevention Administration within the Department of Health, Education, and Welfare to provide comprehensive national leadership for the problems of juvenile delinquency and to insure coordination of all delinquency activities of the Federal Government. The bill authorizes substantial grants to States, local governments, and public and private agencies to encourage the development of programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system and to provide community-based alternatives to traditional detention and correctional facilities used for the confinement of juveniles.

The bill creates a National Institute for Juvenile Justice to serve as a center for national efforts in juvenile delinquency evaluation, data collection and dissemination, research and training. The Institute, through an Advisory Committee on Standards for Juvenile Justice, will be charged with developing recommendations on Federal action to facilitate adoption of standards for the administration of juvenile justice.

The bill also amends the Federal Juvenile Delinquency Act, virtually unchanged for the past 35 years, to provide basic procedural rights for juveniles who come under Federal jurisdiction and to bring Federal procedures up to the standards set by various model acts, many State codes, and court decisions.

The subcommittee held 19 days of hearings and heard 80 witnesses on S. 821 and S. 3148, a similar bill which I introduced in the 92d Congress. These hearings demonstrated the need for a comprehensive overhaul of Federal juvenile delinquency programs combined with assistance to States, local governments, and private agencies to prevent delinquency and to provide community-based alternatives to juvenile detention and correctional facilities. The bill has been endorsed by the National Council on Crime and Delinquency, the National Council of Juvenile Court Judges, the American Parents Committee, the Boys Clubs of America, the Girls Clubs of America, the American Federation of State, County and Municipal Employees, the National Congress of Parents and Teachers, the National Executive Committee of the American Legion, the National Legal Aid and Defender Association, the National Federation of Jewish Women, the National Association of State Juvenile Delinquency Program Administrators, the National Association of Social Workers, the Family Service Association of America, the National Governors Conference, the National League of Cities and U.S. Conference of Mayors and many other concerned organizations.

We cannot afford to delay any longer. I urge my colleagues in the Congress to give this bill careful consideration. I hope that they will act expeditiously to give this country the comprehensive, coordinated juvenile delinquency program it so desperately needs.

Mr. President, I ask unanimous consent that S. 821, as amended, be printed in the RECORD.

There being no objection, the bill—S. 821—was ordered to be printed in the RECORD, as follows:

That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974."

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

FINDINGS

SEC. 101. The Congress hereby finds—

(1) that juveniles account for almost half the arrests for serious crimes in the United States today;

(2) that understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3) that present juvenile courts, foster and protective care programs and shelter facilities are inadequate to meet the needs of the countless neglected, abandoned, and dependent children, who, because of this failure to provide effective services, may become delinquents;

(4) that existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs particularly non-opiate or polydrug abusers;

(5) that States and local communities, which experience the devastating failures of the juvenile justice system, do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency;

(6) that the adverse impact of juvenile delinquency results in enormous annual cost and immeasurable loss in human life, personal security, and wasted human resources;

(7) that existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency; and

(8) that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate, comprehensive, and effective action by the Federal Government.

PURPOSE

SEC. 102. It is the purpose of this Act—

(1) to provide the necessary resources, leadership, and coordination to improve the quality of juvenile justice in the United States and to develop and implement effective prevention and treatment programs and services for delinquent youth and for potentially delinquent youth, including those who are dependent, abandoned, or neglected;

(2) to increase the capacity of State and local governments, and public and private agencies, institutions, and organizations to conduct innovative, effective juvenile justice and delinquency prevention and treatment programs and to provide useful research, evaluation, and training services in the area of juvenile delinquency;

(3) to develop and implement effective programs and services to divert juveniles from the traditional juvenile justice system and to increase the capacity of State and local governments to provide critically needed alternatives to institutionalization;

(4) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal,

State, and local level to facilitate the adoption of these standards;

(5) to guarantee certain basic rights to juveniles who come within Federal jurisdiction;

(6) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(7) to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs;

(8) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs;

(9) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs; and

(10) to establish a new Juvenile Justice and Delinquency Prevention Administration in the Department of Health, Education, and Welfare to provide direction, coordination, and review of all federally assisted juvenile delinquency programs.

DEFINITIONS

SEC. 103. For the purpose of this Act—

(1) the term "community-based" facility, program, or service means a small, open group or home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, drug treatment and other rehabilitative services;

(2) the term "construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for new buildings). For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them;

(3) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted directly or indirectly, or is assisted by any Federal department or agency, including any programs funded under this Act;

(4) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug abuse programs; the improvement of the juvenile justice system; and any program or activity for neglected, abandoned, or dependent youth and other youth who are in danger of becoming delinquent;

(5) the term "local government" means and city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, and an Indian tribe and any combination of two or more of such units acting jointly;

(6) the term "public agency" means any department, agency, or instrumentality of any State, unit of local government, or combination of such States or units;

(7) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(8) the term "Secretary" means the Secretary of Health, Education, and Welfare.

TITLE II—AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

DEFINITIONS

SEC. 201. Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions.

"For the purposes of this chapter, a 'juvenile' is a person who has not attained his eighteenth birthday, or who has not attained his twenty-first birthday and is alleged to have committed an act of delinquency prior to his eighteenth birthday, and 'juvenile delinquency' is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult."

DELINQUENCY PROCEEDINGS IN DISTRICT COURTS

SEC. 202. Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution.

"A juvenile alleged to have committed an act of juvenile delinquency shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to an appropriate district court of the United States that the juvenile court or other appropriate court of a State (1) does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, or (2)) does not have available programs and services adequate for the rehabilitation of juveniles.

"If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State.

"If an alleged delinquent is not surrendered to the authorities of a State or the District of Columbia pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

"A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this Chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult except that with respect to a juvenile sixteen years and older alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony punishable by a maximum penalty of ten years imprisonment or more, if imprisonment, or death, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States if such court finds, after hearing, that there are no reasonable prospects for rehabilitating such juvenile before his twenty-first birthday.

"Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing the prospects for rehabilitation; the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems.

"Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

"Once a juvenile has entered a plea with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

"Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions."

CUSTODY

SEC. 203. Section 5033 of title 18 U.S.C. is amended to read as follows:

"§ 5033. Custody prior to appearance before magistrate.

"Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensible to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

"The juvenile shall be taken before a magistrate forthwith. In no event shall the juvenile be detained for more than twenty-four hours before being brought before a magistrate."

DUTIES OF MAGISTRATE

SEC. 204. Section 5034 of title 18 U.S.C. is amended to read as follows:

"§ 5034. Duties of magistrate.

"If counsel is not retained for the juvenile, or it does not appear that counsel will be retained, the magistrate shall appoint counsel for the juvenile. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

"The magistrate may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

"If the juvenile has not been discharged before his initial appearance before the magistrate, the magistrate shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure the juvenile's safety or that of others."

DETENTION

SEC. 205. Section 5035 of this title is amended to read as follows:

"§ 5035. Detention prior to disposition.

"A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community-based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which adult persons convicted of a crime or awaiting trial on criminal charges are confined. Alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care including necessary psychiatric, psychological, or other treatment."

SPEEDY TRIAL

SEC. 206. Section 5036 of this title is amended to read as follows:

"§ 5036. Speedy trial.

"If an alleged delinquent who has been detained pending trial is not brought to trial within thirty days from the date when such juvenile was arrested, the information shall be dismissed with prejudice, on motion of the alleged delinquent or at the direction of the court, unless the Attorney General shows that additional delay is unavoidable caused by the juvenile or his counsel, or consented to by the juvenile and his counsel. Unavoidable delay may not include delays attributable solely to court calendar congestion.

RIGHTS

SEC. 207. Section 5037 of this title is amended to read as follows:

"§ 5037. Rights in general.

"A juvenile charged with an act of juvenile delinquency shall be accorded the constitutional rights guaranteed an adult in a criminal prosecution, with the exception of indictment by grand jury. Public trial shall be limited to members of the press, who may attend only on condition that they not disclose information that could reasonably be expected to reveal the identity of the alleged delinquent. Any violation of that condition may be punished as a contempt of court."

DISPOSITION

SEC. 208. A new section 5038 is added, to read as follows:

"§ 5038. Dispositional hearing.

"(a) If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than twenty court days after trial unless the court has ordered further study in accordance with subsection (c). Copies of the presentence report shall be provided to the attorneys for both the juvenile and the Government at least three court days in advance of the hearing.

"(b) The court may suspend the adjudication of delinquency or the disposition of the delinquent on such conditions as it deems proper, place him on probation, or commit him to the custody of the Attorney General. Probation, commitment, or commitment in accordance with subsection (c) shall not extend beyond the juvenile's twenty-first birthday or the maximum term which could have been imposed on an adult convicted of the same offense, whichever is sooner.

"(c) If the court desires more detailed information concerning an alleged delinquent, it may commit him after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are essential. No alleged delinquent may be committed to the custody of the Attorney General for study and observation without the consent of his attorney and his parent, custodian, or guardian. Unless the juvenile upon advice of counsel consents, no judge who has read or heard social data regarding an alleged delinquent as a result of such study, or in the course of a transfer hearing, shall preside over the hearing to adjudicate the delinquency of the juvenile. In the case of an adjudicated delinquent, such study shall not be conducted on an inpatient basis without prior notice and hearing. The agency shall make a complete study of the alleged or adjudicated delinquent to ascertain his personal traits, his capabilities, his background, any previous delinquency or criminal experience, any mental or physical defect, and any other relevant factors. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within thirty days after the commitment of the juvenile, unless the court grants additional time."

JUVENILE RECORDS

SEC. 209. A new section 5039 is added, to read as follows:

"§ 5039. Use of juvenile records.

"(a) Upon the completion of any formal juvenile delinquency proceeding, the district court shall order the entire file and record of such proceeding sealed. After such sealing, the court shall not release these records except under the following circumstances:

"(1) inquiries received from another court of law;

"(2) inquiries from an agency preparing a presentence report for another court;

"(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

"(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court; and

"(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security.

Information about the sealed report may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

"(b) The entire file and record of juvenile proceedings where an adjudication of delinquency was not entered shall be destroyed and obliterated by order of the court.

"(c) District courts exercising jurisdiction over any juvenile shall inform the juvenile and his parent or guardian, in writing, of rights relating to the sealing of his juvenile record. The information in these communications shall be stated in clear and nontechnical language.

"(d) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of official duty by an employee of the court or an employee of any other government agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the government, or others entitled under this section to receive sealed records.

"(e) Unless a child who is taken into custody is prosecuted as an adult—

"(1) neither the fingerprints nor a photograph shall be taken, without the written consent of the judge; and

"(2) neither the name nor picture of any child shall be made public by any medium of public information in connection with a juvenile delinquency proceeding."

COMMITMENT

SEC. 210. A new section 5040 is added, to read as follows:

"§ 5040. Commitment.

"A juvenile who has been committed to the Attorney General has a right to treatment and is entitled to custody, care, and discipline as nearly as possible equivalent to that which should have been provided for him by his parents. No juvenile may be placed or retained in an adult jail or correctional institution.

"Every juvenile who has been committed shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, physiological, or other care.

"Whenever possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community."

SUPPORT

SEC. 211. A new section 5041 is added, to read as follows:

"§ 5041. Support.

"The Attorney General may conduct with any public or private agency or individual and such community-based facilities as halfway houses and foster homes, for the observation and study and the custody and care of juveniles in his custody. For these purposes, the Attorney General may promulgate such regulations as are necessary and may use the appropriation for 'support of United States prisoners' or such other appropriations as he may designate."

PAROLE

SEC. 212. A new section 5042 is added, to read as follows:

"§ 5042. Parole.

"The Board of Parole shall release from custody, on such conditions as it deems necessary, each juvenile delinquent who has been committed, as soon as the Board is satisfied that he is likely to remain at liberty without violating the law."

REVOCATION

SEC. 213. A new section 5043 is added to read as follows:

"§ 5043. Revocation of parole or probation.

"Any juvenile parolee or probationer shall be accorded notice and a hearing with counsel before his parole or probation can be revoked."

SEC. 214. The table of sections of chapter 403 of this title is amended to read as follows:

"Sec.
"5031. Definitions.
"5032. Delinquency proceedings in district courts; transfer for criminal prosecution.
"5033. Custody prior to appearance before magistrate.
"5034. Duties of magistrate.
"5035. Detention prior to disposition.
"5036. Speedy trial.
"5037. Rights in general.
"5038. Dispositional hearing.
"5039. Use of juvenile records.
"5040. Commitment.
"5041. Support.
"5042. Parole.
"5043. Revocation of parole or probation."

TITLE III—JUVENILE JUSTICE AND DELINQUENCY PREVENTION ADMINISTRATION

ESTABLISHMENT OF ADMINISTRATION

SEC. 301(a) There is hereby created within the Department of Health, Education, and Welfare the Juvenile Justice and Delinquency Prevention Administration (referred to in this Act as the "Administration").

(b) There shall be at the head of the Administration a Director (referred to in this Act as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Director shall be the chief executive of the Administration and shall exercise all necessary powers, subject only to the direction of the Secretary of the Department of Health, Education, and Welfare. The Director shall be Assistant Secretary.

(d) There shall be in the Administration a Deputy Director who shall be appointed by

the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director from time to time assigns or delegates, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(c) There shall be in the Administration an Assistant Director, who shall be appointed by the Director, whose function shall be to supervise and direct the National Institute for Juvenile Justice established under section 501 of this Act.

PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

SEC. 302. (a) The Secretary is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and to prescribe their functions.

(b) The Secretary is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code.

(c) Upon the request of the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Director to assist him in carrying out his functions under this Act.

(d) The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code.

VOLUNTARY SERVICE

SEC. 303. The Secretary is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

CONCENTRATION OF FEDERAL EFFORTS

SEC. 304. (a) The Secretary shall establish overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out his functions, the Secretary shall consult with the Interdepartmental Council and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

(b) In carrying out the purposes of this Act, the Secretary is authorized and directed to—

(1) advise the President as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives he establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(4) coordinate Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which he determines may have a significant bearing on the success of the objectives Federal juvenile delinquency effort;

(5) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to September 30, an analysis and evaluation of Federal juvenile delinquency programs conducted and assisted by Federal departments and agencies, the expenditures made, the results achieved, the plans developed, and problems in the operations, and coordination of such programs. This report shall include recommendations for modifications in organization, management, personnel, standards, budget requests, and implementation plans necessary to increase the effectiveness of these programs;

(6) develop annually with the assistance of the Advisory Committee and submit to the President and the Congress, after the first year the legislation is enacted, prior to March 1, a comprehensive plan for Federal juvenile delinquency programs, with particular emphasis on the prevention of juvenile delinquency and the development of programs and services which will encourage increased diversion of juveniles from the traditional juvenile justice system; and

(7) provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs.

(c) The Secretary may require departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide him with such information and reports, and to conduct such studies and surveys, as he may deem to be necessary to carry out the purposes of this Act.

(d) The Secretary may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Administration.

(e) The Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(f) The Secretary is authorized to transfer funds appropriated under this Act to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Director finds to be exceptionally effective or for which he finds there exists exceptional need.

(g) The Secretary is authorized to make grants to, or enter into contracts with, any public or private agency, institution, or individual to carry out the purposes of this Act.

(h) All functions of the Secretary under this Act and all functions of the Secretary under the Juvenile Delinquency Prevention Act (42 U.S.C. 3801 et seq.), shall be administered through the Juvenile Justice and Delinquency Prevention Administration.

JOINT FUNDING

SEC. 305. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be designated by the Secretary to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Secretary may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 306. (a) Paragraph (17) of section 5315 of title 5, United States Code, is amended to read as follows:

"(17) Assistant Secretaries of Health, Education, and Welfare (6), one of whom shall be the Director of the Juvenile Justice and Delinquency Prevention Administration."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Deputy Director, Juvenile Justice and Delinquency Prevention Administration."

INTERDEPARTMENTAL COUNCIL

SEC. 307. (a) There is hereby established an Interdepartmental Council on Juvenile Delinquency (hereinafter referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, and representatives of such other agencies as the President shall designate.

(b) The Secretary of the Department of Health, Education, and Welfare shall serve as Chairman of the Council.

(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs.

(d) The Council shall meet a minimum of six times per year and the activities of the Council shall be included in the annual report required by section 306(b)(8) of this title.

(e) The Chairman shall appoint an Executive Secretary of the Council and such personnel as are necessary to carry out the functions of the Council.

ADVISORY COMMITTEE

SEC. 308. (a) There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency (hereinafter referred to as the "Advisory Committee") which shall consist of twenty-one members.

(b) The members of the Interdepartmental Council or their respective designees shall be ex-officio members of the Committee.

(c) The regular members of the Advisory Committee shall be appointed by the President from persons who by virtue of their training or experience have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; and representatives of private voluntary organizations and community-based programs. The President shall designate the Chairman. A majority of the members of the Advisory Committee, including the Chairman, shall not be full-time employees of Federal, State, or local governments. At least seven members shall not have attained twenty-six years of age on the date of their appointment, of whom at least three shall have been under the jurisdiction of the juvenile justice system.

(d) Members appointed by the President to the Committee shall serve for terms of four years and shall be eligible for reappointment except that for the first appointment of the Advisory Committee, one-third of those members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; thereafter each such term shall be four years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

DUTIES OF THE ADVISORY COMMITTEE

SEC. 309. (a) The Advisory Committee shall meet at the call of the Chairman, but not less than four times a year.

(b) The Advisory Committee shall make recommendations to the Secretary at least annually with respect to planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

(c) The Chairman may designate a subcommittee of the members of the Advisory Committee to advise the Secretary on particular functions or aspects of the work of the Administration.

(d) The Chairman shall designate a subcommittee of five members of the Committee to serve as members of an Advisory Committee for the National Institute of Juvenile Justice to perform the functions set forth in section 505.

(e) The Chairman shall designate a subcommittee of five members of the Committee to serve as an Advisory Committee to the Secretary on Standards for the Administration of Juvenile Justice to perform the functions set forth in section 507.

COMPENSATION AND EXPENSES

SEC. 310. (a) Members of the Advisory Committee who are employed by the Federal Government full time shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

(b) Members of the Advisory Committee not employed full time by the Federal Government shall receive compensation at a rate to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code, including travel-time for each day they are engaged in the performance of their duties as members of the Advisory Committee. Members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Advisory Committee.

TITLE IV—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—FORMULA GRANTS

The Secretary is authorized to make grants to States and local governments to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

ALLOCATION

SEC. 402. (a) In accordance with regulations promulgated under this title, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen. No such allotment to any State shall be less than $200,000, except that for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, no allotment shall be less than $50,000.

(b) Except for funds appropriated for FY 1974, if any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purposes of this title. Funds appropriated for fiscal year 1974 may be obligated in accordance with subsection (a) until June 30, 1976 after which time they may be reallocated. Any amount so reallocated shall be in addition to the amounts already allotted and available to the States, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands for the same period.

(c) In accordance with regulations promulgated under this title, a portion of any allotment to any State under this part shall be available to develop a State plan and to pay that portion of the expenditures which are necessary for efficient administration. Not more than 15 per centum of the total annual allotment of such State shall be available for such purposes. The State shall make available needed funds for planning and administration to local governments within the State on an equitable basis.

STATE PLANS

SEC. 403. (a) In order to receive part A formula grants, a State shall submit a plan for carrying out its purposes, in accordance with regulations established under this title, such plan must—

(1) designate a single State agency as the sole agency responsible for the preparation and administration of the plan, or designate an agency as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter referred to in this Act as the "State agency") has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for supervision of the programs funded under this Act by the State agency by a board appointed by the Governor (or the Chief Executive) (A) which shall consist of not less than twenty-one and not more than thirty-three persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, (B) which shall include representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education or youth services departments; (C) which shall include representatives of private organizations; concerned with delinquency prevention or treatment; concerned with neglected or dependant children; concerned with the quality of juvenile justice, education, or social services for children; which utilize volunteers to work with delinquents or potential delinquents; community-based delinquency prevention or treatment programs; and organizations which represent employees affected by this Act, (D) a majority of whose members (including the Chairman) shall not be full-time employees of the Federal, State, or local government, and (E) at least one-third of whose members shall be under the age of twenty-six at the time of appointment and of whom at least three shall have been under the jurisdiction of the juvenile system;

(4) provide for the active consultation with and participation of local governments in the development of a State plan which adequately takes into account the needs and requests of local governments;

(5) provide that at least 50 per centum of the funds received by the State under section 401 shall be expended through programs of local government under or as they are consistent with the State plan, except that this provision may be waived at the discretion of the Secretary for any State if the services for delinquent or potentially delinquent youth are organized primarily on a statewide basis;

(6) provide that the chief executive officer of the local government shall assign responsibility for the preparation and administration of the local government's part of the State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure (hereinafter in this Act referred to as the "local agency") which can most effectively carry out the purposes of this Act and shall provide for supervision of the programs funded under this Act by the local agency by a board which meets the appropriate requirements of paragraph (3);

(7) provide for an equitable distribution of the assistance received under section 401 within the State;

(8) set forth a detailed study of the State needs for an effective, comprehensive, coordinated approach to juvenile delinquency prevention and treatment and the improvement of the juvenile justice system. This plan shall include itemized estimated costs for the development and implementation of such programs.

(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, health, and welfare within the State;

(10) provide that not less than 75 per centum of the funds available to such State under section 401, whether expended directly by the State or by the local government or through contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to establish programs as set forth in section 403(11), and to provide community-based alternatives to juvenile detention and correctional facilities. The advanced techniques include but are not limited to—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services and any other designated community-based diagnostic, treatment, or rehabilitative service;

(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit, so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

(D) comprehensive programs of drug abuse education and prevention, and programs for the treatment and rehabilitation of drug addicted youth, and "drug dependent" youth (as defined in section 2(g) of the Public Health Service Act (42 U.S.C. 201(g));

(E) educational programs or supportive services designed to keep delinquents or youth in danger of becoming delinquent in elementary and secondary schools or in alternative learning situations;

(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

(11) provides for a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means, that shall:

(A) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the state juvenile population;

(B) increase the use of non-secure community-based facilities as a percentage of total commitments to juvenile facilities; and

(C) discourage the use of secure incarceration and detention.

(12) provides for the development of an adequate research, training, and evaluation capacity within the State;

(13) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if com-

mitted by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

(14) provide that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(15) provide for an adequate system of monitoring jails, detention facilities, and corrections' facilities to insure that the requirements of section 408 (13) and (14) are met, and for annual reporting of the results of such monitoring to the Secretary;

(16) provide assurances that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded or emotionally handicapped youth;

(17) provide for procedures which will be established for protecting under Federal, State, and local law the rights of recipients of services and which will assure appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(18) provide that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by assistance under this Act. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or part under provisions of this Act;

(E) training or retraining programs.

The State plan shall provide for the terms and conditions of the protective arrangements established pursuant to this section;

(19) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(20) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supply such State, local, and other non-Federal funds;

(21) provide that the State agency will from time to time, but not less often than annually, review its plan and submit to the Secretary an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary; and

(22) contain such other terms and conditions as the Secretary may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

(b) The Board appointed pursuant to Sec. 408(a)(3) shall approve the State plan and any modification thereof prior to submission to the Secretary.

(c) The Secretary shall approve any State plan and any modification thereof that meets the requirements of subsection (a) of this section.

(d) In the event that any State fails to submit a plan, or submits a plan or any modification thereof, which the Secretary, after reasonable notice and opportunity for hearing determines does not meet the requirements of subsection (a), the Secretary shall make that state's allotment under the provisions of 402(2) available to the public and private agencies in that State for Part B—Special Emphasis Prevention and Treatment Programs.

PART B—SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

SEC. 411(a) The Secretary is authorized to make grants to and enter into contracts with public and private agencies, organizations, institutions, or individuals to—

(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs (as defined in section 103(4));

(2) develop and maintain community-based alternatives to traditional forms of institutionalization;

(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquent; and

(5) facilitate the adoption of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 507(b).

(b) Not less than twenty-five per centum of the funds appropriated for each fiscal year pursuant to this Title shall be available only for special emphasis prevention and treatment grants and contracts made pursuant to this part.

(c) Among applicants for grants under this part, priority shall be given to private organizations or institutions who have had experience in dealing with youth.

CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

SEC. 412. (a) Any agency, institution, or individual desiring to receive a grant, or enter into any contract under this part, shall submit an application at such time, in such manner, and containing or accompanied by such information as the Secretary may prescribe.

(b) In accordance with guidelines established by the Secretary, each such application shall—

(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out one or more of the purposes set forth in section 404;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of the program;

(5) indicate that the applicant has requested the review of the application from the State and local agency designated in section 403, when appropriate;

(6) indicate the response of such agency to the request for review and comment on the application;

(7) provide that regular reports on the program shall be sent to the Secretary and to the State and local agency, when appropriate; and

(8) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title.

(c) In determining whether or not to approve applications for grants under this title, the Secretary shall consider—

(1) the relative cost and effectiveness of the proposed program in effectuating the purposes of the Act;

(2) the extent to which the proposed program will incorporate new or innovative techniques;

(3) the extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Secretary under section 408 (b) and when the location and scope of the program make such consideration appropriate;

(4) the increase in capacity of the public and private agency, institution, or individual to provide services to delinquents or youth in danger of becoming delinquent;

(5) the extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency; and

(6) the extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee on Standards for Juvenile Justice as set forth pursuant to section 507(b).

PART C—GENERAL PROVISIONS

WITHHOLDING

SEC. 421. Whenever the Secretary, after giving reasonable notice and opportunity for hearing, to a recipient of financial assistance under this title, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Secretary shall notify such recipient of his findings and no further payments may be made to such recipient under this title (or in his discretion that the state agency shall not make further payments to specified programs affected by the failure) by the Secretary until he is satisfied that such noncompliance has been, or will promptly be, corrected.

USE OF FUNDS

SEC. 422. (a) Funds paid to any State public or private agency, institution, or individual (whether directly or through a State or local agency) may be used for:

(1) securing, developing, or operating the program designed to carry out the purpose of this Act;

(2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than 20 persons (as defined in sections 103(1) and 103(3) of this Act) which, in the judgment of the Secretary, are necessary for carrying out the purposes of this Act.

(b) Except as provided in subsection (a) of this section, no funds paid to any public or private agency, institution, or individual under this Title (whether directly or through a State or local agency) may be used for construction as defined in Section 103(1) of this Act.

PAYMENTS

SEC. 423. (a) In accordance with criteria established by the Secretary, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

(b) At the discretion of the Secretary, when there is no other way to fund an essential juvenile delinquency program, the State may utilize 25 per centum of the funds available to it under this Act to meet the non-Federal matching share requirement for any other Federal juvenile delinquency program grant.

(c) Whenever the Secretary determines that it will contribute to the purposes of the Act, he may require the recipient of any grant or contract to contribute money, facilities, or services up to 25 per centum of the cost of the project.

(d) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursements, in such installments and on such conditions as the Secretary may determine.

TITLE V—NATIONAL INSTITUTE FOR JUVENILE JUSTICE

NATIONAL INSTITUTE

SEC. 501. (a) There is hereby established within the Juvenile Justice and Delinquency Prevention Administration a National Institute for Juvenile Justice (referred to in this Act as the "Institute").

(b) The Institute shall be under the general supervision and direction of the Secretary, and shall be headed by the Assistant Director of the Administration appointed under section 301(c).

INFORMATION FUNCTION

SEC. 502. The Institute is authorized to—

(1) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency;

(2) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

SEC. 503. The Institute is authorized to—

(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) provide for the evaluation of all programs assisted under this Act in order to determine the results and the effectiveness of such programs;

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program, upon the request of the Secretary; and

(5) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency.

TRAINING FUNCTIONS

SEC. 504. The Institute is authorized to—

(1) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are or who are preparing to work with juveniles and juvenile offenders;

(2) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency.

INSTITUTE ADVISORY COMMITTEE

SEC. 505. The Institute Advisory Committee established in section 308(d) shall advise, consult with, and make recommendations to the Assistant Director concerning the overall policy and operations of the Institute.

ANNUAL REPORT

SEC. 506. The Assistant Director shall develop annually and submit to the Secretary after the first year the legislation is enacted, prior to June 30, a report on research, demonstration, training, and evaluation programs funded under this title, including a review of the results of such programs, an assessment of the application of such results to existing and to new juvenile delinquency programs, and detailed recommendations for future research, demonstration, training, and evaluation programs. The Secretary shall include a summary of these results and recommendations in his report to the President and Congress required by section 304(b)(5).

DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

SEC. 507. (a) The Institute, under the supervision of the Advisory Committee shall submit to the President and the Congress a report which—based on recommended standards for the administration of juvenile justice at the Federal, State and local level—

(1) recommended Federal action, including but not limited to administrative, bugetary, and legislative action required to facilitate the adoption of these standards throughout the United States; and

(2) recommends State and local action to facilitate the adoption of these standards for juvenile justice at the State and local level.

(c) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies is authorized and directed to furnish to the Advisory Committee such information as the Committee deems necessary to carry out its functions under this Act.

SEC. 508. Records containing the identity of individual juveniles gathered for purposes pursuant to this Title may under no circumstances be disclosed or transferred to any individual or other agency, public or private.

TITLE VI—AUTHORIZATION OF APPROPRIATION

SEC. 601. To carry out the purposes of this Act there are hereby authorized to be appropriated $160,000,000 for the fiscal year ending June 30, 1974; $300,000,000 for the fiscal year ending June 30, 1975; $800,000,000 for the fiscal year ending June 30, 1976; and $400,000,000 for the fiscal year ending June 30, 1977.

SEC. 602 (a) Not more than 5 percent of the funds appropriated annually for the purposes of this act shall be used for the purposes authorized under Title III.

(b) Not more than 15 percent of the funds appropriated annually for the purposes of this act shall be used for purposes authorized under Title V.

APPENDIX No. 5

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, SECOND SESSION

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Senate

S. 821, THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974—SUMMARY

Mr. BAYH. Mr. President, the Juvenile Justice and Delinquency Prevention Act is the product of a 3-year, bipartisan effort to improve the quality of juvenile justice in the United States and to provide a comprehensive expanded Federal approach to the problems of juvenile delinquency.

I was joined by my distinguished colleague from Kentucky, Senator MARLOW W. COOK, the ranking minority member of the subcommittee in introducing S. 821 on February 8, 1973. S. 821, as reported unanimously by the Senate Subcommittee To Investigate Juvenile Delinquency is substantially similar to the bill we introduced. We are gratified by the cosponsorship of this bill by 23 distinguished colleagues: Senators ABOUREZK, BIBLE, BROCK, BURDICK, CASE, CHURCH, CRANSTON, GRAVEL, HART, HUMPHREY, INOUYE, KENNEDY, MATHIAS, MCGEE, MCGOVERN, MONDALE, MONTOYA, MOSS, PASTORE, RANDOLPH, RIBICOFF, TUNNEY, and WILLIAMS.

The subcommittee held 10 days of hearings and heard 90 witnesses on S. 821 and S. 3148, a similar bill which I introduced in the 92d Congress. These hearings demonstrated the need for a comprehensive overhaul of Federal juvenile delinquency programs combined with assistance to States and local governments, and private agencies to prevent delinquency and to provide community-based alternatives to juvenile detention and correctional facilities. The bill has been endorsed by the National Council on Crime and Delinquency, the National Council of Juvenile Court Judges, the American Parents Committee, the Boys Clubs of America, the Girls Clubs of America, the American Federation of State, County and Municipal Employees, the National Congress of Parents and Teachers, the National Executive Committee of the American Legion, the National Legal Aid and Defender Association, the National Council of Jewish Women, the National Association of State Juvenile Delinquency Program Administrators, the National Association of Social Workers, the Family Service Association of America, the National Governors Conference, the National League of Cities and U.S. Conference of Mayors, and many other concerned organizations.

The Juvenile Justice and Delinquency Prevention Act represents a commitment to our Nation's future. I urge my colleagues in the Congress to support the bill and hope that they will act expeditiously to provide the Federal leadership and resources so desperately needed to deal with juvenile delinquency. By enacting S. 821 we will contribute significantly to the safety and well-being of all our citizens, particularly our youth.

Mr. President, I ask unanimous consent that a summary of S. 821 as presented be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY—S. 821, AS AMENDED

TITLE I—FINDINGS, DECLARATION, AND DEFINITIONS

This title summarizes the adverse impact of juvenile delinquency on our society and the need for a comprehensive, expanded Federal approach to the problems of juvenile delinquency.

The objectives of the Act include: establishment of a new Juvenile Justice and Delinquency Prevention Administration in the Department of Health, Education and Welfare to provide direction, coordination and review of Federally assisted juvenile delinquency programs; authorization of additional resources increasing the capacity of state and local governments and public and private agencies to develop and implement effective programs to prevent delinquency, divert juveniles from the juvenile justice system and create community-based alternatives to traditional juvenile correctional facilities; creation of centralized research, information clearinghouse, training, technical assistance, and evaluation activities; development of national guidelines for the administration of juvenile justice, including conditions of confinement; and finally, adoption of basic procedural protections for juveniles under Federal jurisdiction.

TITLE II—AMENDMENTS TO THE FEDERAL JUVENILE DELINQUENCY ACT

This title sets forth a series of specific amendments to the Federal Juvenile Delinquency Act (Secs. 5031-5037 of Title 18) designed to modernize procedures for handling juveniles under the jurisdiction of the Federal court and to grant juveniles substantially the same rights as adults.

In cases involving juveniles, Federal courts would be required to defer to state courts unless the Attorney General certified that the state does not have jurisdiction or does not have available adequate rehabilitative programs for juveniles. This provision recognizes that the Federal courts and the Federal correctional system have never been properly equipped to handle juveniles with the result that Federal juvenile delinquency are frequently transferred away from their home communities for treatment.

If Federal cases, a juvenile alleged to have committed a crime shall be proceeded against as a juvenile delinquent unless he or she is 16 years or older. Where a juvenile, age 15 and older, alleged to have committed a serious felonious act could be prosecuted either as a juvenile or as an adult, a Federal District judge would be required to conduct a hearing and find that "there are no reasonable prospects for rehabilitation" before a juvenile could be prosecuted as an adult criminal. Under the present law, the Attorney General has sole discretion to make this determination.

This title also provides that no juvenile under Federal jurisdiction may be detained or confined with adults. It also specifically provides that whenever possible, the juvenile must be confined in a foster home or community-based facility located in or near his or her home community.

TITLE III—JUVENILE JUSTICE AND DELINQUENCY PREVENTION ADMINISTRATION

This title establishes a Juvenile Justice and Delinquency Prevention Administration in the Department of HEW, headed by a Director, who will be an Assistant Secretary appointed by the President with the advice and consent of the Senate.

This bill recognizes that there is a need for a centralized Federal response to the spiralling rate of juvenile crime. There needs to be one place in the Federal government where citizens can find solutions to the problems raised at the state and local level by juvenile delinquency.

The Administration will provide overall planning and policy and establish objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research and programs to improve the juvenile justice system. The Secretary would have broad supervisory review over the operation of programs in other agencies, and would be responsible for reporting on their effectiveness and for making budgetary and programmatic recommendations to the President.

Interdepartmental Council: This title establishes the Interdepartmental Council on Juvenile Delinquency, composed of the Attorney General, the Secretary of HEW, the Secretary of Labor, the Director of the Special Action Office for Drug Abuse Prevention, the Secretary of Housing and Urban Development, or their respective designees, and such representatives of other agencies as the President designates. The Council is to coordinate all Federal juvenile delinquency programs and to meet six times a year. The Secretary shall serve as Chairman of the Council, and appoint such staff as are necessary.

National Advisory Council: A National Advisory Council for Juvenile Delinquency Prevention of 21 members and members of the Interdepartmental Council ex officio will advise the Director with respect to the planning, operations and management of Federal juvenile delinquency programs. A subcommittee of five members will serve as an Advisory Committee on the overall policy and operations of the National Institute of Juvenile Justice. Another subcommittee of five members will serve as an Advisory Committee on Standards for the Administration of Juvenile Justice.

The National Advisory Council will bring citizen participation and cooperation to the work of the Administration. The bill recognizes that we will only be able to do something meaningful about juvenile delinquency with the help and support of the public.

TITLE IV—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

In addition to exercising supervisory power over existing Federal efforts, the Secretary is authorized to make grants and enter into contracts to carry out the purposes of the Act.

State and Local Formula Grants: Funds appropriated under this part will be allocated for grants to states, based on relative population under 18, which develop a plan containing the following fundamental requirements:

(a) designate a single state agency supervised by a Board appointed by a Governor consisting of persons, a majority of whom are not governmental employees including youth and former delinquency and who are representatives of local government, juvenile, justice agencies, social service agencies, and who are representatives of private agencies concerned with delinquency prevention, neglect, juvenile justice, education or social services, volunteers and employees organizations;

(b) provide for expenditure of at least 50 percent of the state's funds through local government programs;

(c) provide that the chief executive officer of the local government shall assign responsibility for the administration of the local government's part of the state plan to a single local agency supervised by a Board similar to the State Board;

(d) provide for expenditure of three-quarters of the funds a state receives on the development and use of advanced techniques designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to established probation subsidy programs, and to provide community-based alternatives to traditional detention and correctional institutions. The advanced techniques include community-based prevention, diversion and rehabilitation efforts through development of foster-care and shelter care facilities, group homes, halfway houses, and youth service bureaus; expanding use of probation; funding of probation subsidy programs; training of probation personnel, other professionals and paraprofessionals to work with youth; and comprehensive drug abuse prevention and education programs and treatment and rehabilitation programs for drug addicted and dependent youth. Such techniques also include community-based services to work with parents to retain the juvenile at home and educational or supportive services designed to keep the juvenile in school or alternative learning situations and to provide work and recreational opportunities for delinquents or youth in danger of becoming delinquent;

(e) provide for consultation with local governments and private agencies in the development of the plan and provide for maximum coordination and utilization of existing juvenile delinquency programs within the state;

(f) provide that, within two years after the submission of the plan, juveniles who are not charged with or have not committed substantive, criminal offenses shall not be placed in juvenile correctional facilities, but must be placed in shelter facilities;

(g) provide that juveniles will not be kept in any institution in which they have regular contact with adult criminals or alleged criminals;

(h) provide assurances that assistance will be available on an equitable basis to deal with all disadvantaged youth and that procedures will be established to assure the rights of recipients of services;

(i) provide that fair and equitable arrangements are made to protect the interests of employees affected by assistance under this Act; and,

(j) provide for prudent fiscal control and accounting procedures.

In the event that a state fails to submit a plan or have one approved after notice and hearing, the Secretary shall make the state's allotment available to public and private agencies in that state for special emphasis prevention and treatment programs.

Special Emphasis Prevention and Treatment Programs: Funds under this part will be used for direct Federal grants or contracts with public or private agencies and individuals to develop and implement new juvenile delinquency programs; to develop and maintain community-based alternatives to the institutionalization; to develop and implement means of diverting juveniles from the traditional juvenile justice and correctional system; to improve the capability of public and private agencies to provide services for delinquents and youth in danger of becoming delinquent; and to facilitate the adoption of recommendations of the Advisory Committee on Standards for Juvenile Justice.

This direct funding authority will provide additional overall resources particularly to utilize the experience and capability of private agencies on how to handle youth in trouble and maintain the funding flexibility required to develop innovative approaches to the problems of delinquency.

TITLE V—NATIONAL INSTITUTE FOR JUVENILE JUSTICE

This title establishes a National Institute for Juvenile Justice which will be the research, training and information arm of the Administration under the direction of an Assistant Director of the Administration. The Institute is expected to be closely tied to the operation of the Administration. This title also provides that records of the identity of juveniles which were gathered for research purposes may not be disclosed to any public or private individual or agency.

The Institute will serve as an information clearinghouse, collecting data related to juvenile delinquency, including statistics, research results and availability of resources and disseminating it throughout the country.

Research, demonstration and evaluation will be central functions of the Institute, conducted by Institute personnel and by outside agencies, institutions, or individuals. The Institute is expected to provide for the evaluation of full programs funded under this Act and any other delinquency programs at the request of the Secretary. Those which prove effective can then be adapted for use on a broad scale in various parts of the country.

The Institute is also responsible for conducting training programs (directly or by contract) throughout the country for persons working in the juvenile justice and delinquency field including professional, paraprofessional and volunteer personnel who work with young people to prevent and treat juvenile delinquency.

Standards for Juvenile Justice: The Institute, under the supervision of the Advisory Committee on Standards for Juvenile Justice, is also responsible for reviewing existing studies and independently studying, if necessary, all aspects of the juvenile justice system in the United States. Not later than one year after the passage of the Act, the Committee will submit to the President and Congress a final report which—based on recommended standards for the administration of juvenile justice at the Federal, state and local level—(1) recommends Federal administrative budgetary and legislative action to facilitate the adoption of the standards; and (2) recommends state and local action to facilitate the adoption of these standards at the state and local level.

TITLE VI—AUTHORIZATION OF APPROPRIATION

This title authorizes the following appropriations: $100 million for fiscal year 1974; $200 million for fiscal year 1975; $300 million for fiscal year 1976; and $400 million for fiscal year 1977.

APPENDIX No. 6

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Congressional Research Service

WASHINGTON, D.C. 20540

February 11, 1974

To: Senate Juvenile Delinquency Subcommittee

From: American Law Division

Subject: Juvenile Detention - State Case Law on Time and Conditions

The enclosed summary has been prepared pursuant to your letter and our subsequent telephone conversations in which you requested a compilation of citations and holdings of the various state courts on the questions of: (1) How long may a juvenile be detained prior to a hearing before a juvenile court judge or referee? (2) How long may a juvenile be detained between a detention hearing and an adjudication hearing? (3) Under what circumstances, according to what criteria, and by whom may a juvenile be detained prior to adjudication? (4) May a juvenile be detained in a state, county, or municipal jail, or must some other place be utilized? (5) Must juveniles and adults be provided with separate accommodations when incarcerated in such institutions prior to disposition? and (6) What special provisions must be provided for juveniles who are incarcerated in such institutions prior to disposition?

You will note that reported cases on the above points are few and far between. The reason for this has been suggested by the Alaska Supreme Court in In re G.M.B., 483 P.2d1006, 1008(Alaska S.Ct. 1971):

> At the outset we are confronted with the State's assertion that the occurence of this dispositive hearing renders moot the issue of the legality of the prior temporary detention order. [The posture of this case is a result of our refusal to stay the disposition hearing in the children's court pending our consideration of the Petition for Review. To have done so would have prejudiced the Petitioner and hindered his proper care and guidance.].... Although advisory opinions should be avoided this case falls clearly within the public interest exception to the mootness doctrine. That exception permits appellate courts to reach the merits of cases normally considered most "capable of repetition yet evading review" are raised. (Footnote of the Court included in brackets.)

Most courts would probably not take the same position on mootness.

Because there are so few cases, we have included some which are not directly in point but which suggest the posture which the courts of a particular state might assume.

Charles Doyle
M. Elizabeth Smith
Legislative Attorneys

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Congressional Research Service

WASHINGTON, D.C. 20540

JUVENILE DETENTION: STATE CASE LAW ON TIME AND CONDITIONS

Alabama

Our examination of the Alabama Digest, the annotations to the Alabama Code, Corpus Juris Secondum, American Jurisprudence and articles listed in the Index to Legal Periodicals has failed to uncover a single reported Alabama decision of the questions of: "(1) How long may a juvenile be detained prior to a hearing before a juvenile court judge or referee? (2) How long may a juvenile be detained between a detention hearing and an adjudication hearing? (3) Under what circumstances, according to what criteria, and by whom may a juvenile be detained prior to adjudication? (4) May a juvenile be detained in a state, county, or municipal jail, or must some other place be utilized?" (5) Must juveniles and adults be provided with separate accommodations when incarcerated in the same institution and (6) What special provisions must be provided for juveniles who are incarcerated in such institutions prior to disposition. Henceforth the absence of reported case law on these questions will simply be characterized as "None".

Alaska

A juvenile court master "has no power...to order detention for periods longer than are necessary to permit the superior court to review the case and to enter its own order of temporary detention, release from detention, or other appropriate disposition." In re G.M.B., 483 P. 2d 1006, 1010(Alaska S.Ct. 1971).

"[A] child has the right to remain free pending an adjudication that the child is delinquent, dependent, or in need of supervision, where the facts supporting the petition involve an act which, if committed by an adult, would be a crime, and where the court has been given reasonable assurance that the child will appear at future court proceedings. If the facts produced at the inquiry show that the child cannot return or remain at home, every effort must be made to place the child in a situation where his freedom will not be curtailed. Only if there is clearly no alternative available may the child be committed to a detention facility and deprived of his freedom.... Due process requires at the very least that detention orders be based on competent, sworn testimony, that the child have the right to be represented by counsel at the detention inquiry, and that the detention order state with particularity the facts supporting it. Doe v. State, 497 P. 2d 47, 52-53 (Alaska S.Ct. 1971).

We were unable to locate any reported Alaska cases discussing any of the other questions, however, In re E.M.D., 490 P.2d 658 (Alaska S.Ct. 1971) held that a runaway found to be in need of supervision could not be institutionalized in a correctional or detention facility; such disposition being limited to those found to be delinquent, i.e., to have violated a law of the state, or an ordinance or regulation of a political subdivision of the state.

Arizona

None

Arkansas

None

California

"The architects of the Juvenile Court Law clearly sought to remove California's lamentable practices as to excessive detention.... By requiring that the minor be released unless the case fell within one of the specified categories, the Legislature indicated its intention that detention be the exception, not the rule.... The procedure of the juvenile court in the instant case and its failure to release the minor resemble the situation in In re Macidon(1966) 240 Cal.App.2d 600, 49 Cal.Rptr. 861. There the juvenile court had notified the probation officer that a detention hearing was to be held in every case in which the juvenile was charged with the commission of a felonious act, whether or not the juvenile had theretofore been relased by the police or a probation officer. The Macidon child had allegedly stolen a purse from a 12-year-old girl on December 17, 1965. Although the officers took the youth into temporary custody they immediately released him to his mother's custody upon her written assurance that he would appear in court.

The probation officer filed a request for young Macidon's detention which did not allege any factual basis to support it, aside from the alleged commission of the offense. At the detention hearing the court asked the minor only his name, age, and school. Merely ascertaining the presence of the boy's mother, the court did not ask any questions of her or of the minor or of the probation officer. Apparently predicating its ruling on the material contained in the police report and a statement of the probation officer for two of the five youths charged with the offense, the court failed to follow the mandate of section 635. On this record the Court of Appeals released the boy because: first, the juvenile court had failed properly to conduct the detention hearing required by section 635; second, the facts as set forth in the reports presented at the detention hearing failed to provide any basis for detaining the minor; third, the court failed to make the findings of fact required by section 636.... The probation officer must present a prima facie case that the minor committed the alleged offense; otherwise the court will lack the 'immediate and urgent necessity'

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for detention of a youth charged under section 602.... In addition, the probation officer must state facts upon which he based his decision not to release the minor prior to the detention hearing.

In the instant case the juvenile court failed to conduct the detention hearing in the manner prescribed by the Macidon decision and the subsequently amended Juvenile Court Law. The court did not even hear any testimony by the probation officer; it did not consider his report under Welfare and Institutions Code section 628. Failing to follow the requirements of section 635 the court did not examine the young man, his parents, or his character witnesses. The court merely asked the minor whether he understood the charges; the boy responded, 'Yes, sir." Neither the court nor the probation officer asked any questions of the parents. On the other hand, the youth's attorney presented an extensive offer of relevant testimony and evidence which the court refused to admit or consider.

We recognize that the Legislature intended to create an atmosphere of compassionate informality in juvenile court proceedings; we note, however, that in this case the juvenile law's concern with the best interests of the minor was irretrievably lost in the very beginning of the hearing when the court adopted a steadfast posture that any young person charged with the alleged offense would, regardless of the facts of the case, be detained....

The nature of the charged offense cannot in itself constitute the basis for detention....[24] [24. 'Although it is difficult to delineate what does justify detention of a minor, it is relatively easy to set forth a number of factors that do not constitute 'immediate and urgent necessity' and are not relevant to detention. (1) Public outcry against the offense allegedly committed by the minor; (2) The need to crack down generally on juveniles in the area; (3) The nature of the offense per se; (4) The belief that detention would have a salutary effect on the Minor (the juvenile court does not have the right to exercise its jurisdiction over a minor for this purpose, if at all, until an adjudication of wardship or dependency has been made); (5) Convenience of the police, probation officer, or the district attorney for investigation purposes; (6) Concern that the minor will fabricate a defense to his case; (7) Inability of the minor to show good cause why he should be released.' (California Juvenile Court Practice (Cont.Ed.Bar 1968) §41, at p.52).]" In re M., 3 Cal.3d 16, 25-30, 89 Cal. Rptr. 33, 39-43 (1970)(footnote 24 of the Court's opinion in brackets).

Colorado

In the case of In re People ex rel. B.M.C., 506 P.2d 409 (Colo. App. 1973), the Court maintained that: "Children may be taken into custody

for conduct which is not expressly prohibited by statute which requires the State's intervention in the interest of the child or society, see 1967 Perm.Supp., C.R.S. 1963, 22-2-1(1)(d) and (e), supra. Thus a child may be taken into temporary custody pursuant to 1969 Perm.Supp., C.R.S. 1963 22-2-1(1)(c), if he violates a statute or ordinance which makes specific behavior by children unlawful even though such behaviour is committed by an adult is not unlawful." 506 P.2d at 411.

Connecticut

None

Delaware

None

Florida

In Arnold v. State, 265 So.2d 64(Fla.App. 1972), the court upheld the detention of a 15 year old child who had been held overnight in a county jail rather than being placed in juvenile hall. The child, charged with a capital offense, had been given over to the metropolitan public safety department across from the county jail after 6:00 P.M., and the juvenile hall was some distance away.

In Dep't of Health & Rehabilitative Serv. v. Patten, 277 So.2d 320(Fla.App. 1973), the court held that under certain circumstances under the Rules of Juvenile Procedure, Rule 8.040, a court having competent jurisdiction could provide for another person, other than an intake officer, to make detention decisions.

Georgia

In A.B.W. v. State, 129 Ga.App. 346, 119 S.E.2d 636(1972), the court held that: "[T]he provisions of §24A-2304 of the Juvenile Court Code (Ga.L.1971, pp.709, 735) to the effect that 'in the event a delinquent or unruly child is found to not be amenable to rehabilitation or treatment, the court may commit said child to the custody of the Department of Corrections,' is not in conflict with §24A-2401 thereof, which provides in part that 'a child shall not be committed to a penal institution or other facility used primarily for the execution of sentences or persons convicted of a crime,' and a commitment of a juvenile to the Department of Corrections, as was done in the present case, is not violative of §24A-2401." 129 Ga.App. at 346, 199 S.E.2d at 637.

Hawaii

None

Idaho

None

Illinois

In People v. Hill, 133 Ill.App. 147, 272 N.E.2d 840(1971), the court on the issue of the State's Juvenile Court Act, Ill.Ann.Stat. ch.37 §§701-708, did not question that the procedures themselves were proper. As applied to the juveniles in this case, the detention authorized was held to be valid for two reasons: 1. They were sent before a juvenile officer before being detained. 2. Then they were brought before a judicial officer within the 36 hours required by State law.

Indiana

In State ex rel. Imel v. Municipal Court, 225 Ind. 23, 72 N.E. 2d 357(1947), the Court held that a 15 year old boy held for 1st degree murder did not fall within the provision of the state juvenile act which maintained that no child under 18 years of age could be detained in a prison, jail or lock-up as it did not apply to minors held by other courts for capital offenses.

Iowa

None

Kansas

None

Kentucky

None

Louisiana

In State v. Wesley, 285 So.2d 308(La.App. 1973), it was held that a substation where a 14 year old was detained and questioned came within the statutory prohibition against confining a child less than 15 years old in a police station, prison or jail, La.Rev.Stat.Ann. §13:1577. This was maintained by the court even though the police substation was located in a commercial building and had no cells, bars, or other indications of confinement.

Maine

None

Maryland

None

Massachusetts

None

Michigan

None

Minnesota

None

Mississippi

None

Missouri

None

Montana

None

Nebraska

None

Nevada

None

New Hampshire

None

New Jersey

In State ex rel. J.M., 103 N.J.Super. 88, 246 A.2d 536(1968), the court asserted that, as concerns curtailing the liberty of a juvenile, "Just as an adult defendant in a criminal action must be found guilty before he can be penalized, a juvenile in a juvenile proceeding must be

adjudged delinquent (guilty) before the court can infringe upon his freedom by institutionalization or otherwise. It would seem compelling that there should be no distinction made as to the need for a reliable guilty - finding process whether the proceeding be in the adult criminal court or the juvenile court." 103 N.J.Super. at 93, 246 A.2d at 538-39.

New Mexico

None

New York

None

North Carolina

None

North Dakota

None

Ohio

In the case of In re Tsesmilles, 24 Ohio App.2d 153, 265 N.E. 2d 208 (1970), it was held that a juvenile in custody, although already adjudicated delinquent for committing an act which if committed by an adult would be a felony and if being committed for training and rehabilitation must be kept absolutely separate from adult convicts.

Oklahoma

In Schaffer v. Green, 496 P.2d 375(Okla.Crim.App. 1972), the Court set forth the following statement: "...[U]ntil new effective legislation can be enacted we deem it necessary to set forth the following guidelines for the use of the courts, attorneys, and juvenile officers....

(4) No child under the age of 16 years shall be confined in any police station, prison, jail or lockup, or be transported or detained in association with criminal, vicious or dissolute persons, except that a child 12 years of age, or older, may with the consent of the judge or director, be placed in a jail or other place of detention for adults, but in a room or ward entirely separated from adults." Id. at 378.

Oregon

In State ex rel. Juvenile Dep't v. Dunster, 95 Ore.1316, 501 P.2d 996(1972), the Court maintained that the minor's allegation, made before decision to remand, that the Court did not have probable cause to detain a juvenile and then remand him to a second court to be considered as an adult was untimely.

Pennsylvania

None

Rhode Island

None

South Carolina

None

South Dakota

None

Tennessee

None

Texas

None

Utah

In a case of a minor sentenced to jail for drunken driving, Nelson v. Green, 25 Utah 2d 219, 479 P. 2d 480(1971), the Supreme Court of Utah cited Dimmitt v. City Court, 21 Utah 2d 257, 444 P.2d 461, saying: "'***Minors must be at least 16 1/2 years of age before driving. In doing so they are exercising the privileges of adults, and in the interest of uniformity of law enforcement and equality of treatment they should be treated as adults***'" 25 Utah 2d at 220, 479 P.2d at 481. Chief Justice Callister dissented citing section 55-10-92 and stating: "The foregoing provision constitutes a legislative mandate that a juvenile shall not be detained in jail or an adult facility without an order of the juvenile court. The opinion of the majority of this court is completely inconsistent with this provision." 25 Utah 2d at 222, 479 P.2d at 482.

Vermont

None

Virginia

None

Washington

None

West Virginia

None

Wisconsin

In State ex rel. Morrow v. Lewis, 55 Wis. 2d 502, 200 N.W.2d 193(1972), the Court held that under state statute, an order detaining a child more than 24 hours in a place of detention had to be made by the juvenile court setting forth specifically the reason for detention. This could not be done by a social worker who had been authorized by the juvenile court judge.

Wyoming

None

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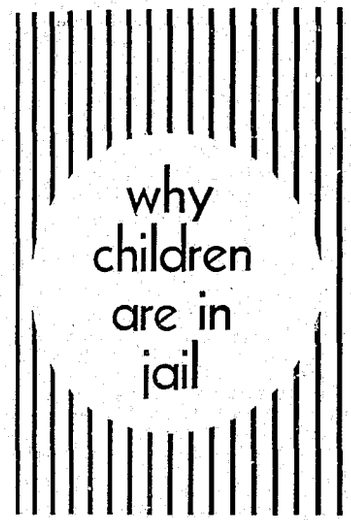
APPENDIX NO. 7



AND HOW TO KEEP THEM OUT

JOHN J. DOWNEY

Every year in this country, about 100,000 children under 18 are locked up in jails, according to estimates of the National Council on Crime and Delinquency.[1] Jail detention is not only harmful to children emotionally and morally, and thus likely to produce further delinquency, but it is also unnecessary. In fact, many children who are held in jail do not need to be detained at all.

During the past 7 years, the Children's Bureau has studied 18,000 cases of children in jail and the police and court practices that put them there. These studies show that—

1. In spite of State laws apparently intended to protect children "from the evils of jail," most such laws and the ways they are administered do not keep children out of jail.

2. Most children held in jail do not need to be locked up anywhere. They are unnecessarily confined for many reasons, including the use of jail for punishment or "treatment," poor court policies in relation to the detention of children picked up for delinquent behavior, and the lack of open shelter care facilities for children who need temporary care, but not secure custody, while awaiting disposition of their cases.

3. Of the children in jail who do need secure detention, many require it for only a day or two.

4. Even the assumption of responsibility for detention by the State, through the provision of regional detention facilities, does not keep children out of jail.

These findings strongly suggest that children can be kept out of jail, even in a small county, by the enactment and enforcement of laws prohibiting the holding of children in jail, by establishing sound court policies for admission of children to detention, by making arrangements for open shelter care of children accused of delinquency who need such care, and by establishing facilities for holding children up to 48 hours who need secure custody locally until other arrangements can be made for them.

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The Children's Bureau investigated the 18,000 cases of children in jail in the course of 23 studies of detention practices. Eight of these studies were statewide; two were studies of State regions, embracing eight counties; and 13 were studies of individual counties. In all, the studies looked into the detention needs and practices in 279 juvenile court jurisdictions covering 264 counties in 18 States. In 1960, these 264 counties had a total population of 17,324,429. High density population areas were not proportionately represented in these studies. Because most large cities contain detention homes, delinquent children are less likely to be held in jail in such areas.

The studies recorded the circumstances surrounding each child's jail detention, including the offense that led to his apprehension, the length of stay, and the child's destination upon release, all factors bearing on the necessity for detention. The studies also looked into the laws and practices under which the children were admitted to jail and the reasons given by the local authorities for putting them there. Because of the variations in availability of information among the jurisdictions covered, the recording on all the factors of interest was not complete for all jurisdictions. However, sufficient data were recorded to reveal why children are being placed in jail and to indicate what action is needed to end this practice.

In this article, the term "delinquent" will refer to the child who is alleged delinquent as well as to the child who has been adjudicated as delinquent. "Detention" means the temporary care of children in secure custody pending court disposition. "Shelter" means the temporary care of children in physically unrestricting facilities pending court disposition.

A question of legality

A review of the laws concerned with juvenile offenders in the 18 States in which these studies were made reveals an apparent intent to keep children out of jail, for they all contained a phrase like "no child shall be held in any jail, police lockup . . . ." This phrase, however, is usually followed by a qualifying phrase such as "unless ordered by the court," or "unless they are held in quarters separate and apart from any adult . . . ." Such a qualifying phrase provides the loophole through which children can be legally placed in jail.

In several of the 18 States, however, the law clearly prohibits placing children under 14 years of age in jail. In one of these 18 States, children under 16 cannot legally be put in jail. Even in these States, however, the studies show that the law is often ignored and children under the permitted age are held in jail.

Furthermore, the studies show that many of the children held in jail are not afforded the right of due process. They are placed in jail by law enforcement or probation officers and later released without ever having a petition filed with the court in their behalf or without ever having a hearing in court.

Was detention necessary?

The children's offenses. The offense that has led to the child's apprehension gives an indication of the severity of aggression or rebellion in his behavior and of whether or not he may be a danger to himself or others. While the offense should never be the sole factor in the decision to detain a child, it should certainly bear much weight in that decision.

The Children's Bureau obtained data on the specific offenses of 9,177 jailed children. Less than 4 percent were "offenses against persons," such as assault or robbery. On the other hand, slightly over 41 percent consisted of acts that would not have been violations of law if committed by an adult—running away from home, truancy, curfew violation, possession or drinking of alcoholic beverages, and "ungovernability." (See table 1.)

Runaways, it is true, need to be held until they can be returned to their parents. Some of the children called "ungovernable" may need emergency shelter care. Since these offenses are not singled out in the data, any specific conclusions as to the extent of unnecessary detention cannot be drawn from these figures. However, the low figure on offenses against persons indicates that very few of the children who were held in jail could be considered "dangerous." And the high figure on children jailed in facilities

Table 1.—OFFENSES OF 9,177 CHILDREN IN JAIL

Type of offense	Number of children 9,177	Percent 100
Offenses against persons	348	3.8
Offenses against property and other violations of law	5,011	54.6
Acts that would not be violations of law if committed by an adult	3,818	41.6

Table 2.—LENGTH OF STAY IN JAIL
For 15,840 Children

Length of stay (days)	Number of children 15,840	Percent 100
2 days or less	11,148	70.4
3 days or more	4,692	29.6

for adult offenders who if they had been adults could not even have been arrested for their offenses suggests an ironic discrimination against juveniles.

Length of stay. How long a child is held in jail sheds some light on how necessary it was to confine him in the first place, for a child who is a danger to himself or others is not likely to be released prior to a court hearing unless he is to be removed to another jurisdiction.

The Children's Bureau obtained data on how long 15,840 children were held in jail. More than 70 percent were held 2 days or less. (See table 2.)

Two days or less is an appropriate length of time to hold children in secure custody who are to be returned to other jurisdictions, such as out-of-county and out-of-State runaways or parole violators. But being held in secure custody at all hardly seems appropriate for children who can be safely sent home to their parents or someone else in the local community in a day or two. When children can be released after such a short stay in jail, the necessity of having locked them up at all is open to question.

These figures show that even if all the jailed children *had* required secure custody, 70 percent of them could have been kept out of jail if facilities for holding children securely up to 48 hours had been available locally.

Destination on release. However, information obtained on the children's destination on release from jail strongly suggests that only a small proportion of the children needed secure custody for even a short time. The Children's Bureau obtained data on the destination of 14,136 of the children. Of these children, 2,739 were returned to other jurisdictions. Local authorities disposed of the other 11,397 cases. Of those whose cases were handled locally, about 80 percent were allowed to remain in the community. (See table 3.)

In addition to children who must be held for other jurisdictions, those children most likely to require secure detention after being picked up for delinquent behavior are the extremely aggressive youngsters who may continue making trouble if released to the community. One would, therefore, expect to find that a high proportion of jailed children had on release been removed from the community through commitment to State agencies or institutions by local court action or had been transferred to adult courts for trial. However, the figures show that only about 20 percent of the children whose cases were handled locally had been committed to agencies or institutions or transferred to adult courts.

Admission to detention

A comparison of court policies in 22 of the 23 areas studied showed that fewer children were jailed in areas where the courts exercised control of the admission of children to jail. (One of the States studied was omitted from the comparison because of the wide variation of detention practices within its several court jurisdictions.) In 12 of the areas, police had put children in jail without making any contact with the court or the probation officer. Although these areas contained only 26 percent of the total population of the 22 areas (according to the 1960 census), they had 47 percent of the jail admissions of children. In the 10 other areas—with 74 percent of the total population but only 53 percent of the jail detentions—the police were required to check with court authorities before putting any child into jail.

In 10 of the areas studied, one or more of the court officials responsible for screening children for detention reported that they often sent children to jail as punishment even though the children did not need secure custody. In one State some of the judges had

Table 3.—DESTINATION ON RELEASE FROM JAIL
of 11,397 Children Whose Cases Were Disposed of Locally

Destination	Number of children 11,397	Percent 100
Sent home or otherwise left in community	9,222	80.9
Sent to correctional institution or transferred to adult court	2,175	19.1

such little confidence in the rehabilitative ability of the State training school for delinquents that they preferred holding a child in jail for a period of time to committing him to the school.

The existence of a detention home did not always keep children out of jail. In four of the counties studied, detention homes were available but the courts were holding children in jail by choice. In three of these counties, the detention homes were not equipped, from the standpoint of program, building, or staff, to handle the kind of troublesome adolescent who needs detention. In the fourth county, children were routinely placed in jail before being sent to the detention home.

Children were also in jail—2,366 of them—in the two States studied that operated regional detention systems. They were put there by the court's choice, through routine admission practices, or to await placement in the regional detention home.

The first step toward eliminating the jailing of children is the enactment of laws that would not only prohibit this practice but would also assure the proper use of detention or shelter care. Where necessary, the statutes should be complemented by appropriate court rules and policies. Together, the law, court rules, and policies should provide—

1. Criteria for admission. A child taken into custody should not be placed in detention or shelter care unless such care is required to protect the person and property of others or of the child, the child is likely to leave the jurisdiction of the court, or the child has no parents, guardian, or other person able to care for him and return him to the court when required.

2. Procedure to be followed. The law enforcement officer who takes the child into custody should immediately: (a) release the child to his parents, guardian, or custodian upon their promise to bring the child before the court when requested unless his placement in detention or shelter care seems to be required for his own or others' protection; (b) take the child to the court or place of detention or shelter designated by the court and immediately give written notice of this action and the reason for it to a parent, guardian, or other custodian of the child as well as to the court.

When a child is taken to a court or place of detention, the probation officer should review the request for detention before admission and should release the child unless detention is necessary.

If the child is not so released, a petition for court action in behalf of the child should be filed within 24 hours. A hearing on the necessity for detention should be held within 24 hours after the petition is filed. Unless the court finds that the child's detention is required, it should order his immediate release.

3. Twenty-four hour intake. The court intake officer should be available on a 24-hour basis—either on duty at the court, the designated place of detention, or on call—to authorize the detention, shelter, or release of children referred by the law enforcement officers.

4. A prohibition against jailing children. The legislation should set a date after which the placement of children in jail would be absolutely prohibited. This date would allow a short interval for the provision of appropriate facilities for the temporary care of delinquent children.

Shelter care

Specific figures on how many children needed shelter care rather than secure custody while awaiting disposition of their cases are not available from the Children's Bureau studies. However, the need for facilities to provide this type of care was so obvious in many of the communities under study that recommendations for their establishment were contained in 18 of the 23 studies. In New York State, where there are about 25 facilities for shelter care, the communities operating them have experienced a noticeable reduction in the number of children in secure detention.[2]

A shelter home differs from a detention facility in having no security features such as locked rooms and barred windows. It can be a group home owned by a social agency such as the county welfare department and operated by a salaried staff; or it can be a foster family home subsidized with a flat monthly fee for the foster parents' services, plus board for each child on a per diem basis. In either case, the shelter home should be reserved exclusively for temporary care and should be ready to accept children at

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John J. Downey has been detention consultant for the Children's Bureau since January 1961. Prior to that he held a similar position in State of New York, in the then State Department of Soc. Welfare, for 4 years. He previously spent 11 years in child welfare work in the States of Maine and Kentucky. Mr. Downey received his bachelor's degree from Boston College and his master's degree in social work from the Columbia University School of Social Work.

any hour of the day or night. A foster family home should be limited to caring for no more than six children at a time; a group home, to no more than 12.

While such shelter facilities are not secure lockups, the children they serve are often difficult to handle. They need care from understanding adults who can involve them in constructive activities and who are capable of providing close supervision to a child when he is upset, even if this means staying up with him at night. Adequate compensation and provision for relief personnel are necessary to keep the group homes staffed and the subsidized foster families willing to continue in a task that provides few of the satisfactions of long-term foster care.

Provision for the temporary shelter care of children picked up by the police is necessary even where there is an adequate detention home. Such provision can be made on a small or large scale, depending on the size of the community.

Holdover facilities

A facility providing secure custody for apprehended children for no more than 2 days can allow the court reasonable time either to dispose of the case or to make arrangements other than jail for the child. Such a facility is needed in every community where a detention home is not readily accessible. It can be in a separate building or in a building used for other purposes, but never in a jail.

Because the children in its charge stay for such a short time, the local holdover facility does not have to provide space for large-muscle activity as does a detention home, which may hold children several weeks. Further, since in most instances a holdover facility contains very few children at any one time, the children can be under constant supervision. Thus, while keeping the facility locked is important, there is not the same need for the type of construction and equipment required in a regular detention home to prevent a child from hurting himself or others.

In Utah, local holdover facilities are being developed throughout the State. The Utah Department of Public Welfare has established written detention standards with 48-hour holdover facilities designated as "Type C."[3] Such facilities are already in operation in Cedar City, St. George, and Price and one is under construction in Logan. Generally, these facilities have from four to six individual sleeping rooms, a day room, a shower room, and a supervisor's office. Each facility contains a refrigerator and stove for preparing snacks and meals for newly admitted children,

but regular meals are brought in from other institutions or consist of TV dinners.

Sometimes such holdover facilities for children are provided for in new buildings constructed to house other activities. For example, in Cedar City, Utah, the holdover facility is in the basement of a new county hospital; in St. George, it is in the basement of a new county office building. When a holdover facility is located in an institution caring for other people, it is important that the children be kept in separate quarters out of sight and hearing of these other people.

In a small community, a secure holdover facility for children may not always be in use, thus posing a problem of staffing. In Utah, the problem has been solved by employing a couple in each community on a standby basis. Each couple is paid a monthly salary and is called to the facility for duty when children are placed there.

A local 48-hour holdover facility is not a substitute for a detention home that can provide secure care for children for as long as 3 weeks, if necessary. Risks are involved in operating a short-term facility unless such a detention home is available somewhere in the State to which children who need to be held longer can be transferred. If a regular detention home is not available, the court will be forced to make a disposition of children in the local facility's care within 48 hours. When the child is well known to the court, this should be sufficient time for a wise decision. In other cases, however, a quick disposition before the probation officer has been able to complete his study is risky. A child may be released to the community who is not ready for community living and another child may be unnecessarily committed to a State institution. However, even when a regular detention home is not available, the establishment of a local facility for holding children securely up to 48 hours can eliminate the jailing of children.

IF JAILING CHILDREN is to be stopped, there must exist the firm conviction that jail is no place for a child—a conviction followed up with the enactment of appropriate legislation, the establishment of sound court policies for admission to detention, the development of local arrangements for shelter care, and the provision of local 48-hour holdover facilities. Children can be kept out of jail where there is a will to keep them out.

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[1] National Council on Crime and Delinquency: Corrections in the United States: a survey for the President's Commission on Law Enforcement and Administration of Justice. *Crime and Delinquency*, January 1967.

[2] Fox, Bruce R.: Juvenile detention—the name of the game. Unpublished paper presented at the Frederick A. Moran Memorial Institute, St. Lawrence University, Canton, N.Y., June 23, 1969.

[3] Utah Department of Public Welfare: Minimum standards of care for the detention of children. Salt Lake City, Utah. 1961.

We have juvenile delinquency when the young overappraise freedom in action. They believe that because they can think it, they can do it. We have adult delinquency when the custodians of culture underappraise freedom in thought and speech. They believe that because they can't do it, the young should not do it, or even think it. The adult variety is the worse, for it crucifies the life, the imagination, the fountain, veritably, from which all values flow.

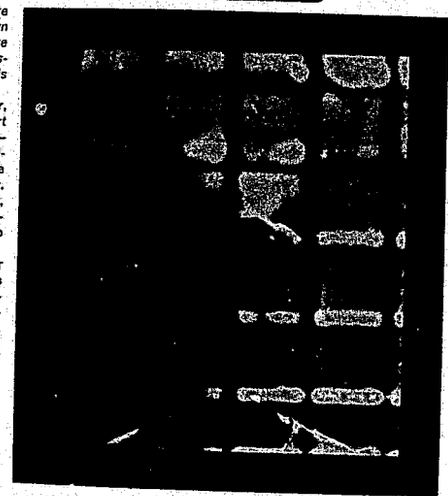
Thomas Vernor Smith, Professor Emeritus of Poetry at Syracuse University, to the 1960 White House Conference on Children and Youth.

APPENDIX NO. 8

Reprinted from the June 29, 1971 issue of LOOK

HOW TO MAKE A CRIMINAL OUT OF A CHILD

"I can't send him back to his whore of a mother. His school has thrown him out. He has done nothing more than try to run away from his miserable home. All I can offer this child is a jail."
—Magistrate David S. Schaffer, Chicago Juvenile Court



100,000 kids decay in jails. Six out of ten are not delinquents. But they are learning, fast.

As I write this, some 100,000 children are sitting in jails and jail-like institutions throughout the country. They are as young as six. Most, perhaps 60 percent, are not delinquents. They have committed *no criminal acts.*

They are in trouble with their schools or victims of bad homes or no homes or runaways or emotionally disturbed or mentally retarded or neurologically impaired.

But they are in jails (thousands of them illegally, without benefit of court hearings or attorneys or specific release dates) because there is no place else for them to be. These jails, which have many different names—detention center, training school, even hospital—have guards and locks and, for the most part, bars and high walls.

They put Bernie in one of these jails at age six. Because that's when, as far as officials were concerned, he began to mess up.

Poster-attractive except for a pair of the most badly crossed eyes I have ever seen, Bernie was picked up by a Chicago cop one cool fall midnight wandering barefoot around a subway station.

He was already a veteran runaway and a panhandler. Lost among nine—soon to be ten—kids, a semiliterate, rarely working father, a childlike mother, he took to the streets at four. He was hit by cars twice that first year, suffering a fractured skull both times.

The policeman took Bernie to the Audy Home that night, shortly after his sixth birthday. (The Audy Home is a jail for children.) He was sent home the next day, turned over to his parents and ordered to report to school, Kindergarten.

He refused to attend. Disheveled, dirty, butt of jokes for his crossed eyes, which were never treated, he skipped 31 of his first 40 days. That set the pattern for the next four years. Bernie was to spend almost two of those years in Audy on five different stays.

Continuing to run and to get picked up, he shuttled between his home, a urine-reeking, rag-strewn three rooms, five sets of foster parents and, inevitably, when things fell apart, Audy. After years of being responsible to no one, he was hard to control; each foster home quickly threw him back.

Because he was so handsome—ash-brown hair, blue eyes, a quiet smile—he became a favorite among the staff at Audy. Everyone felt badly that he was disintegrating.

Like all cities in this country, Chicago offers little treatment for children who need help—but lots of testing. During his repeated confinements at Audy, Bernie was frequently evaluated. Tested there for the first time at age six, he was found to be of normal intelligence.

By age eight, the examining psychologist could report: "His contact with his environment has decreased." By nine: "Bernie is getting depressed. [He is] beginning to withdraw severely." The next year: "It is quite possible he is deteriorating due to lack of special academic compensation [and] experiencing extreme emotional regression."

Several doctors recommended a boarding home and school where Bernie could get the attention and firm guidance he desperately needed. "Unfortunately," noted one laconic report in Bernie's ninth year, "such an environment was not obtainable for him." Illinois, like most states, pays $3,000 to $8,000 per year for each troubled child it is able to place in private residential schools. But these schools reserve the right to turn down anyone they believe would not fit into their program. Illinois has no say. Eight schools refused Bernie. Public residential schools for long-term stays do not exist.

The rejection from the foster homes "rendered Bernie . . . chaotic," reported one psychologist. Back home, Bernie's parents often locked him in a closet to keep him from running, and moved frequently to evade juvenile authorities.

At ten, Bernie became, in the eyes of the law, a delinquent.

He wanted a bike. So he took one, menacing a boy with a small penknife. He was returned to Audy. He was now functioning at the level of a retarded child. His IQ had plummeted 30 points. He had spent three weeks of the prior 52 in his neighborhood school. He could not read, write, tell time. He was drifting away from the world.

The inevitable test: He was now retarded, it said. The court promptly and officially labeled him that, even though a physician two years earlier had said emphatically: "He is not retarded." (If Bernie was in fact retarded at that point, he had joined a large group. The President's Committee on Mental Retardation estimates that three out of four of the six million retarded in this country *were born with healthy minds.* Their retardation, like Bernie's, was caused by the failure of our society to provide what a child needs to survive.) Bernie—age ten—was ordered to a state institution for the retarded. Commented a probation officer, "He will never come out."

Bernie's parents, meanwhile, had had enough of Chicago. They wanted to move to a relative's farm in rural Florida. Almost as an afterthought, the day before they were to leave, they asked if Bernie could come with them. He was released. The only thing Chicago and Illinois could figure out for Bernie was to let him go. Saved from a cage for the retarded, he is now back where the problem began.

Bernie spent almost half of four crucial years in a city detention center. Harry, the boy whose picture is on this page, is farther along. Harry was 14, looked 12 and, when I first saw him, he was in

BY CHARLES MANGEL LOOK SENIOR EDITOR

solitary confinement in Illinois' maximum-security prison for juveniles—a penitentiary for children.

His major crime: an inability to control himself.

Slight, blond hair hanging over his forehead in bangs, he could be heard shrieking through the prison building when we entered. "Damned food, damned slop they give us . . . Hey, who's out there . . . ?" As photographer Charles Harbutt and I approached and began to talk with him, he quieted down. He wanted attention.

Harry had been a problem "since he was nine months old," his mother later told me. He destroyed "every toy he owned" in fits of temper. Extremely bright, he had a low frustration level and would explode "without warning" when he didn't succeed immediately at anything he wanted to do. Even before he started to talk, he would grab a household "weapon"—a vase, a broom—when provoked by one of his brothers or sisters.

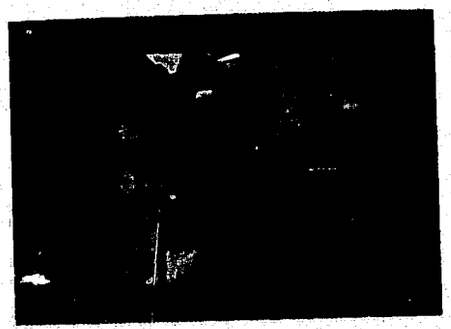
Harry's mother, a good-hearted divorcee concerned about her seven children, married an older man who wanted to take care of his new family, but who quickly admitted defeat with Harry. Although obviously bright, Harry could not be controlled at home or in school. He tore apart his classes and virtually destroyed his family.

He walked into a liquor store at age 11 and stole several cartons of cigarettes. He didn't smoke and didn't try to sell them. He apparently just wanted to boast. That same day, as a friend was set upon by two boys, Harry waded in and got so angry that he pulled out a pocketknife and stabbed one of the boys in the shoulder. (When I asked him why, he replied: "I just got mad.")

For the last two incidents, the court ordered him to a training school. Paroled 15 months later, he was wilder than ever. He lasted three months at home.

His parole was revoked. He went back to the training school, was so incorrigible that he was transferred to the maximum-security school in the Illinois system. (In any state in this nation, a child who is, for example, a runaway, can, by just running repeatedly, promote himself into a maximum-security cell. He is, thus, controlled.) Unable to stop lashing out at virtually everyone around him, Harry spent most of his time in solitary confinement, a five-by-ten-foot cell. Of the three months following my visit, he spent 71 days locked up alone. When he was particularly troublesome, the "cage men" (or "control men") injected him, forcibly if necessary, with Thorazine. Thorazine is a powerful tranquilizer. It is commonly used in the treatment of psychotics. No physician termed Harry psychotic. The cage men used the drug to keep him groggy. A prescription—a technical requirement—was routinely provided. "One injection," the then superintendent told me, "often kept him out six hours."

His mother had him committed. His "crime": truancy.



Harry was examined by a psychiatrist who reported: "This is a . . . helpless little boy confused and overwhelmed by his impulses and environment. The next few years could be crucial as to whether he goes into irreversible personal disorder." The psychiatrist asked that Harry be given a medical evaluation and then treatment based on those findings. Four months later, the medical evaluations had not been scheduled. The same psychiatrist saw Harry again, and again recommended the examination. He noted: "His behavior has deteriorated. His prognosis is poorer."

I took my notebooks to a pediatrician who specializes in learning and behavior problems in children. He suspected, based on what I could tell him, that Harry has suffered since birth from a combination of primarily physical—not *emotional*—problems. They made it impossible for him to control himself without the right medical help, which no one had given him.

Until last November. Then something "strange" happened. After five years in and out of the state correctional system, Harry was transferred to a state hospital, to join an experimental program designed for kids just like him. Suddenly, aid poured in on Harry—medication, psychological therapy and intensive personal counseling. He began to change. Dramatically. Now, just seven months later, his psychologist says, "I think he will go home soon to stay." If that is right, if help did not come to Harry too late, he is one of the very few lucky ones. "He was," says the psychologist, "at the end of his rope when he got here."

What happens to a boy who grows into manhood in a jail?

Chuck Paulson is 35. He has spent 26 years in some kind of institution. He has been a burglar, an armed robber and, almost, a murderer. When I interviewed him, he had just been released from a penitentiary in an Eastern state. He had been out ten months, the longest period of time he had been free *since he was seven years old.*

"My mother put me in an orphanage when I was seven," he recalled. Why? "I don't know. My parents were both working. I was an only child. I don't think they wanted me around. They were both pretty young."

Chuck kept running away, trying to go home to his parents. After three years, the orphanage gave up and sent him back. But he didn't want to go to school. While truant one day, he wandered into a variety store, picked up a hard-boiled Easter egg from a display and ate it. A neighbor told his mother.

The next day, Chuck's mother petitioned the court to have him committed as an uncontrollable child. (In many states, "incorrigible" children, solely on petition of a parent, school or police official, can be held until age 21. New Jersey last year imprisoned a boy until newspaper publicity forced his release. He was five.) Chuck, 12, was sent to a reformatory. He was to stay there for most of the next four years. He had done nothing more serious than eat the egg and play hooky.

"When you go into reform school at 12 or so," he told me, "and you see a guy maybe a year or two older in there for robbery, he's a big man. You look up to him. You listen to him. I listened to stories about jobs. I just took it in my head."

"What did you learn?"

"I learned the best time to break into a market, how to get into a closed gas station, how to break a jewelry-store window, how to find out if a house is empty and get in quietly, how to sell the junk you steal." (Eight out of ten kids—*including those who enter these institutions for non-delinquent behavior*—commit crimes after they leave. Three out of four are back in jail within five years.)

After a year at the reformatory, Chuck got a two-week home visit. He could barely wait to test his new knowledge. "I hitchhiked across the state line the first night out—they told me not to mess with your hometown—and crashed into two closed gas stations. I went into the cash registers and the vending machines. I still remember, I got $50 in one and $20 in the second. That was big money to me. I was 13 and a half. I hit for more when that money ran out. Now I had some stories to tell when my leave was up."

Chuck learned "how to stick a knife in a guy, shoot a gun. They taught me to fight; they made me want to do it, to get revenge. The kids said if you've got the guts to stick it into a guy, then you're O.K. Otherwise, you're a punk. The days went on, day after day. All we did was talk. They had pictures of guns and showed us how to load and use them. Over and over. When we got out and got a gun, I'd have a home with it."

Chuck saw his first gang rape in the reformatory. "A thin, blond kid hung with me, and I watched out for him. One day, 16 bigger guys caught him alone and raped him in a classroom, beat him badly. Two 12- and 13-year-old kids raped eight-year-olds. I saw a gang rape a kid in an empty swimming pool.

"Everybody does it. Anyone who's in prison for any time at all says he doesn't do it—by coercion or force—is a liar."

("Almost every slightly effeminate young man is sexually approached within hours after his admission . . . ," one investigator told a Senate subcommittee. "Many . . . repeatedly raped by gangs of aggressors. Can anyone ever understand what degradation a frightened young man must feel when he is released into the community after being homosexually raped?")

Discharged at 14, Chuck formed a three-boy gang and started breaking into houses. "We would do 12 to 15 houses in an afternoon when people were out."

His career had begun. It was to take him into four different reformatories, Federal and state prisons, through five knifings of other inmates—he tried to kill each, but failed—through episodes with drugs. When discharged the last time, he had been out of confinement a total of 13 days in 13 and a half years. Now he sat with me, worrying about his future.

He had lost five jobs because his employers learned he is an ex-convict; another because of his temper. Although he is trying to stay clean, he had broken into two houses the week before we talked. He is trying to stay off pills and liquor but may be losing. He is continually looking over his shoulder, afraid he'll be caught for those entries, dodging friends he made in prison who are looking for him so they can get back to the only real work any of them knows. "I get two or three offers a week."

Chuck doesn't know what he will do. He has the defenses of a child. "He is terror-stricken," a new friend of his told me. "He carries a knife because he's afraid someone will stab him in the back. He doesn't know how to trust. He doesn't believe anyone could love him. He tried to con me until he realized I wasn't out to hurt him, that I wanted to help. He doesn't know what it is to be happy."

The only thing Chuck is sure about is "that it started in reform school. That's trade school, that's where I learned it all." He pleads: "Stop reform schools. Eight out of ten guys I saw in prison were in reform school with me."

Bernie, Harry and Chuck Paulson are not isolated examples. They represent dozens of boys and girls I met across the country, non-delinquent or borderline delinquent children who are committed to institutions for indeterminate stays under the guise of treatment. But only five out of 100 get it.

Instead, they find themselves in a world governed by brutality (one survey reported major physical punishment in two out of three institutions) and a different code of conduct. "Imagine," said one researcher, "what can happen to a ten-year-old boy, whose only offense is having been deserted by his parents, when he is assigned a bed between a burglar and a homicide suspect." Inevitably, they learn a new set of rules.

No one, anywhere, demands an accounting of what happens to these children. Nobody touches their lives. Except on a hit-or-miss basis, no hand exists to support a stumbling child, no hand exists to help good families that find survival impossible without assistance. I interviewed poor parents of disturbed or brain-injured kids who committed their children in desperation because they could find no other promise of treatment. Each "incorrigible" child went to jail. None got the promised treatment. Schools simply eject kids who do not learn—90,000 under 16 walk the streets all day in New York City, 60,000 in Philadelphia, 36,000 in Detroit, 53,000 in Los Angeles.

Our national values: $14 million for kids, $4 billion for roads

The glut of public and private social-service agencies allows children and their families to fall between them because no one agency, anywhere, is responsible for anyone. *Six* different Chicago agencies had a shot at Bernie during his four years; his probation-department social worker and his school social worker had never contacted each other to discuss his problems. I asked his probation-department social worker what she did for him. "I visited him and I brought him apples," she said. "He loved apples."

Most judges refuse to visit institutions they sentence kids to. Three out of four juvenile courts have neither diagnostic services to seek out reasons for a child's behavior nor treatment services to help a child *before* committing him to an institution.

Logic plays little part in our treatment of children in trouble. We imprison a child of seven and tell ourselves *he* is the failure. We maintain we will treat him, but only one of 20 institution employees is assigned to rehabilitation. We worry about the rising rate of crime and acknowledge that serious juvenile crime is up 78 percent (half of all major crimes are committed by juveniles), yet our Federal Government spends $480 million for an omnibus crime act, and only $14.7 million for delinquency prevention—versus $4.4 billion for highway construction. We complain endlessly about money, yet we will spend as high as $12,000 to keep one child in a jail cell for one year when most could be helped in small group homes for a third of that sum. "Secure institutions are necessary for only some ten percent who are dangerous," says Milton Rector of the National Council on Crime and Delinquency.

We know our juvenile prisons are failures, yet we plan to increase their capacities by almost 50 percent. We deplore the need to put non-delinquents with hard-core child criminals—and some 10,000 in with *adult* prisoners—yet unblushingly continue to do it. In 1961, New York state passed a law forbidding non-delinquents to be placed in facilities housing delinquents. The jails started to empty. Suddenly there was no need for all those guards. Forty percent were let go. They protested. The legislators repealed the law and returned to the old system.

As a national community, we know how to identify many kids who are likely to get into trouble by the time they reach the third grade. We are beginning to understand that many children who misbehave flagrantly—perhaps as many as half of them—have basic medical problems that if treated would allow them to control weird impulses that lead to assaults, even murder. We have watched experiments in rehabilitation (Illinois among the outstanding ones) that indicate promising ways to reduce repeater rates—and costs—dramatically.

Yet we pass all this by as if it does not exist. "Why are we so willing to give up on the child in trouble?" asks Lois Forer in *No One Will Lissen.* "There are two possible reasons. The first is that we don't want to help; the second, that we don't believe we *can* help. We know that the children who suffer from lack of facilities are primarily poor children—black, Puerto Rican, Indian, deprived—in short, *not our children.*"

Few people feel any sense of outrage. I met in Chicago with a group of lawyers, judges and social workers who spend their days working with children in court. They impressed me as decent men and women. They uttered all the right words. But they spoke with a curious hollowness of feeling. As the evening wore on, I found myself being grateful that the future of my children did not depend on their concern.

"The way things are now, it is probably better for all concerned if young delinquents were not detected," says Milton Luger, former director of the New York State Division for Youth. "Too many of them get worse in our care." Not one state in this country, adds the National Council, is doing a proper job of rehabilitating kids in trouble.

We are a slipshod people. We tend to do nothing unless a crisis is at hand, and then we seek simplistic, temporary measures. We wrap ourselves in our comforts, tend to think the universe is where we are and blink at those who are cold, hungry, sick, in trouble. It appears the time of slippage may be ending. The time may be beginning when, compassion and purity of purpose aside, we are going to be hurt significantly if we don't reach out to those aliens who dare not to be self-sufficient. "If you are among brigands and you are silent, you are a brigand yourself," a folk saying goes. Civilization is not a matter of museums and global communications. It derives from a quality of mind and of concern. And by that definition, we, of course, are not a civilized nation at all, rather a self-centered, stupid one. And the soothing words of all our politicians, all our churchmen, all our "important" people matter not. We are incompetent.

About a month before I reached Los Angeles during the research for this story, a nine-year-old named Teddy had run from his mother there. An alcoholic, she used to leave him alone for days at a time. He was a chronic truant and had begun to mug smaller kids. A policeman showed me his farewell note: "Mom, I am sorry but you do not care about me so I have to leave you. I don't care no more. I had to go begging for food. I cannot go begging no more. Love, Teddy." The boy added an afterthought: "How am I going to live? Can you tell me that?" END

You Can Help

The President's crime commission in 1967 recommended establishment of Youth Service Bureaus, to divert kids out of the juvenile-justice system into appropriate health and social agencies. Some communities are now setting up these bureaus. They need volunteers and money. If you want to help, find out if this bureau exists in your town.

Information can be obtained from: National Council on Crime and Delinquency, NCCD Center, Paramus, N.J. 07652.

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APPENDIX NO. 9

The Future of Juvenile Institutions

Federal Probation, March 1968

BY WILLIAM E. AMOS, ED.D.

Chief, Division of Counseling and Test Development, U.S. Employment Service, Department of Labor[*]

IN RECENT YEARS, our society has exhibited more concern about juvenile delinquency and the treatment of youthful offenders than at any time in our history. This concern has been expressed not only in the Congress of the United States, by governors, and other leading citizens in each of our states, but also by individual citizens and private groups throughout the country.

The physical plants and facilities of institutions serving delinquent youth have been updated. Their capacity for housing adjudicated delinquents have increased three to four times. The numbers of staff, both professional and custodial, have increased proportionately. Unfortunately, however, the effectiveness of these institutions has not kept pace with either the demands of the community or the needs of the youngsters. And there is grave concern as to whether the available resources have been utilized efficiently and effectively.

At the present time there are in our country over 400 public and private institutions serving approximately 65,000 boys and girls adjudicated as delinquent.[1] The impact made by our institutions is not limited to these young people, but extends to unknown numbers who are influenced by the youths who come from our institutions. Often we hear that only 2 percent of our youngsters are delinquent, so the problem really is not as serious as many believe and that we tend to condemn the majority of our teenagers for the behavior of only a few. This, of course, is only partially true. We overlook the fact that the 2 percent refers only to those of the total youthful population who are adjudicated as delinquents by the court. It does not refer to the significant number that appear before some representative of the court other than the judge. It does not include the large number of youngsters who have contact with the police and are not referred to the court regardless of the guilt or innocence. And it does not include the vast number of youngsters who commit the same acts and exhibit the same attitudes, values, and behaviors as do their adjudicated friends or brothers and, as a result, are as delinquent sociologically as any youngster in our juvenile institutions.

In some of our heavy delinquency areas, it is estimated that as high as 70 percent of the youngsters between the ages of 9 and 18 could legally be adjudicated as delinquents if their offenses were reported and they appeared before the court. The ineffectiveness of our institutional programs is partially to blame for these numbers because many of the youngsters who return to their neighborhoods, carry with them the added sophistication of a 1-year graduate course in delinquency, manipulation, conning, utilization of the subcultural codes, and assume roles of leadership and influence among other youngsters in their areas.

Seldom do we really know the effectiveness of institutional programs. Most institutions have little knowledge of the recidivism rate of their wards or any systematic way of evaluating changes in their behavior. The general reaction to these failures is that we are aware of them, but do not have the adequate staff to develop evaluative studies. There seems to be very little understanding or desire to use especially equipped agencies to perform these followup studies and to show how to make the most efficient use of their facilities and personnel.

During recent years there has been criticism throughout the country by both professionals and laymen of the present-day efforts of our juvenile institutions. There is a tendency to even reject many of the newer programs and innovations which have been developed in recent years. There is a feeling that little can be done in juvenile correctional institutions and that the emphasis must be placed on prevention since it would be a waste of resources to attempt to modify, change, or alter the current philosophy and programs of the institutional "establishment." Unfortunately there is some validity to these views; however, the fact is

[*] During 1965-66 Dr. Amos was Assistant Director of the President's Commission on Crime in the District of Columbia.

[1] Data supplied by the Children's Bureau, U. S. Department of Health, Education, and Welfare, Washington, D. C.

overlooked by many community organization specialists that institutions have a role to play, deal in many instances with the hard-core youngster, and do have the capacity for needed change if the necessary pressure is brought to bear. We have seen the beginnings of change in many programs throughout the country. Within the next decade we will have to think through and accept a variety of new programs, directions, and philosophies in our institutional programs. Some of these include the following:

1. *Modification of treatment philosophy within juvenile institutions*

Even though we give lipservice now, very few programs throughout the country are realistically geared to provide a particular type of treatment for a particular type of delinquent. In the future, we will have to see more treatment typologies and prototypes developed, understood, and utilized. This, of course, is basic when we keep in mind the purpose of committing a child to an institution, namely, changing delinquents into nondelinquents.

Until recent years, we have assumed, for the most part, that a youngster who exhibits delinquent behavior could be placed in an institution and receive certain educational and vocational experiences, supplemented by some type of analytically oriented counseling or casework services, and that a favorable change in behavior would result. Unfortunately, this has not been the case. We have voiced the fact that no two human beings are alike and that all persons are unique, but we have not really been able to instill this understanding into institutional programs.

In too many instances we have built large community-style institutions that fail to offer appropriate treatment and rehabilitative experiences for a particular type of youngster. We offer, instead, uniform and, in some cases, oppressive experiences that have completely lost the purpose of diagnosis and individual treatment. I should hope to see in the future, then, the development of a classification system that would allow the placement of youngsters in smaller institutions which have individualized programs designed to improve the behavior of a particular type of child. One example of a classification or typology system which will be useful as a guide in the planning of treatment strategy is the interpersonal maturity level classification which is used in the California Youth Authority's community treatment project.[2] In this system, there are provisions for different levels of maturity, from infancy to adulthood. Youngsters are classified, for example, in such terms as an "unsocialized passive youngster," a "cultural conformist," or an "anxious neurotic." The programs aimed at the rehabilitation of these youngsters might, in one case, have a sociological base, in another a psychological base, or a combination of several disciplines. Smaller institutions that can offer specialized facilities and services and specialized programs for a particular type of child have become a necessity in medicine, education, and other disciplines.

I would hypothesize that a majority of the delinquents in major urban areas would be classified as "cultural conformists" and could benefit from programs specifically developed for this type of youngster whose delinquent behavior is a result of a need for social status, peer associates, group identification, and the values and attitude of their culture. There is research that indicates that treatment which has value for the neurotic child may even make the unsocialized delinquent worse.[3]

2. *Minimum educational requirements for professional staff*

This point has caused considerable concern in the last few years. Certain disciplines have been threatened and there has been real resistance to accept the fact that some other discipline, or a person with no professional training at all, might be able to work as successfully and, in some cases, more successfully than the so-called professional.

Research studies have demonstrated that some of these disciplines are not successful with many of our delinquent youngsters and, in fact, may cause harm. There also is evidence that some of our professional people, contrary to their claims, are more inflexible and punitive than nonprofessionals in dealing with the needs of youngsters in institutions. At the same time, there is concern among many of our leading educators that the type of professional person we are turning out in some cases actually knows less about the youngster they are dealing with than many of the people who carry the title of subprofessional. I suspect that in the next few years this will be an area of considerable study, but hopefully one demonstrat-

[2] Keith S. Griffiths, "The Role of Research," *Delinquent Children in Juvenile Correctional Institutions*, William E. Amos and Raymond L. Manella (editors), Springfield, Illinois: Charles C. Thomas, 1966.

[3] H. L. Jenkins and L. Hewitt, "Types of Personality Structures Encountered in Child Guidance Clinics," *American Journal of Orthopsychiatry*, Vol. 14, 1944, pp. 84-94.

ing progress in our total rehabilitative program.

One of the principal problems involved here is the conflict between the professional and nonprofessional. The term "professional" is not always equated with a person's capability or sensitivity to problems and needs. It is not equated with knowledge of their young charges, their culture, and living conditions. In many instances it has no relationship to the fact that a person has a college degree or even a master's degree. In too many instances it is related simply to the particular discipline or subject area in which a person has a degree. This is particularly true for the field of social work where it is believed that a B.A. or M.A. in psychology, sociology, or education, does not qualify the person for entrance into the professional ranks as a caseworker or a probation officer. This is unfortunate since most authorities recognize that neither probation nor parole is a profession per se. As Barbara Kay states, "Probation is an essentially modern method for the treatment of offenders and, as such, is rooted in the broader social and cultural trends of the modern era."[4]

The point that comes out here is that the type of service which so many of these youth need is not intensive casework as we know it but rather close supervision in the community during weekend and evening hours, help in obtaining community services, and assistance in maintaining a good adjustment in schools and on the job.

I certainly can sympathize with the need to raise standards and improve services to youth. However, I cannot find convincing research that indicates that persons with an M.S.W. degree are necessarily more effective in a correctional setting, when providing the types of services just mentioned, than persons of other disciplines. Judith Benjamin, in her studies of new roles of nonprofessionals in corrections, states that there is some doubt that the social work approach best equips a person to work with delinquent youth. She points out that some experts feel that social work "engenders an attitude of caution or even of pessimism towards those who manifest serious maladjustments or unstable work or family history."[5]

Miss Benjamin further submits that the social worker, by recommending commitment, limits his clientele to those for whom casework appears to offer success. For this reason it has been suggested that the work of the M.S.W. cannot be reliably compared with that of non-M.S.W. officers.

Some social workers tend to concentrate on good-risk cases. In one agency, for example, it was reported that probation officers who were college graduates but without additional graduate training, performed better with cases adjudged "hopeless" than social workers did.[6]

Since there are indications that institutionalization may be more limited in the future than in the past, and that delinquents will be placed in community-based programs, the social worker model will require a reassessment. It may mean a revision of social work education or acceptance of the other behavioral sciences in a cooperative professional relationship. In the very forseeable future, the apparent need to develop a greater range of services for young people, both within the community and within the institution, may shift the emphasis away from a casework orientation.

In the past there has been some reluctance by psychiatrists, psychologists, and social workers to work in the correctional field, believing it is impossible to work within an authoritarian setting. The error here is the assumption that authority and structure are necessarily hostile and punitive. It is hoped that in the future, members of the various professions will see treatment in a broader sense than their training has allowed them to do in the past.

3. *Utilization of noninstitutional programs*

We are becoming more and more aware that there is little relationship between the time spent in an institution and the degree of positive rehabilitation that results from the institutional experience. In the same vein, we can say that many youngsters might benefit from a very short-term institutional experience or even a weekend institutional experience, and other youngsters might better be returned directly to the community and involved in a variety of treatment and supportive programs based on their particular typologies. This, of course, would require the services of our newest type of juvenile facility—the reception-diagnostic center.

The philosophy behind the reception-diagnostic function is to identify the cause and motivations

[4] Barbara A. Kay and Clyde B. Vedder, *Probation and Parole*. Springfield, Illinois: Charles C. Thomas, 1963.
[5] Judith G. Benjamin, *et al., New Roles for Non-Professionals in Corrections*. New York: National Committee on Employment of Youth, 1965, p. 54.
[6] Milford H. Lytle, "The Unpromising Client," *Crime and Delinquency*, Vol. 10, April 1964, p. 134.

underlying the delinquent behavior and to provide treatment that will allow the child to re-enter society successfully. At present only about 10 states have such reception-diagnostic facilities. A number of these states do not have the variety of services that would provide individualized treatment plans.

Theoretically, when a child is committed by the court, he would go directly to the reception-diagnostic facility where, during the next 30 to 60 days, the various disciplines would evaluate him and would determine what treatment program would be most appropriate. One example of this type of program is the James Marshall Treatment Program which is conducted by the California Youth Authority.[7] Geared to the 15- to 17-year age group, this program was designed to provide an intensive treatment experience of approximately 90 days in lieu of institutional commitment of adjudicated delinquents. The Marshall program is a residential program, but officials of the California Youth Authority believe the program might be even more successful if the youngsters could return to their own homes each evening.

The Marshall program is geared to the following:[8]

(1) Achieving more positive acceptance of authority and limits. Involved in this process is the whole gamut of concern related to the delinquent's concept of authority and authority figures such as parents, teachers, parole agents, and other significant authority figures.

(2) Developing a greater degree of adequacy in interpersonal relationships.

(3) Being forced to deal with the conflicts which the demands of the conventional versus the delinquent system place upon them.

(4) Accepting responsibility for one's own behavior.

(5) Developing good work habits.

(6) Identifying and recognizing adjustment problem areas.

(7) Learning how to handle stress, conflicts, and frustrations.

The program involves 50 boys at any one time. The staff includes parole agents, remedial teachers, social workers, and a school psychologist. The program includes group counseling, remedial education, work experience, physical training, and group discussions. Parents participate in the program and attend group counseling sessions with their sons. There are various review programs where a youngster's progress and his attitudes are discussed with him. It is too early to determine the success of this program, but at the present time staff, parents, and students believe the program has proved itself.

Another such program is the Community Treatment Project in Sacramento, California.[9] Its specific goal is to determine the feasibility of releasing selected youngsters directly from a reception center to a treatment control project in the community. Approximately eight youngsters are assigned to a parole officer who provides close supervision, support, and counseling. The program consists of case conferences with the parole agent, away-from-home placement where it was necessary or appropriate, group or individual counseling from one to four sessions each week, and psychotherapy when needed.

Family counseling is also included as well as special educational tutoring with the following goals:[10]

(1) To provide education as a substitute for regular school programs for wards who have been excluded from regular schools;

(2) To provide tutoring for wards who will have difficulty in regular schools; and

(3) To provide basic remedial education for older wards not returning to a regular school program.

Special recreational and group activities are provided and all wards are required to participate. An interesting aspect of this program is that temporary detention ranging from one day to several days may be utilized by the parole officers to prevent delinquency which may result from an emotional crisis, and to demonstrate the ability and intention of the parole agent to enforce control. Research has indicated that the program has been successful in preventing recidivism and is less expensive than regular commitments to juvenile institutions.

Another prototype of a noninstitutional program that is gaining support around the country is a school-based program where the child is placed in a special school which provides small classes and remedial education. At the end of each day an individual or group counseling session is available followed by supervised recreation. Probation officers who work from 3 until 11 p.m. provide these services as well as close supervision

[7] Department of the Youth Authority, State of California, *James Marshall Treatment Program*, Sacramento, 1965.
[8] *Ibid.*, p. 1.
[9] Department of the Youth Authority, State of California, *Community Treatment Project*, Sacramento, 1965.
[10] *Ibid.*, p. 8.

during the evening hours. The evidence up to this time has indicated that the behavior of the youngsters involved has improved and that the rate of recidivism is relatively low.

These are but a few of the many creative and challenging programs that are being developed in lieu of institutional commitment. Since the results to date indicate that such programs can be effective in changing delinquent behavior and at a lower overall cost, there is every reason to believe that this will be a very active area in juvenile corrections during the next decade.

4. Use of community resources by institutions and agencies not only during aftercare but within the institutional program as well

We have long contended that our juvenile institutions are desirous of utilizing community resources, but we really did not mean it if it was intended that these agencies should actually come into our institutions and assume certain program responsibilities. Not only from the standpoint of economy and efficiency will this change have to be made, but also there is need to relate the experiences of the institution more directly to those the child will face in the community.

I am aware of the various administrative problems that may arise when agencies from the community enter an institution for delinquents. Perhaps their lack of understanding of the administrative problems involved in 24-hour-a-day care of hostile, aggressive youngsters and their lack of a sense of responsibility for the total operation of the institution, will undoubtedly create difficult situations. However, in the forseeable future, these problems of administration must be overcome and the resources of the community must be utilized in developing more meaningful and comprehensive programs for the youth committed to institutions. One of the principal agencies involved will be the public school system and its relationship to the educational and vocational programs offered within the institution. A continuous relationship between the school experience in the institution and the school program in the community must be provided if we are to return the youngster to the community better equipped to continue his schooling.

Another agency that institutions should bring into their programs is the state employment service. State employment service counselors should be actively involved in institutional prerelease programs and in the planning of release programs for youngsters. They can provide testing programs, help in job development, lead student discussion groups, and participate in staff training. State departments of vocational rehabilitation can also serve similar functions.

In many of our juvenile institutions there is a lack of adequate mental health service. Public agencies may provide these services if encouraged to do so. In a number of states, representatives of State Bureaus of Mental Hygiene or State Departments of Health are actively involved in institutional programs and are responsible for providing adequate professional staff. The U. S. Public Health Service has long performed this function for the National Training School as well as other Federal Bureau of Prisons institutions.

In the past decade institutions have increasingly utilized colleges and universities in their programs, but even now their participation is at a very superficial level. Universities should be encouraged to use the training schools as laboratories for research, for internships, for placement of graduates, and as practice teaching sites for students from educational departments. Hopefully this would bring into the institution a steady stream of new blood, new ideas, and new enthusiasm. Under contract, universities can evaluate programs and staff training and conduct research projects.

The increased use of community facilities and programs on a daily basis should be considered. Here the child may leave the institution in the morning, be involved in the community-based program during the day, and return to the institution at night.

During the last few years, various federal programs directed toward improving the educational and vocational qualifications of disadvantaged youth have been developed. An example of this type of program is the Manpower Development and Training Act. This Act will finance multiskill training programs and provide vocational counseling and placement services. Efforts have been made to encourage juvenile institutions to apply for grants under this Act, but very few have done so.

5. More concern with the role of prevention by juvenile institutions and the agencies that administer them

Up to this time, juvenile institutions and agencies have assumed little responsibility for preventive services and programs in the community. As a result, there has been a lack of continuity and efficient use of the resources that are available.

The prevention of delinquency should be the responsibility of every citizen, but at the same time one agency should also be held accountable. All delinquency prevention programs could not possibly be placed under one agency, but the responsibility for the operation of selected prevention programs, the determination of prevention needs, the coordination of community efforts, and the evaluation of prevention programs could be the responsibility of a single youth-serving agency.

Authorities who have experience in working with delinquents and with disadvantaged youth recognize that continuity of service is important in any program of rehabilitation and that this continuity often is lacking in programs where differing philosophies prevail, where it is necessary to break through the bureaucratic framework of various agencies, and where the delinquency programs are watered down or diffused because of the pressure of other programs.

6. A growing concern for the legal rights and protection of juveniles

Since the emergence of model juvenile court acts during the past two decades courts and institutions have played the role of an all-powerful father and mother figure who had undeniable rights over the life of the child. There is increasing concern about court decisions that affect the life of the child and the constitutional guarantees that have been ignored, such as adequate notice of the charges, right to counsel, the right to confrontation and cross-examination, and the privilege against self-incrimination. These court decisions will doubtless affect the procedures programs and operations of both our courts and institutions.

For example, let's look at the practice of administrative transfer. In some localities it is now possible to take a child from an institution for dependent children and transfer him to another institution for delinquent children. It is also possible to take a child who has been tried in a juvenile court for involvement in an incident which would not be a crime for an adult and transfer him to an adult penal institution. Both of these types of transfers can be effected without returning the child to court. Both of these types of transfers are receiving increasing attention from the courts and others interested in the constitutional rights of the child.

Another matter concerns the duration of time a child can be kept in a rehabilitation facility. Most authorities agree that the term of a commitment should be as flexible as possible. Those who are in charge of treatment are in a better position to determine when a child is ready to return to the community. However, there are instances where a child may be kept in an institution for years—sometimes because of no fault of the child, as in the case of a poor home situation. Some of the newer juvenile court acts place maximum time limitations so that a child may be committed for an indeterminate sentence not to exceed 3 years. The institution will have to justify to the court why it should not release a child after the 3-year maximum.

In many instances a child released from an institution, but still under the authority of the particular department, may be returned to the institution if his aftercare worker or parole officer believes his behavior and adjustment are not satisfactory. This may occur on the parole officer's recommendation sometimes without a hearing or investigation.

7. Use of separate facilities for delinquents

During the last 30 years persons who have been concerned with the rehabilitation of delinquents have fought the battle for separate facilities and individualized services. This has been a necessary battle, one in which considerable progress has been made. However, as any program where chronological age is the principal guideline, some flexibility is desirable.

Many people, however, have regarded flexibility as a threat to traditional juvenile court philosophy and program and also as being punitive. There has been resistance to any procedure that allows sophisticated, older, more aggressive delinquents to be handled in programs outside the juvenile setting. There has been an unwillingness to acknowledge that this type of youth may be a threat to other youngsters and may require an unusual amount of resources to contain him and to protect others. It seems that certain treatment-oriented people have come to the conclusion that a youth of this type may receive better rehabilitative experiences in an institution which has the treatment facilities of the juvenile institution as well as the necessary security features. From this, I would

submit, there will be in the years to come greater utilization of youth facilities for the older, sophisticated, more aggressive delinquent. This will not be based on waiver by the juvenile court because of a vicious crime, but rather on the basis of a diagnostic determination that the youth will benefit more from this type of setting both as to rehabilitation and the protection of others. This will not result in a mass transfer and must be done with all legal protection for the youth concerned.

8. Evaluation of ongoing programs.

As mentioned earlier, an evaluation of institutional programs is almost nonexistent today. Our requests for staff, programs, and physical plants are based too much on the operational pressures and on what we believe, and too little on what we actually know. Changes in an institution, as in any administrative structure, are a difficult process. In the future, however, new programs and continuation of old ones must be based on their effectiveness and need as shown by evaluative research. Some believe that outside agencies, such as universities or separate research and evaluation agencies, should perform this task. They believe it is difficult for an ongoing operating agency to evaluate its own programs objectively. Institutions will have to develop this capability or call on someone else to provide this service.

APPENDIX NO. 10

Future Trends in Juvenile and

by Daniel Skoler

IN RECENT years, we have seen study after study, report after report and commission after commission, criticize the failure of institutions in our correctional system — the jails, the prisons, the training schools and the many other types of institutions that have been built and operated over the last two hundred years, ostensibly with rehabilitation in mind. As undependable as existing statistics are in the correctional field, or for that matter in criminal administration at-large, they appear nevertheless to repudiate the effectiveness of institutional treatment in the rehabilitation of both adult and juvenile offenders.

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It was perhaps unrealistic to expect that institutions could be effective. An institution, in itself, makes for an artificial situation, unrelated to circumstances which prevail in the outside society that either contribute to lawful behavior or produce delinquency and criminality. The typical institution is a substitute, forced into artificiality by the very circumstances of confinement.

This situation has been compounded by the fact that we commit to institutions all types of offenders — the first offender and the recidivist, the misfits, the alcoholics, the addicts, and in the cases of juveniles, even those whose only offense may be that they were neglected by parents and families. It is further compounded by the fact that in most places we staff these institutions, and staff them skimpily, with less educated and untrained personnel.

AN INSTITUTION, in sum, is not an inspiring place in which to be confined and it is not an inspiring place in which to work. Ask an inmate. It may be true that institutions do not have to be as depressing and as destructive as they are. But the hard facts are that it will take many years — perhaps generations — and a good deal of money to make them significantly better. Some of the funds for this purpose are now becoming available through federal sources, but our most optimistic guess is that it will be many years before sufficient quantities have been infused to make much difference in the kind of institutions we have.

There are about 200,000 people in prison in this country, and perhaps 300,000 more in jails and juvenile institutions. Nearly all of these facilities are inadequate, merely from a physical point of view, for purposes of rehabilitation. With costs of construction now running nearly $25,000 per patient or inmate, it appears that even at today's prices, more than $12 billion would be required to rebuild our institutional system. By the time we actually got around to it, the costs would be much higher. And this does not take into consideration the money that would be required for more and better personnel and for new and improved institutional programs.

IN ECONOMIC terms alone, then, we have no alternative but to turn to the community and its resources if we are to do anything meaningful in the rehabilitation of offenders. This is not an undesirable prospect. It forces us to abandon outmoded ideas of punishment and retribution, and to focus squarely on rehabilitation. It also compels us to turn to a more promising setting in which rehabilitation can be accomplished. The average community in this nation possesses more resources that can be used for this purpose than the institutions which now serve it. In any event, it is only in the community that rehabilitation of the offender can ultimately take place. Here is where he must live, if he is to take his place in harmony with the rest of society, and here is where he must be adjusted to the habits and styles of life which will enable him to do so. These are hardly revelations to anyone familiar with contemporary corrections.[1] The insight has taken root and, today, community treatment is the "in-thing" — possibly a product of the conceptual revelations of the sixties linking delinquency inextricably with community, environment, and external opportunity as opposed to individual makeup or psychological deficiency.[2]

Under the Omnibus Crime Control and Safe Streets Act, today's largest grant-in-aid program directing federal resources toward criminal justice improvement, most of the States are em-

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phasizing community programs in their planning and funding.[3] And if the Safe Streets Act and counterpart Juvenile Delinquency Prevention and Control Act are to accomplish the goal of reducing crime and delinquency, we think this priority offers the most promise. Let us examine some of the new thrusts.

YOUTH SERVICE BUREAUS: One of the major trends is toward the use of youth service bureaus. But we have noted no common agreement as to what a youth service bureau is, what services it should provide, or under whose auspices it should be operated. Some of them are operated by the police, others by probation departments, some by the courts, and others by the schools and a wide range of public and private social agencies. The prototype was, perhaps, defined in the 1967 reports of the President's Commission on Law Enforcement and Administration of Justice where creation of "youth service bureaus" constituted one of the key action recommendations for delinquency control. There the bureau was conceptualized, with considerable latitude for flexibility, as a neighborhood youth service agency acting

> "as central coordinators of all community services for young people. . . and providing services lacking in the community or neighborhood, especially ones designed for less seriously delinquent juveniles."[4]

The agencies would be located, if possible, in comprehensive neighborhood community centers, receiving juveniles (delinquent and non-delinquent) referred by police, parents, schools and other sources as well as the juvenile courts. Services would be voluntary and thus, in the case of juvenile court referrals, the bureau was expected, ideally, to have the authority to refer back (30-60 day period) those juveniles it could not handle effectively. The major target was to get at the child-in-trouble/predelinquent/early delinquent group, not now adequately handled by criminal justice apparatus, with an agency having mandatory responsibility to develop treatment plans, voluntarily accepted, and superintend their execution by purchase of services, referral to helping agencies (mental health, vocational, counselling, etc.) and direct administration where necessary.

THE SERVICES offered in bureau-type projects to date vary considerably. Some offer not much more than counselling. Others provide housing, support, training and education, and medical and psychiatric services. At this stage of development perhaps a diversity of approach is desirable. Different models can be tested, and their effectiveness measured. But eventually some tried and proven standards should emerge. The Law Enforcement Assistance Administration, through both block grants and discretionary grants to state and local government, is funding large numbers of these projects. These projects will be observed carefully, and when it appears timely, appropriate professional organizations will be commissioned to distill the standards, guidelines, and alternate models that appear to be the most productive. The youth service bureau concept appears attractive but, as yet, little knowledge has been gained and little reliable guidance can be given on such questions as ideal residential/outpatient mixes, kind and quality of diagnostic services, balance of "purchase of service" and direct service inputs, size of caseloads, programming interface for adjudicated delinquents and say, school problem referrals, extent of community and paraprofessional involvement, minimal and ideal staff needs, budgetary formats, etc. Yet these are inescapable issues for effective implementation of bureau efforts.

COURT DIVERSION PROJECTS: In the juvenile delinquency field, the past year has witnessed a particularly heavy funding of court diversion projects. Most of them appear to be modelled on the Vera Institute project in Manhattan. This effort stops the prosecution clock on less serious cases at the arraignment stage, offers counselling and job placement to the accused, and if he responds, provides dismissal of the case without trial and adjudication. As of June 1970, more than 1,000 offenders had been processed with a success rate (charges dropped) of about one in three individuals.

The diversionary projects depend on the formulation of agreements between the police, the prosecutors, the courts and the probation agencies. Agreements the substance of these agreements vary considerably in the types of offenders who are eligible for diversion, and in the kinds of services that will be provided.

AS WITH the youth service bureaus, we are in the trial-and-error process with the court diversion projects. Out of this diversity of experience should eventually come the data which will enable us to determine the most productive models.

One of the more successful diversion areas, collaterally related to correction, are the detoxification centers which have been developed in the last few years to remove alcoholic offenders from the useless cycle of arrest, trial, fine, release, and rearrest. Detoxification centers providing an opportunity to "dry out" in a medically supervised residential setting with prosecution waived and some opportunity for counselling and referral to more intensive treatment, are operating effectively in such large cities as Washington, St. Louis, New York, Chicago, Houston, Wilmington, and Des Moines. The programs exhibit a healthy degree of variation in approach and techniques out of which may come sound specifications for standard diversionary mechanisms for the arrested alcoholic.

BROADENED PROBATION Scope: Probation by now is a commonly accepted technique, at least as far as the literature of corrections is concerned and the forms that have been adopted. But the comprehensive law enforcement plans submitted by the States over the past two years under the Safe Streets Act indicate a surprising absence of this service — both for adults and juveniles — in many areas of the country. In many jurisdictions it does not exist at all. In others, it exists only in law, and has never been implemented. In still others, probation is so rudimentary and unsupported that it cannot be said to have any effective existence. It has been said that probation has never really been tried in this country. The State plans suggest that this statement is substantially true.

Many experts are now even taking issue with the traditional concept of the probation officer as primarily a counselor, although it must be conceded that this role may have never had an adequate trial in most probation departments. The very size of caseloads and the responsibility for making pre-sentence investigations and preparing pre-sentence reports has commonly prevented officers from fulfilling the counselor role in any realistic sense.

But the offender needs more than counselling. An effort to educate and train the offender, to provide him with housing, medical services, and other support, should not wait until he has been committed to an institution. These resources all exist in the community, and it is the opinion of many experts that the probation officer should marshal and coordinate these community resources in the interests of his clients. The probation officer should also have the funds available with which to purchase a wide range of services where needed.[6]

WE OFTEN hear the economic argument that probation is much cheaper than institutionalization. It may cost only $250 a year per probationer under present circumstances, in contrast to institutional cost running as high as five or six thousand dollars a year for adults and as high as ten to twelve thousand for juveniles. But this begs the question. Probation should cost much more, if the full services needed by probationers are to be provided.

The economic argument, however, would still be valid. Certainly to provide needed rehabilitative services in the community would still cost much less than it would to confine offenders in institutions, where the services are largely absent or provided under circumstances that limit their possible usefulness.

Under the Safe Streets Act, plans are being laid this year for the beginning of a major effort to beef up probation, to make it truly a useful rehabilitation tool, rather than what it is in too many places today — a kind of suspended sentence. The most important trend in corrections over the next several years may well be the full development of probation, involving all possible community resources. Contrary to the situation that prevails with respect to institutions, this kind of thrust could be economically feasible. Substantial federal financial assistance has already been available from a number of sources, e.g., the HEW Youth Development and Delinquency Prevention Administration (and its predecessor grant programs) and Vocational Rehabilitation Administration (the later particularly with respect to purchase of services).

VOLUNTEER AND Para-Professional Services: Associated with the development of various types of community-based programs, we find increasing utilization of volunteers, paraprofessionals, and ex-offenders. As noted in other aspects of community programs, there is yet no apparent consensus as to the extent of the roles these personnel can play, the kind of persons who should be selected, or the kind of training and supervision they should have. In some places there has been little attempt even at definition although, as in the case of youth service bureau, the general concept has found acceptance and stimulated new programs.

But out of this diversity should come some hard lessons on which to formulate soundly based and needed guidelines and standards. The Law Enforcement Assistance Administration is currently working on contractual arrangements for an evaluation of these programs over the next few years. Hopefully, this evaluation will be objective, realistic, and based on hard data rather than subjective evaluations. The old saw that if we "save even one offender" is not enough. The standard of cost-effectiveness must apply. The time has come to pierce the mystique of generality that has surrounded subprofessional utilization. Are indigenous residents the only group that can be effectively used? What about college students, middle class volunteers, homemakers seeking a part-time challenge, and full professionals in one calling who may be willing to accept subprofessional status and service in another? Which groups do which tasks best, which require compensation and which may be relied on for no-cost contributions? What roles may be properly assigned to these groups in determining program or agency policies?

A major and increasing contribution in this area, particularly with respect to indigenous and disadvantaged citizens, is coming from the manpower programs of the Department of Labor. Both the "new careers" program and the "public service careers" program, for example, have focused substantial resources on the development and training of paraprofessionals for meaningful roles in corrections and other criminal justice activities. Also, the Department of Labor, through its Concentrated Employment Program and the Job Opportunities in the Business Sector (JOBS) program has experienced considerable success in using sub-professionals as job coaches in working with the offender population in training and job placement.

COMMUNITY CUSTODY: We

have one problem of a particularly serious nature that must be resolved in the immediate future. That is the practice in at least 36 states of confining children in local and county jails along with adult criminals. The State Law enforcement plans submitted annually under the Omnibus Crime Control Act are graphic in their descriptions of this problem.

Under the Act, pursuant to both the "block grant" and "discretionary grant" authority,[7] literally hundreds of halfway houses, group homes, foster homes, and other types of shelter care are being funded. Funds are also available for this purpose from a number of Federal aid programs. But the solution is not as easy as it sounds. Many of the halfway houses, for example, are operated on shoestrings, with a minimum of personnel and a lack of supporting services. Some of these places look not much better, and their atmosphere is not much better, than the jails themselves. Again, standards are needed, and a contract to produce such standards, under the auspices of a national professional organization, is about to be funded by the Law Enforcement Assistance Administration.[8]

Another hard fact is that there are some youngsters and some adults who require confinement, at least for a time, and this cannot be provided by the types of shelter or residential care described. We need community detention centers for juveniles, and we need some type of community center to replace the jails for adults.

But there is no point in merely constructing additional detention facilities. Some juvenile detention facilities are merely jails for children, and new jails for adults can be, and frequently are, not much better than old jails.

COMMUNITY/REGIONAL Correctional Centers: There has been much written recently, and a good deal of discussion, concerning the establishment of regional or community correctional centers for adults. A number of existing facilities have been given such designations, but upon examination, they are often found to be the same old jails. LEAA has searched the country and identified almost no facilities which have the range of programs needed to meet this designation. However, a number of jurisdictions are undertaking studies and making plans to create such centers, several with the support of Federal funds.

To assist in what may be a major trend of the seventies, the Law Enforcement Assistance Administration has funded contracts to develop planning materials and designs for such facilities.[9] The emphasis in the planning phase is to minimize use of detention facilities in the first place, this by a review and examination of existing practices and how they might be improved. The second phase is to design facilities for those who must be held in detention and to provide these facilities with additional services beyond detention. These include diagnostic services, probation offices, classrooms, medical facilities, and even provision for educational and training opportunities. A key feature of these facilities will be the development of cooperative arrangements with other community agencies and services. The objective will be to get the individual out of detention as quickly as possible, and involved in the community in a productive program.

The LEAA contracts include an effort to produce planning and design materials for community centers for juveniles. That project is now well underway, and it involves a considerable refinement of existing practice, with emphasis upon attention to the client from the moment of referral and the architectural realization of a truly therapeutic community setting. Since the average citizen and community is more receptive to innovation with respect to juvenile programs, this project may go farther than the adult project in producing break-throughs in community concepts and designs.

FOSTER CARE and Substitute Homes: Community treatment means, above all, living and adjusting in the community. We have talked about group facilities, detention centers, and residential programs as an alternative to normal home life in a family setting. The closest substitute to normal family life in the disposition spectrum, particularly as regards juvenile or youthful offenders has been the traditional, perhaps, shopworn concept of "foster care."

As the economics of community treatment, in contrast to institutional care, command larger claim on our limited budgets, there may be room for vast expansion of the use of substitute parental homes as a string to our community corrections bow. This would not necessarily take the form of traditional "foster care" or child adoption. One need not look far to discern in our youth a new and laudable concern for the welfare of their fellow man outside the family circle and willingness to "share, clothe, and feed" in the best traditions of the Christian ethic.

IN AN affluent and problem-ridden society, where the best of the new generation will be seeking new personal challenges and "relevance," we may be able to divert commitment and interest, at least partially, from the rewards of a second home, a third car and world-travel to the challenge of adding troubled youths to the family circle for substantial stays. Instead of a limited, subsidized foster care system, families who have "made it" (our nation has many) may, perhaps, be willing as volunteers to take on residential referrals of delinquent youths, both to assist rehabilitation of the delinquent and to enrich the lives and commitment of the volunteer family. If this kind of movement came about —admittedly a "Jules Verne" item in this examination of future trends— a remarkable correctional resource could be added to the community treatment concept, one with almost unlimited placement possibilities for the many delinquents who lack any home or family setting on which to build a rehabilitation program. Should we see the day when middle class American families actually wanted, in large number, to bring juvenile and predelinquent youths into their homes as a service commitment, there would, of course, need to be maintained the full panoply of standards, guidance, training and supportive resources needed to make the system work.

MANPOWER FOR the New Wave: These new trends in programs and facilities are encouraging and hopeful, but if they are to make a better showing than traditional methods, more is required. If they possess the potentiality for success, this potentiality can be realized only by commensurate improvements in personnel attracted to the field of corrections.

One need not review the findings of the Joint Commission on Correctional Manpower and Training in this respect. We know that correctional personnel are relatively uneducated and untrained. We know that the field is lacking in leadership, and that its rank and file workers are too often apathetic and unmotivated.

SOME OF these problems can be readily resolved. The money is at hand to raise salaries, to improve the education and training of personnel, and to hire large numbers of personnel. The motivation will be more difficult to bring about but our society-at-large holds hope that this problem is not insurmountable. Increasing numbers of youths are unsatisfied with predominantly materialistic drives. Citizens of all ages are more and more concerned with the way we have polluted our physical environment. And the concern over law and justice that produced the Safe Streets Act is really a concern over pollution of our social environment.

There is awareness in all segments of society that we must improve the quality of American life and, in the process, undertake significant redefinition of national values. Certainly the objective of American corrections in the salvage and redirection of offenders is a high national goal. In any such redefinition, corrections should emerge as a more desirable and rewarding field to devote one's career to than its image has permitted in the past.

RESEARCH ROLE: In a "future trends" presentation of this kind, we cannot omit the subject of research. As a requirement for corrections, it has been talked about and written about for decades, but little has been done. Scientists in other fields have produced television, the supersonic transport, and the artificial kidney. But in corrections we have not progressed much beyond the days of the horse-drawn carriage.

In a country where annually we commit billions of dollars to research that produces more efficient military and space equipment, we must afford some fraction of that sum for research into techniques for changing lives from ways of criminality to patterns that will conform to minimum standards of lawful behavior. Fortunately, these priorities are beginning to find expression in federal policy and r&d support.[10]

WE KNOW that human behavior can be changed, however difficult the process may be. We know, for example, that jails and prisons can make individuals worse, insofar as criminal disposition is concerned. As discouraging as this knowledge may be, it demonstrates the malleability of the human personality. While the search for constructive ways of improving human behavior proceeds, we must also apply research techniques to evaluation of the corrections programs we have practiced for so many years and to the new community-based programs. We do not yet have assurance that the community-based programs will be more effective than penitentiaries and training schools. It has taken nearly 200 years to find that the traditional institutions are largely ineffective. We cannot await comparable time spans to evaluate the usefulness of the community programs.

THE CRITICAL Need for Evaluation: One of the deficiences of past research has been the varying criteria by means of which to measure the effectiveness of programs. Usually evaluation has been effected by the persons administering the programs, a useful component, but not the only one, of a comprehensive evaluation research effort. It is, understandably, a rare experience to encounter among administrators operating experimental corrections programs those who will acknowledge that their programs are failures or who cannot produce some data purporting to demonstrate "success." Yet we know from the gross information available that the balance for American corrections, in its totality, falls on the side of failure.

A serious problem in prior years has been the inability of projects initially conceived as demonstration or experimental efforts to maintain this posture and produce a convincing showing one way or the other. This has been due to a number of constraints including a lack of money and time, changes in personnel or operating conditions (impairing the integrity of the experiment), and an evaluation without sufficient controls or rigor to successfully measure results. Unfortunately, too many past demonstrations have been structured as independently designed, discrete experiments. In such cases, the significance of encouraging (or discouraging) results has been difficult to discern, at least until a number of successive efforts conducted over a period of years have been completed.

An alternative technique, receiving recognition in a few programs is to conduct multiple efforts at the same time, or, to promptly repeat in several locations a promising initial experiment, in each case under a commonly administered reporting and evaluation program. This is what is, in effect, happening with the intensification of experimental efforts and new approaches made possible by the infusion of Crime Control Act funds. Significant replication and joint evaluation offer a better picture of what a given demonstration can produce within a compressed period of time and tend to cancel out accidents of time, place, and people often operative in any single effort.[11]

HOPEFULLY, LEAA and the correctional community will make the most of the rich opportunity for sound evaluation research which the seventies should offer to our field. Old shortcomings must be remedied. Definitions of "success" often involve relatively short periods of follow-up. Or they involve measures indicating "a reduction in the seriousness of further criminal behavior" or "a longer delay in the onset of further criminal behavior." Criminal careers often reflect that this is the normal course of events, as offenders learn to bargain for pleas involving lesser offenses or acquire the sophistication to avoid the law for longer periods of time. The public is entitled to more clear-cut

measures of "success." Evaluation targets should hypothesize that after an offender has gone through a corrections program, he will stay out of significant trouble with the law indefinitely. That means more extended and more hardheaded approaches to research.

It has been characteristic of this country, in its search for ways and means of reducing crime and delinquency, to seek some "magic bullet," some solution that is quick, easy and inexpensive. Yet, if there is anything that we have learned about crime and delinquency, it is that there are perhaps an infinite number of determinative variables, and that the causes of criminal behavior for one individual may be much different than for another. It follows, therefore, that amelioration and solution of the crime problem will be a complex undertaking. It will take a long time, it will be difficult to achieve, and it will be highly expensive.

ALL INDICATORS show that we are witnessing the beginning of a new era and a new national commitment in corrections — one rooted in the increasingly accepted concept (mental health, special education, problems of the aged) that community responsibility and settings are an ultimate and necessary precondition for progress. Nevertheless, the prediction may be ventured—a safe one—that we are not yet on the threshhold of final solutions to the problems of offender rehabilitation. There is a long road to travel, and we have probably taken only the first step.

Footnotes

[1]For a good discussion of the rationale, history, and elements of the community-centered" corrections movement in the U. S., see Trends in the Administration of Justice and Correctional Programs in the U. S., ch. 2 & 3 (1965). See also A Report on Developments in the United States —1965 to 1970 prepared for the Fourth United Nations Congress on the Prevention of Crime and Treatment of Offenders, Administration of Justice in a Changing Society, chapter on Trends in the Administration of Justice and Correctional Programming. 95 pp.

[2]See, e.g., such landmark works as Cloward and Ohlin, Delinquency and Opportunity: A Theory of Delinquent Gangs, Glencoe, Ill.: Free Press, 1960; and Albert Cohen, Delinquent Boys, New York: Free Press, 1961.

[3]Public Law 90-351 (1968). In the 1970 plans submitted under the Act for disposition of that year's $215 million action appropriation, approximately $23 million was focused in community correctional programs. In addition, nearly $7 million in special discretionary funds were awarded for community correctional programs. See Second Annual Report of the Law Enforcement Assistance Administration, pp. 5, 25, and 44-45 (September 1970); also, LEAA Preliminary Program Division Analyses—1970 State Law Enforcement Plans, pp. 13-21 (July 1970). For a statement of the LEAA community corrections priority, see pamphlet Corrections Program — LEAA, pp. 13-14 (1970).

[4]The Challenge of Crime in a Free Society, ch. 3, p. 82. Government Printing Office, 1967.

[5]New York Criminal Justice Coordinating Council, The Manhattan Court Employment Project, 12 pp. (1970).

[6]In addition, private non-profit organizations such as Jobs Now in Chicago, Illinois and Jobs Therapy, Inc. of Seattle, Washington, have been successfully using professional business men as volunteers to establish one-to-one relationships in supporting the offenders adjustment on a job. For elaboration on the various Labor Department programs named, see 1970 Manpower Report to the President, U. S. Dept. of Labor (Government Printing Office).

[7]These terms refer, respectively, to action funds granted to the States on the basis of population for redistribution in accordance with their approved, comprehensive criminal justice improvement plans ("block grants"—85 per cent of action funds appropriated) and to action funds awarded by LEAA in its discretion for programs and projects deemed meritorious and consistent with national crime control funding and supplementation priorities established by LEAA. Secs. 303-306, P.L. 90-306, P.L. 90-351. See also Opening Remarks by Richard W. Velde, Associate Administrator, Law Enforcement Assistance Administration, in Outside Looking In, a series of monographs assessing the effectiveness of corrections. Federal prison Industries, Inc. 1971. 59 pp.

[8]For an excellent "manual-in-brief" on halfway house planning from program through staffing, facilities and budget, see Bureau of Prisons, The Residential Center: Corrections in the Community, 26 pp. (1969). See also, Guide for Youth Service Bureaus, National Council on Crime and Delinquency (publication pending—1971).

[9]LEAA Contracts 70-TA-057 (regional and community correctional facilities for juveniles) and 70-TA-058 (regional and community correctional facilities for juveniles). LEAA Second Annual Report, supra n. 3 at p. 202.

[10]See Presidential Memorandum to the Attorney General, Nov. 13, 1969, on nation correctional policy in which President Nixon, among other things directed that the Department of Justice "institute a program of research, experimentation, and evaluation in correctional methods and practice so that successful techniques may be identified quickly and applied broadly in all correctional systems." As regards federal r&d support, in fiscal year 1970 the Law Enforcement Assistance Administration committed approximately $10 million in research or discretionary funds for support of projects that would test and evaluate new techniques and practices. LEAA Second Annual Report, supra n. 3, at pp. 8 and 158-171.

APPENDIX NO. 11

Crime in a complex society

An introduction to criminology

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Chapter 22

SYSTEMS OF INSTITUTIONALIZATION OF JUVENILES

The system of juvenile corrections, as distinguished from the system for adults, normally includes the juvenile court, juvenile probation services, and after-care services for those released from a training facility. Children coming before the American juvenile court usually (*a*) are those who have been neglected or are in need of parental protection or (*b*) are juveniles who have participated in some form of unacceptable behavior peculiar to children or have committed offenses which would be punished by fine or imprisonment if committed by an adult.[1] In practical terms, the conduct of juveniles coming before the juvenile court, according to William H. Sheridan, may be classified into two basic categories: (1) those who have committed acts which would be crimes if committed by adults; and (2) those who have not committed such offenses. Approximately 26 percent of all cases coming before the juvenile court in the United States involve children who have broken no law but who are simply designated as "beyond control," "ungovernable," "incorrigible," "runaway," "minors in need of supervision," or "persons in need of supervision."[2] Others have been detained for violations

[1] Donald Sinclair, "Training-Schools in Canada," in William T. McGrath (ed.), *Crime and Its Treatment in Canada* (New York: St. Martin's Press, Inc., 1965), p. 245; and W. J. Chambliss and J. T. Lell, "Legal Process in the Community Setting," *Crime and Delinquency*, Vol. 12 (October, 1966), p. 310.

[2] William H. Sheridan, "Juveniles Who Commit Non-Criminal Acts: Why Treat Them in the Correctional System?" *Federal Probation*, Vol. 31 (March, 1967), p. 27. Also see Sydney Smith, "Delinquency and the Panacea of Punishment," *Federal Probation*, Vol. 29 (September, 1965), pp. 18–23; W. M. Headwell, "Lawyer

of specific ordinances applicable only to children, such as breaking the curfew, truancy, and use of alcohol or tobacco.

Nearly 686,000 cases of delinquency, 150,000 of dependency and neglect, and 42,000 traffic cases were referred to the juvenile courts in the United States in 1964.[3] At a time when 20,377 persons were housed in federal prisons, 201,220 in state prisons, and 141,303 in local jails and workhouses, an additional 62,773 juveniles were institutionalized in 1965 in public training schools (43,636), local juvenile institutions (6,024), and detention homes (13,113).[4] An examination of 10 studies of state and local detention programs by the Children's Bureau disclosed that 48 percent of the 9,500 children in these samples had not committed adult criminal acts. Of the 1,300 children in the study group in jail pending hearings, approximately 40 percent could be classified within the noncriminal group; 50 percent of the children in the detention homes also fell into this category.[5]

Such data, necessarily raise the question whether juveniles who commit noncriminal acts should be treated in a correctional system. The answer, William H. Sheridan suggests, is to be found in the application of new remedies, including (1) the development of a greater number of intervening services between the complainant and the court in order to reduce the need for court intervention, (2) a better intake system overseen by a responsible individual in a smaller court (or a separate unit in a larger court), and (3) greater restrictions upon the placements available to the juvenile judge in order to discourage his requests for transfer of juveniles to state institutions. Juveniles who do not commit criminal acts should be not treated in correctional institutions; minor

in Juvenile Court Dispositional Proceedings," *Juvenile Court Judges Journal*, Vol. 16 (Fall, 1965), p. 109.

[3] Children's Bureau, *Juvenile Court Statistics—1964* (Washington, D.C.: U.S. Department of Health, Education, and Welfare, 1965), p. 106. Note R. B. Eaton, "Detention Facilities in Non-Metropolitan Counties," *Juvenile Court Judges Journal*, Vol. 17 (Spring, 1966), p. 9; "Juvenile Detention," *Crime and Delinquency*, Vol. 13 (January, 1967), p. 11; and Hugh D. Reed, *The Detention of Children in Illinois* (New York: National Probation and Parole Association, 1952).

[4] The President's Commission, on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: U.S. Government Printing Office, 1967), p. 172. Also refer to George M. Lott, "The Juvenile Detention Home," *Federal Probation*, Vol. 6 (January–March, 1942), pp. 35–39; Joe W. Hart, "The Use of the 'Gossip Group' in a Juvenile Home Setting," *Federal Probation*, Vol. 28 (December, 1964), pp. 57–59; William P. Dorney, "The Educational Program as a Part of a Detention Service," *Federal Probation*, Vol. 28 (December, 1964), pp. 55–57; Ralph C. Norris, "The School in the Detention Home Should Be a Part of the Public School System," *Federal Probation*, Vol. 29 (June, 1965), pp. 17–21; and Kenneth A. Griffiths, "Program Is the Essence of Juvenile Detention," *Federal Probation*, Vol. 28 (June, 1964), pp. 31–34.

[5] Sheridan, *op. cit.*, p. 27. Also see American Law Institute, *The Problem of Sentencing* (Philadelphia: American Law Institute, 1962); *Model Sentencing Act* (New York: National Council on Crime and Delinquency, 1963); and Clyde B. Vedder, *Juvenile Offenders* (Springfield, Ill.: Charles C. Thomas, Publisher, 1963).

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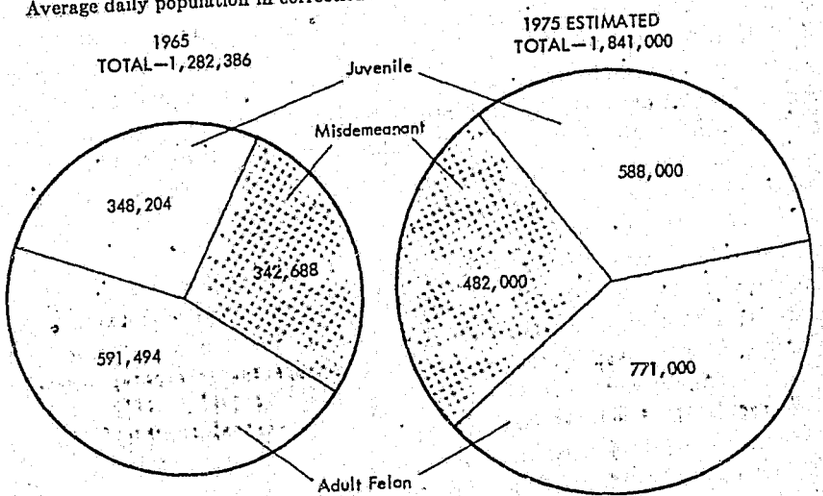
violators, Sheridan argues, should not be punished by a "rehabilitation" disposition to a juvenile institution.[6] Not only is such an approach injurious to treatment but the projected increase in the number of juveniles undergoing future correction makes such a solution impractical (see Figure 22–1).

FIGURE 22–1
Average daily population in corrections



Source: The President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: Corrections* (Washington, D.C.: U.S. Government Printing Office, 1967), p. 7.

TREATMENT OF THE JUVENILE OFFENDER

The modern training school had its forerunner in the Lyman School for Boys, opened in 1846 at Westboro, Massachusetts. It was followed by the New York State Agricultural and Industrial School in 1849 and the Maine Boys Training Center in 1853. Each sought to prepare the juvenile for his eventual return to community living. Indiana, Maryland, Nevada, New Hampshire, New Jersey, Ohio, and Vermont later developed training schools, and by 1900, similar institutions had been created in 36 states. Alaska, the 50th state, only completed its facility in 1960.

Since their creation, most institutions for juveniles have sought to

[6] *Ibid.*, pp. 28–30. Consult Sherwood Norman, *Shelter Care of Children for Court and Community* (New York: National Council on Crime and Delinquency, 1963); and Richard Allaman, "Managing Misbehavior at the Detention Home," *Federal Probation*, Vol. 17 (March, 1953), pp. 27–32.

teach the skills necessary for future usefulness and to provide the juvenile with a normative system which enables him to "follow the right." In recent years, these goals have been expanded through the recognition that nearly one half of those undergoing treatment in the juvenile training facility will be reincarcerated and that treatment can produce lasting change only if the personal reasons behind the delinquent act are understood. Recognizing somewhat belatedly that what may be deviant to the larger society may be thoroughly normative for the juvenile at the moment of his delinquency, treatment personnel have attempted to pass beyond the mere "instillation" of values within delinquents and to respond to the emotional need of the youth. Assuming that juvenile conduct can only be changed if the juvenile himself seeks change, the new training school approaches emphasize personal reevaluation and behavior reorientation.[7]

Despite the emphasis upon personality change, training schools for juveniles, like their adult counterparts, often emphasize custody rather than actual treatment of the individual. Nevertheless, the training school maintains the multiple responsibilities of caring for troublesome or dangerous children, educating the youth in its custody, developing rehabilitation programs, resocializing youths for effective return to the community, and creating recreational or social programs designed to fill the voids of institutionalization. Frequently, the goals of custody, education, recreation, and treatment are incompatible.[8] However, the training school is supposed to offer the child under treatment a specialized program designed to ameliorate his hardened or unstable condition. While the institution strives to prepare the youth for his eventual return to the community, its ultimate success depends upon the quality and character of the aftercare services provided upon his return.

David Street, Robert D. Vinter, and Charles Perrow find that juvenile correctional institutions are "people-changing" organizations. While they actively seek the resocialization of the offender, they do so within the conditions of custody. Inevitably, therefore, they must seek the rehabilitation of the offender within a time-limited and an internally oriented setting. Staffed by trained professionals and traditional functionaries,

[7] Robert W. Winslow, *Juvenile Delinquency in a Free Society* (Belmont, Calif.: Dickenson Publishing Company, Inc., 1968), p. 199. See "Juvenile Institutions," *Crime and Delinquency*, Vol. 13 (January, 1967), p. 73; M. A. Zald and David Street, "Custody and Treatment in Juvenile Institutions," *Crime and Delinquency*, Vol. 10 (July, 1964), p. 249; and A. G. Novick, "Institutional Organization for Treatment," *Crime and Delinquency*, Vol. 10 (July, 1964), p. 257.

[8] Theodore N. Ferdinand, "Some Inherent Limitations in Rehabilitating Juvenile Delinquents in Training Schools," *Federal Probation*, Vol. 31 (December, 1967), pp. 30–34. Consult John B. Costello, "Institutions for Juvenile Delinquents," *Annals*, Vol. 261 (January, 1949), pp. 166–78; Bertram M. Beck, *Youth Within Walls* (New York: Community Service Society, 1950).

penal institutions for juveniles frequently strive to reach the multiple goals of confinement (custody) and of change (rehabilitation) in rather ambiguous fashion.[9]

Generalizing from their study of six juvenile correctional organizations, Street, Vinter, and Perrow identify three major organizational models within the custody-treatment continuum:

1. *Obedience/conformity.* Habits, respect for authority, and training are emphasized. The technique is *conditioning.* Obedience/conformity maintains undifferentiated views of its inmates, emphasizes immediate accommodations to external controls, and utilizes high levels of staff domination with negative sanctions. It is the most custodial type of juvenile institution presently found in the United States, for humanitarian pressures have eliminated the incarceration-deprivation institution as a viable empirical type.
2. *Reeducation/development.* Inmates are to be *changed through training.* Changes in attitudes and values, acquisition of skills, the development of personal resources, and new social behavior are sought. Compared to the obedience/conformity type, this type provides more gratifications and maintains closer staff-inmate relations.
3. *Treatment.* The treatment institution focuses on the psychological reconstitution of the individual. It seeks more thoroughgoing personality change than the other types. To this end it emphasizes gratifications and varied activities, with punishments relatively few and seldom severe. In the individual treatment-variant considerable stress is placed on self-insight and two-person psychotherapeutic practices. In the milieu treatment-variant attention is paid to both individual and social controls, the aim being not only to help the inmate resolve his personal problems within the institution but also to prepare him for community living.[10]

The study of two institutions in each of these three categories led the researchers to conclude that the implementation of the treatment goal "remains elusive."[11]

[9] David Street, Robert D. Vinter, and Charles Perrow, *Organization For Treatment* (New York: Free Press, 1966), pp. 1–15. Examine David Fogel, "Institutional Strategies in Dealing with Youthful Offenders," *Federal Probation,* Vol. 31 (July, 1967), pp. 41–47; Herschel Alt, "The Training School and Residential Treatment," *Federal Probation,* Vol. 16 (March, 1952), pp. 32–35; and Leighton W. Dudley, "New Horizons for the Institutional Treatment of Youth Offenders," *Federal Probation,* Vol. 30 (June, 1966), pp. 50–53.

[10] *Ibid.,* p. 21. Refer to Frank R. Scarpitti and Richard M. Stephanson, "The Use of the Small Group in the Rehabilitation of Delinquents," *Federal Probation,* Vol. 30 (September, 1966), pp. 45–50.

[11] *Ibid.,* p. 279. See Esther P. Rothman, "Teaching for a Positive Concept of Authority in a School for Emotionally Disturbed Girls," *Federal Probation,* Vol. 28 (March, 1964), pp. 36–39; Carle F. O'Neil and David Gregory, "The Metamorphosis of a Training School," *Federal Probation,* Vol. 28 (June, 1964), pp. 34–41; and A. G. Novick, "Institutional Diversification and Continuity of Service for Committed Juveniles," *Federal Probation,* Vol. 28 (March, 1964), pp. 40–47.

Three institutions failed to implement treatment to any degree; two, on the other hand, were overwhelmingly treatment oriented. If treatment is to become a reality, staff members and units, Street, Vinter, and Perrow concluded, must be given sufficient power over organizational operations. However, those implementing the treatment ideal must also recognize that special external efforts must be exerted to neutralize community hostility and to gain support from organizations of parents or other agencies. Because treatment programs require a high degree of organizational flexibility, disruption in routine, ambiguities in criteria for staff performance, and staff, inmate, and personnel conflicts must be approached with tolerance. Although meaningful change depends upon capable executive leadership, leadership success in fulfilling treatment goals is still subject to the limits imposed by the institution.[12] While the obedience/conformity institutions produce negative results, the reeducation/development institutions, more conventional and open in their program, reveal mixed but generally more positive successes. "The consequences for the inmates of the treatment institutions," Street, Vinter, and Perrow conclude, "appear to be even more positive with greater development of personal and social controls and the acquisition of some skills in problem-solving and self-understanding."[13] Whether these skills will continue without reinforcement after release, however, is another question.

Most states have a limited program of juvenile institutional diversity. While 8 states have one facility and 14 states have two serving juveniles, six of the larger jurisdictions have nine or more juvenile institutions. The growing use of small camps and reception centers has changed the former pattern of the dual state boys' and girls' schools which dominated juvenile corrections for many decades. The growth of camp programs has partially been hastened by the lower cost of these operations and the fact that the setting which small camps offer is more conducive to treatment.[14] On the other hand, the overcrowding of juvenile treatment institutions has encouraged the parallel development of diagnostic parole programs in which all juvenile court commitments are referred either directly or after a short period of institutional treatment to a reception center for screening for parole eligibility. Designed to redirect

[12] *Ibid.,* pp. 280–81. See Anthony Catalina, "Resolving 'Built-In' Staff Conflicts in a Training School for Boys," *Federal Probation,* Vol. 30 (June, 1966), p. 60; and John B. Leibrock, "The Houseparent and the Delinquent Boy," *Federal Probation,* Vol. 28 (September, 1964), pp. 59–60.

[13] *Ibid.,* p. 282. Also see Eugene J. Mantone, "Walton Village," *Federal Probation,* Vol. 31 (June, 1967), pp. 27–32; and M. E. Switzer, "Treatment in the Community," *Trial,* Vol. 4 (April–May, 1968), p. 11.

[14] Winslow, *op. cit.,* p. 203. Refer to Kenneth S. Carpenter and George H. Weber, "Intake and Orientation Procedures in Institutions for Delinquent Youth," *Federal Probation,* Vol. 30 (March, 1966), p. 37.

juvenile treatment attempts from training schools to short, intensive treatment programs followed by parole in the community, reception center parole and short-term treatment programs have grown immensely in recent years.

Such screening in New York City's Youth House is carried out by special aftercare staff while juveniles await entrance into the state school system. Those selected return to the community and participate in an extensive casework program. In Washington, D.C., juveniles are screened in a central reception center for juvenile offenders, many being assigned immediately to foster homes, halfway houses, or other community based programs.[15] California makes the greatest use of reception center release. Approximately 20 percent of the boys and 35 percent of the girls processed by the California Youth Authority upon a normal 30-day reception center testing period are released to foster home placement or to regular parole.

Youths referred to reception centers commonly stay in these locations between 28 and 45 days. Children are frequently committed to state training institutions for 4 to 24 months; their median stay is for 9 months.[16] Three fourths of the total state institutional systems, housing nine tenths of the institutional population, commonly have an average length of stay between six months and one year.[17] Nearly 42 percent of the 233 probation departments examined in the National Survey of Corrections reported that they commonly use *foster home* placement as an alternative to institutionalization because these homes provide the youth with closer identification with respectable community members, carry less stigma than juvenile institutions, maintain the youth within or near his own community, and are far less costly. Inasmuch as the foster home implies the severing of family ties for a temporary or permanent period, it must be used with discretion.

Many states have developed *group homes* as a middle offering between the foster home and the juvenile institution. The Minnesota Youth Commission, for example, pays a nominal retaining fee for each licensed bed in seven group homes serving its programs; when a youth is placed in the home operated by independent parties, the amount paid per bed is increased. Similarly, the Wisconsin Division of Corrections utilizes 33 homes for boys or girls. Placing four to eight adolescents in each location, these homes serve the equivalent number of juveniles in one institution at 25 to 33 percent less cost. While this approach is promising, the fact that it allows county probation departments to avoid responsibility for a community-based juvenile treatment program remains a drawback.[18]

[15] *Ibid.*, p. 230. Refer to Arthur W. Witherspoon, "Foster Home Placement for Delinquent Juveniles," *Federal Probation*, Vol. 30 (December, 1966), pp. 48–52; Ruth Gilpin, "Foster Home Care for Delinquent Children," *Annals*, Vol. 261 (January, 1948), pp. 120–27; Helen R. Hagan, "Foster Care for Children," *Social Work Year Book-1954* (New York: National Association of Social Workers, 1954), pp. 225–32; and F. McNeil, "Halfway-House Program for Delinquents," *Crime and Delinquency*, Vol. 13 (October, 1967), p. 107.

[16] *Ibid.*, p. 204. See R. H. Levy, "Reception and Diagnostic Center of the Illinois Youth Commission, *Juvenile Court Judges Journal*, Vol. 18 (Spring, 1967), p. 12; Martin Gula, "Study and Treatment Homes for Troubled Children," *The Child*, Vol. 12 (November, 1947), pp. 66–70; and Juvenile Division, *Philadelphia's Youth Study Center Annual Report* (Philadelphia: Youth Study Center, 1964).

[17] *Ibid.*, p. 204. For another facet, see "Transfer of Juveniles to Adult Correctional Institutions," *Wisconsin Law Review*, Vol. 1966 (Summer, 1966), p. 866; and "Facts and Law of the Inter-Institutional Transfer of Juveniles," *Maine Law Review*, Vol. 20 (1968), p. 93; and R. Mills, "Delinquent Disabled Boys," *Crime and Delinquency*, Vol. 13 (October, 1967), p. 545.

Approaches to treatment

Whatever the location of the correctional attempt, a number of approaches to juvenile treatment may be used in juvenile institutional or other treatment programs. The *psychological* and *ego-alien* approaches, for example, emphasize individual treatment within a social environment. The environment is evaluated in terms of its influence upon delinquency rather than its relationship to group membership. Therefore, the focus of treatment is placed upon the restructuring of the individual's personality through the delineation of required roles, the observance of discipline, and a regimentation of the daily institutional program. Largely rejecting the possibility that delinquency may be due to a feeling of self-satisfaction rather than dissatisfaction, the supporters of the psychological treatment approach seek signs that the juvenile has internalized stable response patterns through daily interaction.

The ego-alien approach varies slightly. Franz Alexander and Lewis B. Shapiro, for example, relate delinquency to ego-alien impulses which are frequently represented in aggressive antisocial nature behavior.[19] Delinquency, they presume, is a behavioral disturbance stimulated by unconscious motivational forces which are eventually expressed in the distorted substitute of the delinquent act. Possessing a weak superego, the child is unable to repress and to control his unconscious drives and therefore expresses them in overt delinquency. The youth may be

[18] *Ibid.*, pp. 226–27.

[19] Franz Alexander and Lewis B. Shapiro, "Neurosis, Behavior Disorder and Perversions," in Franz Alexander and Helen Ross (eds.), *Dynamic Psychiatry* (Chicago: University of Chicago Press, 1952), p. 132. Refer to F. L. Faust, "Group Counseling with Juveniles," *Crime and Delinquency*, Vol. 11 (October, 1965), p. 349; Marvin Hersko, "Community Therapy in an Institution for Delinquent Girls," *Federal Probation*, Vol. 28 (June, 1964), pp. 41–46; R. C. Sarri and R. D. Vinter, "Group Treatment Strategies in Juvenile Correctional Program," *Crime and Delinquency*, Vol. 11 (October, 1965), p. 326.

successfully treated only if he learns to understand his conscious and unconscious desires.

The *guided group interaction* approach, a form of group counseling, attempts to involve a number of juvenile offenders in frequent but intensive discussions pertaining to motivation and behavior. Emphasizing the evaluation of current experiences and problems, the guided group interaction method strives to develop a treatment-oriented group "culture" in which participants may follow members in the solution of their problems. Presuming the principle that peer recommendations are more likely to be accepted by fellow offenders, the guided group interaction approach permits the common sharing of anxieties and hopes necessary for the eventual resolution of these personal problems. This method emphasizes the individual's participation in seeking a constructive solution to the problems at hand.

Experiments in guided group interaction. An early experiment in guided group interactions was inaugurated for 20 boys between 16 and 17 at Highfields, New Jersey, in 1950. All participants were assigned directly by the juvenile court as a condition of probation. Juveniles who were mentally retarded or deeply disturbed, or who had been previously committed to a correctional school, were screened from consideration. Working on the assumption that the major impact of [illegible] within the first four months of contact, the program provided for group members to work at a nearby psychiatric institution [illegible] group counseling sessions in the evening. [illegible] religious services [illegible] free time [illegible] juvenile may be released only upon the fulfillment of standards set by his peers.

An evaluation of the effectiveness of the Highfields experiment for youthful offenders by H. Ashley Weeks indicated that the project was effective, with a large number of [illegible]. In comparison to 47 of every 100 boys from the New Jersey State Reformatory for Males at Annandale, 63 of every 100 Highfields boys were able to stay free of other violations which might lead to reinstitutionalization

[illegible] Stephen Schafer and Richard D. Knudten, *The Problem of Juvenile Delinquency* [illegible]

upon the completion of their treatment. This difference,[23] however, was largely due to the higher success rate for Negroes in the Highfields program. Officially on probation at the time that they were included in the Highfields experiment, approximately one fifth of the boys were unable to maintain effective residence. Some ran away, viewed the program as threatening, or worked to disrupt the progress of the stable group. Despite these limitations, the Highfields program, Weeks found, rehabilitated 28 more boys per 100 than the traditional male youth rehabilitation approach. At Highfields, 8 out of every 10 white boys and 7 out of every 10 Negroes were successful.

Although Highfields white boys become more favorable toward obeying the law and less favorable in attitudes toward law enforcement, Annandale white boys showed greater favorableness toward general authority and less toward law enforcement. Highfields Negro boys, on the other hand, revealed a more unfavorable attitude toward parental authority and showed the greatest tendency for change, scoring favorably on five scales and unfavorably in attitudes toward parental authority. While the experience at Highfields and Annandale did not substantially change the primary goals or basic drives of either group, the Annandale group did not seem to recognize and to accept their basic drives or to clarify their primary goals. Among the Highfields males, on the other hand, primary goals were more clearly defined and basic drives more fully accepted. Overall, the Highfields program rehabilitated youths at a higher rate of success at less cost over a shorter period of time than Annandale.

The success of the Highfields project encouraged the development of other similar programs in Essexfields (Newark, New Jersey), Pinehills (Provo, Utah), and others [illegible] San Francisco, Los Angeles [illegible] Kentucky and New York. The Provo [illegible] community [illegible] employment [illegible] guided group interaction sessions [illegible] youths defined and sought solutions to their problems under the guidance of group members and project staff.[23] Although both staff and offenders

[23] H. Ashley Weeks, *Youthful Offenders at Highfields* (Ann Arbor: University of Michigan Press, 1963), pp. 118–120. Also see Howard W. Polsky, *Cottage Six: The Social System of Delinquent Boys in Residential Treatment* (New York: Russell Sage Foundation, 1962), [illegible] "The Therapeutic Use of Limits in Dealing With Institutionalized Delinquent Boys," *Federal*

were responsible for defining how much responsibility the violator shall assume for his own life, he was forced to solve these problems in the Essexfields and Pinehills programs within his own community in relationship to his family, friends, teachers, and employers. Both projects avoided the artificial characteristics of the normal training school and encouraged juveniles to live at home.[24]

The Parkland project in Louisville (Kentucky), the Girl's Unite for Intensive Daytime Education program, commonly called GUIDE, in Richmond (California), and a second girl's program in San Mateo (California) have posed variations of the guided group interaction approach. In each instance youths involved in these projects meet jointly at a designated center and participate in crafts, educational training, center beautification and development, and individual and group counseling. At Parkland, participants share in morning classes, afternoon work about the Louisville Zoo, and evening dinner and group counseling sessions.[25] Underlying this approach is the belief that work skills can overcome the limitations imposed by deviant tendencies and can assist in the development of self-reliance and institutional efficiency.[26]

The youth authority and treatment of juveniles

California, Texas, Illinois, Massachusetts, and Delaware maintain statewide juvenile correctional authorities. A number of other states have established committees, boards, or commissions to deal with the problems of juvenile offenders. The majority of the states have been reticent to utilize this approach due to the feeling of many judges that the transference of sentencing authority to these boards is a threat to their own sentencing power. Moreover, administrators and personnel in established institutions have been unwilling to modify existing procedures. In addition, many legislators, believing the authority approach to be an experiment, have refused to enact an authority measure without more conclusive information concerning its benefits.

Under the authority approach, juveniles are placed under the supervision of youth authorities through the action of juvenile and superior

Probation, Vol. 28 (June, 1964), pp. 46–50; William Crain, "The Chronic 'Mess-Up' and His Changing Character," *Federal Probation*, Vol. 28 (June, 1964), pp. 50–56; and David L. Haarer, "Gifted Delinquents," *Federal Probation*, Vol. 30 (March, 1966), pp. 43–46.

[24] Winslow, *op. cit.*, p. 224.

[25] *Ibid.*, p. 225.

[26] Schafer and Knudten, *op. cit.* See Norman G. Tolman, "Approaching the Institutionalized Female Delinquent Through Group Therapy," *Federal Probation*, Vol. 25 (June, 1961), pp. 34–40; M. M. Crites, "Group Counseling for Probationers and Staff," *Crime and Delinquency*, Vol. 11 (October, 1965), p. 355; and S. Silverstein, "Work Therapy Program for Delinquent Boys," *Crime and Delinquency*, Vol. 11 (July, 1965), p. 256.

courts. Offenders are usually sent first to reception and diagnostic centers where their particular needs are evaluated and treatment programs anticipated. The California Youth Authority program, created in 1941 and closely modeled after the Borstal system in England, permits the authority to accept a limited number of cases, assume responsibility for delinquency prevention, and maintain jurisdiction over juvenile and youthful offenders to the age of 23. In 1961, the California Youth Authority was incorporated into a new adult and youth corrections agency. The Youth Authority Board was subsequently expanded from three to six, each member being appointed by the governor and approved by the state senate. Organized into administrative, field, treatment, and research services, the California Youth Authority strives to provide the best possible training and environment for the juvenile or youth undergoing correctional treatment.[27]

One of its more interesting experiments has been the Community Treatment Project for juveniles in Sacramento and San Joaquin counties, which is designed for the gathering of hardcore data concerning the effectiveness of treatment programs. After screening in a reception center, boys and girls free of mental abnormality, serious offenses, or community objection to their participation are randomly assigned to the community project or are sent to a juvenile institution, eventually to be paroled. Members of the experimental group thereupon undergo individual and group counseling, group and family therapy, school training, and other group activities in a highly developed and yet individualized treatment plan. Working with a ratio of 1 staff to 12 youths at a program center which houses the staff and provides a recreation area, classrooms, and a music room, the staff attempts to correct the youths' problems. The control group, on the other hand, follows the normal routine within the traditional California juvenile institution.

The early success of the program was apparent when a check of parolees at the end of 15 months' parole exposure revealed that 28 percent of the experimental group as opposed to 52 percent of the control group had their paroles revoked. When the program was extended to the Watts area in Los Angeles and to Oakland in 1964, similar apparent successes were also revealed. At the end of 15 months of parole exposure, 39 percent of the predominantly Negro youths of the Watts and Oakland experiments underwent parole revocation in comparison to a statewide revocation rate of 48 percent for juveniles of the same age categories. While the $150-per-month cost per boy in the Los Angeles and Oakland programs was three to four times as much as the cost of regular parole,

[27] Reed K. Clegg, *Probation and Parole* (Springfield, Ill.: Charles C. Thomas, Publisher, 1964), pp. 154–57; and John R. Ellingston, "The Youth Authority Program," in Paul W. Tappan, (ed.), *Contemporary Correction* (New York: McGraw-Hill, 1951), pp. 126–27.

it was less than one half the average monthly cost of institutionalizing the offender.[28]

In another experiment of the California Youth Authority, the Marshall program was created to ease the pressure of juvenile institutions. It consisted of a three months' intensive treatment program at the Norwalk reception center and was founded on a therapeutic community concept. Youths selected for the program participate in a half day of work in institutional operation and maintenance, a few specialized education classes, and daily group counseling. Rewards for active juvenile participation include progressively longer and more frequent home furloughs and parent-youth participation in group activities. Early data reveal that 44 percent of the Marshall youths as opposed to 47 percent of a matched group undergo parole revocation within 15 months of parole exposure. The revocation rate is based upon a three-month treatment program at Marshall and an average eight- to nine-month training program at the state school. Although the apparent results of both institutions were similar, the Marshall program represented a significant saving to the public.[29]

Variations in programs for treatment of juveniles

Many other delinquency treatment programs have also been created by other state or private agencies. The Institute for Behavioral Research at Silver Spring, Maryland, for example, has created the Case Project, a development on a predetermined scale. Each youth receives one penny for each point to a maximum of $40 per week. From this amount, he pays for his private room, food, recreation, books, toiletries, schooling and decorations. The philosophy undergirding the program implies the belief of the counselors that "a well-designed environment can, by offering select and well-designed choices, help direct the behavior of the students to those academic and social goals which are necessary for successful participation in our democratic society."[30] Under these provisions, participating students may be employed by the Project according to their educational backgrounds and level of competence. The student in the Case program is encouraged to compete actively in order to develop the skills necessary to compete effectively on the open market.

Another treatment variation was initiated in early 1968 as the National Training School for Boys at Morgantown, West Virginia. Located on a 340-acre campus, the school is designed to house a maximum population of 354 boys. It closely resembles a prep school. Included are seven

[28] Winslow, *op. cit.*, p. 229.
[29] *Ibid.*, pp. 230–31.
[30] Robert C. Byrd, "Turning a Corner in Juvenile Corrections," *Federal Probation*, Vol. 30 (December, 1966), p. 17.

separate housing units, a junior high school, a senior high school, a chapel, a clinical center, and outdoor recreational facilities.[31] Among the facilities are a library, hobbyshop, gymnasium, central dining hall, warehouse, commissary, and barbershop grouped about a community square. Emphasizing the education of the youth, the School is designed to facilitate his educational advancement upon diagnosis of his core problem. The school's staff seeks to channel the juvenile's interests into particular vocational and technical training programs.

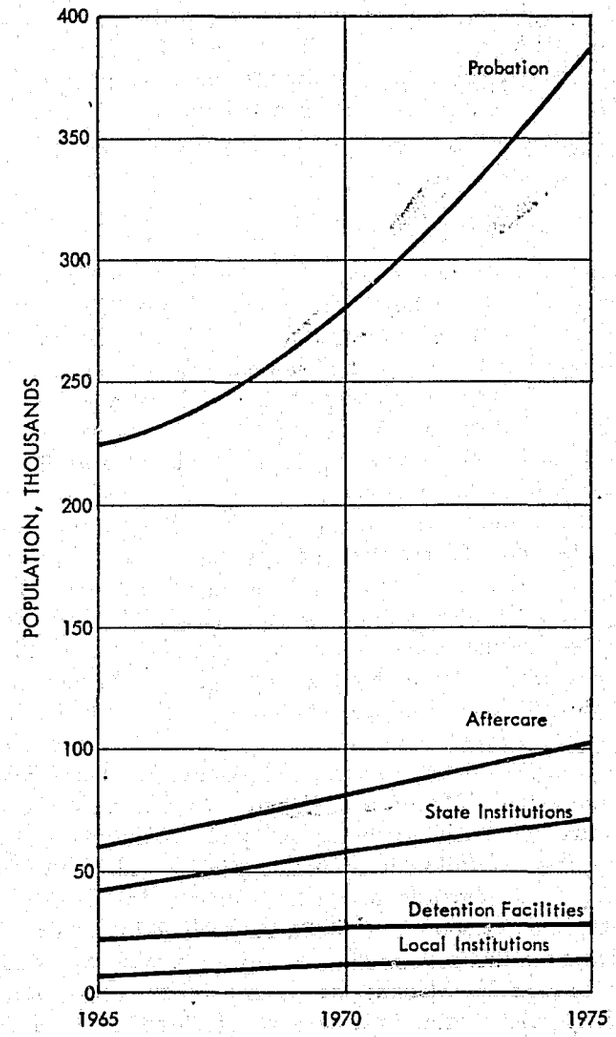
The scope of institutions for juveniles

Overall, juvenile institutions are many and varied and serve a diverse constituency (see Figure 22–2). For example, the 1965 survey by the Children's Bureau of 220 state-operated juvenile institutions in 50 states, Puerto Rico, and the District of Columbia disclosed that an average daily population of 42,389 youths participated in juvenile training programs in these institutions. These institutions represent 86 percent of the juvenile training school capacity in the United States. The average daily population in 17 jurisdictions, the study uncovered, was more than 10 percent below, and in 11 was 10 percent or more above, capacity.[32] Thirty-one states reported the periodic or sustained use of private facilities for the placement of delinquents. Although existing facilities in 1965 were highly strained, anticipated new construction by 1975 in all but eight states would increase the present capacity by over 42 percent. However, a capacity of 20 or less percent is planned in only 55 percent of present construction, 63 percent of authorized construction, and 45 percent of projected construction.

The American Psychiatric Association recommends that juvenile institutions be limited to 150 children in order to maximize the value of the treatment program. The greater majority of juvenile population, however, is currently institutionalized in facilities for far larger numbers. The association recommends maximum capacity standards for living units of 20 for homogeneous and 12 to 16 for heterogeneous groupings. It also encourages the construction of private rooms for girls. Of all 1,344 living units in 220 juvenile institutions in the various states, however, only 24 percent maintain a capacity of 20 or less.[33] Many of the

[31] *Ibid.*, p. 14.
[32] Winslow, *op. cit.*, pp. 202–3. See American Psychiatric Association, *Guide to Planning for Training Schools for Delinquent Children* (Washington, D.C.: American Psychiatric Association, 1952).
[33] *Ibid.*, p. 209. Consult Joseph H. Kane, "An Institutional Program for the Seriously Disturbed Delinquent Boy," *Federal Probation*, Vol. 30 (September, 1966), pp. 37–44; H. M. Gary, "Help For the Retarded Delinquent," *Juvenile Court Judges Journal*, Vol. 19 (Spring, 1968), p. 20; R. B. Miller and E. Kennedy, "Adolescent

FIGURE 22–2
Juveniles under correctional supervision in the United States (population projected to 1975)



Source: President's Commission, *Task Force Report: Corrections*, p. 8.

new juvenile institutions are reception centers and boys' camps. While the reception center, found in 10 states, provides greater opportunities for evaluation of juvenile needs before referral to one of the many state

Delinquency and the Myth of Hospital Treatment," *Crime and Delinquency*, Vol. 12 (January, 1966), p. 38.

juvenile institutions or agencies, the growth of youth camps for 40–50 boys have been stimulated by the lower cost of operation and their generally higher success rate.

Of the 21,247 staff members employed in state juvenile institutions who served an average 1965 daily population of 42,389 trainees, only 1,154 were psychiatrists, psychologists, or social workers classified as treatment personnel. Although 282 psychiatrists were required to meet the minimum standard of 1 psychiatrist per 150 children within the average daily population of the 220 state-operated institutions recorded in the survey, only a reported equivalent of 46 psychiatrists served juvenile interests. No more than four states provided the minimum standard of psychiatric service. Of the 282 psychologists similarly required to reach to the same ratio, only 182 equivalent psychologists were employed by state juvenile institutions. While 12 states met the minimum ratio standard, 9 states alone accounted for 106 (60 percent) of the psychologists employed. Of the 1,413 caseworkers required to meet the minimum standard of 1 for every 30 children, a total of 926, approximately 66 percent of the number necessary, were engaged by the 220 responding institutions.[34]

The recommended teacher-pupil ratio was 1 to 15; the overall teacher-pupil ratio in the 220 institutions studied ranged from 1 to 17. With 2,495 teachers employed, the teaching standard was more closely realized than the standards in the casework, psychological, and psychiatric service areas. In addition, 158 chaplains served the 220 state institutions. However, 12 states offered no chaplaincy programs, 18 maintained less than half-time services per facility, and 32 employed one chaplain per institution.[35] Medical services were provided at 96 percent and dental services at 94 percent of the training facilities. Recreational services were available at 95 percent of the institutions, educational programs at 88 percent, casework assistance at 86 percent, counseling services at 79 percent, and psychological and psychiatric services at 75 and 71 percent respectively.

Per capita operating costs for the 52 jurisdictions in the survey amounted to $3,411 per child, or a total annual operating cost of $144,596,618, to house and care for an average daily population of 42,389 juveniles. The per capita cost varied widely, from $871 to $7,890 per

[34] *Ibid.*, pp. 204–6. Evaluate Clifford A. Lawson, "What Services Do We Want for Our Delinquent Children?" *Federal Probation*, Vol. 30 (March, 1966), pp. 32–36; and Povl W. Toussieng, "The Role of the Psychiatric Consultant in a State Training School" *Federal Probation*, Vol. 25 (March, 1961), pp. 39–43.

[35] Harvey L. Long, "The Church's Mission and Delinquents," *Federal Probation*, Vol. 27 (December, 1963), pp. 26–31; and Marshall E. Miller, "The Place of Religion in the Lives of Juvenile Offenders," *Federal Probation*, Vol. 29 (March, 1965), pp. 50–53.

capita, in the 42 institutions which operate training facilities without separate reception and diagnostic centers. Of the 42, 6 states reported per capita costs below $1,600 per year, 8 between $1,600 and $3,000, 13 between $3,000 and $4,500, and 13 above $4,500. In the 10 jurisdictions that operated reception and diagnostic centers, per capita costs varied from a low of $1,757 to a high of $5,723 during 1966–67. While the average per capita cost was less than $2,000 in 3 states, it ranged from $2,000 to $2,500 in 2, $3,900 to $4,500 in 3 states, and above $4,500 in 2 states.[36]

The majority of treatment educational and administrative staff in juvenile institutions, a 1964 study by the Children's Bureau revealed, do not possess the minimal educational requirements expected by the correctional profession. Educational background, the study disclosed, is especially low for cottage personnel, social workers, academic teachers, medical aides, and occupational supervisors. Not only are institutions facing major difficulty in retaining sufficiently well-qualified employees, but high staff turnover also reflected the failure of particular institutions to implement recommended personnel policies and practices.[37]

Although study recommends the 40-hour workweek for personnel working in juvenile institutions, the average workweek is more than 40 hours in 16 states and more than 50 in 7 others. The majority of state training facility staffs are protected under the merit system, and merit or civil service coverage is recommended for all training school personnel, but superintendents in 30 states are commonly outside such security guarantees. Superintendents are recommended to have completed graduate training in the behavior sciences or child development, but many do not come close to fulfilling such criteria. Ten jurisdictions, for example, make no formal educational demands and hire the best personnel available at the needed time. Twenty-eight, however, require college training, and twelve expect the superintendent to have completed a graduate degree. Juvenile staff standards suggest that employed caseworkers be graduates of accredited schools of social work; 36 jurisdictions require a college background and 11 require a graduate degree. Although no standard has been designated for cottage staff members, they have traditionally been at least high school graduates. Despite the fact that cottage staff members are important persons in training

[36] *Ibid.*, pp. 50–53.

[37] Children's Bureau, *Personnel and Personnel Practices in Public Institutions for Delinquent Children: A Survey* (Washington, D.C.: U.S. Government Printing Office, 1966), pp. 1–29. Also see Frank Flynn, "First Steps in Solving Training Needs of Court and Institutional Workers Who Treat Juvenile Delinquents," *Training Personnel for Work with Juvenile Delinquents* (Washington, D.C.: U.S. Department of Health, Education, and Welfare, 1954).

facility programs, low salaries have generally made it difficult to establish sound educational requirements for such positions.[38]

The disposition of delinquents in Great Britain

Delinquency sentencing alternatives and correctional methods in Great Britain vary. They include such alternatives as absolute discharge by the court, conditional discharge upon guarantees of good behavior, fines imposed upon the child or his parents, probation, committal to the care of a fit person, or detention in one of several alternative institutions. These include remand homes, approved schools, attendance centers, detention centers, and Borstal institutions.[39]

Remand homes. These homes provide offenders under the age of 17 safe custody as they await their court appearance, are remanded to custody temporarily while the case is adjourned, or seek admission to another institution. Used as a temporary detention center for a period not exceeding one month, the remand home provides a custodial facility in which the child's character, intelligence, and physical or mental condition may be observed.

Approved schools. These institutions are industrial schools created in the 19th century for destitute and delinquent children and named after the "approval" of the Secretary of State, who certifies specific schools for residential child care and protection. These schools classify children according to age and sex and offer "difficult" boys and girls a meaningful educational opportunity within a controlled environment. Emphasizing the remolding of character, the schools encourage the development of a sense of social responsibility among its participants. While the actual tenure of the boy or girl may be shorter for those under 12 years of age, most juveniles are detained in the approved school for a three-year period. After discharge they receive aftercare services until 21 years of age.[40]

Attendance centers. The centers are used as a means of disciplining young offenders or delinquents by placing restrictions upon their liberty of action. If found guilty of an offense as an adult, British youths between 18 and 24 may be required to attend the center during their spare time on Saturdays rather than serve a term of imprisonment. While they may be required to attend for up to 3 hours on any one occasion, they may not be restricted in their freedom for more than 12 hours. The attendance center program, designed to encourage the proper use

[38] Winslow, *op. cit.*, pp. 207–8.

[39] *The Treatment of Offenders in Britain* (London: H. M. Stationery Office, 1961), pp. 29–57.

[40] Schafer and Knudten, *op. cit.*, p. 354.

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of leisure and to teach young offenders respect for law,[41] commonly includes such activities as instruction in handicrafts, lectures on practical topics and physical training, and hard physical work.

Detention center. If the offense is especially serious, the British youth between 16 or 17 and 20 may be sentenced under specific circumstances to detention centers, Borstal training, or a prison.[42] For example, magistrates courts may send an English boy to a detention center without requiring any fitness or other study pertinent to the treatment of the offender, inasmuch as detention centers are primarily designed to maintain the custody of the youth. Originally conceived as a means of punishment through a short, tough, and even unpleasant experience, boys in detention normally work hard, have little recreation time, and "spend quite a lot of time changing their clothes."[43] Serving the young males guilty of slightly more serious offenses, they offer a longer and more intensive residential training than found in the remand homes. Detained in such a center for a period of three to six months, the juvenile lives a disciplined life and engages in a 44-hour workweek. Boys of compulsory school age receive regular schooling; evening classes are provided for older youths. Designed to administer a "short-sharp-shock" to the juvenile offender, the detention center stimulates boys to participate in the center's high-powered operation.

Borstal institutions. The Borstals offer personal remedial and educational training for those between 16 and 21 years of age. Part of an overall system of reception centers, security Borstals and Recall institutions, the Borstal permits long-term training, usually over a four-year period, which is divided into two parts. During the first nine months to three years, the youth is treated at a Borstal for either boys or girls. The average time spent in the first phase is 20 months. In the second phase, which extends to the end of the four-year period, the offender undergoes treatment in a controlled and supervised environment. At first he may be placed in a reception center, where screening personnel select the Borstal best suited for his treatment requirements. Upon arrival at this location, he takes up residence in a homogeneous home of about 50 boys or girls under the supervision of a housemaster or housemistress and house staff. Within this setting, he is encouraged to participate in decision making, accept responsibility, and exert self-control through daily participation in physical training, work, entertainment, reading and recreation.

[41] *Treatment of Offenders in Britain*, p. 32.
[42] Charlotte Banks, "Borstal Prison and Detention Centres," in Hugh Klare (ed.), *Changing Concepts of Crime and Its Treatment* (New York: Pergamon Press, Inc., 1966), p. 117.
[43] *Ibid.*, p. 122.

The Borstal system was an outgrowth of an 1895 practice of segregating young offenders in a wing of Bedford prison. By 1902, older offenders serving sentences of more than 12 months were transported from throughout England to the Borstal Prison in Rochester and later to Dartmoor and Lincoln for basic training.[44] Currently, the Borstal system depends upon a system of graded classification which attempts to pair each offender with a suitable open, intermediate, or closed security institution. About one half are "closed" or maximum security institutions. Because many Borstals emphasize individual casework rather than group counseling, the decision which is invoked becomes highly important to the treatment process.[45] Borstal institutions at Aylesbury and East Sutton Park serve girls.

All inmates share in hard labor while in their assigned Borstal. Physical training is provided in gymnastics, play activities, handicrafts, and reading. Borstal youth may clear land, reclaim land from the sea, farm, or participate in industrial or shop employment. Training periods, often 12 to 18 months in duration, provide the youth with useful employment skills. Approximately 20 percent of the Borstal boys participate in vocational training at any one time. Upon release, the Borstal youth may be placed under the supervision of an aftercare association which counsels the youth and helps him to find employment and housing.[46] A "licensee," the youth is released pending good conduct and is subject to revocation of his license and to return to a Borstal facility for a period between 5 months to a year for violation.

The judge of the magistrates court may commit a male youth to sessions court for Borstal sentence if he meets the required age requirements and the court accepts the premise that Borstal training would be in his best interests. Generally, most boys can be sent to the Borstal only by a higher court.

While the Borstal sentence is indeterminate, it commonly includes a minimum of 6 months and a maximum of two years of treatment, the average sentence being between 14 and 15 months. Upon showing proper motivation, he may be gradually released from the institution so that he might be acclimated to the proper use of freedom. If he fails to comply with the conditions of his controlled freedom, he may be recalled at a later time to one of the Borstals or other rehabilitation centers.[47] Early release may occur for good behavior as in the United States, the decision resting with the authority of the Borstal Institutions. While the Home Secretary reported that 60 percent of the youths released from Borstals were not recommitted within a five-year period,

[44] Clegg, *op. cit.*, pp. 151–52.
[45] Banks, *op. cit.*, p. 123.
[46] Clegg, *op. cit.*, p. 153.
[47] Schafer and Knudten, *op. cit.*, pp. 354–55.

William Healy and Benedict S. Alper have reported success rates ranging as high as 84 percent.[48]

Today English magistrates courts may commit a boy over 17 convicted summarily of an indictable offense triable by Quarter Sessions to a higher court for sentence if they believe that it would best serve the needs of the person and the requirements of justice. In the past, they could sentence a boy directly to prison for not more than six months.[49] Boys sentenced to prison for less than three months generally served their time in separate facilities from older prisoners at a local prison. Because the very shortness of the sentence largely made any training or work program of limited value, commitment for less criminal boys between 1961 and 1963 shifted away from imprisonment and toward the use of detention centers.[50] The Criminal Justice Act of August, 1963, however, abolished medium prison sentences for boys sentenced to terms between six months and three years who had not been previously been sent to a Borstal or to a prison for six months or more. Under the new provisions, a sentence of 18 months or more could be given to such youths. All short prison sentences were also eliminated and substituted with detention orders.

Of the 2,178 boys discharged from all British Borstals in 1958, 1,156 (53 percent) were reinstitutionalized and 1,506 (69 percent) reconvicted within five years. Of the 3,438 boys discharged in 1961, 1,506 (45 percent) were reinstitutionalized and 2,122 (64 percent) reconvicted within a two-year period following release. Among senior British boys in approved schools, 56 percent released in 1958 were reconvicted within three years.[51] Of 331 boys examined by T. C. N. Gibbons, 67 percent similarly succeeded and 33 percent failed or were reconvicted within one year following release from detention. Within two years, the success group dropped to 52 percent and the failure one to 48 percent. Of 300 boys undergoing Borstal training, however, 58 percent succeeded and 42 percent failed after one year, and 44 percent succeeded and 56 percent failed after two years. Comparatively, 45 percent of the 307 youths sentenced to young prisoners centers succeeded and 55 percent failed after one year; 31 percent succeeded and 69 percent failed after two.

An examination of such findings leads Charlotte Banks to conclude simply that prison "is least effective, detention most effective, and Borstal between the two."[52] However, the differing failure rates, she also points

[48] William Healy and Benedict S. Alper, *Criminal Youth in the Borstal System* (New York: Commonwealth Fund, 1944).
[49] Banks, *op. cit.*, pp. 120–22.
[50] *Ibid.*, p. 135.
[51] Derek Miller, "A Model of an Institution for Treating Adolescent Delinquent Boys," *Changing Concepts of Crime and Its Treatment*, p. 97.
[52] Banks, *op. cit.*, p. 124.

out, are largely, if not entirely, "due to the types of boys sent to the three kinds of institution."[53] Fewer boys convicted of indictable violence, driving offenses, larceny, taking and driving away, or nonindictable crimes are sent to Borstal institutions. Although a larger number of "breakers and enterers" entered the Borstal in 1961, most sexual offenders, frauds, false pretense participants, nonindictable assaulters, malicious damagers, taking and driving away thieves and other "nonindictable" offenders were transported to a prison.[54]

Treatment of juveniles in Canada

Most Canadian training schools fall into one of two types of classification. Usually, they are either common-theft types which place little emphasis upon clinical therapy or they are professionalist oriented and emphasize the treatment capabilities of the psychiatrist, psychologist, caseworker, or groupworker.[55] The former emphasizes understanding and a common humane approach to juvenile treatment; the latter utilizes modern skills in the treatment process. Both have their limitations and strengths, and professional and staff relations are often strained by the conflict arising over the use of differing correctional methods.

The New Haven Borstal Institution of South Burnaby near Vancouver, British Columbia, was developed for delinquent use after World War II. Patterned after the English Borstal system, the New Haven institution provides a large house, dormitories, and workshops for use of youths between 16 and 23 who are confined within its premises for six to nine months.[56] Begun with 50 youths, the maximum enrollment has since been placed at 40 in order to maintain a sense of intimacy and of community. The 16 staff roles at New Haven include those of the director, assistant director house master, social worker, vocational instructor, Borstal officer, and clerical assistant. Emphasis at the institution is placed upon meaningful communication and a variety of activities rather than upon formal counseling or casework. Trades are used as therapy, and stress is placed upon vocational training as a means for encouragement of self-reliance, initiative, and resourcefulness. Once the boy is oriented to the institution, he works with the Borstal volunteer or association to plan for his release upon discharge. These free agents also assist

[53] *Ibid.*, p. 124.
[54] *Ibid.*, p. 125.
[55] Sinclair, *op. cit.*, p. 250. Also see R. P. Francis, "Training Schools Act, 1965," *Saskatchewan Bar Review*, Vol. 31 (June, 1966), p. 117; and B. Green, "Trumpets, Justice, and Federalism," *University of Toronto Law Journal*, Vol. 16 (1966), p. 407.
[56] John P. Conrad, *Crime and Its Correction* (Berkeley: University of California Press, 1967), p. 271.

in finding housing and jobs and in integrating the youth into the community. One of the greatest assets of the New Haven program has been the close cooperation engendered among the staff, detained youths, and members of the Borstal association.[57]

Although the New Haven Borstal administration is progressive, few Canadian training school administrators have been willing to break completely with past methods and traditions. A few have attempted to do so, however. Although the Boscoville school in Quebec has developed a "total staff involvement" treatment program, it has done so at a high cost and high staff-pupil ratio. Staff members must be part teacher, part social worker, part therapist, and part friend; they must be exceedingly well-trained, able to lay bare their own feelings and attitudes, and yet to absorb large amounts of hostility and aggression.[58] Few schools have enough trained staff to even consider such a program. In Ontario, boys are generally separated from girls and Catholics from non-Catholics. Girls are classified in relationship to the degree of supervision that each requires. Younger boys are segregated from older youths and are housed in one school. Mature youths with academic bents are sent to a second school; those with vocational interests to a third; and those in need of confinement to a small maximum-security institution.[59]

While Canadian training-schools have avoided many of the more notorious pitfalls of the American and British systems, they nevertheless use several basic procedures which may undermine specific phases of the school process. In some instances, one or more senior children are permitted to apply corrective measures to other child offenders. At other times, a group may be punished for the misdeeds or violations of a single member, an act which serves to solidify relationships in the juvenile community at the expense of the treatment program. Finally, the use of corporal punishment reinforces juvenile hostility against adults. In order to overcome these and other limitations and to develop a successful training school rehabilitation program for young delinquents, Donald Sinclair recommends that Canadian federal and provincial authorities adopt the following changes:

1. Place the responsibility for care and treatment of neglected, dependent and delinquent children on the child welfare departments of the provinces.
2. Commit to training schools only children who need the type of care these schools provide.
3. Develop a wider range of alternative forms of care, such as group foster homes, and extending the present use of foster care.

[57] *Ibid.*, pp. 271–72.
[58] Sinclair, *op. cit.*, p. 251.
[59] *Ibid.*, p. 256.

4. Provide appropriate hospitals for children who are mentally ill or seriously disturbed emotionally and adequate maternity care for pregnant girls, and seek to commit these children to training schools.
5. Reduce the size of training schools and drastically reduce the number of children for whom each house parent or supervisor is responsible.
6. Establish juvenile courts on a regional basis and provide them with adequate clinical facilities for thorough assessment and observation of a child before disposition of his case.
7. Provide an aftercare service that can effectively work with the family of a delinquent while he is receiving training.
8. Provide adequate training programs for training school staffs.
9. Intensify the drive to attract well-trained clinical workers to the schools.[60]

Even these reforms, however, may not be enough. The value of the training school still depends upon the accurate evaluation of the range of responsibility which the youth is able to accept and the degree of punishment which in his case possesses a deterrent value.

AFTERCARE OF JUVENILES

The value of institutionalization of juveniles depends in large measure upon the character and quality of aftercare services. Juvenile aftercare refers to the "duty of society" to assist the delinquent to reenter normal society and to resist future pressures toward deviance.[61] Such services may be provided by a state agency through training schools, by the juvenile court, by public or private casework agencies, by an adult parole authority, by a particular judge, or by volunteer organizations within a specific community or state.[62]

Aftercare, the last step in the juvenile treatment program, is theoretically an integral part of the correction process. Because it is that aspect of treatment which enables the juvenile to reenter effectively his own community as a valued person, it is especially important to the successful training of juveniles. In 1965, an estimated 59,000 youths, of whom

[60] *Ibid.*, pp. 266–78.
[61] Schafer and Knudten, *op. cit.* Also see "Juvenile Aftercare," *Crime and Delinquency*, Vol. 13 (January, 1967), p. 99; and D. Minge, "Youth Agencies Not Found in the Yellow Pages," *Juvenile Court Judges Journal*, Vol. 17 (Fall, 1966), p. 95.
[62] Charles L. Newman, *Sourcebook on Probation, Parole and Pardons* (Springfield, Ill.: Charles C. Thomas, Publishers, 1968), pp. 230–31; and "Interstate Placement of Juveniles," *Columbia Journal of Law and Social Problems*, Vol. 3 (June, 1967), p. 171.

12,000 were girls, were under aftercare supervision, in the 50 states. The number of juveniles cared for in state aftercare programs ranged from 110 to 13,000 in 1965.[63] Due to limitations of data concerning these programs, the exact scope and coverage of aftercare services is unclear. While 12 states maintain an active aftercare supervision program for an average of less than one year, 25 offer supervision of one year or more. Normally, girls are kept in aftercare supervision longer than boys.

The average per capita aftercare cost approximates $320 per year, even though costs in some states may range as high as $4,000 per year. Overall, juvenile aftercare costs are estimated to be $18 million per year as opposed to the over $144 million spent annually to house a daily population of 42,000 juvenile trainees at an average cost of nearly $3,400 per trainee per year. The lower costs of aftercare, however, are somewhat misleading inasmuch as they frequently represent the lack of concern most states have for the reentry of the juvenile into society. Aftercare caseloads may range as high as 250 adolescents to two or three counselors, who themselves are frequently working in communities far removed from the location of the juvenile's place of residence.

State departments which administer juvenile institutions also provide aftercare services for juveniles in 34 states. Although local probation departments frequently have no official relationship to the agency-administering training schools, they are often assigned aftercare responsibility in five states. Several of the remaining states place aftercare programs in local social welfare agencies.[64]

The median 1965 income of aftercare directors was $8,000 to $9,000, of district supervisors, $7,000 to $8,000; and of aftercare counselors, $5,000 to $6,000. Of the 40 states providing data concerning aftercare personnel, 23 maintained a civil service or merit system coverage for directors of juvenile aftercare services, 26 for the district supervisors and 29 for aftercare workers. Thirty-four of forty reporting states noted that they required juvenile aftercare workers to possess a bachelor's degree in social or behavior sciences, one year of graduate study in social work or a related field, or one year of paid full-time casework in corrections. Nevertheless, such minimum standards frequently had to be waived in practice. The 40 reporting states employed 133 district supervisors, 76 district assistant supervisors and 1,033 aftercare counselors in 1965.

While it is recommended that juvenile aftercare counselors maintain active supervision of a maximum of 50 cases, the median 1965 caseload

[63] Winslow, *op. cit.*, p. 218.
[64] *Ibid.*, pp. 216.

range was 61 to 70. Because of the wide geographic distributions of many aftercare counselors and services, aftercare supervision is often crisis oriented in that the counselor contacts the child only in emergencies. More commonly, supervision is maintained through the reception of monthly reports from the juvenile by the caseworker.[65]

The problem of reentry

One of the basic problems in juvenile reentry to society is the reestablishment of the youth within the public school system. At the time of his detention, he is often already well behind the performance level of many of his peers. Because he is commonly a poor student, detention and institutionalization merely disrupt his marginal school experience and may even retard his scholastic development. Consequently, upon release and reentry into the school system, he faces problems in evaluation of school credits and in reintegration into a student group which may be somewhat younger than he is. Then, too, he may receive little help from teachers, who prefer to work with better students and know of his past troublemaking. Many of these teachers, Erven Brundage believes, are the same persons who sighed with relief when he was institutionalized.[66] Consequently, when the student reappears at a classroom for enrollment, the administrator is often placed in the difficult situation of having to respond to the youth's needs while still maintaining the support of the many teachers who are disinterested in working with him. Because they are not oriented to the rehabilitation of offenders, teachers and administrators alike, Brundage maintains, fail miserably in assisting in reentry.

A solution, Brundage suggests, can only be found in programs like that developed in the San Diego County (California) Liaison Procedure Plan which assigns a specific person to juvenile contact and reentry work in each county high school. These workers are charged with the responsibility of gaining and maintaining rapport with detained or institutionalized youth and of assisting their adjustment to the school system. Presuming that young offenders have been changed and now desire to integrate themselves more fully into society, the contact person attempts to reinforce changed attitudes of students and to aid them in shifting their allegiances to valuable scholastic goals. In order to facilitate this transition for both the youth and the school, the worker originates relationships with the youth while he is still institutionalized.[67]

[65] *Ibid.*, pp. 219–20.
[66] Erven Brundage, "Helping Institutionalized Students Re-enter Public Schools," *Federal Probation*, Vol. 27 (September, 1963), p. 55.
[67] *Ibid.*, p. 56. Also see Louis Berkowitz and Jacob Chwast "Community Center Program for the Prevention of School Dropouts," *Federal Probation*, Vol. 31 (Decem-

The continuing problem

While such a program undoubtedly possesses value, it only represents one facet of the juvenile delinquency problem and the quest for its solution. The President's Commission on Law Enforcement and the Administration of Justice maintains that juvenile delinquency can be overcome only if youth become more involved, with those affairs of society which affect them, and if modern institutions offer better educational programs, strengthen family life, improve opportunities for employment, and make "the activities of law enforcement and individual and social services more relevant and more accessible to those who need them the most."[68] However, even these suggestions may be too simplistic answers to the basic problem of delinquency. Charles H. Shireman questions whether the necessary backlog of knowledge concerning human personality has yet been developed and applied to juvenile correctional institutions in order to expect realistically the development of acceptable treatment methods and a high degree of positive results.[69] The frustrations of the delinquency problem, he assumes, may cause many to seek easy answers and to attempt irrational solutions in the guise of treatment.

In arguing against those who would solve the delinquency problem by a simple infliction of punishment upon the delinquent offender, Garrett Heyns contends that the solution to delinquency is far more complex than most laymen would have the public believe. In fact, punishment and treatment cannot coexist, Heyns hypothesizes, because each tends to undermine the effects of the other. What is needed, therefore, is an attack on the causes of delinquency and a recognition that modern progressive delinquency treatment programs are based upon years of tested experience. Contrary to public belief, threats and repression do not solve the delinquent's problems; they are more likely to aggravate them. And yet, the public is generally apathetic to the more successful positive prevention and treatment programs, which are finally necessary for the effective control of juvenile deviancy. Can juvenile delinquency,

ber, 1967), pp. 36–40; Mortimer Krenter, "A Public School in a Correctional Institution," *Federal Probation*, Vol. 29 (September, 1965), pp. 50–57; and F. Weiner, "Vocational Guidance for Delinquent Boys," *Crime and Delinquency*, Vol. 11 (October, 1965), p. 366.

[68] Winslow, *op. cit.*, p. 231.

[69] Charles H. Shireman, "How Can The Correctional School Correct?" *Crime and Delinquency*, Vol. 6 (1960), pp. 267–74. Consult W. E. Amos, "Future of Juvenile Institutions," *Federal Probation*, Vol. 32 (March, 1968), p. 41; Robert C. Byrd, "Turning the Corner in Juvenile Corrections," *Federal Probation*, Vol. 30 (December, 1966), pp. 14–17; and S. C. Averill and P. W. Toussieng, "Study of Release from a Training School for Delinquent Boys," *Crime and Delinquency*, Vol. 12 (April, 1966), p. 135.

Heyns asks, ever be solved in such a situation?[70] His answer is a resounding negative.

[70] Garrett Heyns, "The Treat-'em Rough Boys are Here Again," *Federal Probation*, Vol. 31 (June, 1967), pp. 7–10. Other sources of value include: Chester C. Scott, "Can You Get a 'Peep' Out of People?" *Federal Probation*, Vol. 29 (March, 1965), pp. 13–18; John R. Larkins, *A Study of the Adjustment of Negro Boys Discharged from Morrison Training School* (Raleigh, N.C.: North Carolina State Board of Public Welfare, 1947); C. Eugene Mallory, "People Are Dangerous," *Federal Probation*, Vol. 29 (December, 1965), pp. 36–40; David C. Twain, "Promising Practical Research in Delinquency," *Federal Probation*, Vol. 28 (September, 1964), pp. 30–34; Mabel A. Elliott, "Trends in Theories Regarding Juvenile Delinquency and Their Implication for Treatment Programs," *Federal Probation*, Vol. 31 (September, 1967), pp. 3–11; A. E. Reed and W. C. Hinsey, "Demonstration Project for Defective Delinquents," *Crime and Delinquency*, Vol. 11 (October, 1965), p. 375.; and E. Preston Sharp and Ellis S. Grayson, "How Delinquent Children Think and Feel," *Federal Probation*, Vol. 29 (June, 1965), pp. 12–16.

APPENDIX NO. 12

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Saving and Controlling Delinquent Youth: A Critique

Anthony M. Platt*

Introduction

This paper employs an historical and comparative perspective to evaluate the significance of recent polemics concerning the prevention and control of delinquency.[1] In recent years, we have witnessed a variety of anti-delinquency policy proposals which claim to offer new and original solutions to the "delinquency problem." Perhaps the most concise statement of this new direction is to be found in the President's Commission on Law Enforcement and Administration of Justice (1967a; hereafter cited as Crime Commission). The following analysis derives most of its data from this Crime Commission on the grounds that the Commission's Task Force on Juvenile Delinquency is generally regarded by government officials and scholars alike as a progressive and authoritative policy statement. Moreover, the Crime Commission's position acknowledges the idea of community-based programs associated with the "war on poverty" and also incorporates the recent decision of the U.S. Supreme Court in the *Gault* (1967) case authorizing the introduction of due process into juvenile court.

It might be objected that the Crime Commission's policies are not representative of operating anti-delinquency programs and that most programs fall far short of the ideal policies proposed by experts and scholars. This methodological objection is correct insofar as it points to discrepancies between ideal goals and operating realities. However, for the purposes of writing a *critique* I think it is appropriate to assume that the most ideal programs could in fact be implemented despite human fallibility and a lack of financial resources.[2]

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This paper further compares contemporary features of the delinquency-control movement (DCM) with the enterprising reforms of the child-saving movement (CSM) which, at the end of the nineteenth-century, helped to create special judicial (juvenile courts) and correctional (reformatories) institutions for the processing and management of "troublesome" youth. Analysis of the CSM is based on an earlier study by this writer (Platt, 1969).

Nature of Delinquency

Images of the nature of delinquency have changed little over the last 70 years. Although there is a wide difference of opinion as to the precipitating causes of crime, it is generally agreed among experts that delinquents are *abnormally* conditioned by personality and environmental factors. But even the earliest biological theories assumed that most delinquent behavior was reversible and could be modified by appropriate treatment and intervention. By the late 1890's, fatalistic theories of crime were generally discredited and most experts agreed with Charles Cooley that "the criminal class is largely the result of society's bad workmanship upon fairly good material." In support of this argument, Cooley (1896) noted that there was a "large and fairly trustworthy body of evidence" to suggest that many "degenerates" could be converted into "useful citizens by rational treatment."

Much of the optimism (and alarm) about controlling crime has centered on the "youth problem." "America's best hope for reducing crime," proclaimed the President's Crime Commission (1967a:55), "is to reduce juvenile delinquency and youth crime." There are two basic reasons for this conclusion. First, it is generally believed that criminal behavior is a developmental process, that adult criminality represents the "maturing" of adolescent delinquency. Behavior patterns become solidified with age so that adults are much less susceptible to change than children. It makes good sense, therefore, to focus attention on the reformation of delinquents whilst they are still malleable and receptive to change. This argument has been greatly influenced by public health principles which stress the importance of identifying and treating potentially contagious "diseases" before they spread and multiply. The second argument (Crime Commission, 1967a) is based on "alarming" reports from official, record-keeping agencies which indicate that one in very six male youths is referred to juvenile court in connection with a delinquent act before his 18th birth-

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Although the Crime Commission (1967a:57) implied that "youth" and "delinquency" are almost synonomous ("self-report studies reveal that perhaps 90 percent of all young people have committed at least one act for which they could have been brought to juvenile court"), they launch their investigation with the assumption that "delinquents tend to come from backgrounds of social and economic deprivation." While acknowledging that the children of middle-class, suburban families often violate the law and antagonize public officials, anti-delinquency policies usually proceed upon the premise that "delinquency" is the sole property of the urban lower-classes. Suburban youth commit crimes; urban youth become delinquents.

Thus the causes of delinquency are to be primarily found in the organization of urban life. In this respect, the CSM and DCM are grounded in similar beliefs about the corrupting influences of the city. The CSM may be understood as a conservative and somewhat romantic defense against "foreign" ideologies and an affirmation of faith in certain aspects of the past. It was a nostalgic movement in the sense that its normative premises were essentially rural and Jeffersonian in orientation (Mills, 1964). The participation of politically conservative, middle-class reformers in the CSM served to reinforce a code of moral values which was seemingly threatened by urban life, industrialization, and the influx of immigrant cultures. Central to this perspective was the view that slum life is unregulated, vicious, and lacking in rules of social propriety; the inhabitants of slums are depicted as abnormal and maladjusted, living out their lives in conflict and chaos (see Whyte, 1943). Many child savers felt that children could only be rescued from delinquency if they were removed to the country where they could not be "beguiled into wickedness" (Platt, 1969:61-67).

Although the DCM, on the other hand, has come to terms with urban life and does not advocate rural programs of rehabilitation, they are well aware that the "bad" urban environment offers countless opportunities for delinquent behavior:

> Many of the people and activities that bring slum streets and buildings to life are unsavory at best. Violence is commonplace. . . . Fighting and drunkeness are everyday matters. . . . Drug addiction and prostitution are familiar (Crime Commission, 1967a:62).

Beyond poverty and the hardships of urban life, other related causes of delinquency are recognized. For example, adolescence itself is intrinsically bound up with anti-social behavior because it is a transitional status which "withholds both the toleration accorded young

people and responsibilities of adults" (Crime Commission, 1967a:66). With the "weakening of the family as an agent of social control" and "the prolongation of education with its side effect of prolonging childhood," adolescents seek security and identity through peer group affiliation and defiance of adult authority (Crime Commission, 1967a:59). The Crime Commission (1967a:58-59, 68) observed that adolescents are basically vulnerable and dependent and in need of special protection from their environment and from their own innate capacities for "dangerous" action:

> The immediate need is to tide the youth over the most dangerous age—the age at which adolescent frustration may combine with inner-city alienation so that he strikes out at society. . . . Adolescents everywhere, from every walk of life, are often dangerous to themselves and to others.
>
> It may be a short step from distrusting authority to taking the law into one's own hands, from self-absorption to contempt for the rights of others, from group loyalty to gang warfare, from getting 'kicks' to rampaging through the streets, from coveting material goods to stealing them, from feelings of rebellion to acts of destruction.

This early waywardness on the part of urban youth is often compounded by their experiences in schools which lack necessary resources and a sense of commitment to their students. Delinquent "careers" are sometimes triggered by insensitive teachers who create the "conditions of failure" for some students. But the most significant deficiency in the schools is their inability to offer moral leadership and to govern their students through consensus rather than by threat or use of sanctions:

> The school may simply be too passive to fulfill its obligations as one of the last social institutions with an opportunity to rescue the child from other forces, in himself and his environment, which are pushing him toward delinquency (Crime Commission, 1967a:69).

Control of Delinquency

The essential preoccupation of the CSM was the definition and control of youthful deviance. The child savers went beyond mere humanitarian reforms of existing institutions. They brought attention to—and, in doing so invented—new categories of youthful misbehavior which had been hitherto unappreciated. They sought to extend governmental control, without the safeguards of due process, over a wide range of troublesome and dangerous behavior. The juvenile

court and reformatory systems were part of a general movement directed at removing adolescents from the criminal law process and creating special programs for "troublesome" children. The blurring of distinctions between "dependent" and "delinquent" juveniles and the corresponding elimination of due process served to make a social fact out of the norm of adolescent dependence (Platt, 1969). The unique character of the CSM was its concern for pre-delinquent offenders—"children who occupy the debatable ground between criminality and innocence"—and its claim that it could transform potential criminals into respectable citizens by training them in "habits of industry, self-control and obedience to law" (Illinois Board of State Commissioners of Public Charities, 1880:104). If children were to be rescued, it was important that the rescuers be free to pursue their mission without legal hindrance. "There is no essential difference," wrote the penal reformer Frederick Wines (1888:198), "between a criminal and any other sinner. The means and methods of restoration are the same for both."

Thus the CSM sought broad powers of intervention and control, and were for the most part not required to legally account for their actions or be held responsible for their mistakes. Moreover, the child savers were anti-libertarians in the sense that they believed in the maximum amount and benign character of governmental intervention; nor did they encourage independent action by adolescents. On the contrary, the child savers were prohibitionists, in the most general sense, who believed that social progress depended on efficient law enforcement, close supervision of children's leisure and recreation, and the regulation of illicit pleasures. "Delinquents" were depicted as in need of firm control and restraint if their reform was to be successful. One significant enterprise of the CSM, for example, was the creation of new custodial institutions where juveniles were subjected to severe personal and physical controls: military exercises, "training of the will," and long hours of tedious labor constituted the main program of "reform" in most reformatories (Platt, 1969: Chapter 3). Initiated from outside existing institutions, composed primarily of civic groups and private citizens, and enjoying a broad base of political and professional support, the CSM was capable of enormous influence over the official management of delinquency. The first juvenile court act, for example, was passed with the help of influential members of the judiciary, bar associations, elite civic and feminist organizations, state and private child-saving organizations, and politicians interested in "worthy" causes. The CSM was a far-reaching movement, its members active in such diverse issues as recreation,

education, labor, and religious activities, as well as in anti-delinquency programs (Platt, 1969: Chapter 5).

Opportunities for enterprising moral reformers are less and less feasible in an age of specialization and expertise. It is significant that the exclusion of amateurs and volunteers from decision-making positions was one of the first tasks undertaken by "professional" child-savers (Platt, 1969: 148). With the growth of large-scale, "human-service" and "people-changing" bureaucracies, the job of controlling delinquency has become an esoteric craft outside the competence and knowledge of ordinary citizens (Korn, 1964; Lubove, 1965; Martinson, 1966). Contemporary reforms in juvenile justice tend to be generated from within established systems by persons with special competence.[3]

Aware of the failure of the child-savers to reclaim thousands of urban youth, anti-delinquency specialists approach their task today with caution and modesty. Their goals are more likely to have their origins in the more pragmatic considerations of bureaucratic life—namely, a concern for efficiency, accountability, and special competence. This is reflected in a distaste for sloppy and uncraftsmanlike work, and a concern over faulty and irregular "production." But modern experts still seek ways of extending and innovating institutions and social arrangements for the control of delinquency.

The current preoccupation with controlling delinquency stems from preconceptions about the recalcitrant and unregulated nature of delinquent behavior. According to the Crime Commission (1967a:80), for example:

> Experts in the field agree that it is extremely difficult to develop successful methods for preventing serious delinquent acts through rehabilitative programs for the child. What research is making increasingly clear is that delinquency is not so much an act of individual deviancy as a pattern of behavior produced by a multitude of pervasive societal influences *well beyond the reach* of the actions of any judge, probation officer, correctional counselor, or psychiatrist (Italics added).

By all normal and reasonable standards, "delinquents" pose extraordinary problems for social control agencies. "Instead of turning out men and women who conform to the American norm at least overtly, at least enough to stay out of jail, the slums are producing the highest rates of crime, vice, and financial dependence" (Crime Commission, 1967a:59). "Delinquents" are less capable of controlling their anti-social impulses, have more to gain by committing criminal acts, and are consistently disrespectful to constituted authority. It is

especially this refusal to comply with the orders of authorities that is seen as the essence of "delinquency":

> Their [delinquents'] clear belligerence toward authority does indeed earn them the fearful deference of both adult and child, as well as the watchful suspicion of the neighborhood policeman (Crime Commission, 1967a:60).

> The discipline associated with the loose organization and female focus that characterize many inner-city families has also been related by social scientists to the development of what has been termed 'premature autonomy' and to consequent resentment of authority figures such as policemen and teachers (Crime Commission, 1967a:63).

> It has also been found that a disproportionately large number of aggressive delinquents have been denied the opportunity to express their feelings of dependence on their parents (Crime Commission, 1967a:64).

> It is much harder for the inner-city youth to find alternatives to a rebel role (Crime Commission, 1967a:67).

> Much youthful obstreperousness is best understood as a process of 'testing' those in authority and demonstrating—partly for the benefit of peers—one's toughness and masculinity (Crime Commission, 1967a:71).

> It is also important that schools learn to understand and control the child who arrives at school accustomed to autonomy and averse to assertions of authority (Crime Commission, 1967a:73).

With these considerations in mind, the Crime Commission (1967a:59) presents various recommendations for the "shoring up of socializing institutions in the slums." They focus primarily on the family, school, police, local community, and juvenile court. Since antagonism to authority and disrespect for the law accumulate over the years, the family assumes critical importance in the socialization process. "It is within the family that the child must learn to curb his desires and to accept rules that define the time, place, and circumstances under which highly personal needs may be satisfied in socially acceptable ways" (Crime Commission, 1967a:63). This kind of training is often seriously neglected in slum families due to absent parents, overly strict or overly permissive child-rearing practices, female-centered households, and low family status in the community. These attributes of lower-class families weaken the capacity of parents to maintain "moral authority" over the conduct of their children (Crime Commission, 1967a:64).

It is generally assumed that the resentment of "delinquents" for constituted authority has no basis in legitimate grievances but rather

reflects incomplete socialization. This conception is grounded in theories of abnormal psychology and learning theory which suggest that lower-class youths are not properly taught how to accept and respect authority because agencies of socialization operate imperfectly and with reduced effectiveness in "disorganized" neighborhoods. The result is that adolescents are thrust into delinquent activities which are typically "irrational," "pathological," "irresponsible," and often "non-utilitarian." Recent efforts to control these delinquent outbursts have focused on the juvenile court and the development of community-based programs of prevention.

Juvenile Court

Criticism of the juvenile court system has come from a variety of influential sources—state legislatures, the Supreme Court, and various crime commissions. Most of the critiques have been couched in constitutionalist arguments which direct attention to the fact that the juvenile court violates constitutional guarantees of due process and stigmatizes adolescents as "delinquents," thereby performing functions similar to those of the criminal courts. In recent years, this perspective has gained in authority and many states have passed new juvenile court acts which, *inter alia*, seek to safeguard individual rights.

The United States Supreme Court recognized the constitutional argument for the first time in 1967 when it delivered an opinion on the juvenile court in the *Gault Case*. The Court added clear procedural guidelines to its earlier statement in the *Kent Case* (1966) that the "admonition to function in a 'parental' relationship is not an invitation to procedural arbitrariness." Speaking for the majority in the *Gault Case* (1967:41), Justice Fortas held that juveniles are entitled to (1) timely notice of the specific charges against them; (2) notification of the right to be represented by counsel in proceedings which "may result in commitment to an institution in which the juvenile's freedom is curtailed;" (3) the right to confront and cross-examine complainants and other witnesses; and (4) adequate warning of the privilege against self-incrimination and the right to remain silent. The right to counsel is the fundamental issue in the *Gault Case* (1967:36) because exercise of the right is designed to assure procedural regularity and implementation of related principles:

> A proceeding where the issue is whether the child will be found to be 'delinquent' and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution. The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into facts, to insist upon the regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it.

The *Gault* decision followed shortly after the President's Crime Commission (1967a:87; 1967b:31,33) had made even stronger recommendations concerning the right to counsel:

> Counsel must be appointed where it can be shown that failure to do so would prejudice the rights of the person involved. . . . Nor does reason appear for the argument that counsel should be provided in some situations but not in others; in delinquency proceedings, for example, but not in neglect. Wherever coercive action is a possibility, the presence of counsel is imperative. . . . (W)hat is urgent and imperative is that counsel be provided in the juvenile courts at once and as a regular matter for all who cannot afford to retain their own. . . . Counsel should be appointed . . . without requiring any affirmative choice by child or parent.

The consequences of introducing lawyers into juvenile court has been discussed at length elsewhere (see Platt and Friedman, 1968; Platt et al., 1968; Lemert, 1967). I will limit my comments here to some general implications of the "constitutional domestication" of juvenile court.

Problems associated with judicial intervention in the lives of children have been noted for a considerable time. As long ago as 1870, a boy's father applied to the Illinois Supreme Court for a writ of habeas corpus on the grounds that his son had been committed without benefit of trial to an "infant penitentiary" and "a necessary evil, the neighborhood of which decent people desire to avoid." In ordering the release of the boy, Mr. Justice Thornton asked (People v. Turner, 1870):

> Can the State, as parens patriae, exceed the power of the natural parent, except in punishing crimes? These laws provide for the 'safe keeping' of the child: they direct his 'commitment' and only a 'ticket of leave' or the uncontrolled discretion of a board of guardians, will permit the imprisoned boy to breathe the pure air of heaven outside his prison walls. . . . Such a restraint upon natural liberty is tyranny and oppression. If, without crime, without the conviction of an offense, the children of the State are thus to be confined for the 'good of Society,' then Society had better be reduced to its original elements and free government acknowledged a failure. . . . The welfare and rights of the child are also to be considered. . . . Even criminals cannot be convicted and imprisoned without due process of law.

After the creation of the juvenile court in 1899, other "constitutional" criticism was occasionally heard. In an article in *The Annals*

in 1914 (145), Edward Lindsey observed that, despite the sonorous rhetoric of "socialized justice," there had been no effort to provide proper care and protection for children. "There is often a very real deprivation of liberty," said Lindsey, "nor is that fact changed by refusing to call it punishment or because the good of the child is stated to be the object." But it was not until the 1950's that social scientists, lawyers, and policy-makers focused their critical attention on the juvenile court. Following the pioneering studies of Paul Tappan, numerous articles appeared in professional journals and for the most part they espoused anxieties about the constitutional deficiencies of juvenile court. The Crime Commission's task force on "juvenile delinquency" reflected this concern by incorporating the point of view of such scholars as Aaron Cicourel, Sanford Kadish, David Matza, Edwin Lemert, Margaret Rosenheim, Carl Werthman, Francis Allen, Stanton Wheeler, Marvin Wolfgang, and Joel Handler. This critical perspective on the juvenile court system was further legitimized by the U.S. Supreme Court in the *Gault* decision.[4]

The response to constitutional arguments by professionals working in the juvenile justice system has changed considerably in recent years. In the late nineteenth century, child-saving organizations regarded efforts to impose due process requirements in the handling of juvenile offenders as an irresponsible and dangerous attempt to discredit and undermine their mission. Frederick Wines vigorously opposed the Illinois Supreme Court decision in 1870, for he felt that it "greatly injured the morale and utility" of reform schools and "cast an irremediable blight upon the inmates" (cited by Platt, 1969:104). Proponents of constitutional protections for children were rebuked for impeding the "systematic and adequate effort for the salvation of all children who are in need of savior" (Platt, 1969:136). With the creation of the juvenile court system in 1899, the CSM achieved successful implementation of its goals—comprehensive governmental control over "delinquent" offenders, access to "pre-delinquent" youth, indeterminate sentencing, and minimal judicial formality (Platt, 1969:137-145).

The DCM, on the other hand, has made every effort to formally comply with the *Gault* decision and to make the required organizational adjustments. Moreover, not only was the *Gault* decision anticipated by juvenile court professionals and administrators,[5] but it also complemented the ongoing reorganization of the system's priorities and procedures. As members of a judicial community, juvenile court judges (especially in metropolitan areas) welcomed the *Gault* decision as an opportunity to upgrade the professional status and competence

of their institution. There has been in recent years a gradual effort to relieve the juvenile court of some of its welfare functions, or at least to clearly distinguish its ajudicatory and "treatment" roles. According to the Crime Commission (1967a:85):

> [E]fforts to heal and help and treat, if they are to have any chance of success, must be based upon an accurate determination of the facts—the facts of the conduct that led to the filing of the petition and also the facts of the child's past conduct and relationships. The essential attributes of a judicial trial are the best guarantees our system has been able to devise for assuring reliable determination of fact.

The juvenile court system seems to be moving towards the following organizational and procedural changes: (1) Narrowing of jurisdiction to include only delinquency and neglect cases; (2) Restricting "delinquency" cases to acts that are considered a crime when committed by adults, with the exception of truancy and curfew; and (3) Implementing principles of due process in all formal, juvenile court hearings. These changes are aimed at specializing the juvenile court's operations as well as reducing its opportunities for "gratuitous coercive intrusions into the lives of children and families" (Crime Commission, 1967a:84). In this latter respect, today's policy-makers do not share the child savers' faith in the benevolence of government:

> The fact that the State's motives are beneficent and designed to provide what, at least in its view, the child and its parents need, should not be allowed to obscure the fact that in taking a child from its parents or placing him in an institution or even subjecting him to probation and supervision, the State is invoking its power to interfere with the lives of individuals as they choose to lead them (Crime Commission, 1967a:85).

Community Control

Having reduced the intake and authority of the juvenile court, a serious problem still remains: What is to be done about the multitude of "special needs of youths with special problems" who do not require the coercive authority of juvenile court (Crime Commission, 1967a:88)? If delinquency is growing at an "alarming rate" and if lower-class youth are especially vulnerable to disrupting influences, how is delinquency to be prevented and controlled without recourse to the courts? The answer lies in the development of informal agencies of social control.

In many important respects, this policy represents a return to child-saving principles, for it assumes that there is a large portion of

lower-class youths who need "help that is particularized enough to deal with their individualized needs but does not separate them for life." These adolescents pose special problems for social control agencies:

> They may already have delinquency records. They may be delinquent but not seriously so. They may be law-abiding but alienated and uncooperative in making use of education or employment or other opportunities. They may be behavior or academic problems at school, or misfits among their peers, or disruptive in recreation groups (Crime Commission, 1967a:88).

This position closely corresponds to the child-savers' concerns for "pre-delinquents" or "children who occupy the debatable ground between criminality and innocence." The DCM, however, does not share the child-savers' enthusiasm for removing adolescents from their home or for committing as many as possible to reformatories.

The Crime Commission proposed that Youth Services Bureaus (YSB) be established within local communities, primarily for the purpose of managing adolescents who are not "eligible" for juvenile court. It is intended that the YSB receive most of its referrals from the courts, police, schools. "The preference for nonjudicial disposition," writes the Crime Commission (1967b:16), "should be enunciated, publicized, and consistently espoused by the several social institutions responsible for controlling and preventing delinquency." Screening procedures in juvenile court will guarantee that the "more serious and intractable offenders" are formally prosecuted, while "marginal offenders" are exempt from "formal and authoritative surveillance." The police and schools are similarly encouraged to send routine and non-serious cases to the YSB.

The proposed YSB relies on extensive use of community-based agencies with a view to (1) protecting juveniles from the "stigma of being processed by an official agency regarded by the public as an arm of crime control," (2) involving local residents and their agencies in programs to suit community needs, and (3) providing opportunities to employ laymen and volunteers to "augment the ranks of full-time professional staff in the official agencies (Crime Commission, 1967b:19-20). The Crime Commission (1967b:19-20) assumes that it would take little effort to initiate and institutionalize such a program:

> The variety of programs already existing testifies to the abundance of creative ideas and the range of possible operational forms. A criterion essential for guiding community efforts is that services be local. . . . These [proposed] measures could be put into effect in the near future, with existing institutions and without major alteration of policy. . . . The neighborhood centers supported by the Office of Economic Opportunity and associated agencies, which now offer social welfare, legal aid, and medical care, among other services, do not appear presently to be making a sufficient impact on delinquency control but could serve as the basis for the necessary institutions.

It is clear, then, that proposals such as the YSB do not represent a radical change in current policies but rather reflect a concern for "coordinating" and "consolidating" existing operations. The concentration of services and specialists within a "comprehensive community center" is designed to facilitate the smooth functioning of the organization as well as to provide "troublemaking youths" with a wide variety of counselling, case-work, educational, and remedial services—"the compelling priority would be youth who have already demonstrated their inability to conform to minimal standards of behavior at home or in the community" (Crime Commission, 1967b:21).

The Crime Commission is not clear whether or not the YSB should have coercive powers. Having recommended a sharp reduction in the coercive authority of the juvenile court, the Commission is well aware of the dangers associated with investing "informal" agencies with coercive powers. On the other hand, practical and political realities dictate that "it may be necessary to vest the youth services bureau with authority to refer to court within a brief time—not more than sixty and preferably not more than thirty days—those with whom it cannot deal effectively" (Crime Commission, 1967b:21). This ambivalence with respect to the authority of YSB underlies current policy debates and is a fundamental issue in the DCM. It reflects a proposition which has always characterized anti-delinquency programs, namely that "delinquents" can only be successfully reformed if their "treatment" is backed up by the threat or use of force. It is especially important that "delinquents" be made to acknowledge and accept the moral authority of persons engaged in their reclamation (Platt, 1969:137-145).

Some Conclusions and a Critique

The preceding discussion has presented in an abbreviated form some current policy arguments with respect to the nature and control of delinquency. To summarize, these policy proposals proceed from the following assumptions: (1) The alarming increase in acts of delinquency suggests a formidable, but not uncontrollable, social

problem. (2) Lower-class youth, for the most part from "minorities," commit a disproportionately high percentage of all delinquent acts. (3) The basic causes of delinquency are to be found in poverty and slum life where there is little incentive to behave lawfully and illegitimate opportunities abound. (4) The more immediate causes of delinquency are to be found in the decline of the nuclear family as the primary institution of social control, the inability of the school to meet the needs of urban youth, and the intrinsic vulnerability of adolescents to social change and conflict. (5) Most delinquent behavior is characterized by a disrespect and resentment of constituted authority resulting from the inadequate socialization of lower-class youth. (6) Consequently, the prevention and control of delinquency largely requires measures to remedy deficiencies in the primary agencies of socialization—the family and school. (7) Official agencies of social control—the police and courts—should be relieved of their numerous informal duties with a view to concentrating their efforts on "serious" delinquency. (8) Locally-based, specialized, and informal agencies, using case-work techniques, should be established to supervise marginal offenders and adolescents who, if left unchecked, are likely to commit serious delinquencies in the future.

These "new" policy directions can best be understood as an inevitable development, and not a departure, from the programs of the child-savers. The assumptions of both movements are based on similar conceptions about the inherent dangerousness and malleability of lower-class youth. Both movements proceed from the premise that the solution to delinquency lies in creating more systematic and pervasive institutions of control, together with making conventional activities more attractive to youth. This argument can best be understood by examining some operational implications of recent proposals and by comparing them with programs of the CSM.

1. *Due Process in Juvenile Court*

Although the *New York Times* (5/16/67:1) greeted *Gault* as a landmark decision demanding "radical changes," it seems unlikely that the decision will generate anything more than a few modest alterations in existing arrangements for handling delinquents. Where the *Gault* decision may introduce some measure of due process into juvenile court, it also runs the risk of making juvenile court more orderly and efficient at the expense of substantive fairness. The "constitutional domestication" of the juvenile court will mean, *inter alia*, that the intake of delinquency cases will be sharply reduced but it is unlikely to have much impact on the mechanical expediency of

lower-court justice nor on the penal character of juvenile institutions. Furthermore, studies of defense lawyers in juvenile court suggest that the implementation of due process will fall far short of the ideal adversary system suggested by the Supreme Court. Lawyers in juvenile court bring to their job common sense notions about adolescence and "troublesome" behavior. Their views on youth and delinquency are really no different from those of other adult officials (teachers, social workers, youth officers, etc.) who are charged with regulating youthful behavior. Juveniles get the same kind of treatment in court that they get in school or at home, and lawyers accept this as one of the inevitable and appropriate consequences of adolescence (see Platt and Friedman, 1968; Platt et al., 1968; Lemert, 1967).

2. *Stigma and Delinquency*

Many of the recent polemics concerning the control of delinquency recognize the harmful and stigmatizing consequences of labeling adolescent misbehavior as "delinquency." The Crime Commission, for example, attempts to incorporate into their report the findings of sociological studies of face-to-face interaction between juveniles and public officials:

> The transformation of gang boys into official 'delinquents' by policemen, probation officers, and juvenile court judges is perhaps best looked at as an organizational rather than a legal process since the criteria used to contact, categorize, and dispose of the boys has often little to do with breaking the law itself (Werthman, 1967:166; see Cicourel, 1968).

Observing that delinquency is susceptible to aggravation by arbitrary or insensitive handling, the Commission urges teachers, police, and other persons in positions of authority to be sensitive to and guard against the misuse of power. The larger point implied in this argument has been made by and since the child-savers—namely, that every effort should be made to avoid fastening an "enduring stigma" on persons charged with crime, for this is likely to "perpetuate the evil of association" and drive them into disreputable subcultures (see Folks, 1891). The Youth Services Bureaus have been proposed, therefore, to protect most juveniles from the stigma of a formal judicial hearing, while reserving juvenile court for the "hardcore" cases (see Rosenheim, 1969).

There are two basic deficiencies in the reasoning of the Crime Commission. First, having properly observed that there is a tendency on the part of public officials to arbitrarily impose sanctions on adolescents without due process of law, the Crime Commission then

fails to provide adolescents with the channels and resources to redress grievances against police, teachers, etc. The police are exhorted to behave lawfully and professionally, and to demonstrate self-restraint in dealing with youth, but no provisions are suggested for holding the police and other public officials accountable for their unlawful actions. Since adolescents are especially vulnerable to official arbitrariness, it would seem necessary to establish special grievance procedures. The Crime Commission's trust in the benevolence of government is a traditional theme in anti-delinquency polemics, dating back to long before the child-saving movement.

Secondly, as Robert Emerson (1969:275) has observed, the juvenile court generally deals leniently with "marginal" delinquents and "consciously tries to avoid stigmatizing them." The new proposals, such as YSB, do not attempt to address the problem of stigmatization of "hardcore" delinquents who are most likely to suffer imprisonment. In other words, the juveniles who are likely to benefit from the YSB are those who routinely do *not* suffer from stigmatization. Furthermore, while it may be wise to protect juveniles from "degradation ceremonies" in juvenile court, it should be remembered that the law does not always have to be an instrument of degradation. According to Emerson (1969:275), for example:

> In part the juvenile court produces delinquents by validating the prior judgments and demands for action of local institutions encountering problems of control from troublesome youths. . . . From this perspective, the juvenile court not only labels delinquents, but it also *resists labeling* by refusing to validate complainant's judgments and to follow their proposed course of action. This suggests that the goal of minimizing court stigmatization requires not only limiting court jurisdiction and power by holding it to a doctrine of 'judicious non-intervention,' but also maximizing its power and inclination to resist and change established definitions and prescriptions about delinquents and their situations.

3. *Short-range Solutions*

Part of the problem with the child-saving movement was that its goals were far too visionary and impractical. The activities of the child-savers were essentially a "moral enterprise,"[6] for they hoped to strengthen and revitalize the moral fabric of society by rescuing those who were less fortunately placed in the social order. Prevention and control of delinquency was only part of a much larger effort to transform impoverished urban youth into respectable citizens. Although this mission dramatically failed, it nevertheless raised,

albeit implicitly, important questions about the distribution of power and class divisions in American society.

Contemporary reformers do not pay much attention to the larger questions of public policy raised by the child-savers. It is occasionally observed that delinquency will only be ultimately eliminated through the "provision of a real opportunity for everyone to participate in the legitimate activities that in our society lead to or constitute a good life: education, recreation, employment, family life" (Crime Commission, 1967a:88). This assumes that there is considerable consensus in our society about what constitutes a "good life," that lower-class youth resort to crime and delinquency in order to compensate for their inability to lawfully achieve the "good life," and that it is possible to achieve political and economic equality within the context of corporate capitalism. This is not the place to debate the serious deficiencies of these three assumptions but merely to point out that they are invariably taken for granted in contemporary polemics about delinquency.[7]

While acknowledging in a rhetorical fashion that political inequality, poverty and racism underlie much of the anti-social behavior, contemporary experts argue that, since there is little likelihood of far-reaching social changes, we should for the moment make every effort to rationalize and improve our methods of controlling delinquency. It is not surprising, therefore, that this perspective tends to encourage managerial and "methods-engineering" approaches, invariably representing an elitist ideology (Horowitz, 1967:353). Given a rhetorical commitment to long-range solutions, the Crime Commission then turns its serious attention to more immediate and pragmatic considerations, particularly focusing on ways of *extending control* over "hard-to-reach" youth and *devising new methods of control* within existing institutions. This perspective brings to mind the warning recently made in the Skolnick Report to the Violence Commission:

> We may suggest as a general rule that a society which must contemplate massive expenditures for social control is one which, virtually by definition, has not grappled with the necessity of massive social reform. There are various possible levels of social reform, ranging from merely token and symbolic amelioration of fundamental problems to significant changes in the allocation of resources—including political power. We feel that contemporary efforts at reform in this country remain largely at the first level. Precisely because society leaves untouched the basic problems, the cycle of hostility spirals:

> there is protest, violence, and increased commitment to social control; as we spiral in this direction, the 'need' for massive social control outstrips the capacity of democratic institutions to maintain both social order and democratic values. Little by little, we move toward an armed society which, while not clearly totalitarian, could no longer be called consensual (Skolnick, 1969:344).

4. *Community Control*

The child-savers believed that delinquents could only be fully salvaged if they were removed from their unhealthy environment and "re-socialized" in cottage-style institutions in the country (Platt, 1969:61-67). With the enormous growth in urban populations and the concentration of lower-class youth in urban slums, it soon became impossible to house and guard delinquents in the available penal facilities. Confronted by problems of overcrowding and "revolving-door" practices in institutions, the child-savers recognized the practical need to develop techniques of delinquency-control in the community. Settlement houses, probation, and other programs were developed to meet this need. For the child-savers, however, community programs were second-best to institutional programs and were tolerated as inevitable in an imperfect world.

Since the 1930's, the idea of community control of delinquency has predominated and the concept of institutionalization in the country has become defunct. This was partly determined by the fact that it would require vast financial resources for the building and staffing of literally thousands of institutions in order to meet the present needs of "delinquents." Few new institutions have been built in recent years and many of the older reformatories which were originally built in the country have become enveloped by suburbia.

The idea of community control is certainly not new to the Crime Commission and is perhaps most closely associated with the Chicago Area Project (Burgess et al., 1937:21-23) over thirty years ago:

> A fruitful program for the treatment and prevention of delinquency and crime must necessarily address itself to the community environment, the local social world in which the delinquent and the criminal have their genesis. The problem in realistic terms is one of achieving a new organization of life in these local deteriorated communities. . . . Since delinquency and crime appear in concentrated forms in particular districts in the city, these districts become the strategic points at which intensive effort should be made to cope with the problem. . . . Delinquency and crime in both their treatment and preventive aspects depend on developing within the local community, among the fathers and mothers of the district, resources and attitudes which will cope with the problem inside the home and neighborhood.

The sensitivity of the Chicago Area Project to the importance of respecting differences in cultural values and developing local leadership has unfortunately been lost in recent years. There is little indication that the "consumer" perspective, as envisioned by Edgar and Jean Cahn (1964:1317-1352), will influence the character of current programs for controlling delinquency. Despite the use of fashionable rhetoric—"local community," "decentralization," "community participation" etc.—the available evidence clearly suggests that the poor will be given only a token role in the organization and development of anti-delinquency programs. At best, they are consulted about their needs and given low-status jobs as "non-professionals." They are not given the resources and responsibility to manage their own programs.

Governmental programs for urban youth are even less likely to involve young people in the decision-making process. Thus, a modest program of job training in Chicago (Levin, 1968), which appointed local youth leaders to positions of administrative responsibility, was harassed by the police and discredited by a Senate investigation (Hearings before the Permanent Subcommittee on Investigations of the Committee on Governmental Operations, 1968). Rather than increasing opportunities for the exercise of legitimate power by adolescents, public agencies have opted for closer supervision as a means of decreasing opportunities for the exercise of illegitimate power (Marwell, 1966).

Most new policy proposals for controlling delinquency are derived from, or a modification of the poverty program. The possibilities for community involvement in the formulation and management of such programs is extremely limited, especially since the "maximum feasible participation" clause in the original legislation incurred enormous criticism from Congress, the President, and various influential Mayors. The more militant and adversary-minded community action programs were quickly destroyed by the withdrawal of funds, whereas those controlled by City Hall proved the most ineffectual (Moynihan, 1969:128-166). This resistance to placing the poor in positions of power and responsibility was for the most part based on political strategies. According to Daniel Moynihan's account (1969:143), President Johnson felt that community action programs were likely to "cause trouble for his friends rather than his enemies. He had no sympathy whatsoever for financing a conflict of the Democratic poor against the Democratic mayors of the nation."

Aside from political conflicts attendant on community action programs, there are other non-political arguments for excluding youth from decision-making positions. The primary argument, made since

the days of the CSM, is that lower-class youth are unfit to make mature decisions either by virtue of their premature independence or of their innocence. In both cases, they are unfit to make important decisions about their lives—the former because they have an unrealistic sense of self-importance and the latter because they need to be protected from their own unworldly immaturity. In many ways, this perspective merely reflects larger cultural attitudes about the special, dependent status of youth in our society (Musgrove, 1964). "Delinquents" require extraordinary measures of supervision, however, because they have demonstrated their inability to conform to the minimal expectations of adolescence, and to accept the authority of adults. This perhaps explains why so many anti-delinquency agencies are organized around recreational activities. Recreational programs make good sense given the assumption that the unattended activities of youth groups are inherently dangerous, and can be quickly transformed into anti-social behavior. Moreover, recreational programs confirm the view that adolescents are primarily interested in non-serious events, and that adolescence is a time for play and triviality.

It is widely recognized that most community programs for youth suffer from bad planning, poor resources, and inadequate personnel. It is difficult to see how proposals such as the Youth Services Bureaus will eliminate arbitrary and third-rate practices in agencies. This is not to suggest, as Ronald Leifer (1966) and others have implied, that there is a deliberate and concerted attempt on the part of the "helping" professions to invade and homogenize the lives of the poor. On the other hand, it is quite likely that the development of anti-delinquency agencies, as presently planned, will increase the possibility of arbitrary official action and will tend to consolidate, rather than change, the practices of established institutions. Moreover, we can not be reassured by Gerald Caplan's observation (1966:24) that the poor can "surely rely on the legal machinery of our democratic society" to redress grievances against the unlawful actions of officials. There is considerable evidence (see Carlin et al., 1966) to suggest that the poor, and especially the children of the poor, do not have the means or resources to wage successful legal action against bureaucrats, officials, or administrative agencies.

5. *Saving and Controlling Delinquent Youths*

Although it is true that current policy proposals represent a modification of the child-saving philosophy, it is also clear that they are likely to perpetuate similar elitist and tough-minded programs of social control. The following differences between the CSM and DCM are apparent. First, the DCM recognizes that solutions to delinquency must be found in the reorganization of urban life, and not in a mass movement to "cottage and country." Secondly, acknowledging the practical and therapeutic limitations of penal institutions, the DCM relies on community programs for the "re-socialization" of delinquents. Thirdly, the DCM seeks to limit the responsibility of the juvenile court to judicial issues rather than expand it into a "life-saving" institution.

These changes do not address fundamental problems concerning the political and institutional context of delinquency. They can best be understood as efforts to professionalize and bureaucratize the child-saving movement, to introduce rational management procedures, to remove private citizens from the affairs of specialists, and to provide new techniques for managing an increasingly recalcitrant and hostile youth population.

The child-savers had hoped to save delinquents by committing them to institutions in the country. Contemporary experts are devising new ways of bringing the prison to the community. Consistent with this outlook, the police and social control agencies are increasingly viewing themselves as the political and even military adversaries of lower-class youth. With the rise of youthful black militancy in recent years and the extensive participation of youth in urban riots, there has been a corresponding hardening of official anti-delinquency programs. Intelligence units are supplementing youth offices within police departments, and the police are developing elaborate counter-insurgency techniques to manage gangs (Lemert, 1967:32). The size of the gang intelligence unit in Chicago, for example, has been increased from 38 to 200 (*Chicago Tribune*, 11/8/69:4). The capacity of urban youth to reject or change the institutions which govern their lives has, if anything, been reduced, since some authorities feel that riots are unleased against the community" from high schools and the granting of concessions to students will only encourage further crime and disobedience (Momboisse, 1968).[8]

Correspondingly, many young persons are beginning to develop "primitive" political organizations (Hobsbawn, 1959), to raise questions about community control of the police and schools, and to appreciate that the juvenile justice system performs important functions of political and social control. It is clear that anti-delinquency strategies are incompatible with the new militancy of youth, for they are designed to maintain the dependent and powerless status of youth. Radical changes in programs of delinquency control are only likely to occur if urban youth develop a consciousness and organizations which challenge the political assumptions of their dependency.

FOOTNOTES

1. Research for this paper was supported by the Center for Studies in Criminal Justice, University of Chicago. I am grateful to Elliott Currie and Sheldon Messinger for their critical comments on an earlier draft.

2. This does not imply that I consider the Crime Commission's policies to be the most ideal. Nevertheless, it is clear that critics of the Crime Commission do not represent the mainstream of academic and official thought.

3. For an argument against this proposition see Edwin M. Lemert, "Legislative Change in the Juvenile Court" 1967 Wisconsin Law Review:421-448.

4. As Albert Cohen has observed, this does not suggest that the Supreme Court was influenced only by a mass of scholarly research, for the "same opinion could have been written at least fifteen years ago with documentation somewhat less voluminous but hardly less cogent.... The correct inference would be, rather, that what has changed in the last few years are the values and interests to which the court is responsive, that that research data and scientific opinion are invoked because, they take on, in the light of these changes, new relevance and meaning." An Evaluation of Gault by a Sociologist" 43 Indiana Law Journal, 614 (1968).

5. In the early 1960's New York, California, and Illinois passed new juvenile codes acts which, according to juvenile court administrators from these states, anticipated the Gault decision. New York introduced legal counsel to the family court through the "law guardians' system in 1962 and the Public Defender's Office in Chicago assigned a full-time lawyer to juvenile court in early 1966.

6. This term is used and analysed by Howard S. Becker, The Outsiders. New York: Free Press.

7. This issue is treated fully in a forthcoming book by Herman and Julia Schwendinger.

8. Pertinent here is Lee Rainwater's comment (1967) that the "proliferation of policeman in schools, of schools specially for 'incorrigible' children and the like, testify to the prison-like functions that undergird the educational rhetoric and increasingly call into question the natural ideology that 'education cures all ills'."

REFERENCES

Burgess, Ernest, Joseph D. Loman and Clifford R. Shaw
1937 "The Chicago Area Project." Yearbook of the National Probation Association:21-23.

Cahn, Edgar S. and Jean C.
1964 "The War on Poverty: A Civilian Perspective." Yale Law Journal 73:1317-1352.

Caplan, Gerald
1966 "Some Comments on 'Community Psychiatry and Social Power'." Social Problems 14 (Summer):16-22.

Carlin, Jerome E., Jan Howard and Sheldon Messinger
1966 "Civil Justice and the Poor." Law and Society Review 1 (November):9-89.

Chicago Tribune
1969 November 8:4.

Cicourel, Aaron
1968 The Social Organization of Juvenile Justice. New York: John Wiley.

Cooley, Charles H.
1896 "Nature v. Nurture in the Making of Social Careers." National Conference of Charities and Corrections, Proceedings:399-405.

Emerson, Robert M.
1969 Judging Delinquents. Chicago: Aldine Press.

Folks, Homer
1891 "The Care of Delinquent Children." National Conference of Charities and Corrections, Proceedings:137-139.

Hearings before the Permanent Subcommittee on Investigations of the Committee on Governmental Operations, United States Senate. Riots, Civil and Criminal Disorders. (June 28th, July 1st. and 2nd.) Washington D.C.: U.S. Government Printing Office. 1968.

Hobsbawn, E. J.
1959 Primitive Rebels. New York: W. W. Norton and Co.

Horowitz, Irving L.
1967 "Social Science and Public Policy: Implications of Modern Research." in Horowitz, ed. The Rise and Fall of Project Camelot. Cambridge: M.I.T. Press.

Illinois Board of State Commissioners of Public Charities
1880 Sixth Biennial Report. Sprinfield: H. W. Rokker.

Korn, Richard
1964 "The Private Citizen, the Social Expert and The Social Problem: An Excursion through an Unacknowledged Utopia." Rosenberg, Bernard; Israel Gerver and F. William Howton, eds. Mass Society in Crisis. New York: MacMillan.

Leifer, Ronald
1966 "Community Psychiatry and Social Power." Social Problems 14 (Summer):24.

Lemert, Edwin
1967 "Juvenile Justice—Quest and Reality." Transaction 4:32.

Levin, Robert A.
1963 "Gang-busting in Chicago." New Republic. (June 1):16-18.

Lindsey, Edward
1914 "The Juvenile Court Movements from a Lawyer's Standpoint." Annals of the American Academy of Political and Social Science:145.

Lubove, Roy
1965 The Professional Altruist—the Emergence of Social Work as a Career, 1880-1930. Harvard: Harvard University Press.

Marwell, Gerald
1966 "Adolescent Powerlessness and Delinquent Behaviour." Social Problems 14 (Summer):35-47.

Mills, C. Wright
1964 "The Professional Ideology of Social Pathologists." Bernard Rosenberg, Israel Gerver and F. William Howton eds. Mass Society in Crisis. New York: MacMillan.

Momboisse, Ray
1968 Riot and Civil Emergency Guide for City and County Officials. Sacramento, California:MSM Enterprises.

Moynihan, Daniel P.
1969 Maximum Feasible Misunderstanding. New York: Free Press.

Musgrove, Frank
1964 Youth and Social Order. London: Routledge and Kegan Paul.

New York Times
1967 May 16:1.

Platt, Anthony M.
1969 The Child Savers: The Invention of Delinquency. University of Chicago. University of Chicago Press.

Platt, Anthony M., and Ruth Friedman
1968 "The Limits of Advocacy: Occupational Hazards in Juvenile Court." Pennsylvania Law Review 116:1156-1184.

Platt, Anthony M., Howard Schechter and Phyllis Tiffany
1968 "In Defense of Youth: A Case Study of the Public Defender in Juvenile Court." Indiana Law Journal 43:619-640.

President's Commission on Law Enforcement and Administration of Justice.
1967a The Challenge of Crime in a Free Society. Washington D.C.: U.S. Government Printing Office.
1967b Task Force Report; Juvenile Delinquency and Youth Crime. Washington D.C.: U.S. Government Printing Office.

Rainwater, Lee
1967 "The Revolt of the Dirty Workers." Transaction 2(November)1967:2.

Rosenheim, Margaret K.
1969 "Youth Service Bureaus: A Concept in Search of Definition," Juvenile Court Journal 20:69-74.
Unpublished "Youth Service Bureaus: A Concept in Search of Definition."

Skolnick, Jerome H.
1969 The Politics of Protest. New York: Ballantine Books.

Werthman, Carl
1967 "The Function of Social Definitions in the Development of Delinquent Careers." Task Force Report, Juvenile Delinquency and Youth Crime, part of President's Commission on Law Enforcement and the Administration of Justice. Washington D.C. : U.S. Government Printing Office.

Wines, Frederick H.
1880 "Reformation as an End in Prison Discipline." National Conference of Charities and Correction, Proceedings:198.

Cases cited.

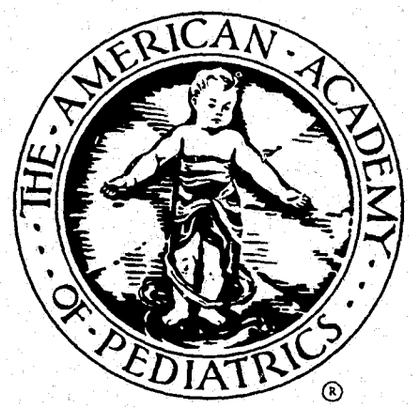
In re Gault 387 U.S. 1, 41, (1967)

Kent v. United States, 388 U.S. 541, 555 (1966)

People v. Turner, 55 Illinois 280, (1870)

APPENDIX No. 13

Health Standards for Juvenile Court Residential Facilities



AMERICAN ACADEMY OF PEDIATRICS
Committee on Youth

HEALTH CARE FOR JUVENILE DELINQUENTS

PEDIATRICIANS have long interested themselves in the health of juvenile delinquents. The Academy first appointed a Committee on Juvenile Delinquency in 1955. Although this Committee has changed its title to the Committee on Youth and has expanded its role to include other problems and concerns of young people, it still concerns itself with the health supervision of youth in detention facilities. It has now developed, with the endorsement of the National Council of Juvenile Court Judges, written standards for health care provided in juvenile court institutions.[1]

Juvenile delinquents come largely from low income families, and often from families with serious social problems. Children from these groups generally receive only episodic health care.[2] As adolescents, many suffer from serious, untreated, health problems.[3,4] Institutions which assume custody of these adolescents often find that they need extensive health care.

Many groups have taken an interest in the health programs of detention centers and training schools; but, until recently, few or no data existed to show the kind and quality of health care provided to institutionalized delinquents. In 1971, following several local surveys made by Academy chapters, the Committee on Youth of the Academy authorized a nationwide sample survey of health care in custodial institutions for juvenile delinquents.[5] With the cooperation of the Academy, it became possible to recruit volunteer physicians to make site visits to each institution in the sample, and thus to have professional opinions not only of the types of care given, but of the quality.

Contrary to what many expected, the survey revealed no shocking evidence of widespread neglect. Four out of five institutionalized delinquents receive health care that the observers judged "good" or "excellent." Large institutions generally have good quality programs, although many of the small institutions containing only a score or so of delinquents do not.

Despite these findings, few of the programs offer truly comprehensive services. The programs emphasize examination and treatment of illness, but they usually neglect other aspects of health care. For instance, many institutions fail to make provision for continued care when a child goes home, and others provide follow-up of health problems by overworked probation officers rather than by proper health personnel.

These findings raise a fundamental question: who defines the extent of a health program? In all too many instances the administrators of institutions expect a physician to do this, while the physician, who sees his task as rendering medical care, leaves organizational tasks to the administrator. To determine the overall extent and policies of a health program, the new standards suggest a council composed of health and administrative personnel. Whether or not an institution has such a council, the leadership in developing more comprehensive health care should come from physicians. Many superintendents of institutions included in the sample survey not only welcomed the surveyors, but also requested additional help and consultation. The new standards can guide physicians who give them this help.

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REFERENCES

1. Committee on Youth, American Academy of Pediatrics. Health Standards for Juvenile Court Residential Facilities. PEDIATRICS, 52: 452, 1973.
2. Deisher, R. W., and O'Leary, J. F.: Early medical care of delinquent children. PEDIATRICS, 25:329, 1960.
3. Eisner, V., Goodlett, C. B., and Driver, M. B.: Health of enrollees in neighborhood youth corps. PEDIATRICS, 38:40, 1966.
4. Deisher, R. W., Hammar, S. F., Ramsey, O., Gode, R., and Seligman, F.: Physical, intellectual and educational characteristics of a sample of job corps trainees. PEDIATRICS, 40: 603, 1967.
5. Eisner, V., and Sholtz, R. I.: National survey of health care in institutions for delinquents. In Meyer, R., ed.: Who Cares for the Adolescent, ed. 2. Comm. Ped. Soc., 1973.

AMERICAN ACADEMY OF PEDIATRICS
COMMITTEE ON YOUTH

HEALTH STANDARDS FOR JUVENILE COURT RESIDENTIAL FACILITIES*†

Young people who find themselves in juvenile court facilities constitute a group who traditionally have displayed a high incidence of health problems. Many have had inadequate care in the past, and enter with preexisting medical and dental conditions. Whether or not they are in good physical health, they often are handicapped in the area of mental health. The conditions which necessitate removing them from their homes and placing them in institutions may aggravate, or even cause, physical and mental health problems.

When society undertakes to remove children and youth from their homes and place them in institutions away from the care of their parents, it assumes certain obligations. Among these obligations is care of their physical and mental health.

Health programs in juvenile court facilities must be broad and comprehensive and must go beyond the mere provision of medical care. The extent of the health care which should be offered to an individual will depend on the length of time he is in the institution. But, every institution which confines juveniles should have a health program designed to protect and promote the physical and mental well-being of residents, to discover those in need of short-term or long-term medical and dental treatment, and to contribute to their rehabilitation by appropriate diagnosis and treatment and provision of continuity of care following release.

The standards given here are designed to attain these goals.

ADMINISTRATIVE STRUCTURE OF THE HEALTH PROGRAM

Health Council

1. Each institution should have a multidisciplinary health council to set the policies of the health program.

2. The council may be organized within the institution or by the authority which operates the institution.

3. The following persons should be members of the council of every institution: (a) the superintendent of the institution, (b) a physician who cares for the residents of the institution, and (c) one or more mental health workers (a psychiatrist, psychiatric social worker, or child psychologist) with experience with children and adolescents in a residential psychiatric treatment facility.

4. The following persons, if available, may be members of the council: (a) a nurse working within the institution, (b) a dentist who treats residents of the institution, (c) an educator who teaches residents of the institution, (d) a dietitian working within the institution, and (e) a vocational counselor.

5. Other persons may also be members of the council, depending on circumstances. For example, if feasible, one or two young people who are residents of the institution should be members.

6. The council should meet regularly to consider all matters concerning the physical and mental health of children in the institution. It should establish policies and operating procedures, direct the activities of health programs in the institution, oversee the maintenance of high standards of health care, and recommend necessary changes to appropriate authorities.

Technical Advice

When appropriate, the health council should seek advice either from technical

*This statement has been approved and endorsed by the Academy's Council on Child Health and has been endorsed in principle by the National Council of Juvenile Court Judges.
†Detention centers, training schools, and similar residential facilities.

advisory committees consisting of suitable professionals and other experts in the community, or from a list of experts (e.g., in communicable disease or drug abuse) who could be called on to consult with the health council as needed.

Operation of the Health Program

1. One full-time or part-time person should direct the health program and carry out policies set by the health council. This person should have administrative responsibility for medical, dental, nursing, and mental health personnel. The health program administrator and his staff should not be required to implement the custodial or security functions of the institution.

2. The director of the health program should designate a physician to: (a) approve all standing instructions for medical care and instructions stating when a physician or nurse should be consulted, and (b) approve all supplies of medications kept within the institution and regulations for their use.

Responsibilities Toward Patients

1. In most instances the court will have legal authority to approve medical care for residents. In addition, the principles of rendering medical care with due regard for the dignity of the patient require appropriate permission to be obtained for the performance of medical and dental procedures. Preferably, an attempt should be made to obtain this permission from the child's parents. However, permission for dental procedures and permission for rectal and pelvic examinations, when indicated, should also be sought from the child.

2. Medical and dental records should be kept for each child remaining overnight or longer in the institution. A written record should be kept of the administrative inspection of the condition of each child at entry (see discussion of Admission Inspection).

3. Access to medical and dental records should be restricted to persons caring for the health needs of the patient.

4. Medical and dental records should be reviewed prior to each child's discharge. Procedures should be established for ensuring the continuation and completion of treatment begun in the institution and for correcting health problems discovered in the institution, whether the child returns home or is transferred to another institution.

5. Health conditions which might affect behavior, such as epilepsy or diabetes, should be reported to appropriate authorities in a manner compatible with medical ethics and the rights of the patient.

6. All medical and dental care should be rendered with consideration of the patient's dignity and feelings. Medical procedures should be performed in privacy—with a chaperone present when indicated—and in a manner designed to encourage the patient's subsequent utilization of appropriate medical, dental, and other health services.

Review Procedures

1. All complaints against the institution, from any source, should be routinely screened by the health council or a designated member of the council to determine if they imply a deficiency in the physical or mental health program of the institution.

2. The health council should investigate and take appropriate action for all claims of deficiencies in the physical or mental health program of the institution, and should inspect and review all aspects of the program as required to maintain quality standards.

3. Written policies should require a formal case review by qualified professionals of any death within the institution and other events and conditions which may be specified by the health council.

HEALTH SERVICES

Admission Inspection

1. An initial inspection by the admitting staff officer should be part of the admitting procedure. It should include: (a) state of consciousness (drowsiness, disorientation, and so forth); (b) state of gross motor function (severe depression, severe hyperactivity, difficulty in coordination, and so forth); (c) fever or other signs of illness; and (d) apparent injuries.

2. Written standing orders should define conditions appearing at the initial inspection which require prompt medical or nursing attention.

Health Assessment

All children should undergo a health assessment at the first possible opportunity after initial admission to the institution. Exceptions should only be made for children admitted with a written record of an adequate assessment done elsewhere if this assessment was recent enough that no substantial change would be expected.

Content of Health Assessment

Medical History

1. Sufficient time should be allowed to obtain an adequate history of the child's past illnesses and treatment, and of any health problems that are known or suspected. The history should include appropriate behavioral, family, and social information, including such items as source and type of routine medical and dental care, school performance, exposure to venereal disease, and need for contraceptive information.

2. If possible, the medical history should be obtained from a parent or other adult with whom the juvenile customarily lives, in addition to a history from the juvenile himself.

3. Information about the child should be requested from his source of routine medical care, if one exists.

4. The medical history may be obtained by a physician, a nurse, a physician's assistant, or a suitably trained health aide who has no duties in the implementation of custodial or security functions of the institution.

Physical Examination

1. A physical examination should be performed as part of the health assessment of all residents within 24 hours of initial admission to the institution.

2. The examination should include a search for signs of communicable disease, including venereal disease in all exposed juveniles; for any correctable health defects; and for any signs of medical conditions (such as neurological disease or drug abuse) which might influence behavior. A dental inspection to identify children in need of emergency dental care should be included.

3. The physical examination should be performed by a physician or a physician's assistant.

Screening Procedures

1. All children should be screened at admission for vision and hearing defects, immunization status, tuberculosis, and such other conditions as the health council or its advisory committee may recommend.

2. All sexually active juveniles should be screened for venereal disease.

Dental Assessment

1. In addition to the dental inspection performed as part of the physical examination, assessments should be performed by a dentist on all resident children, and a plan should be made for correction of dental defects.

2. The dental assessment should include examination of each tooth, bite-wing x-rays on all children, and periapical x-rays where indicated. If available, a panographic x-ray may be substituted for the bite-wing and periapical films.

3. The dental assessment should classify children according to the priority of their treatment needs. The following priorities are suggested: (a) Individuals requiring emergency dental treatment for such conditions as injuries, acute oral infections (e.g., periodontal and periapical abscesses, Vincent's infection, acute gingivitis, acute stomatitis, and painful conditions. (b) Individuals requiring early treatment including extensive or advanced caries, extensive or advanced periodontal disease, chronic pulpal or apical periodontal disease, heavy calculus, chronic oral infection, surgical procedures required for removal of one or more teeth, and other surgical procedures

not included in priority a, insufficient number of teeth for mastication, restorations for cosmetic reasons as part of rehabilitative treatment. (c) Individuals requiring treatment, but not of an urgent nature, for such conditions as moderate calculus, prosthetic cases not included in priority b, caries (not extensive or advanced), periodontal diseases (not extensive or advanced), other oral conditions requiring corrective or preventive measures. (d) Individuals apparently requiring no dental treatment related to the type of examination or inspection performed.

Correction of Health Defects

1. All institutions should undertake correction of health problems identified at entry to the institution.

2. Health defects should be corrected wherever possible without cost to the child or his family, either within the institution or at suitable facilities in the community.

3. Arrangements should be made in the community for ready access to all types of health care not available within the institution, including outpatient and inpatient care, diagnostic facilities, specialist consultation, and pharmacy.

4. Referral should be made to health care facilities in other institutions or to a source of regular health care whenever a child is discharged from the institution in the course of treatment for any health problem. Following release, appropriate health records, including x-rays, should be transferred as confidential documents to the new source of health care.

Care of Illness and Emergencies

1. All institutions should provide for routine care of illnesses. They should make provision within or outside of the institution for care of emergencies, including dental emergencies, arising within the institution at any hour of the day or night. Written procedures should specify these emergency provisions.

2. Illness and emergency care may be provided within or outside the institution; but, if outside, the source must be readily accessible.

3. Care of illnesses and emergencies must include all applicable types of health care either at the point of primary care or by referral. These should include outpatient and inpatient care, diagnostic facilities, specialist consultation, and pharmacy.

4. Care of illness should be provided daily, at a time and place known and accessible to all the residents of the institution.

5. Routine provisions should be made for serious or common problems, including drug toxicity and withdrawal, pregnancy, venereal disease, suicide threats and other emotional problems, and learning disabilities.

Dental Care

1. All institutions should make provision for care of dental emergencies arising at any time of the day or night.

2. Preventive dentistry should include at least plaque control, fluoride treatment and counseling.

3. All institutions should undertake dental treatment and restoration using the priorities given in point 3 of Dental Assessment. When children do not remain in the institution long enough for proper treatment to be accomplished, the institution should make appropriate referrals for the treatment to be done elsewhere and arrange for transfer of appropriate records including x-rays.

4. The extent of restorative dentistry provided by an institution should be determined by the health council; however, it should include, as a minimum, the restoration of adequate masticatory function. When feasible, quadrant dentistry is the optimal method.

HEALTH PROTECTION

The health council and the director of the health program should make themselves responsible to ensure the following minimal standards of a healthy institutional environment.

Health Service Facilities

1. Facilities for health services within the institution should meet standards for equivalent types of care given in the community. If direct care of illness is provided within the institution, the following standards should be met: (a) A primary physician should be present at each session. (b) A registered nurse should be present at each session. Licensed vocational nurses may be used for general nursing duties under the supervision of a registered nurse. (c) The following laboratory studies must be obtainable on the premises or by immediate referral: hemoglobin and/or hematocrit; WBC or differential; urinalysis, chemical and microscopic; serology drawing; microscopic studies of exudates and scrapings (e.g., gonococcus and trichomonas); culture (by transfer media where necessary) of gonococcus and other common pathogens; urinalysis for narcotics. (d) The following procedures, although desirable on the premises, may be obtained by referral: x-ray, blood chemistry, hematology.

2. Preventive medical services such as immunization and contraceptive service should be available on the premises or by referral.

3. All health service facilities should have the following: (a) sufficient light, heating, cooling, water, and toilet facilities; (b) privacy for patient interviews with nurse, physician, or other personnel; (c) privacy of examination should be ensured; (d) if there is one physician, there should be at least two examining rooms, with hand-washing facilities; if there are two physicians, there should be at least three examining rooms.

Dental Facilities

1. A dentist should be available for emergencies.

2. A hygienist is optional for dental hygiene and dental health education.

3. If dental care is provided on the premises, facilities must include operatory with equipment designed for four-handed, sit-down dentistry.

Physical Environment of Institution

1. Adequate space should be provided for each resident.[1,2]

2. Adequate ventilation should be provided for the number of people within a building.[1,2]

3. Residents should be separated appropriately by sex, age, and the type of problem they present.

4. There should be sufficient facilities to maintain cleanliness of residents, their clothing, and their bedding.

5. Precautions should be taken to protect children against sexual assault, against violence by other residents or by themselves, and against physical or emotional injury.

6. Food should be nutritious and attractively served.

7. A dietitian should be on the staff of each institution, or available and used for regular consultation. An outside consultation should include the dietitian's presence during at least one complete meal cycle.

Mental Health Aspects of Environment

1. Recreation: (a) An adequate recreation program should be available for each child. (b) The program should include both gross motor and sedentary activities of various kinds each day.

2. Education: (a) There should be an educational program in each institution making appropriate use of community facilities. It should include the following, where appropriate: general education, compensatory and remedial education, vocational education, and vocational referral and placement services. (b) Children in institutions should receive the same education as those who live in the community. For those unable to profit from standard educational programs—whose mental and emotional problems necessitate modification of the educational program—education programs should operate a minimum of two hours a day, three times a week.

3. All institutions should have consultants in mental health (psychiatrists, psychiatric social workers, or psychologists) with experience with children and adoles-

cents in a residential psychiatric treatment facility. In addition to serving on the health council, the consultants should be used for (a) emergency consultation, and (b) in-service training.

4. All institutions should have on the premises, or by referral, facilities for diagnosis and individual and group treatment of children with mental health problems in accordance with recent court rulings recognizing the right of children to appropriate treatment.

5. Behavior control measures used within the institution should be reviewed at regular intervals by mental health consultants.

Health Education

All institutions with education programs should provide health education. The subjects to be covered should include nutrition, alcohol and drug abuse, communicable disease (including venereal disease), dental health, and sex education (including contraception).

Employees

1. All personnel employed within institutions should meet health standards similar to those required for school personnel.[3]

2. All food handlers should meet appropriate state and local requirements.

REFERENCES

1. Program Area Committee on Housing and Health, Housing: Basic Health Principles and Recommended Ordinance. Part I: Basic Health Principles of Housing and Its Environment. Part II: APHA-PHS Recommended Housing Maintenance and Occupancy Ordinance. Washington, D.C.: American Public Health Association, 1971.
2. Uniform Building Code, Vol. 1. Pasadena, California: International Conference of Building Officials, 1970.
3. Committee on School Health: School Health: A Guide for Physicians. Evanston, Illinois: American Academy of Pediatrics, pp. 151-158, 1972.

(See also the commentary on page 434, this issue.)

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APPENDIX NO. 14

Crime and Delinquency, NCCD October 1971

Physical Challenge as a Treatment for Delinquency*

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A study was conducted to determine whether a program of severe physical challenge can be more effective than a traditional training school experience in reducing further delinquency by adolescent boys adjudicated delinquent. Effectiveness was measured by comparing the recidivism rates between two matched groups. An experimental group (N=60) attended Outward Bound schools while a comparison group (N=60) was treated in a routine manner by the Massachusetts Division of Youth Service. One year after parole, the recidivism rates for the two groups were compared. Only 20 per cent of the experimental group recidivated, as opposed to 42 per cent of the comparison group. Background variables such as age of first court appearance, presence of both parents in the home, first institutionalization, and type of offense were important conditions affecting recidivism. The results suggest that for some delinquents a program such as Outward Bound, which presents a severe physical challenge, is a desirable alternative to traditional institutional care and should be considered as a model for improving current correctional programs. It appears that those delinquents who are responding to an adolescent crisis rather than to a character defect would profit most from such a program.

THE FIRST OUTWARD BOUND SCHOOL was established in 1941 in Aberdovey, Wales, to train merchant seamen for survival during the battle of the Atlantic. An assumption underlying the program is that rather than merely telling a young man he is

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capable of more than he thinks he can do, one must devise a set of circumstances whereby the youth can demonstrate this competence to himself. To accomplish this goal, Outward Bound exposes adolescents to severe physical challenge and pushes individuals to their physical limit.

At the time of this study, there were three Outward Bound schools in the United States. Each school adapts a 26-day program according to its own physical environment—mountains, sea, or forest. All stress (1) physical conditioning, such as running, hiking, swimming; (2) technical training, such as the use of specialized tools and equipment, camping, cooking, map reading, navigation, lifesaving, drown-proofing, and solo survival; (3) safety training; and (4) team training, such as rescue techniques, evacuation exercises, and fire fighting. The participants in each course are divided into eight patrols of twelve boys each. Each patrol is supervised by one or more trained instructors.

Since 1964 the Massachusetts Division of Youth Service and Outward Bound Schools, Inc., have collaborated in an effort to reduce recidivism in adjudicated adolescent delinquents. In the summers of 1964 and 1965, delinquent boys from the Division of Youth Service attended Outward Bound schools in Colorado, Minnesota, and Maine. Since these boys had a relatively low recidivism rate after returning from the program, further research seemed appropriate. A demonstration project was designed to systematically examine the effect of Outward Bound on adolescent delinquents. Its purpose was to determine whether Outward Bound was more effective in reducing recidivism in adjudicated delinquent adolescent boys than current correctional practice. Also, the study examined the relative effectiveness of the different Outward Bound schools to observe which elements in Outward Bound are the most useful change agents. Effectiveness was measured by comparing recidivism rates in two matched groups of adolescent delinquent boys. One group attended Outward Bound, while the other was handled in a routine manner by juvenile correctional authorities. Recidivism, here defined as a return to a juvenile institution or commitment to an adult institution for a new offense within one year after parole, was determined from a review of the Division of Youth Service files and those of the Massachusetts Commission on Probation, where all juvenile and adult court appearances in Massachusetts are recorded.

Participating Agencies

The Colorado Outward Bound School is located on the western slopes of the Rocky Mountains at an altitude of 8,800 feet. The course involves mountain walking, high-altitude camping, rock climbing, and rappelling (descending a sheer cliff by means of two ropes wrapped around the body). Each patrol climbs at least one of the 14,000-foot peaks in the area. As a climax, unsupervised groups of three or four boys cover sixty to ninety miles of unfamiliar terrain in three days.

The Minnesota Outward Bound School is located in the Superior National Forest near Ely, Minn., on the edge of the Superior Quetico Wilderness. Participants are trained at the main camp for twelve days and then leave on a two-week, 200-mile canoe expedition. Selected readings, films, and discussions related to the students' experiences are presented upon their return from the expedition.

The Hurricane Island Outward Bound School is located ten miles off the coast of Maine at the entrance of Penobscot Bay. More than half the program involves training in seamanship and navigation. The course climax is a five-day cruise in thirty-foot whaleboats. Each group of twelve boys must live together in these small open boats without an instructor.

The three participating institutions of the Division of Youth Services were the Reception Center for Boys, which is the receiving and diagnostic unit; the Lyman School for Boys; and the Industrial School for Boys. Lyman and ISB are the training school facilities in Massachusetts to which adolescent male delinquents are assigned.

Subjects

The subjects for this study were 120 adolescent delinquents. Only boys who were 15½ to 17 years of age, in good health and without any severe physical disability or severe psychopathology, and who had a minimum IQ of 75 and no history of violent assaultive or sexual offenses were eligible for selection. Eligibility also depended on a willingness to participate if selected.

Sixty subjects from the Reception Center and sixty from the Lyman School for Boys and the Industrial School for Boys were selected. The experimental group, consisting of thirty boys from the Reception Center and thirty boys from the two institutions, attended Outward Bound. The remaining sixty subjects, identified as the comparison group, were handled in a routine manner, some being institutionalized and some immediately paroled.

The experimental and comparison groups were matched on the basis of the following variables: age at time of selection for the study, IQ, race, religion, offense for which committed, area of residence, and number of prior commitments to the Division of Youth Service. With respect to these variables, the two groups corresponded not only to each other but also to the contemporaneous population of adolescent males in the custody of the Division of Youth Service.[1]

Procedure

Experimental group subjects from the reception center were sent directly to Outward Bound and were paroled immediately upon completion of the course. Subjects selected from the training schools included boys who were institutionalized for the first time, as well as recidivists.

The complete social histories for all subjects were reviewed and developmental, medical, familial, educational, and delinquent background data were recorded. The information served as the basis for the initial matching of the experimental and comparison groups.

Three psychologists served as participant observers.[2] One observer attended at least one course at each of the three Outward Bound schools. The observer's function was to participate in and observe the program and to record his impressions of the course and its impact on the participants.

[1] "Annual Report of the Division of Youth Service," Massachusetts Division of Youth Service, Boston, 1965.

[2] The detailed reports of these observers are included in Francis J. Kelly and Daniel J. Baer, *Outward Bound: An Alternative to Institutionalization* (Boston, Mass.: Fandel Press, 1968), pp. 95-174.

Recidivism

Table 1 summarizes the incidence of recidivism in the experimental and comparison groups. The 20 per cent recidivism rate of the experimental group is half that of the expected rate (40 per cent) for boys of this age committed to the Division of Youth Service. On the other hand, the 42 per cent recidivism found in the comparison group is consistent with the base expectancy rate. On a chi-square test of independence, the significant result ($\chi^2 = 5.80$, $p < .01$, one-tail hypothesis) supports the expectation that Outward Bound is more effective in reducing recidivism in adolescent delinquent boys than routine management in public institutions.

TABLE 1
RECIDIVISM RATES FOR EXPERIMENTAL AND COMPARISON GROUPS

	Experimental	Comparison
Recidivists	12 (20%)	25 (42%)
Nonrecidivists	48 (80%)	35 (58%)
Total	60 (100%)	60 (100%)

Chi-square = 5.80, df = 1 ($p < .01$, one-tail hypothesis).

To explain this outcome it is necessary to examine the program at Outward Bound. The participant observers report that Outward Bound encourages change in the adolescent delinquent.[3] The opportunities for concrete impressive accomplishment, as well as for excitement and challenge, promote personal growth. The need to pace oneself challenges the delinquent's impulsivity, while the requirement of persistence challenges his endurance. The necessity of obeying safety laws and camp regulations causes him to question his concept that laws and regulations are to be ignored, and his dependence upon his patrol leader for success and well-being causes him to re-examine his attitude toward authority figures.

Recidivism and Outward Bound

The participant observers report that the programs at the three Outward Bound schools differ in many respects. The Colorado and Hurricane Island schools emphasize severe physical challenge, felt danger, and high excitement. On the other hand, these programs do not attempt to meet the needs of individual participants but require all boys to adapt to the standards of these schools. Another important characteristic of these schools is that they make little effort to interpret verbally the meaning of the experience to the participants. However, the Minnesota school, while stressing physical challenge, has a relatively low objective danger and excitement level. This program emphasizes concern for interpersonal relationships and stresses reflection and development of a spiritual attitude.

The recidivism rates for the subjects attending the three Outward Bound schools is summarized in Table 2. It may be seen that the Minnesota School had a higher recidivism rate (42 per cent) than the Colorado (0 per cent) or Hurricane Island (11 per cent) school. These results appear to support the belief that delinquent adolescents are action-oriented and respond to programs which challenge them in the sphere of physical activity.[4] Programs such as Colorado and Hurricane Island, which have a high degree of physical challenge and excitement—e.g., rappelling a sheer cliff—followed by periods of relative quiet when the participants can realize, absorb, and accept their accomplishments, may account for the relative success of these programs. On the other hand, programs which call for consistent physical activity and endurance but without periods of high excitement or real danger are not successful in reducing recidivism. Perhaps if training schools incorporated these elements of severe physical challenge with high excitement into their programs, they would more realistically meet the needs of the adolescent delinquent.

[3] Kelly and Baer, *op. cit. supra* note 2.

[4] See, for example, William C. Kvaraceus and Walter B. Miller, *Delinquent Behavior, Culture and the Individual* (Washington, D.C.: National Education Association, 1959), pp. 62-68.

TABLE 2
RECIDIVISM RATES BY OUTWARD BOUND SCHOOL ATTENDED

School	Recidivists	Nonrecidivists	Total
Colorado	0 (0%)	18 (38%)	18
Minnesota	10 (84%)	14 (29%)	24
Hurricane Island	2 (16%)	16 (33%)	18
Total	12 (100%)	48 (100%)	60

Chi-square = 12.43, df = 2 ($p < .002$, one-tail hypothesis).

Background Variables

Although Outward Bound seemed to have an important effect, one must also consider several background variables when evaluating the recidivism rate of the experimental and comparison groups. The following five variables were most closely related to recidivism: number of commitments to the Division of Youth Service, type of offense, presence of both parents in the home, age of first court appearance, and age of first commitment. On the other hand, such variables as IQ, race, urban-rural residence, religion, and whether subjects were selected from a training school or the reception center were not important predictors.

In Table 3 it may be seen that the mean age at first court appearance for the recidivists was significantly younger ($t=3.88$, $p < .01$) than for the nonrecidivists. Also, the mean age for first commitment for the recidivists was significantly younger ($t=5.20$,

TABLE 3
AGE AT FIRST COURT APPEARANCE AND AT FIRST COMMITMENT FOR EXPERIMENTAL AND COMPARISON GROUP RECIDIVISTS AND NONRECIDIVISTS

	Experimental Group					Comparison Group				
	Recidivists (N = 12)		Nonrecidivists (N = 48)			Recidivists (N = 25)		Nonrecidivists (N = 35)		
	Mean	S.D.	Mean	S.D.	t	Mean	S.D.	Mean	S.D.	t
Age of first court appearance	12.8	2.3	14.6	1.6	−3.88[a]	14.3	1.8	14.0	1.9	0.58
Age of first commitment	13.9	2.2	16.0	0.9	−5.20[b]	15.4	1.7	15.2	1.8	−0.43

[a] $p < .01$. [b] $p < .001$.

TABLE 4
RECIDIVISM AND NUMBER OF COMMITMENTS OF EXPERIMENTAL AND COMPARISON GROUPS

Group	Number of Commitments		χ^2
	One	Two or More	
Experimental			
Recidivists	4 (11%)	8 (36%)	
Nonrecidivists	34 (89%)	14 (64%)	5.81[a]
Total	38 (100%)	22 (100%)	
Comparison			
Recidivists	13 (36%)	12 (50%)	
Nonrecidivists	23 (64%)	12 (50%)	1.14
Total	36 (100%)	24 (100%)	
χ^2	6.84[a]	0.87	

[a] $p < .01$, df = 1 (one-tail hypothesis).

$p < .001$) than for the nonrecidivists. However, no such difference was found within the comparison group. This suggests that Outward Bound may have a greater impact on the delinquent whose first court appearance occurs following the onset of adolescence. Many writers[5] have commented on the employment of delinquency as a masculine protest and as a device to assert independence. Perhaps the severe physical challenge of Outward Bound provides an opportunity to resolve this identity crisis.

Those delinquents whose first court appearance occurred before the onset of adolescence may represent more characterologically deficient boys who do not respond either to currently employed correctional practices or to Outward Bound. The insignificant differences in age at first commitment and age at first offense for recidivists and nonrecidivists in the comparison group, when compared with the experimental group, suggest that existing training school programs do not realize positive change for some boys who have this potential.

Number of Commitments

Table 4 summarizes the incidence of recidivism and the number of commitments for the experimental and the comparison groups. It may be seen that, in the experimental group, four of thirty-eight (11 per cent) of the first commitment boys recidivated, while eight of twenty-two (36 per cent) of the subjects who had two or more commitments were returned. This significant outcome ($\chi^2 = 5.81$, $p < .01$) indicates that Outward Bound was more successful for those who had at least one prior commitment. On the other hand, for the comparison group the number of commitments was not a significant predictor of recidivism. Further support for this finding may be seen from a comparison of recidivism for the first commitment boys in the experimental and comparison groups.

[5] See, for example, Erik Erikson, *New Perspectives for Research on Juvenile Delinquency* (Washington, D.C.: U.S. Government Printing Office, 1956); Louis Sontag, "Problems of Dependency and Masculinity as Factors in Delinquency," *American Journal of Orthopsychiatry*, October 1958; or Helen Witmer, *Delinquency and the Adolescent Crisis* (Washington, D.C.: U.S. Government Printing Office, 1960).

While four of thirty-eight (11 per cent) of the first commitments in the experimental group recidivated, thirteen of thirty-six (36 per cent) of the first commitments in the comparison group were returned ($\chi^2 = 6.84$, $p < .01$). From these data alone it is difficult to discern whether it was the positive effect of Outward Bound or the negative effect of the training school which contributed to this finding. However, for the first commitment boys, at least, the data suggest that many have a potential for rehabilitation which is not realized by present training school programs. They also indicate that severe physical challenge does not meet the needs of delinquents with two or more commitments.

Type of Offense

The offenses for which the subjects were committed were grouped into two categories: stubborn-runaway and other. The first group was composed of boys committed for being either stubborn or runaway children. These offenses have no adult counterpart and usually reflect intrafamilial conflicts expressed in disobedience, incorrigibility, or running away from home. The second group included the remaining delinquents, whose offenses were against persons or property, acts which, if committed by an adult, would constitute misdemeanors or felonies.

The incidence of recidivism and type of offense for experimental and comparison groups is summarized in Table 5. The most dramatic contrast between the experimental and comparison groups is found in the stubborn-runaway category. Whereas six of the fifteen (40 per cent) experimental group subjects recidivated, ten of twelve (83 per cent) in the comparison group were returned. This significant difference ($\chi^2 = 5.19$, $p < .01$) suggests that Outward Bound may have a greater influence on those subjects whose delinquency is a direct response to home conflict than does the traditional training school.

However, when comparing the recidivism rate for the stubborn-runaway category, we should note that in both the experimental group (40 per cent vs. 13 per cent) and the

TABLE 5
RECIDIVISM AND TYPE OF OFFENSE FOR EXPERIMENTAL AND COMPARISON GROUPS

Group	Type of Offense		χ^2
	Stubborn-Runaway	Other	
Experimental			
Recidivists	6 (40%)	6 (13%)	
Nonrecidivists	9 (60%)	39 (87%)	
Total	15 (100%)	45 (100%)	5.00[a]
Comparison			
Recidivists	10 (83%)	15 (31%)	
Nonrecidivists	2 (17%)	33 (69%)	
Total	12 (100%)	48 (100%)	10.71[c]
χ^2	5.19[b]	4.25[a]	

[a] $p < .05$. [b] $p < .01$. [c] $p < .001$. df = 1 (one-tailed hypothesis).

TABLE 6
RECIDIVISM AND PRESENCE OF BOTH PARENTS IN THE HOME

	Experimental Group		Comparison Group	
	Live with Both Parents	Other	Live with Both Parents	Other
Recidivists	2a (7%)	19b (63%)	19b (86%)	15a (44%)
Nonrecidivists	28a (93%)	11b (37%)	1a (14%)	19b (56%)
Total	30 (100%)	30 (100%)	20 (100%)	34 (100%)
Chi-square	6.67*		9.14	

*$p < .01$, $df = 1$ (one-tailed hypothesis).

comparison group (86 per cent vs. 31 per cent), the stubborn runaways were three times as likely as other types of delinquents to recidivate. Perhaps action-oriented programs by themselves fail to meet the needs of the stubborn runaway offenders, who often return to the same home environment. It would seem that these offenders, who are perhaps more immature or emotionally disturbed or who may be responding to some family pathology, may require a more intensive and psychotherapeutic case than either Outward Bound or the training schools provide.

On the other hand, when subjects who committed offenses other than stubborn runaway are compared (Table 5), it may be seen that the boys who attended Outward Bound had a significantly lower ($\chi^2 = 4.225$, $p < .05$) rate of recidivism (13 per cent) than comparison group boys placed in training schools (31 per cent). It may be that this severe physical challenge, as represented by the Outward Bound program, is more effective with delinquents who act out in the community than it is with boys who act out directly against the home.

Presence of Parents in the Home

An important finding of the present study was the relationship between recidivism and the presence of both parents in the home. From Table 6, it may be seen that subjects in the experimental group who returned to homes in which both parents were present had a significantly lower ($\chi^2 = 6.67$, $p < .01$) rate of recidivism (7 per cent) than the rate (63 per cent) for boys who returned to other types of home conditions. On the other hand, there was no significant difference in the incidence of recidivism in the comparison group for individuals returning to either intact or broken homes. Since it is generally accepted that the presence of both parents in the home is a favorable condition for growth, it may be that the boys from intact homes were initially less likely to become confirmed delinquents. The severe physical challenge of Outward Bound may provide them a means of resolving some adolescent crisis.

Implications

The results of this study suggest that severe physical challenge may be an effective method of reducing recidivism in adolescent delinquents. Although the study involved seventy

[6] See, for example, Paul Glasser and Lois Navarre, "Structural Problems of the One-Parent Family," *Journal of Social Issues*, January 1965, pp. 98–109.

delinquents to Outward Bound schools, it seems that training schools might profit from incorporating many features of the Outward Bound approach into their own programs. Action-oriented adolescents may respond more to action programs than to cognitively oriented counseling approaches. However, it should be recognized that although not effective with all delinquents, this approach could be of sufficient value to recommend it as a supplement, if not an alternative, to institutionalization.

APPENDIX No. 15

state responsibility for juvenile detention care

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SOCIAL AND REHABILITATION SERVICE
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FOREWORD

To those working in the youth serving fields, it is a generally accepted principle that detention of children pending court disposition should rarely be used, except in those relatively few instances where the demands of the individual case require its use. It is simply a sad fact of life that some youngsters will need detention. When such is the case, every precaution must be taken to assure that the care they receive is as efficient and humane as possible.

This booklet, a revision of an earlier published work, is offered in the hope that the information it contains on providing adequate detention care will be of value to those working in this important field. Special attention is given to the States' responsibility in this area.

The publication is authored by Mr. John J. Downey of the staff of the Youth Development and Delinquency Prevention Administration. Mr. Downey has had a long and distinguished career in child welfare work and has produced a salient pamphlet on a vital topic.

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STATE RESPONSIBILITY FOR JUVENILE DETENTION CARE

Detention is "the temporary care of children in secure custody pending court disposition."[1] Because of the nature of detention, not many children require such care. With few exceptions, individual counties do not have a sufficient number of detention cases to justify maintaining a detention service.

A statewide regional detention plan, therefore, is necessary if all children who require detention care are to receive an adequate detention service, regardless of where they live or where they are arrested. Furthermore, the regional detention plan should be one in which a State agency carries primary responsibility for providing the service.

In all but a few States, however, counties have carried the responsibility for detention. In spite of their efforts to provide adequate services, counties, with few exceptions, continue to fall far short of the detention objective of the juvenile court movement: "to keep the child from the evils of jail . . . (and to care for him) as a wise father would care for his children."[2] In 1970, 11 years after the establishment of the first juvenile court, we find the following conditions:

1. Children are still in jail. The National Council on Crime and Delinquency estimates that about 100,000 children are held in jail each year.[3]

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[1] Sheridan, William H.: LEGISLATIVE GUIDE FOR DRAFTING FAMILY AND JUVENILE COURT ACTS. Washington, D.C.: U.S. Department of Health, Education, and Welfare, Social and Rehabilitation Service, Children's Bureau, 1969. (Section 2–F.)

[2] Wagner, Florence: JUVENILE DETENTION IN THE UNITED STATES. Social Service Monographs, No. 20. Chicago: University of Chicago Press, 1933. (jacket.)

[3] National Council on Crime and Delinquency: Correction in the United States. CRIME AND DELINQUENCY, January 1967, Vol. 13, No. 1, p. 16.

2. Children are in makeshift detention facilities which are virtually child jails. These so-called detention homes often consist of a barred room in a county court house, or home for the aged, or in other institutions.
3. In some places, specially designed detention homes have been constructed—but, unfortunately:
   a. the programs are so inadequate that they are little better than jails, failing to meet their objectives of offsetting the potentially damaging effects of confinement and beginning the process of rehabilitation;
   b. these detention homes are staffed and programmed in such a way that they are unable to care for the seriously delinquent children for whom they were intended, with the result that these youngsters are still being held in jail;
   c. mildly delinquent children and neglected children are being detained unnecessarily, and harmfully, in close association with sophisticated delinquents; or
   d. because of indiscriminate use, detention homes are often dangerously overcrowded to the degree that an adequate program is practically impossible to achieve.

County responsibility for detention is not the only reason for this discouraging situation. Some of the other reasons are the inadequacy or lack of related services for children, trained personnel, and appropriated funds. These are serious problems to be overcome. But, regardless of how much improvement is made in these related areas, adequate detention services cannot be provided to all children who require them as long as counties carry the responsibility for detention. The fact is that few (less than 4 percent) of the counties in the United States have a sufficient number of detention cases to justify establishing a detention home.

THE NATURE OF DETENTION

Because of the nature of detention, not many children require such care.

As defined above, the distinguishing feature of detention care, as opposed to other types of temporary child care, is that it is *secure custody*. It suspends, at least temporarily, the child's right to his freedom and the parents' rights to his care and custody.

Being placed in detention may be harmful to the child. In detention, he is confined with other, perhaps more serious, delinquents. Having little confidence in his own ability to get along in a socially acceptable manner, he may gain status as a delinquent and identify himself with other delinquents in their hostile attitude toward any adult in authority and against society in general. Not having been successful in other respects, the notoriety of being placed in detention may give the delinquent child the recognition that he has been craving; this, in turn, may confirm him in his delinquent pattern of behavior. As a result, his rehabilitation may be much more difficult to accomplish.

The placement of a child in detention is, then, a *drastic* action. A child should be detained only when a failure to do so would place the child or the community in danger.

Detention should *not* be used as a convenience to staff working with the child. It should not be used for punishment or short-term "treatment;" nor should it be used for all delinquent children who happen to need care outside of their own homes but who do not require secure custody. Such children should be cared for in shelter facilities such as an open-type foster home.

The National Council on Crime and Delinquency's STANDARDS AND GUIDES FOR THE DETENTION OF CHILDREN AND YOUTH gives the following as the criteria for admission to detention:

"Children apprehended for delinquency should be detained for the juvenile court when, after proper intake interview, it appears that casework by a probation officer would not enable the parents to maintain custody and control or would not enable the child to control his own behavior. Such children fall into the following groups:

1. Children who are almost certain to run away during the period the court is studying their case or between disposition and transfer to an institution or another jurisdiction.
2. Children who are almost certain to commit an offense dangerous to themselves or to the community before court disposition or between disposition and transfer to an institution or another jurisdiction.
3. Children who must be held for another jurisdiction; e.g., parole violators, runaways from institutions to which they were committed by a court or certain witnesses." [4]

The NCCD maintains that the number of children requiring detention should normally not exceed 10 percent of the total number of juvenile offenders apprehended by law enforcement officers.[5]

[4] National Council on Crime and Delinquency: STANDARDS AND GUIDES FOR THE DETENTION OF CHILDREN AND YOUTH. New York: The Council, 1961. (p. 15.) See also Sheridan, op. cit., Section 20.
[5] Ibid (NCCD), p. 18.

CHARACTERISTICS OF CHILDREN IN DETENTION

Generally speaking, when detention is properly used, the children in detention will be among the community's most disturbed and aggressively acting-out adolescents. Because they are cared for under conditions of confinement, they feel frustrated and confused. Believing the world is against them, they are anxious and worried about the future.

The result is that these children are capable of suicide, escape, or attack. Their detention experience cannot be a neutral one. It will be either a destructive experience confirming them in a pattern of delinquent behavior, or a constructive one that will help redirect them into becoming socially useful citizens. The mission of detention is to provide a *constructive* experience.

OBJECTIVES OF DETENTION CARE[6]

If detention is to be a constructive experience for the child, it must accomplish the following four basic interwoven objectives:

1. Secure custody with good physical care in a manner that will offset the damaging effects of confinement.
2. Constructive and satisfying activities, not merely to amuse the child or to take up his time, but to provide an opportunity for him to develop and recognize his strengths and to help him find socially acceptable ways of gaining satisfaction. These activities can provide both a basis for positive staff-child relationships and a setting for observation and study.
3. Individual and group guidance to help the child use his detention experience positively.
4. Observation and study, leading to a better diagnosis upon which to build a better treatment plan.

[6] Ibid, p. 36.

THE DETENTION CARE PROGRAM, PLANT, AND STAFF

The characteristics of children in detention and the objectives of detention require a certain basic program, a specialized physical plant, and a minimum staff, regardless of how few children are in detention.

The Program

The purpose of a detention program is to offset the potentially damaging effects of confinement and begin the process of rehabilitation. In order to do this, the atmosphere that prevails within the detention home should be one of acceptance of the child as a person. The youngster "should feel in the staff a warm acceptance of himself and rejection only of his anti-social behavior." [7]

The program should have as major goals: to help these youth in detention to improve in their ability to get along with one another and with persons in authority, and to help them learn how to cope with their problems, as individuals and as members of the group.

The Physical Plant

Children in detention require a physical plant that is secure but non-jail-like. It should be fire-resistive. The details of its construction and the materials used must be such that the children will not be afforded an opportunity for escape, hiding, suicide, or injury to themselves, other children, or staff. The layout of the building should enable the staff to maintain visual and auditory supervision of the children at all times. Because children in detention have a low tolerance for being continuously in a group, each child should have a room of his own. This gives the child a place of retreat from the group. In his own room, a youngster can think things over; he can even cry, knowing he is safe from ridicule.

[7] Ibid, p. 36.

There must be adequate space for a variety of activities, including vigorous games and sports, quiet games and game room activities, and arts and crafts; and there should be a place for group discussions.

In 1970, the cost of constructing such a specially designed detention home was estimated at $25,000 per bed.[8] This cost would pose a problem for all but the largest counties.

The Staff

It is the child care staff who must implement the goals of the detention program. It is they who must be able to communicate to the child at all times that they accept him as a person and that it is only his undesirable behavior that is rejected. They must be able to carry on constructive activities with the children, encouraging them at every opportunity to develop their skills and to discover new ones. In addition, the child care staff should be able to systematically observe and record the behavior of the youngsters in various situations for diagnostic use by the caseworker and clinical staff.

The child care staff should be college graduates with a heavy concentration in sociology and psychology, or have the educational background and experience equivalent to that of a beginning probation officer or child welfare worker.

Because children in detention must be under supervision at all times, there must be, even in the smallest detention home, at least one man and one woman group counselor with the children on a 24-hour basis. This, then, would require about 10 group counselors,[9] since 4.7 persons are needed to cover one position on a 24-hour, 7-days-a-week basis.

To maintain a constructive detention program and to insure the smooth operation of the physical plant, the child care staff, plus a maintenance man, a cook, and a housekeeper, would call for the following minimum complement:

1 Detention superintendent
1 Detention caseworker-Assistant superintendent
2 Senior group counselors
8 Group counselors
1 Maintenance man

[8] In 1961, the cost of detention construction was said to be as high as $20,000 per bed. Construction costs since 1961 have been increasing at an average rate of about 3 percent per year. Today's cost of detention construction would approximate $25,000 per bed. This estimate would require adjustment in relation to costs of land acquisition and local variances in construction costs. A half-million dollars should cover the cost of a 20-bed detention home in most localities. This does not include initial capital purchase which would run $20,000 to $30,000 in addition to construction.

[9] Two of these group counselors should be senior group counselors. This would qualify them to be in charge of the detention home in the absence of the director.

1 Cook
1 Housekeeper
1 Secretary-receptionist
16 Total staff

Every detention facility must be characterized by the kind of program, physical plant, and staff just described, if the children in detention, regardless of their number, are to have a constructive experience.

A MINIMUM ADEQUATE DETENTION SERVICE

A minimum adequate detention service is not practical unless it can serve a minimum of approximately 300 detention cases annually.

The estimated cost of maintaining a minimum staff for a detention home in 1970 was about $97,000[10] a year. The cost of food, utilities, maintenance, etc., can safely be estimated at $18,000 per year, making an annual budget of $115,000 for the smallest practical detention unit.

A minimum adequate detention service would have to care for both boys and girls. The maximum size detention home that could be operated by the minimum staff listed above is one for 20 children, the standard maximum size of a single unit detention home.[11] Such a home could care for a maximum average daily population of 12 children.[12] Such an average daily population would result in 4,380 (12×365) days' care annually. The per capita cost of care would then be $26.25 ($115,000 divided by

[10] The estimate of $97,000 as cost of staff was based on the following estimated salaries: superintendent, $10,500; caseworker-assistant superintendent, $9,000; group counselors, $6,000; secretary-receptionist; cook, maintenance man; and housekeeper, $5,000 each.

[11] NCCD, op. cit., p. 116, which contains NCCD Standard No. 207: "Capacity of Units: Detention home units . . . with co-recreation facilities should have the capacity of not more than twenty boys and girls under the supervision of male and female staff at all times."

[12] The average daily population that can be served by a detention home with a capacity of 20 with little danger of overcrowding has been calculated to be 10 to 12 by use of the method outlined in Brewer, Edgar W.: DETENTION PLANNING, Children's Bureau Publication 381. Washington, D.C.: U.S. Government Printing Office, 1960. (pp. 35–37.)

4,380). If less than 4,380 days' care is given, the per capita cost would, of course, be higher. Most appropriating bodies would not want to exceed this per capita cost. On the basis of an average length of stay of 14 days, it would require about 300 detention cases annually to result in a 4,380 days' care.

Further variations are to be expected in a daily detention population. If the average population became much lower than 12, it would be very difficult to carry on the type of group activities necessary for an adequate detention program.

AN ADEQUATE DETENTION PROGRAM

Only counties with at least 250,000 population would have the minimum number of cases to justify an adequate detention program.

The figure 300 has been mentioned in the literature[13] as the minimum number of children requiring detention annually to make practical the operation of an adequate detention program. Little recognition, however, has been given to the implication of such minimum detention units in terms of the population base. Detention continues to be planned on a county basis, with the result that counties which do not have a sufficient detention caseload fail in their efforts to provide an adequate program. The results are jail-like, makeshift, or inadequate, small-scale operations with little or no program; children are unnecessarily detained and held too long in order to build up justifiable caseloads; and detention homes become a "catch all" for neglected, dependent, and delinquent children. In this last instance, an attempt has often been made to tailor the program to the needs of the nondelinquent and mildly

[13] The New York State Department of Social Welfare (CHILD DETENTION CARE IN UPSTATE NEW YORK: Albany, 1958, p. 13) uses the figure 310. Norman, Sherwood (DETENTION PRACTICE: New York, NCCD, 1960, p. 177) uses the figure 300.

delinquent children. Ironically, this has often resulted in the jail detention of the serious delinquents for whom the detention home was originally intended; the so-called detention home is no longer able to care for the serious delinquents or is overcrowded with children who do not belong there.

MINIMUM POPULATION

In order to permit detention planning on a county basis, minimum populations of 75,000 and 100,000 have been suggested. In the studies conducted by the Children's Bureau, there has never been a county or group of counties with a population of under 250,000 that had anywhere near the 300 annual cases of children who required detention. A more realistic minimum population would seem to be 250,000. But even here, the implication should not be that in all counties with a population over 250,000, there would be a sufficient number of children requiring detention care to make practical the operation of an adequate detention program. This figure of 250,000 can, however, serve to illustrate how few counties in the United States can operate an adequate detention service for their own use.

Of over 3,100 counties and other similar type political subdivisions in the United States, only 122 have populations over 250,000 according to the 1960 census. Another 169 counties have populations between 100,000 and 250,000. There are 2,840 that have populations under 100,000. Very few counties, then (less than 4 percent) can plan even the minimum detention service for their own use. Regional detention is necessary if a detention service is to be available to all children who require it.

REGIONAL DETECTION

Regional detention must be planned on a statewide basis.

Despite the extent to which regional detention has been discussed in the literature, there has not been sufficient recognition of the implications of the need for a minimum volume of detention to justify a detention service. According to the 1960 census, there were 12 States in which no counties had a population over 250,000. Fifteen States had but one county with a population over 250,000. Also, there were 7 States that did not even have a county with a population of 100,000. Seven more had only

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one county in this category. Obviously, then, regional detention can no longer be thought of as a plan in which 2 or 3 small counties use a single detention home. In most States, a broad area including many counties will have to be served by each regional detention home. A plan that will provide statewide detention coverage will necessarily be a complex one.

REGIONAL DETENTION HOMES

Studies of detention needs in several States confirm the fact that in most States, regional detention homes will have to serve wide areas in order that the volume of detention will be sufficient to make the operation of the home economically practical. In one State where the population was in the 600,000–700,000 range, it was found that the number of children who required detention would call for but one single-unit detention home with a capacity of 20; this would be sufficient to serve the whole State. A similar finding was made in another State in the 800,000-900,000 population range. In the third State of large population, there were 6 adequate county detention homes with a total capacity of 150 beds. It was found that these 150 beds in the 6 detention homes could have served a total of 57 counties with a population of 9 million if there had been satisfactory detention intake control, and if a successful plan of using these facilities as regional detention homes could have been put into effect.

STATE PLANNING

A State plan of detention cannot be put into effect through the voluntary types of regional detention. It requires that a State agency be given primary responsibility for providing detention services.

A detention program is only one of a continuum of required services for delinquent children. The effectiveness of a detention plan, to a large

extent, will be dependent upon the availability and adequacy of related services and facilities; such as, police work with children, probation and other casework with children, mental health diagnostic services, treatment programs and foster care and other placement resources. Children are often unnecessarily placed in detention because of the lack or inadequacy of these other programs.

A State plan of detention must be applicable to all counties in a State. It must provide that:

1. Children who can safely remain in their own homes will not be unnecessarily removed from their homes.
2. Children who require diagnostic service will be able to receive that service without being unnecessarily detained.
3. Children who need temporary care pending court disposition but who do not require secure custody will be cared for in a shelter facility and not be placed in the secure custody of detention.
4. Children who require secure custody prior to court disposition will receive adequate detention care.

Essentials of the plan

1. *Detention Admission Policies and Procedures*

Detention admission policies and procedures must insure that detention care will only be used for the children for whom it is necessary, and that shelter care facilities will be used by children who need care but not secure custody. These policies and procedures should be clearly defined by the court in writing. Such intake policies and procedures should be required by the State regulations governing financial reimbursement and use of regional detention homes.

2. *Shelter Homes for Delinquent Children*

Often, among the delinquent children held in detention, there are some who need temporary care outside their own homes pending court disposition but who do not require secure custody. Unless special provisions are made for these children, they are likely to be unnecessarily placed in detention. They should be cared for in a shelter (open type) facility.

Whether or not a county should set up a shelter home for delinquents for its own use will, of course, depend on the number of children requiring such care. Not all counties in a State will need a shelter home. Two or more counties can operate one jointly on a regional basis. The advisability of a county establishing a shelter home for its delinquent

children can best be determined through a review by the county probation staff of its delinquency caseload.

A shelter facility may be an "agency operated group home" or a "subsidized foster family home." An agency operated group home is a home owned or leased and operated by the agency. The adults in the home are responsible for the children. They may be paid a salary, a subsidy, and/or a per diem board rate per child. A subsidized foster home is a foster family home that is paid a flat monthly amount as a subsidy, in addition to a per diem board rate per child.

A shelter facility should have no security features, such as locked rooms and barred windows. Its capacity should be limited to about 6 children. It should be reserved exclusively for the temporary care of delinquent children awaiting court disposition. This type of home should be open and ready to accept children on a 24-hour basis. Adults in charge should be compensated for keeping the facility available for emergency use.

The cost of operating the home will be substantially higher than for the ordinary foster home, because the children to be cared for are usually more difficult to handle and require closer supervision. In addition, this type of care does not give the supervising adults the satisfaction usually derived from longer-term foster care. Provision should be made for appropriate relief from care of the children.

The supervising adults should be capable of giving warm understanding and constructive care to difficult and upset delinquent children. They must be able and ready to give close supervision to the extent, for example, of staying with an upset child for hours, day or night, in an emergency situation and keeping him within sight and sound at all times. It is important that the foster parents be capable of involving the children in a variety of constructive activities.

In selecting such a home, consideration should be given to adequacy of the living room and to indoor and outdoor space for activities suitable for teenage children, as well as the visual and auditory control permitted by the layout of the building. Although community recreation facilities may be used, the home should be equipped with appropriate play and craft materials. These should be provided by the agency.

A probation officer should maintain close contact with the children in shelter care and with the supervising adults.

In some instances, the child should attend the school in the community. If the period of temporary care is too short to justify transfer to the local school, or, if for some other reason it is not feasible for the child to attend school in the community, he should be served by a home teacher. Children should have an opportunity to attend religious services of their own faith in the community. Appropriate medical and clinical services should be available.

3. *Regional Detention (Secure Custody) Services*

Since there is no State in which all the counties have sufficient populations to justify a detention home for their own use, regional detention will be necessary in all States. Regional detention homes will need to be located so that each will be in a position to serve a minimum of about 300 annual cases of children who require detention care.

4. *Local 48-Hour Holdover Facilities*

In most instances, in counties located at a distance from the regional detention home, it would be impractical to transport the delinquent child who requires secure custody to the home immediately upon his apprehension. A local 48-hour holdover facility would be necessary. Such a facility providing care in secure custody could meet the needs of children who require detention for 48 hours or less. These youth include:

a. Out-of-town and out-of-State runaways who can usually be returned to their homes or local jurisdictions within 48 hours.
b. Parole violators who can usually be picked up by the State agency within 48 hours.
c. Children who initially appear to need the secure custody of detention but who, after 48 hours, could be transferred to a shelter care facility for delinquent children.
d. Probation violators and other children known to the court, the disposition of whose cases could sometimes be made within 48 hours.

For children who need detention for the normal length of stay (of from 3 to 21 days), a local holdover facility would allow the court and probation staff up to 48 hours to interview the child, his parents, etc., before transferring him to the distant regional detention home pending court disposition. The criteria for the use of this type of a secure holdover facility would be the same as for secure detention; that is, it would be used only when to do otherwise would be likely to place the child or the community in danger. It should not be a service in lieu of detention service. Its use should be limited to 48 hours.

A local 48-hour holdover facility is different from the regular detention home providing care for the normal period of from 3 to 21 days. Since children are not held in the holdover facility for more than 2 days, the need for space for large muscle activity will not be as necessary as it is in a detention home. Further, since in most instances there will be very few children held at the same time and they will be under constant supervision, it is not as necessary that the physical plant be constructed

and equipped in accordance with the "principles of psychiatric safety." [14]

A 48-hour holdover facility should not be a jail or a police lockup. It should be secure but non-jail like, and some room should be available for activities. The children will require constant supervision. A building may be specially designed for the purpose of serving as a holdover facility, or it may consist of separate quarters in some other buildings.

The Utah Department of Public Welfare, in its detention standards, has designated these holdover facilities as "Type C" [15] detention homes. In that State, specially designed facilities are in operation in Cedar City, St. George, and Price, with one under construction in Logan. These facilities generally have from four to six individual sleeping rooms, a day room, a shower room, and an office for the supervisor. Each facility contains a refrigerator and stove, but usually meals are brought in from some other facility, or "TV dinners" are used.

The holdover facilities in Utah are usually in new buildings housing other activities. In Cedar City, it is in the basement of the county hospital. In St. George, it is in the basement of a county building.

When a holdover facility is located in an institution caring for persons on a 24-hour basis, it is important that it be in separate quarters, out of the sight or hearing of the adults in care.

5. *Transportation of Children to the Regional Detention Home*

In many States, the transportation of a child from an outlying county to the regional detention home would entail a long trip. Often, the police agency could not afford to have one of its officers away from the home community for the time such a trip would require. For this reason, the State agency responsible for detention should make arrangements for the transportation of children between courts and home communities and regional detention homes and other child care facilities. In some instances, the employment of a special deputy on a standby basis for this purpose may be advisable.

6. *Detention Casework Services*

Under ordinary circumstances, the court worker will have had an opportunity to conduct a lengthy interview with the child before he is

[14] "Principles of psychiatric safety" require that "materials and details of construction shall be such that patients will not be afforded opportunity for escape, suicide, etc. Care must be taken be avoid sharp projections of corners of structure, exposed piping, heating elements, fixtures, hardware, etc." See PUBLIC HEALTH SERVICE REGULATIONS, Revised December 22, 1959. Washington, D. C.: U.S. Department of Health, Education, and Welfare, Public Health Service. [Section 53.147 (1), p. 31.]

[15] Department of Public Welfare: MINIMUM STANDARDS OF CARE FOR THE DETENTION OF CHILDREN. Salt Lake City, Utah: The Department, 1961.

taken to the detention home. When problems arise in the detention home itself, when there is a need to interview the child for more information, or when the child must be taken to a clinic, the caseworker at the regional detention home can accomplish these tasks, making it unnecessary for the probation officer from the home county to make the trip.

7. *Regional Detention Advisory Committee*

Detention care is only one of several services that must be provided for delinquent children. It should have a close working relationship with the courts, probation staff, police, mental health clinics, public and private social agencies, schools, etc. Officials and agencies must agree as to the use to be made of detention, the length of stay in detention, the objectives of the program, and, generally, who will be responsible for what. This is often difficult to achieve when a detention home is operated to serve a single county. It can be most difficult when many counties are involved. The coordination necessary can best be brought about through detention advisory committees similar to those suggested by STANDARDS AND GUIDES:

> "Every regional detention home should have an advisory committee composed of lay persons, professionals, and the judges of the juvenile courts served by the facility."
>
> "A State advisory committee, composed of lay and professional representatives from the regional advisory committees, should work with the staff to see that sound standards of regional detention are applied." [16]

It is well to have these committees established legally in the same legislation that brings about the regional detention plan. Care should be exercised that these committees remain advisory and not become administrative bodies.

NEED FOR STATE RESPONSIBILITY FOR DETENTION

Two types of regional detention are often suggested as a means by which counties, unable to operate their own detention homes, could obtain a detention service. These are courtesy regional detention (sometimes referred to as "purchase of care" or "purchased service") and intercounty regional detention (sometimes referred to as "joint regional detention").

In courtesy regional detention, the detention facility is operated by a large county, and the neighboring counties purchase service on a per

[16] NCCD, op. cit., p. 153.

capita and/or contractual basis. Generally speaking, the difficulty with this plan is that the counties that own the detention homes often either will not sell services or will sell them only on conditions considered undesirable by the smaller counties.

When a satisfactory agreement cannot be reached by which the smaller counties can purchase service, they are usually left in a position where together they do not have a sufficient volume of detention to permit a regional detention plan which does not include the large county.

In intercounty regional detention, two or more counties work together to construct and operate a detention home. One of several arrangements is usually followed: joint construction and operation, joint construction and county operation, county construction and joint operation, etc. Although this type of regional detention is often proposed, and permissive legislation has been passed in several States, only one such joint detention home has been constructed and is now in operation. This is the Northern Virginia Regional Detention Home in Alexandria, Virginia. Most authorities believe the degree of coordination required of the officials of different counties to carry out such a joint endeavor is greater than can be expected.

Several States have attempted to attain statewide detention coverage through the "courtesy" and "intercounty" forms of regional detention. In Utah and Virginia, financial assistance is available to individual counties and groups of counties for the construction and operation of detention homes that serve as regional detention homes to several counties and which meet State standards. These States have been successful in extending regional detention coverage, but they have not been able to attain statewide coverage.

There seems to be little likelihood that a State detention plan, applicable to all counties in a State, as outlined above, would be put into effect through voluntary types of regional detention.[17] It cannot be hoped that the right counties or the right combination of counties will voluntarily decide to construct and operate regional detention homes offering service to other counties. The complexity of an effective State plan of detention is such that it requires the direction of the State agency to plan, construct, and operate, where necessary, the regional detention facilities. State responsibility for detention, then, is no longer a legislative choice, but a necessity if all children who require detention care are to be provided adequate detention services, regardless of where they live or where they are arrested. Only by meeting this responsibility can a State fulfill its detention mission: that of providing a *constructive* experience which can help to redirect delinquent youth into becoming contributing members of society.

[17] For more discussion of State responsibility for detention, see Brewer, op. cit., pp. 6–16; Nroman, op. cit., Chapter 13, pp. 156–183; and Sheridan, op. cit., Section 19.

APPENDIX NO. 16

Practical Aspects of Reducing Detention Home Population

By WALTER G. WHITLATCH

It has been estimated that about 500,000 children are confined yearly in detention facilities in the United States.[1] Our experience in Cuyahoga County, Ohio, (Cleveland) through a program begun in 1966 and fully implemented in 1967 through 1971, leads us to the conclusion that at least 200,000 of these children would not be in detention facilities if admissions were properly screened and releases expeditiously effected. From 1966 through 1971 we were able to reduce admissions from a high of 4,479 children to 3,439, or by 23 per cent, and to reduce the average length of stay from 15 days in 1966, to seven days in 1971. Reflecting both the decreased admission rate and the reduction in average days care furnished, each child admitted was a dramatic 60 per cent reduction in our average daily population, constituting a decline from 172 children in 1966, to 68 in 1971.

Significantly, this reduction was accomplished during a period when delinquency and unruly complaints rose from 7,296 to 9,098, an increase of 25 per cent. Had our admissions increased apace with the number of complaints, we could have had approximately 5,000 admissions in 1971 instead of the 3,439 actually experienced. While there is a marked correlation between the number of delinquency and unruly complaints and the number of children detained, this relationship is distorted by the fact that many of the detention home recidivists (in our case, 50 per cent of the population) are frequently admitted to detention a second or third time on the initial complaint as probation violators or runaways from placement. During 1967, the first full year of our program, we experienced only a slight decrease in admissions despite a sharp increase in the number of complaints. However, our effectiveness in controlling the average daily population was most encouraging, since we were able to reduce the average daily population from 172 to 150 children from 1966 to 1967.

If our detention practice prior to the beginning of our detention home population control program had been an extraordinarily

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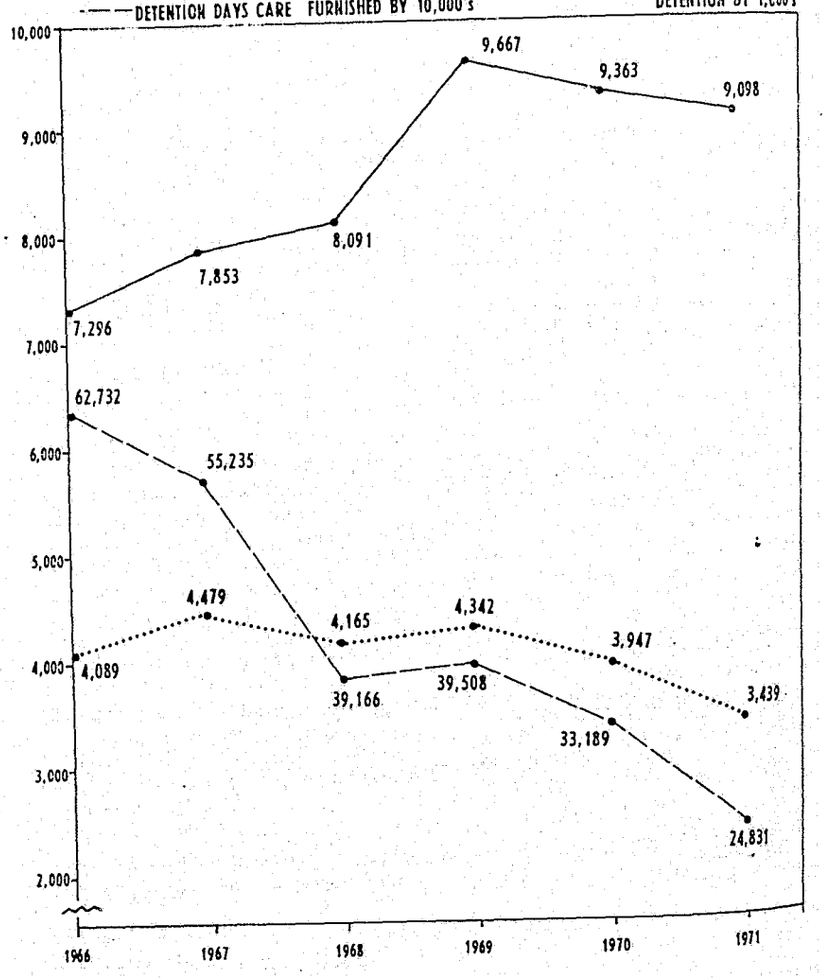
poor one, favoring detention, then our results would be of little importance. However, such was not the case. Definitive comparative studies of admission practices of detention homes in Ohio and comparisons with other large urban counties elsewhere in the United States show that our past performance prior to 1967 closely paralleled the experience of other detention facilities. That is, our detention home practices were perhaps better than some and not quite as good as others. During the period under review, all of the counties included in our comparative study experienced about the

GRAPH 1. ——— DELINQUENCY AND UNRULY COMPLAINTS BY 1,000's ····· ADMISSIONS TO DETENTION BY 1,000's
– – – DETENTION DAYS CARE FURNISHED BY 10,000's



same relative increase in delinquency and unruly filings. While Cuyahoga County experienced a decrease of 23 per cent in admissions, six of the other counties experienced increases ranging from 6 per cent to 42 per cent. See Tables A and B on page 18.

There is no dearth of articles articulating the philosophy of proper detention practice.[2] But there is an absolute paucity of material on the practical implementation of this philosophy. It is, therefore, our purpose to set forth just how we went about accomplishing this significant reduction in our detention home population.

Cuyahoga County, Ohio, with Cleveland as its principal city, is a highly urbanized, industrialized community with a population

GRAPH 2. ——— DELINQUENCY AND UNRULY COMPLAINTS BY 1,000's ····· PROJECTED D.H. ADMISSIONS BASED ON 1966 RATE
– – – – ACTUAL D.H. ADMISSIONS

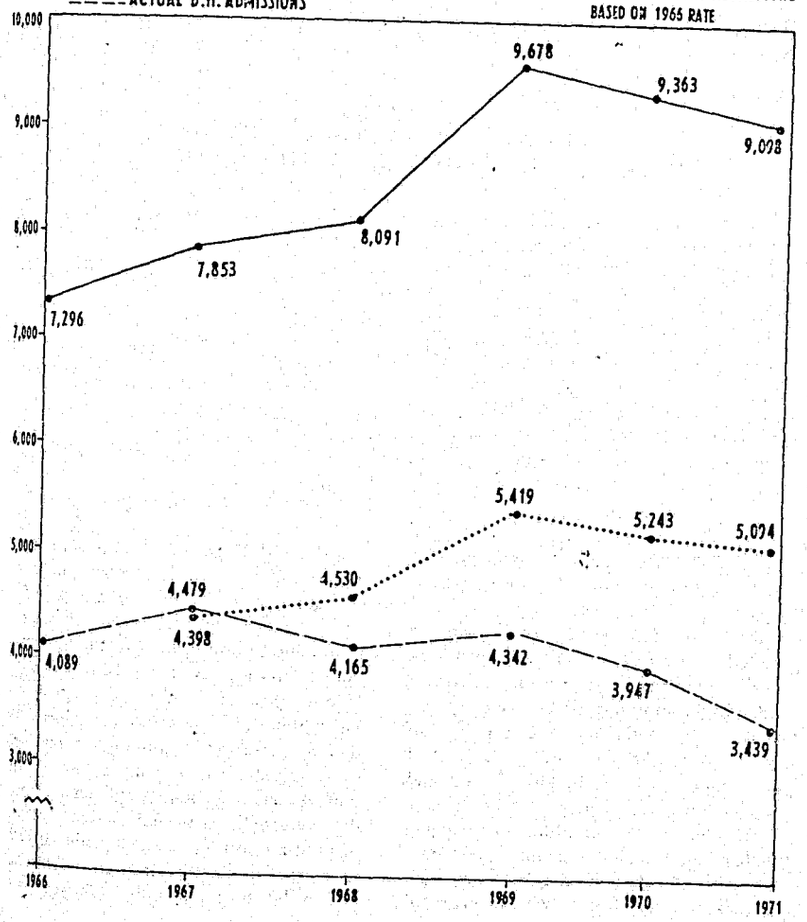


TABLE A
DETENTION HOME ADMISSIONS IN CUYAHOGA COUNTY
COMPARED WITH FOUR OTHER METROPOLITAN COUNTIES IN OTHER STATES

	County A	County B	County C	County D	Cuyahoga County
Population	484,000	606,000	833,000	924,000	1,600,000
Admissions					
1967	1,620	1,360	3,603	5,456	4,479
1968	1,684	1,671	4,085	6,931	4,165
1969	1,688	1,688	4,190	6,758	4,342
1970	1,998	1,821	4,873	7,285	3,947
1971	1,714	1,915	5,128	7,194	3,439
Per Cent Change, 1967-1971	+6%	+41%	+42%	+32%	−23%

TABLE B
DETENTION HOME ADMISSIONS OF FOUR
METROPOLITAN COUNTIES IN OTHER STATES

	County A	County B	County C	County D	Cuyahoga County
Population	793,590	932,299	1,2[illegible]	1,605,133	1,600,000
Admissions					
1967	2,684	2,432	2,089	3,289	4,479
1968	3,051	2,537	2,542	3,446	4,165
1969	3,315	2,415	2,816	3,859	4,342
1970	3,180	2,440	3,016	3,328	3,947
1971	3,920	2,133	2,760	3,094	3,439
Per Cent Change, 1967-1971	+31%	−12%	+32%	−6%	−23%

of 1,800,000. More than half of the population is suburban, ranging from middle to upper class degree of affluency. A constant flow of in-migrants in the past 25 years has added to the number of social problem families normally found in such an urbanized community. Twenty-five per cent of the relief population of the state of Ohio resides in Cuyahoga County. One out of every four persons in the city of Cleveland receives public assistance.

In 1966 our detention home was bulging with children and was commonly characterized by the news media as a "zoo" and a "snake pit." The facility, which had a rated capacity of 150, frequently housed as many as 225 children. On occasions, as many as 25 additional children were placed in the county jail when it became physically impossible to house them in the detention home. This overcrowdedness produced conditions typical of all overcrowded children's institutions. That is, a strained and nervous staff, a tension-ridden atmosphere, frequent escapes, homosexuality, physical assaults on staff and physical abuse of children. An ever increasing delinquency rate and the censure of public opinion, coupled with our real concern for the children in detention, caused the court to abandon a "we can't do

anything about it," attitude and to substitute, therefore, a positive attitude that *something* had to be done.

Avowedly, prior to our control program, which had its initial beginning the latter part of 1966, we followed the generally accepted philosophy that no child should be detained unless there was a substantial probability that he would commit an act dangerous to himself or to the community, or that he would abscond pending court disposition. Actually this policy was subject to the interpretation of so many individuals that it was never intelligently implemented. In practice, children were admitted to the detention home upon the request of social workers, intake personnel, probation officers, police officers, school officials and parents without any well defined criteria for admissions. Further, it was only on rare occasions that any concerted effort was made to effect expeditious releases. Obviously, what was needed was the enforcement of the avowed criteria for admissions and a concerted effort to speed up releases. It was quite clear that there must be but one interpretation of the court policy for the necessity for detaining children in detention homes. In order to avoid having the admission criteria subject to the personal philosophy of divers individuals, we appointed an experienced probation officer as intake referee with full authority to determine the necessity of admitting a child and with authority to order detention with the approval of a judge. The only court personnel who were authorized to admit children to the detention home, other than the intake referee and his staff, were the judges, referees and the court's chief administrator. We instituted a training program for detention home shift superintendents to train them as to proper admission and release procedures, and qualify them to serve as intake personnel during the hours of 4:30 p.m. to 8:00 a.m. We also employed a part-time person for the day shift on Saturdays and Sundays and holidays. All of the detention home intake personnel worked under the general supervision of the intake referee.

We then began the difficult task of implementing our new admission and release policy. Naturally, we encountered much resistance as we began to challenge the admission or detention of each child on our *interpretation* of the child's need of detention. Social workers, probation officers and police officers, who had previously for all practical purposes made the decision as to the necessity of detaining the child, reacted strenuously to our screening process. Probation officers and social agencies, unaccustomed to any urgency about placement plans, resented the effort being made to expeditiously move children from the detention home. Police officers throughout the county protested that children we were returning to their homes would commit further delinquent acts pending hearing.

'Get tough'

Naturally, these criticisms, those from within the court and more especially those from outside agencies, militated against acceptance of our new policy. We became easy prey for that large and vociferous segment of the public who accuse the court of "wrist slapping" and who maintain that we should "get tough with juveniles."

Elected public officials who wish to be re-elected cannot be oblivious to public criticism. Neither can they tack to the right and then to the left with every gust that comes from their sometimes windy constituency. Obviously, our course had to be the simple one of determining the correct procedure and demonstrating its correctness to our critics and the general public.

Interestingly enough, the most caustic criticism came from the extreme end of the spectrum: the police and the sophisticated private agencies. The police, because of the enormous pressures of their job in controlling youth crime and the punitiveness of some individual officers, wanted us to detain many children whose detention we deemed unnecessary.

The social agencies which staunchly proclaimed their non-punitive philosophy wanted us to detain children as a part of their

"treatment" process. Although it took time and much patience, we were able to demonstrate to both the police and the treatment-oriented agencies that our policy was a sound one. Reassuring to the police was that with our reduced population, there were no longer occasions when we were unable to admit a child whose detention was necessary, or when we had to "take a chance" by releasing a child who should not have been released.

Helpful in discouraging one of the social agencies from the over-use of detention was our new requirement that an official complaint must be filed concerning each child placed in the detention home. The law requires that parents must be notified when such a complaint is filed. The reaction of well-to-do parents who had placed their children in this treatment center hopefully to prevent the child from becoming delinquent is not difficult to imagine. This agency soon found other "treatment methods" to replace disciplining children by a stay in the detention home.

Our new detention practices found favor with lawyers and was helpful in improving our relationships with them. The bar had always been critical and skeptical of our established legal authority to hold children without bond. Prior to the establishment of our new detention policy, lawyers frequently complained about our detention orders and sometimes challenged them with writs of habeas corpus. Not only was our new policy generally approved, but counsel actually found little to complain about in the individual case where he represented the child who was detained.

New policy

Many of our probation officers found the new detention policy difficult to accept. It had been a common practice for a probation officer to place a child in detention who was uncooperative, who failed to keep appointments, who truanted from school, or who, upon a complaint of the parents, was considered out of control at home. Subjecting such placements to the scrutiny of the detention referee, with strict adherence to established admission criteria, brought about a substantial reduction in admissions. The 380 children admitted by probation officers in 1967 was reduced to 125 in 1971, a reduction of six per cent.

The probation officer's conviction that he has a real need to place a child in detention is quite understandable. It is he who has the primary task controlling the child and it is he who must face up to the pressures of the parents, the school and the community to take immediate action when the child is out of control. Recognition must be given to the reality that there are occasions when the child does need immediate attention if he and the community are to be afforded requisite protection. Therefore, in lieu of the probation officer putting the child in detention, the case was docketed for an early court hearing. The service of the summons and the child's anxiety as to the impending court hearing usually proved to be a control device as effective as detention and at the same time assured that the necessity for detention received judicial consideration.

Many judges sincerely believe that detention has therapeutic value and that confinement serves as a deterrent to further delinquency. The writer of this article, prior to the commencement of our program, used detention in certain limited instances for this purpose. Prompted by the desire to lessen detention home population, the use of detention by the writer for treatment was gradually completely abandoned. It is our conclusion that we lost nothing by giving up this dispositional alternative. On the contrary we conclude that there is no value in detention as a deterrent to delinquency. The child who will be deterred by a stay in detention is the same child who is affected positively by his court appearance before the judge. In other words, the impact of the court as an institution representing the law will have the effect that is sought by detention if the child is amenable to treatment and supervision in his own home. In many instances there is no real need to detain a child pending placement plans. Where there

is a waiting period between disposition and placement, the necessity of detention should be determined by the same criteria as is applied to detention pending court hearing. That is, generally speaking, will the child abscond or hurt himself or others if not detained.

Our intake and release policy became firmly established when, in 1969, upon our initiative, it was written almost verbatim into the law of Ohio. This statute, section 2151.31 Ohio Revised Code, insofar as applicable, provides as follows:

> "A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the complaint, unless his detention or care is required to protect the person and property of others or those of the child, or because the child may abscond or be removed from the jurisdiction of the court, or because he has no parents, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or because an order for his detention or shelter care has been made by the court pursuant to this chapter."

The resistance to our policy by those seeking to place children in detention quite markedly diminished with the enactment of the above cited statute. When we declined to admit a child, we were able to point out that this was not merely our personal decision, but rather one that was mandatory under the law.

As we began our initial effort to reduce population, we found that many children were being detained, awaiting acceptance by various state, county, and private facilities, who, often arbitrarily and for their own convenience, imposed quotas and admission requirements on the court. Instead of accepting these limitations, we challenged them, pointing out that the delay and consequent detention of the children in our crowded facility was damaging to these children and had to be eliminated. Actually, in many instances the request for amelioration of this problem and a little friendly persuasion was all that was necessary. As we began the program, the Youth Commission of the State of Ohio gave us immediate permission to place twenty-five children being held by reason of a quota system and thereafter almost daily quotas which enabled us to place a child the day after his commitment.

Admission procedures

Other residential facilities similarly gave us cooperation in varying degrees. Meetings were held with private treatment centers, urging them to speed up their process of passing on our applications for admission of children. The admission procedures of these treatment centers were particularly vexatious since we sometimes were required to wait two or three weeks only to have the application refused and then be faced with the necessity of processing another application with perhaps an equally long period of indecision. Generally, our meetings brought about an understanding of our problem and speedier decisions on our applications.

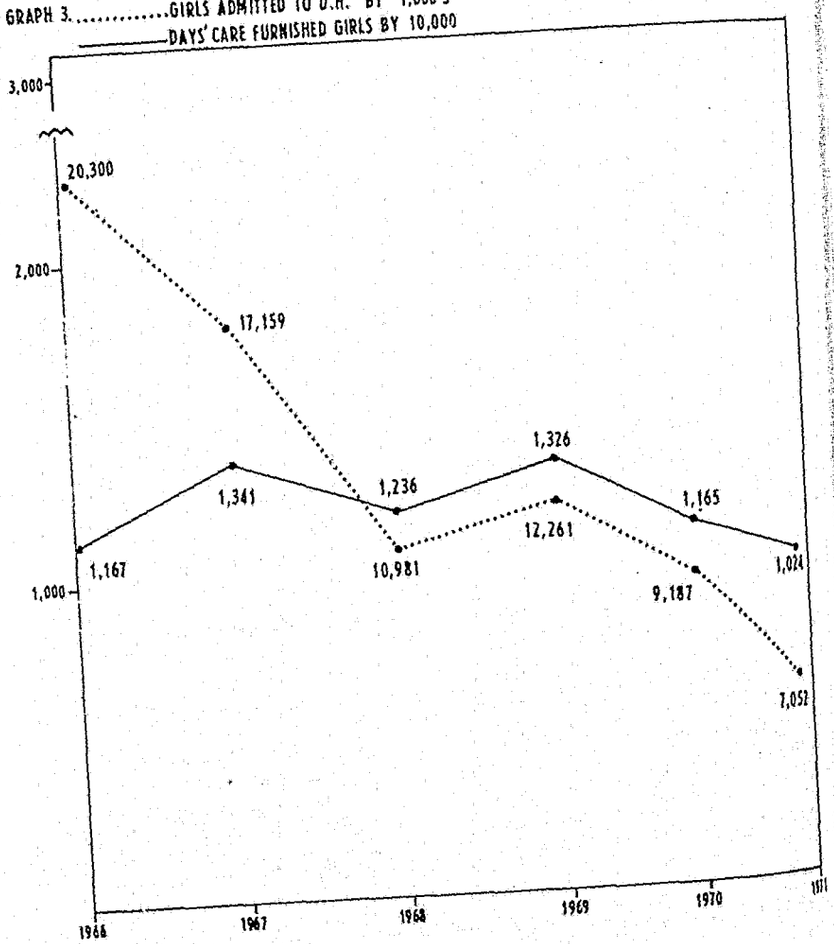
With our own probation staff and our county child welfare agency, our task was to get these people to accept the reality of the alternatives available to them in their plans for individual children. Commendably, these social workers were desirous of effecting a highly individualized placement plan for the child of their concern. Frequently, the consummation of such a plan took weeks, sometimes months, or finally had to be abandoned. In the meantime, the child languished in detention. We insisted that instead of this sometimes exercise in futility of searching for perfection, that the best plan available for the child be implemented. We thus avoided long stays in the detention home and lost nothing for our children in general since there would always be other children who could just as appropriately use the individualized placement if and when it became available.

Our experience indicates that girls are more frequently the victims of unnecessary detention than are boys. In 1966 when delinquency and unruly complaints involving boys exceeded those involving girls by almost four to one, girls comprised almost

33 per cent of our average daily population. 55 girls compared with 116 boys. In 1971, with the same four to one ratio prevailing as to the number of complaints, girls comprised about 28 per cent of the daily population — 19 girls compared with 49 boys. We were thus able to effect a 65 per cent reduction in the average daily population of girls compared with a 58 per cent reduction in boy population.

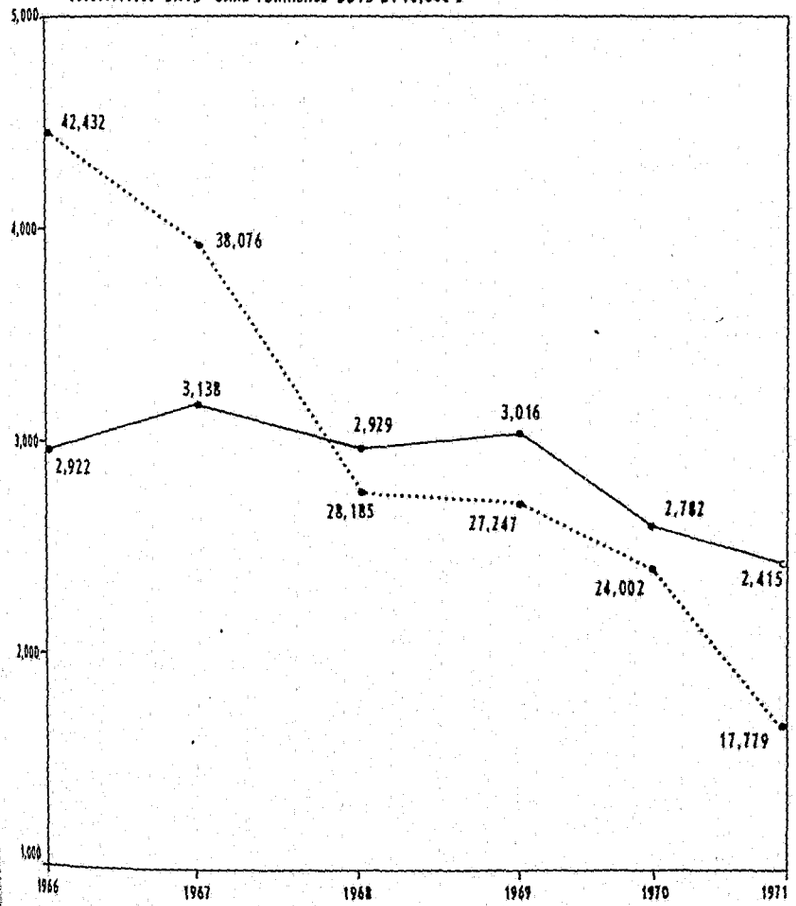
Considering the factors involved, even though we experienced a larger reduction in girl population than in boys, these results were somewhat disappointing. Boys are generally detained because of their propensity for criminal involvement, whereas girls are only rarely detained for this reason. It is indeed exceptional to detain a girl because she is a danger to the person or the property of others. In the vast majority of cases, girls

GRAPH 3. .....GIRLS ADMITTED TO D.H. BY 1,000'S
———DAYS' CARE FURNISHED GIRLS BY 10,000



are detained for their own protection. It is our conclusion that we are frequently over-protective of girls. Where experience has shown that a girl cannot be controlled in her own home by counselling and probation service and that placement in a controlled setting is necessary for her protection, it then becomes necessary to hold her in detention until placement plans can be effected. On occasion short stays in detention or shelter care, if available, may be necessary pending the reconciliation of the girl and her parents. In many instances the runaway girl, who is the object of a police search, is not apprehended until she returns to her home. In such cases, there is no reason to place the child in detention even though there well may be a need to go forward with the court proceeding. While we believe that girls are sometimes needlessly detained to their

GRAPH 4. ——— BOYS ADMITTED TO D.H. BY 1,000's
..... DAYS' CARE FURNISHED BOYS BY 10,000's



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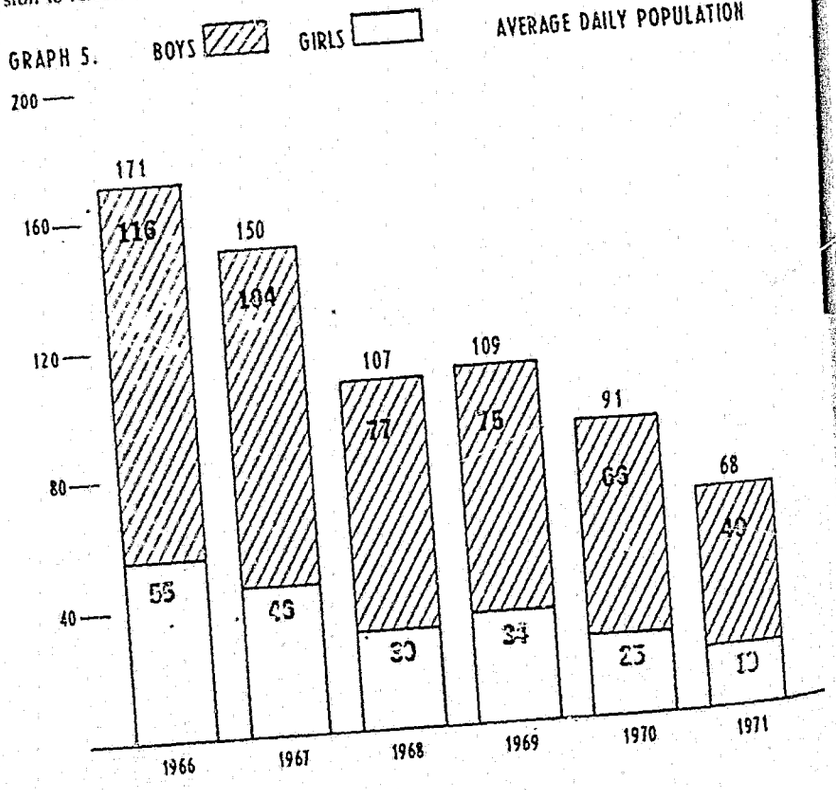
disadvantage, we are firmly persuaded that there are girls who sorely need the safety and comfort of a controlled detention setting.

The most dramatic reduction in our detention home admissions came in the category of police referrals: 1,942 children referred by the police in 1967 compared with 1,086 in 1971, a decrease of 44 per cent. This reduction took place during a period when delinquency increased from 7,853 to 9,363 cases. A substantial part of this reduction was brought about by the detention home intake officer immediately screening out children that were brought to the detention home by the police. The children were simply held pending communication with the parents and an almost immediate decision to release them. As the police became more aware of our admission policy, fewer children were brought to the detention home by them. Instead, the police released the children to their parents when appropriate, as had been required by statute for many years.

It has been our experience that those children who are released from detention shortly after being admitted and those who are not admitted upon initial screening, rarely fail to appear for the court hearing. In the early part of our program, a review of several hundred cases showed that less than one per cent of such children so released failed to appear. It is our observation that the only substantial risks as to appearance for court hearings are those few children who have good reason to believe that they will be

GRAPH 5. BOYS GIRLS AVERAGE DAILY POPULATION



institutionalized and those who are chronic runaways.

The disposition of the cases of those children who are ordered held pending court hearing is good indication of the soundness of the detention order. Of 43 cases detained over a three month period, 34 were placed in varying degrees of controlled settings and nine were returned to their parents.

Noticeable among those children who fail to appear for hearing are some who have been released to parents by police without first consulting our intake referee. In some such cases the child had failed to appear for a hearing on a previous complaint. In these cases by a telephone call to the intake referee, who has access to court records, the officer would have received authorization to place the child in detention. Close communication with police departments is essential, both in respect to those children who should be detained as well as those who should not be.

Arbitrary rules

The imposition of arbitrary detention rules results in the unnecessary detention of many children. These rules are generally based on the seriousness of the alleged offense; such offenses commonly are homicide, aggravated assault, armed robbery, rape and possession of guns. Superficially, this appears to be a sound basis for detention. Therefore, detention of children held under such a rule frequently goes unchallenged by parents and counsel, and the screening process by staff ceases with the information concerning the nature of the charge. The obvious invalidity of such a rule is that it takes into consideration only one aspect of the screening process, albeit, an important one. A classic example of such unnecessary detention and an instance where detaining a child is traumatic to the extreme is the case where a child has shot and killed a friend while he and the victim were playing with a loaded gun. Of course, detention is sometimes necessary while investigating the circumstances of the tragedy, but this should be of brief duration so that when the accidental nature of the incident is determined, the child can be released. To hold such a fear and guilt-ladened child in detention can easily cause psychological and emotional damage from which he may never recover. Stabbing, resulting in critical injury, which may have been an incident of a fight between two boys, is another common situation where a child may be arbitrarily detained when, considering the circumstances and the child's disposition, there is little likelihood of a repetition of the offense. Alleged rape, especially where several boys are involved, is another instance where the arbitrary rule should be supplanted by individual close scrutiny as to the necessity of the detention. An immediate clinical evaluation to determine the degree of the child's aggressiveness and impulsivity can sometimes be quite helpful in ascertaining the necessity of detaining children involved in delinquency of an assaultive nature.

In 1967, when we began our intensive effort to reduce population, many children were being held in our detention home for the seemingly valid reason of clinical testing, it being asserted that clinical assessment was necessary before the child could be released. Carefully subjecting these children to the same detention criteria generally employed, we found that the majority of them could be released to parents pending testing. Where this could not be done, we found it more economical to speed up the testing process by employing part-time psychologists. Instead of holding a child for a week at an approximate cost of $200, we employed a part-time psychologist at a cost of $40. The backlog of children in detention awaiting testing was further reduced by giving children detained top priority in the clinic scheduling.

Unquestionably, there is a direct correlation between detention home population and the facilities available to the court for the care of children. Of the 3,947 children admitted to the detention home in 1970, 2,066 or 52 per cent were readmissions. Five

hundred of these readmissions were wards of the Ohio Youth Commission. These were children who, generally after an unsuccessful probation experience, had been committed to the Ohio Youth Commission for residential care and treatment. The majority of them had been returned to their dissocial home environment after an institutional stay of five or six months under the supervision of the Ohio Youth Commission's inadequate and sometimes non-existent "after care" program. Had these children received the benefit of a properly programmed residential school for an appropriate length of time and an adequate after-care program in keeping with their acute needs, the necessity of returning a substantial majority of them to the detention home would have been obliviated. We single out the Youth Commission's "parolees" simply because they accounted for 25 per cent of the recidivists in the detention home. Unfortunately, because of failure to care for children, repeated stays in a detention facility are all too typical of many of the dispositional alternatives available to the courts, frequently including the court's probation department. Perhaps "failure" is too harsh a word to employ as to the care of these recidivists where limited adequate resources and children whose individual problems, peculiarities and circumstances greatly limits the success of any plan and thus makes planning by trial and error a grim necessity. Unquestionably, detention homes under the best of circumstances will always have recidivists, but without doubt, the number can be materially lessened by the availability of adequate facilities and their intelligent, energetic and dedicated usage.

A very proper and logical question to be asked concerning our successful efforts in the reduction of detention home population is: "What savings were effected for the taxpayers?" Certainly this is a question that county commissioners are bound to ask and it merits an unequivocal answer. However, various factors, such as vast improvement in the staff-child ratio, substantial salary increases, reducing the staff work week 44 hours to 40 hours, and paying time and one-half for overtime, makes a comparison of costs for the years at the beginning of our study (1966) and at its end (1971) meaningless and misleading.

During this period we experienced a 21 per cent reduction in detention home personnel. Certainly this reduction was not in keeping with the reduction in population. However, taking into account that the number of children under the care of each unit supervisor was reduced from a range of 20 to 25 to a generally accepted standard of 13, the real reduction of necessary personnel is more apparent. Also militating against further staff reduction was the necessity of having staff available for periods of peak population. Periodic salary increases from 1966 to 1971 resulted in a 50 per cent increase for almost all salaried employees. For example, the average pay of unit supervisors, the most numerous staff classification, rose from $4,500 to $7,000 per annum. Had we maintained the 1966 salary scale, the annual expenditure for salaries would have been reduced by $126,000 for the year of 1971. Food costs were reduced from $81,500 in 1966 to $60,000 in 1971; this savings of about 26 per cent is especially significant considering the spiralling food costs during this period.

Dollar savings

A highly important and very tangible by-product of our program, resulting in great dollar savings to the taxpayers, was the floor space we acquired for administrative office use by closing five detention home units. With an ever increasing staff, occasioned by a rise in case volume from 18,573 cases in 1965 to 22,635 in 1970, an increase of 21 per cent, our court administrative office space, already cramped in 1965, simply had to be expanded. In 1966, only the costs and the logistics involved prevented us from renting space outside the court house. The space acquired by reducing detention home population enabled us to house an augmented probation staff (increased from 45 officers to 75) and an enlarged clerical staff. Other floor space dividends arising from closed detention home units were two employee lounges in the detention home, a game room for girls, additional storage space and a much expanded restaurant for court employees and the public. We now have plans for an architectural survey of our court building which we are confident will enable us to more fully and efficiently utilize the space acquired from the detention home so that our building will adequately serve the needs of both the detention home and the court for years to come.

Had we been told as we began our program that our average daily population could be reduced from 171 children in 1966 to 68 in 1971, we would have been entirely incredulous, especially so since we were in a period of rocketing delinquency. As we reexamine the entire process, we are amazed at the simplicity of the operation which brought about such salutary results.

We employed no consultive services, nor did we introduce any super-sophisticated procedures. Basically, what we did was (1) establish a uniform detention philosophy embodying the criteria for admission and detention, and had this criteria written into the state law; (2) we insisted upon the practice of this philosophy without variations, and (3) we strictly, uniformly and promptly applied the detention criteria to the case of each child whose detention was requested. In a word, we challenged the necessity of detaining every child for whom detention was suggested.

As successful and as gratifying as our experience was during this program, we are persuaded that, as always, there is room for improvement and that further refinement of our practices and a more assidious application of these practices would result in still fewer children being detained.

FOOTNOTES

[1] Thomas, "Humanizing the Detention Home," *Federal Probation*, September, 1971, p. 21.

[2] Ferster, Snethen and Courtless, "Juvenile Detention: Protection or Punishment," *Fordham Law Review*, vol. 37, no. 2, December, 1969; "Juvenile Detention, in Correction in the United States," 13 Crime and Delinquency, (1967); W. Sheridan, "Standards for Juvenile and Family Courts," (U.S. Children's Bureau Publication, No. 437, 1966.)

APPENDIX NO. 17

CLINICAL

LIFE IN A CHILDREN'S DETENTION CENTER: STRATEGIES OF SURVIVAL

American Journal of Orthopsychiatry, Volume 42, Number 3, April 1972

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Young children and adolescents, held awaiting trial, are cared for by staff of similar origins and character, who often use children to discharge complex, unacknowledged impulses. Survival mechanisms of children and staff, and institutional social structure are explored and related to perpetuation of individual abuses and an ambiguous, chaotic atmosphere.

The children come out of vans, handcuffed to policemen. Their belongings are taken, except a comb. They wait in the lobby from ten minutes to half a day. No one looks at them. From the start, no one wants to know them. They are there awaiting trial. Some for ten days, some for three hundred, they never know when they will go to court, when they will see their probation officer, when they will be visited. If convicted, the time spent waiting does not count in their sentence; time in the detention center is not related to time before or time that will come. A twelve-year-old waits from October to June to be screened. He has been forgotten. The children are issued clothes, stripped, and searched for drugs. Sometimes drugs are in balloons, swallowed, to be vomited up later. No rules are explained to them. They are put onto the units without introductions. Girls are separated. The boys are grouped by age, except the armed offenders, and a special unit for homosexuals, transvestites, and the rare white boy. Segregation by race, poverty, education, capacity to adapt, has occurred already. One counselor watches thirty children in space meant for fifteen. Eight hours. Brick walls, naked light bulbs, loud music; no solitude is permitted voluntarily. They must stay together in the main room of the unit, for any alleged infraction—smoking outside the allotted smoking period, cursing back a counselor—or for no specific violation at all, they can be put into isolation. Officially all isolation detentions are to be reported; reports are often not made, and any child can be locked up within the eight hours of a shift, and no one will know. And with other such institutions it shares: one hundred degrees in summer, smells of urine and unwashed bodies. Twenty-three beds in a sleeping room; some isolation rooms have only a toilet bowl, and the counselor can turn off the water supply. To fight roaches, the rooms are heavily sprayed. Physical abuse with no redress; the word of a child is never accepted against that of a staff member.

This is a revised version of a paper presented at the International Congress of Child Psychiatry, Jerusalem, Israel, August 1970.

These children are innocent before the law. Some are accused of major crimes—assaults, armed robbery, rape, murder. Others are not held for crimes at all but for being unmanageable and intractable in homes and schools where rebellion may be a measure of vigorous health; such children are designated "beyond control." Some are detained because mental hospitals refuse them and they are caught in a circuit between detention center, foster home, and hospital. They have the same needs for "rules of the game" as any incarcerated person, the same needs to create an internal social structure in which to participate, but it is hard to establish one when the formal roles and relationships of the institution are undefined, illusive, even contradictory. They are innocent but treated as guilty. Counselors are to maintain safety, watch, and protect them but often abuse and threaten them. Held within a legal system designed to insulate them from depersonalized adult bureaucracies, they have no civil rights and are isolated from the world of their origins. The atmosphere within the detention center is chaotic for the children and the staff. The chaos mirrors the inner state of the children and the social existence they came from.

The children are almost all black, between seven and eighteen. White children are not so quickly picked up for similar offenses. Frequently, black parents are not called from the station house and their children are detained before the parents know where they are, whereas white parents are usually located and the children released into their custody.

Some common perceptions of the world unite these children before they reach the detention center. They have learned to view social authorities as persecutory and punishing, coming at them with prejudged expectations of their responses and performances—guilty, stubborn, irresponsible, unlovable. They have been faceless objects to be manipulated, as others are to them; and manipulation is effected through behavior, not language. The establishment figures of their world—teachers, police, welfare workers, storekeepers, bus drivers—are to them arbitrary and rejecting; while their sources of food and shelter, the intimate associates to count on, are precarious. Psychiatrists might call these children paranoid, except that their perceptions are accurate most of the time; and the model for dealing with outer danger and uncertainty perpetuates a style of projection of internal distress.

On the units they are passive. They lie on the floor, near or on each other, sometimes playing games. Occasionally they riot, fight, or gang bang. Sudden swings from immobility to violence are part of accepted and expected behavior, for staff and children alike. They pass in lines from unit to school to meals to recreation. Unexplained shifts in schedule for work, school, and play occur

almost daily; rules vary according to the counselor on duty.

One's fate is sealed on arrival day. Each new boy is physically challenged. If he doesn't defend himself, he will be beaten up or threatened sexually. If he fights but loses he will still be accepted. He must not back off or cry. Group homosexual assaults are common among the older boys. Younger boys are simply taken sexually; sometimes they offer themselves. A shrewd newcomer can ally himself with tougher kids by being a good "cracker," a style of speech to be discussed later. The genuinely innocent kid—the eight- or nine-year old who is not street-wise and is physically weak—gets it in every way and learns fast.

Throughout the system, anger is vented on weaker members, and weakness is defined in physical struggles. A tough counselor can alter the threats of violence on a unit by being the strong man himself. Often a less punitive counselor will ally himself with the toughest boy to maintain order and survive. A rare counselor interrupts this pecking order by engaging children in group activities and loyalties and presenting different values of strength. Such counselors, though respected by the children, usually do not last long.

Once a child has entered the unit, what are his strategies for survival? The only method with positive rewards is to con the system. This means being deliberately friendly with counselors and administrators, thereby getting jobs in the kitchen, the offices, school, and laundry. This gives extra privileges—more food, smoking, new contacts, and, most important, movement off the unit. All conning activities are safe as long as they are perceived by the other kids as tongue-in-cheek, as long as a child is not thought a "patsy" or a "ratter."

The second major tack to survive, by far the most prevalent, is to disappear into the woodwork, to be utterly passive, faceless, non-existent. Even bizarre behavior is not seen. I learned from one therapy group of a sixteen-year-old boy drinking his own urine, burning his forehead with cigarettes, and calling himself "black Jesus." He was not noticed by the staff. From another, I met a group member who used different names each time he came to the detention center without anyone ever recognizing it was the same child.

Only rarely will a child beat down the system. These are big kids who are good "crackers" and physically overbearing. They are the brightest boys, who supersede whatever alliance a counselor makes with other tough kids and become a kind of spokesman. They are feared by the staff because of their cunning, their power to disrupt. The hostility toward them is intense but they are left alone. The system often expels them and, for some, the penalty is high. Sammy was a master at this, and intimidated the staff to its limit. Having traveled between hospital and detention center, he was released to his home, where he was stabbed to death by his father.

Closely tied to survival is the informer system. The administration corrals, bribes, and frightens certain children into informing on their peers. The rules are strict. If discovered, informing is tolerated by the other children if suffering would have been the penalty for silence—if you would have gotten more time, or been severely punished. But one can never inform to gain something. The penalty for this is physical abuse, rape, or ostracism.

An important aspect of survival is called "cracking." It is a mocking, jeering, joking use of language that establishes with words the same pecking order as physical strength does initially. You crack *on* someone, you don't crack *with* him. "Ass-kissers," boys who con about going straight when they get out, are particular targets. This is vicious humor and in therapy groups it is important to cut through it but not threaten its effectiveness on the units. It is the major non-physical cohesive force that allies them. Cracking represents an implied ability to fight and to withstand and dish out verbal abuse. You put people down, put feelings down, always mocking tenderness and sentiment. Feelings are hidden. Language is not a neutral vehicle for contact or communication. When not cracking, the boys sit silently on the floor. It is the only conversation.

When is there tenderness? When is there protection? Only under extreme circumstances. Most of the time, extreme physical helplessness is protected. A severe stutterer on a very tough unit cannot be teased. I learned of a boy in isolation for twenty-four hours in severe drug withdrawal. The administration had refused to send him and several others to the hospital, accusing them of malingering; some were, but some weren't. He lay with his head on a roll of toilet paper, his face in his vomitus, shaking under blankets. Outside the door, keeping check, was a boy from the unit who had watched him throughout the day, keeping him warm.

Psychological helplessness is not so protected, and the disturbed are good subjects for cracking. Out of fear, the extremely bizarre are left alone; sometimes boys will point out to a mental health consultant sick kids, ignored by the staff. Vince had been in isolation for six days and had not been visited except for food put in his room. He was locked up to finish an isolation punishment meted out a year before in a previous period at the detention center, unfinished because he had gone to court and been released. When I saw him, he was incoherent, babbling, drooling, terrified; his ravings soon became comprehensible to me. He wanted a particular doctor every day—a man who had been kind to him four years before. He had held the gun during an armed robbery because he wanted "those guys" to like him and he couldn't say no. He was afraid to go back to the unit because he would be raped.

The primary defense mechanisms operating on every level in the detention center are projection, denial, and dissociation. One's internal wretchedness, when experienced at all, is "because of them." Children are tormented by counselors, counselors are threatened by administrators, administrators are endangered by "downtown," and "downtown" is harassed by the legislators. Too often, they are right; the concrete realities of these people's lives makes interruption and examination of these defenses almost impossible. Few people within the detention center distinguish external and internal sources of misery or notice any personal difficulty in tolerating painful feelings.

Who are the counselors and administrators, and how do they function? Like the children, they have no options. Their supervisors and senior administrators offer them no intimacy, no range of techniques to handle problems; only authoritarian strength or deflection of re-

sponsibility to a vague "other." As the counselors fail the children, so the senior administrators permit no identifications or sharing, acknowledge no conflictual feelings. Like the children, counselors receive no positive rewards, only negative reinforcement. If they fly through a window to prevent an escape, that is expected behavior. If they are five minutes late, it is written into their record. They are frequently spied upon and lied to.

Like the children, they wait—for promotions, commendations, course certificates that don't ever come or are delayed without explanation. They too have no privacy. Personnel files lie open, rumors abound and threaten everyone. Counselors rarely protect each other, and children are pawns in staff rivalries. Three boys were left naked in one isolation room in a struggle over which counselor would get them clothes.

The relationship between counselors and children is a deadly game, and the main rule is "beat them or they'll beat you." A drug user is caught by a counselor. In the morning statistical report, without intended irony, is printed, "Congratulations, Mr. X. You are the biggest drug catcher of them all." Counselors try to outguess and outfox the children, as in a ruthless sport. Understanding, empathizing, helping is emasculating. Fundamentally, the children must never be seen as like themselves; they cannot imagine their own children in such a setting.

Respectful intimacy is non-existent in the detention center and the counselors use the children in different ways. Like objects of pornography, they are erotically used. Some stimulate the kids by teasing them and egging them on. One counselor has the boys talk about homosexual exploits into a tape recorder. Some female counselors are visibly titillated by illegitimate pregnancies and stories of prostitution. Occasionally, a counselor rapes a child, with or without consent. One senses that the children are discharging the forbidden aggressive and sexual impulses of the staff, who reestablish their self-image, distance, and self-control by massively suppressing the children.

Most counselors cannot tolerate any physical and verbal show of aggression in the children, and some hit and even beat them at the first sign. Once, a counselor called a psychologist for himself because he was putting a child into isolation for no apparent reason, yet he knew he was going to hit him unless he got rid of him. That amount of self-observation is rare. Encouraging and watching violence is irresistible for some, and their fascination is not acknowledged. A female counselor stood and impassively watched a girl bite out a piece of another girl's cheek and told me later, "Nice girls don't fight."

Always there is the reality of actual danger working with severe overcrowding. This too is used, and counselors often flirt with danger, provoking avoidable situations that excite them, and provide an opportunity to watch, experience unacceptable behavior, and then divorce themselves from it entirely. When overcrowding occasionally diminishes, there is no change in staff behavior.

The counselors use language as the children do—bitter cracking with each other; they rarely have shared, matter of fact exchanges. With their senior authorities, they retreat into sullen silence. Meetings between them reveal similarities with the children on the units. Counselors are impassive, talked at, immobile, and then break into fits of temper, screaming, physically threatening, banging chairs. These outbursts by counselors are dealt with by their bosses as tangentially and immaterially as the fires and riots of the children. I once dared a senior administrator to risk telling the counselors at such a meeting that he was sometimes depressed working there. They fell into an astonished calm.

Occasionally more flexible persons are hired. Senior administrators don't want to hear their complaints and suggestions, and will harass them until they quit. Often such men cannot tolerate the frustration and depression. A powerful clique of authoritarian counselors makes life miserable for a more flexible person, and very few remain. The detention center is a place to get out of—for everyone who can. What remains is a group of people who feed on the chaos within the center to avoid facing their own doubts and fears, and issues of their own competence. Tactics to improve working conditions are never gripped and applied vigorously; they hide behind the system's inadequacies and extrude more effective people. What is rewarded is security, passivity, immobility, no overt conflict. And the staff lives with a sense of impending destruction—each television interview, meeting, call from a judge is potentially the loss of safety, job, promotion, status, perhaps reflecting deep projected guilts.

Although of different backgrounds, staff, like the children, are locked within constricted character structures with little internal mobility. Almost all black, with some higher education, the staff struggles to maintain a middle-class identity in jobs that have little social status. Significantly, a large number come from the rural South, farms or small towns, where angry outbursts were often forcibly suppressed, and the need for control was related to the dangers of white society "out there." Rarely, a counselor will admit his outrage at seeing these urban boys doing what they never could; sometimes senior administrators, who spend far less time with the children, connect their dislike of the new music, new haircuts, new freedoms to the compromises they made to "make it" in a white bureaucracy. Their hatred of the children, which is felt after a few hours in the detention center, is a necessary piece of the delicate equilibrium required to maintain their self-esteem.

Cracking, the only language effective on every hierarchical level of the detention center, is also a metaphor for the cracks, the split, the dissociation that mark this institution. Everywhere one meets the illusion of infinite distance and difference. These children are a different species, not human. Top administrators are unreachable, unknowable bosses. Distance between castes is experienced as a non-crossable space. Yet each level is partially identified with and living through the other, dependent on the other; the illusion of infinite separation masks an unconscious fusion between the groups based on mutual projection —a partial symbiosis. Fusion versus infinity—on every level the same image is reflected, like facing mirrors.

No one trusts here, and everyone is hungry. In therapy groups, in consultations with senior administrators, in talks with counselors, the imagery is oral. Beneath the hatred, the backbiting, the projections, the chaos, lie enormous reservoirs of depression. Ultimately, the maintenance of the chaos may itself be

defending against the hopelessness and lack of mobility in their lives, which gets perpetuated throughout the institution.

At the core of several decisions by the United States Supreme Court has been its recognition that the juvenile court system, established to protect the special interests of children before the law, has violated not only their civil rights under the Constitution, but has perpetrated those very abuses of human growth the special systems were created to avoid.

This detention center represents the failure of all structures in urban society —family life, schools, courts, welfare systems, organized medicine, hospitals. It is a final common pathway to wretchedness. Occasionally a scandal in the newspaper, an outraged lawyer, an interested humanitarian judge makes a ripple. The surface smoothes rapidly over again, because, locked away in a distant part of town, society forgets the children it does not want or need.

APPENDIX NO. 18

Humanizing the Detention Setting

Federal Probation, September 1971

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According to the National Council on Crime and Delinquency, "Detention for the juvenile court is the temporary care of children in physically restricted facilities pending court disposition or transfer to another jurisdiction or agency."[1] There are more than 300 detention facilities in the United States, in addition to regular jail facilities used to hold youth in the absence of a home.[2]

The construction and use of detention homes occurred around the turn of the century in conjunction with the concept of government benevolence toward youth, an exemption of youth from criminal responsibility. Thus, the juvenile court system was developed which includes separate confinement, hearing, and probation for youth. This differential handling of juveniles implies a positive program of diagnosis and treatment that serves the child's best interest.[3] Until recently, little in the way of Supreme Court guidelines had been handed down to the juvenile court, the result of which was tantamount to local dictatorship in the courts. Although the *Kent* and *Gault* decisions and the implications of those decisions were geared to youth being afforded basic legal rights, in some respects it has compounded the plight of the detention worker. It has increased the average length of confinement in the home. *Kent* and *Gault* have raised perplexing questions that relate to the policies of the detention home, the right to "treat" detained youth prior to adjudication, and it has initiated an examination of the role of the detention home worker.

The Need To Control Intake

It is axiomatic that among the approximately 500,000 youngsters who are confined yearly in detention facilities, a large proportion of them need not be there. The problem is further complicated due to the fact that some children are victims of secure custody not only out of sense of punitiveness, but benevolence as well.

In many communities, detention is used as a panacea for youth with problems. The local juvenile officer may well tell a youngster, "If you don't straighten out, I'll send you to the detention home," using secure custody as a threat. This is a flagrant abuse of the function of detention. However, it is a rather straight-forward misuse of detention and is highly visible to concerned professionals. But probably the most difficult intake policy to defeat is the attitude on the part of court personnel that says if we don't keep this poor, helpless, homeless youngster, he will have no place to go.

Unfortunately, "no place to go" is better than the detention home in almost every case. Principles such as contagion and labeling are invariably the end result of such an attitude. It is no secret among competent professionals that the mixing of delinquent, dependent, and neglected youngsters is certain to have deleterious effects upon them. In this context, the response to the kind soul who would lock up a youngster for having no where else to go is that *it is inhumane*. It is inhumane to expose youngsters needlessly to the degradation that accompanies secure custody. It is inhumane to place the child in an atmosphere in which delinquent skills are likely to be learned. And so long as detention facilities continue to accommodate these kinds of youngsters, the community will provide little in the way of suitable alternatives. Detention administrators must take the position that children with emotional problems are the responsibility of psychiatric services and need a different kind of attention. Children without parents need parents, not 3 days in the local detention home. The community must provide a system of youth services that addresses itself to a wide variety of youth with problems and makes provisions for foster care, group homes, psychiatric services, and the like.

There is also the problem of labeling. Once a

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[1] National Council on Crime and Delinquency, *Standards and Guides for the Detention of Children and Youth* (2d ed. New York: National Council on Crime and Delinquency, 1961), p. 1.

[2] For a description of the current status of juvenile detention in the United States see Nicholas A. Reuterman, Thomas R. Hughes, and Mary Jean Love, "Summary Report of a National Survey of Juvenile Detention Facilities," *Criminologica*, May 1971.

[3] *Kent* v. U.S., 383, U.S. 541 (1966).

child enters the detention home, a curious process begins. A line is added to his record which says, "I'm a bad youngster. If you see even the most remote sign of trouble, lock me up again." And usually he is accommodated.

All of this business of labeling would not be so ominous if the efforts demonstrated some measure of success, but they don't. It is often stated that juvenile corrections has not reached the stage where it is helping young people more than inflicting damage. A cursory glance at recidivism rates among youth seem to bear this out.

For at least the two previously stated reasons, it is important that detention is used as a last resort and imposed upon a limited population. As stated by the Special Task Force on Correctional Standards:

> No child should be placed in any detention facility unless he is a delinquent or alleged delinquent and there is a substantial probability that he will commit an offense dangerous to himself or the community or will run away pending court disposition. He should not be detained for punishment or for someone's convenience.[4]

In order to make a reasonable determination as to the likelihood of the child abusing himself or others, or whether there is a strong possibility of running away, a skilled intake officer should interview both parents and the child.[5] Criteria for detention should include the nature of the alleged offense, assessment of the family situation, and an evaluation of the child's stability. It would be simple if there were "pat" answers, but each child brings a unique personality into a unique set of circumstances and must be handled in that context. Detention of youth must be taken out of the realm of habit or inappropriate criteria. Professionals with responsibility for intake need to understand that detention is neither punishment nor rehabilitation, but rather a holding process for a select group of young people who need a supportive but restricted environment.

The Right To Treat

Treatment using a correctional definition is not, at this point in history, a proper function of juvenile detention. It will be increasingly difficult for correctional personnel to deal with youngsters in a treatment relationship prior to the child being adjudged delinquent. Formal treatment or rehabilitation as a function that begins after the child has been adjudicated and has been placed on probation, in a training school, camp, or mental hospital. It could be argued that using a strictly legal interpretation of the child's rights will impede the possibility if his receiving adequate and proper care. However, the juvenile court has had over 70 years to prove its intentions, and the results of the movement are meager at best.

The foregoing discussion of the right to treat presents an interesting dilemma for well-intentioned correctional personnel who work in the detention setting: "How can I help this youngster if I can't 'treat' him?" The answer to this problem is a very simple one: As a human service worker in a detention home, one has not only a right but a responsibility to react in human ways to the behavior of the children in his care.

The following excerpt reflects a behavioral posture that would be tenable in the detention setting:

> Behavior may be analyzed and controlled experimentally, when one considers that behavior is functionally related to certain variables. One can divide what is happening in any interpersonal relationship into two discreet domains. When relating to a person, whether he is an inmate in a prison or detention home, or your wife, or your children, that individual's behavior is *his* domain and you don't make *demands* on that domain, because in all probability, the individual is responding in accordance with the laws that govern human behavior. There are, however, certain environmental events and consequences over which you have control. One such set of events is your behavior and that is your domain. If you want to help a youngster, you don't tell him, "damn it, you must do this or that." If you are interested in helping, what you have to change is your domain, *your* environment or your behavior, in such a way as to *increase the probability* of the desired change in the youngster you are concerned with at the time. This is the basic principle involved here. It is a matter of domain. He has his domain and you have yours, and don't get them confused.[6]

Stated in another way, what you are as a human being will have a great deal to do with how the child perceives his own unique worth and dignity. An interesting statement related to this question was made at a recent conference, "When dealing with a detained youngster, what you say is not important; how you act has some relevance; but what you are is the crux of helping young people during a time of need and crisis."[7]

The detention home, at its best, begins a process of helping the child with his situation. Formal therapy does not take place in most cases (and rightly so), but it is possible to initiate an informal pattern of helping relationships. To examine and develop these relationships, in maximally fruitful ways, is a major frontier in juvenile detention.

Children in detention urgently need concern and care from adults who are acceptant and encouraging. They *do not* need condemnation and moralizing. They need to relate to whole human beings who will have positive regard for them as persons of dignity and worth.

Juvenile detention is an intense experience. For many youngsters, it is their first encounter with the forces that administer justice to youth. The nature of the detention experience may strongly influence the child's perception of the juvenile court and the services it dispenses.

The child's behavior is based on this view of the situation. If he believes a child care worker is unfair, he behaves accordingly. He may leave the detention facility with attitudes and behaviors that are more hostile and negative. Hopefully, however, the child will have favorable and satisfying experiences with adults in the detention setting.

The writings of Arthur Combs, Donald Snygg, Abraham Maslow, Carl Rogers, and others suggest that the concept a person has of himself is the most important factor in his behavior. The views that children have of themselves are not, however, developed in a vacuum. Their perceptions of themselves are reflected in the mirrors of human relationships. If a child is treated as having the propensity to succeed, it enhances his chances of doing so. If young people are treated with dignity and worth, it is likely that these characteristics will become a part of their personality structures.

Several years ago I interviewed a number of slow-learning youngsters in a special program for the adolescent, dropout-prone in Quincy, Illinois. The research project was designed to identify qualities of the child-care workers (in this case teachers) which contributed toward the success of the program; that is, school completion and acquisition of social adjustment skills. Many of the sample had encounters with the law and were representative of the kind of youth who populate detention homes.

Several qualities were readily identifiable from the interviews. A recurring theme identified by the youth was *independence*. The youth often spoke of the teacher's willingness to defend the youngsters in the face of adverse criticism. *Support* was also frequently mentioned in the sense of someone to lean on during a time of crisis. A number of responses indicated that *flexibility* was a desired trait, an ability to respond to a variety of individual needs and group problems. *Vibrancy*, or a quality of active interest and involvement, was alluded to, a feeling on the part of the youngsters that they were not being ignored. A large proportion of the sample discussed *sensitivity*, an understanding by the teacher that a youngster saying, "I don't give a damn" could mean quite the opposite. *Honesty* was given a high priority, a willingness to state a position in a straightforward manner. *Patience*, *realistic*, and *shock-proof* were also mentioned, but the overwhelming response of the youth was the quality of *caring*. Not only were they able to identify those teachers who cared, but suggested it was a powerful influence upon their behavior.

There are skeptics who contend that since the length of stay in juvenile detention is such a brief one, there is little need to program conscientiously. But detention may very well be a "turning point" experience in the life of the child. The important factor is the quality of the human relationships, rather than the duration, while the child is in a period of stress and anxiety.

The Admission Experience

When a juvenile is brought to the detention home, there is a certain amount of paper work that needs to be done. There are the matters of name, alleged delinquency, and relevant historical facts. In gleaning this information, the intake officer should be prepared to listen to a child who may be either frightened or hostile. Probably the most damaging thing the intake officer can do is to read coldly a series of questions and to demand appropriate responses. This behavior often increases the fear of the frightened child and solidifies the animosity of the hostile child.

There is a tendency in recently constructed detention facilities to lean in the direction of management efficiency and to disregard the human element. Hence, during admission, all detainees are issued identical uniforms, are stripped, showered, and searched, are given a cursory physical examination, and their constitutional rights are read to them.

In the case of clothing, at only a mildly increased cost, a detention facility can provide alternate colors in trousers and sport shirts. There are obvious health reasons for showers and phy-

[4] For further correctional standards of the Task Force, write "*Information Digest*," Criminal Justice Planning Resource Center, a specialized service of the Information Center, NCCD Center 291 Route 17, Paramus, N.J. 07652.

[5] Sherwood Norman and Al Barsis, "The Controlled Use of Detention, A National Dilemma and a National Way Out," reprint of a presentation given at the National Institute on Crime and Delinquency, Miami Beach, June 1971.

[6] Richard Pooley, "A Reinforcement Approach to Managing Behavior," paper given before Institute for Detention Home Superintendents, Grafton, Illinois, February 1-6, 1970, p. 6.

sical exams but this can be done with some vestiges of dignity.

There is no need for a detention officer to watch while a young man or woman showers. At this point in the legal process the child is guilty of nothing and, given a properly constructed shower, is neither a danger to himself nor to his community. The searching process can be conducted in the context of the physical exam, and contraband or evidence of contagious disease can be discovered during that activity.

One administrator proudly indicated that, during the child's shower, his constitutional rights were read to him via a tape recorder in the stall. This procedure absolves the administrator's legal responsibility, but it is not a satisfactory way to deal with a human problem. What happens if the child wishes to ask the tape recorder a question? What occurs if the child doesn't hear one key phrase? Children who are good listeners seldom confront the court system.

Programming for Growth

The function of the daily program is to provide for the child in custody a system of positive activities or experiences while he is awaiting a determination as to his future. This necessitates a wide range of activities related to the unique needs of the detainees. A diverse and positively oriented daily program can be viewed as a first step in the rehabilitative process if the youngster is sent to a training school or camp. For the child who returns to the community, a flexible program that meets differing needs and interests can be seen as a tool of prevention.

With the possible exception of school for those who are within legal age limits, all programs should be voluntary. Few young people will sit in their rooms if attractive alternatives are available. If a child chooses to sit in his room, it is likely that there is a valid psychological reason for doing so, and the child's reluctance may prove to be a wise course of action at that point in time.

Punishment has no place in detention. If a child tears up his room, the problem is not how to clean up the area but rather what was in it for him to destroy his living area. Once the adult understands the dynamics of the child's behavior, attempts can be made to help. Child care workers should be tuned in to the message that is being sent, not to the act itself.

Detention facilities should be trying to approximate the normal living routine, and it is for this reason that coeducational activities, within limits, should be encouraged. Under close supervision, the mixing of boys and girls at mealtime, at school, and for certain games and sports is highly appropriate.

School programs are the major activity in most detention homes. In many facilities, a "special education" teacher has been provided by the local school board. What is needed is a "special" teacher in the sense that they are good teachers. It is important to have teachers who can give individual attention to differing age levels and academic abilities. Teachers are needed who can quickly discover where children are and build successful educational experiences upon that level of readiness.

There is no reason why a teacher in the detention setting should not be in close contact with the school where the youngster has been enrolled so as to discover the curricular level at which he is functioning. Additionally, since the students in a detention facility are a heterogeneous group, resource materials will be required that range from approximately the third grade level through high school. These materials include all the audio-visual aides and tools of learning associated with the public schools. Working closely with the public schools will ease the transition back to the community if the child returns.

There are many reasons why a broad recreational program should be included in the detention setting. Adolescents need a healthy release of energy. Physical sports are one means of providing this release. It is probably wise, however, to qualify the type of physical activity. To encourage boxing, judo, and other competitive physical contacts could be an invitation to disaster. Many of the participants are in detention because they cannot exercise restraint, and it is unwise to place them in explosive situations.

Sports requiring cooperation like basketball and volleyball, under close supervision, are worthwhile endeavors. A kind of a socialization process occurs in team activities that is a useful learning experience.

A variety of indoor games should be available—along with books, magazines, television, radio, and movies. These activities need not be forced on the detainees, nor is it possible to do so.

An occasional party or live entertainment is not out of the question. To be sure, the function of the detention home is not the same as the local

teen town. Conversely, there is no point in denying young people in temporary custody some amount of fun. It is obvious that many youngsters who wind up in institutions have not had much fun or joy in their lives.

There are certain daily maintenance work experiences that are useful for the adolescent to learn. It is important that the boys and girls take care of their own living areas. This is part of the growing-up process, and it is not unrealistic to require it.

The trouble begins when one invents useless work activity for the detainees. If it is a matter of digging one hole to fill another, chances are it is a contribution to a smouldering resentment.

There are special situations in which it is a good educational experience to engage in a purposeful work activity. If some trees and brush need to be cleared to build a basketball court for the detention home, it may be realistic to ask for volunteers. On the whole, however, it is necessary to select these activities very carefully.

There is a great deal of fervor concerning counseling these days. Sensitivity training, guided group interaction, reality therapy, and the like are often discussed in relation to treatment programs. Certainly, detention personnel need to listen to and understand the problems of youth in secure custody.

The problem is that therapy prior to adjudication is not only presuming guilt, but sickness as well, and has no place in a detention home that is attending to its proper function. In part, it is a question of semantics. Certainly, detainees need to be convened in small groups with a trained counselor; however, the discussions should focus on general problems adolescents face in the growing-up process, rather than details relating to specific delinquent acts. It is important not to confuse a child-care worker's role with that of a psychotherapist, especially while there is some question as to the child's future. In a general way, all detention personnel need to possess certain skills. They need to react—in human ways—to the needs of youth with problems.

Most correctional personnel are wary of the word *solitude*. It conjures up such things as solitary confinement, "the hole," and other ugly connotations. But in its best sense, *solitude* means a sense of privacy or preservation of human uniqueness and dignity.

A means through which a child can be alone with his thoughts should be built into a daily program. During this crisis period, some youngsters will need this time to themselves. Detention facilities should provide for this basic need.

The overall program, then, should be growth-oriented and geared to the needs of the individual child. School activities, recreational opportunities, work experiences, and other program components can build feelings of adequacy, dignity, and worth.

Getting the Job Done

Juvenile detention facilities, in the main, are terribly understaffed. The kind of program previously described requires staff. Flexibility in program necessitates supervision in several activities as well as areas. The familiar cry is, "We cannot afford to hire staff."

Communities in this country need to be told that the price is too high not to hire additional, well-trained staff who care about youth with problems. Recidivism costs money. In most states, it costs more to maintain a child in a correctional institution for a year than to send him to Harvard. Detention is a timely opportunity to intervene in this cycle of state subsidy and human waste.

One virtually untapped manpower source is volunteers. More and more, volunteers are finding satisfaction in their work with juveniles. Approximately 50,000 unpaid citizens are presently helping more than 1,000 courts to provide more adequate probation services. A word of caution is appropriate. Recruitment, screening, and selection of volunteer staff should be no different than that conducted for paid personnel. Volunteers should be skilled and interested in the specific task for which they have been selected. They should not be people who are trying to impress the officers of their social club.[7]

Summary

It is largely true that juvenile detention in this country has been ignored. It has been stated that detention is the "black sheep" of the juvenile court and its function has been to serve as a proving ground for future probation officers. This

[7] For further information about volunteers, see I. H. Scheier, and L. F. Cole, *Using Volunteers in a Court Setting*, 477; Washington, D.C., U.S. Government Printing Office, 1969. See also "The Professional and the Volunteer in Probation: Perspectives on an Emerging Relationship," by I. H. Scheier, FEDERAL PROBATION, June 1970, pp. 3-11.

is unfortunate in that for many youngsters detention could become a turning point experience in their life.

Training for detention personnel, with the exception of the Southern Illinois University's limited involvement, is virtually nonexistent. This leaves some 6,500 detention personnel who handle approximately 500,000 youngsters a year with little educational opportunity to upgrade their professional standing.

At this point in history, given the rise of authoritarian forces in this country, there will be pressure to remove young people from the community and place them in the detention setting. In this context, it is extremely important that detention personnel look carefully at the function of juvenile detention, the legal posture of the child, and develop institutional programs that will limit the damage done to young people awaiting court confrontation.

APPENDIX NO. 19

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a DIFFERENTIAL USE of GROUP HOMES for DELINQUENT BOYS

JOHN W. PEARSON

In recent years there has been a nationwide emphasis on the treatment of juvenile delinquents in their home communities.[1, 2] Along with this emphasis has come an increasing use of group homes. On the theory that different types of boys need different types of homes, the California State Youth Authority, under a grant from the National Institute of Mental Health, has carried out a 4-year study of the differential use of group homes for teenage delinquent boys, called the Group Home Project: Differential Treatment Environments for Delinquents (MH 14979). This study was conducted between April 1966 and October 1969 as an integral part of the Community Treatment Project, a comprehensive research and demonstration project jointly sponsored by the Youth Authority and NIMH.[3]

The concept of group homes is not new; such homes were first used in New York City in 1916.[4] Group homes vary in definition, staffing patterns, and use. Some are owned and professionally staffed by agencies and provide complete care and casework services to children in residence; others are basically foster homes in which a family offers care and supervision within its own life style to several foster children. The Group Home Project has been an attempt to gain a more complete understanding of one pattern of use of group homes for delinquents.

The project produced a mixture of experiences that raised as many questions as it answered. While the staff remains convinced that group homes are frequently preferable to foster homes for delinquents, experience in the project has indicated that the use of group homes as the only method of treatment offers no panacea for the rehabilitation of delinquent teenagers.

The Community Treatment Project, of which the Group Home Project was a part, was designed to compare the effectiveness of an intensive treatment and control program in the community with the Youth Authority's traditional programs of institutionalization and parole under the supervision of parole officers who carried an average of 70 to 80 active cases. The first two phases, carried on from late 1961 to October 1969, involved boys and girls 13 to 18 years of age committed for the first time to the Youth Authority by juvenile courts in metropolitan areas of Stockton, Sacramento, and San Francisco.

The subjects were randomly assigned either to the Community Treatment Project for treatment in the community by a parole agent carrying an average caseload of 12, or to a State training school as a control. Because smaller caseloads have not themselves guaranteed adequate treatment,[5] other dimensions were incorporated. These included:

1. Classification of the young people according to their level of maturity under the Interpersonal Maturity Level Classification for Juveniles, or the I-level system.[6] (See box, p. 145.)

2. Matching of the delinquent and parole agent according to the delinquent's personality traits and needs and the agent's personality, style, and preference in dealing with young people.

3. Planning an individualized treatment program for each young person, based on his unique needs, his personality, and on short- and long-range goals.

4. Using the relationship between the young person and the agent as the major vehicle for change.

The parole agent's role has been to work closely with each youngster assigned to him, providing individual, family, or group and casework treatment services and using available resources for care—including out-of-home placement, training, counseling, education, and recreation. The effectiveness of the Community Treatment Project has been demonstrated by lower recidivism, greater changes toward more positive attitudes, and a greater proportion of successful discharges from parole among the youngsters in the community-based treatment than among those in the control group.[7]

Parole agents in this project realized that many young delinquents need living situations that would *permit* nondelinquent behavior and that would en-

hance—or at least not actively interfere with—the treatment program. For example, a young person who relates to his world through conformity, or "allegiance" to friends who put pressure on him, may have little or no alternative to becoming delinquent if he lives in a neighborhood of high delinquency. Another youngster may escape neurotic conflict within his family through delinquent acting out. The use of out-of-home placements by the Community Treatment Project staff was therefore markedly greater than the state average for all parole agents.

Problems arose in locating and maintaining suitable foster homes within the Community Treatment Project. Many parole agents saw the need for a more controlled atmosphere than available foster homes could provide. Temporary housing was often needed on an emergency basis. These circumstances suggested the need for different kinds of placement facilities for different purposes. Group homes were seen as one means of meeting these needs.

The idea of the Group Home Project began to take form as early as 1962 with a limited, largely nonsystematic use of group homes within the Community Treatment Project.[8] Adding impetus to the idea was the recommendation from a statewide study that the Youth Authority "immediately proceed to set up a significant number of agency-operated group homes . . . with the particular purpose of learning as much as possible about their operation. . . ."[9]

The group homes

The goals of the Group Home Project were: (a) to determine the feasibility of establishing and maintaining different types of group homes; (b) to develop a taxonomy of environments describing the important aspects of such environments in treatment-relevant ways; and (c) to evaluate the impact of the group home experience on the young people on parole. All these goals relate to the attempt to assess the relative worth of each home as a placement alternative and treatment resource and its implications for use in other settings.

Five types of group homes were defined in the original proposal in 1965, based on the concept of differential treatment.[10] A sixth type was added by the project staff in 1968. Types I, II, III, and VI were designed as long-term care homes to meet the different treatment and control needs of many youngsters in the three major I-level categories (I_2, I_3, and I_4). Home types IV and V were designed for short-term care of delinquent youngsters of all subtypes. Following are brief descriptions of the models.

Type I—Protective (for four boys classified as passive asocialized or immature conformist). This type of group home for very immature, dependent youngsters is intended to approximate normal family living as closely as possible. It is designed to be operated by a married couple with training and patience to offer intensive support and supervision for prolonged periods of time. (Because the number of boys classified as low-maturity subtypes in the Community Treatment Project was smaller than anticipated, the Type I home in the project was opened in September 1967 to compatible high-maturity youngsters in the anxious and acting-out subtypes. For the most part this arrangement worked satisfactorily.)

Type II—Containment (for six boys classified as manipulator or cultural conformist). This type of home represents concrete and realistic demands for conforming, productive behavior. Opportunity for growth is fostered through the formation of healthy relationships with adults within the context of authority and control.

Type III—Boarding (for six boys classified as acting-out and anxious neurotic, situational emotional reaction, or cultural identifier). This type of home is for more mature boys with relatively complex personalities who are in the early stages of emancipation from their own families, but who do not have enough strength to be on their own. The group home provides a base from which to work as the boys continue to deal with the resolution of internal conflicts, problems of independence, identity, and the like. The group home parents maintain an atmosphere of comfort without threat, allowing the boys to form meaningful relationships with them if the boys so choose.

Type IV—Temporary Community Care (for six boys of any subtype). This type of home meets the need for temporary placement when custody or independent living is inappropriate or unnecessary. Support, rather than custody or restrictions, is emphasized. The home can be used for: (a) housing while another placement in the community is being changed or developed; (b) short-term counseling away from a stressful situation; and (c) housing while treatment plans are being formulated or reassessed.

Type V—Restriction (for six youngsters of any subtype). This type of home was conceived as a substitute for detention in juvenile facilities for boys needing fairly strict behavioral restrictions. (Because no suitable group parents were located, this type of home was not developed.)

Type VI—Individualized (for six youngsters of high-maturity subtypes, primarily neurotic acting-out and anxious). This type of home is designed for boys who may benefit from a familylike situation and healthy adult relationships while resolving conflicts within themselves and with their own families. A great deal of flexibility is allowed in regard to the purpose of placement and the nature of the relations the boys may develop with the group home parents.

The foster parents

The Group Home Project recruited its candidates for group home parents in much the same way that foster parents are usually recruited. The group home coordinator screened out unsuitable applicants, and the research worker conducted in-depth interviews with those remaining and administered two written questionnaires. The coordinator and research worker, first independently and then jointly, rated the candidates on 52 items relating to personality traits and behavior.[11]

In a team conference, parole agents, staff members of the Community Treatment Project, the coordinator, and the research worker evaluated information about the candidates to determine their: (a) appropriateness for foster care in general; (b) strongest areas of compatibility with specific subtypes of youngsters, home models, staff members, and current concepts of treatment; and (c) flexibility and potential for growth.

Under a contract with the Youth Authority, each couple selected to be group home parents provided a house with acceptable facilities and equipment in addition to care and maintenance of the youngsters placed in their homes. As reimbursement for their services and expenses, group home parents received a retainer at the beginning of each month, plus an additional fee for each boy who had been in the home during the preceding month. Monthly payments ranged from a $200 retainer plus $125 per boy to a $500 retainer plus $110 per boy, depending on the budget allocations for each type of home.

In all, seven sets of parents were employed to operate eight group homes: two each, protective, containment, and temporary care homes; one boarding and one individualized home. One couple operated a protective home and a temporary care home at different periods. At least 1 year's experience was obtained with each type of group home, except the restriction type.

Except in a few areas predetermined by the research design, attempts were made to handle issues and decisionmaking through a team approach. Thus, procedures for everyday operation and resolution of problems of training, management and continuation of the homes, staff meetings, evaluation, and termination of contracts were designed to involve everyone concerned—parole agents, supervisors, the coordinator, and research worker. Parole agents were primarily responsible for day-to-day communication, advice, and the like. Group home parents were involved in regularly scheduled meetings as frequently as possible to enhance their image as part of the team.

Boys placed in group homes remained with their original parole agents, so that existing or developing agent-boy relationships were not broken and agent-boy "matches" were not disturbed. In most homes this meant that more than one agent was working in the home at the same time.

For the most part group homes were allowed to operate within the natural life styles of the group home parents, with parole agents and the coordinator offering direction and advice. For example, some

I-Level Classification

The Interpersonal Maturity Level Classification system, or I-level system, has been used as a tool in the Group Home Project and the Community Treatment Project for several purposes, including treatment and placement planning. This system distinguishes seven levels of maturity in interpersonal relations. The vast majority of juvenile delinquents have been found to fall within the middle three—I_2 (low), I_3 (middle), and I_4 (high). Within these three levels nine delinquent subtypes have been identified.[5] They are—

I-Level	Subtypes
I_2 (low)	Asocialized, aggressive
	Asocialized, passive
I_3 (middle)	Conformist, immature
	Conformist, cultural
	Manipulator
I_4 (high)	Neurotic, acting-out
	Neurotic, anxious
	Situational emotional reaction
	Cultural identifier

families set up formal written "rules of the home" for the youngsters; others did not. None of the homes developed time-structured schedules for activities except for meals.

Parole agents worked out with each boy the out-of-home activities that were required and those that were optional. Most boys attended classes, either in a public school or the parole center, or both, individual and group therapy, and organized recreation.

Placement in a group home was always a planned aspect of treatment, reflecting a basic tenet of the Community Treatment Project: individualized, rational, treatment-relevant decisionmaking. The use of group homes was considered *one* element of the program, not necessarily *the* major vehicle for treatment. A request for admission to a group home was made by the teenager's parole agent in conjunction with the agent's supervisor. If placement in a long-term care home was requested, the parole agent, supervisor, coordinator, and research worker met to determine whether the young person involved should be placed in a particular group home. In the temporary care homes, however, arrangements were made so that youngsters in need of emergency care could be placed at any hour of the night or day.

Placement in a group home could occur at the time of a boy's initial assignment to the Community Treatment Project or at any time during his period of parole. A decision about the length of stay in, or removal from, a home always took the boy's treatment needs into consideration.

Experiences and observations

Because of the nature of the project, its relation to the Community Treatment Project, and all the variables involved, it has been difficult to isolate the impact of group home placement on the boys. However, the project has contributed to a better understanding of many of the complex dimensions in the use of group homes in treating delinquents.

The discussion here is an overview of selected areas of the eight homes operated within the Group Home Project. More complete discussion is contained in the project's reports.[12-15] Final data analysis and reporting will be completed in the summer of 1970.

Overall, staff members regard the experiences of the Group Home Project positively, in spite of numerous problems. The homes frequently provided a much-needed service to youngsters. In the opinion of most parole agents, the group homes—although not meeting the "ideal" criteria for treating all young delinquents—offered many boys better living conditions and better treatment than any available alternative. Boys frequently were able to become stabilized, behaviorally as well as emotionally.

By June 30, 1969, a total of 39 boys representing 51 different placements had been placed in the long-term care group homes. (Some were placed in more than one home.) The average age at the time of each separate placement was 17 years, 2 months. The boys represented all I-level subtypes except for the asocialized subtypes of the I_2 or low level of maturity and the situational emotional reaction subtype of the I_1 or high level of maturity. The majority—57 percent—were classified either as the acting-out or anxious neurotic subtypes of the I_3 level. The boys had spent an average of 9.8 months on parole before group home placement and had been living either with their own parents, other relatives, or in foster homes. However, 49 percent of the group home placements were made within the first 6 months of parole. The average length of stay in all the long-term care group homes was 162 days (5.4 months).

Twenty-four boys representing 42 different placements were placed in the two temporary care homes. The average length of stay was 3.5 weeks, the average age at time of placement was 16 years, 9 months, and the average duration of parole before temporary care placement was 11 months. Most of the boys placed in these homes—72 percent—represented either the acting-out or anxious neurotic subtypes in the I-level classification.

Comparisons of scores of average expectancy of continued delinquent behavior[16] indicated that the group home boys, as a whole, tended to be worse parole risks than boys in the Community Treatment Project who were not placed in group homes.

Behavior ratings

Group home parents and parole agents made separate behavior ratings of boys in long-term care homes (Types I, II, III, and VI, using the Youngster Behavior Inventory.[11] The parents' ratings reflected each boy's behavior in their home, whereas parole agents' ratings included the boy's behavior both within and away from the home. The first ratings were made after a boy had been in a home for 2 months, with further ratings at 2-month intervals.

Using the first ratings as a base for identifying behavioral change, group home parents perceived: (a) at 4 months the boys had made significant changes for the better in terms of an increase in positive, healthy behavior and decrease in negative, disturbed behavior; (b) at 6 months the indices of positive behavior were even more significant and indices of negative behavior had changed for the worse—but not significantly; (c) at 8 months the indices of positive behavior, although down from the 6-month rating, were still higher than the first ratings, but no longer significantly so, and negative behavior indices had significantly changed for the worse; (d) at 8 months for positive and negative indices combined, ratings in general reflected significant changes for the worse. This last finding is in marked contrast to the combined indices of significant change for the better at 4 months.

The parole agents' rating reflected a more consistently positive pattern of behavior, but none of the changes they observed reached statistical significance. Although the parole agents perceived changes for the worse at 6 months and 8 months on positive behavior indices, they perceived rather consistent changes for the better in 4-, 6-, and 8-month ratings on negative behavior indices, and on negative and positive indices combined.

The Group Home Project staff is presently investigating whether there are significant differences between different rating groups in terms of the background and other characteristics of the boys. Comparisons are also being made of the manner in which the breakdown occurred in group homes that were terminated. If this investigation does not account for the findings given here, it might be concluded that there appears to be a "point of diminishing return" in the value of group home placement, at least as perceived by the group home parents although not by the boys' parole agents.

Termination of homes

From November 1966 through June 1969, the period that data were collected for the project, the project's arrangements with four of the seven sets of group home parents were terminated—all by staff decision.

No single factor fully accounts for the termination of the project's use of four sets of group home parents. In a very general sense, staff members reached a point at which they felt that the couples' philosophies, personalities, and styles had fallen below minimum acceptable standards for meeting the needs of the boys or had not adapted to treatment changes.

In the first home terminated, the parents simply did not provide the level of care and supervision that the boys required. More complex factors were involved in the other three homes: they seemed to go through a similar sequence of events before culminating in termination. Their operations were, on the whole, encouraging and acceptable during early periods, only gradually and then more rapidly to go "downhill," both in regard to staff assessments and the parents' own feelings of competence.

With some exceptions, the boys provided relatively little positive feedback to the group home parents, either directly or in terms of noticeable, long-term change. The group home parents' reacted by complaining to—or opposing—parole agents while putting more pressure on the boys.

Once the parole agents began to sense that boys in a home were having detrimental experiences, they became dissatisfied with their efforts to alter the atmosphere in the home or became uncomfortable in dealing with the group home parents. Then their support for the group home parents usually dropped off and the home passed the "point of no return."

Most of the group home parents were blue collar workers with a high school education. They ranged from 25 to 74 years of age, with an average age of 43. Five couples had preschool age children or adolescents of their own living in their homes. Four couples—including two with whom group home arrangements were terminated—had had previous experience as foster parents.

Adding to the problems and frustrations was the fact that no effective system of relief time away from the boys was established for the group home parents, partly because of lack of funds and partly because of the couples' reluctance to let a "stranger" take care of their house.

In retrospect, it appears that different or more appropriate assistance could—and in some instances should—have been provided for the group home parents. The extent to which group home terminations and other problems might have been affected by such assistance has been the subject of much debate.

Overall, the longevity of the group homes seemed to be equal to, if not better than, most foster homes

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in the Community Treatment Project. The lack of a single request for termination from the group home parents contrasted with CTP's experience in having many such requests from foster parents.

Tentative conclusions

Among the tentative conclusions that may be drawn from the project's experiences are these:

1. Some couples who have provided satisfactory foster home care for individual children cannot handle the increased demands of caring for several seriously delinquent and frequently disturbed youngsters, particularly when they are expected by the treatment staff to fill complex roles.

2. Parole agents and group home parents, although selected to match the youngsters they serve, may not be a "good match" with one another.

3. To maintain or develop their natural strengths, group home parents require a substantial commitment of the staff's time and effort to provide them with support, information, and experiences relevant to where they are as people.

4. Group home parents who have an intuitive feel for, and acceptance of, the "adolescent turmoil" apart from delinquency, appear better able to weather crises with the boys and to "bounce back."

5. Relief is important for group home parents or live-in staff members: some spontaneously arranged time off is also desirable. Relief, as well as other assistance, should be flexible.

6. For some of the older, more seriously disturbed young people, group homes operated by the agency with salaried and professionally trained staff may provide better continuity of treatment and stability of atmosphere than any of the models tested. While this type of operation would be more expensive than the type described here and would sacrifice some "home" atmosphere, it could avoid much of the turmoil that arises from changes in physical placement when group homes are terminated.

In spite of the difficulties experienced, almost all parole agents and other staff members developed a general feeling that group homes should have a continuing role in the Community Treatment Project.

In view of the relatively high proportion of group home terminations and other problems, this attitude may seem paradoxical. But the group homes did tend to provide better, more predictable, and more readily available services than the foster homes used in the Community Treatment Project. The use of the temporary care home also prevented the institutional detention of many youngsters. Most boys were less resistant to placement in group homes, which they saw as part of the Community Treatment Project, than to placement alone with foster families.

Group homes thus offer a complex and sometimes difficult, but also important, variable in the treatment of delinquents. Only after careful planning in relation to the needs of the young people to be served and the goals of the agency and professional staff can the use of group homes bring maximum effectiveness.

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[1] Empey, LaMar T.: Alternatives to incarceration. Studies in Delinquency Series, Office of Juvenile Delinquency and Youth Development, U.S. Department of Health, Education, and Welfare. 1967.

[2] Nixon, Richard M.: A thirteen point program. Office of the White House Press Secretary, Nov. 13, 1969.

[3] Grant, M. Q.; Warren, M.: Alternatives to institutionalization. Children, July–August 1963.

[4] Gelb, Martin: Agency operated group homes. Children's Bureau, U.S. Department of Health, Education, and Welfare. 1961.

[5] Johnson, Bertram M.: An analysis of predictions of parole performance and of judgments of supervision in the parole research project. Research report No. 32, California Youth Authority, December 1962.

[6] Warren, M. Q.; and staff of Community Treatment Project: Interpersonal maturity level classification: juvenile (I-level). Diagnosis and treatment of low maturity delinquents. California Youth Authority, IIIr revised edition.

[7] Community Treatment Project: An annotated bibliography of community treatment project publications. California Youth Authority, January 1970. Available on request from Community Treatment Project, 3610 Fifth Avenue, Sacramento, Calif. 95817.

[8] Dorsey, Arthur M.: Proposal for CTP group home program. Interdepartmental communication, November 1962. (Unpublished.)

[9] National Study Service: The problem of developing adequate foster care for wards of the California Youth Authority. April 1964.

[10] Lerch, Loren W.; Warren, Marguerite Q.: A demonstration project: differential treatment environments for delinquents. California Youth Authority, 1965.

[11] Palmer, Ted; Pearson, John; Haire, Sharlene E.: Selected instruments used in the group home project. California Youth Authority, 1967.

[12] Pearson, John W.; Palmer, Theodore B.: Differential treatment environments for delinquents, first year progress report. Group home project. Research report No. 1, California Youth Authority, August 1967.

[13] Pearson, John W.; Palmer, Theodore B.: The use of group homes for delinquents in a differential treatment setting. Interim progress report. California Youth Authority, July 1968.

[14] Pearson, John W.; Haire, Sharlene E.; Palmer, Theodore B.: Differential treatment environments for delinquents, second year progress report. Group home project. Research report No. 2, California Youth Authority, August 1968.

[15] Haire, Sharlene E.; Palmer, Ted: An overview of issues central to the use of group homes for youthful offenders. California Youth Authority, Fall 1969.

[16] Beverly, Robert F.: Base expectancies and the initial home visit research schedule. Research report No. 37, California Youth Corrections Agency, January 1964.

APPENDIX NO. 20

Halfway Houses: Community-Centered Correction and Treatment

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Heath Lexington Books
D. C. Heath and Company
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12 Research and Evaluation

Gross Research Efforts

Until recent years only the grossest methods have been applied to assess the results and the effectiveness of correctional programs. As but one example, the Illinois Youth Commission, like most state correctional agencies, weighs recidivism purely on the basis of the safe return of former inmates to the commission's own facilities. Its former older adolescent wards who are later committed to an adult correctional institution do not figure in its recidivism statistics, and therefore such boys are not considered "failures." The commission's forestry camps claim a lower failure rate than the commission's other facilities, but any comparative evaluation of the success rates of camps versus closed institutions is without validity because the selection process which takes place at time of intake sends only the less serious offenders to open institutions.[1]

Most state correctional agencies do not undertake controlled surveys, reporting rather in the most general terms on their rates of success without consideration for random assignment, matched groups, or comparison with the effectiveness of other agencies. The New York Division for Youth, characterized by progressive programming, announced in 1964 that for every twelve children leaving its camps, START centers and "urban homes," only one was later committed to a custodial institution, and only one out of every eight was arrested and convicted.[2] While such results on the aftercareers of 441 delinquent children are impressive, they are too general to make possible any comparison with other correctional programs. Selective in its intake policy, the Division accepts children who are still on probation, if they agree to accept such placement. The Division, in turn, can reject those whom it deems unsuitable for its programs.

Problems of Empirical Research

California has been unique, at least until recently, among all the states in creating highly competent research programs within its adult and juvenile correctional agencies. Staff in these programs operate independently of other agency personnel, and have published studies which are of value to the correctional field. Recent years have seen the beginning of similar research in other states largely through grants from foundation and federal sources. Every project funded by the Federal Department of Health, Education and Welfare is required by the terms of its grant to incorporate within it a research plan.[3]

All too often, however, treatment considerations take precedence over research requirements and, as a result, few useful findings have to date emerged.

The major obstacle to carrying out scientifically based research designs in the correctional field is the inability (and frequently the downright impossibility) of assigning equal numbers of persons to the experimental as opposed to the control group, on any consistently random – or matched – basis. This is especially true for those halfway houses which receive probationers directly from the court. Highfields, the New Jersey residential center, was geared to such a research effort when it first opened, but since it was up to each judge to determine whether a boy before him went to Highfields or to the Annandale reformatory, random assignment was impossible.[4] The research study attempted to find a control subject to match each Highfields boy by using several gross variables characteristic of those boys committed to the reformatory. But without completely random assignment to the two programs, a basic prerequisite of valid research was violated.

A similar experience was had at Pinehills in Provo, Utah and at Southfields in Louisville, Kentucky, – both programs based on the Highfields model. At Provo, the judge, whose concern for children had brought about its establishment in the first instance, simply would not follow the random selection plan, which called for his selecting one of three envelopes each containing one of three possible destinations – probation, reformatory, or halfway house.[5] At Southfields a political change removed the judge who had agreed to the random assignment plan and his successor could not be persuaded to cooperate with the necessary procedures.[6]

The original research design at the MacLaren Center in Portland, Oregon, called for three groups of boys to be drawn at random from a population pool. One group of boys was assigned to the halfway house. A second group was placed on parole in their own homes or in foster homes, but with equal access to the vocational services provided to the halfway house residents. The third group represented a typical parole caseload, to receive no training or employment benefits other than those customarily obtained for them by their parole agents. Staff at the training school objected to random assignment of boys for whom they believed other placement was preferable; parole agents for the third group wanted access for their boys to the same training and employment opportunities that were available to the other groups, with the result that:

> While the research design specified random assignment to produce equivalency of the study groups, in practice we found this difficult to achieve . . . The research design, itself, simply did not allow for the multiplicity of factors that emerged to complicate the selection process.
>
> This project emphasized for us the difficulty of establishing research within a social action setting.[7]

As research projects based on the principle of random assignment fail as a result of such complications as these, resort has been had to alternative procedures. One method matches its control group as closely as possible according to the variables of family history, delinquency record, school

performance, ethnic background and socioeconomic level. One of the most recent of such undertakings involves three residential group centers in New Jersey: the nonresidential Essexfields center, the Annandale Reformatory and the Essex County Probation Department. Groups of boys were matched on the basis of the variables just listed as well as in subgroups from all six programs, in accordance with the pretreatment scores obtained on the Minnesota Multiphasic Personality Inventory.[8]

Another alternative research procedure, when attempts at random assignment have failed, is the follow-up study. When it was apparent that Highfields' experimental population was comprised of less serious offenders than the population which the judges committed to the reformatory, a second control group was selected. This consisted of boys sentenced to Annandale three years prior to Highfields' establishment from among those whose records indicated that they would have been considered as candidates for Highfields had it existed at that time. The later adjustment of these boys in the community was then contrasted with those boys who had later actually passed through the Highfields program. Results of this post hoc projection are open to criticism on at least several counts: validity of the matching procedures, time differences, changes in patterns of delinquency no less than in correctional programs.

The inability to furnish a sufficient number of subjects for both the experimental and the control groups is another hazard. The Provo research team could not turn up enough boys in each of the three programs they were studying — the halfway house, the state training school, and probation — to compose a statistically adequate population. Departing from their original design, therefore, the researchers then filled the training school control group with boys in institutions who had been committed from other counties but who seemingly resembled the Provo experimental subjects in other important particulars.[9]

In much the same way, Shaw Residence in Washington could not produce a sufficiently large number of men to form a control group, compelling the research team to select its controls from among men who either had no desire to be placed in Shaw Residence, or who were unaware of its existence.[10]

Another problem in conducting valid controlled research in this area arises from a conflict in aims:

> The demands of research designs usually require that there be some interference with the normal decision-making and treatment process. . . In other words, in seeking to select boy randomly for placement, the judgment of the regular staff was bypassed. Perhaps it is asking too much of a staff member to continue to have responsibility for a boy and then let research endeavor make an important decision about the boy's program.[11]

On more than one occasion, a research staff may be found to hold itself aloof from those in charge of program. This results in resentment, deriving, if only partially, from the understandable curiosity of the latter to be kept informed of the progress of the study. The mere presence of a research team can have direct though unmeasurable influence on the program.[12] At one California residence for offenders, administrators of the program requested information about the

research results, but the study personnel, viewing their function as one of observation and analysis rather than of consultation, refused. Tension between the two staff groups grew to the point where necessary communication between them was substantially reduced.[13] To overcome this, the research staff had no choice but to play a role in developing the program, in addition to their responsibility to test and evaluate it. When treatment personnel introduced new elements into the program, the researchers in turn provided whatever feedback they could obtain, in recognition of the fact that they had to ". . . accept the fact that both the experimental and the control programs are bound to change and grow if they are to be effective; therefore, it will be hard to measure them in the rigorous ways of science."[14]

The effect of the introduction of a research effort upon an existing program can also be considerable. Prior to the establishment of Provo, the probation officers in this part of Utah claimed a success rate of 55% with what they termed their persistent offenders. When they realized that their results were being compared with those of the halfway house, they apparently felt compelled to exert themselves, for in a later evaluation their percentage rate of successful performance rose to seventy-three.[15] It is also conceivable that the probationers themselves, aware of their role in the experiment, may have wanted to perform better than they might have under ordinary circumstances.[16]

Difficulties of Comparison

Comparison of the effectiveness of the programs of a particular halfway house in one state with one in another area is not feasible because of the large numbers of variables (and the interaction between them): population, program, location, admission criteria, method of assignment, and the period of time selected for evaluating their relative effectiveness. Then, too, definitions of successful adjustment after release from treatment, differ. Experimental and control samples tend to be extremely small, in itself a potential source of statistical error, with the result that conclusions drawn from them are at best, tentative.

Another potential area for studying the results of treatment (other than postrelease recidivism), is available in a review of those who leave or are released before they should be. For obviously not all children assigned to a halfway house can — or will — complete the program. These "in-program terminations" include both runaways and those returned to court or institution by reason of a staff, or joint staff-resident, decision that they are unsuitable. Such reasons may include homosexual exploitation of another resident, physical attack, persistent refusal to perform the assigned tasks, verbal threat to maim or knife, use of narcotics, persistent late return, or failure to return from furlough. The original Highfields study reported its rate of AWOL's and other program failures at 18.6% of all boys admitted.[17] A more recent research on

guided group centers reports for three New Jersey residential centers for boys, an average in-program failure rate of 27%, with Essexfields (a nonresidential center) scoring 23%.[18] Few guided group centers in other parts of the country report such favorable results. Walton Village reported an in-program termination rate in 1967 of 19.5%.[19] This was not based on any research effort involving a control group. It is further significant that the sixteen boys who were terminated for unsatisfactory conduct, running away, or other reasons were not thereafter institutionalized, but permitted by the court to remain in the community.

Halfway houses which admit seriously delinquent adolescents and which also adhere to careful statistical procedures report a rate of in-program failure which is generally higher than that just cited. Southfields in Kentucky reporting in March, 1966 on its first four years of operation gave an in-program failure rate of 48%,[20] comparable to that of Silverlake, started in 1964 in Los Angeles.[21]

Of those who failed, 35% ran away and approximately 15% were returned by staff as unsuitable for open programs – for further court disposition. Southfields in its attempt to discover the reason for its high failure rate ascribes it to lack of competent staff, inadequate support from the local court, failure of halfway house and court staff to work together, incompetent administration, and poorly designed program.[22]

In-program failures occur within differing periods of time, some within the first weeks after arrival, others after several months. Those who ran away, or were returned to court as unsuitable for the Highfields program, were in residence there an average of three weeks or less.[23] A recent New Jersey study suggests that failure is more likely to come within the first twelve weeks.[24]

Characteristics of In-Program Failures

Efforts have also been made to discover the characteristics of those who fail to complete the halfway house program, in order to modify it in such a way as to reduce such failures. The original Highfields study found many of these to be small town boys, boys from disrupted family situations, whites more readily than blacks. In contrast, Southfields with blacks comprising approximately one-fourth of its population, reports precisely the opposite with respect to race. Those blacks who did not make it at Southfields were more likely to be returned to court for failure to adjust suitably in the program rather than for absconding.[25]

The Southfields research also found among their in-program failures a large number of boys with IQ's below 90, as well as those with five or more prior appearances before the juvenile court.[26] These findings as to intelligence are echoed in recent New Jersey findings that boys doing well in school were less likely to be program failures.[27] This was particularly true for the probation group.

The Minnesota Multiphasic Personality Inventory has been used to help in differentiating in-program successes from failures,[28] with significant differences also found in the probation group. Otherwise:

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The Minnesota Multiphasic Personality Inventory has been used to help in differentiating in-program successes from failures,[28] with significant differences also found in the probation group. Otherwise:

> In these groups, there are practically no significant differences between program successes and failures as determined by the MMPI tests. However, failures in both programs generally score more negatively than do successes on most tests . . . Although many of the success-failure differences in the Essexfields and Group Centers programs are in the same direction as those found in Probation, they are milder and less able to distinguish between the criterion groups.[29]

At Southfields, younger boys, those with an IQ below 90, and those with histories of running away were found to be the most frequent absconders.[30] Most boys who ran from Highfields were readmitted; those only were not permitted to return "who kept running away every week for several weeks, each time taking with him an additional boy."[31] This lenient policy, applied in the beginning, became far more rigid as time went on, in both Southfields and Highfields.

During adolescence, an age difference of two or three years can have great significance in terms of sophistication, physical strength, coordination and emotional maturity, with the younger boys less able to tolerate demands made upon them by adults and by fellow group members. The high rate of association between age and in-program failure may to some extent be explained by the fact that younger boys are intimidated and exploited by their elders, and, as a result, have a stronger motivation for running away.[32]

Despite the contradictory nature of many of these findings in regard to success or failure within community-based programs, further studies of this type will and should be made. Certainly not every resident needs this form of supervision, and it is evident from at least one source that some types of boys may actually be harmed by a halfway house experience as, for example, those who find themselves completely unable to live harmoniously with others of their own age. The unauthorized departure from the program of such a boy may be the result of his own misery, rather than of any persistent delinquent drive, and probation or parole supervision would therefore seem preferable for him. By studying and recording the reactions of different types of boys to the various halfway house programs, correctional authorities should in time be able to individualize the process to make it increasingly effective. Such studies might also aid in determining the role which staff members play in the eventual success or failure of their efforts.

Success and Failure: In-Program and Post-Release

The usual measure for gauging the effectiveness of the halfway house program continues to be the recidivism rate of its graduates. The question then arises: should in-program terminations be counted as failures, or only those who have completed the program and fail after release to the community?[33]

The original Highfields study and the Provo experiment of a few years later appear to be the only careful research efforts which report success and failure in terms both of those who completed the program, and of those who entered but

never finished. Using the Annandale reformatory for comparison, the Highfields research concludes that, when both groups are counted, the overall success rate for Highfields was 63%, as against 47% for Annandale.[34] Of 229 Highfields boys, 145 had not been committed to a correctional institution within a year following their release (63%). The Annandale control group contained only 116 boys, of whom 55 had similarly succeeded.

When the experimental group is studied according to its racial composition, the success and failure rates take on another significance. There was no statistical difference between the failure rates of white boys at Highfields or Annandale; only in the case of the black boys, who comprised a very small percentage of the Highfields population, was the difference between the two groups pronounced: "Thus the overall differences in the success rates were almost wholly due to the large discrepancy between the rate for Negroes sent to Highfields and that for Negroes sent to Annandale."[35]

The Provo experiment research followed the Highfields example by studying both the in-program failures and those who failed after leaving the program. Here the boys at the Utah Industrial School were used for comparison. When in-program and post-release failures were grouped together, Pinehills' success record surpassed the correctional institution, but equalled the results obtained by probation supervision.

A recent Walton Village report based its success-failure percentages both on in-program terminees and boys who completed the program. Several unusual features of this study make it difficult to relate its findings to others, in that no control group is available; no time period is specified for the duration of the follow-up period; its population contains boys who are officially designated as dependent rather than delinquent; and, finally, the criteria for failure include both commitment to a correctional institution, or consistently unsatisfactory adjustment in the community even if no conflict with the law is reported. With these considerations in mind, the report proceeds to find that 57.3% of all its graduates have been successful. The study conjectures that inasmuch as at least one-half of those now performing unsatisfactorily, but still not in difficulty with the law, will eventually improve their adjustment — this success rate "will increase to approximately eighty per cent or more when we include the successful borderline cases.[36]

Effectiveness of Guided Group Interaction

Research leaves the efficacy of guided group interaction still open to question. Some years after the original Highfields program was begun, two claims were made that its results were more successful than those of the reformatory, in the treatment of older youths.[37] These claims were based largely upon comparative violation rates of graduates of the two places, claims which have been criticized for their failure to utilize control and experimental groups.[38] For some years thereafter no further efforts seem to have been made

to evaluate either these New Jersey centers or similar programs which appeared in other states. In 1967, a Rutgers University study of more than one thousand delinquents gave credence to the original Highfields claims.[39]

A number of factors appear to support the finding that guided group interaction programs do measurably improve the attitudes and behavior of adolescent offenders. No research effort based on recidivism studies alone can be conclusive, if only because a finding of recidivism — or of its absence — does not tell the whole story. If involvement in a guided group interaction program can, within a period of four to six months, reverse long-held antisocial standards, then later re-exposure to the delinquent culture outside can be expected with time, to undo — at least partially — these effects. Until aftercare programs are available which will offer reasonable continuity of treatment to persons who have undergone immersion in group processes in either residential or nonresidential situations, no assertion as to the effectiveness or ineffectiveness of such programs can be made with any validity or finality.

Using a variety of treatment approaches, including group programs, the research plan of the Community Treatment Project of the California Youth Authority has meticulously followed[40] the requirement of random assignment to experimental and control groups.[41] Its findings lend far more credence to the value of community-based correctional programs than any others which have so far appeared in the literature. The project consists of two phases. The first — for children from Stockton and Sacramento — was completed in 1964; the second, which also involves children from San Francisco, is expected to continue into the 1970's.[42] Findings are presently available, therefore, only for Phase I.

Boys and girls from the Stockton and Sacramento areas are eligible for the project, as long as they represent first commitments to the California Youth Authority, and have not been adjudicated for a serious assault or other act which has aroused the community.[43] Such cases are placed in a common pool at the Authority's northern diagnostic center where they are randomly assigned either to the Community Treatment Project or to a state training school. Of the children received at the reception center, 90% of the girl first-timers and almost 75% of the boy first commitments have been eligible for the experiment: "By December, 1966, 270 experimental cases had entered the Phase I community program in Sacramento and Stockton, and 357 comparable control subjects had been assigned to the traditional Youth Authority Program."[44]

After five years of study, the research division of the Authority reports, for the community-based program, demonstrably greater success. Fifteen months after their return to the community only 28% of the experimental group had failed on parole, as contrasted with a failure rate of 52% for the controls.[45] This fifteen-month period began somewhat later for the control group than for the experimental group; for the latter, as soon as they left the reception center; for the controls, not until they had been released from the training school to which they had been assigned from the reception center.

The girls seem to have fared particularly well in the community-based program, only 13% of them failing on parole, as contrasted with 57% for girls in

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the control group. Success for boys in the experimental group was not as outstanding as for the girls: a 30% failure rate as compared with 51% for boys who had been routed through the training schools.[46] After they had been in the community for two years, 61% of the controls had been returned to institutions, as compared with only 38% of the experimentals.[47] No breakdown by sex is available for this twenty-four month period of observation.

The California Youth Authority has also been concerned with the effect of different forms of treatment on different types of offenders, based upon three levels of interpersonal maturity which includes nine subtypes as described earlier. Of these nine subtypes, the ninth – or the highest in respect to level of maturity – is the only one to show "a failure rate difference in favor of the control program."[48] This type of youth has been classified as the "cultural identifier (Ci)":

> Ci's are viewed as "normal" youths who need to learn that crime does not pay. Project results suggest that perhaps the more efficient way of teaching this may be to deprive the Ci of something which is very important to him – his freedom – by a short stay in an institution.[49]

Without disparaging the excellent showing of the project, at least one observation may be warranted. The Youth Authority permits its agents to return certain of their wards to the institution for periods of temporary detention, which may range from a few days to a month. Such children are not deemed to be program failures, even though they may be placed in detention more than once, at the discretion of the parole staff. The research summarized above notes that the community treatment subjects have been placed in temporary detention more often than the control subjects.[50] Although the reason for such detention was often the commission of a minor offense such as "placement failure, poor home or school adjustment, truancy or runaway,"[51] it is also possible that some agents may have used "suspension of parole" on occasions which, strictly speaking, may have warranted revocation of parole.

A research report from the MacLaren Vocational Center in Portland, Oregon, a halfway house which functioned for a year and a half, sought to ascertain whether boys living in a group situation and exposed to intensive vocational training would perform better on parole than those paroled directly to their homes. Its results while interesting, are hardly encouraging:

> The index of community adjustment was whether or not a boy failed to adjust in the community and had to be returned to MacLaren. This would normally involve persistent violation of parole regulations or the commitment of law violations. Forty-three per cent of the boys in the Vocational Center were returned to the campus, during the study period, as compared to thirty-one per cent of the control group.[52]

The effectiveness of the foster group home program has also been assessed.[53] Three groups of boys were released from Wisconsin training schools to three types of aftercare: their own homes, boarding homes (either singly, or with one or two others), and group care homes. Each sample contained approximately 65 boys, released for the first time from institutions, between 1959 and 1963. Adjustment was evaluated six months after departure from the training schools.

All indications pointed to the fact that boys placed in the group care foster homes were more difficult and more disadvantaged than those released to their own homes. Of the group home boys 62% came from families broken by death, divorce or desertion, as compared to only 16% of boys returned to their own homes. Of the group home boys 51% came from lower-lower socioeconomic levels compared with 19% for the "own home" sample. Of the group boys 41% had been institutionalized more than eight months, as contrasted to only 13% of boys who went back to their parents.

Both the Wisconsin Juvenile Review Board and the training schools had expressed some hesitancy about the chances for success of the boys recommended for the group program, predicting a 52% failure rate for them as compared to 36% for boys about to return to their own homes.

Little difference in outcome between the boarding home and group home samples emerged, but the research did find that boys placed in group homes had a failure rate of only 30%, while those who returned to their own parents failed in 48% of the cases. The two samples virtually reversed the predictions made in advance by the institution staff.

Other signs of progress for the group home boys are also reported. Prior to commitment, only 3% of the group home boys were said to have adjusted well in public school, but six months after release, 25% of them won satisfactory school ratings for both adjustment and scholarship. One of the most surprising findings was that the group home boys were more likely to select nondelinquent companions than those in the "own home" sample. While at the time of commitment 23% of them were rejective of adults, only 4% still revealed this hostile attitude six months after placement in a group foster home: "Boys placed in group homes also had less disruptive use of alcohol and were less assaultive after release than the own home sample."[54] An Ohio study also supports the Wisconsin research results: ". . . institutional return is significantly lower for youth in foster care than for youth placed in their own homes."[55]

The Bureau of Prisons has published considerable data on its prerelease guidance centers both as to program effectiveness as measured by recidivism or other measures as well as on characteristics of its populations. One of its first studies disproved the criticism that transfer to a prerelease center entailed a longer period of confinement than would otherwise be the case.[56] Placement in a prerelease center permitted the prisoner to leave institution custody 90 to 120 days earlier, but if he failed during his stay and then had to be returned, he did serve on the average an additional year in custody.[57]

Recidivism rates as a measure of success or failure disclosed that of 145 men placed in the three prerelease centers in 1965, 109 were placed under parole supervision after several months at the centers, while 36 were returned to the

institution — 14 for failure to adjust, 9 for escapes, and 13 for a new offense.[58] The 109 men released on parole were then studied after one year of supervision, recidivism being defined as "any offense leading to either a new commitment in a state or federal institution or suspension of parole."[59] A new misdemeanor resulting in a brief jail period but not in parole revocation was not considered to constitute a failure.

Based on these criteria, the failure rate was either 30.3% or 47.6%.[60] The former figure applied to men sent back to prison while still under center supervision who were not counted as parole failures; the higher figure applied to those so regarded. In either instance, the recidivism figures after one full year of prerelease center operation did not differ from the overall federal institution rate which ran between 30% and 40%.[61]

A more charitable view of performance holds that the young center residents were not representative of the general run of federal prisoners. Because they were persons sentenced under the Federal Youth Corrections Act or the Federal Juvenile Delinquency Act, they were an atypically young sample. The overall failure rate for other federal prisoners of the same age is not this 30% to 40% range, but 40% to 50%. "Furthermore, the Center residents had a higher proportion of urban and a smaller proportion of Southeast, South Central, and Northwest state residents than are found in a cross-section of federal prison releasees."[62]

Several additional explanations of the results obtained are that the three centers were still so new that many difficulties had not yet been resolved.[63] Center personnel may have needed more time to adjust to the novel community-based program. At the same time, the level of supervision the men received was far more rigorous than that of normal parolees being returned for transgressions which might very likely have remained undetected had they not been on parole.[64]

Factors usually associated with successful adjustment in other places and programs were not found to be operative with prerelease residents, nor were efforts to predict recidivism successful.[65] Many men who should have succeeded, failed, while many of the least likely appearing candidates were not returned to prison:

> This failure to find factors associated with recidivism — extremely unusual for this type of study — suggests the possibility that the Centers have had a differential impact upon residents by which prisoners with normally poor chances of success upon release were considerably helped at the Centers while prisoners with normally good chances of success upon release may actually have been harmed by transfer to Centers.[66]

Results of a later study supported the earlier research hypothesis that prerelease guidance centers may have had differential impacts on various types of offenders.[67] Federal prisoners, totaling 285 released during 1964 from four centers were followed up after a minimum of two years' parole supervision. Definition of success and failure now differed somewhat: "failure" was defined as commitment to an institution of any kind for one or more days, or issuance

of a parole violation warrant; "success" meant no arrests, as well as arrest without conviction and even conviction without commitment.

Using a 1961 Base Expectancy Study, in which the characteristics of prior commitments, offense, and number of codefendants were found to be related to rates of recidivism, research results reported that prerelease centers appeared to be helpful to young car thieves who had been previously committed, but might actually be harmful to men with no previous commitments, or those in prison for offenses other than car thefts.[68] Nor did this latter group with a potentially high success rate do so well upon leaving the center. Car thieves with previous records, on the other hand, did much better than their anticipated high failure rate would indicate.

Excluding the 54 men returned to institutions for "in-program" failure at the centers, 57.6% of the 231 men released to the free community on parole were judged "successes," while 42.4% were considered "failures." The anticipated overall failure rate for the groups had been estimated at 52.3%.[69] The difference between actual and expected failure rate according to the federal researchers was "an index of increased program effectiveness attributable to the prerelease guidance centers."[70]

Performance of prisoners in the community upon release from prerelease centers also involves their ability to survive the three to four month stay in the center. In the course of a little over a year and a half, of 456 men who had spent time in one of the four centers, 361 (80%) were released to the community 41 (9%) were returned to institutions prior to parole; and 52 (11%) absconded.[71]

More of the young men in the "returned to institution prior to parole" group were sentenced under the Federal Juvenile Delinquency Act and had also been arrested at an earlier age. During their nine months in prison or reformatory prior to placement in the centers, they had received more disciplinary reports, were more likely to be nonwhite, and to score lower on IQ and achievement tests than men in the other categories. The absconders, in comparison with other groups, included more probation or parole violators, more auto thieves, and persons with a larger number of previous commitments.[72]

Of the 361 who completed the prerelease program and were released to parole supervision, both race and educational level showed a high correlation to the amount of money saved at the time of release. White boys with higher scholastic ratings not only participated more actively in the program, but were also rated most likely to succeed in parole. Conversely, black boys with less than a tenth grade education rated low on both of these counts.[73]

A final finding casts an interesting sidelight on the vocational training program in the federal correctional institutions which is admittedly superior to that of most state systems. The Bureau of Prisons also places great emphasis on locating employment for men in its prerelease centers. All this gives added point to the comment that: "Only twenty-six per cent of the total group had jobs at the time of release which were considered to be related to the vocational training received during the service of the current sentence."[74]

A British Comparison

A study by the Research Unit of the British Home Office affords an interesting comparison with the findings just cited.[75] A follow-up study on 327 releases from Dartmoor Prison in 1961 included some men who were placed in halfway houses, and some who were released directly into the community. Those in the first group were released from maximum custody some six months before those who composed the control groups.[76] This research discovered no major differences in the community adjustment of the two groups, or any great validity in staff prognoses regarding future behavior.

The tendency for community centers to relax their admission criteria is confirmed by the British study that ". . . selection boards tend to become more daring as the hostel scheme becomes more firmly established."[77] It likewise suggests that much of the public anxiety concerning the danger of admitting murderers and sex offenders to halfway houses is not well founded. "Men serving sentences for murder, manslaughter, homo- or hetero-sexual offenses and also fraud were less often reconvicted than were those convicted of the more common kinds of offense."[78] In fact, those most likely to fail in the community were the more typical offenders — men who had committed crimes of violence and larceny, with many previous convictions and prison experiences, who in their youth had also spent time in juvenile institutions.[79]

The research study compensated for the fact that the better risks were sent to halfway houses by means of the base expectancy score ratings which attempted to equate the halfway house populations more fairly with the prison populations, with the result that: ". . . even when allowance has been made for the hostel selection, there is still a very favorable outcome for the hostel group compared with the prison group."[80]

When Recidivism Is Most Likely to Occur

Both the studies of recidivism made in New Jersey during the 1950's and in the mid-1960's disclose a markedly similar finding: that the months immediately following release are the crucial ones, with from 56% to 75% getting into trouble before the end of their first year out. If not involved with the law during the first two years of life in the community, however, they were not likely to get into trouble thereafter.[81]

Do Attitudes Change with Treatment?

Since attitudes may be viewed as latent actions, it would be fair to assume that as attitudes improved during the course of treatment, so would behavior. When measures for predicting recidivism (the eight attitude scales, the Army Psychoneurotic Screening Adjunct, and the sentence completion test) were employed by the first Highfields research team to test this hypothesis, their conclusions were that:

> There is very little evidence that Highfields boys, over the length of their treatment, change their attitudes toward family and toward law and order, and their outlook toward life . . .
>
> From the measuring instruments used, there is no indication that, in general, Highfields boys change more in different directions than do Annandale boys.[82]

A rather different picture is presented by a book written by the originators of Highfields who, basing their findings on the same tests, found that:

> The Highfields boys moved in the direction of frankness, expressiveness, and recognition of social values (not always acceptance, but at least awareness). The conventional reformatory boys in contrast became more guarded, covered their thoughts under cliches . . . and avoided coming to grips with issues of importance — social or personal . . . Whereas the conventional reformatory group developed quite uniformly a bleaker, darker and more depressed outlook, the Highfields group showed a generally positive and more varied, more realistic outlook.[83]

All in all they showed, that although there is no reason to conclude that "primary goals or basic drives of either groups were substantially changed," the Highfields boys gained in self-respect and made greater progress than did the Annandale boys in relating to authority.[84]

The results with regard to the boys' personality obtained by the extensive New Jersey study of 1967 found that although the changes revealed by the MMPI test were not great, "general improvement in attitudes and ego strength" was found in all programs except that of the reformatory.[85] In addition, boys in the three residential centers and in the nonresidential center were found to evidence less anxiety than those who had been in the reformatory. Although the pretest profiles of the boys on probation were the most favorable consistent with their less serious delinquent histories, their overall improvement was below that of the boys in the halfway houses:

> The more marked changes in Essexfields and Group Center boys and the relative absence of change in Annandale boys . . . suggest that the nature of the treatment may have had some influence on the post-treatment MMPI's . . . If the posttests represent simply a replication of the pretests, conditioned by the more favorable circumstances under which the posttests were taken, the probation boys should have shown the most improvement.[86]

Personality changes have also been reported in the Silverlake research study based on a control group from a small (130 boys), private, correctional institution, where the lack of reliance on security and custody is at variance with most larger, state-operated training schools. Although scores on the Jesness Inventory were available for only 37 halfway house graduates and 21 institution releasees, the Silverlake research found that both groups had changed in a positive fashion during treatment, becoming more trusting and also less alienated from persons in authority. Their emotional control improved, as did their attitudes toward social conventions and rules. Post-treatment test results revealed that some lower class values had been discarded in favor of an ability to deal with the demands of the environment in more acceptable fashion.[87]

Despite the slight differences between the two groups in relation to the changes that had taken place in them, the institution controls appeared to be somewhat less alienated than the Silverlake boys. The research team ventured the opinion, as a result, that this difference might have been related to the fact that boys remain in treatment at the institution much longer than at Silverlake – an average of 16.5 months as compared to a stay of 6.5 months, respectively.[88]

The findings of the California Community Treatment Project research resemble to some extent the Silverlake data, using the same Jesness Inventory to test experimental and control groups both before and after treatment. Results showed that children in the community-based program and those committed to institutions "both were more likely to show a positive than a negative direction of change" at the time of the posttests. As at Silverlake, the institution controls here did rather well on the Jesness Inventory, showing a "more positive posttest score on two of the eight scales," while the experimentals had a more positive score on only one of the scales. Controls and experimentals were tied regarding "greater degree of positive change," with each group scoring well on two of the eight scales. In regard to those "more likely to change in a positive direction," the community treatment experimentals did well on four of the eight scales, and the controls on three.[89]

In addition to the Jesness Inventory, the California Psychological Inventory was also employed.[90] Here the experimental group did far better than the controls from the institutions. While community treatment children "showed significantly more positive posttest scores than the control wards on eight of the fourteen scales," the controls revealed no improvement: no positive change on any of the scales as against experimental group gains on three out of eight. The research concludes that children in the community-based experimental program demonstrated "more positive change, together with a higher level of personal and social adjustment at posttest," than did those who had been in institutions.[91]

Formal testing has not been the only measure of attitudinal change. At both Highfields and Southfields, for example, probation officers were asked their impressions of boys released from halfway house treatment. These reported that the majority of the Highfields graduates seemed to show improvement in all areas.[92] Although the least improvement was noted in the area of work, over one-half the boys were considered to have developed a more positive approach toward employment. Interestingly enough, the greatest positive change related to the boys self-image.[93]

The Ashley Weeks' account of the original Highfields experiment discloses that a composite picture was sought regarding each boy admitted to Highfields and the reformatory. Weeks writes:

> During the second year of research, five persons who knew each boy intimately were interviewed at the time he was sent to one of the facilities and again after he was released. A comparison of the interviews concerning Highfields and Annandale boys shows that, in general, Highfields boys were considered to have improved.[94]

Summary

Many halfway houses, particularly those under private auspices make no attempt to measure the effectiveness of their programs. Even when funds are available, many research designs are unable to achieve truly random assignment to an experimental and to a control group. In others, population samples are too small to make valid any conclusions based on them. More than one instance has been reported of conflicts developing between research teams and staff. Changes in program which take place during an evaluative study make research results based on a previous program no longer completely comparable.

On the basis of available research results, no single halfway house program can be rated as superior or inferior to any other, not only because programs vary, but also because no group of residents is precisely comparable to any other. Intake criteria also differ widely. In some places commitment to a halfway house may be mandatory, in others voluntary. Definitions of later successful community adjustment also differ, and there is no agreement as to whether in-program failures should be included in any evaluative program. Periods of time in the community as a basis for follow-up studies range from a few months to several years. In short, "In human situations, knowledge is not necessarily exportable. What works one place may not apply elsewhere."[95]

With the exception of the data from California's Community Treatment Project, virtually all credible research has come from halfway houses which apply guided group interaction procedures. Findings from several studies as to their effectiveness are nevertheless contradictory. Black boys may be found to adapt easily to halfway house life in one program; another place may indicate precisely the opposite result. Efforts to predict recidivism have also led to contradictory results. Highfields research in the 1950's found that boys who committed property offenses, especially car theft, were prone to fail. Silverlake, however, discovered an association between low social status, number of runaways, and seriousness of past criminal behavior with later failure.

One conclusion which seems to have validity is that the residential halfway house is not necessarily an alternative to standard probation care. Where a delinquent child can possibly live at home under the supervision of a probation officer, there is no necessity for committing him to a residential center. In fact, some boys seem clearly unable to adjust to group situations, and are therefore better off under some other form of treatment. The rather high in-program failure rate of some halfway houses supports the finding of the California Community Treatment Project that different types of offenders benefit from a variety of treatment styles. The Silverlake research finding that boys with extensive delinquent histories can adjust satisfactorily to community-based programs is strengthened by the research result that: ". . . there is some indication that boys usually considered poor risks in general may be especially appropriate candidates for the guided group interaction programs."[96]

In addition to research programs aimed at evaluating treatment results on the basis of recidivism rate, attempts have also been made to assess attitudinal changes. One of the two original Highfields studies found no attitudinal differences during halfway house treatment, but a later study indicated that

change had actually taken place. Southfields and Crofton House observed no real difference between pretreatment and posttreatment scores, while a study of Silverlake found improvement in both the experimental and control group attitudes.

The rather elaborate California Youth Authority research efforts and those from Rutgers University report improved attitudes as a result of community-based treatment. The former, using both the Jesness Inventory and the California Psychological Inventory, reported for the experimental (community-based) cases "more positive change than for the control cases, together with a higher level of personal and social adjustment.[97] The latter, employing the Minnesota Multiphasic Personality Inventory and claiming only "modest changes," found halfway house treatment "... somewhat successful in reducing the boys' anxieties, hostilities, and doubts, and in building their confidence and self-esteem. These programs are certainly more successful in these respects than Annandale (reformatory) and very probably probation as well."[98]

Despite the inherent difficulties in conducting valid research, the gravity and proportions of our national crime problem demand continued efforts to assess the value of different correctional programs. Sums appropriated for research purposes in the past have been infinitesimal in comparison to the millions of dollars which every year are appropriated to traditional forms of treatment. Annual compilations of statistics on prisoner populations are hardly research. Research necessitates a constant and statistically valid process of comparing the results of various programs. At the probation level, where the attitude of the court makes random assignment unlikely, subjects can still be matched on the Base Expectancy Scores which are drawn from variables associated with community adjustment.

Further research must also be pursued with respect to specific categories of offenders who are likely to adjust well to community-based programs, as well as those who are sent to institutions and later released to the community. Knowledge applicable to one situation cannot always be transferred satisfactorily to another, but exploration in greater depth of the variables associated with good and poor adjustment in various types of agencies under a wide variety of treatment programs must continue to be made.

The classic follow-up study of recidivism, *Five Hundred Criminal Careers*, although published almost forty years ago, still stands as the model for studies of the success of institutional treatment. Its reported failure rate of 88.2%, which shocked the penal field when first announced, brought denunciation both of its methods and of its definition of what precisely was meant by failure. Unfortunately, the failure of the treatment method which was revealed was never subjected to either the same criticism or degree of denunciation as the methods followed by the Gluecks to uncover it. Many of our large penitentiaries and reformatories are over one hundred years old. The methods they employ — and the attitudes expressed by program and all too often by staff — are equally outmoded. No approach to the handling of any other basic social problem (mental health, hospital care, welfare administration) which had so consistently

proven itself to be such a failure would have so long been permitted to endure. The pressure upon government to protect society against the depredations of the lawless has forced it to fall back upon measures of restraint and repression in the name of "security" (or "law and order"), despite the obvious fact that almost every single person presently in confinement will some day again take part in the life of the community.

The conclusion should at this point be obvious: if society continues to permit institutions to contain people in accordance with programs which every evaluative study has shown to be productive of a rate of failure of one-half to two-thirds of its graduates, then the halfway house facility, whether residential or nonresidential, should not be held to a higher standard of critical self-examination. First it must be permitted to extend its efforts to help influence the behavior of offenders either instead of, or after, a period of institution custody. This is not to argue that the halfway house should not continue to attempt to evaluate its results with all the care and accuracy that it can muster. It asks only that other considerations be borne in mind while it is being given the chance to prove itself one way or another as alternate weapon in the armamentarium of crime control.

These considerations are two. The first is that costs — in the way of buildings, staff and money — are appreciably lower in the halfway house than in prison or training school. The second is that, granted a success rate which is not demonstrably higher than that of these traditional places, dedication to an atmosphere and program which aims to be truly and consistently rehabilitative, is productive of a correctional way of life for offenders which is demonstrably more civilized, more humane, and less destructive. In the process, the values of the larger society in which it makes its contribution, through its influence on those committed to its care, are sure to be enhanced, however difficult it may be to measure that influence with precision.

Notes to CHAPTER 12

1. *Youth Commission Biennial Report, 1959-1960* (Springfield, Ill.: Illinois Youth Commission, 1961), p. 9.
2. "Residential Training Program a Success," *NCCD News*, XLIII (November-December, 1964), p. 5.
3. Interview with Virginia Burns, Chief, Training Section, U.S. Department of Health, Education, and Welfare, Washington, D.C., March 18, 1966.
4. Lloyd W. McCorkle, Albert Elias, and F. Lovell Bixby, *The Highfields Story* (New York: Henry Holt and Co., 1958), p. 136.
5. LaMar T. Empey, Maynard L. Erickson, and Max L. Scott, "The Provo Experiment in Delinquency Rehabilitation, Fifth Annual Progress Report, 1963-64" (Provo, Utah: Brigham Young Univ.). (mimeographed). p. 8
6. Interview with John Wall, Director, Southfields, Anchorage, Ky., Dec. 6, 1965.
7. "The MacLaren Vocational Center," Report on a special demonstration project conducted by the MacLaren School for Boys, Woodburn, Oregon in conjunction with the Youth Opportunity Center, Portland, Ore., July, 1967, p. 17. Cited hereafter as "MacLaren Vocational Center."
8. Richard M. Stephenson and Frank R. Scarpitti, *The Rehabilitation of Delinquent Boys*, A Final Report Submitted to the Ford Foundation (New Brunswick, N.J.: Rutgers — The State University, 1967), p. 23.
9. LaMar T. Empey, "The Provo Experiment: A Brief Review" (Los Angeles: Youth Studies Center, University of Southern California), p. 33 (mimeographed).
10. Interview with George Wolfe, Research Director, Shaw Residence, Washington, D.C., Feb. 23, 1966.
11. "MacLaren Vocational Center," p. 18.
12. Gilbert Geis, *The East Los Angeles Halfway House for Narcotics Addicts*, Report of a program conducted under a grant from the National Institute of Mental Health (MH-808) (Sacramento, Calif.: Institute for the Study of Crime and Delinquency, June, 1966), p. 98.
13. *Crofton House, A Community Oriented Halfway House for Local Offenders, Progress Report* (San Diego: San Diego State College, September 1, 1966), p. 78.
14. *Ibid.*, p. 79.
15. Empey, Erickson, and Scott, *op. cit.*, p. 23.
16. F. J. Roethlisberger and William J. Dickson, *Management and the Worker* (Cambridge, Mass.: Harvard University Press, 1947).
17. McCorkle, Elias, and Bixby, *op. cit.*, p. 100.
18. Stephenson and Scarpitti, *op. cit.*, p. 48.
19. *Walton Village, Residential Treatment Center, Interim Report, June 1, 1965-January 1, 1967* (Philadelphia: YMCA, 1967), p. 1. Cited hereafter as "Walton Village."
20. *Southfields Residential Group Center, A Four Year Report* (Anchorage, Ky.: Southfields, March, 1966), p. 31. Cited hereafter as "Southfields Report."
21. LaMar T. Empey, George E. Newland, and Stephen G. Lubeck, *The Silverlake Experiment: A Community Study in Delinquency Rehabilitation, Progress Report No. 3* (Los Angeles: Youth Studies Center, University of Southern California, 1966), p. 121.

22. *Southfields Report*, p. 31.
23. McCorkle, Elias, and Bixby, *op. cit.*, p. 102.
24. Stephenson and Scarpitti, *op. cit.*, p. 50.
25. *Southfields Report*, p. 24.
26. *Ibid.*, p. 6.
27. Stephenson and Scarpitti, *op. cit.*, p. 52.
28. S. R. Hathaway and J. C. McKinley, *Minnesota Multiphasic Personality Inventory* (rev.; New York: The Psychological Corporation, 1951).
29. Stephenson and Scarpitti, *op. cit.*, p. 55.
30. *Southfields Report*, p. 24.
31. McCorkle, Elias, and Bixby, *op. cit.*, p. 171.
32. Howard W. Polsky, *Cottage Six* (New York: John Wiley and Sons, Inc., 1962).
33. Edward M. Brooks and Larry Karacki, "Federal Pre-Release Guidance Centers," Preliminary study of the effectiveness of three centers during first full year of operation (Washington: Bureau of Prisons, June 8, 1964), pp. 2-4 (xeroxed).
34. H. Ashley Weeks, *Youthful Offenders at Highfields* (Ann Arbor: University of Michigan Press, 1958), p. 42.
35. *Ibid.*
36. *Walton Village*, p. 3.
37. McCorkle, Elias, and Bixby, *op. cit.*; and Weeks, *op. cit.*
38. See Chapter 9.
39. Stephenson and Scarpitti, *op. cit.*
40. *The Community Treatment Project After Five Years* (Sacramento, Calif.: Department of The Youth Authority, n.d.), p. 1. Cited hereafter as "Community Treatment After Five Years."
41. *The Status of Current Research, Annual Report* (Sacramento, Calif.: Department of the Youth Authority, July, 1967), p. 24. Cited hereafter as "Current Research."
42. *Community Treatment After Five Years*, p. 1.
43. *Ibid.*
44. *Ibid.*, pp. 5-6.
45. *Ibid.*
46. *Ibid.*, p. 6.
47. *Ibid.*, p. 7.
48. *Ibid.*, p. 12.
49. *Ibid.*, p. 6.
50. *Ibid.*
51. "MacLaren Vocational Center," p. 20.
52. "Analysis of Wisconsin's Foster and Group Home Program for Delinquent Juvenile Males on "Aftercare," Research Project Summary, Project No. 66 (Madison, Wis.: Division of Corrections, October, 1965) (xeroxed).
53. *Ibid.*
54. Frederic L. Faust, "Determinants in the Use of Foster Care as a Socialization Resource for Youth on Aftercare Status" (Columbus, Ohio:

Ohio Youth Commission, Bureau of Probation Development, n.d.) (xeroxed).
55. Brooks and Karacki, *op. cit.*, p. 6.
56. *Ibid.*, p. 7.
57. *Ibid.*, p. 3.
58. *Ibid.*, p. 8.
59. *Ibid.*
60. *Ibid.*
61. Correspondence from Daniel Glaser, Chairman, Sociology Department, University of Illinois, Champaign, Ill., May 17, 1967.
62. Brooks and Karacki, *op. cit.*, p. 8.
63. *Ibid.*
64. *Ibid.*, p. 10.
65. *Ibid.* (summary page).
66. Reis H. Hall, Mildred Milazzo, and Judy Posner, *A Descriptive and Comparative Study of Recidivism in Pre-Release Guidance Center Releasees* (Washington, D.C.: U.S. Department of Justice, Bureau of Prisons, December 28, 1966), p. 9.
67. *Ibid.*
68. *Ibid.*, p. 3.
69. *Ibid.*, pp. 7-9.
70. *Pre-Release Guidance Center Study* (Washington D.C.: Bureau of Prisons, November 1, 1965), p. 2.
71. *Ibid.*, pp. 5, 6.
72. *Ibid.*, p. 6.
73. *Ibid.*, pp. 9, 10.
74. *Ibid.*, p. 7.
75. W. H. Hammond, C. P. Nuttall, J. M. Atkinson, "A Note on Dartmoor Releasees, 1961-62, with Particular Reference to the Problems of Parole for Long-term Ordinary Prisoners" (London: Home Office Research Unit, March, 1967) (mimeographed). Cited hereafter as "Dartmoor Releases."
76. *Ibid.*, p. 2.
77. *Ibid.*, p. 5.
78. *Ibid.*, p. 6.
79. *Ibid.*, pp. 5-7.
80. *Ibid.*, p. 11.
81. Weeks, *op. cit.*, pp. 122, 125.
82. McCorkle, Elias, and Bixby, *op. cit.*, p. 125.
83. *Ibid.*, p. 126.
84. Stephenson and Scarpitti, *op. cit.*, p. 66.
85. *Ibid.*, p. 108.
86. Empey, Newland, and Lubeck, *op. cit.*, p. 154.
87. *Ibid.*, p. 156.
88. *Current Research*, p. 25.
89. Harrison Gough, *CPI, California Psychological Inventory* (Palo Alto, Calif.: Consulting Psychologists Press, Inc., 1957).

90. *Community Treatment After Five Years*, p. 7.
91. McCorkle, Elias, and Bixby, *op. cit.*, p. 120.
92. *Ibid.*, pp. 119, 120.
93. Remarks by Leslie T. Wilkins, Professor, School of Criminology, University of California, before 14th National Institute on Crime and Delinquency, Anaheim, Calif., June 13, 1967.
94. Weeks, *op. cit.*, p. 62.
95. Stephenson and Scarpitti, *op. cit.*, p. 106.
96. *Community Treatment After Five Years*, p. 7.
97. Stephenson and Scarpitti, *op. cit.*, p. 107.
98. *Ibid.*, p. 109.

APPENDIX NO. 21

So You Want To Open a Halfway House

Federal Probation, March 1972

BY RICHARD L. RACHIN*

THE HALFWAY HOUSE is intended to meet a need for client services between highly supervised, well structured, institutional programs and relatively free community living. In its popular function the halfway house has been a kind of decompression chamber through which institutional releasees are helped to avoid the social-psychological bends of a too rapid reinvolvement in the "real world." Although increasing numbers of halfway houses include treatment components, many are still limited to providing bed and board, assistance in finding employment, and help in locating more permanent shelter.

The need for short-circuiting unnecessary institutional commitment has led to the development of the "halfway-in" house. Utilized primarily at this time for youth, treatment considerations and responsibility-oriented, reality-bound, programming have been the hallmarks of these facilities. In addition to its traditional function, then, the halfway house can provide a means for diverting people from the institutional mill which, as so many have pointed out, has more often harmed than helped. As we are coming to learn, the need for removing anyone from community living should be confined to persons of legitimate danger to themselves—and how often this has been abused—or others. There are no other sensible reasons for doing this. The halfway-in utilization of the program for delinquents has catalyzed a movement away from the stark, antiseptic, emotionally uninvolved, and spiritually suffused programs which traditionally operate under the halfway house rubric. The small therapeutic community has replaced the way station, much to the advantage of people involved. This article discusses the utilization of the halfway house for delinquent youths. The principles, however, are generally applicable to other groups whose need for this type of program are no less apparent.

The Halfway House: What, Who, How

At one end of the residential correctional spectrum the training school best meets the requirements of relatively large and seriously problem-ridden populations. The institution is designed ideally to be self-contained and largely self-sufficient in its day-to-day operations. Highly structured programming and security considerations are most appropriately met in this setting. The group foster home, at the other extreme, best accommodates children whose remaining in the community is jeopardized primarily by their own poor home situations. Provided with parent surrogates in warm, supportive, home-like settings, children with these needs require little or no planned treatment services.

The halfway house is a versatile program providing meaningful placement alternatives for youths with needs between these extremes. Its utilization can safely hasten release from institutions. It offers practical and realistic opportunities for testing out one's ability to deal responsibly and in a socially acceptable manner with the stresses of the "real world." It improves significantly upon traditional institutional assessments of readiness for parole or unsupervised discharge which frequently bear little relationship to the realities of conventional community living. Youths failing on probation or with needs beyond that of foster or group homes can be placed in a halfway house and helped while still remaining in their own communities. The halfway house can also assist parolees whose behavior indicates the need for closer or more intensive treatment services than they can receive under ordinary parole supervision. In some cases, revocations or recommitments can be made more suitably to a halfway house than to the institution from which a youth was paroled. In effect its utilization is appropriate for a variety of needs within a broad middle-range of the correctional spectrum.

Youths, and not referral sources, should be considered in selecting program residents. It should make no difference whether one is "halfway-in" or "halfway-out" of an institution. Although offense data alone are a poor index of suitability for this type program heavy emphasis is still placed here both by the public and correctional administrators. The same undue stress seems to have been laid on clinical impressions

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of personality difficulties. For some, diagnostic impressions have too frequently become self-fulfilling prophecies. With many youths, it has become interesting to speculate which came first, the disorder or the diagnostic impression. More dependable are selection procedures which minimize the past and focus on strengths, motivation, capacity for change, and more productive living.

Halfway house candidates should be mature enough and have the capacity for participation in confrontative, probing, and anxiety-provoking examination of their day-to-day behavior. Equally important, they must express some interest in doing this. It is unimportant how sincere a youth may be in professing his concern about examining the utility of his behavior. Candidates, however, must convey some uneasiness about their lives and indicate at least a willingness to consider the possibility of doing things differently. They should be able to acknowledge an ability to cope responsibly with daily, unsupervised, community living. It should not matter whether they were successful in doing this previously.

The importance of the peer group in influencing and directing behavior should not be neglected. For a treatment-oriented halfway house to operate effectively, residents must be able to concede that others with whom they live can understand their problems and empathize with their feelings, even though they might not agree with their explanations about them.

Much can be gained by house membership which is representative of the "real world" in which residents are usually involved. People must learn to deal with life as they knew it and to which, realistically, they must be expected to return. Homogeneous groupings which therapeutically detour offenders from such "real life" exposures are, at best, apprenticeships from which most offenders must be expected to graduate. Variables such as socioeconomic class, race, clinical impressions of emotional disturbance, offense, and intellectual (nonmentally defective) capacity offer no serious obstacles to effective group participation, interaction, and the development of cohesive group cultures.

Age, however, cannot be discounted in designing group programs for adolescents. A variance of more than 2 or 3 years should be avoided in selecting youths for a halfway house. Program expectations, the kinds of responsibilities placed on residents, and peer pressure toward exacting norm-adhering behavior, require a degree of maturity and impulse control which youths less than 16 years of age do not usually possess. Emotional maturity is a more important consideration, however, than chronological age.

Youths whose behavior appears, both to themselves and others, to be beyond their ability to control, or who genuinely seem unconcerned about responsible decision-making *at the time when interviewed for the halfway house*, should not be admitted. By the same token, the unreliability and questionable validity of diagnoses and conventional personality measures warrant consideration of applicants otherwise ordinarily screened on the basis of their past records alone. While a youth who evinces a *current* inability to control his behavior might make a poor program candidate, nevertheless, his concern about this behavior and what has been happening to his life may be more important considerations.

Rather than establishing exclusionary criteria, a more realistic and productive approach would be to admit youths who possess certain positive characteristics, regardless of other considerations. These attributes should include: (1) a feeling of uneasiness, unhappiness, or discontent with oneself or his life and some concern about doing something to change it; (2) recognition and acceptance that one does or can control what happens to him, even though the past may have indicated he was unable to do much about it; (3) a willingness to examine things about himself with others, even though it may make him angry, unhappy, or embarrassed to do so; (4) a belief that other residents, and the program itself, will benefit from his participation.

A preplacement "peertake" meeting (one's peers take part in selecting youths for the program) is helpful in clearly and forcefully conveying—"the program means something to us" and "we make decisions" nature of the group norms. Residence should be limited to young people who both choose to be involved and are found acceptable by youths in the program. In addition, the newcomer should be required to make his own decision whether he can accept the responsibilities which participation entails.

There are few delinquents who will not opt for what they perceive to be the more desirable of two alternatives placed before them. This does not mean that at the time he makes his decision, a youth should be expected realistically to choose between changing his behavior and remaining a delinquent; rather, in return for being in the com-

munity, under near conventional living circumstances, a candidate must at least verbalize his acceptance of group (program) norms, values, and expectations. Of course, many youths will be doing little more than choosing between what they define as something which they want little part of (the halfway house) and something else which they want even less (the training school). Certainly, the more sophisticated youths should be expected to opt for admittance not as a willing challenge to some ingrown delinquent attitudes and values, but rather as a conforming game-playing exercise at which many are quite experienced and adept.

Changes in behavior do not usually occur unless some doubt is perceived about the efficacy of one's present conduct in satisfying his needs and some alternative is identified with which the person can experiment. Enduring changes do not result unless another mode of conduct is experienced as a more certain or desirable means for goal attainment.

It is not important, therefore, that a candidate be truthful in discussing his "wanting," but rather his "willingness" to take a "good hard honest look at himself" and the utility of his behavior. To be accepted into the program, however, should be understood clearly by the newcomer to mean that he will be held to the terms of a "contractual arrangement" to which he must first agree. Stated succinctly, the following must be carefully stressed:

1. Residents will be accepted only after they *fully* understand what the program involves, *what* will be expected of them, and providing that their participation is approved by youth *and* staff with whom they will live. No one can be sent against his will. Everyone *makes* his own decision *to come.*
2. A youth cannot "stay the *same*" and remain in the program. Everyone must be expected to be doing more with himself *tomorrow* than he *did today*, and less tomorrow than he will do the day after.
3. Not *doing* anything "wrong" (irresponsibly) should not be considered an indication of progress and may more properly be interpreted to mean just the opposite. What a person does "right" (responsibly) is what counts.
4. "Good" or "bad" behavior has no meaning. Only responsible kinds of behavior have *any* value (utility). Everything a youth does or does not do he will be held accountable for from the day he enters the program. Self-defeating, escapist, or excuse-ridden antics should be viewed to be as deviant (irresponsible) as the more customarily recognized, overt, antisocial actions.
5. The halfway house is neither a prison nor a sanctuary. Residents should neither be able to "do time," nor avoid doing the most with the time available to them to complete treatment. Residence should be indeterminate, with the actual length of stay being a decision in which a youth himself, his peers, and staff should participate. No one should be permitted to remain beyond a maximum length of residence (which can vary from program to program) and there should be no fixed minimum period of time required or permitted.

We have conceptualized our halfway house model as a residential treatment alternative for youths whose problems and needs, while beyond that of other community programs, are short of their requiring institutionalization. Our therapeutic community includes as the core of its program, intensive (daily, hour and one-half) responsibility-oriented, reality-bound, group treatment meetings in which the focus is on the "here and now" and the primary change agents are one's fellow program residents.

The self-help treatment model is believed to offer advantages over more traditional treatment approaches in working with young people. Youth are much more responsive to the encouragement and pressure of their peers (with whom they can identify) to change their attitudes and behavior than they are to the ministrations of adult professionals. An atmosphere of trust and concern is required and the emotional involvement of residents and staff far exceeds that customarily expected or found in traditional correctional programs. It is the intensity of everyone's (staff and residents) involvement that distinguishes our treatment model from most others.

The voluntary nature of program participation must be emphasized. Admittance should not be automatic and alternatives to acceptance must be clearly spelled out. It must be stressed with the newcomer that he does not *have* to be in the program but rather has to *want* to be in the program.

Residence of approximately 4 to 6 months may be anticipated in order to accomplish treatment goals. Candidates should clearly understand that residents must believe themselves to be capable of "solving their problems" within this period of time. Program expectations should be made explicit. Progress must be expected each day. The longer a youth is in the program, the less need there should be for his remaining in the program. Responsibilities can and should increase with length of residence. It should be emphasized that there are no privileges but only added responsibilities which are expected to accrue as one remains involved in treatment. Indeed, the longer a youth is in the program, the more demanding and difficult should his participation become. The expectations which staff have for residents—what they believe them to be capable of accomplishing, the time in which they feel they can do this—either enhance or inhibit goal directed behav-

Size Considerations

The size of the program should be limited. An optimum population may range from 20 to 25 youths. Several factors are considered in determining this number:

1. *Per Capita cost which, of course, changes as a variable population numerator is placed over a fairly stable fixed-cost denominator.*—Approximately the same costs will be incurred for certain expenses (staff, utilities, communications, office equipment, building repairs, etc., give or take a range of about 18 to 25 residents).
2. *Developing and retaining the advantages of small group interaction.*—While face-to-face relationships are essential, the number of residents would vary depending on staff skills, architectural considerations, programming content, location, and other site considerations. Nevertheless, it appears that 30 is about the maximum number beyond which the attributes of close peer group interaction become jeopardized. Below 20, cost considerations become a problem.
3. *Not overwhelming a community with large numbers of new residents.*—Community acceptance, which we will discuss later, must be carefully considered and courted. It is not realistic to ignore the very real, if not too legitimate, fears and anxieties which people have when confronted with a halfway house opening in their neighborhood. While there is no simple relationship between program size and the crescendo of community concern, it is wise to assume that the more threatening" the type of population—that is, the greater its number, the more visible the facility, and the more "problem-ridden" its residents—the more anxious and less tolerant is a community's reaction likely to appear.

Given the many important and different considerations involved in selecting appropriate sites for a halfway house there is an inverse relationship between the size of the population and the available number of desirable sites.—Site selection committees frequently must choose a second, third, and even less desirable alternatives, not because of the unavailability of facilities in the preferred area, but because considerations of importance to the local community often have been neglected, if not ignored. A well-planned and meaningfully organized community information campaign looms large as the most important consideration in planning halfway houses (or other community programs).

Insufficient funding may require changes from an optimum size. At times, this may mean that larger (more than 25), or smaller (less than 20) residents must be considered. The advantages of face-to-face interaction, however, must always be balanced against budgetary concerns.

Site Selection

Site selection is extremely important. As much time as possible should be set aside for this purpose. The time allotted can vary depending on the nature of the program, the particular area being considered, whether the structure is to be built, or leased, and the actual construction or renovation time contemplated. Six months should be a minimum and a year ideal. Plans must be drawn, contracts let, and changes made. An unhurried pace permits careful and important planning.

Community leaders should be contacted early and informed of an agency's plans. This is particularly true when programs are designed for offender groups. To do otherwise is to omit gaining and risk alienating the support of people and agencies whose acceptance and involvement is essential. It makes little sense, and it is unlikely, that efforts to confront a community with a *fait accompli* will succeed. This simply polarizes community resistance and hinders understanding and cooperation.

Site selection requires planning and care. There are few, if any, ideal locations. Both the advantages and disadvantages of a site should be carefully evaluated and weighed against each other. Once a target area is chosen, it is helpful to consider the following:

- Brokers familiar with the area can be engaged.
- If the agency has a field staff in the prospective target area, its assistance should be enlisted.
- Community leaders are well informed about available real estate. Their help in site selection is invaluable. In addition, their involvement makes it more likely that the program will gain recognition as a cooperative, community-agency venture to which all can more easily become committed. The expense in time and cost of site location efforts may be lowered appreciably by the cooperation and assistance of community leaders.
- Public agencies in particular should seek out and contact other governmental agencies in the target area for a discussion and appraisal of the "do's" and "don'ts." Local social agency directors are usually privy to the kinds of information

which indigenous leaders may be reluctant to furnish or find it difficult to be objective about. Directors of these agencies are important, therefore, to call upon for an assessment of the community pulse and the likely reactions of local leaders.

• Agency staff, who are residents in the target area, can also provide important leads and information. These people should not be overlooked for other reasons—they can be of assistance, or on the other hand, they may make it difficult to establish positive community relations.

Selecting a site within the target area requires careful attention to several matters:

• The neighborhood chosen must be zoned properly. It is important to have a statement in writing from the zoning board that the use intended for the property is not in conflict with local zoning regulations.

• Public transportation must be accessible and within walking distance of the facility. Residents should be able to travel (to work, school, clinics, recreation, etc.) during most times and days of the week. If possible, locations which offer access to alternative means of public travel are preferable. The office vehicle should not be required to transport residents for any reasons other than emergency trips or group outings.

• Residents should be able to come and go and mix in with the neighborhood as much as possible. Program participants must feel relatively comfortable and safe in the area selected. A racially, culturally, and economically diverse community offers advantages to mixed populations.

• The architecture should be planned to blend in with that existing in the area selected. For example, a 25-bed multistory, ultra-modern building would not be suitably located on a block of modest single family residences.

• Signs, flag staffs, or other official-looking designations should be avoided. The facility will be no stranger to block residents who can, when necessary, quickly direct visitors to the building.

• Offender groups are not readily received in quiet residential communities. Commercial-residential areas or locations adjoining light industrial sections are preferred. Areas in transition also provide good sites in which to locate. The community, however, should not be disorganized or deteriorating, but could be one where this process has stabilized or been reversed.

• Commercial services (barber, shoe repair, snack shops, cleaners, etc.) should be within walking distance of the facility.

Community Relations

The halfway house should be designed to make maximum use of local resources including educational, religious, vocational, recreational, and medical services.

Community programs have both an opportunity and obligation to tap in on the skills, counsel, and support of volunteers, local citizen groups, and service organizations. Local colleges are usually willing to develop mutually beneficial relationships.

As community-based programs, halfway houses must be community integrated and involved, and responsive to the concerns, fears, and anxieties of their neighbors. Halfway houses which fail to establish close and effective community relations may expect, at best, suspicion and frequent misunderstandings of their program. Open hostility is equally as likely an occurrence. It is unwise and mistaken to regard the community as a necessary evil into which the facility has been thrust. There are only advantages to be gained from open, regular, and responsive community relations.

Certainly, a careful assessment should be made of a community's probable reaction to a proposed halfway house. There are very few desirable areas to locate where much deliberate and time-consuming planning need not be spent in developing pre-program community relations. Some people and organizations will be antagonistic. Others may be equally as opposed but less open about it. People will be resistive; probably most will be suspicious and uncertain about whether the halfway house will not depreciate property values, result in a crime wave, or simply be a burden on already existing community services.

It is always helpful in the planning stages to meet *individually* with community leaders to discuss the program and their reaction to it. They must be permitted and encouraged to air their questions and misgivings. It is not likely that those who favor the proposal will acknowledge this at large community meetings. The numbers opposed initially are not nearly as important as determining who the opposition is, its following, and motivation.

Community leaders approached individually may be expected to react favorably in most cases. Their positions as community leaders, however, must be considered and recognized as a factor which makes it difficult to gain their open support. Realistically, the problem of enlisting community support lies in assuaging the anxieties of the least-informed but potentially most vocal community groups. Community leaders often are placed in the difficult position of reconciling their professional judgments with their roles as the representative voice of their communities. Planning a halfway house requires recognizing the difficult position in which community leaders are placed when their support and assistance are solicited.

Communication is an ongoing and two-way process. It is extremely important to appoint staff early to assume responsibility for building and maintaining positive community relations. Enlisting community support requires recruiting indigenous spokesmen of whom and with whom citizen groups will be much less suspicious and more likely to cooperate. Early consideration should be given to organizing local leaders into a community relations committee. Their involvement serves quickly to establish a positive agency image. The committee's importance later on as a buffer between the program and community should not be ignored. Its value is inestimable in times of crises. A community relations committee can be employed for fund-raising, obtaining special services, and other important purposes. In a nutshell, forming this committee is probably the single most important task facing new program administrators.

Programs that are successful in establishing effective working relationships with local agency and citizen groups have carefully planned and systematically organized their efforts to enlist community support. It pays dividends to meet at least once monthly (once every two weeks before the program opens) with the community relations committee whose advice and assistance should be sought regularly. It must be made clear in the beginning, however, that this is not a policy-setting board.

A helpful sequence for establishing sound community relations is as follows:

• Meet individually with local leaders of government, planning boards, private and public social, health, and welfare agencies, fraternal, church, and neighborhood improvement groups. Local police support is essential. If school-age populations are involved, school authorities should be contacted. This list is not inclusive and is only suggestive of the many important groups to contact.

• A steering committee of local leaders should be formed. It is helpful to have this group meet regularly to permit recognition and assurance of their mutual interest and support for the program.

• The program should be explained honestly. It is inadvisable and mistaken to not discuss the program in all its ramifications—this means difficulties and problems expected, as well as benefits and advantages.

• The assistance of neighborhood leaders, whose support has been enlisted previously, will do much to temper community antagonism and help avoid negative opposition forces from polarizing.

• Regularly scheduled meetings should be held both during the planning stages and after the program opens. It is helpful to think of annual or semiannual community meetings (open houses) to which all who are interested may come to visit, meet staff, and learn of the progress, problems, and needs of the halfway house.

Administrators should realize that there is a relationship between what is "put into the community" and what one expects to "get out of it." The halfway house should not only be able to utilize community resources, but it also should provide some reciprocal measure of service to the community. It is good practice to encourage various community organizations to hold their regularly scheduled meetings occasionally in the facility. The dining room or lounge may be large enough to lend itself for this purpose. Neighborhood block associations, civic improvement clubs, and fraternal organizations are examples of the many groups which could be scheduled periodically. The advantages to this type of community-center involvement far outweigh any inconvenience.

Given a sensitive and community-responsive staff, a halfway house can help strengthen the fabric of community organization and relations. The community should be encouraged to look upon the halfway house as intimately and meaningfully involved in neighborhood affairs—regardless whether the facility is directly affected by particular issues or not.

It is a mistake for community programs not to be concerned about day-to-day neighborhood problems and activities. Communities will not accept halfway houses and offer their support until and unless the agency and its staff can convince local people of their concern and interest in neighbor-

hood affairs. For this reason, it behooves administrators of community programs to avoid isolating themselves or even giving this appearance to their neighbors. It is also unrealistic to expect residents to benefit from halfway house programs in which the administration itself avoids rather than confronts the realities and responsibilities of community involvement.

Space Requirements

- Two youths to a bedroom is a desirable number. Although some raise questions about sexual problems where two youths share a room, experience would likely demonstrate that staff anxieties and expectations are a more important consideration. When space or economy reasons do not permit two to a room, as many as four youths in a single room could be accommodated.
- The rooms can be small, but should allow enough space for furniture and lounging. It is important that each room have its own window. When more than two youths occupy a room, bunk beds are fine space conservers. Two youths can share a single dresser and one large table (in addition to having space available in some other part of the building) for school work, letter writing, etc. A single closet or clothing bar can be shared to hang garmets.
- Steel furniture is a much more practical investment both in terms of its durability and cost. Durable plastic chairs, table tops, etc., are also worth consideration.
- Sleeping two to a room, 12 double and three single rooms would be ideal for 25 youths. The two additional single rooms should be available for emergencies (unexpected visitors, unanticipated admittances, and postponed releases). The single rooms would be multipurpose quarters. Youths for whom some program crisis, illness, or other reason made it important for them to sleep alone, could have this space available. In addition, three larger, single sleeping rooms should be reserved for staff, trainees, and guests. Each of these rooms should also have its own toilet and shower.
- When the sleeping rooms are above the first floor, brick or masonry construction should be preferred. Horizontal construction offers many advantages over vertical designs. The building should permit quick and easy egress in case of fire, especially from sleeping areas. At least three exits from any part of the building should be available.
- Space should be provided for adequate storage of household supplies, clothing, recreation equipment, etc. These rooms should have adequate ventilation and be located in places where access and purpose is considered. Space should also be set aside for combustibles which meets with the approval of the local fire department. It is important to invite the fire marshal to inspect the (plans) building, and make periodic recommendations. Local fire regulations should be complied with and fire drills held regularly.
- Both the dining room and kitchen should be situated in areas that can be closed at times other than when meals are being served. The kitchen should be large enough for a commercial freezer, refrigerator, and stove, as well as offer adequate working space for the cook and helpers. If a building is being constructed, some of the larger pieces of equipment should be delivered before the door-bucks and partitions are installed. Large equipment should not be ordered until all pertinent dimensions are known.
- Conference rooms are intended primarily for the daily group treatment meetings which form the core of our halfway house model. Their use, however, should be multipurpose (staff meeting rooms, classrooms, and quiet study areas). A location should be chosen which is away from the noise and hub of building activities. The offices must also afford some privacy and quiet, but should be easily and readily identifiable to visitors and permit visual control of the main entrance.
- There are many advantages to having a resident superintendent. It is not likely, however, that such a job requirement will interest qualified applicants unless salaries are made attractive, and modern, pleasant, living accommodations are provided. If residence is required, it should be made available without cost.

Approximately 9,000 square feet is suggested for a 25-bed halfway house. Construction costs vary but can range from $20 to $30 a square foot in the types of communities discussed. Facilities can also be leased. Per capita operating costs for the halfway house model discussed are about $11.15 per day. Properly planned, halfway houses can still be built for less than half the cost and operated at about two-thirds the amount per bed of traditional institutional programs. Large investments in buildings, time-consuming architectural planning, and relatively long construction periods can be avoided by leasing which also makes it possible to open these programs with comparative ease.

Where Do We Go From Here?

Cost considerations alone should make it necessary to explore alternatives to institutionalizing people. Studied in the light of any fair appraisal of the benefits derived from traditional correctional systems, our weary dependence on institutions would likely evaporate. The bulk of our offender populations (adult and juvenile) do not belong in institutions. An increasing number of legislators and correctional administrators have become aware of this and appear committed to see changes brought about. Our prisons and conventional juvenile institutional programs are as much an anachronism as a social cancer. One of these days we may understand that our horror and fear of crime and criminals is by no means unrelated to our ignorance and apathy as to its causes and our "medicine man" approach to its cure. Unwittingly, criminal behavior has been nurtured and exacerbated by the public's ignorance about the consequences of traditional correctional practices. In this regard, poorly located, punitively designed, and primitively programmed institutions, in which far too many offenders spend time, are monuments to our ignorance.

We are not discovering anything new. As Hans Mattick pointed out in a volume which should be required reading for anyone apprehensive about the failings of our correctional system, some of the same points were made over a century ago.[1] Mattick reminds us that, "The thirty-seven principles enunciated at that time (1870) by the foremost prison administrators in this country touched upon every significant phase of imprisonment and many of the recommendations made still remain to be implemented by most of the prisons existing today."[2] Not too much has happened since Mattick wrote this. There are exceptions, however, where dramatic progress, no matter how long overdue, is being made. The move toward community programs and more socially and psychologically productive living seems to be catching hold.

While institutions have become much more humane in treating offenders, vested interests which many have in jobs, contracts, and payrolls, remain as the most obvious and difficult problems with which reformers must struggle. When the needs of offenders, as well as the public, are placed above parochial interests and concerns, the use of community programs should increase significantly. Until this happens, halfway houses will remain a sorely needed, underutilized, albeit readily available correctional "Best Buy."[3]

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[1] Hans Mattick, "Foreword: A Discussion of the Issue," *The Future of Imprisonment in a Free Society*, Volume 2. St. Leonard's House, Chicago. 1965, p. 8.
[2] *Ibid.*
[3] Space requirements for halfway houses and budgetary information may be obtained by writing to the author at 311 South Gibson Street, Tallahassee, Florida 32304.

ONE BASIC FACT in the correctional process justifies continued work by other than institutional means. This is that offenders who had had difficulties in adjusting to society before commitment can hardly be expected to resolve them by being isolated from society. From this it follows that unless somewhere within the training-treatment experience the offender is helped to develop a positive social experience and to identify with the aims of his society, the custodial experience is very likely to continue to result in failure.—OLIVER J. KELLER, JR., and BENEDICT S. ALPER in *Halfway Houses: Community-Centered Correction and Treatment.*

APPENDIX NO. 22

Criswell House: An Alternative to Institutional Commitment for the Juvenile Offender

Federal Probation, December 1970

BY JOHN M. FLACKETT AND GAIL FLACKETT*

JUVENILE DELINQUENCY is the single most pressing crime problem in the United States.[1] A public aroused by crime statistics and the rhetoric of law and order is demanding instant solutions to a threatening yet complex phenomenon. In this transitional era it is not surprising that traditional modes of correction for juvenile offenders are failing. Therefore it is essential that society invest a great deal of thought, effort, and money to support innovation and experimentation.

Juvenile courts were established primarily for the purposes of protecting and rehabilitating juveniles, yet today judicial officers are dismayed by the great number of repeaters. At the present time, youngsters adjudicated by the court as delinquent can be given a suspended sentence, probation, or can be incarcerated in a training school. Because of the limited rehabilitative value of the first two alternatives, a youngster who may need a more intensive treatment program is often sent to a training school. No matter how euphemistic the title, such a facility is an institution of confinement, with all the problems of regimentation, impersonality of staff, and undesirable contact with very serious offenders.[2] Also the very fact of removal from the community creates barriers to eventual reintegration. Most authorities agree that the training school should be avoided as much as possible and be considered only as a last resort.[3]

Today, some jurisdictions are trying to expand their probation services. Metropolitan areas, where the crime rate is especially high, can no longer rely on the grossly inadequate surveillance form of probation; and probation officers are encouraged to utilize all available community resources. For the youthful offender who is establishing a delinquent pattern, however, the limited experience that probation can provide may not be adequate. Therefore, it is imperative that society explore every reasonable alternative to the "awesome prospect of incarceration."

Within the past decade some creative authorities in the field of corrections have taken up the challenge: the most dramatic innovative breakthrough being community-based treatment programming for the juvenile offender.

Highfields, the most influential treatment experiment in the development of community-based facilities, and one of the first to apply the concept of rehabilitation through group process ironically is not community-oriented. The Highfields Residential Treatment Center, established in 1950 in New Jersey as an alternative to institutionalization, is a relatively small facility for 20 boys. It is situated in a rural community on a former estate, and is designed to accommodate youngsters for a 4-month period. During the day all the boys work at a nearby farm.

The Highfields experiment, created by Lloyd W. McCorkle and F. Lovell Bixby, is grounded in the sociological view that it is necessary to form a nondelinquent culture among the boys in order to change the individual. A basic assumption underlying their treatment approach is that a delinquent will be more responsive to change if pressure comes from his peers and not from correctional authority.

The core of the treatment program is "guided group interaction," developed by McCorkle. These sessions are held for 90 minutes five times a week. It is by way of these sessions that the nondelinquent culture develops and is maintained. These are intense discussion groups designed, first to enable boys to honestly discuss and share their problems, thereby shedding rationalizations for delinquent behavior; second, to form a pressure group to inculcate conventional values; and, third, to reinforce conventional behavior. Once the culture is formed it becomes somewhat self-perpetuating because the turnover rate at any one time is deliberately limited.[4]

A major criticism of the program is that Highfields does "not provide a reintroduction to society, nor . . . [place] sufficient emphasis on community programming."[5] Despite its limitations, Highfields has been a major innovative force in corrections, and has spawned similar facilities around the country. Some of these programs have utilized guided group interaction, but, in a departure from Highfields, have situated in local communities.

Provo, one of the best known programs to follow in the Highfields tradition, was designed specifically to help habitual delinquents who would ordinarily be candidates for a reformatory.[6] It adapted the Highfields guided group interaction program to a nonresidential community-based facility. Thus a boy's behavior is judged not only by how he behaves while in the group, but also by his behavior in the community and among his former peers. Provo was subject to rigorous research and study. Compared to a control group of boys incarcerated in a training school the Provo experiment had a substantially higher success rate.[7]

The California Youth Authority is presently developing community-based facilities on a statewide scale. The Community Treatment Project, started in 1961 by the Youth Authority, is a combined experimental and demonstration project designed to study the feasibility of substituting intensive treatment in the community for institutional and residential programs.[8]

In this contemporary spirit of experimentation the State of Florida (through the guidance of State Senator Louis De la Parte) in 1967 established the Division of Youth Services. Responsible for all state juvenile delinquency programs—e.g., training schools and aftercare—the division contemplates treatment complexes for metropolitan areas throughout the State which would include halfway houses, forestry camps, group foster homes and nonresidential centers, all to treat youths within a delimited geographical area.[9]

Guided group interaction treatment programs will be an inherent part of each facility. Thus the Division of Youth Services will provide an integrated and consistent program for an entire statewide juvenile correctional system.

The Director of the Division, O. J. Keller, Jr., strongly believes in the wisdom of community-based facilities. His first achievement was to establish Walter Scott Criswell House, a community-based residential treatment center for male juvenile offenders.[10] Incorporating important elements of the Highfields and Provo Programs, the program is modeled after the J. Stanley Sheppard Youth Rehabilitation Center of the New York State Division for Youth.

Walter Scott Criswell House

Criswell House is a demonstration project designed to be one possible alternative to the training school. Developed by Richard L. Rachin, chief of the Bureau of Group Treatment, who also developed and formerly directed New York's Sheppard Center, the program will assist youngsters whose needs are midway between institutionalization and remaining at home. Thus it is not specifically geared to rehabilitating delinquents who have served time in training schools, a traditional function of halfway houses in this country.

Criswell House not only represents innovation in rehabilitation of the juvenile offender, but also reveals the philosophy of the Division of Youth Services. Its success may be crucial to the future development of state-supported community-based facilities.

Located on the outskirts of Tallahassee, Criswell House provides an intensive group treatment experience in a residential setting for boys adjudicated delinquent. The comparatively unstructured atmosphere reflects the basic concepts of the program: (1) to provide an environment in which a boy can develop responsibility for making decisions affecting his own life and those with whom he lives; and (2) to orient him to his responsibilities in the community. These goals are achieved through formal group discussions in which the boys themselves crystallize their prob-

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[1] For an extensive discussion of the problem see, Task Force Report: *Juvenile Delinquency and Youth Crime* and *The Challenge of Crime in a Free Society*, pp. 55-80, The President's Commission on Law Enforcement and Administration of Justice, Washington, D.C., U.S. Government Printing Office, 1967.

[2] *In re Gault* 387 U.S. 1, 27 (1968).

[3] Stanton Wheeler and Leonard Cottrell, *Juvenile Delinquency: Its Prevention and Control*. New York: Russell Sage Foundation, 1966, p. 37.

[4] H. Ashley Weeks, *Youthful Offenders at Highfields*. Ann Arbor: University of Michigan Press, 1958, pp. 130-134.

[5] Arthur Pearl, "The Highfields Program: A Critique and Evaluation," in *Mental Health of the Poor*, pp. 481-488, edited by Frank Riessman, et al. New York: The Free Press, 1964, p. 484.

[6] La Mar T. Empey and Jerome Rabow, "The Provo Experiment in Delinquency Rehabilitation," in *Mental Health of the Poor*, pp. 509-521, edited by Frank Riessman, et al. New York: The Free Press, 1964.

[7] "Six months after release, 73 percent of those who were initially waived and 84 percent of those who eventually completed the program had no record of arrest . . . . Only 42 percent of the incarcerated group had not been arrested, and half of the 45 percent who had been arrested, had been arrested two or more times." La Mar T. Empey, Alternatives to Incarceration, Office of Juvenile Delinquency and Youth Development, U.S. Department of H. E. & W., Washington, D.C., 1967, p. 33. For a similar discussion of the Highfields experiment, see id. at 31, and op. cit. Weeks, p. 127.

[8] For further discussion of the California Treatment Project see e.g. Empey, *Alternatives to Incarceration*, pp. 40-43, and Herman Piett, "Alternatives to Institutionalization," Crime and Delinquency, Vol. 13, No. 2, 1967, pp. 323-329.

[9] Over the next 5 years (1970-1975) the Division is planning to create 17 small group treatment facilities consisting of twelve 25-bed community treatment centers and five 40-bed (TRY) camp programs. Other nonresidential community treatment programs are also planned.

[10] Walter Scott Criswell was Florida's first juvenile court judge. Among his many accomplishments, Judge Criswell organized Florida's first Children's Court in 1914. He wrote the state's juvenile court law, established institutes to train county judges in handling youths, created Florida's Bureau of Corrections, and set up Florida's first community home for boys—the Dozier School for Boys at Marianna.

lems and suggest solutions. With the guidance of the staff the peer group defines and inculcates high standards of performance.

The boys must attend public school, thereby maintaining ties with the community. For the purposes of this program, school is the most important medium through which the boys test the reality of societal demands. Thus from the time of his arrival a boy is made aware that his presence is geared towards successful reintegration into responsible society.

Criswell House accepted its first residents in February 1968. Originally built as a law enforcement academy[11] it appears more like a small hotel than a house. It is an attractive modern structure, and is designed to accommodate 25 boys, although it is usually two or three over capacity. The cost of maintaining a boy at Criswell House is approximately $9.46 a day compared to $13 needed to keep a boy in the training school at Marianna. The House is designed to accommodate boys from the locale, but because it is at present one of only two state-operated residential treatment centers, boys from all parts of Florida reside there.

The House routine, except for daily treatment sessions and study hours, has a minimum structure. There are no compulsory education or recreation programs, and the boys are encouraged to seek their own entertainment. There are two boys to a room and they are expected to keep it in order. The boys do their own laundry, and they share kitchen assignments and maintenance responsibilities on a rotating basis. When they return from school they are free to pursue their own interests. Guided group interaction sessions begin after dinner, followed by treatment teams,[12] study hour, and household chores, after which time the boys usually go to bed.

There is an easy-going attitude about the House. In general, the boys are a personable, lively group and seem to enjoy being there. For example, on their own initiative they raised funds to renovate and furnish a building donated by a member of the community for use as a recreation hall and in which they frequently entertain their young friends from town.

Mr. Rachin, a sociologist with 15 years' experience working with juvenile delinquents, organized the treatment program. He is a man of considerable warmth and enthusiasm. His positive caring attitude toward the boys created mutual trust and respect. This atmosphere made it possible for the boys to identify with the goals of the program from its very inception.

Rachin employed as superintendent a young aftercare counselor, Mr. Guy Moore. He is in charge of all the administrative duties of the House and is responsible for the welfare of the boys. Some of them see him as rather stern, and missed the easy-going atmosphere created by former houseparents. Moore's policy "is to be fair and firm," for he does not see his role as a parental substitute. This disavowal does not detract from his deeply felt commitment to the boys. His vitality and forceful personality have a considerable impact on all facets of the program.

Other full-time professional staff include an assistant superintendent, one group treatment leader (a young graduate of the Sheppard Center program), and an assistant group treatment leader (a Florida State University undergraduate student). In addition, a secretary, a cook, and a weekend relief cook (a young adult court probationer who is also a regular program participant) are employed. Only the superintendent and relief cook reside at the facility. Despite the peer orientation of the program, the staff does develop close personal relationships with the boys. This has helped them to be more open in the group discussions.

The Treatment Program

The guided group interaction sessions form the core of the treatment program. These guided group discussions are held 5 days a week for 90-minute periods; attendance is compulsory. The boys have much of the responsibility for developing the discussions which focus on their behavior, their past delinquent record, their feelings regarding each other, and their daily experiences. A major emphasis is on school performance.

These are often searing, passionate exchanges which make considerable demands on a boy's fortitude and self-reliance. Any form of verbal expression is permitted, so the language is sometimes earthy and violent. In this intense critical environment the need for group acceptance forces a boy to be honest. It is expected that this involvement in a confrontation will foster the erosion of delinquent defenses and values, and inculcate more positive and socially acceptable alternatives.

[11] The Division originally leased the building from the Florida Sheriff's Association for $1,000 a month. The property was appraised at $150,000, but the Association reduced the total cost to $100,000 and agreed to apply the rental toward the purchase price so that it could participate in helping to establish the House. On January 29, 1970, the Division purchased it for $83,000.

[12] Treatment teams are specialized group meetings which will be explained later.

For example, when a boy casually related to his group that he had struck a girl in school that morning he met a solid wall of disapproval and concern for his irresponsible conduct. His peers did not just condemn him but also suggested more acceptable behavior and what steps he should take now to control his bad temper.

Thus an essential technique of guided group interaction is that the boys themselves are invested with the task of effecting change among their peers. Donald Cressey calls this important process "retroflexive reformation." This means that when a delinquent attempts to reform others he accepts the relevant common purpose of the group, identifies more closely with those engaged in reformation, and then places status upon antidelinquent behavior.[13] Thus a pressure group is formed which condemns irresponsible conduct.

A boy who has recently arrived finds himself in an atmosphere that is totally different from that to which he has been previously exposed. According to Rachin:

> He becomes involved in a program where he sees others who are concerned about themselves, and concerned with him. They say, "it is up to you, there's nothing in it for us; we want to help you, but first you have to want to help yourself." A new boy hears other boys talking about things that he feels he could not talk about. How can you reveal inadequacies and be honest without being laughed at, punished, or something equally as bad? How can you show that you care about others, and how can others care about you? Concern and involvement are contagious things. He hears other guys asking for this. He sees guys who came in with equally poor feelings about themselves beginning to talk and act in ways which indicate to others that there is apparently something in it (the program) for them. Apparently you don't have to be here, rather you have to want to be here.
>
> Freedom can be a frightening thing. What he (the boy) sees is a largely amorphous, unstructured atmosphere where no rule or guide book is available. He must begin to do things, to learn things, to figure things out from the minute he arrives. People will help but not relieve the newcomer of the responsibility for making his own decisions.

The lack of traditional authority and structure achieves the objective of producing feelings of anxiety whereby the boys must search for new ways of defining and handling their situation. These feelings of anxiety are revealed by way of guided group interaction which lays the groundwork for communication and subsequent group cohesion. Guided group interaction thus creates feelings of group responsibility for the boys as well as for Criswell House.

For instance, one session centered on a boy's failure in school. The boys were upset because he refused to respond to their questions. What came through was the fact that the boys cared about him and offered suggestions to improve his difficulty. However, some said that not only was he letting himself down but also that his poor attitude toward school reflected adversely on them and on Criswell House. Several boys expressed the fear that if he were unable to change he might have to leave them and go to the training school.

The residential aspect of the program permits involvement in treatment without the possible inhibition from family and neighborhood pressure. Also, the inevitable tensions and hostilities that develop during the meetings can be "worked through" during other periods of more casual relationships with the same boys.

Recent Innovations in Treatment

The boys are divided into three groups of approximately eight or nine each. All groups meet for guided group interaction sessions each evening. A boy is assigned to one of the three groups immediately upon his arrival. Earlier in the program the pressure from these sessions proved too threatening for some of the boys and after a series of runaways the staff decided to form small treatment teams to ease newcomers into the program.

These teams of four or five older residents meet every other day with one or two new members to facilitate their adaption to the problem-oriented group culture. After the guided group sessions the teams meet for 1 hour; the focus of discussion is solely on the progress of the two new group members. Junior counselors, who are mature boys in the program, act as team leaders. Each team eats, works, and lives together. This division into small units creates a more familial atmosphere which is designed to encourage personal involvement.

Special meetings are also regularly held. These meetings are called whenever a resident wishes to deal with a problem which cannot wait for a regularly scheduled meeting. Mobile groups in which the boys structure the membership themselves to handle everyday "living problems" are held on the days the treatment teams do not meet. "Peer courts" can also be convened by the boys to deal with serious rule infractions which potentially jeopardize the safety or welfare of other residents. When crises appear from time to time which may affect everyone, the entire population will meet in a marathon session until

[13] Donald R. Cressey, "Changing Criminals: The Application of the Theory of Differential Association," *The American Journal of Sociology*, V LXI, No. 2, 1955, p. 119.

the issue is successfully resolved. While a staff member serves as a group leader in the regular group meetings, the treatment teams have no staff direction, although staff will occasionally sit in to observe. However, regular weekly conferences are held in which the progress and problems of the treatment team are closely monitored and sometimes redirected as a result of staff-youth discussion of the week's events.

Criteria for Selection

Because the program places responsibility on the boys for their own behavior, and because the usual rewards and punishments found in a more structured setting do not exist at Criswell House, a certain degree of maturity on the part of the boys is considered necessary. They must be able to communicate verbally and exhibit a sense of dissatisfaction with their lives. According to Rachin most delinquent boys have the capacity to benefit from this type of program:

> We cannot say at this point what kind (of boy) would work out best in this kind of program. so we decided to say that we would take any and all referrals, and experiment . . . we took them on first come first served basis. So this ran the gamut from dependency and neglect all the way up to drug, grand larceny and assault cases. I think offense is meaningless in terms of evaluating a youth's potential for this kind of treatment program. To become involved one has to be mature enough to accept many demanding responsibilities. He has to be able to sustain a very difficult and demanding type of confrontation. I think it means that we can accommodate many youngsters who go through the judicial mill, so I don't believe we are talking about a very select group.

As employment opportunities for youth are minimal in Tallahassee, the Division favors accepting youngsters who have the capability to handle school. At the present time several boys do not attend school because of behavioral difficulties. Most youths are admitted, however, with the plan of school participation. Individual vocational plans are developed, though, where employment seems both a more realistic and desirable goal.

Psychotic youths and true mental defectives are the only youngsters automatically excluded from participating in the program. Regularly accommodated are boys with serious drug problems (including intraveneous heroin users), youths diagnosed as seriously emotionally disturbed, youths with homosexual problems, boys with a history of multiple training school commitments, and parole failures. A youth is never denied admittance on the basis of offense alone.

[14] Only one out of 144 youths has been rejected in the "peertake."

A brochure published by the Division describing the structure and function of Criswell House was sent to all the possible referral sources. Despite Rachin's desire for experimentation, the referrals may, in fact, be self-limiting. Referral sources can interpret in a variety of ways the type of boy who would benefit, and may not agree that the majority of youngsters who appear before them have the ability to cope with this type of program.

Referrals

Boys are referred from juvenile courts, training schools, and aftercare. All boys who enter Criswell House are adjudicated wards of the Division of Youth Services, and if a boy chooses not to complete treatment, he usually is either sent or returned to a training school.

When a boy is accepted at Criswell House he makes a commitment to stay for the duration of his treatment program. This is an individual process that usually does not exceed 8 months. The average length of stay is expected to be reduced to about 6 months.

After a boy has been referred, he is placed on trial by the boys in the House for a 2-week period. He is integrated into a treatment team and attends the sessions. During one session there is a "peertake." This means that his peers take part in deciding whether or not to accept him permanently.[14] The group focuses attention upon the boy, asking him questions about himself, what he hopes to gain from being there, and what he thinks he can contribute. A boy also makes his decisions as to whether he thinks he can handle this experience.

New residents are introduced to the program on an individual basis in order to retain the existing integrity of the House.

School Performance

School attendance and satisfactory performance are important for the boys at Criswell House. Most of the boys come to Criswell House with a history of academic failure and are usually one or two grades behind. This is due to a combination of discipline problems, irregular attendance, and poor motivation.

Of the present population, five boys are now in their appropriate grade. Older boys with continuing school problems attend an adult vocational school where they can work at their own rate. One youth is now attending a local junior college.

Criswell House enjoys close cooperation with school authorities. One of the residents gathers detailed weekly reports from school counselors and teachers on the boys' progress. School teachers who initially raised questions about sharing this information with anyone except adult staff are now fully accepting and supportive of this procedure. This information becomes an integral part of the treatment program. For example, if a boy is reported to have been sleeping in class, the group may decide to withdraw entertainment privileges and require an earlier sleeping hour. Unsatisfactory grades may result in loss of a free weekend and, if they persist, the "problem" would certainly be examined by the group.

The majority of the boys are now performing productively in school for the first time in their lives.

Release Procedures

Release occurs in a series of stages and the boys are expected to begin planning their future from the time they arrive. Overnight or weekend passes are normally arranged 6 to 8 weeks after a boy assumes residence. This trip home is a combined decision made by the boy, his peers, and the staff. It is expected that when he returns from his weekend at home he will relate his problems to the group. These passes are designed for their therapeutic value, and not as a reward for "good" behavior. After several weekend passes the boy is then usually eligible to go on furlough. Each succeeding furlough is for a longer period of time. The procedure for release is designed to be a gradual process.

A boy does not leave Criswell House until he, his group, and staff believe he is ready. Ideally, he should have convinced himself thoroughly that he can deal with himself responsibly. Because this is a treatment facility a boy cannot stay on indefinitely. Many of the boys express feelings that this is the most adequate home they have ever had, and would like to stay. A boy, however, must learn to deal with the reality of leaving.

The aftercare counselor receives regular progress reports during the period of residence. The most important reports are the boys' own self-evaluations which are sent to the committing judge, parent, and aftercare worker. When the group is not satisfied with a self-report, a "majority report" is prepared by the other boys which will accompany the self-report. Aftercare plays a continuing role in postprogram plans, such as arranging for foster home placement.

The boy is encouraged to remain in contact with Criswell House and occasionally attend the group meetings; but, of course, this is feasible only if he lives in the locale. Some of the boys who graduated have assumed roles as group leaders or seeders in initiating new group programs throughout Florida. A new graduate program which is totally supported by local people and the boys themselves has also recently opened.

To date there are inadequate data on boys who have completed the program. A minority have been in further difficulty or returned to training school.[15] Many of these "failures" were runaways and several stole automobiles.

Of 144 boys admitted to the program with long and serious delinquent histories, only four were arrested for new offenses while residents of Criswell House. Even more noteworthy is that of the graduate group to date, approximately 80 percent are making satisfactory community adjustments having been on aftercare an average of 7 months.

A Demonstration Project

Criswell House is a demonstration project and therefore, in some respects, boys and staff live a fish-bowl existence. Its doors are open to all interested persons, and the guided group interaction sessions accommodate observers. Judges, state officials, and Division personnel are encouraged to visit. Also, Criswell House is the designated center for training workshops in guided group interaction. Personnel attend from courts, aftercare, and training schools.

The boys appear to be proud of being a pioneer group in this new treatment program for Florida, and want to help to develop other halfway houses. There is a demonstrable esprit de corps at all levels.

Community Response

Criswell House has been fortunate in securing the cooperation of the Governor's office, the Florida Legislature, several state agencies, and a supportive local community in arranging both summer and part-time employment for the boys. Several boys have also served as pages in the Legislature. This is indicative of Tallahassee's response to Criswell House. Many civil organizations and church groups have donated their services. Remedial classes are given by Florida State

[15] Running away is usually cause for transfer to a training school. However, after a period of time the boys may request return to Criswell House. Several runaways have been readmitted.

University students; sports trips and many other activities are led by volunteers. Local families have invited individual boys to their homes to spend weekends, and accept foster placement after graduation from the program.

There has been considerable public relations activity designed to stimulate continued local involvement and to interest new communities in this type of program.

Discussion

An underlying premise for the establishment of Criswell House is that traditional methods of correction are inadequate in treating juvenile offenders. This model alternative, influenced by the Sheppard Center and the Highfields programs, represents the belief that delinquent boys can be entrusted with the responsibility for effecting change in themselves and others. A unique feature of the Florida Division of Youth Services is that this philosophy will be integrated into a comprehensive juvenile correctional system.

In light of the above, it is not surprising that the residents and staff of Criswell House regard guided group interaction as the soul of their program. Demands of participation are great and the boy's pride in mastering both self-knowledge and the adjustment to nondelinquent norms is strikingly apparent. However, if guided group interaction is to succeed, it must not only produce acceptable modes of behavior, but also assist a boy in developing inner strengths to handle responsibly the many problems he will encounter in daily life.

It may be asking a great deal to expect a boy to sustain these new found abilities when he no longer has the support of his group. Thus no matter how excellent the program, it cannot go it alone. Without considerable expansion of opportunities in the community and a more accepting attitude on the part of the public, successful reintegration will be limited.

The fact that Criswell House is community-based has certain ramifications. Firstly, the process of reintegration begins immediately because school attendance and adequate performance is required. In addition, the boys in their daily contact with the local community appear to be normal teenagers, and this helps society to soften its preconceptions about delinquents.

On the other hand, some aspects of Criswell House restrict easy commerce with the community. Due to its location on the outskirts of town the boys have limited casual contact with life outside the House during the week. Also, the lack of public transportation frustrates regular work opportunities and independent experiences.

The fact that most of the boys are not from the vicinity prevents active family involvement and inhibits reintegration into their home communities. This is a serious setback to the goals of the program. Hopefully, this will be a temporary problem because the Division plans a network of treatment facilities to serve metropolitan areas. This cannot, of course, become a reality without substantial legislative support.

The most crucial factor for acceptance at Criswell House is a boy's ability to handle school. Therefore, only a limited group can participate. However, the program has already led to further innovations affecting a broader spectrum of delinquents.

The Fort Clinch camp, intended specifically for boys who have serious school problems, is the Division's most recent facility. Incorporating features of Highfields and New York's "START" this program combines guided group interaction, group work experience, and academic and vocational attention. Thus the Division regards education as the key to adult success. Also, in an attempt to breathe new life into existing institutions, guided group interaction has been introduced into Florida's training schools.

Hopefully, the success of Criswell House will stimulate a variety of alternatives to incarceration, e.g., nonresidental treatment centers, more elaborate probation programs,[10] and locally operated halfway houses. Thus ideally it will serve as a change agent for the whole juvenile correctional system.

Research design is essential for an accurate evaluation of the program. We need to know more about the type of youth most suited for this form of treatment, what are the significant elements for producing change, what is the role of the community in assisting change, and what is the long-range impact of the guided group interaction technique on a boy's attitudes and behavior. To date no such research has been built into the program. This lack of information may inhibit development of similar projects. However, tentative approval has recently been obtained from the Office of Juvenile Delinquency of the Department of Health, Education, and Welfare for a 39-month $334,000 comprehensive evaluation of the Criswell program, its techniques, and effectiveness. The research will be conducted by the University of South Florida's Institute of Exceptional Children and Adults.

Flexibility and experimentation, exemplified by the innovations regarding newcomers, are evident in the program. These qualities are necessary for growth and improvement.

It is all but impossible to assess the significance of the various elements that contribute to the dynamics of Criswell House. The operation of group process, loving care, unique experience, sense of responsibility, haven from an inadequate environment, and an esprit de corps, together, form an organic whole.

Whatever its limitations, the most striking effect of the Criswell House experience is the quality of life enjoyed by the boys. They receive considerate humane treatment, live in pleasing surroundings, and their lives are enriched with new opportunities. The boys have developed an ethos of attending school regularly and doing well there. This is a remarkable achievement in the light of their previous attitudes and feelings. For the first time many of these boys are asked for opinions which are considered by others; and they honor this trust.

A sense of human dignity pervades all aspects of the program, and contact with the people involved in Criswell House is an exhilerating experience. Our support of such innovative measures is essential for the erosion of delinquency.

[10] The Bureau of Group Treatment is currently organizing pilot intensive group treatment programs for probationers in cooperation with the juvenile courts of Duval (Jacksonville), Broward (Ft. Lauderdale), and Palm Beach (West Palm Beach) counties.

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APPENDIX NO. 23

Inherent Treatment Characteristics in a Halfway House for Delinquent Boys

Federal Probation, March 1971

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HALFWAY HOUSES, as supportive services between the institution and independent community life, made their first appearance in this country, not for delinquents, but for mental patients. Halfway houses for delinquents are very recent. "There are increasing indications, however, that the appropriateness of this type of facility in a treatment program for delinquents is beginning to be recognized."[1]

Halfway Houses in Michigan

The idea for a halfway house program in Michigan began early in 1964 when there was considerable newspaper publicity regarding the need for additional bed space for delinquent children within the institutional program. One solution to the crowding at the State's Boys Training School was to provide living in the community for certain wards within the school who were ready to leave but had no place to go. Thus the halfway house concept in Michigan originated.

The first house opened in Detroit on July 1, 1964. The second and third houses were opened at Flint and Kalamazoo in August of the same year. The fourth house, the only one for girls, was opened a month later in Detroit. No additional houses were opened until May 1965, when the house at Lansing was opened, followed in June by the third house in Detroit. Shortly after two additional houses were established, one in Muskegon and a second house at Flint.

Halfway houses in Michigan are operated by the Department of Social Services and are an integral part of the total aftercare program for wards released from the Boys Training School. They are utilized for those children who do not need the stringent controls of an institution yet need limits and supervision while moving back into the community to face its responsibilities and pressures.

Halfway houses appear to be of the greatest benefit to children who show an interest in the halfway house program and exhibit a willingness to utilize its resources; who are able to accept some limits; who are able to adjust to a group living situation; who for many reasons cannot go home; and who need more personalized living than can be achieved in an institution setting.

Pine Lodge Halfway House

This article will deal specifically with an innovative program at Pine Lodge halfway house at Lansing, Michigan. The reason for selecting Pine Lodge House is because Mr. George Logan and I directed the program at different periods in time.

Pine Lodge halfway house is located in a residential area close to shopping, recreational, educational, and employment facilities. It is a large two-story, six-bedroom home with a full basement which serves as an ample recreation area.

Like the other halfway houses in the State, Pine Lodge serves a maximum of 12 boys and is programmed to provide a school and work experience in the community. It accepts boys between 13 and 19. The average stay in the program is approximately 7½ months.

As with the other halfway houses, Pine Lodge is staffed by a caseworker, who is the director, and five child care workers (one who serves as a cook) who work on an 8-hour shift. All staff personnel are administratively responsible to the caseworker. He, in turn, is supervised by the supervisor of social services in the respective county and receives assistance from John E. Miller, director of group homes for the State of Michigan.

The child-care worker must pass a State civil service test, have a high school diploma, and be of high moral character and in good physical health. The caseworker must have at least a bachelor's degree and preferably a master's degree in social work.

Staff members who like children and have the ability to tolerate and understand aggressive behavior are the most successful. They must be mature, responsible, positive identification models and able to work with other staff members. They must be understanding and flexible in their thinking, yet firm and consistent in using their authority.

A person who is negatively motivated can disrupt the program. Such an employee tends to satisfy his own needs and accomplish his own ends without regard for the boys, the staff, or the program.

Other traits to guard against are extremes in permissiveness or discipline, a lack of commitment and dedication to the program, and a general inability to effectively communicate with the boys, the staff, and the community.

Although the halfway houses of the State are administratively a unit of the State Department of Social Services, there is flexibility to develop new techniques and methods of treatment in each house.

Pine Lodge Prior to Its Innovative Approach

All of the child-care staff at Pine Lodge had prior institutional experience and were well acquainted with the problems of working with social deviants. Moreover, the staff was aware of the friction that exists many times between the "treatment" staff (caseworkers) and the "custody" staff (child caseworkers).

The following policies, procedures, and practices characterized Pine Lodge prior to its new approach in dealing with its residents:

1. The child-care staff considered their function as mainly custodial.
2. Custody terminology was used, e.g., maximum security, etc.
3. Their concern was largely with behavior generally as it affected the security of the house and the community.
4. The boys considered the child-care staff only as "guards."
5. The boys manipulated the caseworker and the child-care staff against one another.
6. The entries in the daily log were sterile; they reported mainly security aspects of the program and rarely gave an account of social interaction. Seldom did one of the staff members give an opinion as to the possible etiology of the boys' behavior.
7. Staff meetings were exemplified by discussing almost exclusively house management aspects of the program.
8. There was a hierarchy among the child-care staff with the "head child-care worker" being the recipient of most of the manipulation by the boys in the absence of the caseworker.
9. There was much subversion in the program. For example, a particular staff member may tell a boy, "I agree with you and not the caseworker and the rest of the staff on this particular grievance, but I do not have any decision making power." This had implications both from the standpoint of the particular staff member not being cohesively identified with the entire staff and the program and also from the standpoint that the particular supervisor felt impotent in regard to his influence in the decision-making process.
10. Because of lack of identification with the program, the staff was comprised of small subgroups.
11. The "train of thought" among the staff was that a "tougher security line" should be taken.

Discussion of the Problems

The Treatment-Custody Dilemma.—The major problem at Pine Lodge was a communication breakdown between the child-care staff and the caseworker, namely, a symptom of the age-old treatment-custody dilemma. This phenomenon had been observed to varying degrees, in a number of institutional settings in Michigan. Reviewing the literature in this area it was readily observed that this problem was by far not peculiar to institutions in Michigan, but generally a universal phenomenon.

Briefly, the above-mentioned dichotomy exists because institutional staffs have historically been segregated by function and by training. On the one hand, there is typically the treatment staff whose function it is to "treat" (however this is interpreted). These personnel usually have extensive formal training. Also implied in the treatment-custody dilemma (either directly or indirectly) is the fact that the treatment staff usually holds most of the decision-making power in the institution. The custody individual is typified by his role as the "watch dog" and "inhibitor" of privileges while the treatment person is the "giver of privileges." The animosity that can arise in a situation like this can readily be seen. This concept not only affects the relationship between the custody and treatment personnel but also has implications for the treatment of the clientele. The dilemma affords a "natural" and opportune situa-

* Prepared with the assistance of George W. Logan, Michigan State University.

[1] Kenneth S. Carpenter, "Halfway Houses for Delinquent Youth," *Children*, U.S. Department of Health, Education and Welfare, Welfare Administration, Children's Bureau, November-December 1963, pp. 224-229.

tion for the clientele to manipulate the staff against one another which can only have a negative effect on the total administration of the treatment program.

Appropriate questions to be asked in relation to this dilemma are: Is the treatment-custody dilemma inevitable? Will it always exist because of the division of labor by function and training? What can an administrator do to alleviate this problem?

These questions and additional questions will be discussed later.

The Type of Clientele.—Another problem that exists is the type of clientele served at Pine Lodge and generally in correctional institutions. Persons adjudicated as social deviants do not usually voluntarily seek treatment for their problems. Unlike neurotics and psychotics who are plagued by anxiety and distress, most social deviants are usually not aware of their problems. They usually are very manipulative. Because of their psychological makeup and learned social behavior they can be an effective "con man." Being manipulative and "slick" is many times an integral and desired part of their value system. Manipulation is more than merely a prized and desired asset, it is a tool with which most social deviants "ply their trade." Hence, they have an extraordinary ability to manipulate people and, as can readily be inferred, the treatment-custody dilemma "plays right into" this pathological process and perpetuates it.

Furthermore, the social deviant throughout his life process has not had positive identification models who could transmit the values of the larger society. The result is that there is many times a social and moral void in his conscience structure. Hence the attitude, "Take what you can get," and "It's only wrong or immoral if you get caught."

If, then, the social deviant is different from the neurotic or psychotic, should the techniques for treatment be different as well as the personnel performing the treatment?

Helping a Human Being.—Another factor that can have implications for a treatment program is that these boys are not "commodities" that are being produced and serviced in correctional settings, but rather are human beings. Human beings have the innate ability to affect other human beings in many and varied ways. An assembly-line worker receives instructions and orders from his supervisor and then he performs, for example, his task of riveting the right front fender of a new automobile. The fender does not respond in a manner that can cause an emotional reaction in the worker. However, this is not the case when the worker (child-care staff member) is dealing with a human being (social deviant). The worker may get his instructions from his supervisor but a second element is involved, namely, the worker not only performs an action but the object on which he performs the action is capable of producing a reaction in the worker. Thus a reciprocal emotional connotation evolves. The social deviant accentuates this emotional reaction in others many times because of his aggressiveness and antisocial attitude. Often he exhibits behavior which is boisterous, aggressive, and "cocky" in an attempt to disguise his feelings of worthlessness, fear, and insecurity. In effect, he actively attempts to antagonize society so that he will be rejected, thus reinforcing his own self-concept that he is worthless and a social outcast. The social deviant has been hurt emotionally and hence does not usually want to take the chance of being hurt again. The dynamics of rejecting before being rejected is a defense against "getting close" to people.

The questions to be asked are: "How can positive communication be facilitated between the staff and the boys?" "What effect does an emotionally charged situation have on both the boys and the staff?" "What techniques can be utilized to keep negative reinforcement and reactions at a minimum?"

Personnel.—Persons attracted to the correctional field can also present certain problems. This does not mean that all persons attracted to this field are negatively motivated. It is readily recognized that people satisfy their emotional needs in a variety of ways. In most instances, social deviants are vulnerable to displaced hostility and negative reinforcement from persons working in correctional settings. It is possible that some persons are attracted to this field so as to overassert their authority.

Conversely, there is the person who masks his intense hostility by being overpermissive and oversolicitous even to the point where he encourages the social deviant to "act out." If the staff member also has a problem accepting authority, he can receive vicarious satisfactions when the social deviant acts out against society and specifically against the correctional administration.

Some questions to be asked at this point are:

How do delinquents affect persons who are negatively motivated and attracted to the correctional field and in turn how does this affect the treatment-custody dilemma? Do some staff members prefer and even perpetuate the treatment-custody dilemma? What are the ways in which staff members can be utilized most effectively?

The Treatment Concept.—Another problem in correctional administration is the defining of the word "treatment." Many times "treatment" personnel are not clear as to what is meant by the concept and what it entails. Treatment usually varies with the "treater" and the situation. Can "treatment" personnel expect custody personnel to understand and accept the treatment concept if, in fact, it is not clearly defined and changes like a chameleon depending on the circumstances? Does treatment mean being extremely permissive? Is treatment dependent on the treater's ability to use superfluous psychological jargon? Is it necessary that treatment be practiced in a clinical setting?

Isn't the definition of treatment really a definition of the particular organization's purpose and goals? Isn't it possible to transform theoretical concepts into manageable and practical terms for the "line staff"? The area of training also can present problems for the administrator. The training concept has implications for the treatment goals. If the goals and purposes of the organization are clearly defined and the treatment methods delineated, techniques for training will be a logical sequel.

Just as training will have to fit the organization so will the trainer have to be acquainted with the problems peculiar to that organization. What are the implications and attributes of an effective training program? Also should the trainer (treatment person) stay removed from the "firing line" so as not to taint his "humanitarian image"?

The Community.—The relationship to the community can also pose certain problems. A direct correlation between the amount of aggression exhibited in Pine Lodge and negative behavior in the community was observed. Those boys who would verbalize and rebel in the house had less of a tendency to displace their aggression onto the community. Therefore our general philosophy was that we would rather have the boys "act out" in the house because we could deal with the problem "on the spot" and hence there would be less of a tendency for them to displace their aggression onto the community. This did not mean that the boys were free to "express themselves" in any manner they desired. They could not, for example, destroy the furniture, but they could express verbal anger and discontent to the staff.

Concomitant with this philosophy, of course, is the implication that the major emphasis was not on regimentation. Hence on various occasions boys would rebel by not making their beds and doing their chores, etc. Pine Lodge, however, usually never looked any worse than if a "normal" group of teenagers were living in it.

It was interesting to note that even though the visitors to Pine Lodge appeared to accept our philosophy of "controls but not regimentation," they many times, nevertheless, expected to see a "shiny institution." The staff was in a dilemma. On the one hand they were attempting to operate according to the philosophy of the program and on the other hand they were being evaluated according to criteria with which the philosophy did not adhere. What effect could this paradox have on the operation of the program? How could this situation be alleviated?

Solutions to the Problems: Developing a New System

It was believed the staff should not have to be so stringently dichotomized into treatment and custody. It was also believed the same person could serve as both the "giver" and the "taker," the "controller" and the "liberator." In effect, with adequate staff selection and training, one person could make the decision as to the proper treatment technique that should be utilized at any given time.

Employing staff members who will perform what some people would consider a dual function (treatment and custody) implies certain alterations in the classical correctional concept, namely, the decentralization of authority from the case-worker (administrator) to the "line staff."

It was felt that if the new concept of decentralization of authority, which involves decision-making by the entire staff, was introduced into the Pine Lodge program, the child-care staff would see their role more favorably and would feel a part of and identified with the total treatment program. Hopefully, this would specifically result in better communication between the caseworker and the staff and generally result in a more effective treatment program.

Also assumed was that each staff member would be given authority commensurate with his

responsibility. Even though the major decisions would be made by the entire staff at the weekly staff meeting, there would still be day-to-day decisions that needed to be made. These day-to-day decisions would be made by the particular staff member who was on duty. His decision would never be reversed by the caseworker and if a difference of opinion arose, the problem would be discussed either privately or at the staff meeting.

In addition, the entire staff was kept informed and involved in every phase of both the house operation and the particular boy's status in terms of past, present, and future diagnosis, treatment, and planning.

Finally, because the boys had also witnessed the treatment-custody dilemma prior to their coming to the halfway house, it was felt important that some tangible administrative responsibility be given to each staff member to reinforce the concept that the entire staff was involved in decision making and also to increase the status of the child-care staff in the eyes of the boys. Hence each staff member was given a major administrative responsibility. For example, one staff member was responsible for all monetary transactions in the house while another staff member was responsible for programming all house activities.

Administrative Structure.—Under the old system the head child-care worker did most of the actual staff direction but the caseworker made most of the decisions. The decisions were categorized into treatment decisions (made by the caseworker) and house management decisions (made by the child-care staff). This was a very hazy line, however, and conceivably the caseworker could (and sometimes did) reverse a decision made by the child-care staff using the rationale that it was a treatment decision. For example, if a boy was involved in a drinking escapade within Pine Lodge and the child-care staff restricted him to the house, the caseworker could reverse the decision on treatment grounds and allow the boy to go on a home visit because "the boy's drinking was the result of an excessive amount of pent-up frustration and anxiety." It can readily be seen what effect this can have on the morale and motivation of the child-care staff and the treatment of the boy. The staff would undoubtedly feel impotent and the boy would be able to utilize the situation for manipulative purposes.

Under the new organizational system the caseworker is the director and is responsible for supervising the staff, providing casework for the boys and administering the total program. However, in addition to the organization revision, the total structure of the house is considered the major therapeutic agent. This means that house management activities and house controls are considered as much a part of the treatment program as are direct casework services.

Differences in Treatment.—It was mentioned earlier that the treatment techniques in correctional settings need to be different because the boys are different. Also, treatment with the boy in the halfway house is a 24-hour-a-day job. In a clinical situation a boy may relate to the therapist that he was involved in a "beer blast" at home. The therapist will discuss the situation with him and try to determine the etiology of the problem and what psychological dynamics are present. In a halfway house, the staff does not have the luxury of merely discussing the problem. In addition to being concerned with the psychological dynamics of the boy, the staff also has to be concerned with controlling him. Obviously, the boys cannot be allowed to have a "beer blast," let alone on state property.

When the treatment is viewed from this philosophy, it is not feasible nor desirable that the house be divided into treatment areas and house management areas. Hence, decision-making cannot be dichotomized into decisions that are made by the caseworker and decisions that are made by the child-care staff. The entire staff has to be involved in all of the decisions.

This, however, does not necessarily mean that there is no differentiation of duties according to the staff members' position, as determined by their civil service classification. There is still a hierarchy of varying responsibilities, the head child-care worker having more responsibility and so on. The responsibility, however, relates to objective administrative functions such as making out the staff payroll and being responsible for calling repairmen, etc., and not to decisions concerning the boys. Hence, the caseworker or the head child-care worker are not the only staff members who give boys permission, for example, to go outside of the house on "free time."

The more pronounced the hierarchial structure, the more the boys will have the opportunity to manipulate the "boss" against the "staff" and the more they will manipulate. A flattened hierarchial structure with equal decision-making power for

all eliminates much of this manipulation and thus interrupts one of the boys' major pathological processes.

Even though the treatment objectives and purposes should be specifically delineated and defined, the techniques for attaining these specifically defined goals should be kept flexible to encourage the staff to utilize their own initiative and personal assets. It also is believed that this facilitates decision-making because the staff member does not necessarily have to be concerned about using the "right" technique.

There are, however, specific guidelines under certain circumstances. For example, if a boy is placed on restriction by the entire staff, a staff member cannot make the decision on his shift to allow the boy to go out on "free time." This, however, refers more to the concept of consistency in decision-making than it does to flexibility in the particular technique utilized.

Another point also needs clarification. Even though each staff member has the authority to make decisions that arise on his shift, he can always call another staff member for advice (usually the caseworker). Initially the staff followed this practice, but when they became confident and comfortable with their decision-making ability, consultation via the telephone decreased.

It is also emphasized to the staff that treatment does not necessarily mean a clinical setting and the use of psychological jargon. Treatment can be taking a boy shopping for clothes, giving him advice on dating, or helping him with his homework. Treatment can take place over a pool table or at the dinner table. In other words, treatment is considered anything that relates to the boys' total life process.

The Treater: Facilitating Communication.—It was mentioned previously that people are attracted to work in the correctional field for many reasons—psychological, educational, monetary, etc. It was also pointed out that since the social deviant is clinically different from the neurotic or psychotic, it follows that the "treater" does not need the same clinical experience. It was proposed that the clinical difference between the social deviant and the neurotic or psychotic is that the social deviant lacks an adequate conscience structure as a result of inadequate identification models. Hence the major treatment device should not be the use of clinical jargon and knowledge to alleviate guilt and anxiety because, in fact, the boy has a minimal amount of both, but should be able to provide him with a positive identification model. Positive identification models can be found in every walk of life. We did not look for persons with a particular educational background. In fact (according to our definition and requirements) formal education is not a prerequisite to being an effective "therapist." In addition to being a positive identification model, it is mandatory that the person be mature and understand his own personal dynamics. This will enable him to transmit to the boy that he is genuinely concerned. If a staff member's actions toward a boy are inappropriate, it is important to determine whether he is displacing negative feelings from other persons or situations on to the boy. Hence the need to be constantly introspective.

It was observed that certain boys were attracted to, confided in, and communicated with certain staff members. This natural attraction is encouraged because, as was mentioned before, a relationship with a positive identification model is the most important way in which the boy modifies his socially deviant behavior. A positive relationship with a particular staff member is very beneficial because it not only accelerates the treatment process, but it also affords the boy a positive identification model whom he can emulate and please via socially acceptable behavior. In effect, the "natural" channels of communication are utilized and perpetuated. The caseworker still provides supervision to the particular staff member, but the actual casework is performed by the staff member the boy trusts and has chosen as his friend. The caseworker's supervision mainly involves interpreting the meaning of various behaviors and helping the staff member understand what dynamics are present and operating in the boy.

Hence, because a particular type of formal education or a particular type of personality is not required to work in Pine Lodge, the staff is composed of a variety of personality types.

As mentioned previously, a person's positive personality characteristics are utilized to the program's best advantage. For example, an athletic staff member is used in programming athletic events for the boys. In many cases, this means altering the organization to fit the employee. Altering the organization to fit the employee is done by choice, as in the above mentioned case, but it is also done by necessity. Some staff members also have negative personality characteristics but these can also be utilized to the pro-

gram's advantage. For example, there may be a staff member who has difficulty exerting even minimal controls for fear that he will lose his "nice guy" image. This person can be put on a shift that has the greatest amount of flexibility in regard to controls. He can also be used effectively to perform duties that involve being "nice" to the boys. Conversely, a staff member who is excessively controlling can be utilized effectively in another phase of the program where, for example, the setting of the controls and limits is beneficial to the program.

The boys have reached adolescence with many of the same likes, dislikes, and pressures as normal adolescents, but with far fewer social, intellectual, and occupational skills. They have experienced but little success in life. The staff attempts to intervene in their life process and acquaint them with positive life experiences.

Staff members are encouraged to react spontaneously. If they are angry at something a particular boy has done, it is better to express the anger than to suppress it, displace it and have it come out in a subtle, punitive, passive-aggressive manner that the boy can neither accept nor understand.

Because the boys are extremely impulsive, hedonistic, and unable to tolerate much frustration, they need constant support and encouragement to stay on their jobs, in school, and to refrain from acting-out behavior.

The staff is always willing to give a boy a ride to and from work, advance money from the house fund until he receives his first paycheck, and allow him much freedom in purchasing, with his pay, such items as record players, guitars, bicycles, and radios.

This action not only supports the boy while he is experiencing the first few frustrating days on the job, but it also helps to satisfy his need for immediate gratification and illustrates to him that through employment, it is possible to acquire pleasurable items legally.

It is not naively assumed that a boy who has already utilized almost every state and local service available, will suddenly succeed in the community because of some deep psychological insight into the nature of his behavior. If he refrains, for example, from shoplifting, it is probably due more to the fact that he has money in his pocket earned from a job to purchase the items, rather than any insight into the nature of his "oedipal problem."

The approach with the boys is direct, always emphasizing the reality of the situation. We do not attempt to delve into the unconscious, mainly because of the type of boy with his impulsivity and need for immediate gratification. Time is also a factor.

If, for example, a boy has the "urge" to steal a car, we emphasize the reality of the situation, rather than the boy's "unconscious conflict." Stealing the car is the important event. We have neither the time nor the boy's desire to introspectively look at the unconscious conflict. We have to deal with the present event and its consequences because otherwise, unlike the neurotic who has an anxiety attack, the boy will act out in the community and be in conflict with the law.[3]

The structure of Pine Lodge is constantly utilized in the treatment of the boys. There are not many rules, but the ones that exist are enforced consistently and firmly.

The boys also have the opportunity to go on home visits. This assists them in experiencing home and community pressures in a less intensified manner. It gives them the opportunity to test out new skills and attitudes and then return to the halfway house to share their experience with staff members. The staff not only supports them in their responsible home behavior, but also assists them in seeking and implementing alternative socially acceptable solutions to problems.

Training.—Utilizing the personal assets of the staff also has implications for staff training. Even though staff training is usually geared to impart certain general principles and techniques for the entire staff, training also has to be geared to individual needs and abilities. Some staff members have innate, intuitive, and empathic qualities that assist them in relating positively to the boys and reacting appropriately to emotional laden situations. Others don't have these innate personal assets and, in effect, have to be "conditioned" to act in a certain manner even though they don't "feel like it." Of course, it isn't merely a matter of either having the qualities or not having them. It should be viewed on more of a continuum with some individuals having both more innate assets and a better ability to be introspective. Training can accentuate a person's positive traits and provide him with new skills.

One of the trainer's major responsibilities is to transform abstract theoretical concepts into practical terms so they can be more readily accepted and utilized by the staff. Working with delinquent boys can be very frustrating and many times the staff needs something tangible to look at in terms of what they have accomplished. The trainer is much more effective if he points out to the staff that a particular boy has improved a great deal because he is staying in school or on the job regularly for the first time in his life, rather than saying the boy has increased "frustration tolerance" and "impulse control."

The trainer also has to be realistic and able to empathize with the staff. The caseworker covers at least one shift a week so as to have an opportunity to observe what takes place "on the firing line." After having experienced various situations it is easier to be more tolerant and less judgmental of a staff member who may have reacted angrily in a particular situation. To say the least, it affords the trainer new insights into the dynamics of human behavior and interaction.

In relation to the caseworker covering a shift, many persons have the faulty idea that the "treatment person" should not become involved in the areas of disciplining and controlling. If the thesis concerning the staff (including the caseworker) acting as parental substitutes is extended, in how many families is one parent the "good guy" and giver and the other parent the "bad guy" and disciplinarian? Hence, the same parent can perform both functions effectively and the child readily accepts and wants this. Why, then, can't parental substitutes perform the same dual function? It realistically illustrates to the boys that adults play many roles, and perform many functions, some pleasing and some displeasing.

Learning the System.—It was mentioned that after the boys are in residence for a few weeks, they begin to "learn the system." Although every organization has a system, we attempt to keep some aspects of our system unpredictable because many times the boys spend much of their time trying to "beat the system" and a minimal portion of their time trying to positively increase their social and personal functioning. The structure of the house with its consistent enforcement of the rules is an asset, but a system that is completely predictable can eliminate all anxiety and place a premium on conformity and "playing the game" to attain a release.

It is important to point out that the organization and the organization's system have to be constantly evaluated in terms of the implications the system might have for the program.

In the case of Pine Lodge the system is unlike that of an institution which many times places a premium on conformity and regimentation. However, the boys learned quickly what is emphasized, namely, expression in the house rather than in the community and some of them begin "playing the game" in regard to our system. In other words, they express themselves in the house so as to elicit the response, "Well, at least you must be improving because you are able to express yourself directly (in lieu of displacement) in the house." However, this same boy may also be "expressing" himself in the community. In effect much of his energy may be expended in playing "our game." Thus the need for constant organizational evaluation.

Relation to the Community.—In the first part of the article it was mentioned that there were many community visitors. This in itself was not a problem. The problem arose when the visitors transmitted to the staff surprise and disappointment that there was not more uniformity and regimentation.

Quite naturally the staff wanted to operate within the philosophy of the program, but they were also concerned that the visitors would interpret the "lived in" look as being a symptom of poor functioning.

Even though much of the negative communication from the visitors could be interrupted, the problem took care of itself. As the staff identified more with the treatment program and was committed to the philosophy of the program, they were less concerned with negative comments and were more enthusiastic about the program and the special techniques we utilized in the treatment of the boys. This increased enthusiasm and "esprit de corps" made a positive impact on the visitors with the resultant effect of fewer negative comments about the lack of uniformity and regimentation.

Evaluation

From June 1965 to June 1969, 80 boys were accepted at Pine Lodge. Eleven boys were returned directly to the Boys Training School after a short stay, 12 were residents at the time of the evaluation, and the remaining 57 were released to the community.

Of the 57 boys released from Pine Lodge to their home communities after an average stay of

[3] William Glasser, *Reality Therapy*. New York: Harper & Row Publishers, Inc., 1965.

7½ months, 11 (19.3 percent) were released to independent living arrangements, 3 (5.3 percent) enlisted in the Armed Forces, 27 (47.4 percent) were released home, and 16 (28 percent) went to live with relatives or at a foster home.

Eleven of the 57 (19.3 percent) had contact with law enforcement officials necessitating a return to the Boys Training School or some other form of incarceration (an adult institution, jail, etc.). The remaining 46 boys (80.7 percent) did not become involved in future negative behavior in the community. Some of the boys have been released for up to 3½ years. All of the boys, as mentioned earlier, have been released at least 1 year.

Although some of the boys may not have gained any additional insight into the etiology of their behavior, they have experienced some success and gratification in the areas of employment, education, and recreation. Most have been able to delay immediate gratification and tolerate unpleasant situations even though the temptation to become involved in deviant behavior is ever present.

Some Guiding Principles

1. The most important aspect of the program is to have a competent staff dedicated to the philosophy that delinquents are persons worth helping.

2. The entire staff should be actively involved in the treatment process.

3. There should be a sound administrative structure with clear lines of communication.

4. There should be a minimum of rules and regulations but a firm and consistent enforcement of the rules.

5. There should be a refined selection process for accepting boys to the program. It is important to be alert to each boy's individual needs as well as the group interaction and the problems that can result from either overplacement or underplacement.

6. There should be adequate programming with good working relationships with various agencies such as the police and the schools.

Conclusion

Halfway houses are no panacea for the treatment of the delinquent. They cannot serve all children and in particular those who need a good institutional treatment program, with more stringent controls and at least partial separation from community pressures. However, the halfway house does introduce a new resource which seems to be a better answer for certain children.[8]

[8] Martin Gula, "Agency Operated Group Homes," U.S. Department of Health, Education, and Welfare, Welfare Administration, Children's Bureau, 1964, p. 29.

APPENDIX NO. 24

PORT: A New Concept of Community-Based Correction

Federal Probation, September 1972

BY KENNETH F. SCHOEN*

PORT, an innovative program in Rochester, Minnesota, was born to fill a need—the gap in the contemporary correctional system between probation and institutionalization. An acronym for Probationed Offenders Rehabilitation and Training, PORT began operating in October 1969. It is a live-in, community-based, community-directed, community-supported treatment program for both adult offenders and juvenile delinquents. It serves three counties in southeastern Minnesota—Olmsted (Rochester), Dodge, and Fillmore.

PORT provides an alternative for those offenders—currently only males—who require a greater change in their lifestyle than probation can accomplish and who, except for PORT, would end up in a prison or training school. Most institution superintendents and wardens estimate that 60 percent to 90 percent of their inmates could be controlled in the community with an intermediate program such as PORT. Of course, if PORT is the alternative, to be successful the program must control that behavior which the community found objectionable. In addition, the goals of PORT are to reduce commitments to the State Department of Corrections and to demonstrate that rehabilitation through PORT is both cheaper and more effective than through commitment to an institution.

Inception of PORT

The force behind the inception of PORT was the strong dissatisfaction felt by two district court judges in Rochester with the frequent lack of a desirable choice for offenders who came before them. This led them to an experiment with community-based corrections, using the local State Hospital in cooperation with the medical director. The success of this initial effort encouraged them to undertake a 2-year community organizational attempt to interest people in supporting a community-based facility.

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In mid-1968 they sought my interest in the directorship of the program. At the time I was superintendent of a 175-bed correctional institution for juvenile offenders at Sauk Centre, Minnesota. During the 10 years in which I directed two correctional institutions, it had become increasingly apparent to me that the goal of rehabilitation was not readily, if at all, attainable in that setting.

Increasingly professionals are viewing delinquency and criminality as being a byproduct of defective social relationships. Ironically, the institution, by its nature, isolates the offender and thus cuts off opportunity for effective repair of those relationships and for testing the success of our treatment efforts. Furthermore, we find that most offenders possess many more assets than they do liabilities. Institutionalization is a response primarily to the negatives, and hence custody instead of rehabilitation becomes its primary function and concern. Eighty percent of the Nation's correctional employees are used to guard inmates. Recognition that the system needs changing interested me in the developing program.

Location and Staffing

PORT provides a live-in facility located within the city limits on the grounds of the Rochester State Hospital. A former nurses' residence, it is leased from the State for $4,000 per year. Staff consists of an executive director, program director and a secretary, plus two recent college graduates, an ex-Peace Corpsman and an ex-offender, both being trained in the skills of staffing a community-based program. Increasingly, they are assuming program responsibilities to fill the gap created by the demand on the executive and program directors to assist other communities and agencies in establishing similar programs. Vital to the program are 12 to 15 male and female resident counselors, mostly college students, who live in the building, and, in the case of the males, room with the offenders. In effect they replace the guard/counselor staff of the institution. In return for board and room, they provide three pri-

mary functions: (1) They cover the building during off-duty hours in the capacity we call O.D.; (2) having been selected for their general competence and positive value system, they help develop and maintain a "healthy" culture in the program; and (3) along with the residents, they maintain the building.

Residents (Offenders)

Through December of 1971 PORT has accepted 60 residents, ranging in age from 13 to 47; their offenses range from truancy to armed robbery. Of these 60, 34 have been discharged, 6 as failures (sent to correctional institutions), and 28 who now are living in the community. With the exception of 3, all residents admitted would have been sent to prison or training school. In addition, 15 people have been admitted for short-term (4 days to 2 months) preventive or diagnostic stay, a service to the local probation and welfare departments. No one is turned down because of offense or past record. During the past 22 months all those referred who met the criteria of residence and were not candidates for probation were accepted. Earlier, because referrals were occuring faster than the new program could accept them, some were turned down.

Entrance into PORT is voluntary. Referrals come primarily from the juvenile and district courts. The candidate spends a 3-week evaluation period in residence at PORT during which time he and the Screening Committee evaluate and determine if the program is the choice of both parties. The Screening Committee is comprised of six people, each with one vote: a psychiatrist, a probation officer, a lay person of the community, the executive director, and one representative each from the resident and counselor groups. In practice, the Screening Committee acts more as a catalytic process rather than a screening out. Thus far no applicant has been eliminated by the committee. Its importance is in the process of the candidate's presenting himself to the members individually, describing why he feels PORT is the choice he desires. This is in sharp contrast to his being thrust into a correctional program, often in manacles, and then being expected to develop an "I want to be helped" frame of mind. The Committee also has the function of relating the program to the community.

Bill, a 22-year-old school dropout, after pleading guilty to armed robbery, was referred to PORT by his defense attorney with the reticent concurrence of the judge. The seriousness of his crime (after a week in residence in PORT, he revealed another armed robbery in therapy group), disturbing elements of his background, including attempted suicide with a run, a mental hospital stay, and a history of traffic and property offenses, his delinquent associates, plus a home situation of elderly parents living in a cabin in the woods, made successful probation improbable. However, the judge was particularly concerned about possible negative community reaction to probationing him to PORT. The Screening Committee, convinced that PORT was the appropriate disposition, conveyed the recommendation to the judge along with a plan to avert adverse reaction.

When news of the sentence was out (probation on condition that the offender participate in the PORT program), a screening committee member, who recently retired as director of the local IBM plant, called upon the victim of the robbery. He described plans for rehabilitation of this man, using community resources. Bill stayed at PORT for 8½ months. Initially he spent the summer participating in the "in-house" program and working as a busboy at a local restaurant. Through the combined efforts of the Vocational Rehabilitation Division, local schools and PORT, he was enrolled in the welding program at the Vocational School in the fall. Since release from PORT in late fall, he continues to visit the program once a week, weekly school reports are received at PORT from his several vocational teachers, and periodically he sees his regularly assigned probation officer. According to information received from these sources, after 3 months out of PORT, his adjustment remains very good. Thus it appears that in the interest of community protection, both short and long term, which was the principal concern in this case, PORT as an alternative to imprisonment was the proper disposition.

The Program

The core of the program is a combination of group treatment and behavior modification. The residents meet as a group Sunday, Wednesday, and Friday evenings with the program director and the two trainees. Confrontation, frankness, honesty, trust, care, reality-testing, and decision-making are the ingredients of the group process. The quality of the culture at PORT is primarily effected by the success of this phase of the program. The behavior modification feature was added after a year of operation when we found that the group alone was insufficient. Group sessions were spending too much time on individual's problems in school and job performance, inconsistencies developed in ascertaining acceptable levels of performance, and the newcomer's association with outside groups in their often varying value systems confused him. Also, the fact that the program was experiencing some failures led to the addition. A point system is used to mete out levels of freedom systematically, based upon measured performance in tangible areas. These include weekly school and work reports, building cleanup, managing a budget, planning and carrying out social activities successfully, and similar accomplishments.

Operationally the newcomer starts off at the bottom rung of a group-evolved classification system which has categories ranging from 1 (minimum freedom) to 5 (freedom commensurate with that of an individual of the same age in the community). Working up the ladder is accomplished through a combination of earning points and group decision. Through the process of demonstrating performance to the group and earnings on the point system, the resident gradually weans himself from PORT, increasingly gaining the freedom and responsibilities accorded the "normal" person of his age.

Of course, backsliding frequently occurs. If it did not, the question of the need for PORT in the first place would arise. Furthermore, without symptomatology it is difficult to focus the helping effort. The problems experienced, however, are seldom criminal or delinquent acts. The community would consider most of them insignificant. By focusing on the seemingly minor, albeit highly significant, aspects of behavior, we intervene at lower levels before deviancy escalates again to antisocial heights.

The case of Roger, a 15-year-old who had been on parole for a chronic history of assault and who was placed at PORT on referral of the probation office, illustrates the kind of "backsliding" seen at PORT, plus other aspects of the program.

Roger had been out of a state institution for 3 months when he again became involved in a number of fights and assaults. This, plus poor adjustment to home, school, and parole supervision, would have resulted in his return to an institution had PORT not been available.

During the initial several months at PORT his adjustment was poor. When frustrated, he cried, when collected, he "conned" the therapy group, which they pointed out to him. The fighting continued, culminating in his being expelled from school. When that occurred, instead of returning to PORT, he ran off, which he had done on two other occasions. Some days later, through the help of other PORT residents, he was picked up by the police and jailed.

The "group" and staff recognized that Roger's associates were the strongest force in his life, much stronger than PORT, and if we were going to interrupt this progression of negative behavior, it would be necessary to alter the nature of their influence. His associates were informed that Roger would not be released from jail until he met with the PORT program director, Jay Lindgren, and members of the group at the jail and unless they promised that they would support only responsible behavior on his part. They appeared at the appointed time but the setting created so much tension that another session was scheduled for the next day at PORT. Results were beyond expectation. For example, the leader of the group of friends, turned to Roger during the meeting and said that Jay wasn't as bad a guy as he, Roger, had made him out to be.

At this writing, some 5 months later, Roger is in class 5 and asking the group to leave PORT. He has been maintaining a "C" average in school where his adjustment has been satisfactory; he works part-time at a service station. A month ago he was picked up drinking with his friends. However, after they explored the behavior with him, the group concluded that the incident was more a learning experience than a regression. He spends less and less time at PORT and probably will be released soon. The question of PORT's being able to afford the necessary controls and help for Roger was raised several times during the course of his stay. If the special school operated by the public schools at Rochester State Hospital had not been available to take the boy when he was expelled, institutionalization would have occurred, because he was of school age. Each time he had a problem, help, care, pressure, and loss of freedoms emanated from the group and the program, and he emerged stronger after every experience.

Involvement of the Community

Prior to opening PORT, months of preparation and community involvement took place. A key to the success of the program, both in providing real life experiences and dollar savings, is the heavy use of existing community resources. Public schools, employers, mental health center, vocational rehabilitation, the sheltered workshop, the State Hospital, and the various resources of the community are used as needed. Significantly, these resources are not duplicated in PORT as they are in an institution.

Without the support of those community elements essential to the operation of the program—the criminal-justice system, schools, employers, rehabilitative agencies—Port would fail. Schools, for example, can be particularly inflexible and readily expel students who do not conform to a fairly narrow range of expectations. Unless schools are willing to participate in a treatment program and to accept some deviation as the effort proceeds, as they are in Rochester, the rehabilitation of juveniles is seriously hampered.

The community actually runs PORT through a corporate board of directors who hire staff and set policies. On the Board, in addition to a cross section of influential people of the community, are judges of the area served by PORT, the chief of police, sheriff, and the area probation supervisor. Thus, in effect, the program is responsible to the criminal justice system, which largely obviates the problem of PORT being that "program over there," considered guilty until proved innocent.

Support in the areas of education, employment, social involvement, legislation and finance, public awareness, and prevention come through the PORT Advisory Committee, a group of some 65 Rochester citizens. The Employment Committee,

for example, assists in job finding. That committee, recognizing the problem of summer employment for the teenage resident, this past summer developed and directed the program of a PORT lawn-service crew, securing the donation of a van from the telephone company and tools from private contributions.

The Finance Committee provided a volunteer from the local Credit Bureau to counsel a 25-year-old man with three children who had a long history of delinquency and institutional commitments. It was quite apparent that his burglaries and fencing of the loot were directly related to the horrendous state that he and his wife had irresponsibly allowed their financial condition to reach, in spite of his holding a fairly good job as a meat cutter in a good restaurant. The volunteer worked out a budget and financial plan with the man. The "teeth" to see that it was carried out came from PORT. As with all newcomers to the program, he deposited all of his income in a special PORT account, which is then disbursed in accordance with the agreed-upon budget. The goal, of course, is increasingly to shift the responsibility for his financial affairs back to him and his wife.

Stages of Development

Three stages of development have been identified in the evolution of the PORT program. In the first, the pilot stage, the treatment model was tested to see if it was feasible. During this period we learned many things which are described below. We date this period from October 1, 1969, to January 1, 1971.

The second (January 1, 1971, to June 31, 1973) is the research stage. In this we determine, through a longitudinal study, how successful the program is in controlling the antisocial behavior of the clients for an extended period of time, in reducing commitments to the State Department of Corrections, and in holding costs at a level considerably lower than those of institutionalization. A research unit of a state college has been hired to measure these factors. The first report is scheduled for completion by October 1972.

The third and final stage is the operational phase when the program can be adopted as a model for others to be set up throughout the State and Nation. We anticipate that this period will begin about July 1, 1973.

Conclusions Drawn From Feasibility Stage

During the feasibility stage we have learned the following:

(1) The PORT program affords the controls necessary to allow the offender to operate in the program and in the community largely free of the delinquent behavior previously displayed.

(2) The mixing of juveniles and adults is not only practical but preferred. The more mature element tends to minimize troublesome antic behavior of the younger set, while the youngsters' presence makes immature performances on the part of the older resident look more ridiculous. Furthermore, the adult is helped by frequently being in the role of helper. The younger resident, while being the recipient of this helping interest, benefits from the relationship with someone who has been through it. It also allows the program to keep minimal the geographic area served; i.e., overlapping of juvenile and adult programs is obviated. Interestingly, there has been no serious questioning of this practice by the community at large, by legislators, or by the many visitors to the program. The greatest number of perplexed looks are seen on the faces of correctional veterans steeped in the traditional notion that such a practice can result only in the younger set being misguided and sodomized by the older offender. No doubt this problem exists in the institution because of its perverted nature caused by a one-sex population and a generally prevailing negative culture. It is refreshing to see the strengths and maturity of the adult directed toward assisting younger members rather than corrupting them.

(3) College students satisfactorily replace the custody/cottage staff. When they are, as they must be, carefully screened and well supervised, they are an extremely valuable adjunct to the program. As former clients become available, they also will be used in this role.

(4) The preliminary and ongoing organizational efforts of the community are well rewarded. Community involvement and support must be obtained and maintained.

(5) Most existing community resources can be utilized and need not be duplicated in the program. Schools present the greatest challenge, as mentioned earlier.

(6) Parents should be looked upon as a resource rather than as an adjunct to the problem and a deterrent to rehabilitation—particularly with younger residents. We have learned that it is important to work with them, preferably in a group setting, a program on which we are currently embarking.

(7) The program can be operated at a cost of less than $3,000 per year per bed.

(8) Generally, the juvenile delinquent requires more structure and consumes more resources of the program than does the felon.

(9) The dual treatment method of group therapy and behavior modification seems to be the most successful both in affording control and in achieving individual goals.

(10) The concept tends to unite the elements of the criminal justice system. The working climate is improved by the composition of the board and the advisory committee, and by the fact that the program involves a lot of contact with the referring courts, the probation office, and law enforcement officials often informally yet effectively.

(11) Experience as a counselor is effective in recruitment of employees for corrections. Of the 22 counselors who have worked in the program thus far, over half intend to go into the field of corrections.

(12) The program makes available to that individual who does not have access to influential people and power the many resources available in the community, thereby avoiding the correctional institution route. Thus it helps provide equal justice regardless of social position.

(13) The policies and procedures of the various community institutions which tend to extrude the troublemaker are illuminated through the PORT program. Steps can then be taken to encourage agencies such as schools to work with the nonconforming individual rather than to throw him out.

(14) Two resources essential in a community to operate a PORT-type program are a college and a cooperative jail. The latter is frequently used to bring an individual back into contact with the program when behavior is impulsive rather than responsible.

Funding

Initially the project was funded almost entirely from private sources, including the Hill Family Foundation of St. Paul, the United Fund of Rochester, The Rochester Foundation, and a small sum from LEAA. The 1971 session of the Minnesota Legislature was approached to extend the program for the 2-year research phase and funding at 65 percent of cost was granted. The county supplies 25 percent. Residents in the program are charged $15 a week tuition, which brings a little over a thousand dollars a month. Whoever was supporting the individual prior to his entrance into the PORT program is expected to continue this support. With the younger clients, it is generally the parents or welfare, and with the older their own jobs. The 65/25 formula is applied after the clients' fees are deducted. The balance is being requested through an LEAA grant.

After 2 years, we hope to develop and encourage passage of legislation whereby the State would reimburse communities to the extent that their use of the various state institutions is reduced. Currently, the commitment process to the state institutions works in the reverse. There is a dollar savings to the community to remove offenders and place them in an institution. The legislation we desire ultimately includes the feature of the government contracting with a private, nonprofit agency to reach specific goals and rewarding them only if the goals are achieved. Such a system should make sharp inroads into bureaucracy and inefficiency.

Replication of the Model

The goal of PORT is not only to provide an effective correctional service in Rochester but to develop a model program which is transferable to other communities throughout the State and Nation. The communities of Columbia, Missouri, and St. Paul, Minnesota, have set up programs modeled after PORT. However, it is too soon to say with assurance that the concepts employed at PORT work, not because of the special community or personalities involved, but because the concepts are sound and can be duplicated.

In advising communities considering PORT-type programs, we have stressed the following points. Probably the most important single task is laying the ground work and organizing the community or neighborhood in larger cities to support the program. The ultimate goal is to develop a feeling of proprietorship on the part of those individuals who are necessary to the survival of the program. In addition to the elements of the criminal justice system, the involvement of those whose opinion counts in the community and have initiative should be sought. Politicians are not necessarily required to be brought into the fold initially, but rather are asked to join after momentum has been gained. The desire to start

intake too soon must be resisted until the underpinning is well established. Failure to gain adequate community support has caused the failure of some potentially excellent programs, even those that started out functioning well.

Location of the program in the community is important. It can neither be thrust into a cohesive, stable residential area nor located out of town away from easy access to public transportation and the variety of resources necessary to the operation of the program. Residential areas adjoining a university and at points where once residential areas are becoming encroached upon by nonresidential activities are examples. This facility need not be a single building, but could be two or more adjacent residences, since custody is not a function of brick and mortar. The facilities need not be palatial, but certainly middle-class standards of housing should be sought and developed. Broken-down and unattractive surroundings do not convey a "we care" attitude.

Locating staff who have community organization and administrative and treatment skills is a perplexing task. Neither departments of corrections nor schools of social work produce, ipso facto, personnel to staff PORT programs. The ability to relate to clientele and to the community is a basic requirement. Realizing the quandaries that the prerequisites for PORT-type staff create, we are now in the process of developing a training program in conjunction with a university.

The Future

Whatever an individual's reason for attempting to improve the correctional process—be it financial, humanitarian, for improved effectiveness, or for convenience of operation—the PORT concept tends to satisfy them all. We are not so naive as to suggest that PORT will eliminate all correctional institutions, but in conjunction with PORT, we can reduce their size and make them more effective.

In addition to providing a comprehensive correctional resource, including services to females in the near future, in the Rochester, Minnesota area, PORT has the further goal, indeed responsibility, to provide services to other communities to establish community-based programs, to develop and gain support for legislation which will "institutionalize" community-based corrections in the State, and finally to develop resources to train personnel to staff the programs. The interest expressed in the project by the community, the various elements of the criminal justice system, lawmakers, young people who are looking for new solutions to old problems, and the offender himself is a great help in assuring success in achieving these goals.

Appendix No. 25

[From Hospital and Community Psychiatry, vol. 22, No. 3, March 1971]

PORT of Olmsted County, Minn.

COMMUNITY REHABILITATION FOR LEGAL OFFENDERS

(By Francis A. Tyce, M.D., Medical Director, Rochester (Minn.) State Hospital)

This paper is based on a presentation at the 22nd Institute on Hospital & Community Psychiatry held September 21–24, 1970, in Philadelphia.

Port stands for Probationed Offenders Rehabilitation and Training. It is a community-based, community-supported, community-directed treatment facility for criminal offenders and juvenile delinquents. We see it as an analogue in the corrections field to the mental health center in the field of psychiatry. Like the mental health center, the PORT program serves as an alternative to institutionalization. In addition, it also serves a specific catchment area, namely the three counties that fall under the jurisdiction of the two district courts in our area.

The PORT program, located on the campus of Rochester (Minn.) State Hospital, was two years in the making before it accepted its first clients in October 1969. The idea grew out of my relationship with two district-court judges, the Hon. Russell O. Olson and the Hon. Donald T. Franke. As humane, thoughtful jurists, they were troubled by the unsatisfactory alternatives for handling a convicted offender: prison or probation. Prison bred recidivism, and often provided only graduate training in crime. Probation frequently consisted of irregular and inadequate supervision by an overworked probation officer; it also meant placing the offender back into the environment that had contributed to his delinquency, with no means to produce positive change in his behavior. Because of the dilemma, the judges often opted for the safer solution and committed the offender to prison.

Some nine years ago, the judges asked if our hospital could accept offenders for psychiatric study before sentencing. The judges wanted a report that would not only address itself to the particular behavior of the accused and attempt to explain it, but also would offer definite recommendations for psychiatric treatment, if indicated.

One of the early referrals was the son of a police chief. The father was a successful, honest cop; the son was a most successfully unsuccessful and dishonest 22-year-old whose antisocial behavior had embarrassed his father for years. The young man had just been convicted of burglary, but the sentence was stayed for psychiatric examination.

In the interview, he emerged as a highly intelligent young man with a compassionate understanding of his father's detestation of his behavior. He revealed a long-standing estrangement between him and his father, which was based on his inability to compete with an athletic and academically successful elder brother. Although the accused was physically large, he had never been athletic because he had lost an eye in an accident at the age of seven. Interestingly enough, his father had regarded the injury lightly at the time it occurred, and when medical help was sought a day or so later, it was not possible to save the eye. Estrangement grew over the years, and was intensified after the policeman father had to arrest his own son on several occasions.

Our recommendation to the court was to place the young man on probation. He was admitted to our day hospital and slept in the jail at night. After about six months he was placed in a vocational school for radio broadcasting. He was graduated at the top of his class and immediately obtained a job as a broadcaster in a neighboring state. After he had held the job successfully for several months, his father learned of his whereabouts, and on weekends he and his wife would drive some 50 miles to the state border, park their car, and listen to their son broadcast. Later the reconciliation was completed.

That case was particularly interesting because the court had acted in the face of the great hostility the local law enforcement agencies had for this young man. Success with his case did much to gain their support for new approaches to the treatment of criminal offenders. The courts referred a few other cases to us for rehabilitation, and although they were not many in number, the results were good—good enough to give birth to the concept of PORT.

About four years ago, the two district-court judges called a meeting of interested people to consider the possibility of a community-based facility to treat selected criminal offenders. Subsequent meetings were held, and the group was enlarged to include police and probation officers, attorneys, psychiatrists, and representatives of the sheriff's office, the city government, the press, the municipal court, and the county welfare department, as well as interested citizens. These meetings began to prepare the community for the concept of PORT.

Surprisingly, there was little opposition from areas in which we most expected it. We had thought the police would not welcome the idea of a group of criminals living together in the community instead of being safely tucked away in prison. However, the police were unexpectedly receptive to the idea of a community facility. The probation officers also thought it would be infinitely better than the existing system of having a probationer live at home, with no one knowing where he was most of the time. They felt that a residential program of rehabilitation would make their work easier.

Gradually, as the concept of PORT was formulated, community awareness of it grew. There was little opposition or apprehension encountered among the local citizens. Instead, we found a great deal of positive support. I am sure that had something to do with the mounting anxiety felt by most citizens about the increase of violence in our society, in the streets and on the campuses, and about the general decline in social discipline.

Community support was more than vocal. When the decision was made to start the program, the community contributed almost half the first year's budget; the rest came from the Hill Foundation of Minnesota. Legislative approval was obtained for PORT to lease state buildings, and the program secured a building on the Rochester State Hospital campus. The director of PORT was hired from the administrative staff of the State Department of Corrections.

At present there are 23 residents in the PORT program, ranging in age from 13 to 32; their offenses range from repeated running away from home to arson and burglary. It must be clearly understood that PORT is not a sheltering home for wayward boys; all but one of the present clients would be in a reformatory or prison were it not for PORT. The exception is a predelinquent 16-year-old who was on the verge of adjudication.

Referrals to the program come from district, juvenile, or municipal courts. After a candidate spends a two-week evaluation period in residence at PORT, a recommendation about whether or not to admit him is sent to the court for final decision. If the court decides to offer him the opportunity to enter PORT, the offender must make the choice to do so. If he does, the court will place him on probation to PORT or sentence him and stay the execution of sentence with the stipulation that he enter the PORT program. All but one of those offered the opportunity have chosen PORT over a prison sentence. The exception was a man with a history of multiple admissions to reformatory and prison; he refused the chance to enter PORT, saying he did not think he could tolerate the freedom inherent in the program, and did not want to be the first to foul it up.

The paid staff of PORT consists of the director, the assistant director, and a secretary. There are also ten to 12 resident volunteers, young men who live in the PORT facility; most of them are junior-college students. In return for room and board, they assume certain responsibilities. The volunteers take turns as duty officer in charge of the facility on evenings and weekends, when the other staff are not there. Clients who demonstrate the ability to handle freedom and responsibility can advance to the status of client-volunteers, serving the same functions as the resident volunteers. At present, four are doing so.

During the two weeks that a prospective client is being evaluated, he is interviewed individually by members of a screening committee. It consists of all the clients and resident volunteers, the director, a probation officer, a local businessman, and a psychiatrist. The groups of clients and resident volunteers each have one collective vote, and the other members have one vote apiece. The committee meets as a group only if any member casts a dissenting vote, to allow him to discuss his objections to the candidate. Interestingly, the psychiatrist member may be considered the professional expert on the committee, but he has been no more astute in his recommendations than the other members—which indicates to me that the program can function without a psychiatrist. The screening committee's report is transmitted to the court as its recommendation about admitting the candidate to PORT.

When a client is accepted, he is assigned to a resident volunteer, who acts as a peer model in a mirror-image fashion for the offender. A daily course of activities is outlined for the client. If he is a juvenile, he may attend junior or senior high school or junior college. If he has a job, he goes to work; if necessary, the state vocational rehabilitation agency will train him for a job.

Other than the group meetings described below, there are few formally planned activities in the PORT building. The volunteers and clients work together on the necessary housekeeping and minor maintenance chores and engage in informal social activities, and their interaction is felt to have therapeutic value. Clients who need psychotherapy arrange for it through the local mental health center, the Mayo Clinic, a private psychiatrist, or me.

The core of the PORT program is a group process and the pressure it exerts on each member. The clients meet as a group three times a week with the assistant director, and the resident volunteers meet weekly with the director. Both groups meet together once a week. The meetings are frank, gut-level interchanges in which every attempt is made to help each member see himself and his behavior honestly. This has been a maturing process for the clients, the resident volunteers, and the staff.

Extra group meetings are called any time a crisis occurs. The object is to deal with deviant behavior immediately and in its present context. Deviant behavior must be expected to occur from time to time in a group of offenders; it represents the symptoms of their social pathology. As the group process in PORT has gained strength, actual acting-out behavior, such as using drugs or drinking, has decreased, and the underlying problems are expressed verbally instead.

Because the group deals with problems as they occur, the peer-group pressure begins to develop internal controls in the offender. That is in contrast to the practice in institutions of applying only external controls to modify behavior; the result is that the model prisoner (like the model patient) is one who is externally conforming, but too often has undergone no internal change whatever.

The total group makes all decisions about members, including the amount of freedom each may have. The group has developed a classification system with ratings from 0 to 5, each specifying a varying degree of freedom a client may have. Newly admitted clients must demonstrate through their behavior that they can be trusted before the group permits them more than minimal activity outside the building. When they demonstrate sufficiently responsible behavior, they are permitted to go home on overnight and weekend visits.

UNLIKE PRISONERS, PORT CLIENTS PAY FOR THEIR REHABILITATION AND SUPPORT THEIR FAMILIES, WHO MIGHT OTHERWISE BE ON WELFARE

Clients are gradually weaned from PORT, spending an increasing amount of time in the community. When they move out of the building, they return for group meetings for as long as considered necessary. Throughout a client's stay in PORT, and for the duration of his probation, he maintains regular contact with a probation officer, who advises him about such matters as buying a car, getting married, or locating a place to live. The probation officer is vitally involved with the PORT program and is kept advised of his client's progress in it through regular reports.

Each client pays for his own room and board, except for juveniles, whose parents must pay the $15 a week charged. Any client who is not working is extended credit until he obtains a job and can repay what he owes. In a sense, clients are paying for their own rehabilitation, quite the opposite of what would happen if they were imprisoned. Furthermore, if a client needs medical care, it is provided by local medical facilities; if he works, it is at a real job; if he is a student, he attends local schools. PORTs use of community facilities is in contrast to the necessity of replicating them within the walls of a correctional institution, always an inadequate arrangement.

Some of the juveniles in the PORT program have had truancy problems. Unfortunately, schools tend to deal with the persistent truant by making him a permanent truant—that is, by throwing him out of school for good. The local school system has agreed to retain truant students who are in the PORT program. We had some episodes of truancy with three young clients, but it stopped when the group decided that three of the older clients would accompany the truants to school and sit in class with them. They did so, and the problem disappeared. That experience illustrates the healthy concern the adult clients have for the juvenile ones. Again, it is quite unlike the situation in correctional facilities, which have a fixed and necessary principle that you cannot and must not mix adult and juvenile offenders.

The cost of maintaining an offender in the PORT program is $3000 a year, compared with $11,000 in the state juvenile diagnostic center, $7000 in the

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reformatory for adolescents, and $5000 in the adult reformatory and the state prison. Furthermore, the PORT client not only pays for his own room and board; if he is married he supports his family, who would most likely be on welfare if he was in prison. He also pays his taxes—city, property, state, and federal—whereas in prison he would be supported by taxes.

One such client was a 28-year-old professional engineer, who was convicted of burglary. He was admitted to PORT in January 1970, rather than being sent to prison. Had he been imprisoned, he would have lost his job and would have found it extremely difficult to obtain a similar one after being released. Furthermore, his wife decided to divorce him if he went to prison. Instead, in PORT, he retained both his wife and his job; he worked steadily and continued to support his family and pay his taxes, as well as paying for his own rehabilitation. He received psychotherapy for the sexual hangup that was the cause of his burglarizing, and the cost of treatment was covered by the excellent comprehensive medical insurance provided by his employer. The client did well in the PORT program, became a client-volunteer, and was discharged in October. He was one of the six clients discharged to date whom we consider successfully rehabilitated; four others who left the program were sent to institutions for varying lengths of time, and three of them are expected to be readmitted to PORT later.

We anticipate that PORT will eventually become part of the Department of Corrections. At present it is a private nonprofit corporation, with a board of directors consisting of two district-court judges, an attorney, a local banker, a psychiatrist, the director of PORT, one of the clients, and one of the resident volunteers.

Providing support for the board is a citizens' advisory committee, a self-formed group of some 350 local residents who are interested in the program. They are subdivided into a number of working committees, dealing with such matters as education, employment, social rehabilitation, prevention, and new legislation. For example, the employment committee, which consists mostly of local employers, finds jobs for PORT clients, and the education committee works with the local school system concerning educational arrangements for juvenile clients. The education committee is also trying to work out some way that resident volunteers enrolled in college can get academic credit for the time they work in PORT.

The citizens' advisory group will eventually provide the local board of directors for PORT when it becomes supported by local and state matching funds. The PORT corporation is making plans to approach the state legislature during the current session for support to extend the program. It will seek two-year state funding of 75 per cent of the cost, after income from client fees is deducted, with the county supplying 25 per cent. After two years, PORT expects to develop sophisticated legislation, based on what is being done in the states of California and Washington, whereby the state would reimburse communities at the rate their admissions to various state institutions are reduced.

We expect in that way to build into the financing mechanism enough local concern that the community sees to it that PORT does what is says—keeps people out of prison. There is no better way to ensure that a community continues to be earnestly interested in a program than to nail the success or failure of the program to the community's tax dollar.

Thus if by some miracle the PORT program should be completely successful and there have been no admissions to the correctional institutions from the three counties, the state would assume the total cost of PORT. However, to be realistic, we recognize that certain offenders require greater security than PORT is designed for. Nevertheless, it is foreseeable that PORT can appreciably decrease the need to send offenders to reformatories or prisons, and may have considerable impact on reducing recidivism. During the last six months of 1970, one of the district courts committed no offenders to prison.

Our future plans for PORT include admitting female offenders; we expect that most would be juveniles, because few women appear before the courts on criminal charges. We also plan to have young women as resident volunteers, whether or not we have female clients; we believe they would add much to the program and can be expected to behave as maturely as their male counterparts. We also expect to make more use of PORT as a nonresidential program for probationers who have a healthy family situation and can live at home; these clients would attend PORT activities during the evenings and weekends.

THE CORRECTIONAL SYSTEM IN THIS COUNTRY NOW STANDS WHERE THE MENTAL HOSPITAL SYSTEM STOOD 15 YEARS AGO

The rationale for the creation of a program like PORT lies in a comparison of correctional and mental institutions. Historically, there was only one institution for persons with aberrant behavior, whether due to mental illness or to an inclination to thieving—and that was prison. Gradually, as the antisocial behavior of the mentally ill was accepted as a manifestation of disease, separate institutions called asylums were built to accommodate them.

The prisons and mental hospitals developed separately but similarly. Whether an individual was sent to one or the other, he was removed from society by due process of law, and deprived of all his civil rights. Both institutions were given two charges by society; security and rehabilitation. However, money was made readily available only for the first charge, and some of the formidable fortresses built as prisons and mental hospitals still stand. Only lately have we in the mental health field been able to convince the providers of funds that to neglect the second charge is uneconomic, both socially, biologically, and fiscally.

The institutions' attempts to carry out rehabilitation required them to try to replicate the community's educational, vocational, and recreational facilities, but they seldom had the resources to do an adequate job. It was perhaps some 15 years ago that the two types of institutions began to become less similar. With the advent of new drugs and new programs, the hospitals began to practice selective security as they found that fewer and fewer patients needed to be kept behind locked doors.

As the hospitals became more open, they began to interact more with the community. They found that they could use the community's resources to rehabilitate patients—the schools, employment opportunities, and medical, recreational, and vocational facilities. That has proved to be far more effective as well as more realistic and humane. It has also proved to be essential to the concept of continuity of care.

In contrast, the prisons still have security as their primary charge. In most cases they must provide total security for everyone in their keeping, whether it is necessary or not. Because of that emphasis on security, rehabilitation efforts are still carried on in inadequately equipped and staffed, poorly replicated facilities within the institution. In addition, the correctional system has nothing resembling continuity of care. It lacks dispositional planning and community resources for rehabilitation. However, that is not the fault of the system itself; society gets the kind of correctional system it is willing to support.

My contention is that the correctional system in this country now stands where the mental hospital system stood some 15 years ago. I believe that it can profit by the hospitals' experience in changing from custodial, security-oriented institutions to active rehabilitation centers with community-based supportive facilities. The correctional system could adapt that course to its own goals and introduce changes that would be acceptable to society. By profiting from the hospitals' experience. I believe it could move ahead in far less time than it took them.

As a beginning, I suggest a program like PORT—a community-based, community-directed, community-supported domiciliary treatment facility for the criminal offender as an alternative to prison. We have in our communities many citizens who are concerned about the pressing social issues of our day—poverty, racial unrest, crime, and violence. They realize that the old solutions are no longer effective—if they ever were—and will accept the idea that institutionalization can be at least partially superseded by community care for the socially sick. We have a generation of youth searching for a cause who have a positive stake in the future: they can be brought into PORT programs as resident volunteers, where they can help bring about the social reforms they seek. As our experience in Minnesota has demonstrated, these citizens can provide strong, active support for programs like PORT.

APPENDIX NO. 26

[An editorial from Hospital and Community Psychiatry, March 1971]

THE NEED FOR COMMUNITY REHABILITATION FOR LEGAL OFFENDERS

(By Paul W. Keve, Commissioner, State Department of Corrections, St. Paul, Minn.)

As an administrator of correctional institutions, I think it would be nearly impossible for any thoughtful person to administer a prison these days without

becoming strongly convinced that many of its prisoners simply should not be there. Furthermore, of those who do need to be there, most have served previous prison terms. Undoubtedly many of them would not be in their present situation except for the criminogenic effects of their earlier incarcerations.

In other words, much as we need a drastic improvement of our prisons, it will be more important in the future to establish intensive and effective community-based programs that will keep people out of prison—programs like PORT, in Rochester, Minnesota, which Dr. Francis Tyce describes on page 74. I doubt if most social scientists adequately realize what deleterious effects even the "good" prisons have on personality.

Take, for instance, the young man who comes to court charged with a sex offense. A diagnostic study would likely show that he is reacting to deep-seated doubts about his masculinity, that he is trying in a tragically clumsy way to convince himself that he is competent and masculine. If the court sends him to prison, that institution, just by its normal structure and operation, will give him daily experiences that are essentially the opposite from the therapy needed.

Where he needs help to develop a sense of individuality, we respond with regimentation that permeates every hour of his life and reduces him to a faceless, numbered unit. Where he needs a bolstered belief in his competence as a masculine person, we suggest that he is anything but that; he is denied the opportunity to be a husband, father, breadwinner, or head of family.

He is denied many of the other social activities of a competent person as well. He cannot vote or pay taxes. He cannot choose his own clothes, his job, or his companions. He no longer even sets an alarm clock to get up for work. We return him to a childhood state as we make all his decisions for him in the noncompetitive, monotonous world of the prison. He is expected somehow to prepare himself to return to outside society by embracing for the time being all the distorted values that are necessary for survival inside. These features are bad enough in the best of prisons, but in the poorer ones men commit worse crimes every day, just as a matter of survival, than those that brought them there.

The high recidivism rate for ex-prisoners is no surprise to me. I am more surprised at how many manage somehow not to come back to us. For most people, the deterrent value of prison is not the threat of confinement or the living conditions, but rather that we would have too much to lose by being confined there. We would lose reputation, social status, career prospects, and, most of all, the respect of others and ourselves. But once a man has gone to prison, he has lost all those assets anyway; what more has he to lose by being imprisoned again? No longer is the threat of prison any deterrent. So our major goal in corrections must be to keep him from going to prison the first time.

Such negative aspects of the conventional correctional process certainly suggest why I am enthusiastic about the advent of the PORT program. It presently harbors about 20 young men who would otherwise be in my institutions. I naturally dream of the future when duplicates of the PORT program will be developed throughout Minnesota—particularly in the Twin Cities, where the bulk of our commitments come from. When that happens, our prison and reformatories finally may be able to carry out their more proper function: providing security and control for just those few offenders whose threat to society is so considerable, and whose personalities are so invulnerable to therapy, that the only current solution for them is secure, humane storage.

Over the last half-century we have tried persistently to sell the idea of probation as a sensible alternative to incarceration. We have made some gains, and the increased use of probation and parole has eased the strain on our prisons. Although we have often felt that these field services have not been accepted fast enough, they actually have gained more acceptance than they deserved, considering their often poor quality. Too often we in corrections have been far too complacent about caseloads of 200, 300, or even 400 probationers per officer. But even when a caseload has been cut to 50, to permit "intesive" services, there is not a convincing improvement in effectiveness. Decreasing a caseload to 50 still does not mean that real help can be given each client. It means only that the amount of surveillance can be increased by a small measure.

We are now realizing that both economy and effectiveness can be achieved only when caseloads drop to the point that we can actually give daily, all-out help to each client. It means caseloads of about a dozen probatoners or parolees. It also means intensive rehabilitation programs—such as PORT—for clients who can benefit from guided daily relearning experiences in a residential setting that does not take them out of the community.

Until now the barrier to such intensive probation programs has been their high cost. But now we are beginning to show legislators that such treatment can offset the still higher cost of the prison, and thus become the economical alternative. Therein lies the hope for accomplishing the massive changeover from the prisons in which society already has such tremendous financial investment.

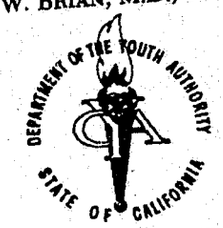
You might wonder why a community would so fully accept a radical program like PORT for serious offenders. But Rochester is not quite a typical community. As the location of a progressive state psychiatric hospital and of the famed Mayo Clinic, it is uniquely capable of a sophisticated approach to social problems. It was a fortunate place for PORT to get its start. Now that Rochester is showing the way, I think that this kind of program will become a bit easier to establish in other communities.

At the same time, I would insist that it is not necessary to have a community like Rochester to get such a program started. In most states there are far more foundation funds available than most correctional leaders realize, and many influential people who are deeply concerned about finding a better way to correct offenders. Wherever there are people with leadership ability and a personal commitment, such a program can be accomplished. The future effectiveness of corrections will be closely related to our establishment of such intensive rehabilitative programs in the community.

APPENDIX NO. 27

STATE OF CALIFORNIA
RONALD REAGAN, *Governor*

Health and Welfare Agency
EARL W. BRIAN, M.D., *Secretary*



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FOREWORD

These standards have been developed in accordance with Section 509.5 of the Welfare and Institutions Code, which directs the Youth Authority to adopt minimum standards for the operation and maintenance of juvenile halls. They include revisions developed in 1969 and should be used by counties operating juvenile halls as minimum guidelines in administering hall programs. They will be used by Youth Authority staff to determine suitability of juvenile halls in accordance with Section 509 of the Welfare and Institutions Code.

The Youth Authority is indebted to the many persons who have participated in developing these revised standards. A particular expression of appreciation is extended to members of the California Chief Probation Officers Association who reviewed the final draft and suggested changes. Special recognition is given to Leroy Ford, County Probation Officer of Yolo County, Joseph J. Botka, Chief Juvenile Probation Officer of San Francisco County, William L. Jones, Chief Probation Officer of San Joaquin County, and Peter J. Capovilla, Chief Probation Officer of Tehama County, who served as the Chief Probation Officers Committee on Juvenile Hall Standards Revisions.

These standards represent the minimum requirements for operation of a juvenile hall and should not be viewed as illustrations of an "ideal" or "optimum" program. They are intended to be dynamic, fluid, and subject to revision to meet changing circumstances. It is recognized that operating practices vary so greatly from jurisdiction to jurisdiction that considerable flexibility must be used in their application.

In carrying out inspections of juvenile halls, Youth Authority staff will be guided by the general philosophy that most administrators want to provide the highest possible level of service and welcome the state's offer to assist them. It is our intention, where deficiencies are discovered, to assist in bringing juvenile hall programs up to required level of service rather than forbid use of the hall.

January 1973

ALLEN F. BREED, *Director*

NOTICE

The standards incorporated in this revised issue will not cause additional costs to accrue (pursuant to Section 2164.3, Revenue and Taxation Code) to local units of government which presently maintain and operate a juvenile hall or which are contemplating the construction of a new juvenile hall facility.

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I. HISTORICAL DEVELOPMENT

In 1955, the California Legislature amended Section 1760.7 of the Welfare and Institutions Code authorizing the Department of the Youth Authority to establish standards for the operation and maintenance of juvenile halls and for the training and qualifications of personnel who are to serve in such halls.

The first edition of "Standards for Juvenile Halls," published in May, 1958, was developed cooperatively by the Youth Authority and county officials responsible for the operation of juvenile halls. The second revised edition was published in January 1965. It was intended that the standards in both publications serve as minimum guideposts for those counties that had not yet achieved a minimum level of service.

During 1968, Section 509 of the Welfare and Institutions Code was amended, making it mandatory that the Youth Authority conduct an annual inspection of each juvenile hall which, during the preceding calendar year, was used for confinement for more than 24 hours of any minor under 18. Section 509 specifies that if the inspection determines that a juvenile hall is not suitable for confinement, proper notice shall be given, and the juvenile hall shall not be used for confinement unless a reinspection by the Youth Authority shows that unsuitable conditions have been remedied; and the juvenile hall is then a suitable place for confinement of minors.

Section 509.5 was added to the Welfare and Institutions Code in 1969, making it mandatory for the Youth Authority to adopt and apply minimum standards for juvenile hall operation and maintenance. An edition of standards entitled, "Guidelines for Inspecting Juvenile Halls," was published in July 1969 to comply with the intent of this new legislation.

The revised standards in this publication are intended to supplement and clarify those in the 1969 edition, as well as to make those additions which changed circumstances have proven to be necessary.

There are other points, standards, and details which might well be included, but only minimum standards are covered here. However, it should be emphasized that these minimum standards are not to be interpreted as the ultimate of detention care provided for children in juvenile halls.

II. PURPOSE OF A JUVENILE HALL

The purpose of a juvenile hall is to detain children in accordance with the provisions of the Juvenile Court Law. Because of the nature and problems of detained children, more than physical care and custody must be provided. Children cannot be merely "stored" however short a time they may be detained.

Section 502 of the Welfare and Institutions Code describes the intent of the Juvenile Court Law as follows:

> The purpose of this chapter is to secure for each minor under the jurisdiction of the juvenile court such care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the State; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when his welfare or safety and protection of the public cannot be adequately safeguarded without removal; and, when the minor is removed from his own family, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents. This chapter shall be liberally construed to carry out these purposes.

Ordinarily, juvenile halls are not designed, nor should they be used, for commitments; but under certain conditions, juvenile halls can be used for commitments in accordance with Section 730 of the Welfare and Institutions Code. However, such use of juvenile halls for long-term commitment of children should always be accompanied by an appropriate educational, activity, and counseling program. A more appropriate facility for commitment of court wards would be a county juvenile home, ranch, or camp established in accordance with Article 15 of the Welfare and Institutions Code.

A juvenile hall is specifically intended to provide temporary care for children pending court dispositions or transfers to another jurisdiction or agency. Such temporary care involves four basic functions:

a. Secure physical care that prevents damaging effects of confinement
b. Constructive individual and group activities, including a well-balanced school program
c. Counseling and guidance to help the child with the immediate problems of detention
d. Study and observation to produce a professional report that provides a better understanding of the child to the probation department and the court

Although these four functions are interrelated, all are specifically dependent on the first—secure physical care. Unless a child needs secure custody, he should not be detained merely as a means of imposing regulated activities, guidance, or observation. However, if secure physical care is required, all four functions must then be integrated into the program. The juvenile hall should not be expected to undertake other functions

that are beyond the scope of a detention program. Those functions associated with police operation, such as fingerprinting, lineups, etc., are not functions of a juvenile hall program.

III. PLANNING A JUVENILE HALL

As a minimum, a juvenile hall, whether large or small, must provide each minor:

1. A place to sleep
2. A place to eat
3. A place to study and go to school
4. A place to play, both indoors and outdoors
5. A place to visit with parents
6. A place to talk things over in private with the police, the probation officer, the juvenile hall staff, and other concerned professional staff
7. A place for needed medical attention
8. A place to worship
9. A place for personal hygiene

Also necessary to the operation of a juvenile hall are:

1. Food services
2. Laundry services
3. Storage space
4. Office space

In addition, the juvenile hall environment must be so planned as to assure that a minor is not stripped of individual dignity and privacy. It must also provide safety, protection, and proper supervision for each and every minor in detention.

It would be extremely difficult to attempt to standardize the initial steps necessary to the planning of a juvenile hall; but certainly, costly mistakes will be avoided if a thorough study of detention needs is made before building plans are even considered. Present and future juvenile hall capacities should be determined that are consistent with anticipated changes in the size and structure of a particular community. A building schedule should then be established to provide detention space as it is needed, rather than to expect an original allocation of detention space to serve a growing community "forever."

To provide for increased safety for child and staff, as well as to facilitate movement of food carts, laundry carts, supplies, etc., it is generally recommended that new juvenile hall constructions be single story. Buildings should be designed to allow for whatever expansion may be needed later, and sufficient land should then be designated to prevent encroachment by housing and industry. However, expansion should not occur unless there is proven justification for such expansion.

Decentralization of detention facilities should be a consideration in larger communities. Otherwise, a single, centralized detention facility can grow so large that detention services are no longer consistent with the purpose and functions of a juvenile hall. If detention facilities are decentralized, there should also be a corresponding decentralization of related services.

Building materials are subjected to severe tests in a juvenile hall.

"Cheap" original construction usually results in heavy maintenance costs later. Function and durability should be a major consideration in choosing structural materials, equipment, and hardware.

Even though closed security areas in which minors are housed must be Type I* construction, building designs that accentuate an institution-like atmosphere should be avoided. Colorful decoration, special lighting, and careful selection of building materials help to achieve this purpose.

Security should be uniform in all areas in which detained minors will be present; i.e., living units, interview rooms, dining rooms, school areas, etc. Locks should be master-keyed and sub-keyed to facilitate control and security throughout the building. Heavy duty locks are recommended for security areas, but the key slot of a sleeping room door should not be accessible from inside the room.

Security sash should be used for all windows in security areas. Tempered glass panes are recommended to prevent danger of shattering. Where tempered glass cannot be used because of fire safety regulations (as along a corridor which provides egress in case of fire), wire-glass should be used. Where wire-glass is required, steel sash must also be used.

Air conditioning not only provides more comfort and, hence, less tension during hot weather but when used with tempered glass or heavy plate glass, it permits installation of non-ventilating and tamper-proof windows.

In detention living units, a control center should be located to give staff maximum visual supervision of hallways, activity areas, and shower areas. Consideration should also be given to installation of an intercommunication system as an aid to supervision in detention living units, and to assist communication throughout the building.

Many other aspects of security could also be reviewed; however, the result could easily be an over-emphasis on security as the only requirement for a juvenile hall. A governing factor of planning must be that the building is designed to serve a program; and security, though important, is but one of many program requirements. But to translate all possible program requirements into a concise building standard is impractical, and perhaps impossible. The necessity for medical services, food services, visiting arrangements for parents, laundry services, administrative services, etc., is self-evident. Possibilities for providing such services are many and should be subject to flexible guidelines that assure the service rather than to precise physical standards that have little meaning when universally applied.

To assist architects and planning groups with the variety of details involved in planning a juvenile hall, consultation services are available through the Division of Community Services, California Department of the Youth Authority.

* Title 24, California Administrative Code

IV. BUILDINGS AND GROUNDS

AN OVERVIEW

Since the primary function of a juvenile hall is to provide secure physical care, buildings and grounds must be planned accordingly. Within this secure physical setting, each juvenile hall must be prepared to assume total responsibility for providing a minor all the necessities for constructive living, 24 hours a day, each day of the year.

Structural standards that govern juvenile hall construction are outlined in state and local building regulations. Such regulations are necessarily extensive, often are hard to understand without specialized knowledge, and may vary somewhat from county to county.

A licensed architect should be relied upon to plan buildings and grounds; and county building departments, county health departments, and the State Fire Marshal must then be relied upon to assure compliance with those minimum standards that apply to a particular situation.*

LEGAL PROVISIONS

A. Each county in California must have a juvenile hall. (Section 850 W&I Code)
B. As an alternative, two or more counties may establish a joint juvenile hall to serve combined detention needs. (Section 870 W&I Code)
C. The juvenile hall shall be in a location approved by the judge of the juvenile court. (Section 850 W&I Code)
D. It is not to be in, or connected with, a jail or prison. (Section 851 W&I Code)
E. It is to be as nearly like a home as possible. (Section 851 W&I Code)
F. Plans for any construction in excess of $1,500 are to be submitted to the Board of Corrections for review and recommendation.** (Section 6029 Penal Code)

STANDARDS

1. *Building Safety*

STANDARD: *Buildings shall be approved by the county building department or by the person designated by the board of supervisors to approve building safety.*

COMMENT: Approval of buildings involves not only new construction or remodeling, but also periodic inspections of juvenile hall buildings and grounds to assure that minimum standards are being maintained. A copy of all such reports shall be submitted to the Director of the Youth Authority by the county probation officer.

Building standards are not the only factors that must be considered in planning a juvenile hall. The architect responsible for planning must also be thoroughly familiar with the purpose and functions of a juvenile hall. His is the task of combining standards, purposes, functions, and other

* An existing juvenile hall, built in accordance with construction standards in effect at the time of construction, shall be considered as being in compliance with minimum standards, unless the condition of the structure is determined to be dangerous to life, health, or welfare.

** By administrative action, the Board of Corrections has delegated responsibility for this review to the Department of the Youth Authority.

necessary ingredients to produce a plan that best serves an individual community.

2. *Fire Safety*

STANDARD: *Fire safety shall be approved by the State Fire Marshal.*

COMMENT: All juvenile hall facilities shall conform to rules and regulations adopted by the State Fire Marshal to establish minimum standards for prevention of fire and for the protection of life and property against fire and panic.

Plans for new construction and additions and alterations to existing facilities shall be reviewed and approved by the State Fire Marshal.

All juvenile halls shall be inspected at least annually by the fire authority having jurisdiction under the provisions of Section 13146, Health and Safety Code, to determine that minimum standards for fire safety are currently being maintained.

A copy of all reports shall be submitted by the county probation officer to the Director of the Youth Authority.

3. *Health and Sanitation*

STANDARD: *Health and sanitation shall be approved by the county health department.*

COMMENT: Plans for health and sanitary facilities must be approved by the county health department or designated medical officer. The county health officer is required to conduct an annual inspection of the juvenile hall in accordance with Section 459 of the Health and Safety Code.

All reports concerning conditions of health and sanitation in a juvenile hall shall be submitted to the Director of the Youth Authority by the county probation officer.

The extent of provisions for medical areas within a juvenile hall is largely dependent upon the number of minors requiring medical services and the resources, or lack of resources, for medical services from outside the juvenile hall. A nearby clinic or hospital that is available for medical services, and a limited number of minors requiring such services, may justify the transportation of patients to services. However, this arrangement may involve considerable staff time and also increases escape possibilities.

In any event, if it is determined that the time required for outside medical services exceeds one hour per day, medical services should be provided within the juvenile hall. Plans for providing medical services and medical facilities in a juvenile hall necessarily involves the county health officer at the beginning of planning.

4. *School Building*

STANDARD: *School buildings shall be approved by the county superintendent of schools or the district superintendent in which the juvenile hall is located, one of whom shall be designated for this function by the board of supervisors.*

COMMENT: Approval of plans for school buildings shall be in accordance with the provisions of Chapter 2, Article 14, of the Welfare and Institutions Code, and Title 21, Chapter 2, Subchapter 1, Group 1, of the Administrative Code. A report of such approval shall be submitted to the Director of the Youth Authority by the county probation officer.

5. *Academic Classroom Area*

STANDARD: *Classroom space shall contain a minimum of 160 square feet for the teacher's desk and work area, and 28 square feet per student.*

COMMENT: School rooms should be separate from living units, but placed to keep movement of children to a minimum. To insure individual instruction and evaluation, a classroom should be designed for no more than 15 students.

6. *Detention Living Unit*

STANDARD: *A detention living unit shall be designed to provide living accommodations for no more than 30 minors:*

COMMENT: Although a detention living unit may be designed for a maximum of 30 minors, a designed capacity of 20 minors is recommended. A 20-bed living unit provides much greater opportunity for programming and supervision than does a 30-bed unit.

7. *Plumbing Installations*

STANDARD: *Each detention living unit shall contain a minimum of:*

One shower per five minors
One washbasin per five minors
One water closet per four girls, or
two water closets and one urinal per ten boys

COMMENT: Standards for plumbing installation in a detention living unit are intended to provide for "surges" in usage during breaks in the daily program.

All sleeping rooms in which minors are locked should be equipped with a drinking fountain, washbasin, and toilet. Plumbing should be arranged so that repair may be made from outside the room.

There should also be a hallway drinking fountain centrally located so the area can be readily supervised by staff.

8. *Interview Rooms*

STANDARD: *There shall be a minimum of one interview room for each detention living unit.*

COMMENT: At least one interview room is needed for each detention living unit for private interviews with attorneys, law enforcement officers, probation officers, ministers, counselors, etc.

The interview room should allow privacy, yet permit visual supervision by staff.

9. *Hallways*

STANDARD: *Hallways in detention living units shall be at least 8' wide. If rooms are located only on one side, or if room doors are staggered and the hallway is shorter than 40', a minimum width of 6' may be used.*

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COMMENT: Hallway width is determined by the amount of traffic to be accommodated. Generally speaking, a corridor serving 10 or more occupants should have an 8' width.

Hallways in office areas, etc., should be 5-6', depending on corridor length and amount of traffic.

10. *Activity Areas*

STANDARD: *A minimum of 30 square feet of clear space per minor shall be provided in the activity room in each living unit.*

COMMENT: Activity rooms should be located to keep movement of visitors at a minimum and provide adequate supervision without additional staff.

Accommodations should be made for programs to be provided for population during inclement weather. More than minimal activity space may be needed in localities with extremes of weather conditions that limit outdoor activities. An area should also be provided for assemblies, movies, religious services, and large group activities. In addition, provisions should be made for other smaller indoor areas to allow quiet recreation.

Every juvenile hall should have an enclosed outdoor play area arranged for good visual supervision. Staff of a juvenile hall without an adequately enclosed outdoor play area usually avoid outdoor activities altogether; or select minors not likely to run away, leaving others locked up. Neither situation is satisfactory. There should be an area for basketball, volleyball, and similar games; and a large grass area for softball and other field sports.

A 16-foot wall or chain link fence is recommended for perimeter security when this type of security is required by the nature of the population. If a fence, the top six feet should be covered on the inside with heavy-gauge, close-mesh hardware cloth.

11. *Dining Space and Kitchen Area*

STANDARD: *At least 15 square feet per person shall be the minimum allowance in the dining room or dining area.*

COMMENT: In addition to provisions for the maximum number of minors that utilize the dining area, allowance should be made for staff or guests who may use the dining area at the same time.

The dining area can either be located in each living unit or can be centralized. However, large dining areas should be compartmented to permit minors of each living unit to eat together and to facilitate control.

In a smaller juvenile hall, it may be more feasible to arrange for food services to be supplied from outside the juvenile hall. However, food services of this type often are not intended for the needs of growing boys and girls. Care should be taken that menus are planned specifically for children.

If food is prepared in the juvenile hall, a centralized kitchen* is recommended. When children are to be used as helpers in the kitchen, additional work space is required beyond that needed for paid staff. Layout design

* A juvenile hall kitchen shall comply with all requirements of the latest revision of the California Restaurant Act (See Sec. 28870-28893, Health and Safety Code).

should eliminate blind spots which prevent visual supervision when children assist in the kitchen.

The amount of space needed for the kitchen is affected by such variables as type of food service, location of dining areas, number of people to be served, complexity of the menu, equipment placement, storage of mobile equipment, and traffic aisles.

Space should be designated for exclusive use of refrigerated and dry food storage. It should not include accommodating mechanical or electrical equipment in the food storage areas. The procurement system used determines what period of storage is required. Generally, a 30-day supply provides an adequate quantity on hand.

The kitchen should be near the dining room, storage and loading areas, and garbage disposal facilities.

Plans for a kitchen, food storage, refrigerator space, etc., should involve the county health department at the very beginning of planning. Assistance with planning can also be obtained through the California Department of the Youth Authority.

12. *Sleeping Rooms*

STANDARD: *Single sleeping rooms shall contain a minimum of 500 cubic feet of air space and 60 square feet of floor space. Multi-occupancy sleeping rooms shall contain a minimum of 500 cubic feet of air space and 50 square feet of floor space per person.*

COMMENT: The majority of sleeping rooms in units intended for high security should be designed for single occupancy. Recommended floor area for single rooms is seven feet by nine feet (or equivalent), planned to eliminate any projections or exposed utilities.

13. *Doors*

STANDARD: *The door of every sleeping room shall have a view panel that allows complete visual supervision of all parts of the room.*

COMMENT: For the protection of both minors and staff during the time that minors are locked in sleeping rooms, staff must be able to observe all parts of the room without opening the door.

Doors should be flush-type, of heavy gauge (16) hollow metal with a sound deadening agent inside (glasswool, etc), and set in metal frames with sound cushioning strips on the jamb. Doors should swing into the hallway, with hinge pins outside the room.

Sleeping room doorways should not be placed opposite one another along a hallway.

14. *Lighting*

STANDARD: *Lighting installation in sleeping rooms shall provide no less than 75 foot candles of illumination at desk level.*

COMMENT: Lighting in an individual room must be sufficient to permit easy reading by a person with normal vision. Also, sleeping rooms should be equipped with nightlights that are sufficient for night supervision, but are not so bright as to interfere with children sleeping. The illumination provided by a night light in a sleeping room should be no

more than two foot candles at bed level.

Switches should be provided for central, as well as individual, control of illumination. Fixtures, switches, and conduits should be tamper-proof. Conduits for TV antennas should be provided even though the purchase of a TV set may not be contemplated at the time construction is started.

15. *Storage*

STANDARD: *For each minor, there shall be a minimum of nine cubic feet of secure storage space for personal clothing and personal belongings.*

COMMENT: Usually, in planning a juvenile hall, little thought is given to the many storage requirements involved in the juvenile hall operation. The result is that few existing juvenile halls have adequate provisions for storing supplies and equipment necessary to the daily operation of the institution.

Locked drawer space is necessary to store money and other valuables, and shelf and hanger space is necessary for personal clothing. Such storage can be in a detention living unit or centrally located in the receiving area of the juvenile hall. In either case, provisions must be made to assure that storage space is secure but accessible at all times to staff having responsibilities for intake or release of minors.

A centralized storage room is also needed for general storage of new clothing, athletic equipment, bedding, personal supplies, paper products, dishes, and utensils. An allowance of 12 square feet of floor area per child should be planned.

Each living unit should have a total storage area of six and one-half square feet of floor space per child for storage of clean clothing and linen, cleaning supplies, recreation equipment, etc.

Since the juvenile hall building is owned by the public, it may be necessary to provide storage space for civil defense supplies. Consideration should be given to this possibility at an early stage of planning a new juvenile hall.

16. *Maximum Capacity*

STANDARD: *Each juvenile hall shall establish a maximum capacity in accordance with minimum standards established herein.*

COMMENT: Beds in an infirmary or in similar specialized areas should not be included in the rated capacity of the juvenile hall.

17. *Public Lobby*

STANDARD: *An area designated a public lobby or waiting area shall be provided for visitors.*

COMMENT: A public toilet, drinking fountain, and public telephone should be accessible to persons using this area.

V. ADMINISTRATION

AN OVERVIEW

The county probation officer, as the administrator of the probation department, must take the initiative in developing broad overall policies concerning administration of the juvenile hall operation. Within this framework, it is essential that the superintendent of the juvenile hall have delegated responsibilities and authority appropriate to his role as the administrator of juvenile hall. Organizational structure, administrative controls, and normal channels of communication should be formulated accordingly.

In turn, juvenile hall administration should be based on a structure of relationships in which appropriate responsibilities and authority to make decisions are distributed throughout the juvenile hall staff. Each staff position should be delegated authority to make such decisions as are necessary for fulfilling responsibilities assigned to the positions. Neither regimentation resulting from over-emphasis on rules, nor irresponsible exercise of individual judgment resulting from lack of agency direction, should be allowed a place in the administrative structure.

LEGAL PROVISIONS

A. The juvenile hall is under the management and control of the probation officer. (Section 852 W&I Code)

B. If the juvenile hall is jointly operated by two or more counties, management and control may be the joint responsibility of the probation officers of the counties involved, or may be delegated to one of the probation officers. (Section 870 W&I Code)

C. Operational expenses of a juvenile hall must be listed by the probation officer and filed with the county board of supervisors. (Section 855 W&I Code)

D. The board may establish a school, either under the jurisdiction of the school district in which the juvenile hall is located or under the county superintendent of schools. (Section 856 W&I Code)

E. If under the local school district, the governing body of the school district provides school facilities, teachers, and school supplies to conduct an accredited school. Teachers are then under the jurisdiction of the regular school officials. (Section 860 W&I Code)

F. If the school is under the county superintendent of schools, the county board of education has the same powers and duties concerning the school program as would the governing board of a school district. The county board of supervisors then has the power to review and revise academic budget proposals. (Section 857 W&I Code)

STANDARDS

18. *Organizational Structure*

STANDARD: *Compliance shall be given to all legal provisions that establish and control the operation of a juvenile hall.*

COMMENT: Juvenile hall is a major division of the probation department, and its superintendent under the direction of the county probation

officer is responsible for its internal management.

The superintendent's primary function is to integrate all segments of the operation into a unified system that provides maximum assistance to children in the detention program. This entails coordinating the activities of persons or agencies involved in the school program, recreational activities, religious activities, professional services, business services, as well as supervising staff directly under his jurisdiction.

He may delegate authority over a wide range of activities, but his is the basic responsibility for developing and implementing a productive organization. The superintendent is responsible for interpreting the detention program to the community and in helping to maintain useful and harmonious community relationships.

For most juvenile halls, an assistant superintendent is included in the staffing pattern. In some juvenile halls, he serves primarily as business manager to relieve the superintendent of time-consuming details of services and supply; however, he should never be removed entirely from line responsibility for staff engaged in the care and supervision of children.

Other staff necessary for proper operation include personnel for supervising and counseling of children, professional services, housekeeping, food services, clerical services, and maintenance services.

To insure that policies governing the juvenile hall operation are clearly understood, the county probation officer and the juvenile hall superintendent should develop a policy statement defining functions, procedures, and responsibilities involved in the operation. Such a policy statement should include, but not necessarily be limited to, the following items:

Relationship to the juvenile court
Responsibilities of the juvenile justice commission or probation committee
Responsibilities of the probation officer
Responsibilities of the superintendent
Staff structure
In-service training
Relationship with other probation department personnel, school personnel, and personnel of other agencies that may be involved in the juvenile hall program
Principles pertaining to community contacts, use of volunteers, and donations
Instruction for release of information to parents, the public, and the press
Principles for intake and release
Counseling services
Work program for minors
Control and disciplinary measures
Escape procedures
Medical problems and medical emergencies
Visiting regulations
Religious activities
Emergency evacuation procedures
Personnel management procedures

Supply procedures
Statistics and record procedures
Budget procedures

19. *Administrative Controls*

STANDARD: *The county probation officer, through the superintendent of the juvenile hall, shall establish such record-keeping and channels of communication as are necessary for the efficient operation of the juvenile hall, the legal and proper care of minors, and the supplying of required information to probation staff.*

COMMENT: Internal records of the juvenile hall should include, but not necessarily be limited to:

a. Departmental accounting, personnel, supplies, budget records
b. Legal records
c. Record of juvenile hall behavior
d. Health and medical records
e. Statistical records: religious affiliations, race, referring agency, reason for admission, physical description and condition on entry, family data, length of stay, releasing authority.
f. Record of possessions: money, clothing, personal items
g. Unit daily logs for recording special situations or conditions, visits, interviews, staff on duty, admissions, and releases

Information should flow freely between the juvenile hall and probation officer staff. Flow of information from juvenile hall to probation officer staff should include:

a. Behavior reports on a regular and requested basis
b. Special reports: AWOL, physical contact, special observations, accidents
c. Medical and/or emotional problems developing or discovered during detention
d. Social and family information
e. Reports of parental contacts (staff and parent, minor and parent)

Flow of information from probation officer staff to juvenile hall should include:

a. Medical information and consents necessary for properly dealing with the minor
b. Social history; only such history as would affect the method of dealing with the minor
c. Knowledge of action planned or initiated which may affect the minor's behavior during detention
d. Information by which juvenile hall counselors may augment efforts to counsel the minor regarding placement or other problems.
e. Special behavior and emotional problems; aggressiveness, homosexuality, enuresis, suicidal tendencies, runaway patterns, etc.

Interchange of information must be extended to minors and their parents so they will understand the rules and regulations and the reasons for

detention. Also, under a policy established by the probation officer, efforts should be made to develop a well-informed public. Pamphlets and duplicated material can be a helpful means of issuing such information.

VI. PERSONNEL

AN OVERVIEW

It is extremely important that a staff of experienced, well-trained, adequately-paid people be recruited to carry out the functions of the juvenile hall. No amount of investment in buildings and equipment alone can replace a qualified staff in attaining the objectives of a detention program.

If a merit system is not provided by law, the same objectives may be reached by adoption of, and adherence to, minimum standards of qualifications. If not already provided under a merit system, a probationary period of at least six months should be established for all employees before an appointment is made permanent.

LEGAL PROVISIONS

A. The county board of supervisors shall provide a suitable superintendent and other necessary juvenile hall employees. (Section 853 W&I Code)

B. The board shall also provide suitable salaries from the general fund for such employees. (Section 853 W&I Code)

C. Juvenile hall employees are appointed, or removed for cause, by the probation officer in accordance with civil service or merit system, unless a county charter specifies an alternative method of appointment and tenure. (Sections 854 and 576 W&I Code)

STANDARDS

20. *Personnel Management*

STANDARD: *Approved principles of personnel management shall be followed in planning, organizing, staffing, training, and directing staff.*

COMMENT: The juvenile hall staff will be concerned with administration, supervision, health and clinical services, counseling and guidance, physical care, recreation, education, meal service, housekeeping, laundry services, and maintenance. In large juvenile halls, a specialized staff should be available for each of these functions. In small units, many of the specialized functions will be combined.

Staff hired as group counselors or group supervisors should spend their time supervising the activities of children, and should not be assigned maintenance, housekeeping or cooking duties.

The promotional pattern should be broad so juvenile hall staff members are eligible for promotional opportunities, both within the juvenile hall and in other divisions of the probation department.

21. *Staff-Child Ratio*

STANDARD: *Child supervision staff positions shall be budgeted on estimated child care days per year, applying the appropriate staff-child ratios. There shall be sufficient staff positions to provide continuous wide-awake supervision at all times. The superintendent will determine how child supervision staff is to be deployed and may vary staff assignments slightly from the staff-child ratios listed below.*

a. *During the hours that minors are awake, there shall be one child*

*supervision staff member * on duty for each 10 minors in detention.*

b. *In a juvenile hall in which boys and girls are not detained in separate living units, during the waking hours there shall be one child supervision staff member on duty for each 8 minors in detention.***

c. *During the hours that minors are asleep, there shall be one wide-awake child supervision staff member on duty for each 30 minors in detention.*

COMMENT: Normally, the hours children are awake are from 6 a.m. to 10 p.m.; during this period, the staff-child ratio of one to ten applies. Normally between the hours of 10 p.m. to 6 a.m., the staff-child ratio of one to 30 is applicable.

During periods of extremely low or high population, the number of staff positions should be adjusted to maintain approximate conformity to staff-child ratios. It is considered good budgetary practice to hire full-time staff only for the lowest anticipated needs; and then hire extra help as needed to handle peak loads.

The superintendent must be given flexibility in deploying staff because the physical setting of each juvenile hall frequently dictates slight variations from generally accepted staff-child ratios.

22. *Staff Training*

STANDARD: *Each staff member shall be properly oriented to his duties, the decisions he must make, the person to whom he is responsible for his performance, the persons who may be responsible to him, and the persons to contact for decisions that are beyond his responsibility.*

New employees shall have a minimum of 40 hours in-service training before being given responsibility for supervising minors.

COMMENT: At least four hours per month should be devoted to in-service training. Training should be directed towards professional growth of staff and a better understanding of child development and behavior. There should be budgeted training time of 24 hours per year for each staff member to attend professional institutes and meetings.

General staff meetings for all staff, as well as unit meetings, are useful in evaluating programs, coordinating staff efforts, and in planning and judging effectiveness of techniques, activities, and total program.

23. *Salaries*

STANDARD: *Salaries shall be commensurate with the duties and responsibilities of each position.*

COMMENT: Salaries must be based on the principle that like salaries be paid for comparable work. Consideration should be given to the prevailing rates for comparable service in other public and private employment. In order to attract and hold qualified personnel, job experience,

* A child supervision staff member is one whose duty is primarily the supervision of children or the immediate supervisor of child supervision staff. This would *not* include teachers, cooks, tradesmen, etc. whose child supervision duties are incidental to their primary responsibility.

** In a juvenile hall in which boys and girls are not segregated during waking hours, the staff-child ratio of one to eight is necessary because the group requires much closer supervision.

education, etc., should be considered when setting salary schedules.

24. *Staff Qualifications*

STANDARD: *All staff shall possess the basic skills and education necessary for the proper performance of assigned duties.*

COMMENT: All staff must possess the general qualifications of integrity, sensitivity, honesty, sobriety, dependability, industry, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, good health, and freedom from disabling effects.

Candidates for staff positions should have a knowledge of the causes and treatment of juvenile delinquency; an aptitude for, and interest in, working with boys and girls; an ability to keep records and prepare reports; and the ability to analyze situations accurately and to adopt an effective course of action.

Recommended qualifications for the various staff positions are listed below:

Superintendent, Director

Experience: Not less than five years of full-time paid experience with an agency dealing largely with children or youth with behavioral problems, two years of this experience in a supervisory capacity.

A superintendent or director should have the ability to apply principles and techniques of personnel management; have ability to plan, organize, and direct the work of juvenile hall staff; and be able to maintain property inventories and prepare budget estimates.

Education: Equivalent to graduation from an accredited college or university with major work in one of the social sciences.*

Assistant Superintendent, Assistant Director

Experience: Not less than three years of full-time paid experience in juvenile hall group work, or as a group worker in a 24-hour child-care institution for emotionally disturbed or delinquent children. One year of paid experience in probation or parole work could be substituted for one year of the institution group work experience.

An assistant superintendent or assistant director must have the ability to assume responsibility for the operation of the juvenile hall in the absence of the superintendent. He must also have the ability to assist the superintendent or director with personnel management, staff supervision, record-keeping, and budget preparation.

Education: Equivalent to graduation from an accredited college or university with major work in one of the social sciences.

Supervising Group Counselor

Experience: Two years of full-time paid experience in one or a combination of the following fields:

A. Supervision of minors in a residential correctional institution.

B. Counseling, guidance, or rehabilitation work with individuals or groups. Experience should demonstrate an increasing ability to suc-

* Education equivalent to graduation is considered as 135 units.

cessfully supervise and direct the work of other staff members.

Education: Equivalent to graduation from an accredited college or university with major work in one of the social sciences.

Group Counselor or Group Supervisor *

Experience: One year full-time paid experience with responsibility for any one of the following:

A. Supervision of a group of minors in an institution or personal guidance of minors in an organized program.
B. Supervision of a group of employees including responsibility for the assignment and review of their work.
C. Counseling, guidance, or rehabilitation work with individuals or groups.
D. Public or private social work in a recognized agency with major responsibility for assisting in the social adjustment of minors.

Personal qualifications must include emotional stability, ability to take hostility without reacting in a hostile manner, leadership ability, tolerance, and alertness and sensitivity to group situations. A group counselor or group supervisor must be in good physical health, and at least 21 years of age.

Education: It is desirable that education be equivalent to graduation from an accredited college or university with major work in one of the social sciences. A candidate with an A.B. need not have qualifying experience.

Recreational Director

He should have the qualifications of training and experience demanded for a director of recreation in schools or municipalities. He should be familiar with institutional life and possess ingenuity and resourcefulness in dealing with troubled children.

Housekeeping Personnel

This includes cooks, laundry workers, seamstresses, and janitors. Qualifications should begin with the basic skills necessary for the performance of their assigned tasks. They must be able to see their services as important contributions to the welfare of the detained children.

Clerical

In addition to the technical skills required, these workers must have a genuine interest in children. To incoming youngsters, for example, the receptionist typifies the juvenile hall and the authority it represents.

* Normally, this is the position designated as "child supervision staff."

VII. INTAKE AND RELEASE OF MINORS

AN OVERVIEW

It is imperative that the judge of the juvenile court and the probation officer take active steps to establish policies and procedures for control of detention intake and release which assure compliance with the extent of the juvenile court law. Such policies and procedures should extend to all persons and agencies involved in the detention process.

A peace officer has authority to deliver a minor to juvenile hall if he decides to proceed in accordance with Section 626(c) of the Welfare and Institutions Code. The person responsible for the operation of the juvenile hall must accept custody of the minor. After delivery, responsibility for further detention then rests with the probation officer.

At any time when the population of the juvenile hall approaches the maximum number of minors that can be detained in accordance with minimum standards, law enforcement agencies, the juvenile court, probation department staff, and the juvenile justice commission or probation committee should be alerted in order that appropriate measures can be taken to avoid overcrowding.

LEGAL PROVISIONS

After a peace officer has taken a minor into custody in accordance with Section 625 of the Welfare and Institutions Code, and delivered the minor to juvenile hall in accordance with Section 626:

A. The officer must notify the minor's parents. (Section 627(a) W&I Code)
B. Upon delivery, the probation officer shall immediately permit the minor to make two phone calls (see 627(b) W&I Code) and; investigate and release the minor to the custody of the parent, guardian, or responsible relative, unless one or more of the following conditions exists:
   a. The minor is in need of proper and effective parental care or control and has no parent, guardian, or responsible relative; or has no parent, guardian, or responsible relative willing to exercise or capable of exercising such care or control; or has no parent, guardian, or responsible relative actually exercising such care or control. (Section 628(a) W&I Code)
   b. The minor is destitute or is not provided with the necessities of life or is not provided with a home or suitable place of abode. (Section 628(b) W&I Code)
   c. The minor is provided with a home which is an unfit place for him by reason of neglect, cruelty, or depravity of his parents, or of his guardian or other person in whose custody or care he is. (Section 628(c) W&I Code)
   d. Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another. (Section 628(d) W&I Code)
   e. The minor is likely to flee the jurisdiction of the court. (Section 628(e) W&I Code)

f. The minor has violated an order of the juvenile court. (Section 628(f) W&I Code)
g. The minor is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality. (Section 628(g) W&I Code)

Children in shelter care in the juvenile hall and minors in detention in the juvenile hall must be separate from each other at all times. (Section 506 W&I Code)

After a minor has been placed in juvenile hall, unless a petition is filed within 48 hours, excluding non-judicial days, the minor must be released. (Section 631 W&I Code)

If a petition is filed within the prescribed period of time, the minor must then be brought before a judge or referee of the juvenile court no later than the next judicial day for a detention hearing; otherwise, the minor must be released from custody. (Section 632 W&I Code)

If it is decided at the detention hearing that the minor is to be detained further, the period of detention prior to the hearing on the petition must not exceed 15 judicial days. (Section 636 W&I Code)

After the hearing on the petition, a ward of the juvenile court may be ordered detained in the juvenile hall until an order of commitment or other court-ordered disposition is carried out. In any case where a minor is detained pending execution of the order of commitment or other disposition, the court shall review the case at least every 15 days regarding the reasons for delay in disposition. (Section 737 W&I Code)

STANDARDS

25. *Admissions*

STANDARD: *Policies and procedures for juvenile hall admissions shall comply with all legal provisions that govern detention intake and release of minors.*

COMMENT: Legal provisions make it clear that a minor shall be detained *only* when release would be destructive to the minor or dangerous to the community. A minor shall not be detained simply for the convenience of an individual, a law enforcement agency, the probation department, or the court. Further, there is no legal authority for detaining a minor solely as a material witness in a criminal trial.*

Probation staff shall be assigned to screen all children admitted to the juvenile hall, and every effort shall be made to return children to their home, unless further detention is found to be absolutely necessary. If possible, a probation officer should be on duty at the juvenile hall (or on call) 24 hours a day, seven days a week. If this is impossible because of staff limitations or other reasons, intake screening is to be done early each working day.**

Even though the officer who delivers the minor to juvenile hall is required to notify parents, guardians, or other relatives of the minor's detention as soon as possible, probation staff should verify that proper

* In Re Singer, 134 Cal. App. 2d 547
** California Attorney General's Opinion 62/90

notification has been given.

26. *Releases*

STANDARD: *No minor shall be released from detention without an appropriate order of the court or designated court officer.*

COMMENT: If a minor has been ordered detained by the juvenile court, only the juvenile court or persons designated by the court have legal authority to order the minor's release. If the minor has not been ordered detained by the juvenile court, a designated court officer may authorize release.

VIII. PROGRAM

AN OVERVIEW

Modern concepts of rehabilitation demand that treatment begin at the time a minor is taken into custody and placed in detention. However, at no time is the juvenile hall expected to undertake an all-inclusive rehabilitation program; the legal function of the juvenile hall sets the limits within which treatment goals must be established. The task of the juvenile hall is to provide emergency care and treatment while field staff work at the problem of devising a plan for long-term care and treatment.

LEGAL PROVISIONS

A. A juvenile hall is not to be treated as a penal institution. (Section 851 W&I Code)
B. Custody, care, and discipline are to be as nearly as possible like that which should be provided by parents. (Section 502 W&I Code)
C. Cruel, corporal, or unusual punishment is forbidden. (Section 681 Penal Code)
D. Minors between 6–18 years of age shall attend school unless specifically exempted by other provisions of the Education Code. (Sections 12101, 12102, 12551 Education Code)
E. The juvenile hall school is to be conducted as nearly like other schools as possible. (Section 858 W&I Code)
F. With the exception of certain designated days, the school is to operate on a 12-month basis. (Section 858 W&I Code)
G. Medical or dental services for a minor in detention may be authorized by the judge of the juvenile court or the county probation officer, but such authorization is not intended to limit the right of a parent to provide such services. (Section 739 W&I Code)
H. If a petition has been filed, the juvenile court may order that the services of psychiatrists, psychologists, or other clinical experts be utilized to assist in determining and implementing appropriate treatment of minors. (Section 741 W&I Code)

STANDARDS

27. *Admittance Procedures*

STANDARD: *At the time of admittance to the juvenile hall, every minor shall be provided:*

a shower or bath
a clean towel
clean clothing
clean bedding
necessary toiletry articles

COMMENT: The reception the minor receives when he enters the juvenile hall will influence his entire detention experience. That which happens during the admission process will either acknowledge him as an individual, or indicate to him that adults lack respect for his feelings and needs.

At the admissions desk the interview should be objective, but not impersonal. Reasons for obtaining required information should be explained as necessary. However, too much expression of welcome is as much out of place as a cold, authoritarian "jolt."

Valuables, clothing, and other belongings should be listed by the staff member in the presence of the minor and the listing signed by both the staff member and the minor. The minor should be given an opportunity to verify the listing.

Valuables should be stored in a safe, or in locked drawer space, and clothing and other belongings stored in the designated storage area.

The process of showering or bathing and issuance of juvenile hall clothing, toilet articles, and bedding is not to be conducted as an embarrassing ordeal, forced upon the minor as a means of subtle punishment. However, at this time the supervisor will have opportunity to make observation of bruises or other injuries that may need medical attention and to proceed accordingly.

The issue of juvenile hall clothing includes socks, underclothing, and outer clothing.

The issue of clean bedding includes a mattress, mattress cover, pillow, pillowcase, sheets, and blankets in sufficient number to maintain warmth under prevailing climatic conditions.

Toilet articles would include soap, toothbrush, toothpaste, and comb.

If a minor is hungry due to lack of food or because of improper food prior to admission, he is to be given sufficient food to sustain him until the next regular meal. Frozen, ready-to-serve meals that can be quickly heated without further preparation are especially useful for late-at-night arrivals.

There is no sound reason for routinely isolating children immediately upon admittance. Some children can be placed in a group almost immediately; others require more time to make this adjustment.

28. *Segregation of Children*

STANDARD: *Where possible, children shall be separated into groups based upon such factors as age, maturity, sophistication and sex.*

COMMENT: This separation will help protect the younger and/or less sophisticated child from the older, more sophisticated child.

29. *Counseling and Casework Services*

STANDARD: *Appropriate counseling and casework services shall be available to each minor in detention.*

COMMENT: After a minor has been accepted at juvenile hall, showered, and issued clothing and other essentials, he should not then be locked in a room with no further explanation and isolated with his own thoughts. The minor probably has many anxieties and questions concerning juvenile hall that need to be resolved. This is the time, or possibly even later during routine admittance procedures, that staff must take time to present the minor to the ground rules of his new surroundings, and provide appropriate counseling to help the minor utilize detention in a positive manner.

All orientation and counseling must be kept within the proper frame-

work of the immediate problems of detention. No attempt should be made to delve into, or provide answers for, all of the minor's problems. The minor's rights must be respected in every way in accordance with legal provisions; he has been placed in temporary custody and delivered to juvenile hall, but it is not to be presumed that this action establishes a proven case.

Juvenile hall staff should not attempt to interrogate the minor concerning the reasons for his detention, nor offer solutions for disposition of his case. Unauthorized and illegal probing, empty promises, and distorted statements invariably result in problems for both the minor and those who will assist with the case later.

Juvenile hall staff members who supervise and counsel minors must be able to identify individual problems related to detention and deal with minors according to these problems. They should conduct effective individual and group counseling sessions as needed; and discuss observations with probation officers, clinical staff, and others in a team effort.

Psychiatric and psychological services should be available for detained children as needed. These services should not be limited to individual techniques and treatment. Ample consultation time should also be allotted to the juvenile hall staff to help them develop insight and understanding of minors' problems.

30. *Medical and Dental Services*

STANDARD: *Necessary medical and dental care shall be available to each detained minor.*

COMMENT: It is emphasized that juvenile hall staff must never attempt to make decisions concerning health that are rightly those of the medical profession. Medical care and treatment is to be available to all detained minors in need of such services. If there is no medical staff at the juvenile hall, medical care must be provided through arrangements with other agencies in the county qualified to provide such services.

Within 48 hours after admission, it is recommended that each minor receive a medical examination by a physician. If visual examination or other information at the time of admission indicates that medical attention may be needed, the minor shall be examined at once by a licensed physician.

In the event of serious injury, illness, or accident, the parents and probation officer shall be notified immediately. Medical consent forms, signed by parents, should be obtained when possible. Otherwise, consent of the court should be obtained prior to administering medical care. However, in extreme emergencies, medical care can be provided in accordance with the provisions of Section 739 of the Welfare and Institutions Code.

Usually, dental care in detention is limited to emergency dental care. However, if examination indicates that remedial dental care should be undertaken immediately, the juvenile hall should be prepared to make arrangements for such needed service.

As a health measure for detained minors, all juvenile hall staff should be required to have tuberculosis examinations at regular intervals.

31. *Behavior Control*

STANDARD: *Rules for behavior and control techniques shall be designed to foster a positive, non-punitive detention program.*

COMMENT: Measures used for behavioral control in any detention facility should be positive and non-punitive. The basic premise underlying good detention and correctional care provides that program, not physical restraint or its threat, is basic to maintaining order within the institutional environment.

Self-discipline and inner control on the part of the detainee is the result of guidance and non-threatening care based on example and rational conduct by adult staff.

Reasonable limits on behavior designed to maintain order should be governed by a system of rules and regulations that are consistent and easily understood by both staff and detained minors.

Meal restrictions, corporal punishment and cruel, degrading punishment, either physical or psychological, shall not be permitted.

Discipline is to be administered by staff. It must never be delegated to other detained minors.

Aggressive, physical contact between staff and detained minors, either through acts of self-defense or the use of force to protect a child from harming himself or others, should be immediately reported in writing to the administrator of the detention facility. A copy of the written report should be entered in the minor's official case record for the protection of both the staff and the minor. Staff should then be prepared to provide appropriate counseling designed to reduce tension and promote understanding arising out of conflicts within the juvenile hall.

Removal from the group should be resorted to only when a minor is out of control and must be removed for the protection of himself or the protection of others. The duration of restriction shall be determined on an individual basis. Any isolation shall be used only in conjunction with effective casework services.

Withdrawal of privileges should be used only for specific constructive purposes.

Corporal punishment should not be confused with the right of staff to protect themselves from attack, nor should it be confused with the exercise of such physical restraint as may be necessary to protect a child from harming himself or others.

32. *Academic Program*

STANDARD: *The juvenile hall academic program shall comply with all academic requirements that pertain to minors 18 years of age and under.*

COMMENT: Minors in detention must be in school the minimum time prescribed by law, unless properly excused. Curriculum should be designed to help develop favorable attitudes toward learning, to evaluate potential for education, and to assist each minor to maintain or improve his studies in his regular school.

Classes should be limited to 15 students to assure individual instruction and evaluation. Classes should be conducted in rooms specifically de-

signed and equipped as school rooms.

All teachers shall have state credentials. It is desirable that they also have training in the education of the exceptional, the emotionally disturbed, and the mentally retarded child.

There should be periodic meetings of the chief probation officer and the county superintendent of schools, or the district superintendent if he is responsible for operating the juvenile hall school, to discuss administrative problems related to the juvenile hall school that are of mutual concern.

33. *Recreation Program*

STANDARD: *Opportunity for recreation shall be scheduled a minimum of three hours a day during the week and six hours a day each Saturday, Sunday, or other non-school day.*

COMMENT: Every juvenile hall must have necessary equipment for conducting an appropriate recreational program. The recreation program should be varied, and each minor should be encouraged to participate in activities within the limits of his own capabilities. The recreation program should be designed to contribute to the normal growth and development of the minor. It should provide normal outlets for energy and emotion, teach a minor to get along with others, build confidence, and stimulate new interests by introducing a minor to a variety of skills and hobbies.

In some larger juvenile halls, the services of a recreation director or consultant may be necessary. In smaller halls, the services of a recreation director may not be obtainable. Usually, assistance and information can then be obtained through local recreation departments.

A recreation program can assist in diagnosis by affording observation of play behavior; however, the main purpose of the recreation program should be relaxation rather than clinical observation.

34. *Religious Program*

STANDARD: *Each minor shall have opportunity to participate in religious services of his faith at last once each week, but attendance shall be voluntary and not required.*

COMMENT: In addition to regular religious services, there should be arrangements for individual religious counseling. No minor should be denied the right to religious counseling by a clergyman of his choice. However, such religious counseling must be voluntary and not required.

35. *Work Program*

STANDARD: *Minors shall not be required to do maintenance or other work assignments as substitutes for regular juvenile hall staff.*

COMMENT: Work can be a constructive experience for a minor, but a work program should not be utilized as a means of cheap labor. A minor may be expected to do necessary housekeeping in his own room and possibly assist with general housekeeping, laundry services, kitchen work, etc., if assignments assist rather than replace regular juvenile hall staff.

36. *Food and Nutrition*

STANDARD: *All minors shall be provided a wholesome and nutritionally adequate diet based on no less than three meals per day.*

COMMENT: Food shall be of quality, kind, and amount to meet the nutritional needs of the sex-age group fed. Resource information for planning the three meals per day pattern is found in Home Economics Research Report #35, published by the United States Department of Agriculture, entitled FOOD SELECTION FOR GOOD NUTRITION IN GROUP FEEDING, dated October 1968.*

Food should be palatable and attractive in appearance. It should be served in pleasant surroundings, and each minor should be allowed enough time during meals to enjoy his food.

Withholding of regular meals or desserts, or cutting down the amount of food as a disciplinary measure shall never be tolerated. Diets shall never be restricted except by a physician's order.

The food service staff should receive supervision or consultation from a dietitian. The services of such a person for regular consultation can often be obtained from a state or local governmental agency.

37. *Laundry Services*

STANDARD: *Each minor shall be supplied with clean changes of clothing, bedding, and towels as needed.*

COMMENT: Clean underclothing, socks, and towels shall be issued daily. Outer clothing shall be exchanged twice weekly, or more often if necessary.

Mattresses should be cleaned and sterilized as required. Plastic covered mattresses are recommended for best service. If mattresses are not plastic covered, they should be cleaned and sterilized at least every 90 days. Blankets and pillows should also be cleaned and sterilized at least ever 90 days.

Pillowcases, mattress covers, and sheets should be exchanged at least once a week, or more often if necessary.

38. *Personal Hygiene*

STANDARD: *Each minor shall be given opportunity to bathe or shower daily.*

COMMENT: In addition to opportunities for daily bathing, a minor is to have ample time before each meal to wash his hands and face; and after the meal, to brush his teeth.

Included in the daily schedule, should be periodic breaks in order for minors to use the restroom, use the drinking fountain, etc.

39. *Visiting*

STANDARD: *The schedule of the juvenile hall shall provide at least weekly visits by parents or other relatives.*

COMMENT: Visiting hours and length of visits must be determined by the administration. However, special arrangements should also be

*Available from United States Government Printing Office, Washington D.C. 20402—price 40 cents.

made for parents who work odd and unusual hours and parents who come long distances to visit.

40. *Correspondence*

STANDARD: *Each minor shall be given the opportunity to write at least two letters a week to parents or other relatives.*

COMMENT: Minors should understand that incoming and outgoing letters may be read by either the probation officer or by a member of the juvenile hall staff appointed by the superintendent.* If a letter is not approved for mailing, it shall be returned to the minor with a reason for not being sent. Incoming mail that is not approved shall be turned over to the minor's probation officer and then returned to the sender, along with the reason that the letter was not delivered to the minor.

41. *Voluntary Assistance*

STANDARD: *The superintendent of the juvenile hall in accepting voluntary services of any kind shall make certain that these services fit into a planned approach to meet the needs of the children for whose care he is responsible.*

COMMENT: Juvenile hall contacts with the community are many and varied. Service clubs, women's clubs, church groups, and private individuals are all genuinely interested in the welfare of detained minors. Many offers are made of help, usually in the form of donations; but frequently in the form of services. Before offers of service are accepted, volunteers and the superintendent together should carefully explore the conditions surrounding the service offered.

New volunteers seldom realize the nature of the juvenile hall program. Many will be critical of the control measures required to maintain orderly living within the juvenile hall. Others will want to become individually involved with the personal problems of detained minors.

Volunteers in a juvenile hall need indoctrination as surely as the newly hired worker needs orientation and in-service training. To provide this indoctrination requires a great deal of tact and understanding. Volunteers take time from a usually busy schedule; but when properly supervised and directed, volunteers are a definite asset to the detention program.

* Part 154.61 of the Postal Manual states: "Mail addressed to patients or inmates at institutions, unless otherwise directed by the addressee, is delivered to the institution authorities, who in turn will deliver the mail to the addressee in accordance with the institution's rules and regulations."

APPENDIX NO. 28

California's Community Treatment Program For Delinquent Adolescents

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Since 1961, the Community Treatment Project (CTP) has handled seriously delinquent male and female offenders who have been committed from juvenile courts to the state correctional system from four California communities. Rather than being institutionalized for several months, these youths, ages 13 to 19 at intake, are placed directly into a small caseload, intensive, community-located parole program: CTP. There, after being "matched" with a parole agent, they receive "differential" or relatively individualized, as well as long-term, treatment. An "interpersonal maturity level" system is used to classify youths and as one important basis for establishing treatment objectives and techniques.

Comparative effectiveness of the experimental (CTP) and control (traditional) programs was evaluated in terms of six separable outcome measures: suspensions, recidivism, discharge, psychological tests, etc. E-C comparisons indicate that the E program has been able to handle a large majority of eligible youths (89 percent) at least as effectively as has the traditional program, while ten percent do better within the traditional program. Close to 25 percent do rather poorly within both types of program. A major objective of CTP—Phase Three (1969-1974) is that of developing more effective techniques and settings for working with this latter, rather sizable, "unsuccessful" group. Another objective is that of determining whether the CTP approach can be applied successfully to a wider range of offenders than have been handled to date — e.g., those committed from adult courts and/or for seriously assaultive offenses. Five main factors are mentioned as having made a substantial contribution to the comparative effectiveness of CTP during 1961-1969.

INTRODUCTION

In recent years, the community-based approach to the handling of delinquent adolescents has been making root. Treatment of adolescent offenders within the environment into which they will have to be reintegrated is increasingly viewed as a viable as well as humane alternative to traditional incarceration.[1] A further development within cor-

[1] P. Lerman, "Evaluating the Outcomes of Institutions for Delinquents: Implications for Research and Social Policy," *Social Work*, 30):55-64, (July, 1968); R. M. Stephenson and F. R. Scarpetti, "Essexfields: A Non-residential Experiment in Group Centered Rehabilitation of Delinquents," *American Journal of Corrections*, 31(1):12-18, (1969); L. T. Empey and S. G. Lubeck, *The Silverlake Experiment* (Chicago: Aldine Publishing Company, 1971).

rections centers around the use of offender typologies as a basis for determining the type of treatment which might best be used with given individuals. During the past decade, support has been gained for the view that no single, across-the-board approach to treatment is equally effective with all types of delinquents.[2] A third development centers around the concept of "matching" the type of treater with the type of offender as one way of increasing the effectiveness of treatment.[3] There are, of course, other emerging trends (e.g., use of group homes and half-way houses; work furlough and work release; use of volunteers, indigenous personnel, and ex-offenders as workers and aides).

Relative to the above three lines of development, the major, single "pioneer" treatment program within juvenile corrections has quite possibly been California's Community Treatment Project (CTP). This program, jointly sponsored by the California Department of the Youth Authority (CYA) and the National Institute of Mental Health (MH 14734), has for several years combined the features of (1) community-based treatment, (2) differential treatment based upon a typology of offenders, and (3) matching of worker (treater) and offender (client). It may be of value to review the major elements, structure, and findings of CTP relative to its first eight years of existence (Phase One: 1961-1964; Phase Two: 1964-1969).

[2]S. A. Adams, "Interactions Between Individual Interview Therapy and Treatment Amenability in Older Youth Authority Wards," *California State Department of Corrections Monograph*, 2:27-44, (1961); T. B. Palmer, *Types of Probation Officers and Types of Youth on Probation: Their Views and Interactions*, (Los Angeles: Youth Studies Center, Project Report, University of Southern California, 1963), (mimeo); M. Q. Warren, "The Case for Differential Treatment of Delinquents," *Annals American Academy of Political and Social Sciences*, 381:47-59, (January, 1969).

[3]T. B. Palmer, *Personality Characteristics and Professional Orientations of Five Groups of Community Treatment Project Workers: A Preliminary Report on Differences Among Treaters*, (Sacramento: California Youth Authority, 1967), pp. 29-32, (mimeo); R. B. Levinson and H. L. Kitchener, *Treatment of Delinquents: Comparison of Four Methods of Assigning Inmates to Counselors*, (Washington, D.C.: National Training School for Boys, 1965), pp. 1-10, (mimeo); S. Foulkard, *et al.*, *Probation Research: A Preliminary Report*, (London: Home Office Studies in the Causes of Delinquency and the Treatment of Offenders, Report 7, 1966), pp. 34-40, (mimeo).

OBJECTIVES AND SAMPLE

Phase One of CTP (1961-1964) was focused around questions concerning (1) the overall operational feasibility of a community-based approach to the handling of delinquent youth and (2) the comparative and differential effectiveness of this approach as compared with traditional institutionalization for specific kinds of youth. After CTP's basic feasibility appeared to have been established, and once a certain degree of program effectiveness had been shown, the focus shifted: Phase Two (1964-1969) goals included (1) better identification of those factors which might be contributing to the program's relative success and (2) an assessment of the generalizability of Phase One results.

The Community Treatment Project handles male and female offenders whom the local (city and county) probation departments have in effect "given up on." These youths, ages 13 through 19 at intake, have been committed to the rather vast, state correctional system — the CYA — within which the CTP parole units have operated. The CTP program has operated one experimental unit in Sacramento (population of 275,000) and one in Stockton (population of 100,000) since 1961.[4] Two units have operated in San Francisco (population of 750,000) since 1965. In all, four separate community-based parole units are involved—three of which also contain the features of differential treatment and matching. The fourth, located in San Francisco, is a Guided Group Interaction (GGI) unit. From this point on, the term "experimental group" will not include GGI, except as specified.

Nearly all youths eligible for the project are rather heavily involved in delinquency. They average close to five known arrests prior to their CYA committing offense. The latter offenses are classified: property—60 percent; person (battery, etc.)—five percent; other (incorrigible, runaway, etc.)—35 percent. Eighty percent of the youths are from lower socioeconomic (S.E.) backgrounds, and two percent from upper S.E. backgrounds.[5] Racial composition varies greatly across differing settings: in the Sacramento-Stockton-Modesto area, the study population consists of: Caucasian—58 percent; Mexican-American—20 percent; Negro—18 percent; Other—four percent. The figures for San Francisco are 25 percent, four percent, 65 percent, and six percent respectively. Their average age at point of CYA intake is fifteen and one-half. The mean IQ is 89 (California Test of Mental Maturity, Nonlanguage score).

Ordinarily, youths committed to the CYA undergo a period of institutionalization — one which, during the 1960's, fluctuated between eight and ten months. Upon completion of the institutional program, youths would be returned to their communities on parole status, within the context of a traditional, nonintensive, large-sized caseload. As an alternative to this traditional sequence of events (control group), youths assigned to CTP (experimental group) are paroled directly back to their home community after having spent about four weeks at a CYA reception center. (Controls also experience the reception center phase.) Once on parole, experimentals immediately begin the CTP program of intensive supervision and treatment within the context of a small-sized caseload. As is the case among controls, successful completion of CTP generally takes two and one-half to three years.

Relative to specified geographic boundaries, all first commitments to the CYA from the juvenile courts are considered for eligibility to either the experimental (E) or control (C) program. For all geographic areas combined, 65 percent of the male commitments and 83 percent of the females have been found eligible by the Youth Authority Board for random assignment to either the E or C program. In line with pre-established criteria, ineligibility is chiefly a function of (1) the nature of the committing offense and/or (2) the intensity of negative reaction on the part of official community agencies (chiefly police and probation) to the possibility of returning the youth to

[4]The Stockton unit has handled youths from the nearby city of Modesto (population of 55,000) since 1967.

[5]A. J. Reiss, Jr., and A. L. Rhodes, "The Distribution of Juvenile Delinquency in the Social Class Structure," *American Sociological Review*, 5:26, (1961).

the community without a prior period of institutionalization. The most typical CYA commitment offenses among the 35 percent male ineligible group include armed robbery, assault with a deadly weapon, and forcible rape. Factors such as chronic or severe neurosis, occasional psychotic episodes, apparent suicidal tendencies, marked drug involvement, homosexuality, etc., do not, in themselves, constitute grounds for ineligibility.

All eligible cases are, by a stratified random procedure, assigned to either E or C status. During phases One and Two some 686 E's (including 165 GGI subjects) and 328 C's were studied — 79 percent of whom were males. This is illustrated in Table I. The assignment procedure resulted in the E and C groups being equated on each of the following variables: age, IQ, socioeconomic status of family, race, type of CYA committing offense.

THE EXPERIMENTAL PROGRAM

During Phases One and Two, the following approach has been used relative to each experimental subject. Primarily by means of interviewing, the youth is first classified according to the Sullivan, Grant, and Grant theoretical scale of interpersonal maturity[6] and elaborations thereof. (The classification system is reviewed below.) He or she is then assigned to a small caseload — twelve youths for each parole agent ("treater"). A treatment-strategy is then developed which reflects the youth's overall level of maturity, major pattern of response to others, self-image, and various unique features of his personal life situation.

All parole agents (1) have been selected for CTP with the aim of their being able to work with youths on an intensive or extensive basis; and, all male agents (2) are assigned to work only with those kinds ("subtypes") of youth with whom they appear to be especially well-suited, or "matched." (Mainly during 1961-1966, workers sometimes had to be assigned youths with whom they were not well-matched.) Each male agent's caseload generally contains no more than two youth subtypes. Each CTP unit consists of one treatment supervisor, one case-carrying assistant supervisor, and six line parole agents (usually five males and one female).[7]

The Classification System

A community-based program could, theoretically, be operated as such without the use of a classification system, whether formal or more intuitive. However, a program which contains the features of differential treatment and matching does require the use of classification. In terms of overall programming and individualized treatment planning, the implications of this distinction may become clearer after a brief review of the classifications which have been used at CTP between 1961-1969.

The CTP classifications are one part of a general theory of individual development, first outlined in the late 1950's.[8] The theory distinguishes seven successive levels of interpersonal maturity, known as "I-levels" or integration levels. (Some 99 percent of CTP's delinquent adolescents have been found to fall within either the second or "lower," third or "middle," or fourth — "higher" — level of integration.) Each I-level refers to certain dominant ways in which individuals interpret their environment. A classification manual provides detailed descriptions of many of the central, personal concerns and interpersonal desires of individuals who are currently functioning at the second, third, or fourth levels.[9] Additional distinctions are made within each level. These relate to noteworthy or conspicuous ways in which delinquent youths who are functioning at the given level *express* underlying needs and feelings when interacting with their external environment. In all, nine groups of youth ("delinquent subtypes") are distinguished relative to I-levels two through four. In practice, each such classification is used as a way of starting to focus in on "where the client is at" as an individual, both in terms of his overall development and that of his outstanding or at least distinguishing patterns of adaptation.

The following is a capsule account of the "lower" (I_2), "middle" (I_3), and "higher" (I_4) maturity levels, to-

[6] C. E. Sullivan, M. Q. Grant, and J. D. Grant, "The Development of Interpersonal Maturity: Applications to Delinquency," *Psychiatry*, 20:373-385, (1957).

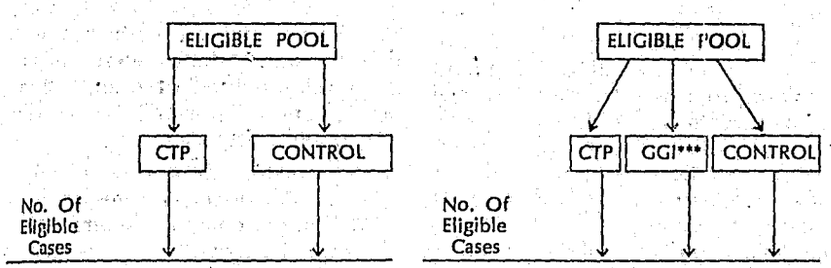
[7] Within any given CTP unit, the single female worker must, of necessity, work with all female subtypes, whether closely matched or not.

[8] Sullivan, Grant, and Grant, *op. cit., supra* note 6, pp. 373-385.

[9] M. Q. Warren, *et al., Interpersonal Maturity Level Classification: Juvenile. Diagnosis and Treatment of Low, Middle, and High Maturity Delinquents,* (Sacramento: California Youth Authority, 1966), pp. 1-52, (mimeo).

Table I

RESEARCH DESIGN AND SAMPLE SIZE



No. Of Eligible Cases	Sacramento-Stockton* Phases 1 and 2 (1961-69)		San Francisco Phase 2 (1964-69)**		
	CTP	CONTROL	CTP	GGI***	CONTROL
Boys	338	241	89	115	19
Girls	58	64	36	50	4
Total	396	305	125	165	23

*Includes City of Modesto: 9/67 to 7/69

**Operations began in 10/65

***Guided Group Interaction Unit

gether with the nine delinquent subtypes:[10] (For each subtype, the percentage of representation within the total Phase One and Two sample is shown in parentheses—first for boys, then for girls.)

Maturity Level Two (I_2): An individual whose overall development has not progressed beyond this level views events and objects primarily as sources of short-term pleasure or else frustration. He distinguishes among individuals largely in terms of their being either "givers" or "withholders," and has little conception of interpersonal refinement beyond this. He has a very low level of frustration-tolerance together with a poor capacity to understand many of the basic reasons for the behavior or attitudes of others toward him. The delinquent subtypes are:

1. *Asocial, Aggressive* (Aa)—often responds with active demands, open resistance, "malicious mischief," or verbal and physical aggression when frustrated by others. (1 percent, 0 percent)
2. *Asocial, Passive* (Ap) — often responds with passive resistance, complaining, pouting, or marked withdrawal when frustrated by others. (3 percent, 0 percent)

Maturity Level Three (I_3): More than the I_2, an individual at this level recognizes that certain aspects of his own behavior have a good deal to do with whether or not he will get what he wants from others. An individual at this level interacts primarily in terms of oversimplified rules and formulas rather than from a set of relatively firm, generally more complex internalized values. He understands few of the feelings and motives of individuals who are organized differently from himself. More often than the I_4, he assumes that peers and adults operate mostly on a rule-oriented or intimidation/manipulation ("power") basis. The delinquent subtypes are:

1. *Immature Conformist* (Cfm) — usually fears and responds with strong compliance and occasional passive resistance to peers and adults whom he thinks have "the power" at the moment. He sees himself as deficient in social "know how," and usually expects rejection. (11 percent, 2 percent)
2. *Cultural Conformist (Cfc)* — likes to think of himself as delinquent and tough. Typically responds with conformity to delinquent peers or to a specific reference group. (7 percent, 1 percent)
3. *Manipulator* (Mp) — often attempts to undermine or circumvent the power of authority figures, and/or usurp the power role for himself. He typically does not wish to conform to peers or adults. (9 percent, 3 percent)

Maturity Level Four (I_4): More than the I_3, an individual at this level has internalized one or more sets of standards in terms of which he frequently attempts to judge the behavior and attitudes of himself as well as others.[11] He recognizes interpersonal interactions in which individuals attempt to influence one another by means other than promises of hedonistic or monetary reward, compliance, manipulation, etc. He shows moderate to much ability to understand underlying reasons for behavior and has some ability to respond to complex expectations of others on a moderately long-term basis. The delinquent subtypes are:

1. *Neurotic, Acting out* (Na) —typically and actively attempts to deny — and distract himself and others from — his conscious feelings of inadequacy, rejection, or self-condemnation. Sometimes he does this by verbally attacking others, or by "gaming" and conning. (19 percent, 6 percent)
2. *Neurotic, Anxious* (Nx) — frequently manifests various symptoms of emotional disturbance — psychosomatic complaints, etc.—which result from conflicts produced by feelings of failure, inadequacy, or conscious guilt. (21 percent, 8 percent)[12]
3. *Situational-Emotional Reaction* (Se)—responds to immediate family, social, or personal crisis by acting out — although his childhood and preadolescent development seem fairly normal in most respects. (2 percent, 1 percent)
4. *Cultural Identifier* (Ci)—expresses his identification with an anti-middle class or with a non-middle class value system by occasionally acting out his delinquent beliefs and/or by "living out" in commonly unacceptable ways. Often sees himself as competent and, sometimes, as a leader among peers. (4 percent, 0 percent)

These subtype classifications have undergone continuous operational and conceptual refinement since 1961. Several years' experience has shown them to be manageable and communicable, particularly in their most recent (1966) form.[13] While many CTP youths show few changes in I-level over a period of years, change from one level to the next higher level is not at all rare — at least among I_2's and I_3's.[14] The treatment plan and overall operation must be flexible enough to reflect changes and growth which take place among youths—in I-level, and otherwise—while on the program.

Strategies and Program Elements

A number of underlying principles, strategies, and tactics are followed in the case of nearly all CTP youths, irrespective of I-level and subtype. These relate to: (1) development of a treatment plan which is individualized to the extent of being consistent with (while not necessarily focused around) the youth's main strengths, limits, and interests; (2) commitment on parole agent's part to long-term involvement with youth — two to four years if necessary; (3) ready access to the agent whenever felt need arises, on youth's part; (4) careful placement planning, particularly during initial phases of the youth's

[10] This is a partial revision of the summary account which appears in: M. Q. Warren, *The Community Treatment Project After Five Years*, (Sacramento: California Youth Authority, 1967), pp. 2-4, (mimeo)

[11] These standards are not always mutually consistent or consistently applied.

[12] An additional 1 percent of the male CTP population are classified as I_5Nx.

[13] Warren, *et al., op. cit., supra* note 9, pp. 1-52.

[14] T. B. Palmer, "Recent Research Findings and Long-Range Developments at the Community Treatment Project," *Community Treatment Project Research Report No. 9, Part 2*, (Sacramento: California Youth Authority, October, 1968), pp. 1-10, (mimeo).

parole program; (5) parole agent contacts on behalf of youth, with any of several community or volunteer agencies — probation, employment, school, etc. Under conditions of (a) relatively small caseload size, (b) a moderate degree of program flexibility, and (c) an absence of specific, theoretically derived constraints — a number of these features could probably be utilized within a variety of community-based treatment programs.

Several program elements and features are *potentially* available to nearly all CTP youths, again, irrespective of subtype. The number of elements which may actually be *utilized* relative to any given individual can range from two or three to nearly all of the following: (1) group homes and other temporary or longer term out-of-home placements (foster home; independent); (2) individual, group and/or family-centered treatment and counseling; (3) flexible agent-youth contacts (office; streets), on daily basis if necessary; (4) as needed, extensive surveillance (days, evenings, weekends) by agent relative to youth's community activities; (5) accredited school program located within the project's community-based treatment center, including individual and small group tutoring, plus arts and crafts; (6) recreational and coeducational activities both within and outside of the treatment center; (7) short-term, treatment- and/or control-oriented detention at a nearby CYA facility.[15]

The particular program elements and combination of elements which are actually utilized are likely to reflect, not only the current limitations, conscious interests, and specific life circumstances of the youth as an individual, but his underlying I-level and subtype classification as well. As a result, certain program elements and combinations of elements are far more likely to be utilized, or utilized to a much greater extent, in the case of given subtypes as compared with other subtypes.[16] This is particularly the case with program elements, and subitems within (1), (2), (4), and (7) above. Within CTP, this is the basic operational expression of the "differential treatment" concept. Thus, for example, it is very unlikely that the initial treatment prescription for any Ia manipulator will involve an independent placement or, for that matter, primary emphasis upon individual or family counseling. On the other hand, early utilization of any one or more of these elements is not uncommon with reference to Nx's. The particular *form* which some of these elements are likely to take is, often, also tied in with the youth's particular subtype. Thus, for example, only certain kinds of group

[15]While each such feature is associated with the community-based approach, it is, in itself, not necessarily tied in with a small caseload, differential treatment-oriented operation as such. Yet the small caseload approach helps to render feasible the utilization of more than three or four such elements at the same point in time in response to needs of given individuals. It also adds to the flexibility which is needed relative to making major, even rapid shifts in program emphasis across time. A delinquency causation-oriented, differential treatment model can supply the rationale for selecting and emphasizing given elements with given types of youth. Beyond this, the factor of "matching" may increase the likelihood of one's making a timely, appropriate, and integrated selection and utilization of given program elements.

[16]Palmer, *op. cit., supra* note 14, pp. 27-31.

parole program; (5) parole agent contacts on behalf of youth, with any of several community or volunteer agencies — probation, employment, school, etc. Under conditions of (a) relatively small caseload size, (b) a moderate degree of program flexibility, and (c) an absence of specific, theoretically derived constraints — a number of these features could probably be utilized within a variety of community-based treatment programs.

Several program elements and features are *potentially* available to nearly all CTP youths, again, irrespective of subtype. The number of elements which may actually be *utilized* relative to any given individual can range from two or three to nearly all of the following: (1) group homes and other temporary or longer term out-of-home placements (foster home; independent); (2) individual, group and/or family-centered treatment and counseling; (3) flexible agent-youth contacts (office; streets), on daily basis if necessary; (4) as needed, extensive surveillance (days, evenings, weekends) by agent relative to youth's community activities; (5) accredited school program located within the project's community-based treatment center, including individual and small group tutoring, plus arts and crafts; (6) recreational and coeducational activities both within and outside of the treatment center; (7) short-term, treatment- and/or control-oriented detention at a nearby CYA facility.[15]

The particular program elements and combination of elements which are actually utilized are likely to reflect, not only the current limitations, conscious interests, and specific life circumstances of the youth as an individual, but his underlying I-level and subtype classification as well. As a result, certain program elements and combinations of elements are far more likely to be utilized, or utilized to a much greater extent, in the case of given subtypes as compared with other subtypes.[16] This is particularly the case with program elements, and subitems within (1), (2), (4), and (7) above. Within CTP, this is the basic operational expression of the "differential treatment" concept. Thus, for example, it is very unlikely that the initial treatment prescription for any I_3 manipulator will involve an independent placement or, for that matter, primary emphasis upon individual or family counseling. On the other hand, early utilization of any one or more of these elements is not uncommon with reference to Nx's. The particular *form* which some of these elements are likely to take is, often, also tied in with the youth's particular subtype. Thus, for example, only certain kinds of group homes are likely to be prescribed for particular youth subtypes, whereas other such homes are more likely to be reserved for individuals belonging to differing subtypes. This applies to particular forms of group counseling as well.

[15]While each such feature is associated with the community-based approach, it is, in itself, not necessarily tied in with a small caseload, differential treatment-oriented operation as such. Yet, the small caseload approach helps to render feasible the utilization of more than three or four such elements at the same point in time in response to needs of given individuals. It also adds to the flexibility which is needed relative to making major, even rapid shifts in program emphasis across time. A delinquency causation-oriented, differential treatment model can supply the rationale for selecting and emphasizing given elements with given types of youth. Beyond this, the factor of "matching" may increase the likelihood of one's making a timely, appropriate, and integrated selection and utilization of given program elements.

[16]Palmer, *op. cit., supra* note 14, pp. 27-31.

Matching

Within CTP, matching is conceptualized and utilized as one way of hopefully capitalizing upon the special talents, sensitivities, and areas of greater concern on the part of given treatment personnel and of minimizing the possible effects of their areas of lesser sensitivity, talent, and/or relative disinterest in certain kinds of problems or personalities. The bases and specific variables involved in matching were made relatively explicit beginning approximately 1964, although assignment of subjects to "matched" workers has been a feature of the experimental program throughout Phases One and Two.[17]

CTP parole agents who work with specified youth subtypes are found to have a number of professional orientations and to express certain personal characteristics which statistically distinguish them from the remaining CTP workers (grouped together).[18] For example, compared with other CTP agents,[19] *Nx workers* (1) show a greater degree of interest in working with youths' feelings about both self and others in reference to guilt, hostility, aggression, or rejection; (2) express a lesser degree of "firmness-finality" (exacting, "hard-nosed," demanding closure . . . in contrast to being more easy-going and prepared to tolerate ambiguities) in their relationship with youths. *Mp-Cfc workers* (1) are more likely to focus upon issues relating to external controls and limit setting; (2) maintain a greater degree of social distance (formality . . . in contrast to familiarity or informality) in their relationship with youths; (3) are more likely to be forward, direct, outspoken (in contrast to being reticent, indirect, etc.). *I_2 workers* (1) are less likely to focus upon issues relating to external controls and limit setting; (2) show less interest in working with youths' feelings about self and others in relation to guilt, hostility, aggression, or rejection.

[17]T. B. Palmer, "Types of Treaters and Types of Juvenile Offenders," *California Youth Authority Quarterly*, 18(3):14-23, (1965); T. B. Palmer, *An Overview of Matching in the Community Treatment Project*, (Sacramento: California Youth Authority, March, 1968), pp. 5-8, (mimeo).

[18]T. B. Palmer, *Personality Characteristics and Professional Orientations of Five Groups of Community Treatment Project Workers: A Preliminary Report on Differences Among Treaters*, (Sacramento: California Youth Authority, 1967), pp. 33-57, (mimeo).

[19]The items which follow refer to composite scales, each of which consists of an average of six individual variables.

[20]Excluded were violations and offenses of relatively minor severity (traffic, curfew, runaway, possession of alcohol or drinking, fighting without weapons, etc.)—levels "One" and "Two" as defined by a Severity of Offense Scale. (Palmer, *op. cit., supra* note 14, pp. 71-74).

MAJOR FINDINGS

Comparative effectiveness of the E and C programs was evaluated in terms of six separable outcome measures: (1) average number of suspensions per unit of time;[20] (2) "recidivism": rate of removal from parole (revocation, recommitment, etc., within 24-month parole follow-up); (3) rate of favorable discharge from CYA (60-month parole follow-up); (4) rate of unfavorable dis-

Table II

COMPARATIVENESS OF SACRAMENTO-STOCKTON EXPERIMENTAL AND CONTROL PROGRAMS

CTP: Phases 1 and 2 Sacramento-Stockton
E = Experimental
C = Control

++: Far Ahead
+: Ahead
( ): Slightly Ahead
0: No Difference Between Groups

	Parole Suspensions*	Recidivism	Favorable Discharge	Unfavorable Discharge	Psychological Test Scores	Post-discharge Arrests*
Boys	(C)	E^{++}	0	E	E^{+}	(E)
Girls	C^{+}	0	0	0	0	0
Total	C	E^{++}	0	E	E^{+}	0

* Excludes minor offenses (traffic, runaway, drinking, etc.)

charge from CYA (60-month parole follow-up); (5) psychological test score change;[21] (6) rate of post-discharge arrests[22] (24-month follow-up).[23] A variety of statistical tests have been used relative to these measures—chiefly Chi-square, Mann-Whitney *U*, and t. A summary of main findings is shown in Table II, relative to the total group of E's and C's—i.e., all delinquent subtypes combined. While the findings refer specifically to the Sacramento-Stockton sample, they are similar to those for San Francisco.[24] (Recidivism rates for Sacramento-Stockton are com-

[21]Refers to (1) a scale-by-scale analysis of the California Psychological Inventory (CPI) and Jesness Inventory in the case of San Francisco comparisons and (2) blind Q-sorts of CPI profiles by Dr. Harrison Gough in the case of Sacramento-Stockton comparisons. Results from the latter, 1969 Q-sorts were very similar to those obtained in 1966 relative to a CPI and Jesness scale-by-scale analysis of many of the same Sacramento-Stockton subjects who appeared in the present analysis.

[22]*Op. cit., supra* note 20.

[23]Criterion number six applies only to that subsample which had received a favorable discharge from the CYA relative to the cohort cutoff date. This involved 35 percent of all E's (30 percent of all boys, 69 percent of all girls) and 24 percent of all C's (22 percent of boys, 32 percent of girls) who had been on parole long enough to be *potential* favorable dischargees relative to the present follow-up. Thus, a broader cross-section of E's than C's was included within the post-discharge analysis.

[24]This applies to criteria (2), recidivism, and (5), psychological test scores. Relative to criterion (1), parole suspensions, the San Francisco E boys compared slightly more favorably with the C's than was the case with the former's counterparts within Sacramento-Stockton. (*Op. cit., infra* note 25.) Even so, the C boys remained slightly ahead of E's, San Francisco E girls did substantially better than the C's—this being a reverse of the situation in Sacramento-Stockton. However, the sample size for C girls was very small. For boys plus girls combined, San Francisco E's came out slightly ahead of C's. The figures (including GGI) are: E = 1 suspension per 12.1 months (boys: 9.5 months, girls: 31.3 months); C = 1 suspension per 10.6 months (boys: 10.7 months, girls: 10.0 months); GGI = 1 suspension per 11.9 months (boys: 10.4 months, girls: 20.9 months). Because the San Francisco experiment began four years later than that of Sacramento-Stockton, the former samples have only recently attained an adequate size relative to various statistical analyses. Thus, for the former samples, it was necessary to use somewhat shorter parole follow-up periods than in the case of Sacramento-Stockton (e.g., favorable as well as unfavorable discharge within 24 months). For this same reason it was not yet possible to do a postdischarge analysis relative to the San Francisco experiment. Finally, the sample size among San Francisco control follow-ups precluded any meaningful E (CTP) versus C comparisons relative to criteria (3) and (4). However, it was possible to use the latter criteria relative to E (CTP) versus GGI comparisons.

Table III

COMPARISON OF SACRAMENTO-STOCKTON AND SAN FRANCISCO PAROLE FOLLOW-UP FAILURE RATES

		15 Mos. Follow-up		24 Mos. Follow-up	
Program	Location	Boys	Girls	Boys	Girls
Experimental	Sacramento-Stockton CTP	34%	27%	42%	34%
	San Francisco CTP	32%	21%	46%	33%
Control & GGI	Sacramento-Stockton Control	52%	46%	64%	48%
	San Francisco Control	47%	—*	64%	—*
	San Francisco GGI	55%	63%	66%	59%
CYA, Overall	Statewide**	53%	35%	62%	42%

*Too few female Control cases.
**Rates are for comparable group of youths. Figures exclude CTP, Control and GGI subjects.

pared with those for San Francisco in Table III, relative to 15- and 24-month parole follow-up.)

On the whole, E's *(boys and girls combined)* appear to be doing better than C's: the former are ahead, or far ahead, in terms of pre-post psychological testing as well as recidivism. They are also doing better with regard to rate of unfavorable discharge from the CYA. C's are doing better than E's in terms of rate of parole suspensions. (This is somewhat different in the case of San Francisco. See fn. 24 and 25.) Finally, no overall difference is found between E and C relative to rate of favorable discharge from the CYA and rate of postdischarge arrests.

E girls perform as well and, in some cases, better than boys in terms of the above six indices (see fn. 25

and fn. 27). This level of performance is found in San Francisco as well. However, E girls do not compare as favorably with their C counterparts as do E boys: E boys are ahead or slightly ahead of C boys on four of the six outcome measures, while the latter are slightly ahead on one of the two remaining indices.[25] Integrating all six outcome measures separately for each subtype, some 39 percent of the boys (mostly found among Na's, Cfc's, and Mp's) appear to do better within the experimental program, while 10 percent do better in the control program. Some 27 percent appear to do equally well within both the experimental and control programs, whereas about 24 percent do equally poorly within both programs.[26] As a group, E and C girls are doing about equally well:[27] only one clear-cut difference —in favor of the C's—is found on the above indices relative to girls. However, a number of converging trends within this data, observable only at the subtype level, results in a general advantage for the three most common E subtypes. In all, some 26 percent of the girls (mainly found among Nx's and, to a much lesser extent, Mp's and Na's) appear to do better in the experimental program, while 10 percent do better within the control program. Some 38 percent (mainly found among Mp's, Na's, and Nx's, in addition to Se's and Cfm's) do equally well within both programs. Approximately 25 percent seem to do equally poorly within both programs.[28]

In all, approximately 53 of every 100 youths (40 boys, 13 girls) appear to perform equally well (and, in some cases, equally poorly) within the CTP program and the traditional program of institutionalization followed by regular parole. Some 36 of every 100 youths (31 boys, five girls) seem to do better within CTP, while ten out of every 100 (eight boys, two girls) do better within the traditional program.[29]

DISCUSSION

The question of overall operational feasibility of the community-based approach has been fairly well settled since the mid-sixties, relative to CIP's eligible sample. Adequate support or, at a minimum, a relatively free hand, has been given to CTP by key agencies (police and probation) within all settings in which it has operated. The CYA no longer views community treatment in lieu of institutionalization as, largely, an "experimental" venture. Beginning in the mid-sixties, it has operated a number of community-based and community-focused programs which incorporate several features of CTP.[30] In terms of finances, one very practical basis of feasibility, the state has saved several million dollars in capital outlay: when a correctional system is capable of handling a large proportion of offenders within the community *per se*, fewer institutions then have to be built. This has resulted in strong support from budget-conscious legislators. Apart from capital outlay savings, there is the average yearly cost of *maintaining* youths — approximately $2,300 in CTP as compared with $5,800 within CYA institutions and $400 on regular parole, toward the close of Phase Two.[31] In view of the fact that youths who "fail on parole" are sent back (or, in the case of E's, sent) to a CYA institution, the rather high recidivism rate among C's takes on added sig-

[25]Relative to boys, the main findings are: (1) parole suspensions per month (severity levels three to ten): E = 1 per 13.4 months, C = 1 per 15.8 months; (2) recidivism: findings appear in Table III; (3) rate of favorable discharge from CYA: E = 53 percent of boys are discharged within 60 months on parole, C = 48 percent; (4) rate of unfavorable discharge from CYA: E = 8 percent of boys discharged within 60 months on parole, C = 22 percent; (5) psychological test scores: E boys are significantly better adjusted at post-test than C boys, both as to *level* of social adjustment (S.A.) and that of personal adjustment (P.A.), E boys show significantly more positive *change* from pre- to post-testing than C boys, as to degree of S.A., also, they tend to show a greater degree of positive change as to P. A.; and (6) postdischarge arrests within 24 months (severity levels three to ten): E = 0.82 offenses per dischargee (includes total discharge sample, whether arrested or not), C = 0.81 such offenses, E = 1.65 offenses per dischargee with one or more arrests, C = 1.81 such offenses. As a group, the performance of E's appears slightly better than that of C's in view of the latter sample's significantly lesser level of parole risk in terms of a standard base expectancy formula. (R. F. Beverly, *A Comparative Analysis of Base Expectancy Tables for Selected Subpopulations of California Youth Authority Wards*, Research Report 55, (Sacramento: California Youth Authority, December, 1969), pp. 1-25, (mimeo).

[26]Boys who do better within the experimental program comprise about 45 to 55 percent of all individuals who fall within the Na, Cfc, Mp, and Ap categories, respectively, and approximately 30 percent of those within the Nx and Cfm groups. Those who do better within the control program comprise about 20 percent of the Cf's, 15 percent of Cfm's, and 10 percent of Nx's, Na's, Mp's, and Cfc's. Boys who do about equally well within both programs comprise about 70 percent of Se's 40 percent of Cfm's, and some 20 to 30 percent of Nx's, Ap's, Na's, and Mp's. Youths who appear to do equally poorly within both programs comprise virtually all the Aa's, about 40 percent of Cf's, 25 percent of the Mp's, Na's, and Nx's, respectively, and some 20 percent of Cfc's.

[27]Relative to girls, the main findings are: (1) parole suspensions per month (severity levels three to ten): E= 1 per 24.9 months, C = 1 per 38.8 months; (2) recidivism: findings appear in Table III; (3) rate of favorable discharge from CYA within 60 months on parole: E = 91 percent, C = 78 percent; (4) rate of unfavorable discharge from CYA within 60 months on parole E = 0 percent, C = 17 percent (only 11 E and 18 C girls are involved in the favorable and unfavorable discharge analysis; (5) psychological test scores: no significant differences are found when comprising E girls with C girls, either as to level of personal and social adjustment at post-test or as to amount of positive change from pre- to post-test; (6) postdischarge arrests within 24 months (severity levels three to ten): E = 0.27 offenses per dischargee (whether arrested or not), E = 1.00 offenses per dischargee with one or more arrests, C = 0.00 offenses per dischargee, C = -(i.e., not applicable since none were arrested) offenses per dischargee with one or more arrests. (Only 11 E and 11 C girls are involved in the postdischarge analysis.)

[28]The latter girls comprise approximately 15 percent of the Na's and Cfm's, respectively, 25 percent of the Nx's, and 15 percent of the Mp's.

[29]As a corollary, some 89 of every 100 youths (71 boys, 18 girls) do as well or better within CTP as compared with the traditional program. At the same time, 63 of every 100 (48 boys, 15 girls) do as well or better within the traditional as versus the CTP program.

[30]Locations have included Los Angeles (four separate areas), San Francisco, Oakland, and Stockton, California. These units have usually operated with caseloads of about 25 youths per worker. E. M. Pond and C. B. Davis, *Annual Progress Report of the Community Parole Center Program*, (Sacramento: California Youth Authority, December, 1969), pp. 1-3, (mimeo); E. M. Pond, *The Los Angeles Community Delinquency Control Project, Research Report No. 60*, (Sacramento: California Youth Authority, September, 1970), pp. 1-6, (mimeo).

[31]Information Systems Section Staff, *Some Statistical Facts on the California Youth Authority*, (Sacramento: California Youth Authority, January, 1970), pp. 29-30, (mimeo). It will be recalled that youths who go through the regular CYA program spend an average of approximately nine months within an institution prior to first release to parole.

nificance relative to the present context.[32] The significantly higher rate of unfavorable discharge among C's has further bearing upon the cost factor, what with more than three-fifths of all such dischargees being sent directly to a state or federal correctional institution.[33]

The situation which relates to feasibility of *differential treatment* appears to be more complicated than that which centers around the operation of a community-based program *per se*:[34]

(1) Within CTP, implementation of the differential treatment concept has taken place in the context of a relatively well-defined, nine category classification system. Relative to this system, a fairly high level of clinical skill—or a number of months direct experience in utilizing I-level concepts and/or observing representative youth subtypes—one or more of these appear to be needed in order to achieve or exceed, primarily by means of interview techniques, the 80 percent level of diagnostic accuracy.[35] Depending upon the subtype composition of the particular delinquent sample, certain combinations of psychometric testing, followed by a short interview, have been found to approach this figure with respect to I-level accuracy, but not in terms of subtype accuracy.[36] Similar findings and considerations apply with regard to interview-based level of accuracy at the termination of an intensified, five- to nine-week course of training in differential diagnosis and treatment relative to line and supervisory staff outside of CTP.[37]

(2) CTP's treatment prescriptions relate to long-term intensive involvement with youths, as versus shorter-term and/or nonintensive involvement. Prescriptions of the former type[38] quite possibly require a greater degree of agency support and organizational flexibility than would the latter. Thus, for example, the given agency must come to terms one way or another with such issues as (a) allowing and helping program administrators to carefully select and, where necessary, further train their treatment staff and treatment supervisors; (b) establishing small or moderately small-sized parole caseloads; (c) supporting parole agents' rational treatment decisions to the extent possible, even in the face of occasional delinquent acting out on the part of youths or persistent objections on the part of guilt-ridden, confused, self-serving, or anti-agency parents; (d) making available specialized program features (e.g., community center, out-of-home placements, recreational opportunities, coeducational activities). To be sure, it is *not* known precisely which among the above factors and features are actually indispensable in terms of helping to make CTP a generally successful approach. However, some leads have been established.

Within and outside of CTP, line and supervisory staff frequently state that there seem to be certain advantages in attempting to utilize the differential and relatively individualized prescriptions which have been outlined in the treatment manual relative to given types of youth. Included are: (a) helping agents and supervisors specify and interrelate the role of various kinds of program resources (e.g., school, out-of-home placement) from the vantage point of stated, long-range goals which seem appropriate for given youths; (b) obviating the use of irrelevant or ineffective methods, thereby increasing overall case efficiency, conserving program resources, and reducing parole agent, as well as youth frustration; (c) familiarizing staff with danger signs and with ways of productively intervening during decision points or critical phases in the youth's life. Any such utilization would, among other things, be contingent upon the availability of an accurate subtype diagnosis or, in certain instances, at least an accurate I-level diagnosis.

Selection and training of staff may be of considerable importance in terms of adequately implementing the concept of *matching*, at least within the framework of long-term, intensive, or extensive treatment.[39] However, no systematic investigation has been done in this regard—involving, e.g., random assignment of selected as well as unselected parole agents to the CTP program. To date, the overall impression has been that clinically skilled or interpersonally sensitive individuals are needed to carry out the task of selecting and matching job candidates for the purpose of adequately

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[32]The average cost per youth for each period of institutionalization was $4,400 toward the close of Phase Two. As shown in Table III, 64 percent of male C's are re-institutionalized on at least one occasion within two years after having first been released to parole. Some 31 percent of C's (34 percent boys, 21 percent girls) are returned to an institution on two or more occasions during their CYA career, and approximately 15 percent are reinstitutionalized on three or more occasions. T. B. Palmer, *Community Treatment Project Research Report No. 8, Part 1*, (Sacramento: California Youth Authority, September, 1967), pp. 9-12, (mimeo).

[33]T. B. Palmer, *Community Treatment Project Research Report No. 9, Part 3*, (Sacramento: California Youth Authority, October, 1968), pp. 9-10, (mimeo). Also see: B. Cantor and S. Adams, "The Cost of Correcting Youthful Offenders," *D. C. Department of Corrections Research Report No. 6*, (September, 1968), pp. 1-12, (mimeo).

[34]Since these two features, differential treatment and community treatment, have operated simultaneously within CTP, it is not possible to entirely separate one from the other in the present review of feasibility and operational requirements. This applies to matching as well.

[35]T. B. Palmer, *Reply to Eight Questions Commonly Addressed to California's Community Treatment Project*, (Sacramento: California Youth Authority, Oc ober, 1970), pp. 3-5, (mimeo). The particular differential treatment framework which is used at CTP requires high levels of diagnostic accuracy (actually, greater than 80 percent at the subtype level, and 90 percent in terms of I-level), This is needed for purposes of treatment planning at an individual level; and as a result, second ratings of tape recorded intake interviews are often required.

[36] C. F. Jesness and R. F. Wedge, *Sequential I-level Classification Manual*, (Sacramento: California Youth Authority, August, 1970), pp. 29-48, (mimeo).

[37]M. J. Molof, "I-level Classification at the California Youth Authority Clinics," *Interim Report*, (Sacramento: California Authority, July, 1969), pp. 20-38, (mimeo); personal communication: Center for Training in Differential Treatment (CTDT), Sacramento, California, Fall, 1970; Interview-based "subtype accuracy" (nine categories: Aa, Ap, etc.) generally ranges between 50 to 70 percent at the close of CTDT training and 70 to 85 percent relative to "level accuracy" (three categories: I_2, I_3, and I_4).

[38]Not all classification systems would be associated with treatment prescriptions of this type. As a result, some might be easier to implement than others; but this factor, of course, needs to be distinguished from that of utility.

[39]During Phases One and Two, approximately one of every four or five interviewed CTP worker-candidates were seen as "well-matched" and were accepted into the experimental program. Control agents underwent no special selection procedure beyond those which they had already completed relative to civil service and CYA requirements for the category of parole agent.

implementing CTP's particular, albeit flexible, treatment prescriptions relative to the various I-level subtypes. It is difficult to tell whether much the same level of "selection and matching skill" would be needed with reference to differing prescriptions and classification systems.[40]

Some aspects of the community-based, differential treatment and matching approaches would probably be difficult to implement within areas of low population density. This relates to various tactical, organizational and treatment considerations—e.g., youth's overall degree of access to program resources in light of distance or travel time to a community center; caseload distribution of a possibly full range of youth subtypes with regard to a small number of workers, each of whom cover relatively wide geographic areas; etc.

Various indices of effectiveness, together with research observations which extend over several years, point toward the following factors as having made a substantial contribution to the comparative effectiveness of CTP:[41] (1) *matching* of given types of agents with given types of youth; (2) level of *ability and perceptiveness of agents* who have been selected for the CTP program; (3) *treatment prescriptions and individualized programming* which may involve intensive and/or extensive intervention by agents relative to several areas of youth's life (e.g., family, school) and which first becomes operationally feasible within the context of small caseload assignments: (4) *decision-making*—(a) differential decision-making and (b) treatment relevant decision-making as an expression of differential treatment prescriptions, maximum utilization of augmented program resources, sufficient flexibility to shift treatment directions and emphases during and after times of crisis, and accumulated knowledge of given youth subtypes' patterns of acting out; (5) emphasis upon a *working-through of the agent/youth relationship* as a major vehicle of treatment.[42]

The relative importance of each such factor appears to vary from subtype to subtype.[43] An account of the derivation of these factors must be reserved for a separate report. However, one set of data may be mentioned relative to the factor of matching: CTP E males who were not closely matched with their parole agent had a parole failure rate of 43 percent on 15-months follow-up, while those who were closely matched with their agent had a failure rate of 19 percent ($p < .01$ in favor of the "matched" E's). The same substudy showed only a slight tendency in favor of the former, not well matched, E males as compared with C males.[44]

Present evidence provides little support for the hypothesis that E's perform better than C's simply as a result of having avoided institutionalization (Ins.): for example, when the factor of Ins. is held relatively constant across E and C programs (through a comparison between E youths and C "direct parolees" plus "early releases to parole")[45] the community-located E program is found to perform better with reference to 24-months follow-up than what may be termed the community-located C program (traditional parole, with prior institutionalization omitted or greatly reduced). At the same time, the direct parole/early release group of C's perform slightly but not significantly worse on parole follow-up than C's who have experienced the regular Ins. program.[46] Along this same line, comparisons between Guided Group Interaction (GGI), a community-based operation, and control suggest that avoidance of institutionalization does not invariably result in lowered rates of recidivism (Table III). As a corollary, comparisons between GGI and CTP suggest the presence of a range of effectiveness among differing community-based programs themselves.[47]

Other factors which have been suggested as possible contributors to comparative effectiveness of the Phase One CTP program include (1) type and/or size of city (Sacramento-Stockton as versus larger, more urbanized settings) and (2) type and amount of prior education and prior experience on the part of CTP agents. Data which became available during Phase Two suggest that these factors have contributed very little to overall effectiveness of the E program.[48]

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[40]Within CTP, a 105-item rating scale developed in recent years shows promise of lessening to at least some degree the level of clinical sensitivity required for accurately matching agent and youth and, in part, of objectifying the process of matching. However, skillful interviewing would probably still be required in terms of eliciting the type of information which is used when rating CTP agent-candidates. Palmer, *op. cit., supra* note 14, pp. 44-45. A self-report inventory was developed for agent-candidates, but has worked out only minimally well. T. B. Palmer, *Community Treatment Project Research Report, No. 10,* (Sacramento: California Youth Authority, November, 1970), pp. 43-44, (mimeo).

[41]Given indices of effectiveness are associated with some but not all of the "contributing factors" which are listed. For example, factor (5), working through of agent/ward relationship, is best reflected in terms of E versus C psychological test scores, whereas factor (4a), differential decision-making, is not. The latter factor is best reflected in terms of (and is itself a contributor to) comparative rate of recidivism, particularly at 15-months follow-up. At the same time, factor (4a) is hardly reflected in (and makes little contribution to) comparative rates of favorable and unfavorable discharge—since these are a function of relatively cut-and-dried, uniformly applied CYA standards.

[42]Palmer, *op. cit., supra* note 14, pp. 51-60. The factor of "differential decision-making" is described in: *CTP Research Report, No. 9, Part 3, op. cit., supra* note 33, pp. 1-33.

[43]The research design of Phases One and Two did not make possible a quantitative and systematic assessment of the absolute and relative contributions to outcome variance on the part of these five factors, a number of which are mutually interacting.

[44]Parole failure rates are 43 percent and 53 percent, respectively, at 15-months follow-up ($p < .20 > .10$). (C youths were assigned to C agents on a geographic basis.) Palmer, *op. cit., supra* note 14, pp. 46-48. Recent figures for matched versus unmatched E males are 23 percent versus 49 percent parole failure rate at 15-months ($p < .01$), and 34 percent versus 57 percent at 24 months ($p < .05$).

[45]These youths comprised 21 percent of the Sacramento-Stockton sample. Most such subjects were returned directly to the community setting from the CYA reception center within less than ten weeks after having first entered the CYA.

[46]Parole failure rates at 24 months follow-up are 59 percent (66 percent boys, 50 percent girls) and 50 percent (49 percent boys, 51 percent girls), respectively.

[47]Also see Palmer, *op. cit., supra* note 40, pp. 25-34.

[48](a) For example, see Table III relative to the factor of setting—semiurbanized versus highly-urbanized. (b) A separate substudy revealed no significant differences between E and C agents with regard to education and job experience. Palmer, *op. cit., supra* note 3, pp. 15-22.

The Community Treatment Project has had considerable impact within California corrections at both the local and state levels. Several states outside of California, primarily Western states, have sent line, supervisory, and/or administrative staff to be trained at the Center for Training in Differential Treatment[49] located in Sacramento. A number of programs which incorporate certain features of CTP have already been established outside of California (e.g., Kennedy Youth Center, West Virginia; Ormsby Village Treatment Center, Kentucky; Federal Probation Officer Case Aide Project, Illinois) or have recently been funded (e.g., Bronx Community Counseling Project, New York; Camden Community Treatment Center, New Jersey). Considerable interest has been expressed in Canada and elsewhere outside the U.S.A.[50] The concepts of community treatment and, to a lesser extent, differential treatment and matching, are just now beginning to be extended into the area of delinquency prevention as well.[51]

SUMMARY AND CONCLUSION

Since 1961, the Community Treatment Project has handled seriously delinquent juvenile offenders who have been committed to the state correctional system from four California communities. Rather than being institutionalized, these youths are placed directly into the small caseload, intensive CTP parole program. There, after being "matched" with a parole agent, they receive "differential" or relatively individualized, as well as long-term treatment. An "interpersonal maturity level" system is used to classify youths. Specific variables have been identified for the purpose of matching parole agents with youths.

Experimental-Control comparisons indicate that the CTP program has been able to handle a arge majority of eligible youths (8[illegible] percent) at least as effectively as has the traditional program of nstitutionalization followed by routine parole supervision. (The advantages of CTP over the traditional program are much clearer in the case of boys than girls, in part because most girls perform moderately well within both types of program.) Some 36 percent of the sample perform better within CTP than in the traditional program, while 10 percent do better within the traditional program. Close to 25 percent do rather poorly within both types of program. A major objective of CTP, Phase Three (1969-1974; MH 14734) is that of developing more effective techniques and settings for working with this rather sizable, "unsuccessful" group. Another objective is that of determining whether the CTP approach can be applied successfully to a *wider* range of offenders than have been handled to date—e.g., those committed from adult courts or else for seriously assaultive offenses. Attempts are being continued relative to isolating the factors which may be contributing to program effectiveness (e.g., worker sensitivity and personal qualities; specific treatment techniques and program components). Since 1968, CTP research staff have conceptualized treatment processes and products in terms of at least four very broad interacting variables: type of program, type of treatment environment or setting, type of client, and type of worker.[52] The process of defining and refining these several "types" is continuing.

The utility, and operational feasibility, of a community-based approach to the handling of serious adolescent offenders has been demonstrated at CTP and elsewhere. Thus far, there appears to be considerable utility with regard to matching and *intensive* differential treatment as well, particularly in connection with given youth subtypes. The operational feasibility of these latter approaches has been established at CTP and in a few other places within and outside of California. However, full-scale implementation of these latter features appears to be a matter of considerable complexity, despite the fact that a good deal is thought to be known regarding *which* particular factors need to be taken into account. At the present time, comprehensive implementation of differential treatment and matching appears to be somewhat beyond the reach of most probation and parole departments within the United States on anything other than a relatively limited scale. On the other hand, modifications and adaptations of the CTP approach seem to be within the realm of possibility, particularly in terms of community-based treatment *per se*. One can only speculate as to what may be feasible within another five years.

[49]Jointly sponsored by NIMH (MH 10893), the American Justice Institute (formerly the Institute for the Study of Crime and Delinquency), and the California Youth Authority.

[50]M. Q. Warren, *Correctional Treatment in Community Settings: A Report on Current Research*, prepared for the Sixth Annual International Congress on Criminology, Madrid, Spain, pp. 10-22, September 21-27, 1970.

[51]H. Ohmart, "An Exercise in Rationality," *California Youth Authority Quarterly*, 23(2): 16-24, (Summer, 1970); M. Q. Warren, *A Differential Intervention Model Aimed at Predelinquent and Other Vulnerable Children*, presented at the Delinquency Prevention Strategy Conference, Santa Barbara, California, February 17-20, 1970; T. B. Palmer, *California's Community Treatment Project in 1969: An Assessment of Its Relevance and Utility to the Field of Corrections*, prepared for the U.S. Joint Commission on Correctional Manpower and Training, March, 1969, pp. 45-67, (mimeo).

[52]Palmer, *op. cit., supra* note 14, pp. 58-59.

APPENDIX NO. 29

A SYNOPSIS OF CALIFORNIA'S GROUP HOME PROJECT FINAL REPORT

("DIFFERENTIAL PLACEMENT OF DELINQUENTS IN GROUP HOMES")

by

Ted D. Palmer

Sponsors:

CALIFORNIA YOUTH AUTHORITY

and

NATIONAL INSTITUTE OF MENTAL HEALTH

Spring, 1972

*Official title: Differential Treatment Environments For Delinquents. This study was supported by PHS Research Grant No. MH 14979, NIMH, (Center for Studies of Crime and Delinquency).

INTRODUCTORY REMARKS

Increasingly, group homes are being utilized as an out-of-home placement resource for troubled and troublesome youths. This is largely due to the part which they seem able to play in helping avoid unnecessary removal from the community setting and in facilitating an earlier release from institutions as well. All in all, group homes appear to fit right in with today's emphasis upon the strategy of "diversion", in general--and greater usage of community resources, in particular. They are also less expensive than various forms of institutionalization.

A great deal remains to be learned about the effective use of group homes, and group home staff. Despite (and, because of) today's limited knowledge and experience, a "panacea phase" has emerged within recent years in connection with group homes. This "phase" has been characterized by high hopes, a relatively undifferentiated usage, and, quite probably, an over-usage of group homes. In the final report of the California Youth Authority's Group Home Project, an effort is made to delineate some of the issues and limitations which may have to be faced when the current wave of enthusiasm begins to subside. Hopefully, one product of Projects such as this will be a more discriminating, efficient and integrated utilization of this potentially valuable, yet potentially very troublesome, tool: group homes.

THE GROWING USE OF GROUP FOSTER HOMES

Since 1967, group homes have increasingly been viewed as a significant resource for meeting the placement and developmental needs of delinquent, predelinquent, dependent, and neglected children, and adolescents as well. Between July, 1969 and June, 1970 alone, the Youth Development and Delinquency Prevention Administration (YDDPA) issued 24 separate federal grants to state and local agencies within a total of 20 states, to facilitate the establishment, expansion, and evaluation of group homes.[1] This trend is also observed outside of the USA, e.g., in England, Australia, New Zealand, and Israel. By the late 1960s England, Australia, and New Zealand each had between 20 and 40 state-administered "youth hostels" or "family homes". Recent books and reports have provided some historical perspective, and pertinent research data as well, related to the use and implications of out-of-home placements.

Group homes usually accommodate from 4 to 8 youngsters at any one point in time, although some are built to house as many as 10 or 14 individuals. Typical age-groupings within any given home are: 8 to 12, 12 to 15, and, most common of all, 15 to 18. A few homes accept individuals in their early 20s. Referrals may come from one or more of a variety of sources, including local courts (in lieu of, or as a condition of, parole;

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[1] Juvenile Delinquency Prevention and Control Act of 1968. Fiscal Year 1970 Grants. Youth Development and Delinquency Prevention Administration. U. S. Department of Health, Education, and Welfare. Washington, D.C. 1970.

in lieu of, or subsequent to, institutionalization), state agencies, private agencies, community mental health centers, relatives, and self. Individuals ordinarily receive an intermediate-length placement (2-5 months) or, more commonly, a long-term placement (6-12 months, or more). However, it is not uncommon for individuals to be accepted on an emergency (1-3 days) or short-term (5-25 days) basis. The staff typically consist of a full-time, non-professionally trained husband-and-wife, supplemented by part-time (e.g., culinary or domestic) and/or relief personnel. Professionally trained staff, together with volunteer and/or "paraprofessional" personnel, are by no means uncommon, whether as adjuncts to, or full-time substitutes for, the more typical husband-and-wife pattern.

THE GROUP HOME PROJECT

Nature and Objectives

From April, 1966 through September, 1969 the California Youth Authority (CYA) and National Institute of Mental Health sponsored a Group Home Project. This was a demonstration program which focused upon the feasibility of establishing specified types of group homes for seriously delinquent male adolescents. It was also concerned with describing the nature, and assessing the impact, of these homes. The homes were operated within the structure of California's Community Treatment Project (CTP).[1] CTP is an intensive, low-caseload, community-based program for juvenile court commitments, ages 13 through 19 at intake; it has operated continuously from 1961 to the present.

The study sample consisted of adolescents who had been committed from local courts to the state correctional system, after an average of five police arrests. (These individuals comprised that 1 out of every 13 or 14 youths who had not "made it"--i.e., did not "succeed"--on probation alone. In this respect, they were quite un-representative of the typical, local probation population.) Seriously assaultive cases--those committed in connection with armed robbery, forcible rape, etc.--were excluded.[2]

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[1] Between 1961-1969, CTP (MH 14734) was an experiment in the intensive treatment of delinquent youths within their home communities, and without a period of prior institutionalization. (Average caseload size was 11 - 12 youths per parole agent.) This is in contrast to the traditional CYA program--viz., institutionalization for several months, then followed by non-intensive parole (60 - 70 cases per agent). CTP was operated mainly in Sacramento and Stockton, California. It operated in San Francisco (1964-1969) and Modesto (1967-1969) as well. The utility and/or effectiveness of the 1961-1969 community-based CTP program, as compared with the traditional program, was evident particularly in relation to: lower rate of recidivism (revocation of parole); greater positive pre-post psychological test score change; lower proportion of unfavorable discharge from parole; and, major reduction in capital outlay costs with regard to construction of new residential facilities.

[2] Three of every 10 male commitments were thus excluded from the study sample.

The 215 page final report is a summary and review of the experiences and findings of the Group Home Project. The incentive for this Project emerged from early experiences within CTP. For example, as early as 1962 CTP parole agents were utilizing out-of-home placements at least five times more often than agents with regular caseloads, outside of CTP. While far from ideal, Independent out-of-home placements seemed to pose few unusual difficulties within CTP. However, problems were frequently encountered in relation to individual foster homes--e.g., problems with reference to obtaining and establishing suitable homes, maintaining them, and integrating them within the overall operation. Operations staff began to feel that--if carefully coordinated with other CTP activities--specified group homes could probably provide a more controlled and, hopefully, a reasonably appropriate living environment for youths who, while not yet ready for independent placement, were in need of a long-term, out-of-home living arrangement. They visualized possible advantages of a group living arrangement over that found within the typical, individual foster home. Beyond this, staff began taking note of the several instances in which, on the one hand, (a) formal, secure custody (e.g., juvenile hall) seemed neither essential nor appropriate--yet, on the other hand, in which (b) temporary housing did appear to be needed (and, often, at unpredictable times).

In 1965, a proposal--"Differential Treatment Environments for Delinquents (DTED)"--was drawn up by CTP staff.[1] It utilized, as its theoretical frame of reference, the I-level classification system which had been pioneered at

[1] Look, L. and Warren, M. (1965), "A demonstration project: differential treatment environments for delinquents". Proposal submitted to NIMH. California Youth Authority.

CTP[1] and which constituted an essential part of the latter's existing research design.[2] The Group Home Project sought to establish five types of group homes--three for long-term care (Types I, II, and III) and two for temporary care (Types IV and V). The five homes would differ from one another in specified ways. For example:

> Type I--Protective: Would be designed for conspicuously immature and dependent youths, whose family background has involved many elements of neglect or brutality. The home would attempt to approximate normal, non-disturbed family living as closely as possible. A maximum of four youths--Ap's and Cfm's--could be served at any point in time.

[1] A given individual's position within this sytem is determined primarily by means of a lengthy, in-depth interview. The I-level designations, and related youth-subtypes, are:

I-Level	Subtype	Code
Lower Maturity (I_2)	Asocialized, Aggressive	Aa
	Asocialized, Passive	Ap
Middle Maturity (I_3)	Conformist, Immature	Cfm
	Conformist, Cultural	Cfc
	Manipulator	Mp
Higher Maturity (I_4)	Neurotic, Acting-out	Na
	Neurotic, Anxious	Nx
	Situational Emotional Reaction	Se
	Cultural Identifier	CI

For brief definitions, see: Palmer, T. (1971), California's community treatment program for delinquent adolescents. J. Res. in Crime and Delinq., 8, No. 1: 74-92.

[2] Sullivan, C., Grant, M., and Grant, J. (1957), "The development of interpersonal maturity: applications to delinquency". Psychiatry, 20: 373-385.

Type II--Containment: Would be designed for youths who are often labeled 'defective characters', 'psychopaths', and/or 'culturally conforming delinquents'. The home would provide clear structure and firm limits. It would operate on a 'non-family' basis and would emphasize concrete, attainable demands for socially acceptable, constructive behavior. A maximum of six youths--Mp's and Cfc's--could be served.

Type III--Boarding: Would be designed for the more interpersonally mature youths--those who might soon be able to maintain themselves in an independent placement. The home would attempt to provide a 'YMCA hotel' atmosphere--while also allowing for personal relationships to develop on the youths' initiative. A maximum of six youths--chiefly Na's and Nx's, but conceivably Ci's and Se's in addition--could be served.

Type IV--Temporary Care: Would be designed for youths who have a temporary placement need, but for whom both custody and independent living are viewed as neither appropriate nor a placement of choice. Where possible, youths in this home would be allowed to continue their regular CTP program (e.g., counseling, school, work, etc.)...and, if appropriate, to even 'do very little' if this might help them 'calm down'. A maximum of six youths--from any I-level or subtype--could be served.

Type V--Short Term Restriction: Would be designed for youths in need of fairly restrictive behavioral limits, yet not necessarily in need of detention within local juvenile halls, CYA facilities, local jails, etc. A type of 'house arrest' rather than an actual 'locked door' policy would prevail. Placement would be limited to about one week--during which time at least some of the youth's treatment program would hopefully be continued. A maximum of six youths--from any I-level or subtype--could be served.

Some of these homes would be established within the Sacramento area (pop. 250,000) while others would be established in or near Stockton (pop. 100,000).

As it turned out, two additional types of homes were studied during the Project period: A long-term care model which had not been described in the DTED proposal was defined, by group home staff, during the Project's second year. This type of home--"Type VI, Individualized"--was established shortly thereafter and remained in operation for thirteen months.

> The Type VI home was designed to accommodate up to six higher maturity youths. In the main, these would be Na's and Nx's who were not in a position to concentrate upon the issues of physical and/or emotional emancipation, yet who seemed in need of a healthy, 'family-life' situation in which at least one of several types of relationships--with adults--could theoretically be made available to them. The scope and focus of the relationships would vary as a function of the needs, interests and limitations of the individual youth. Much flexibility would be allowed relative to expectations placed upon youths within the home (individually and collectively).

Finally, a Girls Group home (Type VII) was studied for a period of nine months. This took place during the final thirteen months of the Project. The girls home--for long term care--had been in operation within CTP for eleven months prior to its being officially focused upon by group home staff.

The objectives of the Project were:

(1) to determine the feasibility of establishing and maintaining the Type I - V group homes;

(2) to develop a taxonomy of relevant environments;

(3) to evaluate the impact of group home experiences upon youths placed within them.

Theoretically, this would be the most significant developmental distinction between youths who were to be placed within the Individualized home and those within the Boarding home.

An additional, implicit objective was that of assessing the general worth or utility of each of the given homes, and of the group home concept per se. The assessment of impact--i.e., objective (3)--would necessarily be 'global' rather than precise. This mainly reflected the fact that no control group would be built into the program--i.e., no random assignment into the group homes, either individually or collectively.[1] It also reflected the fact that--for any given youth--the group home experience would represent only one of several 'inputs' and/or program components available within CTP.

Operations and Main Results

The Group Home sample was made up exclusively of youths who were part of CTP, and whose parole agents were regular CTP personnel. During the former Project's three years of existence, 8 boys homes were studied (6 for long-term placement; 2 for temporary care). Four long-term homes and 1 temporary care home lasted over a year;[2] the others were short-lived. One girls home was studied; it lasted close to two years. No homes were "mixed", i.e., coeducational. Virtually all homes were large, private dwellings, located well within the city limits of either Sacramento or Stockton. They housed a maximum of six youths at any one time; the average number of youths was four.

[1] As vs. assignment into, or placement within: (a) individual foster homes, (b) own natural (family) home, (c) independent placement, (d) local juvenile halls, jails, or CYA holding facilities, (e) other specified environments.

[2] Of these, three lasted 20 months or more; one lasted 18 months.

For the four long-term homes which remained in operation at least a year, the average duration per placement was 6.0 months. Of these placements, 36% lasted 0 - 2.9 months, 37% lasted 3 - 7.9 months, 15% lasted 8 - 11.9 months, and 11% lasted 12 months or more.

All homes were operated by a non-professionally trained, husband-wife "team", known as "group home operators". There were no supplementary personnel within the home[1]--e.g., culinary, domestic or relief. Nor were there any volunteers and/or "paraprofessionals".

Collectively, the group home operators tended to come from the lower-middle class socioeconomic segment of the community. On the average, they had not quite completed eleven school grades. Although 21% had continued beyond high school, none had completed college. While all "races" were represented, a sizable majority (71%) were Caucasian. A wide age-range (25 to 74) was included; the average age was 44. 29% were under 30; 71% were 40 or older; 36% were 50 or older. All home operators were married couples. Most couples had two or more youngsters of their own living within the home. 57% of the home operators had had at least one year of prior foster home experience.

All group home operators worked in conjunction with one or more CTP parole agents. These agents always had primary legal responsibility for all youths on their caseload regardless of the latters' particular placement-status. Nevertheless, efforts were made to operate the homes on the basis of a "team approach" (e.g., joint agent-operator involvement; joint decision-making). Differential (but generally limited) success was achieved in this regard, depending upon the particular home and the specific area of involvement.

[1] Whether full-time or part-time.

A small research staff was responsible for data collection and analysis, plus liaison with Operations staff and home operators.

The following related to the total Project-period. Across all homes, 63 boys were placed (39 = long-term placements; 24 = temporary care). Several youths were placed into a given home on more than one occasion. (This was especially true of those who had been placed into the Temporary Care home.) In all, there were 93 separate placements (51 = long-term; 42 = temporary care). In addition, 11 girls (12 placements) were involved with respect to the Girls Group home.

During the three years of group home operation, 18 male parole agents utilized the 8 boys homes (collectively). At any point in time, the typical number of agents making use of any one home was three.

Although the number of group home candidates was generally low, all but one of the "group home-models" (i.e., specified environments for specified youth-subtypes) were relatively easy to establish.[1] Negative community reaction was virtually absent throughout the Project's existence.

Long-term group homes were used to a moderate, but by no means large extent. (These homes were utilized approximately half as often as traditional, individual foster homes.) When used, they seemed to represent a very plausible out-of-home placement alternative for the given youths. In retrospect, possibly one-third of these youths might have done about equally well within adequately staffed, individual foster homes.[2] However, with few exceptions, individual foster homes were not available at the time of maximal placement need; nor were they likely to be available within the near future.

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[1] The Short-Term Restriction home was never established.

[2] Apart from this, some youths in foster homes could probably have done equally well within a group home setting.

Considerable use was made of the Temporary Care home. Relative to a number of youths and situations, this type of setting appeared to have definite advantages over most others (e.g.,: independent placement; relatives; individual foster home). In some respects it was used as a two-way, "satellite station".

CTP boys who were placed into long-term homes (Group 1) performed somewhat better than CTP boys who were not placed (Group 2). The figures for Groups 1 and 2, respectively, were 17% vs. 31% "parole failure"[1] at 15-months followup, and 33% vs. 43% at 24-months followup. Controlling for age and "type" of youth,[2] the comparable rates were 9% vs. 33%, and 27% vs. 43%. Neither set of figures attained statistical significance, probably because of the small number of subjects involved. When specified, ad hoc analytic restrictions were lifted--thereby increasing both the Group 1 and Group 2 sample-sizes--statistical significance was more closely approached, again in favor of Group 1 youths.[3]

From an overall operational standpoint, there appeared to be two quite successful boys group homes--the "Boarding" home, for higher maturity youths, and the "Temporary Care" home, for all types of youth. (The Girls Group home was also found to be successful and satisfying.) The "Protective" and "Individualized" homes were only moderately successful. Under different, specified conditions, these homes could probably be more successful and substantially more efficient. At least two of the 8 boys homes were unsuccessful. The "Containment" home for Mp's ("manipulators") and Cfc's ("cultural conformists") was able to achieve initial stability with respect to the former youths--but not much else. The originally described model for this type of home required major modifications. A "mini group home" approach was suggested relative to Cfc's and Mp's.

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[1] This included: recommitment by the courts, revocation of parole, or unfavorable discharge from the California Youth Authority.

[2] This resulted in slightly different samples (parole followup cohorts).

[3] $p < .10$ and $p < .20$, for the 15- and 24-months followups, respectively.

As compared with middle maturity youths (particularly Cfc's and Mp's), higher maturity individuals (chiefly Nx's) seemed more likely to profit from long-term placement within specified group homes.

It was clear that certain youth-subtypes[1] could profitably be intermingled, within specified long-term homes.[2] It was also possible to mix together carefully selected, middle and higher maturity youths.[3] However, the latter might not represent an "ideal" situation, at least not usually.

Considering all boys homes, collectively: Despite the occasional emergence of moderately serious or serious problems, daily living proceeded in a predictable, relatively smooth, and generally acceptable manner from the standpoint of most youths, home operators and agents. Serious difficulties seldom materialized, particularly when one considers the many areas of potential difficulty. However, when they did emerge, at least some such difficulties evolved into major bones of contention in relation to certain operator-youth combinations. These, in turn, were sometimes capable of adversely affecting other areas of daily living, and altering the general home atmosphere as well.

Perhaps surprisingly, the optimal number of youths within most long-term homes appeared to be 3, or 4.[4] Beyond that, the number of operational drawbacks seemed to rapidly escalate. This number would vary a little (e.g., rise) as a function of specific youth-subtype, or combinations of youth-subtype. In any event, the original estimate--viz., 6 youths--would probably be more than most non-professionally (and, quite possibly, professionally)

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[1] E.g., Na's ("neurotic, acting-out") and Nx's ("neurotic, anxious").

[2] This applied to short-term homes, as well.

[3] E.g., Cfm's ("immature conformists") and Nx's. Various other subtype-"mixes" would probably not work out too well.

[4] This excludes the home operators' own children.

trained individuals could handle--i.e., handle successfully, on a relatively intensive, long-term basis. Home operators who could handle even four or five youths at any one time, within the context of a complex and active group home program, would probably be characterized by a rather uncommon degree of overall "strength", and skill. In this respect, the issues of recruitment and training become crucial.

The optimal number of parole agents who would make simultaneous use of a home seemed to be 2 (and, under some conditions, 3).

It was felt there would be advantages to having professionally trained individuals operate group homes. These might or might not be husband-wife "teams". Most, though not all of the present youths seemed able to profit from an extensive or intensive exposure to a husband-wife combination. Group homes would probably remain of relevance to many if not most such individuals, even in the absence of this particular feature.

Questionnaires and tests (self-ratings, staff-ratings) showed moderate promise in connection with the selection and general matching of adequate home operators. It seemed that increased emphasis should be given to the issue of operator-youth (and operator-agent) matching.

The following were among the remaining areas covered in the final report:

Group home atmospheres and group home personnel were described on the basis of relatively well-standardized measurement devices--primarily the Moos Social Climate Questionnaire and the Parental Attitude Research Instrument.

An extensive list was provided in connection with the main problem areas, and non-problem areas, which were encountered as part of everyday living within group homes for boys.

The report concluded with a lengthy review and discussion of the major operational issues which emerged across a number of homes.

APPENDIX NO. 30

JAILS AND LOCKUPS IN INDIANA

By Robert G. Culbertson And James A. Decker

State of Indiana
Otis Bowen, M.D., Governor

Department of Correction
Robert P. Heyne, Commissioner

Division of Research And Statistics
Jeffrey L. Schrink, Ed.D. Director

Revised Edition
February, 1973

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JAILS AND LOCKUPS IN INDIANA

by

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A survey of jails and lockups in Indiana conducted by the Indiana Department of Correction, Indiana Criminal Justice Planning Agency and Indiana State University.

This survey was funded in part by the Indiana Criminal Justice Planning Agency through a Paid Research and Statistics Internship Grant (Project: S-21-72-F-3) to the Indiana Department of Correction.

The first printing was made by the Department of Criminology, Indiana State University, Terre Haute, Indiana, in October, 1972, during the Administration of Governor Edgar D. Whitcomb. The Executive Director of the Criminal Justice Planning Agency at this time was Mr. William Greeman, and the Corrections Coordinator was Mr. George Stultz.

This printing was made by the Indiana Youth Center vocational printing class under the direction of Mr. Larry Edwards. The Superintendent of the Youth Center is Mr. William Elsbury. Printing and distribution costs of this publication were paid for by the Indiana Criminal Justice Planning Agency through Project: S-34-71-F-3. The present Executive Director of the Indiana Criminal Justice Planning Agency is Mr. Frank Jessup and the Corrections Coordinator is Mr. George Stultz.

February, 1973

FOREWORD

Crime and delinquency have become the most serious problem facing America today, and Americans are demanding that something be done to curb its increase. Professionals in the criminal justice system are well aware of this and are beginning to realize that if they are to meet this challenge they must critically review their various operations to determine what is working, what will work with modification, and what should be discarded. Indiana is no exception in this matter.

Over the last few years, the Indiana Department of Correction has made some notable efforts at critical self-evaluation in a number of areas. Unfortunately, none of these efforts has involved county jails or city lockups in the state. In January, 1972, Commissioner Robert Heyne, well aware of this situation, directed that an intensive statewide study be made of the jails and lockups of the state.

Fortunately for the Department, a study of a more limited but similar nature had just been completed under the direction of Mr. Charles J. Holmes, Commissioner of the Kentucky Department of Correction, who was at that time Director of Region VII, Indiana Criminal Justice Planning Agency. The report entitled "Jails in Southern Indiana" limited itself to Region VII and was largely the work of Mr. Holmes' assistant, Mr. Richard L. Martin.

In the interest of expediency, the Department of Correction utilized the questionnaire that was designed for the Region VII study. Copies of the questionnaire were sent to the District Parole offices requesting that parole officers make personal contact with a responsible person in each county jail or city lockup in their districts to obtain the necessary information. The information from the questionnaires was then compiled by central office personnel and forwarded to the Indiana Criminal Justice Planning Agency for their review and comment.

Due to other Departmental demands and the lack of computer facilities it was necessary to put the study aside for awhile. Then, during the summer of 1972, arrangements were made through the Criminology Department of Indiana State University, Terre Haute, Indiana, to have a faculty member and a student analyze the data, draft the report, and have it printed for distribution. It is questionable whether this study could have been completed during this calendar year without their assistance.

The Indiana Department of Correction feels the reader will agree that this study on the existing services and conditions of all the county jails and city lockups in the state is significant for a number of reasons. To begin with, it represents entry into an area that has been neglected for far too long; an area which should be a fruitful research area. Also the study is timely insomuch as the data gained in it constitutes a crucial input for

the Department's comprehensive ten-year plan which is presently being developed. And, finally, the study represents a cooperative effort by individuals from the Department of Correction, Indiana State University, and the Indiana Criminal Justice Planning Agency.

While it would be impossible to acknowledge every person who participated in this study, the Department would like to mention a few of the persons, not previously named, who were instrumental in the various phases of its completion: (1) Parole Officers: Millard Huffman, John Cody, Paul Hoge, Robert Lane, John Hefner, John Good, James Mawhorr, Kerry McLaughlin, Vaughn Overstreet, Douglas Johnson, Robert Duncan, Richard Martin, John Halter, John Stevens, Bert Miller, Chester Lykins, Clifford McDaniel, John Harlow, James Brodie, Joseph Sus, Lawrence Gordon, Davis Genn, Thomas Raycroft, Jerry Westerhouse, Frank Hall, Patrick Mulligan, Don McGuire, and William Howard; (2) Indiana Criminal Justice Planning Agency: George Stultz, Corrections Coordinator; and (3) Indiana State University: Robert G. Culbertson, Assistant Professor, and James A. Decker, student.

Special appreciation is also extended to the many jail administrators and other jail personnel who took time from their busy days to provide input for this study. Without their assistance this study could never have been a success. It is never easy for one to take a critical look at himself, but their response demonstrates that this group did not shirk from its duty. Unfortunately, space does not allow individual identification of the members of this group.

The Department is grateful to all those people for helping make this study a reality.

Jeffrey L. Schrink, Ed.D.
Research Director
Indiana Department of Correction

NOTE: Section XXI. Tables Describing Jails and City Lockups in Indiana were too lengthy to be inserted in the record and may be found in the files of the Subcommittee.

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I. INTRODUCTION

Any discussion of jails functions to personify the gross neglect of penal institutions in general. The neglect reflects society's lack of concern for those men and women who have been convicted of crimes, and tragically, an even larger number of individuals who have allegedly committed crimes and are awaiting trial. The neglect in the case of the jail exceeds that which is flagrantly obvious in studies of prisons and reformatories. The decentralized structure of the jail system has functioned to hide the jail from public view which has enhanced the lack of public concern. While prisons and reformatories have often been used for political exploitation, that exploitation is not comparable to the jail situation.

The political system does not provide positive rewards to officials who administer jails and lockups in a humane manner. In fact, the opposite is the case. Officials can find themselves financially rewarded if they minimize services to jail inmates. The jail system is the only penal system in the United States which legally provides profits to those who operate the jails. The fact that the system provides profits for the "keepers" at the expense of the "kept" has resulted in legalized exploitation of thousands of men and women on a daily basis with society demonstrating little, if any, concern.

On any one day in the State of Indiana, there are more men and women incarcerated in jails than in the largest penal institution in the State. The deteriorated state of the jails is made inconspicuous by the fact that the jail population is spread over 142 jails and lockups in the State. While the jail system is in a formidable position to provide individualized programs to

small groups of inmates, the small populations have apparently been used to avoid responsibility in this area.

In many ways, this publication speaks for itself. Even a cursory examination of the tables describing the 142 jails and lockups will convey a lack of concern for the emotional and physical well being of the individuals incarcerated in those jails and lockups. In an effort to present a meaningful discussion of jails in Indiana, the authors have focused on the social situation of the jail inmates, and the physical condition of the jails. Each section will therefore include a brief discussion of the data describing the social situation for the jail inmates prepared by Robert G. Culbertson, and a brief discussion of the data describing the physical condition of the jails prepared by James A. Decker. It will become most obvious to the reader that there is a total lack of consideration for the inmate while incarcerated in Indiana's jails and that the jails and lockups, as physical plants, are generally deteriorated and grossly inadequate.

It is impossible to discuss each individual jail and lockup in the State. To obtain this detailed information, the reader is referred to the table describing the county jail or city lockup in which he is interested. The following presentation will begin with a general discussion of the jails on a statewide basis, followed by a brief discussion analyzing the data for each of the eight Districts established by the Department of Correction. The map on page 34 provides an outline of the counties included in those Districts.

The survey suffers from a number of limitations. The authors of this publication feel that the reader should be cognizant of these limitations when reading the summaries of the data for the State and the Districts, and when interpreting the tables for the individual counties and cities.

First, we were not involved in the development of the instrument used to collect the data. In some respects it is unfortunate that the instrument used by Mr. Holmes in Region VII of the Indiana Criminal Justice Planning Agency was not revised prior to its use on a state-wide basis. This does not reflect an error in judgment as much as it reflects the criminal justice system's lack of data, and the resultant crisis which seemingly surrounds data collection projects in the criminal justice system. Concepts were not specifically defined, items were included which have little meaning, and as a consequence the findings can be easily criticized by the research methodologist.

Second, we did not collect the data, and for this reason, we cannot assume responsibility for this area. It appears that the data was collected with care and the coding was generally quite accurate. We made a number of random checks in this area and did not find any serious errors.

Third, while considerable time and energy has been expended by James A. Decker in preparing the 142 tables for the jails and lockups, there was little time to prepare the summaries of the findings. The analyses are therefore necessarily brief, and the reader should use our analyses as a starting point in developing a complete profile of the jail situation in the respective counties and districts.

In our discussion we have deleted the term lockup, and the term jail is intended to include both jails and lockups. Also, we have rounded the data to provide for a more concise discussion. The study was conducted in January, 1972. Item 10 which reports the "number of deaths over past two years" includes the period beginning two years prior to the actual date the data was collected. The same is the case for escapes.

II. SOCIAL SITUATION OF JAIL INMATES IN INDIANA

Penologists have long advocated the importance of separate facilities for juvenile and female offenders, as well as the segregation of hardened criminals from first offenders. This is sound penal philosophy for a number of reasons including the fact that we enhance criminality in the young by integrating them with the older criminals who function as role models. This policy has been ignored in Indiana's jails as indicated by the finding that 47 percent of the jails in the State do not provide facilities for juvenile and females that are completely removed from the adult male facilities, and 70 percent of the jails do not separate hardened criminals from first offenders.

The same problem exists in the case of mental patients. The survey indicates that 66 percent of the jails are used to house mental patients and 89 percent of the jails do not have padded cells for mental patients. It is doubtful if any other special provisions are made for mental patients.

Other jail studies indicate that a sizeable majority of the offenders are incarcerated for public intoxication, or offenses related to the abuse of alcohol. A study currently under way in Region VI of the Indiana Criminal Justice Planning Agency supports this contention. It is therefore tragic to note that 96 percent of the jails and lockups do not have the desperately needed special programs for alcoholics. In fact, only 56 percent of the jails indicate that a member of Alcoholics Anonymous is available on request. The situation is much the same for drug offenders. Officials and the public are seemingly alarmed about increasing drug problems, and at the same time 97 percent of the jails do not have special programs for drug addicts.

Further evidence supporting the authors' contention that the physical and emotional health of the inmate is ignored is reflected in the finding that

98 percent of jail inmates are not given a physical examination by a physician when admitted. When one considers the socioeconomic status of the jail population, and the disease correlates for this population, it appears that county health departments and medical associations have been practicing gross neglect. The fact that 95 percent of the jails do not have physical exercise programs only adds to the extent of the neglect. It should be noted that there were 45 deaths in Indiana jails for the two year period covered by the survey.

Counseling with jail inmates is a myth as 75 percent of the jails indicate that counseling services are not available. Even if such services were available, 75 percent of the jails do not have special visiting rooms where counseling could take place. This would seem to support our contention that jails, as presently constructed, were never intended for rehabilitation, but have rather functioned for the exclusive purpose of punishment. This finding also appears to indicate that the professional social work community has had a share in the neglect.

Neglect of the inmates' religious life is also obvious as 58 percent of the jails do not have religious services that are held on a regular basis, though 93 percent of the jails do provide for unlimited visitation for ministers. While visitation policies for ministers are most liberal, it is interesting to note that this has not resulted in regular religious services. Religious services are certainly not prohibited by the 58 percent of the jails and lockups that do not have such services. Rather, this finding reflects our contention that the religious community has also practiced neglect.

Finally, the poor work records of jail inmates would seemingly point to the need for vocational training and work-release programs. The survey indicates that 98 percent of the jails do not have any form of vocational training

programs, and 92 percent of the jails do not have work release programs. As a consequence, men and women are turned back into society with less opportunity for employment than existed for them prior to incarceration. Any employment they may have had has in all probability been terminated by the jail sentence, and they have the additional stigma of having been incarcerated to cope with on release. There would seemingly be some support for a contention that labor and management have also practiced neglect.

In summary, the survey constitutes solid evidence for a case of neglect in the area of jails and apparently every segment of the community has had a share in this neglect.

III. PHYSICAL CONDITION OF JAILS IN INDIANA

A sizeable number of jails in Indiana were built before the turn of the century, the oldest being built in 1823, seven years after Indiana became a state. Heating, ventilation, lighting, and plumbing are adequate in most of the State's jails. However, in approximately 10 percent of the jails, heating systems are defective. Ventilation is inadequate in 15 percent of the jails, and 20 percent have poor lighting. The plumbing does not function properly in 21 percent of the State's jails, and the locks do not work in 13 percent of the jails. Critics of the penal system speak of inmates living in luxury as they pay their debt to society. However, when jails do not meet the minimum standards for living conditions, these critics seem out of place. Inmates deserve to be treated as human beings even while in jail, and inadequate plumbing, lighting, ventilation, and heating are not measures of humane treatment.

When most of the State's jails were built, the penal philosophy in vogue at the time was one of punishment and retribution. It is not surprising then

that rehabilitation and resocialization programs are the exceptions rather than the rule. One reason for this may be the outdated physical plants themselves. Since the design of the jails' physical facilities was a reflection of a punitive philosophy, the jail environment is one of oppression and degradation. This type of environment has a psychological effect on both staff and inmates. The resultant psychological effects are not conducive to rehabilitative efforts.

The rated capacity for all the jails and lockups, including female and juvenile facilities, is 6,436 inmates. At the time the survey was conducted, the total inmate population, including females and juveniles, was 2,689. This is only 42 percent of the rated capacity for jails in Indiana. The total estimated average population is 2,881 inmates, or 45 percent of the rated capacity. These figures indicate that money has been wasted, and is being wasted on building and operating jail facilities which are not utilized. A clear case of neglect on the part of county government and the citizenry seems evident. Perhaps if facilities were maintained for slightly more than the average estimated population, those responsible for jail maintenance could then focus on the inadequate heating, ventilation, lighting, and plumbing which characterizes a number of jails. The money saved could also be directed into rehabilitative programs, counseling programs, recreational facilities, or other treatment-oriented projects.

A further indication of neglect is demonstrated by the number of employed jailers. In 62 percent of Indiana jails, a jailer is not employed. This indicates that in many instances there is no one responsible for the day-to-day welfare of the inmates. Although the sheriff is legally responsible for the inmates, a sheriff and his deputies have other responsibilities which necessi-

tate absences from the jail facility. In the remaining 38 percent of the jails, which employ jailers, it is not known if these jailers provide twenty-four hour supervision. If the philosophy is that the inmates are dangerous and must be kept separated from society, it is logical to assume that there should be a guard to protect society from the escape of such dangerous persons. If the philosophy is that these men are human beings, whatever their accused crimes, it stands to reason that there should be someone always available in case of sickness or other emergency. In Indiana, in case of sickness, fire, or other emergency, there may or may not be someone in the jail to handle the problem. It is interesting to note that there were 126 escapes from Indiana jails during the two year period covered by the survey.

People are often placed in jails for alleged violations of the law. Some are sentenced to serve a period of time as punishment for violating the law. In this new, ambiguous setting, prisoners are expected to obey the rules of the jails. However, 81 percent of the jails in Indiana do not provide their prisoners with copies of the jail's rules. Evidently the prisoners are expected to know the rules automatically, or are expected to follow the principle of "experience - the best teacher" and to learn the rules by trial and error. This built-in lack of definitive regulations can lead to exploitation of prisoners by staff members, by stronger inmates, or by older more experienced inmates. If it is desirable for the inmates to follow the jail's rules, then they should be informed what those rules are. If there is a system of punishment for infractions of those rules, it seems only fair and logical that the prisoners be forewarned. If there is no system of punishment for breaking the rules, the rules are probably meaningless. A partial solution lies in providing the rules to all inmates at the time they are admitted. Those interested in good jail management should accept this as a reasonable directive.

Those who are incarcerated in jails are human beings and should be treated as human beings. However, in 69 percent of the jails in Indiana, no laundry facilities are provided for the inmates. Thus, inmates are forced to make their own arrangements to be provided with clean clothing from families or friends, or they must live in soiled and unsanitary clothing. Given a jail with no laundry facilities and inadequate plumbing and ventilation, the claim by prisoners in some jails that they are treated like animals does not seem unbelievable.

IV. SOCIAL SITUATION FOR JAIL INMATES IN DISTRICT 1

District 1 includes Benton, Boone, Carroll, Cass, Clinton, Fountain, Grant, Hendricks, Howard, Miami, Montgomery, Putnam, Tippecanoe, Tipton, Warren, and White County.

In many respects, the jails in District 1 do not differ significantly from the jails in the State. For example, 56 percent of the jails do not have separate facilities for female and juvenile offenders, and the same is true for 47 percent of the jails in Indiana. Also, 75 percent of the jails in the District do not segregate hardened criminals from first offenders, and the same is the case for 70 percent of the jails in Indiana.

The situation of the mental patient is considerably worse in District 1 than in the State as 100 percent of the jails in the District house mental patients, while 66 percent of the jails in the State house mental patients. The availability of padded cells for mental patients does not indicate as much variation as 81 percent of the jails in District 1 do not have such facilities while 89 percent of the jails in the State do not have padded cells for mental patients.

The situation for the alcoholic and the drug offender is much the same in District 1 as it is in the State. Not a single jail in the District has a program for alcoholics while 96 percent of the jails in the State also report the absence of such a program. A member of Alcoholics Anonymous is not available in 38 percent of the jails in District 1 and the same is true for 44 percent of the jails in the State. The situation for the drug addict is similar in that 100 percent of the jails in the District do not have programs for drug addicts, and the same is true for 97 percent of the jails in Indiana.

Neglect of the inmates physical health in the District is similar to that which exists throughout the State as 100 percent of the jails indicate that prisoners are not examined by a physician at the time of admission, and the same is true for 98 percent of the jails in the State. Physical exercise programs are not provided in any jails in District 1, and this is also true for 95 percent of the jails in Indiana. The mean number of deaths over the two year period covered by the survey is .25 for District 1, as compared to a mean of .32 for the State, the District reporting a total of 4 deaths.

Counseling services are slightly more available in District 1 than in the State as 31 percent of the jails indicate the availability of such services while 25 percent of the jails in the State provide counseling services. The potential for the development of counseling services in the District is less than that for the jails in the State as 88 percent of the jails in the District do not have special visiting rooms, while 75 percent of the jails in the State do not have special visiting rooms. It is interesting to note that 63 percent of the jails in this District have regular religious services while only 43 percent of the jails in Indiana have such services. On the other hand 81 percent of the jails have provided for unlimited visitation for ministers while 92 percent of the jails in the State have provided for unlimited visitation for ministers

The availability of vocational training programs and work release programs in this District are similar to the State. Vocational training programs are not provided in any of the jails in District 1, and such programs are not provided in 98 percent of the jails in the State. Work release programs are not provided in 94 percent of the jails in the District and the same is the case for 92 percent of the jails in the State.

V. PHYSICAL CONDITION OF JAILS IN DISTRICT 1

The mean age of the jails in District 1 is 56 years, slightly higher than the mean age of the jails in the State which is 49 years. The jails range in age from 1 to 104 years old. The ages of the jails in District 1 are similar to those found throughout the State.

The rated capacity, including facilities for females and juveniles is 555 persons for District 1. The population at the time this survey was conducted was 161, including females and juveniles. This figure represents 29 percent use of facilities. The total estimated average population was 214 inmates or 39 percent of rated capacity. It is difficult to imagine the need for such a surplus of space. It would appear that the money used to support these unused facilities could be better spent on improving the treatment programs in these institutions.

In regard to the condition of the physical plants, District 1 jails seem to be doing well. Almost 94 percent of the jails and lockups in the District have proper heating, adequate lighting, and plumbing which is in good working order. All the jails in the District have adequate fresh air ventilation, and all the locks are in good condition. It would appear that while there is some over-spending in terms of actual facilities utilized, District 1 is

allocating funds for the proper upkeep of their facilities. Three percent escapes in District 1 during the one year period covered by the survey. A meager 19 percent of the jails in this District provide their inmates with a copy of the jail's rules on admission.

Few jails in the District provide laundry facilities for their inmates. Fifty-eight percent of those jails have no laundry facilities available for their prisoners' clothing. Although District 1 has been conscientious in providing its inmates with adequate heating, lighting, and plumbing, the simple physical comfort of clean clothing is apparently ignored.

VI. SOCIAL SITUATION OF INMATES IN DISTRICT 2

District 2 includes Adams, Allen, Bartholomew, Blackford, Decatur, Delaware, Grant, Hamilton, Henry, Huntington, Jay, Madison, Randolph, Tipton, Wabash, Wayne, and Wells County. The District also includes the following cities: Auburn, Fort Wayne, Garrett, Lafayette, North Manchester, and Warren.

The profile for District 2 also appears to be quite similar to the profile for jails in Indiana, and in several respects it is more similar than District 1. Female and juvenile facilities are not separated in 59 percent of the jails and the same is true for 47 percent of the jails in the State. Hardened criminals are not separated from first offenders in 65 percent of the jails in the District, and the same is true for 70 percent of the jails in the State.

The situation for the mental patient is somewhat better in this District than in the State as 53 percent of the jails in the District house mental patients, while 56 percent of the jails in the State have similar policies.

Ninety-four percent of the jails in the District do not have padded cells for mental patients and the same is true for 89 percent of the jails in the State.

The lack of programs for alcoholics in District 2 and the State is about the same as 94 percent of the jails in the District do not have such programs and the same is true for 96 percent of the jails in the State. A member of Alcoholics Anonymous is not available in 53 percent of the jails in the District, and the same is true for 44 percent of the jails in Indiana. Ninety-four percent of the jails in District 2 do not have programs for drug addicts and the same is true for 97 percent of the jails in the State.

District 2 is also similar to the State in the areas of physical examinations and physical exercise programs for inmates. Ninety-four percent of the jails in the District indicate that prisoners are not given a physical examination by a physician when admitted, and the same is true for 98 percent of the jails in the State. Physical exercise programs are not provided in any of the jails in the District as compared to an absence of exercise programs in 95 percent of the jails in the State. The mean number of deaths over the two year period covered by the survey is .35 for the District and .32 for the State, the District reporting a total of 6 deaths.

Counseling services are not available in 71 percent of the jails in District 2 and the same is true for 75 percent of the jails in the State. Forty-one percent of the jails in the District have special visiting rooms while only 25 percent of the jails in the State have such facilities.

There is a lack of religious services in the jails in District 2 as indicated by the finding that 71 percent of the jails do not have regular services as compared to 58 percent of the jails in the State which do not have regular

religious services. However all the jails in the District indicate that ministers have unlimited visitation while 92 percent of the jails in the State provide for unlimited visitation for ministers.

Vocational training and work release programs are virtually absent in District 2 as 94 percent of the jails indicate that they do not have vocational training programs, and none of the jails in the District have work release programs. Ninety-eight percent of the jails in the State do not have vocational training programs, and 92 percent of the jails do not have work release programs.

VII. PHYSICAL CONDITION OF THE JAILS IN DISTRICT 2

The mean age of the jails in District 2 is 65 years, sixteen years higher than the State mean of 49 years. The jails range in age from 1 to 98 years old. Viewing the range, it can be assumed that many of the jails in this District are of an older vintage to produce such a high mean.

The rated capacity, including facilities for females and juveniles, is 523 for District 2. The population at the time this survey was conducted was 154 inmates, including females and juveniles. This figure represents 29 percent use of facilities. The total estimated average population was 224 inmates, or 44 percent of rated capacity. Here again the unused space which serves as a drain on tax dollars is noted.

The condition of the physical facilities in District 2 needs improvement. Although 94 percent of the district's jails are properly heated, 24 percent do not have adequate fresh air ventilation or adequate lighting. An even greater number, 29 percent, lack plumbing which is in good working order. Twenty-nine percent of the jails in the District do not have locks which are in good condition. It should be noted that there were 4 escapes from jails

in District 2 for the two year period covered by the survey. Thirty-five percent of the jails in the District supply their inmates with a copy of the jail's rules on admission.

Forty-one percent of the jails in the District provide laundry facilities for the inmates' clothing. A concerted effort should be put on providing similar services for the District's remaining 59 percent which do not have this type of facility.

VIII. SOCIAL SITUATION OF JAIL INMATES IN DISTRICT 3

District 3 includes Hamilton, Hancock, Johnson, and Marion County. The District also includes the following cities: Edinburg, Indianapolis, and the Marion County Juvenile Center.

A profile of the jails in District 3 indicates that in a number of areas the social situation for the prisoner is considerably better than in the jails in the State.

Seventy-one percent of the jails in District 3 provide separate facilities for females and juveniles while this is the case for only 53 percent of the jails in the State. In addition, 43 percent of the jails in the District separate hardened offenders from first time offenders while only 30 percent of the jails in the State have separate facilities.

On the other hand, the situation for mental patients is not as favorable as all of the jails in District 3 house mental patients, and only 14 percent have padded cells for mental patients. Sixty-six percent of the jails in the State house mental patients and 11 percent have padded cells for mental patients. Programs for alcoholics are also absent as all the jails in District 3 indicate that they have no programming in this area. The same is true for 96 percent

of the jails in the State. Also, a member of Alcoholics Anonymous is available in 43 percent of the jails in the District as compared to 56 percent of the jails in the State which have a member of Alcoholics Anonymous available. The situation for the drug addict is similar as 100 percent of the jails in the District do not have programs for drug addicts and the same is true for 97 percent of the jails in Indiana.

Fourteen percent of the jails in the District provide physical examinations by a physician for prisoners when admitted, while only 2 percent of the jails in the State provide physical examinations for the prisoners when admitted. Fourteen percent of the jails in District 3 provide physical exercise programs for prisoners, and this is the case for only 5 percent of the jails in the State. While it would appear that there is greater concern for the physical well-being of the prisoner in District 3 than in the State, the percentages for services provided in these two areas are relatively small when we consider the importance of limiting communicable diseases. The mean number of deaths over the two year period covered by the survey is 1.0 for District 3 as compared to .32 for the State, with the District reporting a total of 7 deaths.

Counseling services are available in 29 percent of the jails in the District as compared to 25 percent of the jails in the State, and special visiting rooms are available in 57 percent of the jails in the District as compared to 25 percent of the jails in the State. Religious services are held on a regular basis in 43 percent of the jails in the District and the same is true for the jails in the State. Ministers have unlimited visitation in 71 percent of the jails in the District as compared to 92 percent of the jails in the State which provide for unlimited visitation for ministers.

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Vocational training programs and work release programs are available in 14 percent of the jails in the District. Only 2 percent of the jails in the State provide vocational training programs, and 8 percent provide work release programs.

IX. PHYSICAL CONDITION OF JAILS IN DISTRICT 3

The mean age of the jails in District 3 is 50 years, quite close to the mean age of all the jails in the State, 49 years. The jails range in age from 7 to 103 years old. The age of the jails in this District are similar to those found throughout the State.

The rated capacity, including female and juvenile facilities, is 1760 in District 3. The population at the time this survey was conducted was 1123, including females and juveniles. This figure represents 64 percent use of facilities, a noticeable improvement over Districts 1 and 2. The total estimated average population was 1073 inmates, or 61 percent of rated capacity. Although these figures indicate greater use of physical facilities than those previously noted, a surplus of space is still in evidence.

The condition of the physical facilities in District 3 falls short of expectations. In 43 percent of the jails in the District, fresh air ventilation is not adequate. Twenty-nine percent of the jails do not have adequate lighting or plumbing which is in good working order. Fourteen percent do not have proper heating or locks which are in good condition. There were 12 escapes in District 3 for the period covered by the survey.

Only 29 percent of the District's jails supply their inmates with a copy of the jail's rules on admission. While proper standards of living should be the first priority of a jail system, those aspects of jail life which are concerned with proper behavior and conduct should also have a place of importance.

Fifty-seven percent of the jails in the District provide laundry facilities for the inmates' clothing. This is commendable when compared to other Districts and shows an interest in the personal hygiene of the prisoners.

X. SOCIAL SITUATION OF JAIL INMATES IN DISTRICT 4

District 4 includes Clay, Daviess, Dubois, Gibson, Greene, Knox, Martin, Owen, Parke, Perry, Pike, Posey, Spencer, Sullivan, Vanderburgh, Vermillion, Vigo, and Warrick County.

Jails in District 4 vary considerably and are more favorable in some areas than the jails in the State and less favorable in other areas.

Female and juvenile facilities are completely removed from the adult male facilities in 67 percent of the jails in the District, while 53 percent of the jails in the State provide separate facilities for females and juveniles. Sixty-seven percent of the jails in the District do not separate first offenders from hardened criminals, and the same is true for 70 percent of the jails in the State.

Seventy-eight percent of the jails in the District house mental patients and the same is true for 66 percent of the jails in the State. Only 6 percent of the jails in the District provide padded cells for mental patients while 11 percent of the jails in the State provide padded cells for mental patients.

It is interesting to note that not a single jail in District 4 provides either a physical examination by a physician for prisoners when admitted, or a physical exercise program for prisoners. However, this finding becomes less significant when compared to jails in the State. Ninety-seven percent of the jails in Indiana do not provide a physical examination for persons at the time they are admitted, and 95 percent of the jails in the State do not provide a

physical exercise program. The mean number of deaths for the two year period for the District was .44, while the mean number of deaths for jails in the State was .34 for the same period. There was a total of 8 deaths in the District for the two year period covered by the survey.

Eighty-three percent of the jails in District 4 do not provide counseling services to prisoners and the same is true for 75 percent of the jails in the State. This situation is made even worse by the finding that 94 percent of the jails in the District do not provide special visiting rooms, while 75 percent of the jails in the State also fail to provide such facilities.

Thirty-nine percent of the jails in the District provide regular religious services and all the jails in the District provide unlimited visitation for ministers, while 42 percent of the jails in the State hold regular religious services, and 92 percent of the jails in the State provide for unlimited visitation for ministers.

A member of Alcoholics Anonymous is available on request in 50 percent of the jails and the same is true for 55 percent of the jails in the State. There are no special programs for alcoholics or drug addicts in the District. Ninety-six percent of the jails in the State do not have special programs for alcoholics and 97 percent of the jails in the State do no have special programs for drug addicts.

While there are no vocational training programs in the jails in District 4, 50 percent of the jails have work release programs. Two percent of the jails in the State provide vocational training programs and 8 percent provide work release programs.

XI. PHYSICAL CONDITIONS OF JAILS IN DISTRICT 4

The mean age of the jails in District 4 is 54 years, five years above the mean age of all the jails in the State. The jails range in age from 2 to 105 years old. The ages of the jails in this district are similar to those found throughout the entire state.

The rated capacity, including female and juvenile facilities, is 1034 persons in District 4. The population at the time this survey was conducted was 267 inmates, including females and juveniles. This figure represents 26 percent use of facilities. Such a surplus of room is difficult to understand. Again, considerably less than half the facilities are actually used.

The condition of the physical facilities in District 4 seems fairly satisfactory. Eighty-three percent of the locks are in good condition. There were 40 escapes in District 4 for the two year period covered by the survey. Eighty-nine percent of the jails have proper heating and adequate lighting. Ninety-four percent have fresh air ventilation which is considered satisfactory. Unfortunately, 28 percent of the District's jails have plumbing which is not in good working order.

Twenty-eight percent of the jails in District 4 provide their inmates a copy of the jail's rules on admission. Steps should be taken to further this practice in the remaining 72 percent of the jails.

Thirty-nine percent of the jails in District 4 provide laundry facilities for their inmates.

XII. SOCIAL SITUATION OF JAIL INMATES IN DISTRICT 5

District 5 includes Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Floyd, Franklin, Harrison, Jackson, Jefferson, Jennings, Lawrence,

Monroe, Morgan, Ohio, Orange, Ripley, Scott, Shelby, Switzerland, and Washington County, as well as the following cities: Aurora, Batesville, Charlestown, Crothersville, New Albany, and Seymour.

Jails in District 5 generally appear to provide less services to prisoners than the jails in the State.

Female and juvenile facilities are completely removed from the adult male facilities in 71 percent of the jails in the District, while 53 percent of the jails in the State provide separate facilities for females and juveniles. Thirty-six percent of the jails in the District separate hardened criminals from first offenders, as compared to 30 percent of the jails in the State.

Fifty-seven percent of the jails in the District house mental patients, while 66 percent of the jails in the State house mental patients. Padded cells are provided for mental patients in 14 percent of the jails in the District as compared to 11 percent of the jails in the State which provide padded cells for mental patients.

Jails in District 5, like District 4, do not provide physical examinations by a physician for prisoners at the time they are admitted, nor do the jails in District 5 provide any form of exercise program for prisoners. Physical examinations are not given in 98 percent of the jails in the State, and 95 percent of the jails in the State do not have physical exercise programs. The mean number of deaths for the two year period covered by the survey for the District was .29 while the mean number of deaths in jails in the State was .34 for the same period. During that period there were 8 deaths in District 5.

Ninety-six percent of the jails in the District do not provide counseling services to prisoners while 75 percent of the jails in the State also fail to

provide services in this area. Furthermore, 86 percent of the jails do not provide special visiting rooms and the same is true for 75 percent of the jails in the State.

Ministers have unlimited visitation in 96 percent of the jails in the District as compared to 92 percent of the jails in the State, and 50 percent of the jails have regular religious services as compared to 42 percent of the jails in the State which provide regular religious services for prisoners.

A member of Alcoholics Anonymous is available on request in 46 percent of the jails in the District as compared to 56 percent of the jails in the State. Special programs or services for alcoholics are non-existent in the District, the same is true for 96 percent of the jails in the State. The situation for the drug addict is about the same. Special programs or services for addicts are non-existent in the jails in this District, and the same is true for 97 percent of the jails in the State.

Vocational training programs are also non-existent in the jails in District 5 and the same is true for 98 percent of the jails in the State. Ninety-six percent of the jails in the District do not provide work-release programs and the same is true for 92 percent of the jails in the State.

XIII. PHYSICAL CONDITION OF JAILS IN DISTRICT 5

The mean age of the jails in District 5 is 52 years, quite close to the mean age of all the jails in the State which is 49 years. The jails in this District range in age from 1 to 149 years old. The oldest jail in the State is in District 5. This particular jail was built seven years after Indiana attained statehood.

The rated capacity, including female and juvenile facilities, is 653 persons in District 5. The population at the time this survey was conducted was 248 inmates, including females and juveniles. This figure represents 38 percent use of facilities. The total estimated average population was 299, which represents 46 percent use of facilities. Again it can be noted that less than half the facilities are actually used.

The condition of the physical facilities in District 5 seems fairly adequate. Eighty-six percent of the locks are in good condition. Ninety-three percent of the jails are properly heated. Eighty-two percent have adequate fresh air ventilation. Eighty-nine percent have adequate lighting and plumbing which is in good working order. There were 14 escapes in District 5 for the two year period covered by the survey.

Of the Districts discussed at this point, District 5 has the worst record in terms of providing their inmates a copy of the jail's rules on admission. None of the jails in the District follow this practice. In a period of time in which being informed of individual rights is held to be important, it is incongruous that these jails do not deem it necessary to inform their inmates of the rules and regulations concerning their conduct while incarcerated.

Thirty-six percent of the jails in District 5 provide laundry facilities for their inmates. Sixty-four percent of these jails have no laundry facilities available for their prisoners' clothing. Although District 5 has been fairly conscientious in providing its inmates with proper heating, lighting and plumbing, greater attention should be paid to individual inmate comfort and physical hygiene.

XIV. SOCIAL SITUATION OF JAIL INMATES IN DISTRICT 6

District 6 includes Jasper, Lake, LaPorte, Newton, Porter, Pulaski, and Starke County, as well as the following cities: Dyer, East Chicago, East Gary, Gary, Griffith, Hamlet, Hammond, Highland, Hobart, Knox, LaPorte, Michigan City, Munster, North Judson, Portage, Schererville, Whiting, and Winamac.

Jails in District 6 generally appear to provide more services to prisoners than the jails in the State with some exceptions.

Juvenile and female facilities are completely removed from adult male facilities in 44 percent of the jails in the District as compared to 53 percent of the jails in the State. The situation is quite similar for first offenders as only 24 percent of the jails separate first offenders from hardened criminals, while the same is true for 30 percent of the jails in the State.

On the other hand, only 40 percent of the jails in the District house mental patients, while 66 percent of the jails in the State house mental patients. Also padded cells are available for mental patients in 16 percent of the jails in the District, while padded cells are available for mental patients in 11 percent of the jails in the State.

Physical examinations by a physician at the time of admission are non-existent in District 6 and the same is true for 98 percent of the jails in the State. However, 8 percent of the jails in the District provide physical exercise programs for prisoners, while the same is true for 5 percent of the jails in the State. The mean number of deaths for the two year period covered

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by the survey was .36, while the mean number of deaths in the State was .32 for the same period. During that period there were 9 deaths in District 6.

Counseling services are available to prisoners in 44 percent of the jails in the District, while counseling services are available in only 25 percent of the jails in the State. Furthermore, 36 percent of the jails in the District have special visiting rooms as compared to only 25 percent of the jails in the State which have such facilities.

Religious services are held in 32 percent of the jails in the District on a regular basis as compared to 42 percent of the jails in the State which hold regular religious services. Ministers have unlimited visitation in 96 percent of the jails in the District, and the same is the case for 92 percent of the jails in the State.

A member of Alcoholics Anonymous is available on request in 72 percent of the jails in the District as compared to 56 percent of the jails in the State. Also, special programs are provided for alcoholics in 12 percent of the jails in the District as compared to only 4 percent of the jails in the State. Eight percent of the jails in the District provide special programs for drug addicts while only 3 percent of the jails in the State provide programs for addicts.

There are no vocational training programs or work release programs in the District. Ninety-eight percent of the jails in the State do not have vocational training programs, and 92 percent of the jails in the State do not have work release programs.

XV. PHYSICAL CONDITION OF JAILS IN DISTRICT 6

The mean age of the jails in District 6 is 29 years, twenty full years below that of the mean age of the jails in the State. The jails in this

district range from 1 to 100 years old. It can be assumed from the low mean age, that many of this district's jails are not very old.

The rated capacity, including female and juvenile facilities, is 768 persons in District 6. The population at the time this survey was conducted was 401 inmates, including juveniles and females. This figure represents 52 percent use of the facilities. The total estimated average population was 436 inmates, which represents 57 percent use for facilities. A surplus of space is again in evidence, suggesting a waste of funds.

The condition of the physical facilities in District 6 seems fairly satisfactory but needs improvement generally, and particularly in one area. Almost one-third of the jails in District 6 have inadequate lighting, an unfortunate circumstance which should be remedied as soon as possible. Eighty percent of these jails have plumbing which is in good working order, and 84 percent of the jails have fresh air ventilation which is considered acceptable. Eighty-eight percent have proper heating and locks which are in good condition. Twenty-four percent of the district's jails provide their inmates with copies of the jail's rules on admission. There were 11 escapes from jails in District 6 for the period covered by the survey.

Only 20 percent of the jails in the District provide laundry facilities for their inmates. Concern for adequate personal hygiene for all prisoners should motivate these jails to provide the necessary facilities.

XVI. SOCIAL SITUATION OF THE JAIL INMATES IN DISTRICT 7

District 7 includes Blackford, Delaware, Fayette, Henry, Jay, Madison, Randolph, Rush, Union, and Wayne County, as well as the following cities: Alexandria, Cambridge City, Dunkirk, Eaton, Elwood, Farmland, Hagerstown,

Knightstown, Losantville, Madison, Montpelier, Muncie, Penville, Richmond, and Union City.

The profile for the jails in District 7 seems to indicate that in many respects the jails provide fewer services than any District in the State.

Female and juvenile facilities are completely removed from adult male facilities in 35 percent of the jails in the District, as compared to 53 percent of the jails in the State which have separate facilities. Also, 81 percent of the jails in the District do not separate hardened criminals from first offenders, while the same is true for 70 percent of the jails in the State.

Mental patients are housed in 69 percent of the jails in the District, and the same is true for 66 percent of the jails in the State. Padded cells for mental patients are available in 8 percent of the jails, while padded cells for mental patients are available in 11 percent of the jails in the State.

Prisoners are given a physical examination by a physician at the time they are admitted in 4 percent of the jails in the District, while the same is true for only 2 percent of the jails in the State. Physical exercise is provided in 12 percent of the jails in the District and this is the case for only 5 percent of the jails in the State. The mean number of deaths over the two year period covered by the survey for the District was .04 while the mean number of deaths for jails in the State during the same period was .32. During that period, there was 1 death in the District.

Counseling services are available to prisoners in only 15 percent of the jails in the District as compared to the availability of such services in 25

percent of the jails in the State. Special visiting rooms are available in 23 percent of the jails as compared to 25 percent of the jails in the State.

Religious services are held on a regular basis in 35 percent of the jails in the District as compared to 42 percent of the jails in the State which hold regular religious services. Ministers have unlimited visitation in 85 percent of the jails in the District and the same is true for 92 percent of the jails in the State.

While a member of Alcoholics Anonymous is available on request in 54 percent of the jails in the District, there are no special programs for alcoholics. Fifty-six percent of the jails in the State provide a member of Alcoholics Anonymous on request, and 4 percent of the jails in the State have special programs for alcoholics. Special programs for drug addicts are nonexistent in the District and the same is true for 97 percent of the jails in the State.

Vocational training programs and work release programs are also nonexistent in the District. Only 2 percent of the jails in the State provide vocational training programs while 8 percent of the jails provide work release.

XVII. PHYSICAL CONDITION OF JAILS IN DISTRICT 7

The mean age of the jails in District 7 is 48, slightly lower than 49, the mean age of the jails in the State. The jails in this district range in age from less than 1 year to 101 years. The jails in this District are similar to those found throughout the State.

The rated capacity, including facilities for females and juveniles, is 672 persons in District 7. The population at the time this survey was conducted was 220, including females and juveniles. This figure represents 33

percent use of facilities. The total estimated average population was 241 or 36 percent of rated capacity. Once again a surplus of space can be noted, as almost two-thirds of the jails' facilities are not in use in District 7.

In terms of the condition of the physical facilities, District 7 is doing an excellent job of keeping their locks in good working order. Ninety-two percent of the jails' locks are in good condition. However, lighting and plumbing are considered adequate in only 69 percent of these jails. Fresh air ventilation is adequate in only 81 percent of the jails, and there is proper heating in 88 percent of the jails. It should go without saying that the deficiencies noted should be raised to acceptable standards for the benefits of the inmates who must live under these conditions. It should also be noted that there were 24 escapes from the jails in District 7 for the period covered by the survey.

A sparse 12 percent of the jails in the District supply their inmates copies of the jail's rules on admission. Such a practice should not prove to be a burden financially. It then becomes important for the jails' managers to explore the reasoning employed to veto this practice. Twenty-seven percent of the jails in this District provide laundry facilities for their inmates. When the deficiencies in plumbing, lighting, and other areas are resolved, suitable laundry provisions should also be explored.

XVIII. SOCIAL SITUATION OF JAIL INMATES IN DISTRICT 8

District 8 includes Elkhart, Fulton, Marshall, and St. Joseph County, as well as the city of Elkhart.

The profile for the jails in District 8 seems to indicate that in almost every respect the District is superior to other Districts in the State.

Facilities for females and juveniles are completely removed from the adult male facilities in 80 percent of the jails in the District, while 53 percent of the jails in the State have separate facilities for females and juveniles. First offenders are separated from hardened criminals in 60 percent of the jails in the District as compared to 30 percent of the jails in the State which separate first offenders from hardened criminals.

Unfortunately, 80 percent of the jails in the District house mental patients while 66 percent of the jails in the State house mental patients. Also, there are no padded cells available for mental patients in District 8 jails, while 11 percent of the jails in the State have special padded cells available for mental patients.

Physical examinations by a physician are not provided for prisoners admitted to any of the jails in the District, and only 2 percent of the jails in the State provide for physical examinations for newly admitted prisoners. On the other hand, 20 percent of the jails in the District provide a physical exercise program for prisoners while only 5 percent of the jails in the State provide physical exercise programs. The mean number of deaths over the two year period covered by the survey was .40 for the District, and the mean number of deaths for jails in the State was .32 for the same period. There were 2 deaths over the two year period covered by the survey in District 8.

Counseling services are available in 80 percent of the jails in the District and such services are available in only 25 percent of the jails in the State. Special visiting rooms are available in 60 percent of the jails in the District while only 25 percent of the jails in the State have special visiting rooms available.

Religious services are held on a regular basis in 80 percent of the jails in the District as compared to 42 percent of the jails in the State which provide regular religious services. Ministers have unlimited visitation in 100 percent of the jails in the District and the same is the case for 92 percent of the jails in the State.

A member of Alcoholics Anonymous is available on request in 80 percent of the jails in the District, while this is the case for 56 percent of the jails in the State. Forty percent of the jails in the District provide special programs for alcoholics, while only 4 percent of the jails in the State provide special programs for alcoholics. Special programs are provided for drug addicts in 20 percent of the jails in the District while special programs for drug addicts are provided in only 3 percent of the jails in the State.

Vocational training programs are provided in 20 percent of the jails in the District, while only 3 percent of the jails in the State provide vocational training programs. Work release programs are non-existent in all the jails in District 8, while the same is true for 92 percent of the jails in the State.

XIX. PHYSICAL CONDITION OF THE JAILS IN DISTRICT 8

The mean age of the jails in District 8 is 50 years, quite similar to the mean age of all the jails in the State. The jails in this district range in age from less than 1 year to 85 years old.

The rated capacity, including female and juvenile facilities, is 471 persons in District 8. The population at the time this survey was conducted was 115, including female and juveniles. This figure represents 24 percent use of facilities. The total estimated average population was 131 inmates,

or 28 percent of rated capacity. These figures represent the greatest waste in the State in terms of use of facilities. The jails indicate that almost 75 percent of the available facilities are not in use at any given time.

In terms of the condition of the physical facilities, District 8 is doing well. One hundred percent of these jails have proper heating and adequate fresh air ventilation. However, only 80 percent have adequate lighting and plumbing which is in good order, or locks which are in good condition. In these areas there is room for improvement. Forty percent of the jails in the District supply their inmates copies of the jail's rules on admission. The same percent of jails also provides laundry facilities for their inmates. There were no escapes from the jails in District 8 for the period covered by the survey.

XX. CONCLUSION

As we noted earlier, the data speaks for itself. While it is difficult to understand the lack of services to inmates, it is even more difficult to understand the waste of funds to maintain unused facilities in such a tax-conscious State.

Our analysis of the data leads us to make the following recommendations:

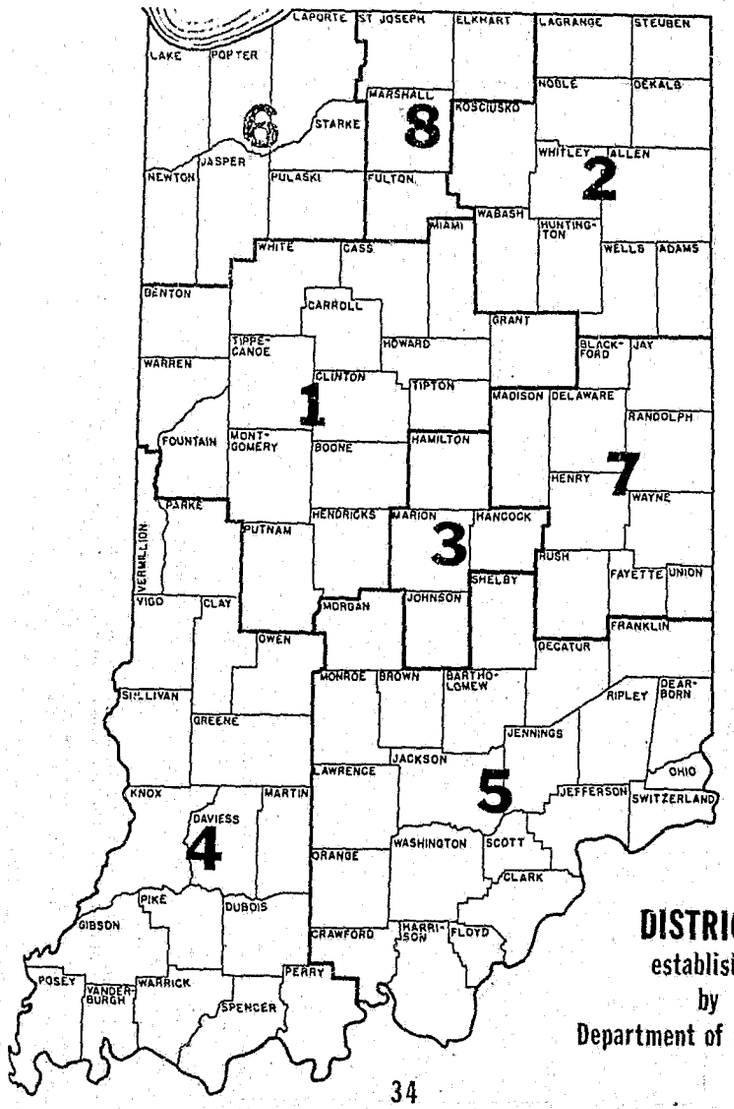
1. The present system of county jails should be abolished. It appears that they are remnants of the past and are no longer functional when one considers the lack of services to the inmates, and extent of unused facilities.

2. There is a need for the establishment of regional jail facilities. The location of these facilities should be determined

by projected populations for the different regions of the state, and the resources which could be utilized in the communities where the jails might be located.

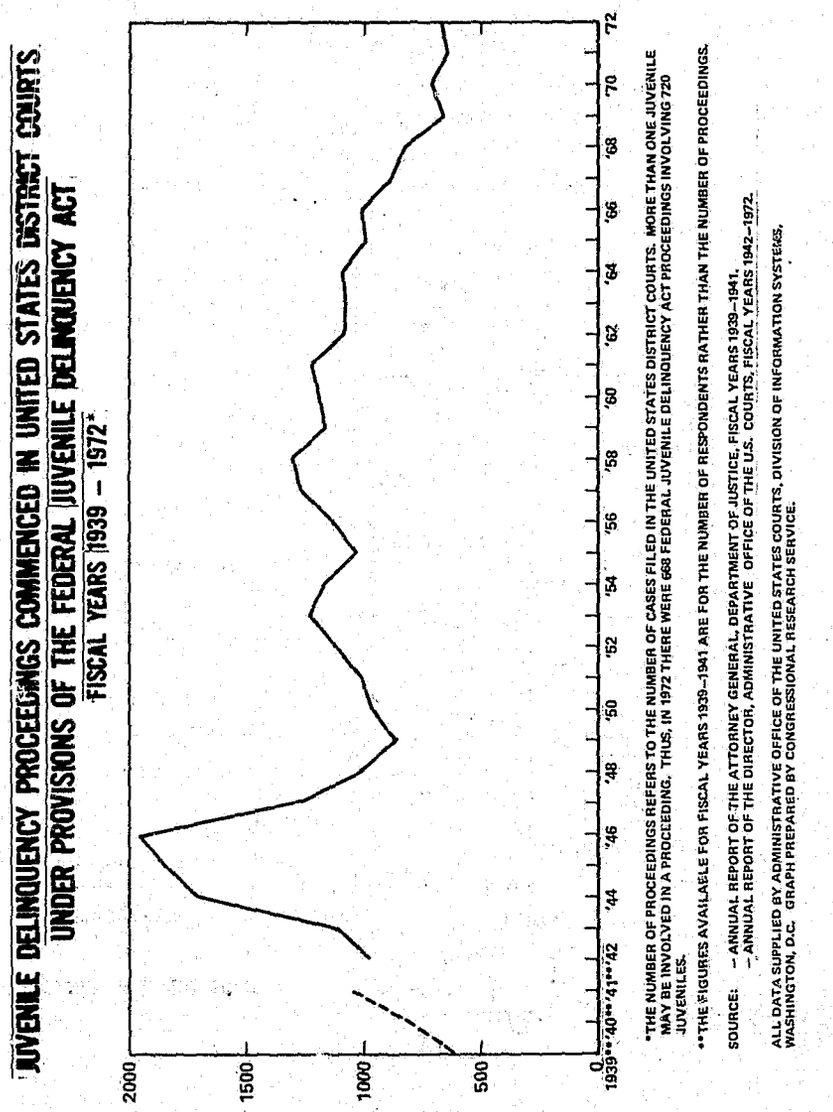
3. The administration of the regional jails should be under the jurisdiction of the Indiana Department of Correction with a centralized budget system.

4. The Legislature, in providing for a system of regional jails, should outline in detail the requirements for all aspects of the physical plants, and the services which must be provided. It is our opinion, after reviewing statutes pertaining to jails in a number of States, that the Michigan Statutes provide an excellent model for legislation.



DISTRICTS
established
by
Department of Correction

APPENDIX NO. 31



APPENDIX NO. 32

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8

Detention Facilities and Temporary Shelters

MARGARET K. ROSENHEIM

Almost three-quarters of a century after the establishment of the first juvenile court, it is widely believed that this judicial mechanism for "child-saving" has not yet attained its stated goal of providing justice for the child. The following discussion of detention and temporary shelter care will, because of the nature of the problems, examine the juvenile court's functions more generally: it will argue that the widespread misuse of detention care (and the resulting employment of grossly inappropriate arrangements) is a direct consequence of a juridical flaw, a defect in the jurisdiction of the court. After examination of current standards for use of detention and shelter care, and following a description of the continued misapplication of detention facilities (and of jails), this paper will assess the reasons currently being thrust forward to explain the observed deficiencies, and will show that these causes are insufficient. A radical transformation of the court itself and of the organization of detention care are both prerequisite to achieving a system that is at the same time just to the child and to the intent of the law.

The emphasis here is on institutions that respond to requests for the temporary care of juveniles who, in the eyes of the community, have done something "wrong." These minors enter residential care

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following apprehension for the commission of crime or proscribed but noncriminal behavior. Detention—or jail—may be their first step in an extended journey through the correctional process. We should therefore ask whether those detained are those who should be and what that confinement is like.

Juveniles in Detention

"No Man Loveth His Fetters, Be They Made of Gold."

John Heywood, *Proverbs*

Why do boys and girls find themselves in temporary substitute care? What marks the juveniles who are in secure custody? Are there clear-cut differences between those who are in jails or detention homes and those in shelter care? These are some of the questions that come to mind in initially considering the operation of institutions for short-term "holding." It is equally important to understand as fully as possible the "paths to placement"[1] that affect conditions and quality of care, legal consequences of holding for both child and parent, and allocation of community resources.

DETENTION DEFINED

The first point to consider is the purpose of detention, for only against a picture of its proper function can current practices be examined profitably. Among standard-setters, there is general agreement upon the definition of detention as the physically restrictive temporary custody of children who await hearing and disposition by the juvenile court.[2] Whether they are alleged to be delinquent in the narrow sense of the term (that is, accused of acts that would be crimes if committed by adults) or are before the court for threatening but noncriminal conduct, the appropriate test is asserted to be the need of the child or of the community for his secure custodial care. By contrast, juveniles who require emergency care owing to the collapse of family living (or some other disruptive circumstance) are to be referred to shelter care, where security is not of paramount importance. This form of provision, also intended to be temporary (as the very term "shelter care" implies), is physically nonrestrictive and is available to children who do not require juvenile court intervention as well as to those who do.

Unlike either detention or shelter care, the third type of custodial provision commonly encountered is not expressly designed for minors. This is, of course, the jail or police lockup, used as a place of confinement for juveniles as well as adults. Many juvenile court acts forbid their use for juveniles under a specified age. Although the exact age varies from state to state, 14 to 16 is the range within which the cutoff point usually falls. It is widely thought that the states disregard the prohibition by jailing at least a few "underage" juvenile cases each year, but it is impossible to say how widespread the violation is or what particular circumstances generate it. The public policy, however, is clear: nearly all jurisdictions have statutes that provide special places of detention for juveniles and require separation of juveniles from adults when the former are jailed.

Over the years, detention has been evolving from its original function of providing a separate facility for the undifferentiated group of children brought to the attention of juvenile authorities into a type of custody distinguishable from other forms of temporary care by virtue of the population served and the controls built into the program. In a sense, detention can be seen as the organizational pivot between child welfare measures, on the one hand, and the custodial arrangements of criminal justice, on the other. This is, at any rate, one way to express the theory. Let us now turn to the facts.

The Extent of Detention. To start with, although most states authorize juvenile detention homes, there are a number of jurisdictions[3] in which no such facilities have been established. In these ten jurisdictions it is fruitless to search for criteria governing detention use; rather, the questions there become what stop-gap measures are employed and how does the absence of detention homes influence policy with respect to jail confinement of juveniles? Moreover, in eight[4] of the ten states that lack a detention facility, temporary shelters are also unavailable; there are, in brief, no facilities of any kind specifically designated for temporary holding of children and youth.

In 1966 the National Council on Crime and Delinquency collected information for the President's Commission on Law Enforce-

ment and the Administration of Justice. According to its findings there was an average daily population of 13,000 *delinquent*[5] children in all places of detention. The annual figure exceeded 400,000.

These data, quickly compiled for the Crime Commission from existing records, leave several important questions unanswered. For example, how many of those detained in the course of a year were detained more than once? How do the numbers divide as between those detained owing to a need for secure custody and those detained who evidence mainly a need for temporary safekeeping? What proportion of detention days was pre-adjudicative? What proportion post-dispositional?

Perhaps, the most severe limitation lies in the inability from current data to derive a *person*-count from the annual count of admissions, though in the juvenile justice system, quite as much as in the criminal justice or welfare systems, the reasons for doing so are compelling. Consider, for example, data on average daily population. These figures tell us how many to expect in custody on a given day. The NCCD data indicate that turnover is great, since a 320,000 annual total in specialized juvenile detention facilities is many times the daily average. Yet neither statistic reveals the chances of finding "returnees" among the total annual population. In other words, how many of the year's admissions to detention have been detained before? If a majority of the home's annual admissions are "repeaters," the general implications for screening costs and for programing within the facility would be substantial.

TABLE 8.1. *Estimated number of children detained in 1965, by place of detention*[a]

Juvenile Detention Homes	317,860
Jails	87,951
Other Facilities	3,407
TOTAL:	409,218

[a] Figures based on 250 counties surveyed, with the rest of the counties prorated. Where annual figures were unavailable, statistics for the fiscal year 1964-65 were used.

SOURCE: *NCCD Survey on Correction in the United States*, reprinted in President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report on Corrections* (Washington, D.C.: Government Printing Office, 1967), p. 121.

The *Census of Children's Institutions* is another source of data on detained juveniles and on their institutional managers. According to this census of facilities taken on a given day of operation, 10,875 children were in detention. Nearly 90 percent were adolescents; 6,260 were between 12 through 15 years of age, and 2,990 were 16 through 20. Nearly 900 primary school children were in detention, as were 254 children under six, (of whom 81 were infants under two). As one would expect, the number of boys greatly exceeded that of girls; there were twice as many boys detained as girls, but the median age of both was 14 years, seven months.[6]

The *Census* collected no information on race. Other studies, however, reveal a disproportionately high number of minority-group children in detention.[7] We also believe that the economically deprived are more likely to be detained.[8] This evidence gives rise to concern that detention is used arbitrarily—without adequate guidelines or effective review—and that the net impact of current practice is to discriminate against the poor and racial minorities.

What Are They "In" For? These comments lead to the broader question of how detention is used—for whom and why. While we have less data than we would want, certain facts of detention practice are well established. Nearly one-half of the facilities accepted responsibility for functions in addition to detention care. We may conclude that the institutions were serving heterogeneous populations, as measured not only by age or behavior of the children but also by the type of professional resources they required. It appears that some detention homes were serving as community "storage facilities." Consider the range of functions they were performing in addition to detention: care of the dependent and neglected and of the emotionally disturbed; psychiatric care of mentally ill or emotionally disturbed children; care of unmarried mothers during pregnancy; temporary shelter care; and care of mentally retarded children. Contrary to common-sense expectations, these "extraneous" functions were not concentrated among the institutions serving nonmetropolitan areas. Indeed, certain functions, such as care of the mentally retarded and psychiatric care of mentally ill children, were performed by a greater percentage of institutions in the larger metropolitan areas than in facilities located elsewhere.[9]

These findings suggest that Kahn's observation at the beginning

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of the 1960's is still pertinent: "While many of the direct-service functions once assumed by courts, particularly for dependent and handicapped children, have by now been assigned to public welfare or health agencies, there are still courts that retain such functions alongside their fundamental jurisdiction in delinquency and neglect." Is this still because, as he argued then, "many courts regard themselves as the nexus of community services for children in trouble"?[10]

The census data highlight the persisting problem of detention misuse for lack of the accepted alternatives. Other studies, state and local, demonstrate that even when detention is theoretically acceptable—that is, when the juvenile is a putative delinquent or incorrigible—large numbers are "unnecessarily" detained in the sense that the case for secure custodial holding has not been established. This is not to deny that officials have their reasons for detention. They range, it appears, from wanting to provide a "short, sharp shock" to holding a juvenile for convenience while processing a court action affecting him.

The fullest picture of local practice probably comes from California. There the Governor's Special Study Commission on Juvenile Justice reported in 1958 that "more than 50,000 juveniles charged with delinquent acts were detained in juvenile halls, and several thousand more were held in police lockups or jails." Not only were three-fourths of all alleged delinquent juveniles being detained, but a substantial number were detained for minor offenses. Furthermore, "a significant proportion of minors placed in juvenile halls were later released without having juvenile court petitions filed."[11]

These ten-year-old findings still warrant repetition, for, while there has been "substantial improvement in the practices prevailing in California prior to 1961, it has not been sufficient to relieve California of the ignoble distinction of having one of the highest detention rates in the country."[12] So stated a juvenile expert in 1967. His conclusions were based on a San Francisco study and a detention survey conducted by the California Youth Authority. The latter reveals what appears, from other reports as well, to be a fairly typical national pattern:

> Out of 21,321 minors detained, more than 20 percent were brought Into detention one day and released the next. 65 percent of the children detained were released within four days. Only fifteen percent of those detained were released the same day.[13]

Moreover, in the absence of bail, the existing system provides no means to bring about release during the first 72 hours (or a time period as long as six days, if nonjudicial days fall within the period) after arrest. Again, to cite California practice:

> In many counties, on every Monday a large number of children who have been detained over the weekend are released without a petition being filed or without a detention order being sought. In the absence of a bail system no alternative to compel release exists.[14]

This general pattern of detention overuse is recognized in other parts of the country. It has been documented in many major cities.[15] Apart from its civil liberties aspects, what does it mean? That is to say, what is invested in detention homes by way of staff and program facilities? What does it all cost?

What Is Detention Like? The case for detention rests on two points: the specific developmental needs of juveniles and the degradation and deplorable conditions of jail. Thus was the case put forward originally, at the turn of the century, and so is it justified today. The NCCD *Standards* sets the tone, so far as treatment goals go:

> The importance of treatment during detention is often brushed aside because, it is said, detention care is short and the court does not have enough information to determine just what treatment, if any, should be given. The diagnostic aspect is frequently ignored unless the court is at its wit's end.
>
> The law says little or nothing about either treatment or diagnosis for detained children. . . .
>
> [But] more explicit legislation is not necessary for the supervision and treatment of detained children according to the best available knowlege, which clearly indicates that *growing youngsters cannot merely be "stored" or held in a state of suspension during a crucial time in their lives.* . . .
>
> Instead of being merely a "waiting period," detention should begin the process of rehabilitation and lay the groundwork for later treatment. Above all, the detained youngster should feel in the staff a warm acceptance of himself and rejection only of his antisocial be-

havior. The staff's belief in the child must be belief in his best characteristics and, on the basis of this belief, in his capacity for change. Although the detention home is not a training school, staff attitudes can and should begin the training process.[16]

To what extent, therefore, can we claim that detention facilities measure up to these professional standards or—more modestly—that they even reach an acceptable level of health and discipline?

Forty years ago a study of the detention of 17,045 children in 141 areas of the country concluded with these observations:

> Detention is usually presumed to be the care of children pending disposition by the court. It is the method . . . which was inaugurated when children were taken out from under the old criminal law and given into the jurisdiction of the juvenile court with chancery proceedings. Under the *parens patriae* philosophy of juvenile court, children in detention would be cared for as a wise father would care for his children. Accordingly, it would be evident that a wise father would not place his children in jails where they would be exposed to adult offenders. But the practice has not followed the ideals of the juvenile court, for a considerable number of children, even children under twelve years of age, are held in jail. . . . A wise father would not place his dependent or younger problem children in a congregate institution where they would mingle with older, delinquent children who might contaminate them morally or injure them physically. A wise father would not lock his child in a room and keep him in solitary confinement, which is considered severe punishment even for adults. A wise father would protect his children from many of the places where children are detained in the various communities.[17]

There is no avoiding the fact that detention involves jail-like facilities. Quarters are locked, barred, or screened; "inmates" are often searched, stripped, reclothed; the daily routine is marked by a rigid insistence on schedule that is a distinctive trait of "total institutions." Though the population is selective in the sense of being age-graded, the homes are too often storage facilities for a mixture of difficult youngsters. Size itself appears to be a negative factor in that management of a large population justifies (if it does not demand) routinized handling. And there is always that pervasive concern about the chance of a sudden eruption of defiant behavior that

will sweep out of control. Jail-like features of the physical surroundings are therefore mirrored in the managerial routine.

There are mundane aspects of detention to consider as well: the question of plant maintenance, for instance. The March–April 1971 issue of *NCCD News* highlights this problem with a report on the findings of a panel appointed to investigate New York City's three juvenile detention centers:

> At the Spofford Juvenile Center . . . it found inadequate light and heat, a dangerously warped gymnasium floor, and a fire alarm system in disrepair. It also reported finding wet and falling plaster, cracked ceilings, faulty plumbing, and poor lighting at the Manida Juvenile Center and leaky roofs, cracked hot-water pipes, and inadequate building insulation at the Zarega Juvenile Center.[18]

Examples of overcrowding, inadequate diet, questionable disciplinary measures, and overly long confinement[19] could be added to extend the list of conditions often found in detention, conditions which stand as silent rebuke to the optimistic child-savers. But the fact is that the complaints rendered against detention are too often carbon copies of indictments against imprisonment in general—or, for that matter, against public institutionalization of all forms.

Yet there is a special horror about the shortcomings of detention. Enforced idleness surely strains the endurance of children, especially adolescents, more than adults. Commitment to detention is too frequently time on ice. For example, in the District of Columbia, "except for one small group, children at the Receiving Home were provided with only ninety minutes of instruction daily because of a shortage of teachers and classroom space." According to the panel report on New York City detention centers previously cited, "teachers in the centers are allowed to select the youngsters they want in class and to return the others to their dormitories—in violation of the state's educational laws."[20] To a visitor to detention homes the large-screen TV bolted high up to the wall and the dog-earred comics and old magazines testify to the way in which many hours are spent. And the *Census of Children's Institutions*, indicating the absence of desirable activities and the ubiquity of untrained staff too few in number, demonstrates the poverty of resources brought to bear on detained juveniles.

One of the most startling findings of the census was that less than half of the institutions gave all children physical examinations at the point of admission. Furthermore, only 20 percent made dental examinations available to all children at admission, and virtually none routinely utilized psychological or psychiatric evaluations. Care of detained juveniles, then, often proceeded without the staff having basic information on the health or stability of their charges.[21]

The census' findings on the range and availability of activities were equally sobering. Given the age spectrum of the juveniles in detention, one is immediately moved to inquire into educational and recreational programs. How do the children occupy themselves? Answers to this question are relevant to discussion of the trauma of separation from home, of control and orderly conduct within the institutional population, and of the extent to which the detention period can be purposely shaped—in the manner of "crisis intervention" treatment principles—to a reorientation of the juvenile to the demands of community life (to which, in all probability, he will shortly return).

Twenty-five institutions lacked school facilities on the grounds. These were, not unexpectedly, the smaller institutions. The larger detention facilities tended to use institutional schools to the exclusion of community schools, to rely heavily on public school teachers to staff their classes, and to regard educational facilities on the grounds as essential to the program. Fewer than half of the institutions offered classes in art, music, creative dancing, and the like, or had a program of religious education, and only about one-fourth offered vocational training. Over one-third of the facilities lacked a program in physical education, and one-fifth of all the children in detention were not participating in this kind of activity. In all these instances, the lacks were most noticeable among institutions in nonmetropolitan areas, and varied programing was the most apparent in institutions serving metropolitan areas of 500,000 and over.[22]

At the same time, other evidence suggests that institutions in large metropolitan areas erected the firmest barriers against community contact with detained juveniles. Thus, while school, church, or other groups were sometimes invited in for organized activities, the institutional program was apparently self-sufficient for daily purposes. Visits out to community facilities were of a kind that lent themselves to organized touring (e.g., museum visits, use of parks or recreational centers). Very few of these children attended

schools or had paid jobs or did chores in the community or visited the homes of neighborhood or school friends. In two-fifths of the detention homes, in fact, there was a total prohibition against community contacts as a matter of policy. The practices of smaller institutions and of the institutions located in the nonmetropolitan areas were less restrictive on these measures.[23]

As would be expected, detention staffs varied in level of educational attainment and mix of professional background. Few facilities boasted full-time professionals of any type, though there were more caseworkers than any other single category of professional. A full clinical team (i.e., social worker, psychologist, and psychiatrist) was a rarity. Fifty percent of the facilities had no one on staff from any of the three professions, and where the full team existed its efforts were directed to a small proportion of children.[24]

More important, routine staff review of juveniles in detention occurred in only 40 percent of the institutions.[25] We know that most institutions did not have caseworkers on staff. This leaves open the question of who assumes responsibility for assessing the juvenile's assignments and needs while he is in detention and who proposes school adjustments, treatment plans, or other forms of service upon release to the community or transfer to other institutions. The data suggest that either the planning leverage is vested outside the detention facility (in the juvenile court judge or his probation staff, for example) or the planning occurs *ad hoc*, as circumstances dictate case by case. Without deciding whether the clinical team model is best suited to a detention facility, one may note with concern the absence of a review and planning mechanism in many places. Presumably such a mechanism is as important in terms of the on-going institutional regimen as it is in disposition of individual cases.

Educational requirements for child-care staff were in effect in over one-half the responding institutions; where they existed, they were associated with a higher level of educational attainment for the typical staff member. Sixty percent of the detention homes with minimal requirements could report that the least qualified staff had some college, if not all four years. By contrast, in facilities lacking educational standards, over 70 percent had staff members with no college (and 13 percent without a high school diploma). In-service training—potentially a form of compensatory as well as continuing education—varies to a point that defies a general comment.[26]

The staff-child ratio was greatly superior in smaller institutions.

Two-fifths of the facilities with 25 or fewer children reported ten *or more* full-time employees for ten children. None of the largest institutions reached this ratio, the modal ratio here being four workers for ten children. This may be in part a function of a low level of activity in small facilities. To open its doors, a facility requires a certain minimal complement of personnel, and in the smaller homes possibly vacancies would automatically produce a favorable juvenile-staff ratio. Census data showed that nearly half of the small detention homes had a child-care staff complement all of whom had at least one year's tenure; this stability of staff pertained in only three of the largest facilities. How to weigh the relative merits of more professionalized staffs, which have higher turnover and fewer staff in relation to numbers detained, against the greater informality of program, greater staff stability, and more favorable staff-child ratios of smaller facilities calls for insights we do not possess.

In addition to program and staff, there are other aspects of detention-home treatment on which we would like to be informed. Some relate to housing and nutrition, matters on which NCCD *Standards* states detailed positions.[27] How frequently are detained juveniles fed, and what kind of food? What privileges, if any, do they enjoy, in the way of having visitors, using the telephone, sending and receiving mail, retaining their own clothing? What disciplinary measures are allowable and under what circumstances is isolation permissible?

These important questions of institutional life must be dealt with in each facility, but statutory or statewide administrative standards are notably absent. The information we have derives from studies of specific detention homes. Because the investigations were often undertaken in response to community outcry over an incident, it is difficult to assess the extent to which reported findings are a fair reflection of routine, either in the facility in question or within facilities in general. Yet there is little reason to believe that the criticisms implicit in these studies have been overstated. To cite one example, the comments in the NCCD study of the Cook County Audy Home, bearing on use of isolation cells in that facility, refer to a set of chronic problems:

> "Blackstone" is used in part as a result of inadequacies in the physical plant itself. Units too large for effective staff direction of adequate program, and the lack of activity space and equipment within living units, contribute to its perpetuation.
>
> The lack of sufficient staff with children in living units, their lack of knowledge and skills in handling deviant behavior, and the lack of sufficient clinical and casework service available within detention to handle behavior problems without resort to the repression and separation inherent in the use of "blackstone" are also responsible.[28]

Even at the present level of detention care, the costs per child are higher than per capita costs of less secure care (shelter care) and much higher than the costs of supervision while at home. The NCCD Survey calculated "an average cost of $130 per child" for the more than 409,000 youngsters held in detention homes and jails for an estimated national average stay of 12 days, or a total annual cost of more than $53,000,000.[29] Freed and Wald, writing in 1964, say:

> The cost of detaining a child frequently runs from $10 to $20 a day. In a large city, a census reduction of 20 per day would save about $100,000 a year. This would be enough to pay the salaries of 15 probation officers not only to supervise the release of more children, but to provide necessary investigation and casework for others as well.[30]

In sum, then, information on detention practice points to physically degrading care; severe lacks in program, whether viewed from the vantage of education, therapy, or range of activity; and poorly trained, insufficient staff forced to cope with problems for which they are neither prepared nor have the support of professional advice. This will not be news to many readers. Why do these problems arise and why have they, to date, resisted our efforts to solve them? Is there anything fresh to say on the subject of the cure, care, and feeding of detained youngsters?

Are We "Condemned to Repeat"?

> "Those who cannot remember the past are condemned to repeat it."
> George Santayana, *The Life of Reason*

A repetitive theme in the history of detention discussions is the harm its too-quick employment does to the juveniles detained. In more recent writing, the theme has been modernized by reference

to the proposition that a delinquency-reinforcement process is at work. One is referred to the degrading ceremonies inherent in confinement and the labeling process that official definition as delinquent (or "wrong-doer") sets in motion. The net impact, it is argued, is to cause a self-redefinition as a deviant, a criminal, in the world's eyes. By this theory, the case against detention rests partly on the proposition that, by our official actions, we commit the juvenile to a pattern of crime.

This general argument has been advanced in support of judicious use of law enforcement powers; it is a cardinal element in the rationale underlying proposals to divert juveniles from court.[31] The proposition is even more powerful, it can be claimed, when not only acquisition of a "record" or the application of a mildly coerceive sanction (e.g., probation) is at stake but when a total disruption of living is involved. Current theory states that this event—with its accompanying traumas of "stripping" (symbolic, if not actual) and locking-up—produces an ineradicable shock, a never-to-be forgotten experience.[32] Of necessity, a person so denuded and confined confronts the question of what he is that warrants such intrusive and degrading action. And, it is asserted, for many the response to this experience is to strengthen the separation between "we" and "they," reinforcing the delinquent's alignment with fellow deviants in opposition to the unfeeling figures of authority. Though the empirical support for these explanations is slight, what exists is consistent with the general line of argument.[33]

THE PERSISTING MISUSE OF DETENTION

With the evils of detention in mind—its inhumanity, its price tag, its delinquency-reinforcing potential—let us consider how it comes to be relied upon. It has long been agreed that it is overused and misused. Why should this be? Admittedly, what is "unnecessary" placement of children in detention depends upon one's point of view. Failure to delineate criteria limits the comparability of studies that have included reasons for placement among the aspects of operation evaluated. Nonetheless, despite lack of agreement at the margins of detention practice, there is a core consensus to support the argument that, nationally and chronically, detention has been overused even by the most tolerant standards.

Detention is misused in three different ways. Detention is resorted to when another form of care would be more appropriate. Detention is used for the convenience or to satisfy the cautious instincts of officials when the child should not be separated from his family prior to his day in court (if then). And detention is used for punishment. Each of the misuses of detention has been known for years. At the risk of ignoring local exceptions in order to sketch a national picture, we can point to the following evidence.

Detention as "Second-best." Other contributors to this volume have pointed out the shortage and inadequacy of various child-caring facilities, and those that exist, moreover, are seldom distributed around the nation with a fine regard for areas of highest need. These facts affect detention-home populations—as we have already indicated—and they have done so throughout detention's history. Consider the comment by the Illinois Crime Commission in 1927, which found that the Cook County facility contained "a great mixture of tremendously varying children, held for a variety of rather unnecessary and unidentified purposes."[34] Or turn to the persistent practice, only recently prohibited by order of the Presiding Judge of the Juvenile Court of Cook County, of intermingling the neglected and dependent with the delinquent in the same secure-custody facility, the Audy Home. Despite the judge's order, a subsequent news account referred to a "loophole being used to get neglected and dependent children in" and noted that there were "still sixteen retarded youngsters at Audy— seven months after the judical order—because there is no place for them to go."[35]

Data from the *Census* tell us how many detention *homes* performed additional functions, not how many children they cared for in discharge of these other roles. But the fact to be stressed is that we do not know, from one day to the next, whether juveniles who are detained need another form of care nor, if they do, how many do. In view of the evidence that has appeared from time to time, perhaps we should maintain a measured skepticism towards any claim that detention serves only those who, by local definition, should be detained.

DETENTION FOR PEACE-OF-MIND OR COMFORT

This involves the use of detention for what may be loosely termed administrative convenience. The distinction should be drawn be-

tween detention overuse for punitive reasons (as expressed by the detainer) and for protective reasons (again as the detainer sees them). It is the latter reasons that are dealt with here.

A chronic difficulty in detention practice has been its use in the service of clinical personnel, probation officers, and other "concerned" adults. Detention is resorted to in order to protect the runaway, to shelter the material witness, to aid police investigations or probation inquiries, to guarantee availability of the child for psychiatric or related examination on the appointed date and hour, to hold the truant pending diagnostic sorting out of the source of difficulty. Detention is remarkably effective as a guarantee of accessibility to the child. One suspects that at times this attribute is irresistibly tempting to the officials and professional experts, ever undermanned and overburdened, who try to approach a case with some degree of individualization and to make a stab at a professional, rather than a mass response to the juveniles whom they see.[36] Ferster's review of detention literature and her field study in "Affluent County" indicate the currency of these considerations as of 1969.[37]

The overuse of detention for convenience or for protection against criticism (which would be expected, for instance, were the runaway not to be detained, only to run away again) has a contemporary grounding. Inferential evidence to back this charge is available in court statistics. We know that most of the detained juveniles —even if adjudicated wards of court for one reason or another— receive community-based dispositions. That is, the majority who experience a prehearing confinement are not held beyond the time of disposition but are dismissed, continued or placed on probation (under supervision). This suggests that judges, at disposition, will take risks that neither police, probation officers, nor even the judges themselves will take before the case is fully "proved." Leaving aside the punitive connotation of such patterns of practice, the fact that substantial numbers of cases flow through detention to ultimate community release generates the possibility that overprotective, overcautious official reactions are influencing detention practice, regardless of what the formal criteria direct.

Detention as Punishment. Though the studies of detention are circumspect about identifying specific instances, there is widespread agreement that *some* judges *some* times use detention as punishment in *some* cases. Nor are they the only persons so inclined. Studies in Massachusetts and Texas indicate the belief of probation officers that giving a child "a taste of confinement could serve as a deterrent to further delinquency."[38] The California Commission Report of ten years ago probably still stands as the most thorough survey of state detention practices. That investigative body was unequivocal in its indictment of certain California counties for detaining a high proportion of juveniles for minor offenses and releasing a substantial number of them without a petition being filed. That practice, in itself, is usually interpreted as evidence of punitive use:

> This is further proof of excessive detention because, generally speaking, if a minor's delinquency is serious enough to require juvenile court action, a petition will normally be filed. The facts show that almost half (48 percent) of the 49,000 juveniles initially referred to probation departments for delinquent acts last year did not have a petition filed. In a majority of instances they were detained in juvenile halls anywhere from a few hours to several days.[39]

Additional evidence of misuse comes from the blanket reliance on detention for certain offense categories. This practice defies the expressed intent, found in several statutes and universally emphasized by standard-setters, that the detention decision be an individual determination based on careful investigation and evaluation of the facts of the case. A "rule"—written or oral—to the effect that all drug violators be detained, for example, would slight the individualistic bias of statutory detention criteria for what appear to be punitive or—at the least—deterrent considerations. So concluded the California Supreme Court in a recent opinion.[40]

The persistence of overuse and misuse of detention deserves some serious attention. If, as is true, the criticisms pointed to above are familiar ones, the question is why past efforts to control detention practices have not brought about the desired result. An important clue may be found in the nature of the detention decision itself. Modern statutes and guidelines have attempted to shape it, but the basic stages have been identifiable for decades.

THE DETENTION DECISION

Analyzing several steps of decision that govern detention should help to clarify the actors involved in the process and the influences

to which each is subject. The actors are specified in a few, but not most, juvenile court statutes. They include the law enforcement officer who determines where to refer for detention, the staff (probation or other) who screen cases at intake, and the judge who reviews the decision, often at a separate detention hearing. Where detention facilities, as such, are not available, the steps toward, and the actors in, the decision regarding removal from home are likely to be somewhat different. Statutory standards applicable to the detention decision vary from one state to another, but in general they show the influence of standards articulated by the Children's Bureau and NCCD. Most often, these include children who will run away while their case is under consideration by the court; children who must be held for another jurisdiction; and children "who are almost certain to commit an offense dangerous to themselves or to the community before court disposition." Sometimes added are children who require detention for their own protection.[41]

The police are typically the first to get involved, for there must always be an intiator of action, either to remove juveniles from home or, where they are already absent, to respond to their conduct or their situation. The official most likely to initiate this action is the policeman. Second, there must always be a respondent who either takes full responsibility for accepting the child into care (as in the case of placement in a temporary shelter arranged, or agreed to, by the parent) or shares the responsibility with another decision-maker (as in the case of a jail warden, whose authority to turn the juvenile away or to "keep" the juvenile is set forth in criminal law).

Even where special detention facilities exist and are heavily used for juveniles manifesting all sorts of behavior, the foregoing outline oversimplifies the choices that must be made and the influences that can shape them. For example, the initial determination to refer to detention is ordinarily made by a police officer. Yet within the law enforcement agency, that officer may be a patrolman or a youth specialist; he may be acting under detailed departmental guidelines or exercising a considerable professional discretion; and he may depend upon the concurrence of a superior at the local station or be able to act independently under color of his specialist-youth-officer authority. The decisional process is complex within any one of the several organizations involved.

Modern statutes attempt to control the threshold judgments

about suitability for detention. At the various stages of handling, a statutory burden is placed on each official to justify a recommendation to detain. Several state laws establish presumptions in favor of a minor's return to his parent, guardian, or other custodian. The law may provide slightly different criteria for retention or release at different stages of handling. The ultimate responsibility of permitting detention, however, is clearly laid upon the judge, and no one else.

Thus, the policeman is directed to release whenever possible or he must promptly notify the parents of the juvenile's location and deliver the juvenile "to a place of detention designated by rule of court." Similarly, the personnel who screen admissions to the detention facility provide another filter; guided by a legislative preference to release all possible minors, they too are directed to detain only in conformity with the standards governing detention.

The final step toward a formal decision to hold is the judicial detention hearing. Several requirements surround it. First, it should occur within a specified time following initial admission to the facility. Second, a petition alleging juvenile court jurisdiction over the minor must be filed. Third, the formal detention decision expressly turns on statutory criteria for detention; modern laws specifically call for release where the stated conditions are *not* found to exist. Fourth, it is not unusual for state law also to designate preferential treatment for detained juveniles by demanding that they be scheduled for hearing ahead of others.

Yet, for all the recent attempts to narrow the volume of and justification for detained cases, the impact of legislative change is problematic. The central fact is that today, as previously, the initiative to send a juvenile to detention typically falls on the police. Police powers comprehend all minors who might reasonably fall within juvenile court jurisdiction. Since the sweep of that jurisdiction is far-reaching, it legitimates an initial detention referral in a large number of police-juvenile encounters. As a result, the police effectively control the flow of cases to the detention facility. Any review by its personnel necessarily partakes of "second-guessing" the judgment of the man on the firing-line, and he is that very person on patrol in the local community, charged with peacekeeping responsibility. He is, in brief, a hard act to follow!

It is important to recognize that the location of intake officials at

both geographic and temporal remoteness from this first, preliminary policy judgment in favor of holding puts the detention personnel at a decided disadvantage in undertaking an uninhibited, *de novo* review. Yet recent statutes rely heavily on this type of review. Structurally, so to speak, detention intake personnel are poorly situated to contradict the original judgment of law enforcement officials.

The same consideration seems applicable to judges. It is true that judges, compared to detention personnel, are more powerful figures in the community. Yet though they are somewhat insulated from the immediate influence of community power blocs, they appear to be sensitive to the concerns of local groups. As decision-makers whose verdicts acquire high visibility in controversial cases, judges have a fine appreciation of the salient features of unpopular decisions. More than intake or probation officers, judges are aware of how limited are their resources for fact-finding yet how crucial are the particulars in arriving at defensible judgments about detention. They cannot go out and gather information, but that is by virtue of their role; intake personnel may not be able to gather (much) information either, but if so that is because of their caseloads.

An official quickly learns that excessive caution rarely provokes adverse community reaction. It is risking the debatable release of young people, not risking the delayed-fuse inherent in confinement, that arouses public criticism. Despite the statutory rhetoric favoring release, the structural pressures applicable to various stages of the detention process favor custodial holding over release in borderline cases. Or so it appears.

THE "CONVENTIONAL WISDOM" OF REFORM

This observation leads directly to consideration of ways of affecting the detention decision. There appear to be several: offering alternatives to detention, strictly monitoring its use, and redefining its function. With respect to alternatives, there appear to be "good" alternatives and "bad" ones. Detention, as earlier noted, may be relied upon in despair; it is better than nothing. On the other hand, detention itself may be better than what is used—and used, as we know, in the majority of jurisdictions of the United States where no specialized secure custodial holding for juveniles is available.

Juveniles in Jail. Let us consider jails. Readiness to use this type of holding is no doubt influenced by the ubiquity of jails and lockups. Few counties lack them, whereas few counties possess special juvenile facilities for brief holding. The extensive use of jails and the damaging conditions therein scarcely need exegesis. The unlovely story has been told before, and it is closely tied to the origins of juvenile justice.

The impetus for the court's founding largely came from a public awakening to the evils of imprisonment of juveniles. "During the 1880's, penal reformers in Illinois shifted their interest from the general physical conditions of jails to the effect that these conditions had on particular groups, especially children." One interested philanthropist suggested, as early as 1884, "that Chicago needed special institutions—detention homes for before trial and reformatories for after trial."[42] Platt, in his account of "The Invention of Delinquency," draws attention to the important role of the Board of Public Charities in identifying evils in the Illinois jails and makes the following claim:

> The Board of Public Charities found little public or political support for its efforts to reform conditions in county and city jails. . . . When the Board turned its interest to the problems raised by the detention of children in jails, it found allies in other child-saving organizations and a potential base from which successful reforms might be achieved.[43]

Attention to jails generated interest in other kinds of contaminating experience in the courts and their environs, and led to the introduction of separate hearings, separate dockets, court records, and probation service for juveniles in several states prior to 1899.

The movement finally culminated, as we know, in the passage of the Illinois Juvenile Court Act. From the outset, there were difficulties in implementing the statutory ban on confinement to a jail or a police station of children under 12, for the legislature had failed to provide the funds to establish "some suitable place . . . outside of the inclosure of any jail or police station" for juvenile holding, just as it had also failed to fund the probation services regarded by the founders as essential to the new court concept.[44] By 1903, however, a group of private child-saving organizations managed to estab-

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lish a detention home, and from that date forward Cook County has had one of the now 242 specialized facilities of some size and shape.

We currently have two national surveys—the 1966 NCCD estimates, previously mentioned, and a report from the Department of Justice on a National Jail Census—as evidence of the persistent and substantial practice of holding juveniles in jails. On March 15, 1970, 7,800 juveniles were among the inmates. Over 5,000 of these juveniles were either awaiting arraignment or action by other authorities or were arraigned and awaiting trial. Those convicted and awaiting further action (either sentencing or appeal) numbered 484. A substantial number, however, were serving sentences—1,365 serving sentences of less than one year and 853 serving longer terms. According to a preliminary report on the Jail Census, about 52 percent of all inmates were confined "for reasons other than being convicted of a crime"—that is, held pre-arraignment or awaiting trial. By comparison, the proportion of *juveniles* confined without conviction was considerably higher—66 percent were awaiting arraignment or trial.[45]

We also have recent information from one state as a result of the Illinois Jails Survey of 1967–68, undertaken by the Center for Studies in Criminal Justice of the Law School, University of Chicago. The juvenile inmate population of Illinois jails at the time of survey was 6 percent.

> The highest percentages of juveniles are found primarily in smaller jails; most larger jails detain 1 to 5 percent of juveniles while greater numbers of smaller jails fall in the 6 to 10 percent range. . . . Sixteen city jails either do not hold juveniles at all or at least do not lock them in cells; 97 of the county jails do hold juvenile offenders. Nevertheless, the percentage of juveniles is somewhat lower in county jail populations [5.8 percent as compared to 6.4 percent]. This suggests that fewer juveniles are convicted in regular criminal courts, that juveniles are sent after adjudication to juvenile facilities which are not included in the survey, and/or that many of the juveniles detained, such as runaways, are not charged.[46]

The juvenile population reported in the National Jail Census was about 5 percent of the total inmate population of all institutions (some 4,037 in number) that met the census criteria. Since one criterion for inclusion in the National Census was authority to detain for a minimum of 48 hours' duration, facilities like "drunk tanks" and lockups were excluded. The count of persons detained in local places of confinement is consequently understated in this census for both juveniles and adults. Thus, the reported 7,800 juveniles excluded those who were held in other familiar places of confinement with adults. It should also be noted that the count took into consideration local variations in legal definition of juveniles so that minors of 17 years of age—to cite examples—would not be counted as juveniles in New York but would be so included in Oregon. The age groups for whom detention is available differs from state to state.

These data do not tell us what proportion of juveniles, if any, were held in places of adult confinement in contravention of state law prohibiting confinement of juveniles.[47] Nor do we know, when confinement is permissible for juveniles under certain conditions, whether the conditions were being generally enforced. Suffice it to say, jail detention affects a sizable number of juveniles—estimated by NCCD at 88,000 in 1965.[48]

On superficial inspection of the Jail Census findings, it is not clear that the existence of specialized juvenile detention facilities directly affects the rate of jail detention for juveniles. It can be said, however, that the only jurisdictions that reported *no* juveniles in jail were found among the few states possessed of statewide detention facilities. Several states with developing statewide powers over jails (i.e., of inspection, state standards, and conditioned subsidy) reported low juvenile populations.[49] But these are crude appraisals, and they do not alter the force of the finding that juvenile jailing exists, as it long has. The ultimate policy issue remains: what is the best response to juveniles deemed to require secure custody pending adjudication? It may be that this issue should not be cast in terms of jail versus detention home—but this anticipates discussion in the final section of this paper.

Juveniles in Temporary Shelter Care. Another frequently advocated approach to misuse of detention, short of the creation of a variety of specialized facilities, is to siphon off from the secure-custody population all those who need emergency care but of a nonrestricting type. From the beginning of juvenile detention, efforts have

been undertaken to sort the detained into different living groups, one persistent push being to segregate delinquents from neglected and dependents. More recently, strenuous efforts have been made to limit the intake of detention facilities to those juveniles referred to court who require secure holding in the interim. For the rest, the common prescription for meeting urgent custodial problems is temporary shelter care. This is identified, as we have already noted, to be "temporary care in a *physically unrestricting* facility pending the child's return to his own home or placement for longer-term care." While available for dependent and neglected children, it is also widely advocated by standard-setters as suitable for juveniles "apprehended for delinquency whose homes are not fit for their return but who, with proper handling, are not likely to run away and therefore do not need secure custody."[50]

In theory, shelter care need not be institutional care; it can as well be provided in individual or group foster homes. It is, in the eyes of many, properly conceived of as a "broader child-welfare service not only for the court but also for child and family agencies, both public and private."[51] To what extent temporary shelter is purveyed through foster homes—or through less formal means, such as a probation officer's or the sheriff's spare bedroom—would be nearly impossible to determine, but it seems unlikely from the chronic complaints about overuse of detention that these resources are generally available for nondelinquents, let alone alleged delinquents who do not need secure custody. Otherwise, why would the plea to expand shelter facilities for the nonthreatening delinquent and the incorrigible child be reiterated over and over again, were such temporary care arrangements now widely utilized? In any event, we should remember that the following data from the *Census of Children's Institutions* relate to *institutional* resources, not the foster-family-based type, which is increasingly mentioned with favor.

It was abundantly clear, at the time of census, that shelter care facilities were not, and were incapable of, meeting the potential demand for physically unrestrictive care of juveniles. In 1965 there were but a handful of shelters—54 in all—and they held 1,832 children, as compared to the nearly 11,000 in detention. Twenty-eight states had no temporary shelters at all, and several populous

states (e.g., Florida and Michigan) had only one such institution to serve the entire jurisdiction. By sharp contrast to detention facilities, 236 of which were public and only six under private auspices, two-thirds of the temporary shelters were private. These private facilities cared for about one-half of the 1,832 children in shelter care. Among the states with these facilities, few had more than two institutions in the state. The exceptions were Nebraska (3), New York (10), Ohio (5), Pennsylvania (4), and Tennessee and Texas (3 each). New York State clearly cornered the shelter care market in number of institutions, number of children so served (918, or half the national total), and proportion under private auspices. Students of welfare history will recognize the impact of a system of state subsidy to sectarian agencies as a partial explanation of the New York profile.

There was a marked difference in the median ages of children living in these two types of institutions. Those in temporary shelters had a median age of seven years ten months while the median for detained juveniles was nearly twice as high—14 years seven months. In age, then, the institutional populations were very different.

What of other features? Reasons for placement were not sought in the census, but all institutions were queried as to the functions they would perform in addition to their primary one. In the case of detention homes, we have already seen the wide range of other responsibilities assumed. By comparison, the temporary shelters were more selective. None was offering care to the physically handicapped or the mentally retarded, or psychiatric care to the mentally ill. More important for our purpose, *none* gave detention care. Thus, although 20 percent of the detention facilities indicated that they performed a temporary shelter function, none of the shelters served as a place of detention.

These facts are not hard to understand. The lesser risk—the child who is regarded as neither threatening nor demanding of close control—is readily accommodated within a "maximum security" environment, so far as the institution's managers and staff are concerned. From an organizational perspective, the harm to the juvenile of close-security custody is not as pressing (nor as demonstrable) a consideration as ease of institutional accommodation.

This census, as well as other reports, points to overlapping functions between shelter and detention facilities. Nevertheless, the interfaces are more relevant to dependent or mildly disturbed children than to those who are allegedly delinquent or unruly. Compared to 40 years ago, temporary shelters now serve fewer children and there are fewer institutions than formerly existed. As a resource for children who are seen to be difficult, the temporary shelter may be useful theoretically, but in practice it is seldom so. We should also be restrained in estimating the gains that would accrue were shelter care more widely available. A transfer of youngsters from present-day detention facilities to temporary shelters (as we know them now) would represent a limited advance. The juveniles concerned would presumably experience a greater sense of freedom and a lessening of stigma, but it cannot be said, in terms of program or staffing, that the quality of care would be markedly superior to what is found in detention homes.

Legal Remedies: Bail, Statutory Standards, and Counsel. In view of the "judicializing" trends in juvenile justice, it is no surprise that a number of proposals for improving detention practice concern legal standards and procedure. Many raise important matters of principle and may be defended on this ground alone, irrespective of their practical impact on the several stages of decision that result in a detention experience. As will become apparent below, we have little evidence as to the impact of legal reforms owing to their recency. Nonetheless, some of the evidence at hand suggests that the principal avenues of reform—bail, statutory criteria, and provision of right to counsel—will be of limited utility in curbing the historic evils associated with juvenile detention.

For the first half-century of the juvenile court's life, bail was not an issue. The statutes of a few states have always given juveniles the right to release on bail; most states have not.[52] Over the past 10 to 15 years case law has developed that challenges the denial of bail in juvenile court proceedings. The attempt to extend such a right met with apparent success in *Trimble v. Stone*, 187 F. Supp. 483 (D.D.C., 1960), a frequently cited federal case from the District of Columbia in which a youth charged with sexually assaulting several

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women was held in detention awaiting a trial date over one month away. The court interpreted the Eighth Amendment to confer a right to bail in juvenile court. But a later case from the District of Columbia Circuit Court, *Fulwood v. Stone,* 394 F 2nd 939 (D.C. Cir., 1967) modifies the force of *Trimble.* Here the court said, in responding to the argument that the Bail Reform Act of 1966 applied to the juvenile, that it found it "unnecessary to reach the question whether there is a 'constitutional right to bail' in juvenile proceedings, since we believe that an adequate substitute for bail is provided by the Juvenile Court Act itself." In a footnote, the court suggests another reason for its decision: "Money bail might be anomalous in juvenile proceedings, since the juvenile's right to pretrial release would depend on the economic position of his parents rather than considerations relevant to the goals of the Juvenile Court Act." (394 F. 2d 939, 943 n. 13.)

This disposition to solve the prerelease issue in juvenile court without importing bail has been expressed by other authorities, too. The Crime Commission was forthright in its opposition:

> The institution of bail . . . may be seriously questioned as a rational solution to the problems of pre-hearing custody, despite its ancient and constitutional lineage . . . it is one of those attributes of the criminal process that it is wise for the juvenile court system to be free of.[53]

Although the cases are too few to permit anything but a most cautious ascription, the dominant view appears to be that, where the detention decision itself meets the requirements of due process of law, "the interest of the juvenile is protected and he is not subjected to the arbitrary confinement which the Eighth Amendment is designed to protect."[54]

Nonetheless, bail rights are increasingly being tested in the courts. This strategy will probably persist. Several law review authors, writing post-*Gault,* have treated bail as an indispensable, if not a constitutionally required right.[55] Moreover, detention hearing legislation does not wholly cover the problems of pretrial confinement. Under current California law, for instance, in the absence of bail there is "no means of insuring release within the first seventy-two hours after arrest. . . . As undesirable as bail is," concludes

one observer, "it is the most effective check on the refusal of probation officers to exercise their discretionary powers of release prior to the detention hearing."[56]

It is not clear what final solution will emerge. What is clear is that, for juveniles as well as adults, bail is far from a panacea. And from the community's perspective, there is the same need, whether juvenile or adult cases are under consideration, for a rigorous examination of release-and-detain practices to identify "the factors relevant to the risk of flight before trial . . . and bearing on the likelihood of persons' committing various offenses while released pending trial."[57]

As we have already pointed out, modern juvenile court acts establish standards and procedures in an effort to control the use of detention. Characteristically, the newer statutes distinguish shelter care from detention and favor the formulation that the child be *"released* unless," in contrast to many earlier statutory prescriptions that he be *"detained* unless." Increasingly, there is provision of stringent time limits between initial confinement and the hearing to review its continuation and specification of the content and conduct of the detention hearing. Generally, however, statutes do not set forth criteria for detention, or the standard of proof required to support a decision to detain. At the same time, there is a disposition among the lower courts to recognize, on constitutional grounds, rights to a detention hearing and to a decision to detain based on adequate evidence. In *Baldwin* the court noted: "The record is . . . barren of anything that would indicate that petitioner is not likely to appear at any further court proceedings, or that would justify further detention under any criteria set forth in §48.20."[58] Several cases have also required that there be a finding of probable cause that the juvenile has committed an offense and substantial evidence of legal grounds for holding the child.[59]

In the absence of routine monitoring of (unreported) detention decisions, it is not easy to say whether the development of standards and strengthening of procedures has made a difference. Obviously, judging by a few case reports and statutory changes, there has been activity that would of necessity affect some juveniles, but whether the proportions are significant is a presently unanswerable question.

Furthermore, the visible activity involves creation of substantive and procedural rights, but these are not automatically self-implementing.

The best available evidence comes from California, not surprising in view of its protracted efforts to improve detention practice. Studies there in 1965 and 1968 indicated that the intercounty variation in detention rates was still notable and the rates still in excess of nationally recommended standards.[60] Considering the detention hearing *qua* hearing, two observations from Sumner's recent research deserve repeating: "far more cases go through juvenile court [detention hearings] without benefit of legal counsel than with it" and "most hearings were exceedingly brief—some lasting no more than two or three minutes." On the latter point, Sumner observes that a "minimum of thirty minutes would probably be a realistic allotment of time for many, if not most, detention hearings."[61]

What are Sumner's findings with resepct to the qualitative problem we are dealing with? That is, what inferences can we draw about the effect of formalization of standards and procedures on this vital decision whether or not to detain?

> Since the study found evidence that non-legal factors in many instances influence detention rates in the counties under study, the initial research hypothesis [namely, that these factors were influential] is supported. Furthermore, the study findings highlight the issue of accountability. The study did not set out to prove that adult attitudes carry the lion's share of responsibility for varying detention rates, nor is such proof implied at any point. Nevertheless, there is plentiful evidence that detention practices and beliefs among decision-makers vary widely. Must not, then, the question of value standards be raised? Are not decision-makers imposing personal value standards, whether or not they are appropriate, and callously ignoring those of the child?[62]

Formal statutory requirements had apparently failed to improve detention practices substantially—or at least as much as hoped.

At least two features of the legislation may account for this. One is the breadth and vagueness of the standards for detention. Almost without exception, statutes or proposed model acts demonstrate a preference for release prior to hearing but display neither the preci-

sion of language that identify the "necessary" detention cases unmistakably (probably an unattainable goal) nor the type of machinery that affixes accountability for decisions as they are made.

Officials daily face a stated general policy favoring release—a preference all of them doubtless share in the abstract—and a series of specific cases in which, by the very fact that police or court action is being sought, alternatives to detention appear to have dried up. As Warner put it in 1933, "most courts profess a general policy of detaining children only 'when necessary.' This is a subjective phrase capable of a wide range of meaning, and what is 'necessary' in the estimation of one court may be uncalled for in the interpretation of another." Warner's comments on the courts may be read as equally applicable to police and detention intake personnel.[63]

Not only do the values that shape the detention decision vary but, it should be noted, the values of each decision-maker are influenced by his particular role as short-contact processer. To put the point another way, neither police nor probation officers serving at intake nor judges have the time or the capability of mounting independent investigations of circumstances relevant to the release-or-detain decision. They must come to decision quickly; they must act on the basis of information passed along or retrievable in short order by phone or brief "house call." Caseload pressures materially limit their ability to do as they have been urged to do for decades —namely, to make of detention "not . . . a routine procedure, but a selective process, where the personality of the child and all of the factors entering into the problem are considered."[64]

There is another statutory trait to be reckoned with: it goes to the jurisdiction of the juvenile court. So long as the courts are empowered to deal with the several common classes of juveniles—the dependent, neglected, delinquent, and "so-forth"—the pressures for misuse of detention will persist. While it is not uncommon for juvenile court legislation to distinguish between detention and shelter care, the distinction is usually left unrelated to the classes of children subsumed under the court's jurisdiction. That is to say, detention is available for all children who meet the specified custodial test, whether or not they are alleged to be delinquent or incorrigible or neglected. With a few exceptions,[65] detention can also be used for juveniles charged with status offenses and for care of that miscellaneous group of children who are potentially wards of court and may be so classed when no other effective community response exists. Thus, out-of-wedlock infants, the mentally retarded, the psychotic, the truant and out-of-control cases—the whole lot—can be justified for detention in terms of the court's jurisdiction. Where local conditions seem to permit no other disposition, the tendency to place these children in detention apparently is irresistible.

There remains to consider extending the availability of counsel as a legal strategy for guaranteeing better detention practices. In theory, the contributions to be made by counsel at this stage of the juvenile justice system are as considerable as those at the better-publicized stages of adjudication and disposition. Issues of statutory interpretation can be presented, due process arguments offered, writs of habeas corpus sought. On the face of it, lawyers have a valuable role to play. From this perspective, the challenge is economic and organizational: that of increasing and allocating the supply of lawyers to make them available for round-the-clock (or regular) coverage of the detention facility.

Rosenheim and Skoler, writing in 1965, questioned the feasibility of such a scheme so far as assigned counsel systems are concerned.[66] While feasibility remains a salient consideration, an unanticipated difficulty is presenting the right to counsel at the detention hearing in a compelling manner. Sumner's observations on this point are germane:

> Not once did any judge fail to advise a juvenile offender of his right to counsel at the beginning of each detention hearing. But time after time the information was given in lifeless, dreary fashion, often so hurriedly that not even the research observers could be certain what was said. As for parents and children, many appeared too frightened to make any reply whatsoever to the mumbled legalities.[67]

Thus, assigned counsel systems must not only cope with how to deploy limited resources so that they are available when crucial detention decisions are made but must also be concerned with how to communicate to the child and his parents the important potential of lawyer representation at this stage.

Furthermore, there are the questions of what counsel can do, in fact, and under what circumstances he will be willing to play the

part of advocate and to act as the abrasive challenger of practices that the officials he meets are prepared to defend or shrug off. And because he too can seldom offer a concrete alternative, the attorney perhaps will be particularly vulnerable to the arguments favoring detention, as compared to the challenges he may be willing to assert at the later adjudicatory hearing, a forum that presents him with less personal responsibility and a more familiar role.[68] Lawyers have been active critics of juvenile court philosophy and procedure but their voices have been more muted on the subject of detention than on other facets of juvenile justice.

In this respect, assigned counsel face a special problem. The juvenile who cannot afford his own attorney is less likely to command alternatives to detention than his middle-class counterpart. And public defenders in juvenile court are also thought quickly to become part of the "system."[69] Here the lawyer is drawn into weighing the strategy of attack in a detention case against the issues at stake in other cases on his work sheet. The detention decision does not "hurt" in the same way as an ill-founded verdict or a disposition directing indefinite confinement, and it means that the juvenile is more accessible to counsel, too. For these considerations, extension of formal right to counsel (appointed if need be) seems unlikely to bring about significant change in detention practice.

Other Remedies for the Shortcomings of Detention. Of a somewhat different order from the reforms discussed above are suggestions for organizational change that relate to statewide detention planning and internal administration of the facilities. These are the aspects of detention to which two standard-setting agencies, NCCD and the Children's Bureau, have directed much of their attention. NCCD, in particular, has advocated regional detention under state auspices, backing its case by reference to the larger capacity, both fiscal and personnel, of state government, which can assure reasonable distribution of detention centers and effective control over admissions.[70] At the time of the 1966 NCCD Survey, 14 states took some responsibility for detention, ranging from standard-setting and subsidy of selected costs of detention (e.g., construction, salaries, or planning) to the actual operation of regional detention centers (a pattern in eight states). The movement to state responsibility has been slow but conspicuously more successful in the eastern seaboard states than in other regions of the country.[71]

Both NCCD and the Children's Bureau[72] have argued the case for varied programs, trained and supervised staff, and coordination of policy between detention facilities and juvenile courts. Quite recently, they and other groups have focused on standards for internal administration that would establish minimal levels of diet, discipline, and activity for those admitted to detention. It is ironic that the subject of disciplinary abuses has tended to be associated predominantly with jails;[73] the California Commission Report illustrates this concern in its recommendations for closer control over jail confinement:

> A. Require specific court approval each time a juvenile is to be detained for a period in excess of 24 hours in any locked facilities other than a juvenile hall.
>
> B. Require annual inspection and approval by both the juvenile court judge and the California Youth Authority of any jail lockup facility in which juveniles are detained more than 24 hours.[74]

Yet, as noted earlier, overly severe discipline in detention facilities is not unheard of. States are now moving to formulate standards for confinement, whether or not the facilities in question are state operated. NCCD summarized for the Crime Commission progress to that date (1966):

> Ten states have developed their own standards for detention. Six of these documents are concerned with building construction; the others deal with program, personnel qualifications, or health and safety. Most of the State standards are minimal and have proved so difficult to enforce that they have done little to offset the damaging effects of confining delinquents together.[75]

Since then, efforts have been made to draft general correctional standards, and we may hope to see both statutory and administrative rules worked out to raise a level of care and activity that now is characteristically low.[76]

The standard-setters' work may be classified as improving upon an existing pattern. But questions may be raised about the soundness of the conception of detention and should be related to the overall ferment in juvenile justice.

A Proposal

"Manners with fortunes, humours turn with climes,
Tenets with books, and principles with times."

Alexander Pope, *Moral Essays*

If cases, statutes, and articles are accepted measures of activity, the juvenile justice system is in a state of frenzy. Its philosophical foundations have been cracked. The trinitarian doctrine of dependent, neglected, and delinquent as one, unified in vulnerability to evil and responsiveness to the wise father, has been breached. Now they are as three—and sometimes four or five.

The fashions of the day run to distinctions: the dependent child is classed apart from the neglected, who in turn is distinguished from a minor in need of supervision (MINS or PINS), and he (or often she) from the "true" delinquent. And, although legislation currently defines "delinquent" to include a thick catalogue of crimes, there are adherents to the further proposition that serious offenses should be distinguished from minor ones. In the colorful language of one juvenile "defense" lawyer, "Someday someone will have to force the system to distinguish between the kid who takes a candy bar and the one who shivs someone in the back."[77]

The drive to reclassify the potential subjects of juvenile justice is part of a broader movement to assert "due process" concepts for minors. Paul Tappan and Francis Allen number among those who first saw the juvenile court, not as the child-savers wanted it to be, but as it is and necessarily must be—a court that "must perform functions essentially similar to those exercised by any court adjudicating cases of persons charged with dangerous and disturbing behavior."[78] These views have influenced the substantial revision of the juvenile court acts in several populous states; the land marks of *Kent* and *Gault* have stimulated or (where beginnings already existed) further strengthened provision of counsel for the child in juvenile court; and the court reports currently reflect a continuing assault on the unresolved issues of juvenile law.

Attention so far has centered on the adjudicatory hearing, but other aspects of the juvenile justice process have not been above criticism or immune from statutory revision in anticipation of constitutional attack. Detention is one such phase, in which California led the nation by establishing detention hearing provisions in 1961. While statutory provision remains the exception, not the rule, it is true that "most commentators consider mandatory detention hearings as a constitutional requirement or a practical necessity to control detention effectively."[79]

But so long as certain distinctive features of juvenile court jurisdiction remain, changes sought by statute, case law, or administrative fiat are apt to be of modest impact. The primary problem with detention is the age-and-behavior group it is charged to handle, and this in turn is a product of the conception of juvenile justice. It reflects the "unitary" theory of *parens patriae*. Under it, detention—physically restricting custody of children—is permissible for those who threaten themselves as well as those who are putative threats to the persons or property of the public. Provided that the statutory tests can be met—and, as we have seen, the law is broad and elastic—detention encompasses the neglected child or MINS as well as the delinquent. And, as we have also seen, many facilities are burdened with the secure custody of juveniles over an age span as wide as minority. Even if detention were confined to those alleged to have committed crimes, the detainee population would be extremely diversified simply because the delinquent acts of 12-year-olds are qualitatively different, on the average, from the delinquencies of 17-year-old "repeaters."

The problem with detention, in short, is not just with the screening process or the lack of alternative resources, important though these factors are. It lies with the premise that the jurisdictional categories of juvenile justice afford a rational basis for institutional classification. The proposal here consequently has two parts, one dealing with the court's jurisdiction and the other with changes in detention proper.

REDEFINING JUVENILE COURT JURISDICTION

Critics of juvenile justice have tended to nibble at the edges of the issue of jurisdiction. While recommendations have regularly been made for tightening statutory language, reclassifying the juveniles subsumed under the court's authority, and strengthening the methods of diversion from the court, it is still the exceptional commenta-

tor who advocates major surgery. The Crime Commission brought the possibility to the public's attention:

> The movement for narrowing . . . jurisdiction should be continued. Specifically, the Commission recommends that any act that is considered a crime when committed by an adult should continue to be, when charged against a child, the business of the juvenile court. Serious consideration, at the least, should be given to complete elimination of the court's power over children for non-criminal conduct.[80]

Morris and Hawkins go the final step and recommend confining the court's jurisdiction to "pure" delinquency, that is, acts that would be criminal if committed by adults.[81]

There are two reasons for endorsing this approach. One stems from the belief that the broad sweep of power over the conduct-illegal-only-for-children has not accomplished the reclamation that was intended by framers of the juvenile court. As the Crime Commission noted: "In declining to relinquish power [over this type of conduct], we must bluntly ask what our present power achieves and must acknowledge that at most we do not really know, and in at least some cases we suspect it may do as much harm as good."[82] Further, it does not necessarily follow that eliminating juvenile court jurisdiction over the neglected or the incorrigible-type cases, which are so often identified as serious social problems, would leave society utterly powerless to respond.

Wald, for one, has proposed special civil actions as a substitute for juvenile court intervention. As she explains it:

> One approach might be to convert the legal remedy for truancy, incorrigibility, into a strictly civil action aimed solely at achieving a limited kind of result. Such civil actions might be pursued in a family court or other equity branch, but would not involve any status adjudication of the child as delinquent, PINS or any other kind of ward of court. For instance if the child is truant, society's objective would be achieved by a court order directed to him or his parents that he attend school. Failure to obey such an order would invoke specific judicial remedies oriented toward the single goal of school attendance, including attendance at a residential school . . . escort service to and from school, acceptance of special tutorial help, etc. Parents could also be ordered to assure their children's attendance in school on pain of contempt for willful failures.[83]

She also proposes other responses to the issues of control or protection that a number of noncriminal misconduct cases unquestionably present. The object is to substitute limited civil remedies for the gross powers juvenile authorities now have to deal with nondelinquents. In place of a status determination there would be a legal remedy analogous to the remedies available to adult civil actions of support, separation, divorce, etc.

Such a proposal could never work, as Wald as well as Morris and Hawkins freely grant,[84] without complementary development of community programs—Youth Service Bureaus, special educational programs, neighborhood facilities for pregnant girls, etc. On the other hand, if development of community resources is a key to correcting ills presently afflicting every aspect of juvenile justice, why should we bother with jurisdictional changes? With or without them, it might be argued, expansion of resources is the critical need. Here we must return to the consequences of the prevailing conception of the juvenile justice system.

The conjoining of welfare and criminal cases within its jurisdiction has repercussions throughout the entire system. It enlarges police authority; it provides intake and judicial officers with a choice of grounds for action and dispositional order.[85] It affects the role of detention. It is, as Morris and Hawkins noted, "a false unity," and "we should, for the welfare of children and of society, break that unity."[86] Thus, the proposal involves a severe truncation of existing juvenile court jurisdiction.

REDEFINING DETENTION

Shattering the unity would lead to two major results, under the following proposal. Children who had not committed criminal acts would be ineligible for detention. As for those who were allegedly law violators in need of secure custody, the age grouping would be rearranged: detention would normally be prohibited for juvenile offenders under 16 (or 15?) and a determined effort made to house together not only the remaining older adolescent offenders but also young adults up to age 23 (or 25). The policy of releasing or "sheltering" as many as possible of delinquents awaiting hearing would continue.

The recommendation to prohibit detention of nonoffenders flows

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from the proposed restriction in juvenile court jurisdiction. It reflects a belief that confinement as a method of "treatment" should be limited to persons accused of socially dangerous behavior, whether they are minors or adults. Self-destructive acts would not form the basis for the type of detention we are discussing here. Even so, officials are not helpless; there are hospitals and emergency commitment powers to meet extreme cases.

The runaway might sometimes fall through the cracks. If he or she is ineligible for detention, as under this proposal, and uncontainable in an open institution, what would we do? The proposal assumes we would keep on trying—in open institutions. Not unless a *prima facie* case existed for hospitalization would there be another choice. This possibility reflects a considered view of our realistic capabilities. Detention of runaways is a prime example of surgery where first-aid will often suffice and—failing that—where surgery is apt to kill. The primary function of juvenile detention facilities is, and should be recognized as, protection of the orderly processes of trial (by assuring the child's presence) and protection of the public.[87] Protection of the juvenile himself is better attempted under other auspices.

The second recommendation calls for more elaboration. What can possibly commend a move to hold a certain group of juvenile offenders with young adult offenders (read, "hardened criminals")? Wouldn't it destroy the advances sought since the founding of the juvenile court and reintroduce juveniles on a large scale to the evils of contamination and degrading care associated with jail confinement? It should first be said that the recommendation presupposes, as resources for the majority, a development of short-stay centers to which admission is both by voluntary placement and by court order but which are, in any event, "open" facilities and oriented to community life to the maximum possible extent. This point should be stressed because it helps to identify the detention-vulnerable group that would remain: the putative offenders who are likely to abscond or to be serious threats to community safety. Typically, these juveniles are physically mature, sophisticated in crime, and more oriented toward the interests and approval of young adults than of children.

The argument is, in short, that the age range for juvenile court delinquency jurisdiction, which runs from childhood to late adolescence, is far from suitable as a classificatory base for an institutional program. We may defend the age band in terms of judicial action on the grounds that a *juvenile* court is able to adopt policies and take actions which are foreclosed to run-of-the-mill criminal courts by community pressures. The introduction of *Gault*-type protections need not detract the juvenile courts from their search for ways to individualize cases and fashion imaginative dispositions, preserving the values of the child-protective, educationally oriented philosophy that shaped juvenile justice originally. And, in any case, it should be stressed that a consensus on a proper age-or-behavior grouping for *adjudicatory* purposes does not dictate the appropriate classification for *treatment* and *custodial* purposes.[88]

These are points against the *status quo;* what can be said in favor of the proposal? First, there is an argument in favor of dividing the age groups. It has been hinted at already. The younger delinquent, we believe, does not usually require secure custody prior to his hearing. If he is held, it is usually for the wrong reasons. This kind of situation can best be dealt with by prohibiting his detention (and penalizing violation of the statute).

There will certainly be need for substitute care, not only for the nonoffender but also for the younger, alleged offender. Both groups will sometimes call for brief housing or diagnostic evaluation. Temporary shelter-cum-reception centers should be established to respond to a wide variety of short-term service requests: emergency shelter; holding prior to court hearing for several classes of juveniles; diagnostic work-up; "cooling-off" periods of removal from home. Their populations would reflect the incidence of low-level "nuisance" behavior, minor crimes, and the unhappy accidents of illness, death, and family turmoil that make for intolerable disruption of the child's environment. Some centers could focus on the school-aged, some on school-leavers in work.

It seems reasonable to think that these centers could fill the majority of requests for short-term care from any source. To do so, however, they must be able to look to certain back-up facilities. These would include institutions for the retarded, psychotic, and

physically handicapped. The centers can perform as open institutions only if other facilities are available to deal with the very disturbed or dangerous.

The choices for the older delinquent would be these: release prehearing, a policy whose strengthening should be sought, *àla* the Vera Bail Project and other pretrial release experiments; placement in an open institution on a short-term basis, for shelter, evaluation or both; and commitment to a detention center. In the third situation, criteria for detention and procedures applicable to the holding process should be spelled out in law, and administrative measures developed to assure their implementation. There is no intention, in offering this proposal, to dampen the growing insistence on a measure of due process at this phase of juvenile justice.[89] Rather, the purpose is to render the younger delinquent altogether ineligible for this type of custodial holding and to preserve for the older delinquent the several alternatives that presently obtain.

What, then, is the reason for suggesting that this older "juvenile" population be confined with young adults? The advantages for such an arrangement run principally to institutional management. The first concerns the characteristics of the population. The proposed facility would contain a group of active, physically mature juveniles and young adults, given to a style of aggressive behavior that is markedly different from either the activity of the eight- or eleven-year-old, on the one hand, or the passivity of the older chronic offender, on the other. This old-adolescent/young-adult population has need of educational remediation and stimulation, strenuous physical activity, a substantial diet (with snacks). In sexual interests, in language, style of behavior, "in" jokes, these ages better relate together than to the younger spectrum of present detention-home populations or the older group of jail inmates.

This reclassification presumably would produce a larger population-at-risk than that of the detention facility under current law and organization. Indeed, one reason so few detention homes exist is the reluctance of many localities to commit resources to the maintenance of a specialized facility that only a small number will use. Reclassification would lead to review not only of age groupings—and the use of jail and other *ad hoc* arrangements in the absence of

a detention home—but also of the governmental unit for administration of secure custody units. The earlier suggestions for regionalization of juvenile detention homes can be extended to the proposed type of facility. Serious consideration should be given to creating regionally-based, state-administered units for the detention of the 16- to 23-year-olds.

Since age cut-offs are inevitably arbitrary, provision should be made for exceptional cases. We have already indicated that placement in an open facility would continue for the older delinquent, and the "prematurely" sophisticated, overly aggressive, or persistently absconding younger delinquent can likewise be accommodated in the proposed detention center. But only under exceptional circumstances.[90] These would seem to require provision for judicial review, on the law side, and segregated housing, on the institutional side.

There is a final point to be made in favor of the proposal. It is intended to strip us of any lingering illusions about the primary purpose of detention by so structuring the short-term, secure-custody institution to make its purpose unmistakable. Detention is *not* treatment, that is, not its basic aim now or for the foreseeable future. If treatment occurs, it is a serendipitous byproduct, not a cardinal objective. This is not to say that secure custody must be purchased at the price of abandoning "the basic objectives of decency and humanity in dealing with the misbehaving child."[91] Nor need we relinquish efforts to learn who should be detained and how to treat those who are. But it is important, as many commentators have stressed, to back off from "the vast rhetoric of benevolence"[92] lest we continue to confuse what we are doing with what we think we ought to do (whether or not we know how!).

If this be cynicism, then the proposal is vulnerable to attack. I prefer to call it realistic. It is hard, admittedly, to think of flying a flag that bears the following inscription, but perhaps if every reader of this chapter tried it once, it would set an enduring fashion:

> Our goal is the "altering of the conditions and practices that render children worse and more dangerous as a result of their contacts with the official agencies."[93]

Notes

1. Shirley Jenkins and Mignon Sauber, *Paths to Child Placement: Family Situations Prior to Foster Care* (New York: Community Council of Greater New York, 1966).

2. See, e. g., National Council on Crime and Delinquency, *Standards and Guides for the Detention of Children and Youth* (2nd ed.; New York: 1961), p. 1; U. S. Children's Bureau, *Standards for Juvenile and Family Courts*, Children's Bureau Pub. No. 437 (Washington, D. C.: Government Printing Office, 1966); NCCD, *Model Rules for Juvenile Courts* (New York: NCCD, 1969); NCCD, *Standard Juvenile Court Act* (6th ed.; New York: NCCD, 1959); U. S. Children's Bureau, *Legislative Guides for Drafting Family and Juvenile Court Acts*, Children's Bureau Pub. No. 472 (Washington, D. C.: Government Printing Office, 1969).

3. Idaho, Maine, Mississippi, New Hampshire, North Dakota, Rhode Island, South Carolina, South Dakota, Vermont, Wyoming: Donnell M. Pappenfort, Dee Morgan Kilpatrick, and Alma M. Kuby, *Detention Facilities*, vol. 7 of *A Census of Children's Residential Institutions in the United States, Puerto Rico, and the Virgin Islands: 1966*, comp. Donnell M. Pappenfort and Dee Morgan Kilpatrick, Social Service Monographs, 2nd ser., No. 4: 7 vols. (Chicago: School of Social Service Administration, University of Chicago, 1970), table 7 (hereinafter referred to as *Census of Children's Institutions*, vol. 7).

4. All the above save Maine and Rhode Island.

5. "Delinquent" is the term used in the NCCD report but in view of the findings of the *Census of Children's Institutions* reported here it seems doubtful that all 13,000 were delinquent.

6. Pappenfort, Kilpatrick, and Kuby, *Census of Children's Institutions*, vol. 7, tables 6 and 7.

7. This finding appears in Warner's earlier study as well as Low's more contemporary work: Florence M. Warner, *Juvenile Detention in the United States* (Chicago: University of Chicago Press, 1933), pp. 132–33; and Seth Low, *America's Children and Youth in Institutions 1950–1960–1964*, Children's Bureau Pub. No. 435 (Washington, D.C.: Government Printing Office, 1965) pp. 8–9, and table 10 at p. 37. According to Low, the "largest proportion of nonwhite children is found in the class of correctional institutions (33 percent)." This was as true of detention homes as of the other types of correctional institutions.

8. I have attempted to find a study that establishes the empirical base for this belief about detention care, to no avail. I would appreciate correspondence from anyone who has facts at hand.

9. Pappenfort, Kilpatrick, and Kuby, *Census of Children's Institutions*, vol. 7, Tables 10 and 120.

10. Alfred J. Kahn, "Court and Community," in *Justice for the Child*, ed. Margaret K. Rosenheim (New York: Free Press, 1962), p. 219.

11. Governor's Special Study Commission on Juvenile Justice, *Report*, Pt. I (Sacramento: 1960), p. 42. California publishes informative annual statistics on juvenile detention that reveal, for one recent year, that more juveniles were detained for "delinquent tendencies" than for specific offenses. Breaking down the totals by sex, "42.3 percent of the boys were detained for specific offenses whereas the corresponding figure for girls was only 15.0 percent." California Department of Justice, *Crime and Delinquency in California 1967* (Sacramento: California Department of Justice, 1967), pp. 253, 256. This means that for boys, as well as girls, other reported reasons for detention (i.e., delinquent tendencies, post-adjudication admission [delinquent], dependency-neglect, and traffic) accounted for more admissions than did specific offenses. Table X-4, p. 255.

12. Ralph E. Bochés, "Juvenile Justice in California: A Reevaluation," *Hastings Law Journal* 19 (1967): 73.

13. Ibid., p. 76 n. 163.

14. Ibid., p. 77 n. 167. Further discussion of the "weekend rule" is to be found in "Detention Procedures in the Juvenile Court Process," *Minnesota Law Review* 54 (1969), 420–22.

15. Daniel J. Freed and Patricia M. Wald, *Bail in the United States: 1964*; A Report to the National Conference on Bail and Criminal Justice (Washington, D. C.: 1964), pp. 98–100.

16. NCCD *Standards*, pp. 33, 36.

17. Warner, *Juvenile Detention*, p. 146.

18. *NCCD News* 50 (1971): 8.

19. The census reported that the average length of stay for the vast majority of detained juveniles (86 percent) was less than one month. The questionnaire used for all child-caring institutions in the census had asked for information in terms of months, a useful measure for most types of institutions but less refined than one would wish to have for detention facilities. A recent study of one city's practices showed that 25 percent of the juveniles had been held more than ten weeks, and 67 percent more than two weeks. Elyce Zenoff Ferster, Edith Nash Snethen, and Thomas F. Courtless, "Juvenile Detention," *Fordham Law Review* 38 (1969), Appendix E, p. 192.

20. *NCCD News* 50 (1971): 9, 8. There is the possibility, mentioned to me by Professor Norval Morris, that detained juveniles are more disturbed or deviant than the adult detained population taken as a whole, in which case the activities offered within the institution and the quality of staff become even more urgent considerations in evaluating short-term juvenile facilities as compared to jails.

21. Pappenfort, Kilpatrick, and Kuby, *Census of Children's Institutions*, vol. 7, tables 21–28.
22. Ibid., Tables 44, 47, 55, 57, 59, 60, 154, 157, 165, 167, 169, 170.
23. Ibid., Tables 61–64 and 171–74.
24. Ibid., Tables 70 and 85.
25. Ibid., Table 38.
26. Ibid., Table 92.
27. NCCD *Standards*, pp. 57–64, 105–44.
28. For example, see discussion of "special custody rooms" in NCCD, *The Cook County Family* [Juvenile] *Court and Arthur J. Audy Home* (Chicago: 1963), pp. 163–64.
29. President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report of Corrections* (Washington, D.C.: Government Printing Office, 1967), p. 121.
30. Freed and Wald, *Bail in the United States: 1964*, pp. 107–8.
31. President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report on Juvenile Delinquency and Youth Crime* (Washington, D. C.: Government Printing Office, 1967), ch. 1; Norval Morris and Gordon Hawkins, *The Honest Politician's Guide to Crime Control* (Chicago: University of Chicago, 1970), pp. 166–67.
32. Erving Goffman, *Asylums* (Garden City, New York: Doubleday & Co., Inc., Anchor Books, 1961); cf. David J. Rothman, *The Discovery of The Asylum* (Boston: Little, Brown & Co., 1971).
33. E.g., Brendan Maher with Ellen Stein, "The Delinquent's Perception of the Law and the Community" in *Controlling Delinquents*, ed. Stanton Wheeler (New York: John Wiley & Sons, Inc., 1968), p. 187; Jonathan Freeman, *Deviancy: The Psychology of Being Different* (New York: Academic Press, 1968).
34. John H. Wigmore, ed., *The Illinois Crime Survey* (Chicago: Blakely Printing, 1929), p. 681, cited in Anthony M. Platt, *The Child Savers* (Chicago: University of Chicago Press, 1969), p. 150.
35. *Chicago Sun-Times*, 29 March 1970.
36. My experience in London, for example, leads me to believe that heavy reliance is placed on detention for diagnostic purposes, it being argued that it is more efficient to organize professional services for the diagnosis of a residential population than to arrange the same services on an "outpatient" basis. I should add, this London pattern does not lack native critics! It would be interesting to examine American jurisdictions to see whether the high-detention counties are more likely to be counties whose detention facility personnel aspire to reach professional levels of diagnosis.
37. Ferster, et al., "Juvenile Detention," pp. 170–71.
38. Ibid., pp. 170–71.
39. California Commission, *Report*, p. 42.
40. In re M., 89 Cal Reptr 33 (1970).

41. NCCD *Standards*, p. 15.
42. Platt, *The Child Savers*, pp. 121, 122.
43. Ibid., p. 123.
44. Ibid., p. 146.
45. U.S. Department of Justice, *National Jail Census 1970, Preliminary Report* (December 1970), table 1.
46. Hans W. Mattick and Ronald P. Sweet, *Illinois Jails: Challenge and Opportunity for the 1970's* (Chicago: Center for Studies in Criminal Justice, University of Chicago Law School, 1969), pp. 68, 70.
47. Statutes prohibiting jail confinement of juveniles do not, to my knowledge, carry penalty clauses for violation of their provisions.
48. *Task Force Report on Corrections*, p. 121. See also John J. Downey, "Why Children are in Jail and How to Keep Them Out," *Children* 17 (1970): 21. Downey indicates that, in the jurisdictions studied by the Children's Bureau, 41.6 percent of the juveniles detained in jail were held for conduct-illegal-for-children only. Ibid., p. 22.
49. *National Jail Census 1970*, table 1.
50. *Task Force Report on Corrections*, p. 119.
51. Ibid.
52. Ferster, et al., "Juvenile Detention," pp. 190–91. See also "The Right to Bail and the Pre-'Trial' Detention of Juveniles Accused of 'Crime,'" *Vanderbilt Law Review* 18 (1965): 2096.
53. *Task Force Report on Juvenile Delinquency*, p. 36.
54. *Baldwin v. Lewis*, 300 F. Supp. 1233 (E. D. Wis. 1969).
55. Steven Huntley Mora, "Juvenile Detention: A Constitutional Problem Affecting Local Government," *The Urban Lawyer* 1 (1969): 189. See also Norman Dorsen and Daniel A. Rezneck, "In re Gault and the Future of Juvenile Law," *Family Law Quarterly* 1 (1967): 34–37.
56. Bochés, "Juvenile Justice in California," p. 77.
57. Morris and Hawkins, *The Honest Politician's Guide*, p. 114.
58. *Baldwin v. Lewis*, 300 F. Supp. 1220, 1233 (E. D. Wis., 1969).
59. See *Cooley v. Stone*, 414 F. 2d 1213 (D. C. Cir., 1969); *Baldwin v. Lewis*, 300 F. Supp. 1220 (E. D. Wis. 1969); *In re Macidon*, 49 Cal. Rptr. 861 (Dist. Ct. of Appeals, 1966); *In re R.*, 60 Misc. 2d 355, 303 N.Y.S. 2d 406 (Juv. Term 1969).
60. Cited in Bochés, "Juvenile Justice in California," p. 76 n. 163 and Helen Sumner, "Locking Them Up," *Crime and Delinquency* 17 (1971): 168.
61. Ibid., p. 170.
62. Ibid., p. 178.
63. Warner, *Juvenile Detention*, p. 152. Sumner makes a particular point of the lack of judicial accountability for detention decisions: "Annual reports of court activity . . . carry no statistics on detention hearing outcomes. County clerks . . . do record decisions to continue detention or release a child, but there is no clear-cut requirement for judges to state their reasons for action taken or to explain why they

prefer one course of action to another. Unfortunately, this means that courts cannot examine trends in detention patterns, compare likenesses and differences in practice from one jurisdiction to another, or validly attempt any kind of qualitative assessment of existing detention processes." Sumner, "Locking Them Up," p. 172.

64. Warner, *Juvenile Detention*, p. 156.

65. The Uniform Juvenile Court Act is one: "A child alleged to be deprived or unruly . . . shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses *or of children alleged to be delinquent.*" (italics supplied) U.J.C.A. §16(d) (1968).

66. Margaret K. Rosenheim and Daniel L. Skoler, "The Lawyer's Role at Intake and Detention Stages of Juvenile Court Proceedings," *Crime and Delinquency* 11 (1965): 167, 173.

67. Sumner, "Locking Them Up," p. 170.

68. But see the claim that "provision of lawyers in a significant percentage of cases has resulted in a dramatic change in the prehearing custody policy" in Philadelphia: Spencer Coxe, "Lawyers in Juvenile Court," *Crime and Delinquency* 13 (1967): 492.

69. See generally Abraham S. Blumberg, *Criminal Justice* (Chicago: Quadrangle Books, 1967); cf. Anthony Platt, Howard Schechter, and Phyllis Tiffany, "In Defense of Youth," *Indiana Law Journal* 43 (1968): 619.

70. Sherwood Norman, *Detention Practice* (New York: National Probation and Parole Association, 1960), pp. 165–83; and Sherwood Norman, *Regional Detention for Juvenile and Family Courts* (New York: NCCD, Draft February 1970).

71. *Task Force Report on Corrections*, p. 124.

72. See generally John J. Downey, *State Responsibility for Juvenile Detention Care*, U. S. Department of Health, Education, and Welfare (Washington, D. C.: Government Printing Office, 1970).

73. But see NCCD *Standards*, nos. 141–43, at pp. 85–86.

74. California Commission, *Report*, p. 46.

75. *Task Force Report on Corrections*, p. 120.

76. Consider the carefully worked-out provisions that govern discipline in juvenile correctional institutions, set forth in Tentative Final Draft of Illinois Code of Corrections, §§350-8 (Discipline), 350-9 (Grievances) (January, 1971). The state department of corrections is also given standard-setting and inspection powers broad enough to cover all aspects of treatment, including disciplinary measures in juvenile detention facilities. §375-2.

77. *Chicago Sun-Times*, 29 March 1970.

78. Francis A. Allen, "The Juvenile Court and the Limits of Juvenile Justice," in *The Borderland of Criminal Justice* (Chicago: University of Chicago Press, 1964), p. 53; Paul W. Tappen, *Juvenile Delinquency* (New York: McGraw-Hill Book Co., 1949).

79. Ferster, et al., "Juvenile Delinquency," p. 180.

80. President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D. C.: Government Printing Office, 1967), p. 85.

81. Morris and Hawkins, *The Honest Politician's Guide*, p. 156.

82. *Task Force Report on Juvenile Delinquency*, p. 27.

83. Patricia M. Wald, "The Changing World of Juvenile Law: New Vistas for the Nondelinquent Child—Alternatives to Formal Juvenile Court Adjudication," *Pennsylvania Bar Association Quarterly* (October, 1968): 40:37, 43.

84. Ibid., pp. 44–46; Morris and Hawkins, *The Honest Politician's Guide*, pp. 161–63, 167.

85. Joel F. Handler and Margaret K. Rosenheim, "Privacy in Welfare: Public Assistance and Juvenile Justice," *Law and Contemporary Society* 31 (1966): 377.

86. Morris and Hawkins, *The Honest Politician's Guide*, p. 159.

87. Protection of the public is without exception one of the criteria for juvenile detention found in the statutes that set forth grounds. Respecting adults, it is not an accepted reason for denial of bail historically. It would, of course, be a prime justification for preventive detention, a measure widely discussed at present. The impact of developments in pretrial release procedures of the criminal law upon juvenile justice is problematic.

88. They are obviously somewhat related, though how and to what degree has frequently been debated.

89. It would seem quite tolerable, however, that juveniles enter the detention center under one set of criteria and legal procedures, young adults under another, if preservation of existing differences were desired.

90. The English approach this problem by authorizing detention in *remand centres* of persons not less than 14 but under 21 years of age who are awaiting trial or sentence; a juvenile between 14 and 18 who is judicially certified to be of "so unruly" or "so depraved" a character that he is not fit to be detained in a *remand home* (viz., detention facility in U.S. parlance) may be committed on court order to a *remand centre*. Criminal Justice Act 1948, 11 & 12 Geo. 6, c. 58 §27.

91. Allen, "The Juvenile Court and the Limits of Juvenile Justice," p. 57.

92. Morris and Hawkins, *The Honest Politician's Guide*, p. 157.

93. Allen, "The Juvenile Court and the Limits of Juvenile Justice," p. 57.

Appendix No. 33

"Perhaps we cannot prevent this world
from being a world in which children
are tortured.
But we can reduce the number of tortured
children.
And if you don't help us, who else in the
world can help do this?"—Camus

(783)

END