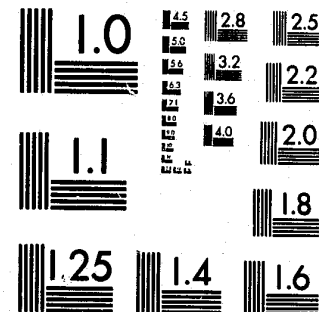


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BROUGHT
TO JUSTICE?
JUVENILES,
THE COURTS,
AND
THE LAW

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BROUGHT TO JUSTICE/-
JUVENILES, THE COURTS, AND THE LAW

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NCJRS

OCT 19 1976

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NATIONAL ASSESSMENT OF JUVENILE CORRECTIONS

The University of Michigan
Ann Arbor 48109
August 1976

THE UNIVERSITY OF MICHIGAN
Institute of Continuing Legal Education
and
School of Social Work

Prepared under grant numbers 75NI-99-0010 and 76JN-99-0001 from the National Institute of Law Enforcement and Criminal Justice and the Juvenile Justice and Delinquency Prevention Operations Task Group, both in the Law Enforcement Assistance Administration, U.S. Department of Justice.

Points of view or opinions stated are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice. The co-directors are entirely responsible for the direction and conduct of the study.

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PREFACE

More than a decade ago my colleague Robert Vinter and I undertook a study of one juvenile court, focusing our attention on case processing. The results were disturbing because processing technologies and outcomes were so discrepant from the stated objectives of the court. Shortly after that study was completed, the U.S. Supreme Court issued a series of major decisions mandating substantial change in juvenile court practices. We were interested in learning about the impact of those court decisions on court practices, but we knew that the case study approach could not adequately serve such an assessment. Therefore, when the National Assessment of Juvenile Corrections was planned, we decided that a major part of the study should be directed to a survey of structure and practice in a large national sample of courts. This publication, the first report from that survey, is directed to judges and juvenile court staff, legislators, other juvenile justice personnel, researchers interested in youth and justice, and interested laymen. Several of the authors plan further publications based on these data.

The hub of the juvenile justice system in the United States today is the juvenile court; yet our understanding of that important social institution is inadequate because of so little systematically collected research data. In preparing this report we have tried to address the key policy issues facing the juvenile court. Social science theory and methodology provided tools that allowed our investigation of these phenomena to be objective and related to generalized knowledge of human service organizations.

The research reported in this monograph was one part of the studies undertaken by the National Assessment of Juvenile Corrections, the University of Michigan, funded by the Law Enforcement Assistance Administration of the United States Department of Justice, through both the National Institute of Law Enforcement and Criminal Justice and the Juvenile Justice and Delinquency Prevention Operations Task Group.

This study could never have been completed without the cooperation and assistance of juvenile court personnel throughout the United States. More than 2,000 judges, court administrators, probation officers, detention supervisors, and other court staff participated in the survey. In the seven courts where extended field studies were conducted, we tried not to disrupt daily operations but we know that we did, and truly appreciate the kindness and patience shown by all staff in these courts. We are also indebted to many persons in the communities surrounding the court for providing valuable knowledge and insight about the juvenile justice system. Everyone gave freely of their time and knowledge. We hope the findings will be useful to both the professionals and the lay persons as they grapple with their problems.

The NAJC project co-directors, Robert Vinter and Rosemary Sarri, were responsible for developing and guiding the entire research plan. Data preparation and analysis were shared by Yeheskel Hasenfeld, Michael Sosin, Carl Aaron McNeece, Terry Williams, Josefina McDonough, Mark Creekmore, John Pfeiffer, Wolfgang Grichting, and Neta Sue Lee. David Street and Walter Schafer assisted in the early stages of the research and provided stimulating direction in working out complex design problems. Donald Cressey provided the research staff with hard questions and provocative ideas as the plan for this report evolved. Field staff, coders, and other support personnel provided effort without which this product could never have been completed. They included--

Barbara Bader	John Moody
Kris Driscoll	Kenneth Morse
Cathy Hinko	Betsy Reveal
Susan Hinko	Mary Alice Sansbury
Barbara Kessler	Karen Wilson

Our special appreciation is extended to Judge Holland Gary, president of the National Council of Juvenile Court Judges in 1974, for arranging for the organization's endorsement of the study. We are equally indebted to Mr. Hunter Hurst, director of the National Center for Juvenile Justice, and to Mr. Louis McHardy, executive director of the National Council of Juvenile Court Judges.

The production of this monograph was the responsibility of Mrs. Rhea Kish, project administrator, and Vann Jones and Jo Thomas, who patiently typed and proofread the copy.

Data obtained in this survey have been stored on computer tape for sharing with other social researchers. It is available, and we invite our colleagues to contact the editors at the School of Social Work, University of Michigan, for further information about use of the data for further analyses.

Lastly, our deep appreciation is expressed to all the youth in the United States who have in one way or another participated in the juvenile justice system. We hope these findings will be of interest to them and will help them better understand how they fit into the system and why it handled them as it did.

ROSEMARY C. SARRI

THE JUVENILE COURT: LEGAL CONTEXT AND POLICY ISSUES

PAUL ISENSTADT
ROSEMARY SARRI

Shielded from public scrutiny for much of the twentieth century, the juvenile court and its role in the administration of justice is now receiving much attention. This expressed concern, however, is not confined to the court but is part of a broad societal concern about the status and behavior of adolescent youth in a postindustrial society. Thus, public schools, youth-serving agencies, and mental health agencies all have been under attack because of widespread dissatisfaction with youth behavior. This report addresses specific issues facing the juvenile court, but they must be understood with reference to the wider society and the status of youth therein. Juvenile courts are overburdened by the numbers of youth referred for processing and overwhelmed because of the shortcomings of society. Inundation of the local justice system's capabilities has been fostered by the nation's inability to formulate constructive solutions to the multitude of social problems that impact youth--particularly in the areas of education and employment. Having no better alternatives, we process "youth with problems" into the justice system. The nation refuses to acknowledge that the morality of youth cannot be enforced by negative sanctions, or to face the serious implications of the increasing disproportion of poor and minority-group youth absorbed into this system. These social conditions must be taken into consideration in a study of the juvenile court today.

This chapter will highlight some of the juvenile court characteristics identified in historical and social science investigations (Fox, 1970; Platt, 1969; Rosenheim, 1962; Allen, 1964; Stapleton and Teitelbaum, 1972). Following that, some of the key policy issues that provided a basis for this research will be discussed, and the chapter will conclude with a conceptualization of the court as it was examined in this study. This research was an attempt to assess the effectiveness of the juvenile court in 1974-75 with reference to the policies, standards, and goals for which there was some societal consensus (President's Commission, 1967; National Advisory Commission, 1973c). Knowledge of structural characteristics, case processing modalities, and outcomes is far too limited to employ experimental or quasi-experimental designs. Instead it was assumed that there was a greater need for comparative knowledge about the structure and behavior of juvenile courts in all fifty states.

ORIGINS OF THE JUVENILE COURT

The creation of the juvenile court and related statutes governing the legal processing of children grew out of concerns as well as aspirations of nineteenth-century social reformers. They sought to advance the welfare of children by removing them from the jurisdiction of the criminal court and providing new institutional mechanisms whereby the state would intervene for rehabilitative rather than punitive purposes. But at the same time, these reformers were also concerned about social control and the moral development of immigrant and working-class children who were flooding the cities. They believed that the state had the right to intervene benevolently to see that children were "properly" socialized to assume the adult roles needed in an industrializing society.

The juvenile court emerged from the convergence of several streams of social philosophy and legal practice. In early English chancery courts, protective jurisdiction had to be exercised over all children on behalf of pater patriae, the king. Although the jurisdiction of the chancery court was broad with regard to the welfare of children, it was exercised primarily on behalf of minors whose property rights were jeopardized, not on behalf of children who were in need because of poverty, neglect, or abuse. Moreover, under eighteenth-century English common law, children were regarded as chattel of the parents or wards of the state, with no recognized power and almost no acknowledgment of the individual rights of children as persons. The English system was transplanted to the United States, but the jurisdiction was extended to include protection of minors in danger of personal as well as property injury. It is as inheritors of the English chancery court's protective powers that juvenile courts have been defended against constitutionally based attacks. Even today most juvenile courts in the United States accept the practice of the English system whereby most rights of children are exercised through adult representatives.¹

Practice in adult criminal courts also influenced the development of the juvenile court. It was in these courts that youth who violated the law were tried as adults until the advent of the juvenile court. The "child savers" sought the removal of children particularly because of the harsh punishment they received. Others believed that since traditional criminal courts had failed to prevent crime, society should experiment with new methods for youth because of their age and greater susceptibility to rehabilitation. The creation of a specialized court for youth was viewed as one means of humanizing criminal law.

Early in the nineteenth century, philanthropists and welfarists initiated the development of the "house of refuge" as a separate institution for children. The founders of the houses of refuge believed that

1. There are some exceptions in terms of specific rights legislated for older youth--the right to drive a car, to work, to marry, and so forth.

children should be carefully and diligently trained in a strict environment in order to prevent moral decline. Very soon, training and rehabilitation were used to reform children:

to enlighten their [inmates'] minds, and aid them in forming virtuous habits, that they may finally go forth, clothed as in invincible armour. They would gird the youth to withstand temptation. [Rothman, 1971:212]

Not unexpectedly, pressures began to build in the mid-nineteenth century for separate court hearings for children. In 1870 some Massachusetts courts arranged for a separate children's docket, followed by courts in New York and Rhode Island in 1898. Then Illinois in 1899 passed an act requiring the first statewide court for children. That act brought together under a single jurisdiction cases of dependency, neglect, and delinquency, including in the definition wayward and incorrigible children. With respect to court operation, the act provided that hearings were to be private, informal, and nonadversarial; children were to be detained separately from adults, and a special probation service was to be provided.²

The establishment of the juvenile court in 1899 provided a legal mechanism for broad control over youth. The court was to be a humanitarian institution dedicated to helping children. This outlook for the court was aptly expressed by the Chicago Bar Association:

The whole trend and spirit of the [1899 Illinois juvenile court] act is that the State, acting through the Juvenile Court, exercises that tender solicitude and care over its neglected, dependent wards that a wise and loving parent would exercise with reference to his own children under similar circumstances. [Platt, 1969:138]

On the basis of the concept of parens patriae, the juvenile court was authorized to intervene wherever a juvenile's behavior was problematic for the child, family, or society. Thus, behavior such as truancy, curfew violation, being unruly, incorrigibility, or even "idling one's time away" were as sufficient a basis for a juvenile court to adjudicate a youth delinquent as commission of a felony or misdemeanor. Because delinquency was viewed as a disease or a malady caused by social inequities, juveniles were to be diagnosed and treated by "helping professionals." Even judges were to conceive of their role in this way--to identify through diagnostic interviews the causative factors behind a juvenile's challenge to authority.

According to another view (Fox, 1970), the creation of the juvenile court was a matter of "trading" certain constitutional guarantees (such as protection against summary commitment) for promises of rehabilitation

2. Even a new vocabulary was developed: petition was the term used for complaint, summons for warrant, hearing instead of trial, and so forth.

and treatment. Others, such as the staff of the Children's Bureau, have characterized the juvenile court as a new statutory creation in line with the growth of administrative and quasi-administrative tribunals (President's Commission, 1967). Schultz (1973) argued that the creation of the court was both the culmination of a successful reform effort seeking better treatment of juveniles and also an important change in judicial procedure. In his analysis of the movement, Platt (1969) describes the juvenile court as "anti-legal" in the sense that it encouraged minimal procedural formality and maximum dependence on extralegal resources. The essential preoccupation of the child-saving movement was the recognition and control of forms of youthful misbehavior that up to that time had not been formally included under the jurisdiction of the court. Whichever perspective one accepts of the explanations for the creation of the juvenile court, it is quite apparent that the concept of parens patriae was preeminent. The court had the right to intervene benevolently to protect the state's interest and therefore the right to control the care and custody of youth.

By 1928 all but two states had enacted juvenile court statutes largely modeled on the Illinois statute. The court systems created were essentially similar and within the framework of the existing criminal justice systems. However, given the treatment and parens patriae ideologies, only generalized presumptions about court procedures were thought necessary for the juvenile codes. The juvenile court developed rather like a stepchild of the justice system even though juvenile crime continued to increase and in some states nearly equaled the volume of adult crime.

One essential feature of the original conception that each child was to be treated differently was "individualized justice," as it has been termed by Matza (1964). Few questioned whether there were any basic incompatibilities between the concepts "individualization" and "justice." Matza (1964) argues that they are incompatible because individualization means that by definition there are no preset, objective criteria upon which decisions can be based without careful consideration of individual differences. On the other hand, justice--by definition--demands that there be clear-cut and objective criteria so that all persons will be treated equitably and fairly with respect to their behavior. Thus, "individualized justice" is impossible to implement. Nonetheless, juvenile courts still accept the ideology despite the thousands of cases that are processed quickly through the courts each year. The size and complexity of the bureaucracy further aggravates the problem, because even a pretense of individualization is impossible. Adherence to a concept like "individualized justice" is a critical example of the utilization in statutes and practice of idealistic mechanisms that cannot be effectively implemented. It has produced a situation where status offenders are often perceived as more serious delinquents than youth who commit felonies (Arthur, 1975). It is conceivable that personal and social needs of status offenders might be greater, but it does not follow that the state should use coercive power toward them to provide needed services. The problems the court seeks to alleviate are in fact unwittingly aggravated.

THE CONTEMPORARY SCENE

The failure of the juvenile court to fulfill its original goals, along with increased concern about the civil liberties of offenders, led to more vocal criticism during the 1960s and 1970s (Allen, 1964; Morris and Hawkins, 1970). Critics raised questions about the effect on juveniles of the lack of due process procedures and protection of individual rights. Finally, beginning in 1966 a series of U.S. Supreme Court decisions resolved this debate and introduced a number of due process procedures into the juvenile justice system.³

The Supreme Court decisions sparked a variety of legislative proposals, and in the past decade three-fourths of the states have enacted one or more major changes in their juvenile codes. More recently, pressure has been building for restricting the jurisdictions by excluding status offenses, but definitive court rulings have not been made in this area. However, change has been effected through the passage of the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415). This was the first piece of national legislation to modify existing policies and practices governing the handling of youth in the justice system. It contains a provision that bars federal monies under provision of the act from states that commingle youth charged with felonies and misdemeanors with youth charged with status offenses in any type of facility from pretrial detention to disposition. Implementation of this provision is to begin in 1977, but already it has led to a flurry of activity in most states as they attempt to pass laws that will bring their juvenile codes into conformity with the federal requirements. This Act represents a significant change in the role of the federal government toward the juvenile justice system. Until now the juvenile court has operated as a state and local institution subject only to case law decisions of the Supreme Court--it was not the focus of federal legislation. It remains to be seen whether this legislation represents an enduring change.

Recently Piersma, Ganousis, and Kramer (1975) have presented a thoroughgoing analysis of contemporary case law affecting the juvenile court and a review of the major legislative proposals introduced since 1972 to effect a significant change in juvenile codes in many of the states. It is readily apparent in their review that the changes legislated in this decade may well be of the same magnitude as those at the beginning of the century.

3. Key cases include Kent v. United States (1966), In re Gault (1967), In re Winship (1970), McKeiver v. Pennsylvania (1971), Gonzalez v. Mailliard (1971), Stanton v. Stanton (1975), Breed v. Jones (1975), and Jones v. T.H. (May 25, 1976). Full citations for these cases (and for all others throughout this report) appear in the References.

CURRENT POLICY ISSUES

Because the research aims of NAJC were policy-oriented, we have attempted to be clear about the social context of this research. A series of policy questions were included in the early statement of aims (see NAJC, 1972), which are paraphrased and discussed here to aid in understanding the present state of the juvenile court and the controversy surrounding it.

1. *Limitation of jurisdiction.* Should the juvenile court's jurisdiction over delinquency processing be limited to law-violative youth, or should it include all youth behavior judged by varying community standards to be unacceptable?

2. *Assurance of substantive and procedural due process guarantees.* How can juvenile courts operate to process and adjudicate delinquent youth in ways that are fair, nondiscriminatory, protective of individual rights, and in the genuine interest of the child?

3. *The need of the juvenile court to maintain effective inter-organizational relationships.* How should court operations relate to other law enforcement and service programs in the community, and to the larger juvenile corrections system? Which services should the court retain?

4. *Eliminating the jailing and restricting the detention of youth.* What changes are needed in juvenile codes, court policies and practices, and facilities for child protection to eliminate the need for incarcerating juveniles in jail and to restrict the use of secure detention?

5. *The role of statutory provisions in minimizing the stigma of the court.* Can juvenile statutes specify the components of court operations that will reduce the negative impact of juvenile court processing?

6. *The role of waiver in dealing with serious law-violative behavior.* What factors and conditions should dictate transfer of juveniles to adult courts? (Waiver will be discussed in regard to procedural and substantive due process in the juvenile court.)

7. *Checks and balances on the juvenile court's discretion.* How much discretion should be permitted to juvenile court judges and their staffs?

In order to understand the nature of the court as it relates to various pressures for change, let us examine each of these policy issues in depth.

LIMITATION OF JURISDICTION

The most critical issue confronting the juvenile court today relates to the nature of control it exerts over youth. Although founded as a

benevolent, protective social institution, the court has been viewed recently as contributing to a movement that extended social control over youth. Under the guise of acting "in the best interests of the child," the court also contributed directly to the indeterminate nature of correctional intervention which espoused the middle-class values of those entrusted with its maintenance.

Jurisdiction of the juvenile court within the fifty states is highly varied in terms of personal characteristics of youth (age, sex, offense) and in the structural role of the court in the larger criminal justice system. In general, courts with juvenile jurisdiction have authority over the processing of dependent, neglected, and abused children; over status offenses--behavior peculiar to youth since if similar acts were committed by adults, they would not be crimes; and over violations of local ordinances and statutorily defined misdemeanors and felonies. This study focuses on youth classified as juvenile delinquents and status offenders; dependent and neglected youth will not be discussed, although some of the policy issues may apply equally to all three categories.

Status Behavior. The major challenge now to the jurisdiction of the juvenile court is over status offenses--truancy, incorrigibility, ungovernability--those acts or conditions which, if they involved adults, would not be crimes. In the processing of juveniles, few distinctions are made between status offenders and law violators. Statutes are startlingly different from state to state with respect to the scope and nature of status offense definitions. More often than not, these laws are ambiguous and give the decision-maker wide latitude. Historically, statutes lacking specificity have been vulnerable to attack as "void for vagueness." This doctrine can be traced back to Connally v. General Construction Company (1926), when the Supreme Court ruled that "[a] statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law" (269 U.S. at 391).

More recently, a federal district court held that the California juvenile statute was void because it granted juvenile court jurisdiction over children who were "in danger of leading an idle, dissolute, lewd, or immoral life." Such a statute was void, the court said, because it failed to give fair warning of proscribed conduct or information to the fact finder to enable accurate recognition of such conduct (Gonzalez v. Mailliard, 1971).

Although status offense statutes have been struck down as unconstitutional in several cases (Gesicki v. Oswald, 1971), most case decisions have supported them, using parens patriae as justification for continued intervention (Blondheim v. State, 1975).

Status offense statutes have also been challenged for permitting the "punishment of a condition," which in criminal law has been ruled unconstitutional. In 1962 the U.S. Supreme Court in Robinson v. California reversed a conviction for violation of a California penal

code making it a criminal offense to "be addicted to the use of narcotics." The Court held that Robinson manifested a condition--addiction--which he was not able to control; thus the defendant maintained a particular status. In his concurring opinion, Justice Douglas stated:

We would forget the teachings of the Eighth Amendment if we allowed sickness to be made a crime and permitted sick people to be punished for being sick. This age of enlightenment cannot tolerate such barbarous action. [370 U.S. at 678]

The basis for the decision in Robinson was that punishment for a "state of being" was in violation of the Eighth Amendment, but the paternalistic nature of the juvenile court and its role as espoused in parens patriae has impeded making this argument applicable to youth whose behavior is associated with a status.

The third basis for attack of status offense statutes has been overbreadth. In State v. Mattiello (1966), a girl's conviction was upheld for violating the Connecticut statute forbidding "walking with a lascivious carriage." The appellate division found the statute valid under parens patriae, that the proceeding was civil rather than criminal, and that its end was not to punish but to rehabilitate through guardianship and protection.

Although no state has removed status offenders from the jurisdiction of the juvenile court, many statutes classify status offenders separately from law violators. Such terms as CHINS (CHildren In Need of Supervision) and PINS (Persons In Need of Supervision) now designate these youth. Twenty-four states have separate designations, and there are 8 additional states with mixed categories (Levin and Sarri, 1974). However, relatively few states with separate categories also place restrictions on detention or disposition alternatives, so the separate designations have minimal effect.

Law-Violative Behavior. The continued jurisdiction of the juvenile court over law-violative behavior is not at issue. In fact, the National Council on Crime and Delinquency, the National Council of Jewish Women, social scientists, and jurists who advocate abolition of status offense jurisdiction all argue that the court should allocate more of its time to law violators, who represent the greater threat to society. Reports of increased juvenile violence and the minimal attempt to provide effective deterrence through the courts are resulting in a rash of proposed legislation, like the bill in New York that would ensure more secure containment for serious law violators. The judiciary's frustration in dealing with serious law-violative behavior is apparent in the letter of resignation from Judge Simeon Golar (1976) of the New York City Family Court to Mayor Beame:

Perhaps the Family Court's greatest failing is in the area of juvenile delinquency. It may be that our juvenile justice system was flawed from its beginning at the turn of the century, premised as it was on the notion that all anti-

social behavior engaged in by children is pathology which is treatable.

At a time when judicial processing is being restricted, such as in several areas of mental health and criminal law, the juvenile court must allocate its resources more effectively to deal with dangerous acts. If it does not, further restrictions on its jurisdiction and discretion can be expected.

SUBSTANTIVE AND PROCEDURAL DUE PROCESS GUARANTEES

This area of juvenile law was once described as the "Great American Desert" (George, 1968:13). Because the court's structure and jurisdiction had basically been upheld by state court decisions, the prevailing judicial philosophy was that no sufficient challenge to relitigation on constitutional grounds existed (Whitlach, 1967).

The first major challenge to the juvenile courts, Kent v. United States (1966), held that children must be given certain procedural protections in hearings determining whether the juvenile court should transfer jurisdiction to a criminal court. The Court declared that "there is no place in our system of law for reaching a result of such tremendous consequences without ceremony--without hearing, without effective assistance of counsel, without a statement of reasons" (383 U.S. at 554). The Court required not only that a child have adequate notice of the transfer or waiver hearing but also access via counsel to the social history information on which the transfer decision might be based.

Kent stimulated states to enact statutes and court rules governing waiver and transfer procedures. In some jurisdictions, juveniles can be transferred at any age, while in a few states no waiver is allowed or the waiver decision is not made by the juvenile court judge (Levin and Sarri, 1974). However, the major controversy concerning waiver is not so much over procedural safeguards as the substantive criteria for transfer. In fact, procedural safeguards prove ineffective when standards for waiver are not clearly understood by youth and counsel. Without clear-cut evidentiary standards, meaningful appellate review becomes most difficult. Present criteria in most states are ambiguous and difficult to operationalize (e.g., nature and condition of the child, amenability to treatment, serving the best interests of the child, and the nature of the offense).

The case with the greatest impact on the juvenile court has been In re Gault (1967): it directly challenged the juvenile court's tradition as a quasi social agency. Filed as a writ of habeas corpus by Gerald Gault, the case initially attracted attention for the violation of substantive due process: he was sentenced to 6 years for a misdemeanor that carried a maximum sentence of 2 months in jail and a \$5-50 fine for adults. While not examining the substantive due process issue, the Supreme Court imposed procedural safeguards that set minimum standards in proceedings for delinquents who, having violated criminal statutes,

might be committed to an institution. Basically, Gault requires the following:

1. Juveniles charged with delinquency, and their parents or guardians, must be given written notice of the specific charges or factual allegations against them at the "earliest practicable time" in advance of any hearing to adjudicate the merits of the charge, and in any event "sufficiently in advance" of such hearing to permit preparation (387 U.S. at 33).
2. Before such a hearing may be held, the juvenile and parents must be notified of the juvenile's right to be represented by counsel retained by them, and if they are unable to afford counsel, that counsel will be appointed (387 U.S. at 41).
3. The privilege against self-incrimination is applicable in such hearings; juveniles must be advised that they do not have to testify or make statements (387 U.S. at 55).
4. In the absence of a "valid confession adequate to support" a determination of delinquency, adjudication must be based on sworn testimony of witnesses who are available for confrontation and cross-examination (387 U.S. at 56).

As important as these procedural safeguards are, Gault stopped short of requiring the same procedures in juvenile delinquency proceedings as were followed in adult criminal courts. Since Gault, the Court has extended the standard of "proof beyond a reasonable doubt" to juvenile proceedings (In re Winship, 1970). Most recently, the Court has ruled that subjecting a child to a criminal trial after a delinquency adjudication in a juvenile court for the same offense constitutes double jeopardy (Breed v. Jones, 1975).

McKeiver v. Pennsylvania (1971) set the tone for the future of the juvenile court as perceived by the Supreme Court. The Court held that "fundamental fairness" did not require jury trials for juveniles. The Court hoped for the "best of both possible worlds": some informality--with its inherent benefits--in the juvenile system, and at the same time a quasi-adversarial process that would impress youth with the seriousness of their actions and the court's role as an impartial fact finder. The decision in McKeiver v. Pennsylvania suggests that case law will most likely not completely convert the juvenile court to full adversarial hearings in the near future.

Neither Gault--although it provided for minimal procedural safeguards--nor any subsequent precedent-setting cases have addressed some remaining questions critical in court processing: (a) to what extent the juvenile court may admit hearsay or other testimony normally inadmissible under the rules of evidence; (b) whether a right to a written transcript exists, as well as a right to appeal from an adjudication of delinquency; (c) whether there is a right to a public proceeding; and (d) whether there is a right of compulsory process to secure witnesses for the defense. In Gault, the Court recognized three phases in juvenile proceedings (pre-judicial, adjudicative, and dispositional), but it

emphasized that its holdings were applicable only to the adjudicative phase. Thus, issues related to a right to bail, a hearing to test pre-trial confinement, and admissibility of confessions and evidence procured during investigatory process--issues that for adults have been decided in Mapp v. Ohio (1961) and Miranda v. Arizona (1966)--remain unanswered for juveniles.

These diverse unclear areas of procedural due process are the ones we must be most concerned with. Statutes, court rules, and case law vary among all jurisdictions, causing variation in the degree of fairness in court proceedings. Unlike the adult system, where violation of procedural safeguards can only be viewed as punitive, lack of standards in juvenile processing may be defended as being "in the best interests of the child."

THE NEED FOR EFFECTIVE INTERORGANIZATIONAL RELATIONSHIPS

As discussed previously, the major controversy facing the juvenile court today relates to its jurisdictional boundaries. By assuming control over not only law-violative behavior but also dependency and neglect cases and status offenses, the court cannot help but be recognized as a major social institution in the processing and socialization of youth. Although increased emphasis is being placed on diversion of youth from formal processing by the court, the court remains as an ultimate control force, ready to accept youth who cannot be adequately diverted. Police, youth service bureaus, public and private child welfare agencies, schools, and other community service agencies often provide service to youth outside the purview of the court. Despite the great variation in how diversion programs operate--whether informally as with a police department, or on a structured basis as with formal intake policies of a social agency--the court always looms on the horizon as the ultimate sanctioner.

An alternative to this system would be to have the court assume less direct processing responsibility, especially for dependency and status violations, and instead exercise mandamus powers over public agencies mandated to serve youth (Polier, 1974). The 1972 amendment to section 225 of the New York Family Court Act, for example, gives family court judges power to ensure that children receive proper care and treatment from any institution in the state involved with children; this power was affirmed in In re M. (1973). The juvenile court cannot help but be overburdened if it continues to be seen as the agency of first resort in the processing of youth with varied and diverse problems (Bazelon, 1970). In a recent report to the Department of Health, Education, and Welfare on status offenders in correctional programs, Barton, Isenstadt, and Selo (1976) support the development and expansion of services for all youth, as the problems classified by the court as status or even minor delinquent behaviors are widespread in our society among many youth and are not being adequately met by community services now.

JAILING AND DETENTION OF YOUTH

The greatest controversy from the Juvenile Justice and Delinquency Prevention Act of 1974 has centered around section 223(a). It requires that the plans submitted by states as a prerequisite to receiving federal grants must

(12) 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 committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities;

(13) 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 . . .

These provisions, which impact on the deinstitutionalization of status offenders, will also affect the excessive jailing and detention of youth. According to national censuses of jails and jail inmates in 1970 and 1972, between 7,800 and 12,800 juveniles were held in local public jails excluding holding facilities or lockups (U.S. NCJISS, 1971, 1974b). Based on these daily census figures, estimates can be made that up to 500,000 youth are held in adult jails each year. In addition, a national census of youth in detention in 1971 indicates that 494,286 are housed annually in 303 juvenile detention facilities (U.S. NCJISS, 1974a).

Contrary to popular assumption, jailing does not occur only in rural, isolated areas without juvenile detention facilities (Sarri, 1974). For adults, emphasis is being placed on alternatives to pretrial incarceration--personal recognizance, personal bond, home detention. In contrast, little is heard about planning for alternatives to jailing and detention of youth--despite repeated documentation of poor food, bad housing, inadequate medical care, low staff-youth ratios, high suicide rates, and frequent assault. Although one does not want to paint the adult corrections system as humane and progressive, when it comes to attention in the media, litigation, and legislation, the adult system gets most of the action, and the juvenile system very little. Youth are less vocal and have generally not influenced public officials responsible for maintaining detention facilities which may overprocess youth.

The intake process of the juvenile court has a major effect on jailing and detention of youth. Justice White, in his concurring opinion in McKeiver v. Pennsylvania that a juvenile has no constitutional right to trial by jury, states:

To the extent that the jury is a buffer to the corrupt or overzealous prosecutor in the criminal law [adult] system, the distinctive intake policies and procedures of the juvenile court system to a great extent obviate this important function of the jury. [403 U.S. at 551]

It is the hope that through a flexible intake procedure, youth may be removed from the formal processing of the court. However, the lack of clear-cut judicial guidelines from case law has resulted in wide variation in standards and practices applicable to intake procedure. In adult proceedings, probable cause must be shown before an accused can be held for trial. Juveniles, however, can be detained without such cause being established at intake. Since Gault spoke only to the adjudicative phase of processing, the argument that such arbitrary detention of youth violates the equal protection clause is not yet widely accepted. With a void of legal guidelines for the intake process, jailing and detention of youth are less subject to legal criteria and serve as temporary programs for youth who merely lack a place to sleep to those charged with serious law violations. The media and citizenry react when a law-abiding adult is arrested and jailed for a minor violation. Where is that concern with youth?

DISCRETION PERMITTED TO JUDGES AND THEIR STAFFS

Although the U.S. Supreme Court has never found a constitutional right of appeal to exist in any civil or criminal proceeding, legislators have usually enacted some appellate procedure. The desirability of appeal in juvenile cases was mentioned in Gault (387 U.S. at 58) but not mandated in the Court's decision. The Supreme Court has ruled in a case originally applicable to adults (Griffin v. Illinois, 1956) that if a state, by legislative fiat, grants the right to appeal, transcripts necessary in the preparation of the appeal may not be denied to indigents. This ruling was recently applied to juveniles since all states currently provide some appellate process for juveniles (In re Brown, 1971). However, the basis of appeals in juvenile proceedings primarily relates to final orders of the court. Efforts are made to avoid appeals in the preadjudicatory and adjudicatory phases. The justification for this seems to be that any undue delay would operate in contravention of the "best interests of the child." Although forms of collateral relief remain available (e.g., writs of habeas corpus and of prohibition), they are seldom used. Thus, what tends to exist is a judicial process often vague, ambiguous, and unclear, without adequate checks and balances over judicial discretion. It would appear that since due process guidelines in juveniles cases are not as clear as in adult criminal procedure, accountability in judicial decision making could best be effected through an appeal process. It is true that formalizing appellate procedure will work against maintaining the court as an informal, quasi social agency, but if the court is limited to cases of clearly documented neglect and law violations, then what is needed is a solid legal organization concerned primarily with justice, fairness, and protection of societal interests.

THE COURT AS AN ORGANIZATION

Because of the varied and complex policy issues that guided this research, it was recognized that an adequate research paradigm must

incorporate converging theoretical approaches. The common underpinning was a dual perspective of the court as a complex people-processing organization and as a legal institution. Thus, the court was viewed as an organization whose modes of operations are staged by its relations and transactions with its task environment, the goal priorities adopted, the processing and service technologies utilized, and the internal work structure it develops. At the same time, the court has been viewed as enmeshed in a legal system which plays an important role in shaping the patterns of case processing as well as internal organizational characteristics (e.g., control structures). The juvenile code, position of the court in the overall state judicial system, prosecutorial practices, and accumulation of case law--all may have significant impact upon the organization of the juvenile court.

The court is a people-processing organization whose system for processing juveniles is constrained by contingencies in its external environment (Hasenfeld and English, 1974). The power-dependence relations between the court and external units will affect the extent to which the court incorporates in its processing system the constraints and contingencies set by these units. Community groups and organizations put pressure on the judge and court staff to negotiate arrangements that can maximize the interests of their respective organizations. Thus, in some ways the court can be seen as having to negotiate a social order in the local community with respect to the criteria for intervention and the mechanisms to be employed in processing.⁴ Certainly the court has this relationship to the police and public schools in many communities. Often the negotiated social order breaks down because of crises and conflicting interests that upset the equilibrium. The court may be in the position of having to renegotiate a social order for peaceful coexistence of all parties. The role and relationship of the juvenile court in these community negotiations is examined in the present research.

In previous studies the juvenile court has been examined as a goal-oriented system. At least three substantive goals to which the court must attend have been identified: due process for the offender, community protection, and provision of social services to rehabilitate the juvenile delinquent. None of these goals is pursued alone; they exist together in proportions that vary from one court to another, depending on priorities. The social service (treatment) goal has received most attention in the literature on the juvenile court, but community protection has also been emphasized and, more recently, due process has received much attention.

Another goal orientation, organizational maintenance, has received little attention. For the juvenile court, strong concern with organizational maintenance can be expected because of the precariousness of its fiscal support, its ambiguity with respect to the selection of staff in terms of political influence or professional competence, and the possibility that the problematic nature of the substantive goals will lead

4. The concept of a negotiated social order was presented by Donald Cressey in a working paper for NAJC.

to goal displacement and emphasis on maintenance of the court as an end in itself.

The juvenile court can also be viewed as a system of decision rules. Decision rules are guides for the distribution of cases among the alternatives available to the court. The four principle categories concern (1) investigating and classifying clients, (2) screening (referring and recommending) clients, (3) informing interested parties about clients, and (4) treating and serving clients. These rules are assumed to exist in patterns that reflect the court's structure. Decision rules can theoretically be seen as a translation of organizational goals and structures into client outcomes. The substance of the decision rules in the juvenile court could presumably be classified into community protection, due process, or service goals.

All the above perspectives influenced the research and were useful in exploring various findings. Instead of adopting a single one as a general framework for this report, we viewed the court as an organization through which juveniles are processed. We sought to identify the patterns of case processing, the organizational and structural variables affecting that processing, and lastly, the reasons for the marked differentials between courts. Goals were studied because they were expected to influence the actors in court processing and in the outcomes attained by the court.

Chapter 2 details the research design and sampling procedures. Findings from the survey are then presented and considered in the other chapters.

THE DESIGN FOR THE RESEARCH AND ITS IMPLEMENTATION

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Prior to the study being reported here, the only literature available on the juvenile court was from single-case study designs. Such a research strategy has definite limitations in that it is impossible to generalize to the universe of juvenile courts; moreover, even sample comparisons among courts are impossible because seldom have researchers utilized similar instruments or procedures that would permit intercort analyses. There have been multiple-court studies of judges, probation officers, detention, and so forth, but in these studies the focus was on the actors, not the organization, with the result that our general knowledge about the operation of the juvenile court was limited.

This chapter presents the plan for this survey of juvenile courts along with information about response rates and follow-up. It concludes with a summary on the sociodemographic characteristics of the counties included in the survey compared with national averages on these characteristics for all counties of the United States as reported in the 1970 Census.

Because the formal "rules of the game" specified in the juvenile code, case law, and administrative rulings can be assumed to affect organizational behavior, a study of juvenile courts must take these into consideration. These laws often vary markedly among the states, and therefore differential effects should be anticipated. Juvenile codes, for example, constrain or inhibit certain actions, but the relationship between code provisions and the delivery of service within and between the states is unclear. The rehabilitation philosophy embodied in the establishment of the juvenile court and the tradition of informality can be expected to confound further the relationships between law and practice. In order to trace out differences and to compare systematically the structural characteristics and organizational behavior, two samples of juvenile courts were selected for study--one a large, national probability sample of courts designed to obtain descriptive information about the court, and a second, small, purposive sample for intensive field study designed to study the dynamics of court case processing and court-environment relations. Efforts were made to encompass the full range of courts that processed juvenile delinquency cases other than traffic violations.

Comparative and comprehensive information about juvenile code provisions was necessary before the study proposed above could proceed. Since no such information was available, a content analysis of the juvenile codes in the fifty states was completed and published, Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States (Levin and Sarri, 1974). This information was utilized along with a statement of the major issues developed in case law and the reports of the relevant national commissions on juvenile justice standards and goals (National Advisory Commission, 1973a, and Juvenile Justice Standards Project, 1973).

The scope of this research was broad and sought to provide information on policy issues salient to juvenile justice. From national comparison reports and other juvenile court literature, policy issues were identified in the Research Design Statement (NAJC, 1972). Seven dimensions for study were derived: (1) organization-environment relationships; (2) client characteristics; (3) due process procedures; (4) intraorganizational characteristics; (5) processing and service technologies; (6) concepts of fairness and justice in processing and service delivery; and (7) staff characteristics. Propositions were then developed from the organizational and correctional literature for each of the dimensions, and then a list of variables was prepared. These variables were utilized to develop specific questions to test the propositions. It was then determined which official of the juvenile court would be in the best position to respond to each question. The underlying causal model for this research assumed that differential outcomes of court processing--mediated by the personal and social characteristics of the relevant actors--are consequences of a series of organizational variables, each successively constraining those subsequent to it.

Several alternatives to this design were rejected. Many previous studies of juvenile courts had focused on the characteristics of individuals to explain case processing, but research comparing courts as organizations was scarce and limited by the numbers and types of dimensions of court studies (Ferster and Courtless, 1971; Stapleton and Teitelbaum, 1972). Recent empirical research has provided support for the position that police and courts, as organizations, carefully select juveniles for processing, and that the major determinants of processing are organizational routines and policies rather than the offense behavior characteristics of the population processed (Gold, 1970). Other alternative designs--for example, longitudinal or more intensive studies of specific subsamples of courts--were rejected for economic and practical reasons. Such studies also presumed more knowledge about the universe of courts than existed at the time of the research design. The goal of the research was to provide data for the systematic comparison of all types of juvenile courts as organizations.

The research, however, has several limitations. The reliability of measures that attempt to reveal the same features in all courts warrants careful interpretation in the analysis of these data. Juvenile courts, their environments, and case processing are remarkably diverse and complex, even within the same state judicial system (Pawlak, 1972). The operationalization and measurement of some concepts (e.g., fair and humane processing) is extremely difficult in the format chosen for data collection (i.e., mailed questionnaires to a national sample, supplemented by field observations in a few courts). The lack of longitudinal data on courts requires that some important facets of courts not be analyzed--for example, the seasonal variation in referrals and its effect on case processing (Vinter and Sarri, 1966). Finally, reliance on self-reported behavior was necessary, especially in the national sample, and it requires constant caution in interpretation since other sources of validation were often lacking. The two sample designs have attempted to minimize the costs of these tradeoffs between detailed, complete knowledge about one or a few courts and comparative typological knowledge about the full range of courts that exist.

THE SAMPLES

THE NATIONAL PROBABILITY SAMPLE

Standardized and reliable information (such as the number of referrals, the size of court staff, the size of probation caseloads) is not available on juvenile courts across the country. The only unit that could be applied to courts, on which some systematic data about size exist, is the county. To develop a list of what could be termed the universe of juvenile courts in the United States, the National Survey of Court Organization completed by the U.S. Bureau of the Census and LEAA in 1972 was used, since it provided the best available information. With the assistance of Dr. Charles Kindermann of the National Criminal Justice Information and Statistics Service, a printout was obtained of the courts reported to have juvenile court jurisdiction, their location, and the name of the chief judge. This list was then used to draw the national sample.

The decision was made to select only counties with more than 50,000 total population, because information from the HEW juvenile court reports suggested there were too few cases in the smaller counties and seldom any full-time juvenile court staff. A total of 691 counties were thus identified for inclusion and each of these was given a unique number. Numbers were then selected by using a table of random numbers and the process stopped when 400 counties had been selected. These were located in 48 of the 50 states. In the sampling process it was also possible to estimate that in 85% of the counties of the United States, only one juvenile court actually was the operative court for

processing juveniles. Therefore evidence for selection of the county as the basic unit was further corroborated. After information about the size of the courts was obtained through return and editing of the questionnaires, all courts with less than 50 annual referrals for delinquency or "in need of supervision" cases were eliminated from the sample. The effect of including smaller courts, or courts from smaller counties (less than 50,000 population and less than 50 cases) would have been to spend sizable resources to obtain data that disproportionately reflected courts where few juveniles are processed. The sample chosen was considered exhaustive of the full range of courts having juvenile jurisdiction.

SUPPLEMENTAL SAMPLE

Although the random sample was methodologically satisfactory, substantive concerns suggested some additions. The random procedure resulted in selection of courts in only 48 of the 50 states. Further, only about half of the courts in the twenty largest cities were represented in the sample. We desired to include a court from every state in order to obtain a sense of representativeness of all the states and we also wished to include many of the largest juvenile courts. Thus it was decided to send additional questionnaires to obtain responses from the remaining states and from the largest cities.

Accordingly, questionnaires were sent out to one court in each state not in the original sample and to those cities among the largest twenty in the nation not included in the sample. We also added the responses from two of our field study courts that had not fallen in the random sample.

PURPOSIVE SAMPLE FIELD STUDY

Seven courts were selected for intensive field study, using a purposive sampling procedure applied in three stages. Several criteria were used in the selection process to ensure variation within the sample on several dimensions considered important in juvenile court behavior from our theoretical conceptualization. For example, structural differences are often noted as critical determinants of court policies and operations. Therefore, courts had to be selected in ways that guaranteed variations if structural variables were to be examined.

The first stage of the study was to limit the choice to sixteen states already selected by a multistage probabilistic procedure as sample states in the larger National Assessment of Juvenile Corrections (Grichting, 1973):

California	Maryland	New Hampshire	Oklahoma
Colorado	Massachusetts	New York	Pennsylvania
Florida	Montana	North Carolina	Tennessee
Georgia	Nebraska	Ohio	Wisconsin

Extensive information about juvenile justice programs and patterns in each of these states facilitated the choice of additional criteria for sample selection. Two variables were used to classify the sample states further: due process provisions in the juvenile code and centralization of probation services. Due process was defined on the basis of statutory provisions for the protection of the juvenile's legal rights as set forth in the major Supreme Court decisions (Kent, Winship, Gault, and McKeiver). Centralization of probation services was treated as a dichotomous variable: some states maintained a central staff at the state level to perform probation services for the juvenile courts, and in other states responsibility and authority for probation is retained at the local level by the court or some other unit of local government. Thus the states were classified as illustrated in Figure 2.1:

		<u>Centralized Probation</u>	
		High	Low
<u>Due Process</u>	High	1 <u>Maryland</u>	2 <u>Ohio</u> , California, New York
	Low	3 Florida, <u>Wisconsin</u> , Colorado	4 Pennsylvania, Nebraska, <u>Massachusetts</u>

Fig. 2.1. Intensive Court Sample Selection Criteria

One state from each cell in Figure 2.1 was selected for the third stage, namely, the selection of two courts within each state (the states selected are underlined in Figure 2.1).

In the third stage two courts for each state were selected in a manner that maximized the variation between them in terms of scope of court intervention. Scope of court intervention was defined as the proportion of youth referred to the court from the total youth population under the jurisdiction of the court. A total of seven courts were selected for intensive study (that decision limited essentially by resources of the research staff) and their characteristics are identified in Figure 2.2.

		<u>Size of Court</u>		
		Small	Medium	Large
<u>Scope of Court Intervention</u>	Low		1 low due process, local probation	
	Medium	1 low due process and local probation	1 low due process and centralized probation	1 high due process and centralized probation
	High	1 high due process and local probation	1 high due process and local probation	1 low due process and centralized probation

Fig. 2.2. Court Sample Selection by Size and Delinquency Ratio

STATE PROBATION AND DETENTION SERVICES

Although this research focused on juvenile courts, it was necessary to incorporate a sample of probation and detention programs in those states where the state government has responsibility for the development and operation of such services.

Since half of the sixteen sample states chosen for the study of correctional programs by NAJC have some levels of state-administered probation, this dichotomy was fortunate for our interest in comparative analysis of the processes and outcomes of various structural patterns. Included in the sample were all of the field officers in the eight states, and responses were sought at each office from the office supervisor or chief probation officer and from one probation/intake worker.¹

Names and addresses of regional and state detention facilities were also obtained from the state central office and procedures similar to those used in the probation study were followed to obtain completed questionnaires from the detention director of all known facilities. It should be noted that state-level information was far more readily available about probation than was the comparable information about

1. Names and addresses were supplied by the central state office responsible for the administration of probation. The supervisor was asked to provide statistical data about cases handled and office operations so that comparisons could be made with offices in which probation staff served under court auspices. Other than that, questionnaires were identical to those completed by probation offices in the national probability sample of courts.

detention. None of the states had complete information about all of the detention facilities as well as jails and lockups where youth were held.

SURVEY INSTRUMENTS

A series of instruments were designed to obtain information as accurate as possible from the court official in the best position to have access to such information. In addition, specialized instruments for systematic observation were designed for the seven courts in the field study sample. Whenever instruments were distributed for self-administered responses as well as for interviews and observations, repeated assurances were given that the information obtained would be kept strictly confidential and that participation was completely voluntary.² These assurances were especially important in the field studies when individual staff and cases were observed or when individual staff were interviewed. Frequently, in the discussion of sensitive issues, these assurances had to be repeated. Confidentiality and voluntarism also were required by the Human Subjects Review Committee at the University of Michigan; we strongly felt that these assurances were essential to obtain data that reflected the diversity of perspectives among court staff.³

QUESTIONNAIRES FOR COURT-RELATED STAFF

As already noted, questionnaires were designed for four types of court-related staff: judges, court administrators, probation/intake workers, and detention supervisors. Figure 2.A1 in the Appendix summarizes the topical areas included in each of the questionnaires. Some sections and questions concerned areas common to all four types of staff, and, whenever feasible, the same questions were asked to obtain different perspectives associated with these positions. Court administrators were asked to send additional information: an organizational chart, copies of the most recent budget and annual report, and a map of the court's geographic jurisdiction.

2. See Appendix 1 for a copy of the letter that accompanied the distribution of questionnaires.

3. All instruments were extensively pretested in juvenile courts in two states. Responses and suggestions obtained immediately after pre-testing of the instruments were extremely helpful for the design of the instruments.

The questionnaires were designed for self-administration.⁴ Inside the questionnaire jacket was a brief description of the National Assessment of Juvenile Corrections and an explanation of the purpose of this research and the type of reports that would follow. Numbers identifying the state, county, and specific court were entered on this page, and an explanation was provided for this identification. Assurances of confidentiality and voluntarism were printed in bold type, and directions for the respondent to mail the questionnaire directly to NAJC served as a further guarantee that individual responses would not become known to anyone other than the research staff.

ADDITIONAL INSTRUMENTS FOR THE INTENSIVE FIELD STUDY

Seven instruments were used in the intensive field study, in addition to the questionnaires described above. Narrative field notes were also written on all interviews, discussions, and observations not included in these instruments.

Cohort Interview and Cohort Follow-up Schedules

Fifty recently handled cases at intake were selected in each court to represent distributions of case characteristics (e.g., sex and offense) and modes of case processing in each court. All of these cases were selected at the point of court intake where a specific referral had been made. Some of these youth had previous court experience and for others it was a first-time referral. Line workers who made intake decisions were interviewed about these cases, and as many cases as time permitted were directly observed at intake.

The purpose of the cohort interview schedule was to gather systematic information about how types of cases were handled at intake. A cohort follow-up instrument was used to collect information after a six-month period had elapsed on the same cases to determine the effects of intake recommendations and decisions on later court processing. Three types of information were gathered in the cohort schedule: (1) characteristics of cases (e.g., age, sex, school, offense), (2) characteristics of the initial interview (e.g., information, participants, recommendations), and (3) decisions, reasons, alternatives, and evaluations of case outcomes.

4. All questionnaires were sent to the judge named in the National Survey of Court Organization for each court. He was instructed to distribute the questionnaires, but to request that each respective staff member return the questionnaire directly to NAJC. See the letter to judges in Appendix 1.

Courtroom and Hearing Observation Schedules

At least ten case hearings were observed in each court. For each case two observation schedules were completed. The first concerned the case heard and included descriptions of (a) case characteristics (e.g., sex, race, offense) and (b) hearing characteristics (e.g., type of hearing, formal motions, source, amount, and type of participation, and findings). The second concerned the general environment for the hearing process (e.g., the physical environment of the courtroom, the type of record made of the hearing, and the actors and their tasks in the hearing process).

Probation Interview Schedule

At least ten probation interviews in each court were observed. The schedule obtained information about case characteristics, the topics and nature of discussion, the services/assistance requested, worker responses to requests, and service suggestions by the workers.

Executive Interview Schedule

The purpose of the executive interview schedule was to interview systematically all executives in the court specifically about the areas over which they had responsibility or knowledge. First, intra-organizational questions sought information about organizational structure, case processing flow, staffing, decision-making responsibility, commitments to institutions, and probation operations. Second, interorganizational questions sought information about relations with schools, social service agencies, diversion programs, police, county government, community influentials, the judicial system, and prosecution and defense counsels.

Questionnaires were given to the executives of courts and court-operated diversion and probation programs to gather further information about four areas: (1) services and treatment technologies, (2) personnel, (3) resource commitments, and (4) administration, evaluation, and innovation. Questions were designed for self-administration, but responses were reviewed in the court to assure that all available information was obtained.

Community Questionnaire

Community questionnaires were administered to executives of agencies that had significant contact with the court: police chiefs, school superintendents, social agency administrators, and selected interest groups who had developed special programs in some of the communities (e.g., youth service bureaus). Questions covered

(1) delinquency in the community, (2) community evaluations of delinquency, (3) knowledge about the juvenile court and its effectiveness, and (4) knowledge about police and their effectiveness. Responses to these questions were probed, and served as the basis for further discussion about agencies, delinquency, and the juvenile court.

Information Systems

Information about forms, files, and reports was gathered to determine (1) the amount and type of information that was kept, (2) how it was filed, and (3) how it was analyzed and used. Copies of the types of forms, files, and reports were obtained.

DATA COLLECTION

Data collection occurred in two phases, a mailed survey of the national sample in spring 1974 and the field visits to the intensively studied sample between January 1974 and June 1975.

DATA COLLECTION FOR THE NATIONAL SAMPLE

Data were collected for the national sample in three stages: (1) distribution, (2) follow-up and retrieval, and (3) editing and coding.

Distribution

Questionnaires were mailed to the presiding judge in each court in the sample. Five questionnaires were sent: one judge, one court administrator, one detention, and two probation/intake questionnaires. Each packet of questionnaires also included (1) a letter from an NAJC project co-director explaining the purpose of the project, the confidentiality of information, and the forthcoming research reports; (2) a letter of introduction from the president of the National Council of Juvenile Court Judges requesting the court's participation in the study; and (3) a set of directions for the distribution of questionnaires.

Follow-up and Retrieval

Three months after the initial mailing, follow-up letters were sent requesting the return of the questionnaires. A second follow-up was conducted five months after the initial mailing, and it consisted of two stages: (1) telephone calls to nonresponding courts in the sixteen sample states, and (2) a second mailed request to nonresponding courts

in the 34 remaining states.⁵ The second follow-up to the 34 nonsample states involved two steps. First, a textual supplement to the National Survey of Court Organization was studied. This document, not available during the initial sampling, provided the basis for a better determination of which courts actually exercised juvenile jurisdiction; as a result, a number of courts were eliminated from our sample. Second, correspondence files were examined to determine which courts had categorically refused to participate or did not exercise juvenile jurisdiction. Letters requesting unreturned questionnaires and completion of statistical information were sent with new copies of the questionnaires.

Prior to sampling, we realized that the boundaries of counties and courts coincided in only 28% of the states; in 56% of the states more than one court could have juvenile jurisdiction in a county; and in 16% of the states courts have jurisdiction over more than one county. The state-by-state and often county-by-county search to determine which courts exercised their juvenile jurisdiction revealed astonishing disorganization and localism. Texas illustrates the difficulties involved in determining which courts have juvenile jurisdiction. In each of the 254 Texas counties a juvenile court is provided by statute. In almost all counties the judge of this court is chosen by the juvenile board of the county; the position may rotate, however, among judges over varying intervals or may reside with one judge on a semi-permanent basis. If no judge is designated, however, any one of the district court, county court, county court-at-law, domestic relations, or statutory juvenile court judges can exercise jurisdiction. In some counties all these judges hear juvenile cases. The subsequent section on response rates and county characteristics reveals how these problems were resolved.

Editing and Coding

All questionnaires were carefully reviewed, edited, and coded. The editing process consisted of two parts: (1) a manual collation and examination of all questionnaires, court by court, was done to assure that questionnaires were properly identified and that sampling criteria were met; (2) all statistical information from court administrator questionnaires was checked and edited for consistency with other, independent data. Both processes involved checking information in

5. The telephone follow-up, for reasons of economy, involved different procedures depending on which questionnaires were missing. If only probation/intake questionnaires were absent, no call was made. If either judge or court administrator questionnaires were absent, a brief telephone interview was conducted with the judge or court administrator. In addition to obtaining verbal agreement to return the questionnaires, the telephone follow-up had two other goals: (1) to determine whether the court met the sampling criteria, and (2) to collect data about the size and staff characteristics of potentially nonrespondent courts.

questionnaires with each other and with data from other sources (e.g., court reports to states and to federal agencies such as the Department of Health, Education, and Welfare). A direct contact was made in each state with the supreme court administrator's office or other appropriate office to obtain official statistical information. In addition, some counties were also contacted directly for further data. Each questionnaire was coded twice to increase coding reliability.

DATA COLLECTION FOR THE INTENSIVELY STUDIED FIELD SAMPLE

Data collection for the intensively studied field sample included the initial contact and advance visit, the actual data collection, and the debriefing, collation, and coding of data. If the initial telephone contact with the presiding judge revealed willingness to participate in this research, an advance visit was arranged to explain the scope and purpose of the research, determine whether the court met sampling criteria, and negotiate terms for the research activity. As much information as possible was gathered about these courts to facilitate planning and intensive study. A written agreement signed by NAJC co-directors and the presiding judge was made with each court chosen for study, specifying strict confidentiality of all information gathered, minimal interference with court operations, and dates, terms, and limitations of the study.

RESPONSE RATES: NATIONAL SAMPLE MAIL QUESTIONNAIRE

The random sample for the national survey included 400 counties, and questionnaires were originally sent to 597 courts in these counties. Responses from the follow-up indicated that three other juvenile courts existed in the sample counties, bringing the total up to 600 sets of questionnaires. The potential response to the mail survey included 3,000 individuals--five in each of the 600 courts. Although the research staff sought to maximize returns through many follow-up techniques, it was expected that considerably fewer than 3,000 completed questionnaires would be received. A substantial number were found not to process juvenile cases; some no longer had juvenile jurisdiction; and some would not respond. A detailed examination of the responses received is necessary to determine the adequacy of the survey. In completing the examination of the response rate, it was soon apparent that detention was quite different from the other court components sampled. Often more than one court used a single detention facility, and some courts did not use detention at all. The analysis of responses recognized this difference, and the study of detention responses was separated from our other responses.

Responses from Judge, Administrator, and Probation Mailings

Our original mail questionnaire and the various follow-ups to the random sample of courts netted 259 replies from judges, 226 from court administrators, and 480 from probation officers. This provides a total of 956 usable questionnaires.

The total number of questionnaires mailed out was 2,400; thus, our initial response rate was 40%. This statistic, however, could not be used, because many courts informed us that they did not handle juvenile cases. Often, where there were two or more courts in a county or even a district of several counties in rural states, informal or formal arrangements were made whereby one court would handle all juvenile cases. When such information was received by the research staff, the appropriate courts were dropped from the sample. It was also learned that some courts had no court administrators and others had only one probation officer. Again, as appropriate, positions were dropped from the sample. Responses from courts that reported handling less than 50 cases per year were also eliminated. Finally, it was learned that still other courts listed on the official census did not have jurisdiction as a juvenile court as of 1973, so they too were eliminated in order that the final sample would include only juvenile courts that handled more than 50 cases in 1973 and were located in counties whose populations exceeded 50,000 as of 1970.

Every effort was made to determine the number of questionnaires reaching individuals who were actually responsible and involved as juvenile court administrators. A number of devices were utilized in this process. Some courts reported back in writing the required information about juvenile jurisdiction in their area. State court administrators' offices provided further information, as did the staff responsible for the National Survey of Court Organization in LEAA.

More intensive follow-up was pursued in the sixteen sample states that had been selected as a probability sample for the entire NAJC study. In the latter states any court that did not respond to questionnaire and follow-up letters was contacted by telephone. Because the sixteen states represented a sample of the 50 states, confining the follow-up to these few areas was appropriate. Indeed, the phone calls enabled us to determine the precise number of potential respondents in the sixteen states, and these data were useful in estimating how many questionnaires sent to other states went to potential respondents.

A large number of questionnaires were eliminated from the original sample due to the follow-up. Of the original 2,400 questionnaires (600 each to judges and administrators and 1,200 to probation or intake workers), only 1,777 possible responses remained after our attempts to eliminate questionnaires sent to individuals who did not qualify for the sample. Of these, 455 represented judges, 456 represented court administrators, and 866 represented intake or probation workers. Therefore, our adjusted response rate is 965 responses out of 1,777 questionnaires, a rate of 54%.

Even the 54% figure is a very conservative estimate. It only rules out respondents where there was positive evidence that they did not deal with children. In the sixteen states the evidence is quite accurate, but elimination of courts in other states was not possible due to lack of information. If the percentage of questionnaires eliminated in all states was equal to the percentage eliminated in the sample states, the response rate would exceed 60%.

Although the response rate is quite satisfactory for a mail survey, some aspects of the responses were of concern. Court administrators responded to the questionnaires least often, and their questionnaires were very important. These questionnaires contained all of the statistical information concerning case referrals and dispositions. It was decided to supplement the statistical information when administrators did not answer their questionnaires. Information from state and local reports was used to increase the number of courts on which we had statistical data. Information on an additional 138 courts came from our search. As a result, there are responses to either the administrator questionnaire or the statistical items for 80% of the courts in our sample that actually have jurisdiction.

The supplemental sample yielded 18 additional judge questionnaires, 11 additional court administrator questionnaires, and 21 additional probation questionnaires. Much of this report is based on the totals: 277 judge questionnaires, 237 administrator, and 501 probation questionnaires. When the statistical data from 138 random sample and three supplemental sample courts are added to the court administrator questionnaires, there are a total of 378 responses about court cases. Throughout the report, data are reported from the national probability sample and from the total sample of respondents. Whenever there is an attempt to generalize to the country as a whole about juvenile courts or about actors in juvenile courts, the analysis is confined to the counties in the probability sample (e.g., Chapter 4).

Sample Bias by State. Table 2.A1 reports the number of responses to the random sample by state. Large differences in response rate occur. Some variation is expected simply due to chance; however, of the biases have a pattern. The average population and density of the state do not relate to the response rate, but state urbanization does. There is a .45 rank-order correlation between the response rate and the percentage of the population that is urban. There is one possible methodological explanation for the bias. Less urban states tend to combine jurisdictions more often than do urban states. However, in the sample states other than the sixteen intensively studied by NAJC, we were often unable to pinpoint the combined jurisdictions. At least part of the correlation between urbanization and response rate may stem from the fact that the number of existing courts in less urban states was overestimated, thus artificially inflating the number of courts thought to be in the sample in those states. In fact, in the

sixteen more carefully monitored sample states the correlation between urbanization and the number of questionnaires eliminated (rank order) was $-.35$.

DETENTION RESPONSE RATE

A total of 600 detention questionnaires were sent out in the mail survey. Of these we received 171 back, for a response rate of only 29%. This may seem quite low, but the special nature of detention must be taken into consideration. Not every court, and not even every county, has a detention facility. While local public facilities represent the predominant pattern, wide variations exist in the use of detention. Some New England states have a single, centralized state detention facility, while eleven states have regional detention. Moreover, some local units serve more than one county due to special formal or informal relationships.

Unfortunately, we could not determine the detention response rate on a county-by-county basis. We had neither the information nor the resources to develop a comprehensive list of the arrangements for detention made by each court. Accordingly, we were forced to estimate our response rate on the basis of a national census of detention facilities.

Table 2.A2 lists the number of detention facilities, by state, as calculated from existing data. Three sources of information were used: the 1975 edition of Children in Custody, which uses 1973 data; the 1974 version of the report, which uses 1971 data; and Pappenfort et al., Census of Children's Institutions, which uses 1966 data. Estimates from these three sources are included in the table. We also note state and local auspices, as well as the type of facility used in each state.

If we use the highest of the three estimates provided by our source material, we are left with a total of 318 detention facilities in the entire country. We have responses from 171 of these; our responses represent 54% of all the facilities that exist. In fact, our random sample includes 58% of all counties with more than 50,000 people. If we were to prorate the sample and assume that only 58% of all detention facilities fell in the sample, we would have only 184 potential responses. On this basis our response rate would be 93%.

Of course, we do not actually have a 93% response rate. In counties that combine detention jurisdiction by state or region, if we have even one of the counties a detention facility includes, the facility falls in our sample. We clearly sampled more than 50% of all facilities. It seems likely that our response rate is actually somewhere around 70% of all potential responses from juvenile detention facilities.⁶

6. Information about youth in adult jails can be obtained from the LEAA censuses of jails and jail inmates (U.S. NCJISS, 1971, 1974b), and from Sarri (1974).

SOCIODEMOGRAPHIC PROFILE OF SAMPLE COUNTIES IN THE NATIONAL SURVEY

In most states, the jurisdiction of juvenile courts follows county lines. Using county data, a sample of courts of sufficient size was drawn by sampling only those courts with a jurisdiction area of more than 50,000 people. This correspondence of county boundaries with court jurisdictions also enabled us to make use of the extensive data collected on counties by the U.S. Census Bureau to supplement information gathered from court respondents. Since court officers were often not able to provide accurate information on general population characteristics, such as educational attainment, percentage of black population, age distribution, income level, or expenditures of local governments in their jurisdictions, the census data were superior to those from other sources.⁷ Of the total 415 courts retained in the final sample, 351 had jurisdictions corresponding to county lines.

For those jurisdictions not coinciding with county lines, certain problems arose. Some courts covered more than one county, some only included part of a county, and some had jurisdictions overlapping with other courts. This required us explicitly to determine court jurisdictions and modify the demographic statistics to reflect the true boundaries. Of the 415 courts, 49 had two or more counties in their jurisdictions.⁸ For these, the census data were modified by cumulating the appropriate total for each county to get the true values for the entire court. For the data in percentage form, such as proportion of urban population or blacks, a weighted average taking into account the differences in populations in the counties was calculated. These two procedures produced quite accurate information for the court characteristics.

Less common was the division of counties into two or more courts. In the national sample this occurred in only fifteen courts.⁹ However, only incomplete information could be obtained on the jurisdiction of the court and the true characteristics for the area had to be estimated. To do this, we first obtained approximations of total population in the court area from state officials and census data.

7. Census data was obtained from County and City Data Book, 1972, U.S. Department of Commerce, Bureau of Census.

8. These courts were found in the following sixteen states: Alaska, Connecticut, Florida, Idaho, Iowa, Maryland, Missouri, Montana, New Mexico, North Carolina, North Dakota, Oregon, Pennsylvania, Texas, and Wyoming. Other states may have courts with boundaries extending over several counties, but since they did not fall in our sample these states are not noted.

9. This was found in the states of Alabama, Louisiana, Massachusetts, New Hampshire, and Maine.

We then used these population estimates along with the actual county total population to determine roughly the fraction of the county in the jurisdiction of the court. By multiplying this fraction into the appropriate totals, we got estimates of the total jurisdiction population on welfare, the total number of whites, the total crime index, etc. Data in the form of averages and percentages were left unchanged as the best estimates we had of the jurisdiction characteristics.

There was a third, fortunately rare, pattern of court jurisdiction: overlapping jurisdictions between two sample courts. This pattern occurred only four times, and in these cases one of the pair of courts was randomly deleted to maintain the sample design.¹⁰ Because the statistical data provided by respondents on jurisdiction and population was checked against other data sources during questionnaire editing, many of the problems surfaced and could be dealt with. When necessary, direct contact was made with court officials for help in resolving discrepancies.

COURT CHARACTERISTICS

By matching these census data on the counties with the courts in our sample, we could describe the general demographic characteristics within the boundaries of these courts with considerable accuracy. This information is important because the juvenile court literature contains many assertions about organizational inconsistencies with reference to demographic characteristics.

*Population of Jurisdictions.*¹¹ The size of the total population, as well as the child population, is a key variable in analyzing the courts, and has obvious implications for their organization and operation. Throughout this analysis, we divided the courts into four main groups based on population size (Table 2.1). Although courts whose population was 50,000 or less were eliminated from the sample, 30 courts had an actual jurisdiction area of less than 50,000 population. These either were courts in counties having two or more courts or some whose population in 1970 was just under 50,000 in the Census. If one sums all of the courts with less than 100,000 population, the total equals 169 courts or 42% of the total sample. Since much of the analysis excluded the smaller courts, the effective sample contained 139 courts of less than 100,000 (38%) and 231 courts of more than 100,000 (62%).

10. This was found in Texas and North Carolina.

11. The set of courts described here is the basic sample of 405 courts for whom at least one response set was received. This excludes ten courts added as the supplemental sample.

TABLE 2.1
POPULATION SIZE OF NAJC SAMPLE COURT JURISDICTIONS

Mean: 247,850
Range: 23,520 - 5,488,300

Population of Sample Court Jurisdiction (N)		%	U.S. Population in 1970 (N)		%
0 - 49,999	(30)	7.4			
50,000 - 99,999	(139)	34.3	Counties under 100,000	(2,794)	89
100,000 - 199,999	(103)	25.4	Counties over 100,000	(347)	11
200,000 - 699,999	(99)	24.5			
700,000 and over	(29)	7.2			
Information missing	(5)	1.2			
TOTAL		(405) 100.0		(3,141)	100.0

Population ranges are large, from approximately 25,000 to over 5,000,000, with a mean of 247,850 per jurisdiction. If one compares this sample with the national distribution of counties, the sample contains a disproportionate number of courts in larger counties. This effect was intended because of the substantial data indicating that delinquency is greater in larger urbanized areas than in more rural areas (Gold and Williams, 1969; Gold and Reimer, 1975; President's Commission, 1967). It also resulted partly from aggregating counties where courts had boundaries over several counties. Nonetheless, it indicates that courts with larger populations are overrepresented in the sample.

One consequence of the variation in population in the jurisdiction is important. Even though the larger jurisdictions are slightly overrepresented, there are 262 courts whose jurisdiction includes less than 200,000 persons, 65% of the sample courts. In doing analyses that use courts as units of study, there is a preponderance of medium-sized jurisdictions in our sample. In doing analyses based on the number of people affected, however, large courts have a greater impact. For example, the majority of youth processed in juvenile courts are processed in courts of over 200,000. The important question to consider is whether one is interested in what courts are doing or in what people are doing. The significance of this distinction will become clearer as we look at some of the other demographic characteristics.

Urbanization. The proportion of urbanized population in the court jurisdiction is obviously related to the total population of the

jurisdiction. As Table 2.2 illustrates, the percent urban increases steadily as the total population climbs, but there are some small, highly urbanized courts. The degree of urbanization for the sample is somewhat greater than for the nation as a whole (83.2% versus 73.5%). This also was expected because larger court jurisdictions were sampled disproportionately, but a slightly higher response rate was obtained from the larger courts.

TABLE 2.2
URBANIZATION RATE IN JUVENILE COURT SAMPLE JURISDICTIONS

Jurisdiction Size	(N)	% Urban
0 - 99,999	(169)	57.9
100,000 - 199,999	(103)	66.3
200,000 - 699,999	(99)	83.9
700,000 +	(29)	95.8
	(400)	
Sample Mean: 83.2%		
National Mean: 73.5%		

Race. Comparable information was obtained only for the percentage of blacks, not for all minority groups; this is unfortunate because some of the courts had substantial proportions of these minority populations under jurisdiction. Table 2.3 indicates that this sample diverges from the national characteristics; the overall proportion of blacks for the nation is 11%, while in the sample it was 14.2%. The impact of the 29 largest counties is largely responsible for the greater overall percentage of blacks in the sample.

Where analysis is concerned with court characteristics, the impact of these 29 courts (7.2% of the total sample) would be minimized. Where one is concerned with the individuals processed into and through the juvenile justice system, the percentage of blacks will be slightly higher than occurs in the nation as a whole. Thus the focus of the analysis is important in any interpretation of such data.

Age. In the sample courts between 22% and 46% (mean = 35%) of their populations are under age eighteen. This pattern does not vary among the four population-size categories. Nationally, 34.4% of the population is under eighteen.

TABLE 2.3
RACIAL PROPORTION IN JUVENILE COURT SAMPLE JURISDICTIONS

Jurisdiction Size	(N)	% Black
0 - 99,999	(169)	7.6
100,000 - 199,999	(103)	11.3
200,000 - 699,999	(99)	12.1
700,000 +	(29)	18.8
	(400)	
Total Sample % Black:		14.2%
National % Black:		11%

Table 2.4 provides two ways of measuring the extent of education in the community. Curiously, the sample has fewer well educated on the average and yet has more college graduates on the average than the nation as a whole. Apparently, the sample of the larger, more urban counties has more of both the highly educated and the poorly educated than is true for the smaller counties. Such a finding was not unexpected given the educational profiles today in many large urban communities.

TABLE 2.4
EDUCATIONAL LEVEL IN JUVENILE COURT SAMPLE JURISDICTIONS

Jurisdiction Size	(N)	Mean Education in Years	% with 4 or More Years of College
0 - 99,999	(169)	11.7	9.8
100,000 - 199,999	(103)	11.7	10.8
200,000 - 699,999	(99)	12.0	11.9
700,000 +	(29)	12.0	11.8
Sample Mean:		11.9 years	
National Mean:		12.1 years	

Wealth and Poverty. Table 2.5 contains four indicators of the extent of poverty and wealth in the sample court jurisdictions. Not too surprisingly, considering the large urban nature of the sample courts, it was found that the sample generally had higher average incomes than the nation as a whole. The largest and therefore the most urban courts are also the wealthiest and have the smallest percentage of poor. However, these data deal only with dollars as a measure of wealth and do not take into account any differences in buying power or variations in cost of living.

TABLE 2.5

INCOME LEVEL IN JUVENILE COURT SAMPLE JURISDICTIONS

Jurisdiction Size	(N)	% Low Income ^a	Per Capita Income	Income Level (in %)	
				Less than \$3,000 Per Year	\$25,000 Or More
0 - 99,999	(169)	11.0	\$2,778	10.6	3.1
100,000 - 199,999	(103)	11.0	2,906	10.5	3.7
200,000 - 699,999	(99)	8.4	3,290	8.1	5.1
700,000 +	(29)	7.5	3,623	7.2	6.2
Total Sample		8.7	3,310	8.4	5.1
National		10.7	3,119	10.3	4.6

^aLow income was defined by the Social Security Administration and a Federal Interagency Committee in 1969 as ranging from \$1,487 for a female 65 years or older, to \$6,116 for a nonfarm family with eight or more persons in the household.

Crime Rate. Data for the crime rate were obtained by taking total crime index information and dividing it by the total population for each of the jurisdictions. Not surprisingly, it was found that along with being larger, more black, better educated, and wealthier, the larger court sample jurisdictions have higher crime rates.

Considering that the larger sample courts also contain a majority of the sample population, one is again struck with the distinction between the experience of people versus the experience of the courts. The majority of people in the sample live in areas with a crime rate over 25, while the majority of the court jurisdictions have a crime rate of less than 25.

TABLE 2.6

CRIME RATE IN JUVENILE COURT SAMPLE JURISDICTIONS

Jurisdiction Size	(N)	Crime Rate
0 - 99,999	(169)	14.5
100,000 - 199,999	(103)	16.8
200,000 - 699,999	(99)	25.1
700,000 +	(29)	28.5
Sample Mean		24.0 per 1,000 population

SUMMARY

Although the research design and its implementation contained a number of flaws that could now be corrected, we think that the major elements of the original plan were implemented successfully and that the results have significance for researchers, administrators, and practitioners. This was the first large comparative study of juvenile courts in the United States, and the data have been coded and prepared so that they are ready for further analysis, not only by the authors of this report, but also by other persons.

The response rate achieved was high for complex questionnaires distributed by mail. Moreover, careful follow-up, editing, and use of other pertinent information enabled us to obtain some information on nearly 80% of the courts included in the national probability sample.

Although the design resulted in disproportionately more courts in larger population counties, this was appropriate, we believe, because it is in these areas where the higher crime rates were also observed. Any policy-oriented study of juvenile justice must take such a variable into careful consideration. This study, we believe, demonstrates that large-scale comparative organizational research is possible today and that the results warrant the effort required. The research strategies employed have implications for the study of other human service organizations and of public bureaucracies generally.

STAFF PERCEPTIONS OF GOAL PRIORITIES

MICHAEL SOSIN

To individuals working in juvenile courts, perhaps the function that the court serves appears obvious. The court, of course, deals with problems of juvenile delinquency. However, there are many different ways in which delinquent youth may be handled. The court may try to deter future misconduct by strict penalties or it may attempt to use services to rehabilitate youth; it may try to protect the public from juveniles or try to integrate juveniles more successfully into the community; it may use formal methods of handling cases or it may choose a more informal style. Of course, any specific court may use different combinations of these tactics.

The functions that the juvenile court tries to serve may be called court goals (Parsons, 1957). This chapter is aimed at determining what such goals are. If we can determine what goals the courts are actually trying to meet, it will be much easier to understand court structural patterns and behavior.

Organizational goals can be viewed not only as functions to be served for the society, but also as states which the organization seeks to achieve (Etzioni, 1975). Goals are important because they provide criteria for resource allocation, assessment of effectiveness, and definition of the form and content of the service delivery systems. As Perrow (1970) notes, it is important to distinguish between formal official goals that define publicly stated purposes of the organization and operative goals that define what the organization actually seeks to accomplish. Many organizations come to pursue goals other than those which are formally stated in law and official documents. Operative goals may be measured by assessment of the perceptions and reports of various personnel in the organization. Discrepancies are often noted when one compares formal with operative or ideal goals; such information can provide important clues to goal displacement and ineffective organizational behavior.

Etzioni (1975) emphasizes the relationship between the types of compliance structures necessary for effective goal attainment. In Chapters 5 and 6 of this report, these linkages are considered for the juvenile court. Although organizational goals have been studied in many different types of bureaucracies, this study was the first

attempt to measure goals of juvenile courts in a systematic manner; then it considers the differential consequences (if any) for organizational behavior (Gross, 1968; Etzioni, 1975; Perrow, 1970; Scott, 1967; Hasenfeld and English, 1974). Throughout the report an attempt is made to assess the actual situation in contemporary juvenile courts in terms of the responses of court personnel, and in the light of national, generally accepted standards of juvenile justice. These standards are derived from statutory and case law and from the recommendations of national commissions mandated to study juvenile justice in the United States in order to formulate policy recommendations (National Advisory Commission, 1973a; Levin and Sarri, 1974). It is quite apparent, however, that these formal standards are not implemented in practice unless they are endorsed by personnel actively working in the juvenile court.

GOAL MODELS

There is much speculation concerning the goals of the juvenile court. In fact, almost every court report and many state juvenile codes begin with a statement of purpose which is meant to indicate the goals of the court. Scholars have used written statements and their own observations to develop their ideas concerning goals. It appears that four primary orientations underlie most speculation concerning this issue:

1. Perceptions of the court as a social service agency
2. Perception of the court as a community protection agency
3. Relative emphasis on due process and legal procedure
4. Relative importance of organizational maintenance

It is assumed that juvenile courts will have multiple rather than single goals because of simultaneous external and internal requirements. One is interested, therefore, in determining not only which of several possible goals are acknowledged, but also what is the order of priority among multiple goals. The latter is of particular importance when the pursuit of some of these simultaneously may be difficult because of their potentially contradictory nature (e.g., due process versus treatment).

1. *Courts are often viewed as social service agencies that treat juveniles in order to ameliorate their problems.* In fact, the founders of the first juvenile court had this goal in mind. The adult court, it was argued, was meant to punish offenders. However, juveniles should be helped and not punished. When children commit crimes, their actions can be directly linked to problems in their upbringing or experiences. Court treatment may compensate such youth for environmental shortcomings and thereby reduce the future incidence of delinquency.

Certain ways of organizing the court are implied in this treatment mode. Thus, probation officers should be important to the goal of treatment. Probation officers are used to assess the personal and social characteristics of juveniles in order to ensure that disposition is appropriate to the needs of the juveniles. At the same time, these employees are used to counsel juveniles who are sentenced to supervision (although, of course, probation is often divided into specialized subunits for intake, supervision, and treatment).

A certain kind of courtroom processing is also implicit in the service or treatment model. In order to determine the needs of the juvenile, it is argued, an informal hearing, in which the judge has much leeway in questioning the youth, is necessary. Such informality also is useful in putting the juvenile at ease and in creating an organizational climate of helpfulness. Indeed, the language of the juvenile court reflects the treatment orientation. Children are "adjudicated," not "found guilty." The proceeding is a "hearing" rather than a "trial." Juveniles are considered "delinquent" and not "criminal." Their "disposition" is not to be considered a "punishment."

It should be noted that the consequences of such informality are an area of controversy at present. Some authors (Platt, 1969) are convinced that informal handling often leads to summary justice. They argue that without lawyers and due process guarantees juvenile judges become arbitrary. Other writers (Schultz, 1973) do not see treatment courts as arbitrary. They point out that juveniles seldom had attorneys before separate courts were established. If anything, the separate, treatment-oriented agencies increased the ability of the youth to participate in the hearing. Of course, it is not assumed that the treatment orientation is sufficient to safeguard the rights of juveniles, just that this form does not necessarily imply arbitrariness.

Whatever the relation of treatment to case processing is, certainly the general pattern of goals implied in the treatment orientation is clear. In fact, our analysis will point out one way of resolving the controversy between the two views (arbitrary versus participatory) of treatment courts.

2. *Courts may also be viewed as agencies that protect the community.* In many localities there is much concern with protecting the populace from crime. Such an orientation may result in limited attention to the personal and social characteristics of juveniles, and a strong focus on the seriousness of the delinquent act. Protecting the community appears to be linked (at least, to those who hold this position) with applying quick and sure punishment to juveniles in order to deter others and keep dangerous youth off the streets.

According to authors who have observed the community protection orientation (Packer, 1964), this goal is consistent with low levels of due process in court behavior. Taking the time to follow all due process

safeguards would be too time-consuming for quick and efficient punishment. A more standardized and rigid system of processing is to be expected. At the same time, this type of goal orientation is thought to result in the allocation of considerable power and responsibility to prosecutors and the police, because these agents are critical to the arresting and arraignment of juveniles. Such action is necessary to remove individuals from the community, and as the findings will show, many court personnel believe removal is a high community priority.

3. *Courts may also be oriented toward following proper legal procedures.* Courts in which due process has a high priority are most concerned that no innocent individual be punished for a crime he or she did not commit. The underlying theory implies that only the standard application of a range of legal safeguards will ensure justice, and that justice is the best defense against crime.

A series of checks and balances are built into the court structure under the due process model. The defense attorney, especially, has greater authority and discretion in due process courts than in courts with other orientations. His role is to assure that all legal channels are utilized to prevent a guilty verdict.

Obviously, this orientation is consistent with courtroom procedures that permit considerable cross-examination and confrontation of evidence. A standard procedure of calling witnesses and checking up on facts is quite important, and hearings may become quite formal and adversarial. Greater emphasis is placed on rights of the individual offender.

4. *Courts may also be oriented toward providing comfortable working conditions for the staff.* Some people may be surprised that this maintenance of the organization itself may be a court goal. Perhaps in an ideal world the goals of a court would be synonymous with the ways in which it deals with delinquents. However, in the real world, the needs of staff members and of the organization as a whole are important. A court cannot carry out any other function without sufficient staff or financial resources, and often the provision of these resources comes to replace the goal of service to juveniles.

Blumberg (1967), in a study of an adult court, presents a court that exemplifies a maintenance orientation. He notes that the court stressed the career objectives of individuals, job tenure, high production standards, and the evasion of court rules. The object was to complete as much work as possible with little energy. A high level of plea bargaining to avoid conflict between actors, little concern for due process, and standardized procedures characterized the maintenance court.

ACTUAL GOAL ORIENTATIONS

In order to study the goal orientations of juvenile courts, judges, probation officers, court administrators, and detention supervisors were asked a series of questions concerning their perceptions of court goal priorities. These questions were derived from our conceptualization of the four goal orientations of the court, from national generally accepted standards for juvenile justice, and from interpretations of existing statutory and case law. Sources such as these are important because they reflect prevailing social norms and indicate goals and values society hopes to realize. Fourteen goal questions were derived from the study of primary sources, and these were presented to all staff members selected in the survey.

The goals of the court are difficult to operationalize unless they are endorsed by personnel. Accordingly, it was important to examine both current or actual goals, and staff desires concerning possible goals, or what may be considered ideal goal orientations. The questionnaire was phrased to keep those two views separate. Court respondents were asked both what the goals of the organization were, and what individual employees thought they should be (Gross, 1968). Here is an example of one of the fourteen questionnaire items:

Different courts and probation agencies place emphasis on different objectives or aims. The following is a list of possible objectives or aims that might be stressed in juvenile courts or agencies like this one.

A. These objectives or aims are related to clients. For each item, please check the responses corresponding to how important the item actually is in this court or agency, and then also check how important you yourself think it should be.

To provide adequate social services to juvenile officers:

	Of no impor- tance	Of hardly any im- portance	Of lit- tle im- portance	Of moder- ate im- portance	Of great impor- tance	Of abso- lutely top importance
is now	()	()	()	()	()	()
should be	[]	[]	[]	[]	[]	[]

Perhaps it might be expected that one would simply examine the average score on the fourteen items to determine the relative priority of each goal in various courts. However, a preliminary step was necessary. The four goal constellations routinely assigned to courts might not, in reality, exist. There was special concern about the relation between service and due process goals. Field observations of

courts did not locate one court that had a due process orientation exclusively. Moreover, organizations in which courtroom processing methods were central to the organization were quite rare. As a result, it was necessary to look at the actual patterns of goal orientations in the courts.

In order to determine which goal constellations were present in the questionnaire responses, a factor analysis was performed on all of the responses. This technique determined the way in which items in the questionnaires cluster together to make common themes evident. The number of factors determined indicates the ranges of themes among the items. Responses from 1,007 judges, court administrators, probation officers, and detention supervisors were analyzed. Scores were first computed for all respondents to obtain an overall view of staff perceptions. Then separate analyses were also made according to the position of the staff (e.g., judges).

Goal responses of all court staff are presented in Table 3.1, which indicates the factors that emerge from analysis of the actual goal responses. As can be readily observed, only three clusters emerged. Attempts to force the analysis to yield a fourth factor failed, as no clear pattern developed and no additional explanatory power was gained.

Table 3.1 shows those items that are most strongly related to each of the three factors. Normally, items with a strength measured by what is called a "loading" of .40 or more are reported; because analysis of each separate group of respondents (to be reported below) demonstrated some differences between individuals that could lower the loading, loadings of .35 or above are reported.

Factor I contains three items: (1) keeping staff morale high, (2) providing communication channels, and (3) increasing financial support. All three of these items speak to an attempt to make the staff happy and keep the organization well supplied. Indeed, this factor represents the maintenance goal as indicated in the literature. Therefore, this first factor was labeled as a Court Maintenance orientation.

Factor II contains four items: (1) upholding the moral standards of the community, (2) protecting the community, (3) developing respect for the law, and (4) seeing that juveniles are appropriately punished. Clearly, this factor demonstrates that protection of the community is one court goal. Those items relating to the ends of protection--upholding moral standards and protecting the community--score highest, while items relating to the means of protection--developing respect for the law and seeing that juveniles are appropriately punished--score somewhat lower. Factor II was identified as a Community Protection orientation.

Finally, factor III contains seven items: (1) promoting services in the community, (2) developing ties with social agencies, (3) providing

TABLE 3.1
GOAL FACTORS IN THE STAFF QUESTIONNAIRE
(N = 1007)

Item	Factor Loading
<u>Factor I. Court Maintenance</u>	
Keep staff morale high	.81
Provide communication channels	.78
Increase financial support	.56
<u>Factor II. Community Protection</u>	
Uphold moral standards of the community	.63
Protect the community	.56
Develop respect for the law	.52
See that juveniles are appropriately punished	.36
<u>Factor III. Youth Concern</u>	
Promote services in the community	.70
Develop ties with social agencies	.70
Provide social services to juveniles	.51
Protect the rights of juveniles	.42
Process cases quickly	.38
Develop a respect for the law	.37
Change a juvenile's attitudes and values	.37

NOTE: A total of 14 goal items were included in the questionnaire. All appeared in the above factors except one item: "To restrict court intervention to behaviors which are crimes for adults."

services to juveniles, (4) protecting the rights of juveniles, (5) processing cases quickly, (6) developing a respect for the law, and (7) changing a juvenile's attitudes and values. This factor is somewhat different from what a reading of the literature would suggest, and it confirms our uneasiness over the due process and service orientations, for factor III contains items relating to treatment and service (the first three items and the last one) as well as those indicating due process (items 4, 5, and 6).

Such a factor is consistent with one idea concerning juvenile court goals, the family model presented by Griffiths (1970). The family model is based on the assumption that juvenile matters are similar to disputes between equal parties. The role of the court is one of adjusting the matter for the good of all of the parties involved. Adjustment includes an application of services where required, but it also involves certain patterns of courtroom activity. The family model requires a good deal of respect for the juvenile and his interests. Fair process in the courtroom, combined with a respect by the juvenile for the law, and vice versa, is thus a necessity.

While the family model includes respect for individuals, the family court does not become a passive tool. The adjustments made may require changes in the behavior of juveniles. The court attempts to educate children to expected behavior, not just to help juveniles reach the goals they desire. In short, under the family model it is asserted that the court attempts to do what is best for the juvenile, not necessarily what the juvenile wants.

Factor III certainly contains items relating to most of these notions of purpose. The idea of providing services, of maintaining respect for the rights of the juvenile and ensuring that the juvenile has respect for the law, and the desire to help change a juvenile's attitudes and values when necessary are all included. In fact, all items relating to activities done for youth are included in this factor, so that this goal will be termed a Youth Concern orientation.

The goal constellation in factor III is useful in settling one argument in the theory of juvenile court goals, that of the relation between due process and service. These results clearly indicate that a service orientation is consistent with some protection of the rights of juveniles; in fact, the two ideas are part of the same general concept. Courts that are concerned about children, it seems, believe that rights should be protected (at least now that the Gault decision has pointed out the problems in courts that do not protect rights) while services are undertaken. It must be stressed that this analysis does not imply that such service courts protect the rights of juveniles in practice to a sufficient degree; our subsequent analysis concerning due process in the court certainly brings this into question. Rather, it simply notes that treating juveniles and providing due process are not inconsistent on the level of goals.

It is also interesting that this analysis did not uncover a separate due process factor. To be sure, the responses indicated that some courts have a separate orientation toward providing due process guarantees, but across the entire range of courts which were studied, there were so few of these organizations that a separate due process dimension did not develop. Such a result provides a first indication of the impact of Supreme Court due process decisions on the juvenile court (e.g., Gault, Kent). These decisions, in general, have not resulted in new perspectives toward the handling of youth. Rather, they added the goal of protecting rights to traditional service orientations. In terms of goal orientations, the Supreme Court decisions certainly have not caused a revolution in the juvenile court.

THE RANKING OF GOALS

This survey thus revealed that courts in general have three major goal orientations: Court Maintenance, an orientation toward the court itself; Community Protection, an orientation to the concerns of the community; and Youth Concern, an orientation toward the juvenile. The obvious next question concerns how important the three orientations are across the courts. This can be understood by looking at the ranking of the various goals, that is, at the average score they received on our questionnaire. Table 3.2 reports the average scores and the rank for each of the actual goals as compared to the ranks concerning what the court employees thought the ideal goals "should be." In both cases scores may range from 1 to 6, with 6 representing strongest support for the goal. Overall, the differences between actual and ideal goals are small.

The actual goals concern the present orientations of court personnel. As Table 3.2 indicates, the most dominant orientation is certainly the Youth Concern one. Seven of the first eight goals (by rank) fall into the concern category. Court Maintenance is clearly of moderate importance in the court, as these items rank ninth, tenth, and eleventh.

Findings regarding the Community Protection orientation are particularly interesting. One item, "protecting the community," ranks extremely high, and a second, "developing a respect for the law," also ranks as quite important. In contrast, "punishing juvenile offenders" and "upholding the moral standards of the community" receive the lowest scores of all goal items (along with "restricting court intervention," an item which will be discussed separately because it did not factor). Court personnel thus reject punishment and serving as moral agents as important goals, and they rank "community protection" and "respect for law" much higher. The score for "developing respect for the law," perhaps is somewhat of an artifact; the item appears in two different goal constellations, and may achieve a high score because people interpret it in different ways. However, the wide difference between "protecting the community," and "punishment" and "moralism" merits some attention. The high score given to "protecting the community" reflects the type of pressure outside organizations place on the court. The community often

TABLE 3.2
MEAN SCORES AND RANKS OF ACTUAL AND IDEAL GOAL
PRIORITIES FOR AGGREGATE STAFF
(N range = 1138-1270)

Goal	Actual		Ideal	
	Score	Rank	Score	Rank
To protect the rights of juvenile offenders	5.11	1	5.35	2
To provide adequate social services to juvenile offenders	4.76	2	5.27	3
To protect the community from dangerous youth	4.70	3	5.07	8
To change a juvenile's attitudes and values	4.68	4	5.06	10
To develop a respect for the law	4.61	5	5.09	7
To develop ties with social agencies in the community	4.59	6	5.16	6
To promote better services for youth in the community	4.54	7	5.37	1
To process cases as quickly as possible	4.53	8	5.02	11
To provide effective channels for communication between staff and administration	4.36	9	5.22	4
To keep staff morale high	4.25	10	5.16	5
To increase financial support for court or probation services	4.11	11	5.06	9
To uphold the moral standards of the community	4.07	12	4.19	12
To see that juvenile offenders are appropriately punished	3.51	13	3.41	14
To restrict court intervention to behaviors that are crimes for adults	3.33	14	3.59	13

desires to protect itself against crime, and the court appears to reflect this orientation. However, with respect to issues that may be more amenable to court control (upholding moral standards and seeing that juveniles are appropriately punished), Community Protection receives a low score. Thus, protection of the community appears to be a strong, but conflicting aim of the court.

A close examination of the relative rankings of items within the Youth Concern component also reflects some problems with the community. Those items relating to the internal operations of the court, such as "protecting rights" and "providing services" to offenders, rank higher than those dealing with the community, such as "developing ties with agencies" and "promoting better services for youth in the community." These responses again suggest staff perceive general difficulty in dealing with the community. In this case it seems to limit their orientation to services to youth within the court rather than through relationships with other agencies.

Equally interesting as staff reports of actual goals in the court are their responses to what goals "should be" (ideal). Examination of ideal ranks in Table 3.2 reveals two interesting points. First, with one exception the ideal goals are always given a higher average score than the actual goals. Such a result is expected; individuals usually want more of whatever they have, and goals are no exception. Thus, one must look at ranks in order to compare the actual and the ideal goals.

Second, the relation between the two sets of goals is only moderate, with a Spearman correlation of .63. Court employees are often dissatisfied with the goals of the court, as they would prefer somewhat different orientations. Part of the difference stems from the problems in dealing with the community.

It has been noted that the actual goal ranks given to "protecting the community" and "promoting services for youth in the community" score differently than other items in the same factors. "Protecting the community" scores higher than other Community Protection items while "promoting services in the community" scores lower than other Youth Concern items. Yet on the ideal scale "protecting the community" decreases in rank, while "promoting community services" increases in rank. These findings suggest a strong desire to change the orientation of the community toward the court so that more services might be provided and less harsh punishments meted out.

A second large difference between actual and ideal goals involves two Court Maintenance items, "keeping staff morale high" and "providing effective communication channels." Here the staff wished to have these goals stressed more than was the case at the time of their response. These items share the top ranks with the Youth Concern goals. Part of the dissatisfaction of the staff appeared to stem from discontent about how they were treated by the organization.

A third difference is the marked discrepancy between the actual and ideal goal rankings for "changing a juvenile's attitudes and values." This item rates fourth in the actual scale, but tenth in the ideal. Such a difference is an especially sharp one when it is noted that Youth Concern items referring to "services to youth" and "rights of offenders" are among the top-ranking goals in both scales. Apparently, court personnel wish to place a priority on rights and services, but are

reluctant to have the court become heavily involved in changing the attitudes and values of youth. These orientations appear to reflect similar concerns to those reflected in Supreme Court decisions.

Some similarities between rankings in the actual and ideal scales are also important. Two such items that reveal some discrepancies in the orientations of the court staffs are "to process cases as quickly as possible" and "to uphold moral standards." Apparently, court staff place less priority on these items, although they have implications for rights and services.

It was noted above that two of the three Court Maintenance items have high ideal ranks. However, the third one, "increasing financial support," does not. At the same time, "promoting better services in the community" changes in rank, but "developing ties with social agencies" does not. Both items that do not change have one thing in common: they involve actively seeking out a desired element from the community. One could suggest that attempting to seek out financial support and ties with agencies would be the first step toward improving court maintenance and community services, although court personnel do not show a strong desire to take this step.

Finally, on both actual and ideal goals "punishing juveniles" ranks low. Court personnel are consistently opposed to advancing goals that punish juveniles, and such views would be in accord with long-standing juvenile court ideologies that youth are to be rehabilitated or treated rather than punished.

COMPARISON OF GOAL PRIORITIES AMONG COURT ACTORS

Thus far, the overall orientations of court personnel have been presented. However, there are some interesting differences among actors in different positions (e.g., judge versus probation officer). More important, slight differences in the factor analysis appear for each position.

Table 3.3 reports the goal constellations of judges, probation officers, and detention supervisors. Court administrators are not included because they tended to rank all goals very similarly on the basis of the general power of the court; therefore, clear factors did not emerge. Consistent differences and similarities, however, appeared among the other three groups.

Factor I, Organizational Maintenance, contains the same core elements in each case. These are "keeping staff morale high," "providing communication channels," and "increasing financial support." However, in the case of the detention supervisor and the judge, some additional items appeared in this factor. The detention supervisor perceived "providing services in the community" and "developing ties

TABLE 3.3
GOAL FACTORS, BY COURT POSITION

	Judge (N=244)	Probation (N=464)	Detention (N=144)
<u>Factor I. Court Maintenance</u>			
Keep staff morale high	.81	.86	.76
Provide communication channels	.79	.80	.71
Increase financial support	.53	.56	.61
Protect the community	.42	---	---
Provide services in community	---	---	.61
Develop ties with social agencies	---	---	.53
<u>Factor II. Community Protection</u>			
Uphold moral standards of community	.60	.64	.62
Develop respect for law	.55	.53	.47
Protect the community	.52	.59	.65
See that juveniles are appropriately punished	.46	---	.42
Change a juvenile's attitudes, values	---	.40	---
<u>Factor III. Youth Concern</u>			
Develop ties with social agencies	.77	.60	.46
Protect rights of juveniles	.66	---	---
Provide social services to juveniles	.56	.48	.72
Promote better services in community	.55	.73	.42
Change a juvenile's attitudes, values	.43	---	.56
Process cases quickly	.43	---	.40
Develop a respect for law	.41	---	---

NOTE: Items not factoring:

Judge Questionnaire	- To restrict intervention to behaviors that are crimes for adults
Probation Questionnaire	- To protect the rights of juvenile offenders - To see that juveniles are punished - To process cases quickly
Detention Questionnaire	- To restrict intervention to behaviors that are crimes for adults - To protect the rights of juvenile offenders

with social agencies" as linked to this factor. The judge believed that "protecting the community" was part of Organizational Maintenance, while "developing services for youth" almost appeared in the factor. A rather simple explanation seems to cover these differences well. Both the judge and the detention supervisor are heads of organizational units. Both are probably aware of the needs and desires of the community. Thus, both realize that dealing with community concerns is necessary if the organization is to be maintained. Thus, both place items relating to the community in factor I. The difference between the exact items may be related to the fact that detention, perceived almost universally as a punishment, faces few demands to protect the community more and many demands to become more treatment-oriented. The judge, on the other hand, faces the brunt of the demands for community protection.

Factor II, Community Protection, is about the same for both the judge and the detention supervisor. Responses from both place the same four items in the factor. However, the probation officers' responses were different. They failed to include one item the other two actors place in the factor, specifically the item of "punishing juveniles." One additional item also appears, "changing individual attitudes and behaviors." This response was expected given the typical responsibilities of probation staff. Punishing juveniles is probably irrelevant to the goals of probation officers because they spend most of their time counseling youth. It would be difficult to maintain that the organization is punitive and then attempt to counsel effectively. On the other hand, apparently "changing attitudes and behaviors of individuals" is considered to be a Community Protection item. This is not surprising to anyone who has worked in the probation role. The probation officer often experiences serious role conflict. He realizes that juveniles who are referred to him come because of the force of law, yet he wants to counsel them and not act as an agent of the law. He often solves the dilemma by attempting to provide services the juvenile desires while refraining from forcing certain activities on the youth. Thus, changing attitudes and values sounds like coercion to probation officers, and is thought to belong in the Community Protection factor.

Factor III contains more interesting differences. For the judge, all seven items included in the aggregate factor appeared, including "developing ties with agencies," "protecting the rights of juveniles," "providing services to juveniles," "promoting services in the community," "changing attitudes and values," "processing cases quickly," and "developing a respect for the law." However, responses of probation officers were quite different. They included only three items, "providing services to youth," "developing ties with agencies," and "promoting services in the community." Detention supervisors fall somewhere in between, adding "processing cases quickly" and "changing attitudes and behaviors" to the items the probation officers included.

The differences between the various items appear to be quite significant. Only the judges perceived due process items and service

items in the same factor; their responses contained the entire constellation that is termed Youth Concern. However, responses from both the probation officer and the detention supervisor did not place due process items in any factor (nor do these items form a separate factor). To these staff, items relating to the way in which youth were served are key. Indeed, these actors included only the service part of the Youth Concern orientation. In other words, they stated that the court had a service and not a general Youth Concern orientation. Thus, we must call factor III for the detention supervisors and the probation officers a Service orientation.

The Service orientation is similar to the Youth Concern factor in that both place emphasis on services to and for juveniles. Both include a preference for developing appropriate means of providing such services. However, they are different in that the Youth Concern factor contains items that pertain specifically to due process and emphasis on individual responsibility for behavior.

At least two implications flow from the fact that probation officers and detention supervisors have a different orientation toward juveniles than judges. First, the very possibility of different individuals in the same court system having such varying opinions tells one something about the organization of the court. There must be little actual communication, bargaining, and control between the various units, or else the similarities would be more striking. In other words, the organization of the court may be expected to be quite loose and varied.

The second implication involves the idea of conflict. Indeed, it is plausible that the differences between the orientations of the actors cause a great deal of strain. The judges are not reluctant to try to change the juveniles they deal with and use the law as part of the effort. But while the judge desires to take action by doing something to the juvenile, the probation officers and detention supervisors want to do something for the juvenile. It would seem that youth who enter the court face a great deal of inconsistency between their contacts with probation and detention officers and those with the judge. Children may find the transition between cooperating with probation officers in counseling services and acting in a more legalistic manner with judges disconcerting and frustrating, if not impossible, since the means employed may be contradictory.

To complete this section, it should be noted that one additional piece of evidence points to some important differences between judges and other court employees. Table 3.4 reports the rank of both actual and ideal goals for both judges and probation officers (detention supervisors are similar enough to probation officers for our purpose to make any presentation of their findings redundant). Looking at the judges' responses, the most obvious fact is that the actual and ideal goals rank in relatively similar order. The rank order correlation, in fact, is a quite high $r = .81$. On the other hand, for the

TABLE 3.4

MEAN SCORES AND RANKS OF ACTUAL AND IDEAL GOALS FOR JUDGES AND PROBATION OFFICERS

	JUDGE (N=244)				PROBATION (N=464)			
	Actual		Ideal		Actual		Ideal	
	Score	Rank	Score	Rank	Score	Rank	Score	Rank
To protect rights of offenders	5.15	1	5.28	3	5.13	1	5.38	2
To change juveniles' attitudes and values	4.95	2	5.31	1	4.59	5	4.93	11
To protect community from dangerous youth	4.82	3	5.07	8	4.66	3	5.04	8
To develop respect for law	4.80	4	5.26	4	4.61	4	5.02	9
To provide social services to offenders	4.77	5	5.15	6	4.77	2	5.35	3
To keep staff morale high	4.75	6	5.14	7	3.94	12	5.14	6
To provide effective staff communication	4.72	7	5.15	5	4.11	9	5.19	5
To promote services in community	4.66	8	5.29	2	4.45	7	5.40	1
To process cases quickly	4.65	9	4.97	10	4.44	8	4.94	10
To develop ties with social agencies	4.62	10	5.05	9	4.58	6	5.20	4
To increase fiscal support for court	4.48	11	4.94	11	3.98	11	5.09	7
To uphold moral standards	4.12	12	4.32	12	4.05	10	4.10	12
To see that offenders are punished	3.62	13	3.64	13	3.55	13	3.42	14
To restrict court intervention	3.07	14	3.19	14	3.36	14	3.71	13

probation officers the two sets of goals differ greatly. The correlation between the two sets is far lower, $r = .48$. The difference between the two is due mostly to differing views of what should be, as the two sets of actual goals are also highly related ($r = .80$). In other words, probation officers were quite dissatisfied with the goals of the court as a whole, despite the fact that a loose structure enables them to have a somewhat different orientation than the judge. If dissatisfaction breeds conflict and poor performance, this analysis of probation officers suggests that there are likely to be problems in the organization and behavior of the court.

RESTRICTING COURT INTERVENTION

It has already been noted that the due process orientation is rather problematic in the juvenile court. Due process goals follow a consistent pattern only for the judge, as other court employees do not have a clear-cut conception of this orientation. Further, even the judge views due process merely as part of an orientation to concern for youth.

Perhaps even more surprising is the position of one specific goal, "restricting court intervention to acts that are crimes for adults." This item was included to represent a recent trend in juvenile court philosophy. Many authorities believe that children who are charged with "status" offenses, acts that are illegal only due to age, should not be processed in the juvenile court. It is argued that courts should restrict their intervention to ordinary criminal acts, and leave status offenses to service agencies.

An analysis of the goal "restricting court intervention to behaviors that are crimes for adults" reveals that members of the courts do not share the new thinking about status offenses. This goal consistently ranks as the lowest on the actual goal scale (below "punishing offenders"), and even on responses of ideal goals it was thirteenth in the total set of fourteen goals. Further, this item does not factor with any of the three orientations, nor does it correlate with any other due process measure. For example, analysis of judges' responses reveals almost no correlation ($r = .03$) with the opinion that "with respect to due process, juveniles should be handled differently than adults." The low rating and inconsistent response pattern to this goal imply that an ideology about restriction of court intervention to criminal law violations has not developed. The issue was not linked to other goals or opinions, nor is it given much weight by itself. There is little sympathy for handling status offenses differently except, as will be noted in Chapter 8, probation officers more than judges responded that selected status offenses should be dealt with by other social agencies. Apparently, the impetus for new ideas concerning this group of juveniles comes from sources outside the juvenile court.

GOAL PRIORITIES AND BEHAVIOR

The findings already considered have shown that there are three general orientations toward organizational goals shared by court staff. But priorities among these goals vary by staff position. The next obvious question concerns the probable influence that these orientations might have on the organization of the court and the relative influence of different actors therein. It was suggested earlier that the relative goal priority could be viewed as an indicator of probable social influence. Thus, for example, in courts where Youth Concern (treatment and service) was a high priority one would expect greater influence of probation officers in decision making. In contrast, a priority of Community Protection would imply greater influence for police and prosecutors. In order to ascertain whether these relationships existed, questions were asked of the judge about the relative influence of probation officers at different points in case processing. The findings in Table 3.5 reveal that there are differences in the influence of probation officers. Judges perceived the probation officers' influence as highest at intake and lowest at the time of adjudication, as might be expected. But there is no statistically significant difference in relative influence when controls are imposed for the goal priorities of the judge. One small trend is notable; namely, where the goal orientation of judges is low, there is a tendency for probation officers to have greater say in decision making. It is possible that judges perceive greater difficulty in achieving their own goals when probation officers have greater influence.

TABLE 3.5
JUDGES' GOAL ORIENTATION AND PERCEIVED INFLUENCE
OF PROBATION OFFICERS
(N = 244)

Goal		Perceived Influence at:		
		Filing a Petition	Adjudication	Disposition
Court Maintenance	High	3.25	1.87	3.16
	Low	3.34	2.03	3.16
Community Protection	High	3.22	1.99	3.07
	Low	3.36	1.89	3.07
Youth Concern	High	3.27	1.88	3.15
	Low	3.32	2.02	3.16

No relations are statistically significant.

Key: 1 = no influence 4 = great influence

The lack of relationship between goal orientation and perceived influence of probation officers might have been expected given the discrepancies noted earlier in the perceptions of goals by these actors, with respect to both actual and ideal situations.

It is also possible that the type of decisions courts make would influence goal orientations. In fact, at least two components of this problem can be identified. Goals may influence the way in which alternatives are selected and utilized. For example, Community Protection courts may be more committed to the use of detention. Goals may determine who the court processes in certain instances. These same Community Protection courts should be expected to deal more harshly with offenders who are threats to the community. In these two areas as well as in the structure of influence, however, the results are somewhat unexpected. Table 3.6 reports findings concerning the relationship between the judge's goals and the use of different alternatives in detention decisions. Specific questions were asked about how often individuals are released on their own recognizance, released to their parents, or released to foster care. Overall, the findings indicate that there is a great reluctance to release juveniles on recognizance or to foster care under any circumstance; but, as expected, youth are released to parents. However, in only one of the nine comparisons does the goal orientation of the judge relate to the preference for certain detention alternatives. And this relation is the opposite of what might be expected. Although it seems logical to expect that Community Protection courts would use each release alternative less in order to keep juveniles in detention and off the streets, in actuality the one statistically significant result indicates that these courts release juveniles to their parents slightly more often.

Although these data on use of detention alternatives cannot be linked directly to characteristics of cases processed by the court, it is known and accepted that parents are second to the police as sources of referral of juveniles to the court. This is particularly evident in the case of females referred for status offenses, such as incorrigibility, running away, and promiscuity. This group makes up 50% or more of the females processed by the court. But the judges are unwilling to release on recognizance or to use shelter care facilities as frequently as they would release to parents. Obviously, the lack of adequate shelter care facilities in most communities is a factor affecting use of alternatives to detention.

Information was also analyzed about the types of cases receiving harsher sanctions. Judges were asked the frequency of revocation hearings for youth on probation. It might be expected that greater leniency would prevail in those courts where the judge placed greater emphasis on Youth Concern goals as contrasted with Court Maintenance or Community Protection priorities. Responses from judges

TABLE 3.6
JUDGES' GOAL ORIENTATION AND USE OF DETENTION ALTERNATIVES
(N = 244)

Goal	Detention Alternatives ^a			
		Release on Recognizance	Release to Parents	Release to Foster or Shelter Care
Court Maintenance	High	3.09	1.95	2.71
	Low	3.20	1.99	2.62
Community Protection	High	3.10	1.95	2.66
	Low	3.17	2.01*	2.68
Youth Concern	High	3.04	1.94	2.67
	Low	3.27	2.00	2.68

* $p < .10$

^a"How often are these alternatives to detention utilized in your court?"
1 = always 5 = never

(Table 3.7) indicate that probation revocation hearings were nearly always held when a serious felony was charged, some of the time when the rules of probation were violated, and relatively rarely when the charge was truancy or curfew violation. When comparisons are made with the goal orientation of the judges controlled, those judges who place a high priority on Youth Concern were more likely to require probation revocation hearings for minor offenses than those whose priority was low for this goal. These results might be expected in accord with the concept of parens patriae. But a similar pattern prevails for the other goals, so again the influence of goal orientation appears to be mediated by other, intervening variables. Even in the case of status offenses, judges who placed a greater importance on the Youth Concern goal were less likely to be lenient than judges whose orientation was low on this dimension.

SUMMARY

This analysis revealed four different goal dimensions. Two of these, the Court Maintenance orientation and the Community Protection orientation, were shared by different court employees. The other two were not shared, although both relate to the way in which juveniles are handled. The judge had a Youth Concern factor that included both due process and service items. On the other hand, other employees were

TABLE 3.7
JUDGE'S GOAL ORIENTATION AND LIKELIHOOD
OF PROBATION REVOCATION HEARING
(N = 244)

Goal		Hearing Will Be Held for: ^a				
		Felony	Assault Probation Officer	Violate Probation	Truancy	Curfew Violation
Youth Concern	High	1.45	1.84	2.55	2.87	3.29
	Low	1.43	2.02	2.63	3.07**	3.56*
Community Protection	High	1.42	1.88	2.41	2.86	3.26
	Low	1.46	1.98	2.77*	3.08*	3.58*
Court Maintenance	High	1.39	1.86	2.45	2.88	3.31
	Low	1.50	2.02	2.76*	3.08**	3.56

* $p < .05$

** $p < .10$

^a Questionnaire item: "How often is a new petition filed or a new hearing held for probationers?"

1 = always 5 = never

somewhat removed from due process; to them a Service orientation dominated concern for juveniles. The Concern and Service orientations were the most prevalent in courts; Maintenance items received moderate ranks; and Community Protection goals were variable, mostly because the court has difficulties in dealing with the perceived preferences of the community. If one suggestion could be made to courts with youth-related goals, it would be to pay more attention to a search for active support in the community. It should be noted that there is much disagreement within the court. Courts are organized rather loosely and employees other than the judge disagree considerably with what the court is trying to accomplish.

It has been argued that the theory behind the conceptualization of each of the goals in the three goal orientations is substantively different. What, then, accounts for the similarities in their correlates? These data raise serious questions about the ability of the court to take the necessary actions to implement any of these goals.

Regardless of the interpretation of some of the specific relations that have been uncovered, one important point seems clear: goals have

only a minimal relation to important aspects of court operations. Thus, it appears, judges with a specific goal orientation do very little to carry it out. They do not make sure that decisions are structured in a specific manner, nor do they offer appropriate alternatives, as in detention. At best, judges simply make decisions regarding individual cases in an ad hoc manner or in relation to other organizational variables that will be presented in later chapters. Goal priorities in terms of these dimensions do not appear to influence their behavior in a consistent yet differentiated manner. These results are disturbing in view of some widely held societal values about the functions of courts as manifested in statutes and Supreme Court decisions. Subsequently, findings from this survey will reveal lack of relationships between statutory and case law and other aspects of organizational behavior. The findings presented in this chapter about organizational goals forecast this problematic characteristic of juvenile courts today.

YOUTH IN THE JUVENILE COURT: INPUT AND OUTPUT PATTERNS

YEHESEKEL HASENFELD

On a substantive level, the findings reported in this chapter address some critical questions concerning the extent to which juvenile courts intervene in the lives of children and in what directions. One can examine the referral patterns to the juvenile courts with the objective of ascertaining the scope of the courts' intervention; that is, we may want to know the probability that a child within the age of jurisdiction will be processed by the juvenile court, and, if so, for what reason. Moreover, how would such a probability be altered by sex, race, or court size? An analysis of the following will suggest answers for these critical questions: (a) the major types of cases referred to the court; (b) the sources of referrals; (c) the sex and race patterns of cases referred; (d) the type of offenses; and (e) disposition patterns.

The intensity of the court intervention can also be studied by examining the differential disposition rates that characterize juvenile courts. Low intensity of intervention can be measured by various rates of nonjudicial handling, such as dismissal, referral to other agencies, and informal probation. High intensity of intervention may be measured by rates of formal probation, commitment to institutions, and waiver to adult courts. Hence, a central concern would be to determine the intensity of intervention by juvenile courts.

METHODOLOGY

Data on volume and categories of referrals and disposition were collected for each court through a questionnaire sent to the court administrator or any court official handling its statistical and reporting tasks. (See Chapter 2 for additional details on the study design.) It should be recognized that obtaining statistical data on case processing from juvenile courts is an exceptionally difficult task, since the courts often suffer from serious information deficiencies. Many lack even the rudimentary requirements of an adequate information system: no systematic case records, inefficient file systems, ambiguous administrative procedures, and no information retrieval methods. Thus basic data on case processing cannot be generated, or gross errors and inconsistencies often occur.

Less than half of the courts in our sample were able to provide adequate data on age and offense distribution of the cases processed, and an even smaller fraction could provide information on services provided. Moreover, when information on case processing was provided, numerous internal inconsistencies were discovered in many instances, which raised doubts about the validity and reliability of the data.

Acknowledgement of these difficulties resulted in extensive efforts to obtain accurate information. Several strategies were followed. First, courts were asked to provide their annual reports, which were used to check the reliability of information provided in the questionnaire. Second, when inconsistencies and major missing categories were discovered, court administrators were contacted, and efforts were made to clarify and remove ambiguities and contradictions in the data. Third, whenever available, statistics from state criminal justice agencies were used to assess the reliability of court-level statistics, to augment missing court data, or substitute for nonexistent court data. State statistics were available for approximately 80% of the courts reporting case statistics. As a rule, when the difference between state and court statistics did not exceed 20%, court data were used. When the difference exceeded this limit, state statistics were substituted for court data. The assumption behind this procedure was that courts would be more accurate in their reporting to state agencies than to this research study. In all, state statistics were used for 30% of the courts sampled.

Despite these extensive efforts, the reader should be cautioned that inestimable problems concerning the validity and reliability of these data still remain, although they represent the best available data on case processing by juvenile courts. For many specific items, such as race and age, the number of courts for which such data are available drops sharply, prohibiting any attempted generalization to the national scene. Appendix 4 indicates the number of courts for which data on each statistical item were available.

In a number of instances, rates were based on the total youth population under the jurisdiction of the court. Such a base was derived from 1970 census data for the county(ies) under the jurisdiction of each court. The youth population was estimated by finding the proportion of such youth to total state population and using that proportion to calculate the county's youth population.

The reader should carefully note that we are reporting statistics that describe patterns among juvenile courts, not the youth population served by the courts. The courts have been grouped by size into four sets: (1) courts with population under 100,000; (b) courts with population ranging from 100,000 to 199,999; (c) courts with population ranging from 200,000 to 699,999; and (d) courts with populations of 700,000 and over. For each subset, we report the average rate of a given input or output, as well as the standard deviation for that subset of courts. For example, the average proportion of dependency and neglect cases for

courts with population under 100,000 is 11.4% and the standard deviation is 12.3%. This indicates that, although the average proportion of dependency and neglect cases is 11.4% of all cases, there are considerable variations among this group of courts. For the majority of the courts, the actual percentage varies from 0 to 24% of their cases. Hence, in the tables that follow, for each item the average percentage or rate for all the courts reporting the item is presented. As a result, the reader should not expect the percentages to add up to 100%, because of the variations among the courts. All the data were reported only for courts included in the national probability sample (367 courts).

PETITION PATTERNS

As shown in Table 4.1, on the average over 60% of all cases referred to the courts are delinquency petitions; about 20% are CHINS (Children in Need of Supervision) petitions; 10% are dependency and neglect; and 19% are traffic petitions. Within each subset of courts, there are considerable variations, as shown by the size of the standard deviations. These probably reflect differences in juvenile codes, community characteristics, and referral practices (see Chapter 5). Court size does not alter the general pattern noted above, with the exception of the very large courts, which are less likely to receive CHINS petitions.

TABLE 4.1

TYPE OF PETITION BY SIZE OF COURT JURISDICTION

	COURT JURISDICTION SIZE ^a									
	Small		Medium		Large		Very Large		Total	
	Mean %	σ^b	Mean %	σ	Mean %	σ	Mean %	σ	Mean %	σ
Dependency and neglect	11.4	12.3	9.7	10.3	10.1	10.4	9.3	11.5	10.5	11.2
Delinquency	66.1	26.5	67.3	22.9	63.3	24.1	56.4	26.5	64.9	24.9
Traffic	20.4	22.5	14.5	15.2	20.0	21.8	24.4	24.3	19.1	21.0
CHINS	20.1	16.9	23.7	12.9	21.7	10.4	14.4	8.4	20.9	13.5
(Maximum N)	(129)		(82)		(81)		(26)		(322)	

^aJurisdiction size: small = 50,000-99,999 population; medium = 100,000-199,999; large = 200,000-699,999; very large = 700,000 or more.

^bThe larger the standard deviation (σ), the more variation in the group.

Determining the referral rates based on the youth population under court jurisdiction is of considerable importance. This indicates the scope of court intervention by pointing out the probability that a youth will be processed by the juvenile court. These rates are shown in Table 4.2. On the average, juvenile courts process approximately 4% of the youth population under their jurisdiction. Approximately 2.4% of all the youth population will be charged with delinquency, and about 0.8% with CHINS. The larger the court's jurisdiction, the greater the scope of its intervention, particularly through the use of delinquency petitions.

TABLE 4.2

PETITION RATES BY TYPE AND SIZE OF COURT JURISDICTION (per thousand youth population)

	COURT JURISDICTION SIZE									
	Small		Medium		Large		Very Large		Total	
	Mean Rate	σ	Mean Rate	σ	Mean Rate	σ	Mean Rate	σ	Mean Rate	σ
Dependency and neglect	4.4	6.7	2.9	3.1	3.7	5.2	6.1	13.8	4.0	6.6
Delinquency	24.1	17.9	23.0	19.8	26.0	19.5	25.1	15.7	24.4	18.6
Traffic	11.1	15.1	8.6	12.6	14.9	23.6	23.9	30.8	12.5	19.0
CHINS	8.1	8.3	8.9	10.4	9.4	8.9	6.2	5.5	8.5	8.8
Total referral	41.1	30.4	38.5	30.8	43.7	37.5	51.8	40.1	42.0	33.3
(Maximum N)	(143)		(89)		(92)		(26)		(350)	

This pattern indicates that in larger communities youth have a higher risk of being processed through the juvenile court. This may be due to the fact that in larger communities, law enforcement agencies tend to be more professional and bureaucratic, and are therefore more likely to handle juvenile problems that come to their attention in a formal way (Wilson, 1968).

Interestingly, the highest rates of CHINS referrals occur in the intermediate-size courts, suggesting that smaller communities use informal mechanisms to handle such youth. In large communities having to handle a large volume of juvenile cases, social control agencies are more likely to concentrate on serious juvenile problems.

SOURCES OF REFERRALS

As expected, the police play the most pivotal role in referring youth to the court; over 70% of all referrals come from this source (see Table 4.3). Again, as the size of the court increases, the proportion of cases referred by the police becomes greater, supporting our notion that in such communities the response to juvenile problems is likely to be more formalized and delegated to law enforcement agencies. It should also be noted that referrals by schools decline in larger communities. This may indicate that school-related problems are delegated to the police to handle.

TABLE 4.3

SOURCES OF REFERRAL BY SIZE OF COURT JURISDICTION

	COURT JURISDICTION SIZE									
	Small		Medium		Large		Very Large		Total	
	Mean %	σ	Mean %	σ	Mean %	σ	Mean %	σ	Mean %	σ
Police	72.9	18.9	70.9	19.6	74.6	20.1	74.3	18.6	73.1	19.3
Schools	8.3	7.9	8.1	7.1	7.5	8.9	5.1	4.6	7.7	7.7
Social service agencies	5.3	4.5	5.2	5.8	2.9	2.7	3.9	4.6	4.4	4.5
Parents and relatives	10.2	10.1	11.0	9.2	8.1	7.8	8.7	7.7	9.7	9.0
(Maximum N)	(86)		(56)		(60)		(19)		(222)	

It is important to note that, on the average, referrals from parents and relatives comprise approximately 10% of all referrals to the courts. This poses a significant organizational problem to the courts. On the one hand, the courts must cope with a highly bureaucratic and routine mode of operation used by police in relating to the court. On the other hand, the court must also respond to the personal, nonroutine, and occasionally volatile mode of contact used by parents and relatives. This puts a great deal of pressure on the intake staff, who must adapt to opposing patterns of interaction.

SEX AND RACE OF YOUTH REFERRED

How is the probability of referral to the court affected by youth's sex and race? There is a great deal of controversy concerning the effects of those two variables on the processing of youth through the juvenile justice system. For example, it has been asserted that while females are less likely than males to be referred to the court, they are likely to be handled more severely (Pawlak, 1972). Similarly, there is conflicting evidence as to whether race prejudices the decision-making processes of the juvenile court (see, for example, Terry, 1967; Arnold, 1971; Gold, 1970). Here we can only examine the effects of these variables on the input of cases to the courts. The reader should again be cautioned that these statistics do not permit generalizations beyond the courts for which data were available. In addition, it is suspected that responding errors further reduce the reliability of the available data. As shown in Table 4.4, males are three to four times more likely to be processed by the courts than females. This, of course, is as expected, since males are much more likely to engage in behavior defined as delinquent. However, as the standard deviations indicate, there are tremendous variations among the courts within each size category. Such variations raise serious doubts about the reliability of reporting by many courts, particularly those of small size.

TABLE 4.4

REFERRAL RATES OF JUVENILE OFFENDERS BY SEX AND RACE, ACCORDING TO SIZE OF COURT JURISDICTION

	COURT JURISDICTION SIZE									
	Small		Medium		Large		Very Large		Total	
	Mean Rate	σ	Mean Rate	σ	Mean Rate	σ	Mean Rate	σ	Mean Rate	σ
Sex^a										
Males	70.4	46.2	25.3	44.7	20.2	13.5	22.9	14.0	41.9	29.3
Females	7.4	8.1	7.9	7.3	7.6	6.5	6.8	4.4	7.5	7.2
(Maximum N)	(82)		(56)		(49)		(18)		(205)	
Race^b										
White	6.4	4.2	6.5	5.6	7.6	4.9	6.3	2.6	6.7	4.7
Nonwhite	20.8	21.1	14.9	11.2	20.9	12.3	25.8	12.5	19.1	15.8
(Maximum N)	(74)		(48)		(53)		(12)		(187)	

^aPer thousand youth population

^bPer thousand white or nonwhite population

Considerably more revealing and alarming are the findings concerning the effect of race. In all the courts, nonwhites were three times more likely to be processed by the courts than whites, and the variations among the courts do not alter this basic pattern. Put differently, the scope of the courts' intervention for nonwhite youth is three times higher than for white youth. These figures should be evaluated cautiously, since the bases used for computing the rates are the total white and nonwhite populations under each court's jurisdiction, rather than the respective youth population (such data were not available). In addition, a significant number of courts did not report such information. Nevertheless, nonwhite youth are dramatically more likely to be subjected to court intervention than white youth.

One may be tempted to attribute this to a higher incidence of delinquency among nonwhite youth. Yet, official statistics cannot be relied upon to measure the differences between white and nonwhite youth, since they are influenced by the policies and behavior of the agencies reporting them (Kitsuse and Cicourel, 1963). Alternatively, one may refer to studies of self-reported delinquent behavior by white and nonwhite youth. By doing so, one can distinguish between official delinquency and delinquent behavior. According to Williams and Gold (1972: 210), "official delinquency" is defined by official response to alleged delinquent behavior. "Delinquent behavior," in contrast, is "norm violating behavior of a juvenile which, if detected by an appropriate agency, would expose the actor to legally prescribed sanctions." Using juveniles' self-reported delinquent behavior is an attempt, then, to measure delinquent behavior. The basic interviewing technique is to provide each youth with a list of offenses ranging from crimes against persons to status offenses, and ask him whether he committed any of them in the past year, and, if so, how often. Hirschi (1969) offers several positive tests to confirm the validity of self-reported delinquencies as a measure of delinquent behavior.

Based on such measures of delinquent behavior, William and Gold (1972), in their national survey of youth, found few differences in the frequency of delinquent behavior between white and nonwhite youth, although black boys were more likely to engage in more serious delinquent behavior. Hirschi (1969) found that 49% of the black and 44% of the white boys reported having committed one or more delinquent acts during the preceding year. In both studies there were small differences in self-reported police contact, and yet the researchers found that, based on official records, a much larger percentage of blacks than whites had official delinquent records.

Since, on the one hand, there are few differences between white and nonwhite youth in delinquent behavior, but, on the other hand, very large differences in official offenses, one is led to conclude that law enforcement agencies may react differently to both groups. Hirschi offers the following observation:

In the case of Negroes, the official reaction hypothesis as an explanation of differential official rates is particularly persuasive. In this case it does not require imputation to the police of extraordinary powers of discernment, since racial differences are obvious to anyone; the police do patrol more heavily in Negro areas; the police do think that Negroes are unusually likely to commit criminal acts; the police are in general no more enlightened in their attitudes toward Negroes than are others of comparable education and background; and, finally, Negroes are more likely to report "nondelinquent" offenses involving interaction with and requiring definition by officials other than the police. [Hirschi, 1969: 78-79]

The findings from the national survey seem to confirm that nonwhite youth face a far greater risk of official handling by the juvenile justice system than white youth. This has also been noted in previous studies by Goldman (1963), Piliavin and Briar (1964), and Ferdinand and Luchterhand (1970). If, in fact, our findings are valid and reliable and the incidence of delinquent behavior is not dramatically different for white and nonwhite youth, then we are confronting a complex official decision-making system that may result in discriminatory treatment of nonwhite youth.¹

OFFENSE CHARACTERISTICS

What are the types of juvenile offenses referred to the juvenile courts? Table 4.5 shows the distribution of juvenile offenses referred to the courts by size. Clearly, juvenile courts are mainly asked to handle status offenses and offenses against property. In fact, as the table indicates, the bulk of the cases (35% to 40%) handled by the courts are status offenses--curfew violation, runaway, incorrigibility, truancy, and liquor violations. Only in the very large courts is there a clear shift toward more serious juvenile offenses. This is particularly reflected in the decline in cases of truancy and liquor violations. A similar proportion of the inmates in juvenile correctional institutions are also status offenders. A census conducted by LEAA in 1971 revealed that 33% of the juveniles in correctional facilities were status offenders (based on U.S. NCJISS [1974a], excluding offenses not ascertained). A similar study by NAJC, entitled Time Out (Vinter, 1976), found that 35% of the inmates in their survey of correctional facilities were status offenders.

1. Even the argument that these differences may be a result of the overrepresentation of nonwhites in the lower social statuses is untenable since no significant relations exist between self-reported delinquency and social status (see, for example, Hirschi, 1969; Williams and Gold, 1972).

These findings suggest that status offenders referred to juvenile courts have the same, if not higher, probability of being committed to correctional facilities as juveniles with more serious offenses. Only a small fraction of court cases involve serious offenses such as crimes against persons (7.3%), and it is suspected that a significant proportion of the offenses against property are of a petty nature.

The picture that emerges confirms what has been well known about juvenile courts; namely, that the courts are asked to deal with what Rosenheim (1976) terms "juvenile nuisances." Most of these involve behavioral difficulties that, at best, necessitate a response through the provision of social services rather than legal processing. As we shall note in subsequent chapters, the courts are least equipped to provide such service.

DISPOSITION PATTERNS

Finally, we examine the modal disposition patterns of the juvenile courts as reflected in their disposition statistics. These are shown in Table 4.6. In general, courts are likely to handle approximately 50% of their cases nonjudicially. The most typical pattern is either to dismiss the case, or to counsel, warn, and release the youth. Only a small fraction of the youth are put on informal probation (16%) or referred to other social service agencies. In other words, most courts seem to cope with the inflow of juvenile cases through very minimal intervention, which may, at most, produce a court record, but no significant action by court staff.

On the average, the courts dismiss 12% of the cases brought to the adjudication stage. This rate is highest in the very large courts (19.4%), suggesting that the larger, specialized juvenile courts may adhere more closely to rules of evidence and other due processing procedures (see Chapter 9). Only 22% of the youth processed through the courts are formally adjudicated as delinquent and put on formal probation. An additional 7% of the cases are adjudicated as delinquent and receive a severe form of court intervention: commitment to a correctional facility. Approximately 1% of the cases receive the most severe form of court intervention--waiver to the adult court. For these cases, the courts judge the youth involved either as having committed the most serious crimes or as beyond rehabilitation. The smaller courts seem to have a higher rate of waiver to the adult courts. It is difficult to identify the reasons for such a difference except to suggest that smaller courts may lack access to secure correctional facilities for juveniles. They also may be under greater pressure to handle offenders more harshly, since they are also more likely to have higher commitment rates to correctional facilities.

In general, the larger courts are somewhat less likely to intervene in the lives of children referred to them than smaller

TABLE 4.5
TYPE OF OFFENSE BY SIZE OF COURT JURISDICTION

	COURT JURISDICTION SIZE ^a									
	Small		Medium		Large		Very Large		Total	
	Mean %	σ^b	Mean %	σ	Mean %	σ	Mean %	σ	Mean %	σ
Offenses against persons	7.3	8.4	6.3	5.0	7.8	5.4	9.1	5.9	7.3	6.4
Offenses against property	34.6	16.2	34.7	9.9	37.6	10.6	40.8	10.7	36.2	12.6
Sex offenses	1.1	0.9	1.3	1.8	0.8	11.1	1.0	0.6	1.0	1.2
Liquor violations	8.2	7.0	7.7	6.6	3.6	2.6	2.4	1.5	6.3	6.0
Drug violations	7.4	4.8	6.8	3.2	7.6	3.5	6.9	5.5	7.3	4.1
Truancy	8.4	8.7	7.1	7.3	7.1	7.4	4.5	3.7	7.2	7.5
Curfew, runaway, incorrigibility	21.6	12.5	23.7	11.7	23.6	9.0	20.8	6.7	22.7	10.8
(Maximum N)	(64)		(60)		(66)		(19)		(207)	

^aJurisdiction size: small = 50,000-99,999 population; medium = 100,000-199,999; large = 200,000-699,999; very large = 700,000 or more.

^bThe larger the standard deviation (σ), the more variation in the group.

courts (as noted by higher dismissal rates, lower rates of commitment, etc.). Two factors may converge to produce this pattern. First, the larger courts, as noted earlier, must cope with a larger volume of cases; they must also cope with a tendency of law enforcement agencies to refer a larger proportion of the juvenile population to the courts. This may put severe pressures on limited court resources and thus create a greater tendency to dismiss cases or handle them informally. Second, the larger courts may adhere more closely to due process procedures, since they are more likely to have a full-time public defender's office and an active prosecutor. The larger courts are also likely to be more integrated in the judicial system than smaller courts.

Finally, in this context, there are large variations among the courts, even within each class size, indicating that any given court may establish case-processing policies that are distinctly different from other courts of similar size. This provides a glimpse of the inherent difficulties in attempting to develop national or even regional policies that will affect all courts equally.

SUMMARY

Several patterns have been identified concerning the input and output of cases through the juvenile courts:

1. On the average, four out of every hundred youth are likely to be referred to the juvenile court, although this rate varies considerably from court to court.
2. Law enforcement agencies and parents are the major sources of referrals to the courts, resulting in the coexistence of radically different input mechanisms to which the court must adapt.
3. Nonwhite youth are three times more likely to be processed by the courts than white youth. This difference, it seems, cannot be accounted for by differences in the frequency of delinquent behavior. Rather, it may be attributed to differential handling of white and nonwhite youth by the agencies controlling the input of cases to the courts.
4. The majority of the offenses of the youth referred to the courts are offenses against property and status offenses. Status offenses comprise almost 40% of the referrals.
5. Most courts attempt to dispose of cases through minimal intervention in a nonjudicial manner. On the average, only 7% of the cases result in commitment to correctional facilities.
6. Finally, large variations exist among courts within the same class size, indicating a hodgepodge of policies among juvenile courts.

TABLE 4.6
TYPE OF DISPOSITION BY SIZE OF COURT JURISDICTION

	COURT JURISDICTION SIZE ^a									
	Small		Medium		Large		Very Large		Total	
	Mean %	σ^b	Mean %	σ	Mean %	σ	Mean %	σ	Mean %	σ
<u>Nonjudicial handling</u>										
Dismissed	19.2	18.2	19.5	20.1	25.1	20.9	19.1	18.2	20.7	19.4
Referred to other agencies	9.3	9.4	9.5	9.5	6.1	7.8	4.3	4.9	7.8	8.7
Counselled, warned, and released	18.4	17.9	25.6	19.4	25.2	16.4	25.2	21.2	22.6	18.6
Informal probation	17.0	17.5	11.3	13.3	12.3	12.6	6.0	5.3	13.0	14.4
<u>Judicial handling</u>										
Dismissed	11.6	12.9	11.9	16.5	10.7	11.6	19.4	17.7	12.1	14.1
Formal probation	25.4	19.5	21.1	17.7	18.9	13.9	17.0	7.8	21.7	17.0
Commitment to correctional institution	7.4	6.9	6.2	6.3	6.8	6.6	6.2	3.7	6.8	6.4
Waived to adult court	1.7	3.7	1.3	2.3	0.4	0.4	0.9	1.1	1.2	2.6
(Maximum N)	(103)		(68)		(69)		(24)		(266)	

^aJurisdiction size: small = 50,000-99,999 population; medium = 100,000-199,999; large = 200,000-699,999; very large = 700,000 or more.

^bThe larger the standard deviation (σ), the more variation.

THE JUVENILE COURT AND ITS ENVIRONMENT

YEHESEKEL HASENFELD

It is conventional to view the juvenile court as functioning in a legal context which sets legal parameters on the decision-making processes of its personnel. It is less likely to be recognized as operating in a social context that also influences its structure and processes. Like any other social institution, the juvenile court depends on its social environment for most of its resources, and it continuously interacts with it to discharge its mandate. Therefore patterns of court operation cannot be fully understood without paying careful attention to the environment's impact on the court. This is particularly true when efforts to improve and enhance the functioning of the court are undertaken. Exclusive reliance on legal reforms to modify the operation of the court is a shortsighted strategy unless it is fully recognized that the social environment of the court can render such reforms useless or mitigate their impact. This has been amply demonstrated in several case studies (Emerson, 1969; Ferster and Courtless, 1972; Langley, 1972). Thus a major objective of this chapter is to systematically examine the relations between the court and its environment to determine their consequences for court operation and functioning.

Like any other complex organization, the juvenile court can be conceived as an open system that maintains patterned relations with its environment, from which it obtains resources and to which it provides services. The court can be conceptualized as having (1) a general environment and (2) a task environment. The general environment refers to the characteristics of the community in which the court is located--characteristics the court must accept as given and yet which have considerable impact on the court. These can be sorted into several dimensions:

a. *Sociodemographic characteristics of the community*--the size of the youth population, the degree of urbanization, the level and distribution of income in the community, the stability of the community, the proportion of ethnic minorities, and the like. It is proposed that these variables will influence the demands and pressures on the court and its goals. Thus, it is postulated that the greater the proportion of youth in the community, the stronger the demand for court services. Similarly, the greater the proportion of low-income population and the more unstable the community, the greater the pressure on the court to adopt a "crime control" rather than "youth service" goal.

b. *Crime patterns*. It is proposed that the greater the incidence of crime in the community, the stronger the pressure on the court to assume a control and punishment posture.

c. *Community attitudes toward juvenile offenders and expectations about the function of the court*. It is postulated that the court will be sensitive to these expectations and will structure its activities to conform with them.

d. *Community investment in child-serving activities and programs*. It is suggested that the greater the rate of expenditures by the community on child-serving programs, the more the court will emphasize service objectives.

e. *The legal location of the court in the justice system*--the position of the court in the judicial system, patterns of selection of juvenile court judges, role of the public prosecutor, and the like. We expect that when the juvenile court is a court of general jurisdiction and is highly integrated in the judicial system, there will be greater emphasis on due process in the handling of juveniles.

The task environment is composed of the organizations and agencies with which the court transacts in order to fulfill its mission: (a) agencies that refer youth to the court--the police, schools, and other social service agencies; (b) organizations that provide the fiscal resources to the court--county government, state department of social services, or state youth service department; (c) organizations that monitor and evaluate the operations of the court--the state supreme court, the public prosecutor, and the public defender; (d) organizations that provide complementary services--psychiatric and medical services, public and private child service agencies, and youth service bureaus; (e) organizations and agencies that receive court referrals--the state youth service agency, child welfare agencies, and probation departments; and (f) organizations and associations with general interest and concern in the court, such as civic clubs and child advocacy groups.

It can be readily noted that juvenile courts are variably dependent on the services and resources of these organizations and thus must develop and maintain systematic relationships with them to ensure a steady flow of these services. Thus, the greater the dependence of the court on any given external unit for resources and services, the greater the influence of that unit on the operations of the court (Hasenfeld, 1972). That is, the court, in order to enlist and secure the services of a given unit, is likely to take into account the unit's expectations of the court. For example, the more dependent the court is on the police and the fewer its mechanisms and resources for buffering itself from them, the greater will be the influence of the police on the court and the greater the likelihood that court personnel will attempt to incorporate and conform to the expectations of the police in their decisions about juvenile offenders. Hence it is proposed that the nature of the exchange relations that the court develops with each unit in its task environment will influence the functioning of the court, and particularly the patterns of juvenile handling. This will be manifested

primarily, but not exclusively, in the intake and dispositional patterns of the court. For example, it could be argued that the greater the influence of the police, the higher the proportion of youth who would be formally handled at intake. Similarly, when the court has established extensive relations with local child-serving agencies, the rate of diversion and informal handling will increase and the rate of commitment to correctional facilities will decrease. In other words, both the intake and disposition activities of the court involve direct transactions with units in the task environment, such as referring agencies, organizations that provide complementary services to the court, and public prosecutors. Thus, in making decisions about juveniles at these junctures, court personnel are particularly sensitive to the type and nature of the relations that exist between the court and these units.

The task environment influences the court's adjudicatory processes as well, particularly through the roles played by the state supreme court, the public prosecutor, and the public defender. Active monitoring of court activities by the state supreme court is likely to reinforce due process procedures in adjudication. A strong influence by the public prosecutor, while also reinforcing due process, is also likely to result in a greater proportion of juveniles adjudicated as delinquent. An effective public defender, however, could counteract the prosecutor's influence and push the court toward more limited exercise of control powers.

In sum, it is suggested that juvenile courts are dynamic and open systems characterized by a complex set of relations and transactions with various external organizations and units in their immediate environment. These relations are established because the court needs external resources and services and because the external units need the services of the court. The relations are characterized by varying degrees of influence and conflict. Any particular relation can influence the court in a direction quite opposed to one resulting from a relation with another unit. It is therefore evident that juvenile courts face an environment of conflicting demands, inconsistent ideologies, and multiple interests.

The courts attempt to adapt to such a turbulent environment by developing stable and sustained relations on the one hand and buffers against external influences on the other. In turn, these relations and buffers have direct and indirect consequences on the decision-making processes inside the courts, particularly in terms of the processing of juveniles. Hence, while it is recognized that the juvenile court, as an institution, has considerable discretion in handling juveniles, it is equally important to acknowledge that this exercise of discretion could be made contingent and be constrained by the court's need as an organization to manage its relations with its environment in order to preserve and maintain itself, secure stable resources, and achieve its goals.

This chapter will explore various impacts of the environment on the juvenile court. Close attention will be paid to several major issues. First, an exploration of how the characteristics of the general environment affect the goals of the court and its staff perceptions of the

community will be covered. Second, the extent to which the general environment influences the volume and flow of juveniles into the court for processing will be assessed. Third, the particular relations that juvenile courts develop with their task environments and the impact these relations have on the goals and ideologies of court staff will be explored. Finally, particular environmental factors that must be considered in any strategy to bring about changes in the operations of juvenile courts will be identified and assessed.

IMPACT OF THE GENERAL ENVIRONMENT

The juvenile court in most states is a highly localized institution. This characteristic is expressed in several ways. First, its formal jurisdiction encompasses a small geographic unit, most typically a county. Second, its mandate is to handle youth problems that occur within this unit. Third, most of the court's resources, personnel, and external relations are typically limited to the community in which it is located. Fourth, and most important, the juvenile court judge is likely to be recruited from the community, particularly if elected. Thus it is expected that the general characteristics of the community will influence some important organizational characteristics of the juvenile court, particularly the staff's view of community expectations, organizational goals, court relations with the task environment, and the rates and type of juvenile cases referred to it.

STAFF VIEW OF COMMUNITY EXPECTATIONS

As shown in Table 5.1, court staff perceive overwhelmingly that the community expects them to protect it from juvenile law violators. Eighty-nine percent of the judges and 91% of the court administrators and probation officers agree that the community expects the court to remove offenders with serious behavioral problems from the community, and over half of these respondents agree that the community expects them to make examples of those committing the most serious offenses. In contrast, court staff perceive a low community expectation to consider the needs of offenders and to keep them in the community. Put differently, the staff of the juvenile court perceive the mandate from the community to be for "law and order." This perception is strongest among the line staff of the court, namely, probation officers. This is not surprising since probation officers have daily contact with the community and bear the major burden of responding to community demands on the court and finding local solutions to the juvenile problems presented to it. Thus they are much more likely to be sensitive and to experience negative and hostile reactions from the community toward juvenile offenders.

The perceptions of community expectations by court staff are influenced by the larger social context of the court. That is, the sociodemographic characteristics of the community are slightly but significantly correlated with these perceptions. The higher the community's median family income, the more likely the juvenile court judge will perceive a community preference for considering the needs of

TABLE 5.1

STAFF PERCEPTIONS OF COMMUNITY EXPECTATIONS
IN HANDLING JUVENILE OFFENDERS BY THE COURT
(in percentages of staff)

	Protect Community from Offender ^a	Remove Offender from Community ^b	Make Examples of Serious Offenders ^c	Consider Needs of Offender ^d	Keep Offenders in Community ^e	(N)
Judges	42.9	88.7	50.0	37.4	27.4	(217)
Court adm'rs	45.3	91.6	47.9	38.9	36.0	(197)
Probation officers	55.4	91.1	55.1	24.1	13.4	(553)

^a"To protect the community at any cost."

^b"To remove offenders with serious behavior problems from the community."

^c"To make examples of those committing the most serious offenses."

^d"To consider needs of the offender rather than the seriousness of the offense."

^e"To keep offenders in the community as much as possible."

the offender ($r = .12$, $p < .05$). Similarly, the higher the community's percentage of college graduates, the more likely the judge will perceive a community preference for keeping the offender in the community ($r = .16$). In contrast, these perceptions are negatively correlated with the official index crime rate for the community ($r = -.13$). These and other such measures seem to suggest that the more affluent the community and the lower the crime, the more likely court personnel will perceive community expectations to be toward treatment and rehabilitation of juvenile offenders rather than toward punishment and isolation. Nevertheless, the effect of community characteristics on these perceptions are, at best, limited. This suggests that other factors, more related to staff work experiences in the court, may modify these expectations.

Some support for the latter possibility can be found by examining perceptions of court staff on the seriousness of various juvenile problems in their community. As indicated in Table 5.2, the most serious juvenile problems are perceived to be breaking and entering, running away, dependency and neglect, shoplifting, and truancy. These perceptions of the most serious juvenile problems in the community are incongruous with the overall perception of the community as expecting the court to assume a posture of control and deterrence--these problems can hardly be seen as serious threats to community tranquility. Put

TABLE 5.2

PERCEPTIONS OF SERIOUSNESS OF JUVENILE PROBLEMS IN THE COMMUNITY
BY COURT STAFF

	Judges (N = 276)		Court Administrators (N = 216)		Probation Officers (N = 657)	
	Score	Rank	Score	Rank	Score	Rank
Breaking & entering	2.10	1	2.12	2	2.01	1
Dependency & neglect	2.29	2	2.39	3	2.30	4.5
Running away	2.33	3	2.11	1	2.09	2
Shoplifting	2.39	4	2.46	4	2.30	4.5
Drug violations	2.41	5	2.50	6	2.32	6
Auto theft	2.54	6	2.66	6	2.50	7
Truancy	2.57	7	2.48	5	2.18	3
Vandalism	2.61	8	2.81	7	2.59	8
Liquor violations	3.01	9	3.16	8	3.01	9
Armed robbery	3.26	10	3.30	10	3.05	10
Promiscuity	3.31	11	3.19	9	3.07	11
Purse snatching	3.63	12	3.73	11	3.43	12
Gang fighting	4.14	13	4.35	12	4.08	13

NOTE: Problems were scored 1 ("very serious"), 2 ("serious"), 3 ("somewhat of a problem"), 4 ("minor problem"), or 5 ("no problem"). The mean scores for each staff group are given here.

differently, the juvenile problems that seem to confront the community and the court most frequently are petty property crimes and status offenses. These do not seem to justify a staff perception that the community expects the court to control and isolate juvenile offenders. This incongruity seems to suggest rather that court personnel develop a "pessimistic" view of the community as a result of the unavoidable frustrations in handling juvenile offenders that other youth service agencies tend to reject and "dump" on the court (Cressey and McDermott, 1973).

It might be hypothesized that the perceptions of the community expectations will also modify the goals of the juvenile court. These relations are explored in Table 5.3. As can be noted, the greater the perceived community expectations to "treat" the offender, the greater the emphasis on a Youth Concern goal in the court. In contrast, community expectations to deter and isolate offenders are not correlated with the organizational goal of Community Protection. This is partly

due to the fact that all juvenile courts in the sample are more in agreement on community expectations of deterrence and isolation and the goal of Community Protection than on treatment and concern with youth. These patterns are the same whether the judges are appointed or elected.

TABLE 5.3

CORRELATIONS OF ORGANIZATIONAL GOALS WITH COMMUNITY EXPECTATIONS
PERCEIVED BY JUDGES
(N range = 237-239)

	Protect Community from Offender	Remove Offender from Community	Make Examples of Serious Offenders	Consider Needs of Offender	Keep Offenders in Community
Youth Concern	.042	-.084	-.018	.141*	.182*
Community Protection	.011	.028	.082	.003	.023
Court Maintenance	.110	-.074	.147*	.088	.081

* $p < .05$

COMMUNITY CHARACTERISTICS AND ORGANIZATIONAL GOALS

A key issue concerning the direction juvenile courts may take in carrying out their mandate is the relative emphasis put on the pursuit of a community protection versus a youth concern goal. This dilemma has weighed heavily in various discussions on the desired mission of the court (for example, Rosenheim, 1962) and clearly has not been resolved. In practice, courts have had to make some choices between these two objectives, and the choices have in turn influenced their approach and response to juvenile offenders. Much of the variation among juvenile courts across the country can be attributed to the choice made on this continuum, including, probably, the great deal of variation in the response of otherwise similar courts to the same juvenile offense.

A central question therefore is, What are the factors that influence the choice courts make between these two objectives? Chapter 3 discusses how these goals are measured. Here the impact of community characteristics on them is examined. Somewhat surprisingly, the sociodemographic characteristics of the community and its official crime patterns have little influence over the goal emphasis of the court. In general, the higher the community's median family income, the less the emphasis on crime control ($r = -.19$). This relationship is repeated for various other measures of the economic well-being of the community, such as the

number of families with income below the poverty level. Yet, no other community characteristics seem to have any direct effect on the goals of the court. In particular, crime patterns in the community have no direct impact on these goals, although they clearly influence the volume and type of youth referred to the juvenile court.

The relative emphasis on crime control or youth concern seems to be influenced by the judge's personal ideology. Such ideology measures the extent to which judges believe in a punitive approach toward juvenile offenders. As noted in Table 5.4, for both appointed and elected judges, the stronger the judge's belief in a punitive approach toward juvenile offenders, the greater the emphasis in the court on a crime control goal (i.e., Community Protection). For appointed judges, there is also a corresponding de-emphasis on Youth Concern. These findings suggest that juvenile court judges have considerable discretion in shaping the goals of the court and are therefore guided by their own personal beliefs. Moreover, having such wide discretion enables judges to buffer themselves from various community elements and thus be less influenced by them (which will be noted later when specific relations between the court and the environment are examined). Such a finding may be welcomed by those who believe the juvenile court should be an autonomous institution serving the needs of children without pressures from the community. However, it (and other findings, to follow) indicates that such autonomy vests considerable discretion in the hands of judges in shaping the character of the court in accordance with their own personal beliefs. This could lead to development of particularistic rather than universalistic justice.

TABLE 5.4

CORRELATIONS BETWEEN COURT GOALS AND JUDGES' BELIEF
IN PUNISHMENT OF JUVENILE OFFENDERS

Court Goal	Belief in Punishment	
	Appointed Judges (N = 96)	Elected Judges (N = 142)
Community Protection	.23*	.37*
Youth Concern	-.23*	.06

* $p < .05$

COMMUNITY CHARACTERISTICS AND REFERRAL PATTERNS TO THE JUVENILE COURT

Without a doubt, the major interface between the court and its immediate environment is expressed in the flow of juvenile cases into the court for processing. It is through the volume and patterns of referral that the community's demands and expectations of the juvenile

court are behaviorally expressed. Thus, the conditions in the community that influence the incidence and prevalence of juvenile delinquency will also influence case input to the court. Undoubtedly, the juvenile court is not just a passive recipient of juvenile cases, and through its executive ideologies, goals, and internal resources it may attempt to gain some measure of control over such input. Nevertheless, as a local juvenile processing institution it must respond to the community conditions that generate juvenile problems, and thus it could be expected that the input of cases to the court would be significantly affected by these same conditions. Hence this section will examine the effects of certain community characteristics on the rates of referral of juvenile cases to the court.

Most juvenile courts in this national sample handle three categories of juvenile cases--dependency and neglect, delinquency, and "children in need of supervision" (CHINS). The last category exists only in states whose juvenile codes specifically define such a category. In 1972, 25 states had such a category for status offenders while in the other states no distinctions were made between various juvenile offenses (Levin and Sarri, 1974). Courts were asked to report the number of juvenile cases referred to them in 1973 in each category, and rates of referral were computed based on the total population of juveniles under the jurisdictional boundaries of each court. Because courts lack adequate information systems, a significant number of them were unable to provide data or else the information they did provide was inconsistent with that available from other sources (such as state statistics). Therefore data were used only from the courts considered reliable in reporting. As a result, the number of courts used in this analysis varies and is smaller than the total sample. The reader should use caution in attempting to generalize from these findings to the national scene, as the findings are applicable only to the courts used in the analysis. Nevertheless it is believed that the findings show basic patterns that can serve as a guide to understanding juvenile courts in general.

Correlations between selected community characteristics and rates of referral to the juvenile courts are presented in Table 5.5. They confirm that the sociodemographic characteristics and crime patterns in the community have a strong impact on the input of juvenile cases to the courts. As indicated by the table, the total rate of referral of juvenile cases is significantly correlated with the net migration experienced by the community, the level of education, and the rate of unemployment in the community. Both the net migration and the percentage unemployed are macroindicators of community social and economic instability, and particularly of the existence of a transient population. It is therefore not surprising that when the community experiences such instability, the rate of juvenile referrals to the courts increases. Interestingly, the higher the level of education in the community, the greater the referral rate. Education may be an indirect measure of community intolerance of juvenile misbehavior: the higher the level of education in the community, the greater the concern to deal formally with juvenile problems and the greater the pressure on the police to formally process such cases (see Wilson, 1968).

TABLE 5.5
JUVENILE COURT REFERRAL RATES AND SELECTED COMMUNITY CHARACTERISTICS
(zero-order correlations)

	Delin. ^a	CHINS ^b	D. & N ^c	Total ^d
<u>Sociodemographic characteristics</u>				
Net migration, 1960-70 (%)	.39**	.42**	.03	.42**
Median school year completed	.20**	.09	-.02	.20**
Unemployment (%)	.25**	.07	.23**	.27**
Median family income	.07	-.28**	.00	-.01
Expenditure for public welfare (per capita)	.00	-.34**	-.03	-.10
<u>Crime patterns</u>				
Total crime index (per capita)	.29**	.19	.27**	.34**
Burglary (per capita)	.31**	.31**	.24**	.37**
Larceny over \$50 (per capita)	.35**	.15	.27**	.38**
Larceny under \$50 (per capita)	.33**	.17	.16*	.40**
Violent crime (per capita)	.16*	.18	.30**	.27**
Property crime (per capita)	.30**	.19	.25**	.34**

* $p < .01$

** $p < .001$

^a Referral rate for delinquency cases (N range = 253-259 courts).

^b Referral rate for "children in need of supervision" (N range = 116-121 courts).

^c Referral rate for dependency and neglect cases (N range = 210-215 courts).

^d Rate for total referrals (N range = 240-246 courts).

The general crime patterns in the community unequivocally affect the referral rates of juveniles to the courts. This is due to two major

factors. First, these rates also reflect crimes committed by juveniles. Second, higher crime rates are likely to increase the sensitivity and volume of activities of all social control agencies in the community, including the juvenile courts. In other words, as crime rates increase in the community, social control agencies begin to assume a more predominant role and there is greater pressure to view juveniles problems from a "law and order" perspective. This generates a greater tendency to refer youth offenders to the juvenile court.

When the relations between these community characteristics and rates of delinquency referrals are examined, the same patterns emerge. Community social and economic instability, coupled with increased level of education, are highly correlated with delinquency referral rates, as are the general crime patterns in the community. However, a different picture emerges in relation to referral rates for "children in need of supervision." Social instability in the community as measured by net migration is still highly correlated with the rate of CHINS referrals. However, it is of particular significance that the smaller the family income and the lower the per capita expenditure for public welfare in the community, the higher the CHINS referral rate. The first correlation seems to suggest that in communities with low family income, there is a greater tendency by police and schools (who refer most of the juveniles to court) to define juvenile problems as CHINS. That is, as families lack the economic resources to handle problems related to adolescent status, there is greater reliance on the court to handle them. The second correlation suggests that the smaller the commitment of the community to provide low-income families with public assistance, the less likely adolescent status-related problems will be handled in a non-legal manner, since doing so will in fact require greater commitment of resources for economic and social services for such families. When these patterns are viewed together, they seem to suggest that law enforcement and social control agencies are more likely to define status-related problems of adolescents from lower socioeconomic families as CHINS, particularly when the community lacks commitment to assist such families.

The particular relationship between the CHINS referral rate and the economic status of families in the community is further highlighted by the fact that this rate is least affected by general crime patterns in the community (with the exception of burglary). What is most interesting is that the general crime patterns in the community affect the rate of referral for even dependency and neglect cases but not CHINS. This lends further credence to the interpretation suggested above. The ideologies of the judges and goals of the court also influence the rate of CHINS referrals but not the other rates.

Finally, we need to note in this context that the community's expectations of the court, as perceived by the judges, do not seem to have any impact on the various rates of referral to the courts. This may be partly due to the lack of independent measures of these expectations.

THE JUVENILE COURT AND ITS TASK ENVIRONMENT

It is impossible to comprehend the complexity of the activities of the juvenile court or appreciate the various issues confronting it without recognizing the consequences of the court's intertwinement in a network of organizations and groups concerned with juvenile matters. It is from this network, termed the "task environment," that the court receives its major inputs of resources and to which it "delivers" its outputs. Analytically, the task environment can be conceptualized as (a) agencies that refer youth to the court, (b) organizations that provide financial resources, (c) agencies and groups that monitor and legitimize the activities of the court, (d) organizations that provide complementary services, and (e) agencies that receive court referrals. Empirically, of course, any given organization in the environment may serve several of these functions for the court. For this study, twelve types of organizations have been identified that interact with juvenile courts (see Figure 5.1).

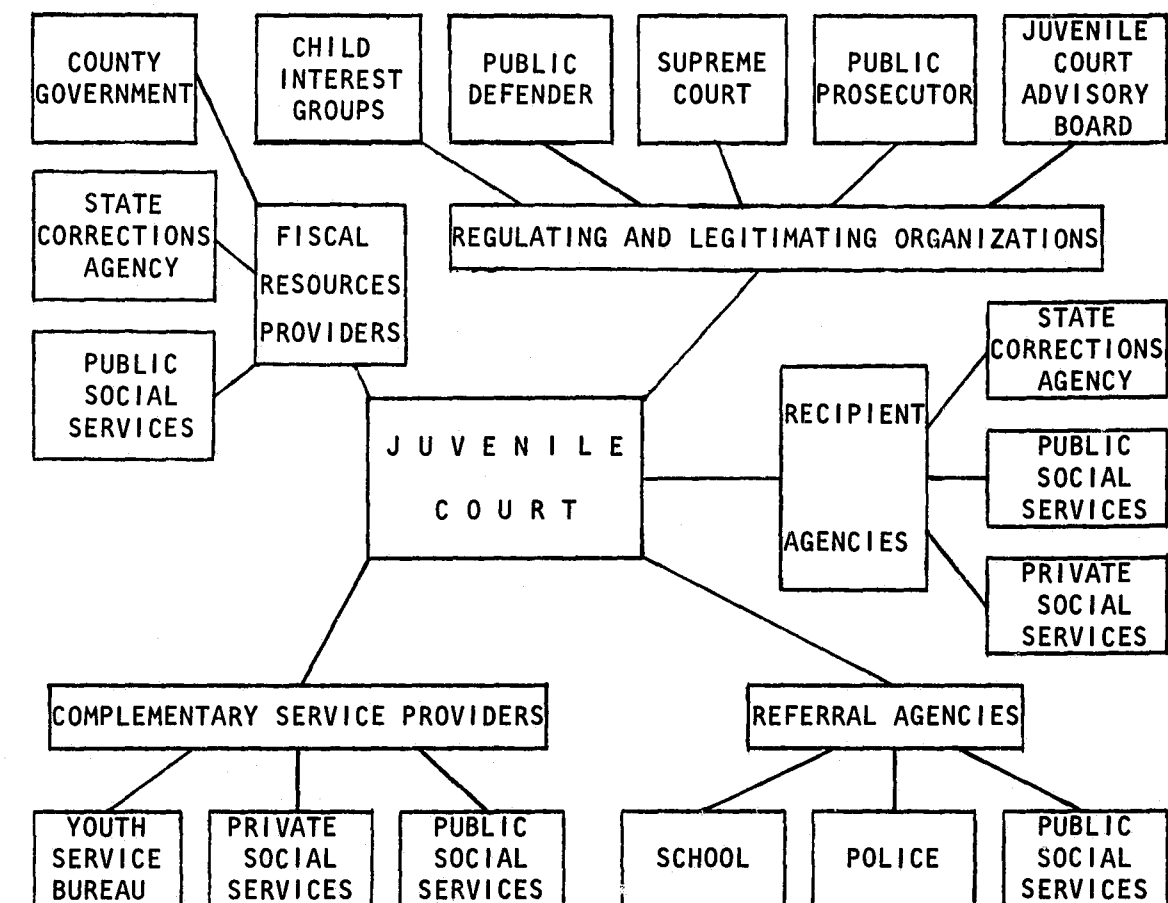


Fig. 5.1. The Task Environment of the Juvenile Court

A major concern of this study is to examine the patterns of relations juvenile courts develop with their task environment along the following dimensions: (a) the amount of influence each organization

exerts on the juvenile court, (b) the direction of the influence, and (c) the degree of conflict between the court and each organization.

THE INFLUENCE OF THE TASK ENVIRONMENT

Assertions have been made that juvenile courts, in contrast to adult courts, are impeded in achieving their goals by their permeability to multiple and conflicting pressures from their environment (Vinter, 1967; Emerson, 1969). Excessive influence from different groups in the environment, without the ability to buffer against them, forces the staff of the court to accommodate to conflicting expectations in handling juveniles. For example, the court may be pressured by the schools to relieve them of the responsibility of coping with children with behavioral problems. Child advocacy groups, on the other hand, may exert pressure on the court to do exactly the opposite, namely, force the schools to be accountable for their handling of such children. Decision-making patterns and rules concerning juveniles thus become ambiguous, inconsistent, and contradictory, and undermine the ability of the court to pursue a norm of rationality.

The staff in the sample courts were asked to rate the influence of various external organizations on the court (on a scale ranging from "very high influence" to "no influence"). Findings failed to support the above assertions. As shown in Table 5.6, respondents perceived the various external organizations to have at most only "some" influence on the courts. Thus it seems that, in general, courts are able to buffer themselves against external influence. As expected, the organizations that control the referral of youth to the court--police, schools, and public social services--have the greatest influence on the court. These are followed by legal watchdog organizations--the state supreme court and the public prosecutor. Interestingly, the public defender's office, which also belongs to this set of organizations, is perceived as having little influence on the court as compared to other organizations. This is a disturbing phenomenon since the major aim of the public defender's office is to serve as advocate for juveniles and exert sufficient influence on the court to protect their rights. However, this finding is corroborated in an earlier study by Stapleton and Teitelbaum (1972), who noted that defense counsels had to accept and adopt the modal patterns of case processing used by the judges, and that the adversary model was not likely to describe the juvenile court.

The differences in perception of influence between the judges, court administrators, and probation officers are small, thus strengthening confidence in the central finding that while the environment does exert some influence on the court, the court is certainly not a "captive" at the mercy of external interest groups.

Some differences in the degree of perceived influence do exist between types of courts. Thus, the greater the proportion of time judges spend on juvenile matters, the greater the influence of county government ($r = .17, p < .01$), civic and interest groups ($r = .16, p < .01$), the public defender ($r = .16, p < .01$), and juvenile court advisory board ($r = .20, p < .01$). Likewise these organizations have greater influence

TABLE 5.6
INFLUENCE OF ORGANIZATIONS ON COURT POLICIES, ACCORDING TO COURT STAFF

	Judges (N = 266)		Court Administrators (N = 210)		Probation Officers (N = 653)	
	Score	Rank	Score	Rank	Score	Rank
School	2.76	1	2.85	2	2.80	3
Public social services	2.78	2	2.98	5	3.00	4
Police	2.86	3	2.64	1	2.63	1
Supreme court or state court administrator	3.05	4	2.89	3	2.79	2
State juvenile corrections agency	3.09	5	3.13	7	3.09	6
Public prosecutor	3.23	6	2.97	4	3.06	5
Public defender	3.26	7	3.27	9	3.41	8.5
Civic & interest groups	3.29	8	3.19	8	3.41	8.5
Youth service bureau	3.33	9	3.34	10	3.66	11
Private social services	3.45	10	3.47	11	3.63	10
County government	3.56	11	3.10	6	3.34	7
Juvenile court advisory board	3.94	12	3.63	12	3.92	12

NOTE: Influence was scored 1 ("very much"), 2 ("much"), 3 ("some"), 4 ("little"), or 5 ("none"). The mean scores for each staff group are given here.

as the population under the court's jurisdiction increases. These findings suggest that as the court becomes more clearly identified as a juvenile court and its volume of juvenile cases increases, greater attention is given to it by local groups concerned with youth services. In contrast, there are very few differences between elected and appointed judges.

DIRECTION OF INFLUENCE

It is quite revealing to identify the direction of the influence attempted by the various external organizations on the court. Demands placed on the court by the task environment are shown as perceived by judges (Table 5.7), court administrators (5.8), and probation officers (5.9). Perceptions vary little, in fact, between them.

Those demanding more legalistic case processing are the state supreme court, the police, the public prosecutor, and the public defender's office. Yet, it seems that for the police and the prosecutor the meaning of "legalistic case processing" may be quite different than for the supreme court and public defender. For the police and prosecutor it seems to suggest more formal handling and insistence on adjudication. This is inferred from the frequent citing of them (along with the schools) as demanding isolation of offenders from the community. Thus, the existence of an active public prosecutor in juvenile cases might be viewed as a mixed blessing at best. While it may increase the pressure on the courts to engage in more formal and legalistic case processing, it also increases the pressure toward punishment and deterrence. Hence, some writers (Rubin, 1972) who support an active role for the prosecutor as a way to increase due process and legalism in the court fail to consider the costs involved. In fact, an active supreme court monitoring the juvenile court and an active public defender's office may be far more effective in enhancing due process. Yet it is possible that an active public defender comes on the heels of or is followed by an active prosecutor, thus offsetting the pressure for punishment and deterrence.

Note in this context that the schools appear to be ranked high on pressure to isolate offenders from the community--not surprising, of course, since the schools always try to harness the court into removing troublemakers from the schools on their behalf.

The organizations most frequently mentioned as putting pressure on the courts to develop more services for youth, divert cases, and develop individualistic and treatment-oriented case processing are civic and interest groups, youth service bureaus, and private and public social service agencies. Except for public social service agencies, none of these organizations seem to exert very much influence on the juvenile court. Considering the influence of public social services on the courts, their role in demanding more of a treatment orientation is all the more significant. It is not clear what public social services are after, except perhaps to make the courts an extension of their own program.

The same organizations that demand that the courts divert more youth also wish the courts would develop more services for youth. In fact, it seems that there is no distinction between the two, suggesting that the elements of the task environment that advocate more services, greater diversion, and individualistic and treatment-oriented processing are basically seen by the court staff as wanting the court to act as a social service organization rather than a legal institution.

TABLE 5.7
DEMANDS ON THE COURT BY EXTERNAL ORGANIZATIONS
AS PERCEIVED BY JUDGES
(percent mentioned)

Organization ^a	Be More Legalistic ^b	Isolate More Offenders ^c	Develop More Services ^d	Divert from Court ^e	Be Treatment-Oriented ^f	(N)
Police	27.8	58.3	7.7	3.2	2.9	(338)
Schools	12.3	46.6	23.8	4.3	13.0	(277)
Supreme court or state court administrator	71.8	3.0	9.8	8.0	7.3	(163)
Public social services	3.4	6.0	32.0	24.6	34.0	(350)
Private social services	0.5	2.9	28.7	28.7	39.2	(209)
State juvenile corrections agency	13.7	6.0	29.4	24.9	25.9	(195)
Pub. prosecutor	43.0	46.2	2.3	5.0	3.2	(216)
Civic & interest groups	4.8	5.1	32.2	28.9	28.9	(373)
Youth service bureau	5.1	2.3	22.9	41.6	28.0	(214)
Pub. defender	36.7	0.4	14.0	28.8	20.1	(229)

NOTE: Judges (and court administrators and probation officers) were asked to indicate "the three most appropriate organizations and groups" pressing for each of the five demands shown (footnotes b-f).

^aCounty government and juvenile court advisory board are omitted here because of a large nonresponse category.

^b"Adopt more legalistic case processing methods."

^c"Isolate more juvenile offenders from the community."

^d"Develop more services for youth within the court."

^e"Divert as many cases as possible from formal court handling."

^f"Provide more individualistic and treatment-oriented case processing."

CONTINUED

1 OF 3

TABLE 5.8

DEMANDS ON THE COURT BY EXTERNAL ORGANIZATIONS
AS PERCEIVED BY COURT ADMINISTRATORS
(percent mentioned)

	Be More Legal- istic	Isolate More Offenders	Develop More Services	Divert from Court	Be Treatment- Oriented	(N)
Police	37.5	49.5	8.0	1.0	3.7	(373)
Schools	2.6	53.5	25.3	1.9	16.6	(265)
Supreme court or state court administrator	54.5	2.4	10.8	19.7	12.6	(167)
Public social services	3.6	9.3	32.5	22.4	32.1	(277)
Private social services	1.5	3.9	23.1	34.0	37.4	(203)
State juvenile corrections agency	20.0	6.3	28.8	24.1	20.7	(235)
Pub. prosecutor	51.0	38.5	1.5	4.7	4.1	(192)
Civic & interest groups	4.8	3.3	31.6	32.5	27.7	(335)
Youth service bureau	5.2	1.0	25.9	40.9	26.9	(193)
Pub. defender	49.1	2.4	10.9	20.0	17.6	(165)

In sum, the organizations with a greater influence on the courts--police, schools, state supreme court, and public prosecutor--are likely to demand a "law and order" orientation, while the organizations with little influence--civic and interest groups, private social services, and public defender--are likely to demand a social service orientation from the courts.

What accounts for the generally low level of influence by the task environment and particularly by the organizations with a social service orientation? As suggested earlier, the more the court makes use of the services of a particular external organization, the more influence it

TABLE 5.9

DEMANDS ON THE COURT BY EXTERNAL ORGANIZATIONS
AS PERCEIVED BY PROBATION OFFICERS
(percent mentioned)

	Be More Legal- istic	Isolate More Offenders	Develop More Services	Divert from Court	Be Treatment- Oriented	(N)
Police	30.8	57.8	5.9	2.3	3.0	(723)
Schools	24.2	38.3	21.3	2.7	13.3	(735)
Supreme court or state court administrator	59.4	3.1	12.7	13.5	11.2	(355)
Public social services	5.7	9.0	34.0	19.8	31.5	(556)
Private social services	2.0	4.7	21.2	38.0	34.0	(405)
State juvenile corrections agency	18.6	6.1	27.5	23.5	24.2	(570)
Pub. prosecutor	44.1	42.2	3.3	6.4	3.8	(421)
Civic & interest groups	7.2	8.2	29.2	28.0	27.2	(787)
Youth service bureau	4.0	1.3	27.0	39.5	28.1	(544)
Pub. defender	41.2	1.7	13.6	27.0	16.3	(417)

has over the court. Thus, the low level of influence by service organizations may be an indication either of lack of use of their services by the courts or of reliance of the courts on their own resources to provide such services. Our field observations of juvenile courts indicate that very few courts develop their own service programs beyond the ever-present probation. Thus it is more plausible that the low level of influence of the task environment is an indication that juvenile courts do not generally use community resources extensively and are content to rely on their own probation services.

TABLE 5.10

PERCEIVED CONFLICT BETWEEN THE COURT AND ORGANIZATIONS IN THE COMMUNITY

	Judges (N = 268)		Court Administrators (N = 213)		Probation Officers (N = 500)	
	Score	Rank	Score	Rank	Score	Rank
Police	3.43	1	3.33	2	2.89	1
School	3.57	2	3.27	1	2.95	2
Public social services	3.94	3	3.69	3	3.46	3
State juvenile corrections agency	4.00	4	3.88	4	3.77	4
Public defender	4.14	5	4.13	7.5	3.98	9
Public prosecutor	4.17	6	4.08	5	3.91	6
Private social services	4.19	7	4.10	6	3.93	7
Youth service bureaus	4.25	8	4.18	10	4.12	10
Civic & interest groups	4.28	9.5	4.15	9	3.90	5
County government	4.28	9.5	4.13	7.5	3.97	8
Supreme court or state court administrator	4.58	11	4.47	11	4.39	11
Juvenile court advisory board	4.71	12	4.57	12	4.75	12

NOTE: Influence was scored 1 ("very much"), 2 ("much"), 3 ("some"), 4 ("little"), or 5 ("none"). The mean scores for each staff group are given here.

police ($r = .22, p < .001$), the schools ($r = .21, p < .001$), the public defender ($r = .22, p < .001$), and the prosecutor ($r = .13, p < .05$). This is not surprising, since full-time juvenile court judges have more contact with these organizations and thus more occasion for disagreement and conflict. In fact, as the volume of work for the court increases (measured by the size of the population under its jurisdiction), there is a slight yet significant increase in perceived conflict by judges with most organizations in the task environment upon which the court has to rely for services for its cases--such as public and private social service agencies and the state juvenile corrections agency (the respect-

ive correlations are .13, .16, and .16, $p < .05$). There is most notably an increased conflict with civic and interest groups ($r = .18, p < .005$) and the public defender ($r = .30, p < .001$). In other words, courts which concentrate primarily on juvenile cases and have a large workload experience greater pressures from their environment and are more dependent on it for resources and services, and therefore are likely to experience somewhat greater conflict with various external organizations.

SUMMARY AND CONCLUSIONS

This chapter has examined the impact of the environment on the policies and operations of the juvenile court. We have attempted to explore the effects of the community's sociodemographic characteristics on the court, particularly on rates of referral of juvenile cases. The relations juvenile courts develop with key organizations in their task environment were also examined.

In general, juvenile court staff tend to perceive the mandate from the community to be that of social control and deterrence, despite the fact that most juvenile cases referred to the courts are for minor and status offenses. Such perception of mandate is only marginally affected by community characteristics, although there are some indications that as the level of affluence in the community rises and the crime rate declines, there is an increasing tendency by court staff to perceive their mandate in terms of services and treatment of juvenile offenders.

While community characteristics do not seem to have direct impact on the goals and ideologies of the courts, they affect patterns of referral to them. Simply stated, the same community conditions associated with high rates of juvenile delinquency also result in high rates of delinquency referrals. These include such conditions as high net migration, unemployment, and general crime patterns. However, referral rates for "children in need of supervision" are much less affected by general crime patterns, but rather influenced by both the median family income in the community and the per capita expenditures for public welfare. Thus, the lower the family income and the more reluctant the community to assist low-income families, the greater the rate of CHINS referrals to the courts. In other words, the courts are asked to respond and cope with troubled youth whose predicament seems to arise from social and economic instability and failure of other community institutions to assist them.

Turning to the specific relations that courts develop with their task environment in discharging their mandate, a persistent central finding emerges. In their transactions with key external organizations, the courts experience only limited influence from them and very little conflict with them. Put differently, juvenile courts, in general, experience little dependence on other organizations in performing their functions. Moreover, the courts rarely find themselves in conflict with other organizations concerned with juvenile offenders.

It could be argued that these indices are not sensitive enough to effectively measure these relations, although the same patterns emerge

for judges, court administrators, and probation officers. We did not have the means to assess the validity of these measures except by pointing out that other questions pertaining to court-environment relations yield similar patterns.

On a substantive level these findings have some important implications with regard to the character of juvenile courts. First, they imply that juvenile courts do not make extensive use of resources in the environment, which prevents a dependence on any of these resources from developing. Concomitantly, the courts do not seem to make efforts to mobilize such resources or challenge existing agencies to serve youth in trouble, thus accounting for the low level of conflict with such agencies. The latter point is of particular import. It has been repeatedly argued that the ability of the juvenile court to effectively serve its population is through active utilization of community resources. Yet, many court staff feel that there is a great deal of reluctance and resistance by such agencies to serve juvenile offenders. Nevertheless, the courts could use their judicial powers to require such agencies to provide necessary services to juveniles. (Attempts to make youth service agencies legally accountable to their clients are exemplified in such litigation as Peter Doe v. San Francisco Unified School District [1973] and Goss v. Lopez [1975].) To use such powers necessitates a willingness on the part of the courts to encounter and tolerate conflict. Apparently most courts, however, do not adopt such a strategy.

Second, the seeming relative insulation of the juvenile court from its environment may also be a function of the overwhelming discretionary powers vested in the hands of the judges. We need not go into the historical developments that have resulted in the concentration of such power in the hands of juvenile court judges at this point (see, for example, Platt, 1969), except to note that very few effective countervailing powers exist and that only since 1967 (with In re Gault) have children obtained some due process guarantees in the juvenile court. Having such discretionary powers, therefore, tends to limit the interaction of youth service agencies with the courts because it inhibits reciprocity. Agencies which must deal with the court are likely to conform to its expectations (hence low perceived conflict) and shy away from attempts to influence its policies (hence low perceived influence). Others are likely to avoid any interaction with the court, if possible. In fact, these dynamics highlight the dilemma of viewing the court as a social service agency. If the court limits its mandate to the adjudication of juveniles, then changes in court policies can be made through the normal processes of case litigations. However, if the court claims to be a social service agency as well, changing the court policies in this area through litigation is a very costly and ineffective strategy. Yet, attempts to change these policies through influence and pressures from the environment (as the case with other social service agencies) immediately encounter serious legal barriers and judicial discretion.

Finally, these findings suggest that juvenile courts are likely to accept a reactive rather than a proactive stance in relation to their environment. There is little indication that the courts actively pursue

services in the community for juveniles under their jurisdiction. In fact, on the average, courts rely 4 times as much on their own services as on those offered elsewhere. Yet most typically, court services involve periodic monitoring of youth.

The consequences of these findings for children processed by juvenile courts are discouraging. They point to a general pattern in which once children enter the court's orbit, they are less likely to benefit from the services of other youth-serving agencies. The court itself is unlikely to call upon these agencies or to challenge their response to adjudicated juveniles. Nor is there any evidence to suggest that such agencies are willing to serve such youth; rather, it seems that they prefer the court to assume responsibility for them. Children under court jurisdiction are likely to be thrust into a very narrow and limited pool of court services and be excluded from a wide variety of community youth services just at the time they need access to as many services as possible.

STRUCTURAL AND STAFF CHARACTERISTICS OF JUVENILE COURTS

JOSEFINA McDONOUGH

Although there have been very few studies of organizational characteristics and their relationship to court behavior, it is commonly acknowledged that juvenile courts vary not only between states, but also within states that operate under a central state judicial system. The problems and shortcomings of the juvenile court are seldom defined in terms of intraorganizational defects, but rather they are attributed most often to a lack of resources in terms of fiscal, staff capability, or environmental constraints. In recent years the felt need for reform by persons inside and outside the court has contributed to increased research and to greater participation by state and federal institutions (e.g., state supreme courts, state court administrators, and the U.S. Supreme Court) in monitoring of the court and in demands for the application of greater due process in the handling of juveniles. Few deny the desirability of reform, but there is considerable evidence that successful implementation is lacking. In a study of juvenile court processing in a large urban state, Pawlak (1972) observed that there was no measurable impact of the Gault decision between the years 1966-1969 on the operations of the courts in the vast majority of counties. In his comparisons of pre-Gault versus post-Gault processing, there were no significant changes in the numbers of petitions formally filed, in probation assignments, in commitments to state institutions, or in dismissals. However, other changes in organizational behavior did occur, and Pawlak concluded that intraorganizational characteristics were more important factors than court rulings. Similar observations have been noted by Ferster and Courtless (1971); Emerson (1969); Lerman (1970); Stapleton and Teitelbaum (1972).

This chapter will (1) compare juvenile courts in terms of selected structural characteristics, such as centralization and specialization; (2) assess the due process and service potentials of the courts; and (3) propose a tentative classification of courts based on findings that are relevant to issues in juvenile justice. The conclusions are suggestive rather than definitive because more systematic study is necessary if we are to understand fully the behavior of the juvenile court. The lack of systematic monitoring and evaluation of court behavior in all but two or three states has resulted in a situation where the essential information for comparative analysis is lacking.

THE COURT'S DOMAIN

The autonomy of state judicial systems combined with the virtual absence of centralized coordination has produced extreme diversity among courts in the United States. The common denominator of all courts is that they are public bureaucracies. Unlike business firms whose domains emerge from a more or less free market competition, the public bureaucracy is assigned an area of public service and does not spontaneously expand and contract (Meyer, 1975).

Courts are distinguished from other public bureaucracies by their specific mandate: administration of justice. But this mandate is not given indiscriminately to all courts. Different courts share different aspects of the administration of justice. In all cases, the specific boundaries of a court's mandate have geographical and functional bases. Every court is assigned jurisdiction over the population in a geographical area, although as we noted in Chapter 2, in a few states more than one court may have jurisdiction over the same geographical area. In such instances formal or informal mechanisms are developed to resolve problems that arise. In addition, courts are assigned jurisdiction in terms of functions to be performed in the judicial system: general, specialized, limited, and so forth. The court domain thus is defined as the geographical and functional area over which a specific court has jurisdiction for purposes of processing youth charged with juvenile delinquency.

Because all courts have an assigned or agreed-upon domain, it is possible to classify the courts in this sample both by functional level of jurisdiction and size of the population. The desirability of such a classification does not rest on shared commonalities but on the fact that court domain is the most stable organizational characteristic in most states. Other characteristics, such as number of staff, patterns of organization, processing or service technologies are far more susceptible to change. Court domain is here identified as a "contextual dimension," which can be assumed to precede structural dimensions and can therefore be treated independently (Pondy, 1969; Pugh et al., 1969). Thus court domain could be used to predict specialization, centralization, formalization, and other organizational variables.

LEVEL OF JURISDICTION

The court sample was drawn from courts with juvenile jurisdiction, but, depending upon the state, some courts reported having general and others, limited jurisdiction.¹ A further classification separated out

1. Information from the National Surveys of Court Organization (U.S. NCJISS, 1972, 1973) and from the American Judicature Society was used to aid in this classification along with the responses of judges and court administrators to questions about the nature of their jurisdiction.

those courts that dealt only with juvenile cases, because they were assumed to be the most accurate representatives of the administration of juvenile justice. Juvenile courts developed initially with the notion that juveniles had special needs and ought not to be handled in the same system as adult criminals. Logically it would then be expected that specialized juvenile courts would epitomize the mandates for the juvenile justice system. Juvenile jurisdiction implemented by nonspecialized courts might reflect the influence of other jurisdictions of the court. With information from the judges' and court administrators' responses it was possible to classify 195 courts: 54.3% are courts of general jurisdiction; 23.5% qualify as specialized juvenile courts, and 22% have limited but nonspecialized jurisdiction.

Although it has been argued that level of jurisdiction is antecedent to other organizational characteristics, it is not obvious how jurisdiction variations would affect intraorganizational patterns. There are several assumptions that require further testing. First, within all state judicial systems, court jurisdiction indicates a hierarchical position in the state system. Second, extrapolating from what happens in other systems (Thompson, 1967), the greater the difficulty and importance of tasks performed by the court, the higher its hierarchical position should be. Courts of general jurisdiction have a broader functional domain, but they also deal with criminal cases that are juridically more serious and complex than courts of limited jurisdiction. Therefore, the former rank higher and have more discretion than units in lower positions.² It was hypothesized that courts of general jurisdiction would have higher levels of autonomy.

Three measures were used as indicators of autonomy: (1) the process by which judges obtain their position; (2) the role of the central judicial agency in setting standards for the court; (3) the judge's certainty about financial support. Court judges were asked whether they had obtained their present judicial position by being "appointed," "elected," or "appointed to fill a vacancy and then elected." Judges appointed by a central agent may be more dependent on that agent to keep their positions than judges that are elected. Accordingly, courts with elected judges were considered more autonomous than courts with appointed judges. More than one third of the judges responded that they had been "appointed" to their position (40%), while the others had either been "elected" (29%) or "temporarily appointed and then elected" (30%). Court judges were also asked how certain they had been in the past year about financial support for the court. Budget certainty in this context referred to the level of stability and independence expected to exist more often in courts of general jurisdiction. The third measure of autonomy was taken from court

2. The argument that autonomy of a subsystem is a result of the larger system's awareness of the complexity and importance of the subsystem's task is made by Litwak (1961). As an example he refers to the autonomy of the research unit in the Bell Corporation.

administrators' reports about the role of a central state agency (e.g., administrative office of the courts, supreme court administrator, and so forth) that had responsibility for setting the standards courts were expected to follow. One-third of the administrators (34.8%) reported that their courts' processing standards were set by a central agency.

The findings in Table 6.1 provide consistent support for the hypothesis that general rather than limited courts would report greater autonomy. No predictions were made about the specialized juvenile court, but its intermediate position is consistent with its special status. Because it is a limited court it should and does rank lower than the general court. Given the complexity of its tasks, the juvenile court was expected to rank higher than the limited nonspecialized courts.

TABLE 6.1
COURT AUTONOMY BY LEVEL OF JURISDICTION

	(N)	Type of Jurisdiction ^a			Eta	Level of Significance
		General	Juvenile Specialized	Limited Non-Specialized		
Judges elected	(245)	.70 (130)	.53 (62)	.50 (53)	.33	<.001
No accountability on standards	(191)	.70 (108)	.60 (45)	.50 (38)	.25	.001
Certainty of budget	(175)	.64 (87)	.56 (46)	.52 (42)	.25	.003

^a The higher the scores, the greater the autonomy, with the range possible 0-1.

SIZE OF JURISDICTION

The implications of size of jurisdiction for the structural and functional characteristics of the court can be inferred directly from the organizational literature. Size of jurisdiction refers to the size of the population over which the court has jurisdiction--its potential clientele. Size of clientele is known to be a fundamental factor in service organizations, determining amount of resources, size of staff, extent of division of labor, and service delivery (Lefton and Rosengren, 1966).

For this analysis courts were divided into four groups on the basis of the size of the jurisdiction.³ Small and medium courts (50,000 - 199,999) constituted about two-thirds of the sample (62%), while one-third fell into the larger categories. As noted in Chapter 2, however, the larger courts process the majority of delinquency cases in the nation. The next step was to cross-classify by size and level of jurisdiction.

The relevance of size and level of jurisdiction was noted earlier, and in order to develop a typology of courts one must ensure that the components of the typology are indeed differentiating distinct types of courts. If size and level vary independently, both dimensions meaningfully characterize the courts. The zero-order correlation is $r = -.01$ ($N = 255$). It can then safely be assumed, for the purposes of this analysis, that these typology components are independent.

Table 6.2 presents the courts classified by size and level of jurisdiction.

TABLE 6.2
JUVENILE COURTS BY LEVEL AND SIZE OF JURISDICTION

Type	Number of Courts	Percentage
Small limited	29	14.8
Small juvenile	32	16.4
Small general	61	31.3
Large limited	14	7.2
Large juvenile	14	7.2
Large general	45	23.3
TOTAL	195	100.0

NOTE: *Small* refers to jurisdiction of 50,000 - 199,999 population. *Large* refers to jurisdiction of 200,000 and over, with only two courts in the sample whose jurisdiction population exceeded 2,000,000 persons.

3. All through this chapter "court size" will stand for size of court's jurisdiction. Although size of staff and number of youth processed in a year could equally be legitimate indicators of size, they do not have the contextual characteristics of size of jurisdiction. As expected, however, size of jurisdiction is strongly correlated with number of staff ($r = .61$) and number of juveniles processed ($r = .70$).

STRUCTURAL DIMENSIONS

Information about structural characteristics was obtained from both the administrator and judge questionnaires. Specialization, complexity, control, and staff participation in decision making were selected as the variables for further analysis given the data available. These variables are by no means inclusive of all structural dimensions, but they are representative of organizationally relevant variations among courts. Each variable will be examined separately, and then their relationship to organization size will be considered.

Specialization. The indicators of specialization were the presence of a separate intake unit and the proportion of time spent by administrators on explicit management tasks. Intake separation has been asserted to be important if diversion of clients out of the court and the separation of screening from treatment functions are to be effective. Nearly half (45%) of the courts reported that they always handled intake in a special unit, while in 35% of the courts special handling in an intake unit never occurred. The remaining 20% stated that they had a more or less irregular pattern of intake.

The separation of administration from client service tasks was characteristic of the process of differentiation leading to specialization in human service organizations. Of the respondents, 36% said that they spent most of their time on administrative tasks and therefore could be assumed to be full-time administrators.

Complexity. Although organizational complexity is usually thought to be associated with specialization, there are distinct characteristics of complexity that might or might not coexist. The diversity of services offered by an organization, and even the diversity of its personnel, do not guarantee a high degree of specialization of services and personnel. This distinction is important in human-service organizations, which often explicitly discourage narrow job definitions and strict division of labor. For example, in a probation unit, one might have three types of staff: psychologists for diagnosis of emotional problems; social workers for counseling youth and their families; and teachers to assist with special remedial education services. In one instance such a unit may operate in a highly complex, differentiated manner, whereas in another the same professionals might emphasize a generalist approach to youth so that all are expected to respond to the total spectrum of needs. The existence of a variety of personnel and services indicates an awareness of the complexity of the tasks to be performed, but does not necessarily indicate specialization.

Of the courts studied 54% had one full-time judge and 17% had one judge plus one or more referees. Only about 30% of the courts had only one judge and no referees. Of the eleven occupational categories

listed (judges, probation supervisors, line probation, clericals, psychologists, administrators, attorneys, referees, psychiatrists, and teachers), the courts had an average of six of these occupational types. Of the eight types of services listed (e.g., counseling, guided group interaction, reality therapy, vocational and academic education, work, behavior modification), the average was 5.3 different types. Thus it was concluded that this sample of courts manifested fairly high levels of complexity.

Control. Control was measured in two ways: (1) concentration of authority in the judge, and (2) the proportion of supervisors to probation officers in each court. Judges, on the average, had 1.3 times more influence than probation officers in the responses of court administrators; this influence was strongest at adjudication (4.5 times) and less at intake and disposition. Centralization of authority was also examined with reference to the frequency of probation review and the role of the judge therein, but because of the overall infrequency of postdisposition review, no clear pattern emerged. With respect to the ratio of probation supervisors to line staff, it was expected that the higher the ratio the more intensive the supervision and hence control. In the courts studied there was, on the average, one supervisor for every nineteen probation officers.

Participation in Decision Making. Although it is commonly assumed that control and participation vary inversely in organizations, this is not necessarily the case.⁴ Participation might be a sophisticated means of control because it always requires some symbolic sharing, but not always a redistribution of power. Sixty-two percent of the administrators replied that probation officers participate frequently in decision making. If this were accepted as a legitimate indicator of the actual sharing of power, it would contradict directly the finding of Emerson (1969: 230-235) about the low status of line probation officers. The frequency of case conferences by line staff was also investigated, and here too the modal response was that these were "often" held.

Size and Structural Variations. With respect to the relationships of the above variables to size, it was expected that size of jurisdiction would be directly related to specialization and complexity, and inversely related to control and participation. The findings presented in Table 6.3

4. A typical example of this is the process of formal cooptation described by Selznick (1949). It was this potential for manipulation of work motivation that led so many organizations to develop mechanisms to improve their workers' morale.

confirm this proposition for all of the variables except "frequency of case conferences" and "number of different service types." Examination of the significance of the difference between each pair of consecutive size groups (1-2, 2-3, 3-4) indicates that specialization and complexity steadily increase up to jurisdictions of 700,000 and then level off beyond that size. In the case of judicial diversity there are more judges and referees in the larger courts. Participation in policy decision making decreases as courts become larger. The larger the court the lower the ratio of judge to probation officer influence. All participation of line probation officers in policy decisions is significantly smaller in the very large courts--a typical observation in most large bureaucracies.

TABLE 6.3

VARIANCE IN STRUCTURAL DIMENSIONS BY SIZE OF COURT JURISDICTION
(N range = 146-220)

Structural Indicators	Size of Jurisdiction ^a				Eta	Level of Significance
	Small	Medium	Large	Very Large		
Intake specialization	2.4	4.4	6.2	6.8	.46	<.001
Administrative specialization	3.4	3.5	3.6	3.7	.39	<.001
Diversity of personnel	3.6	4.2	5.6	6.2	.46	<.001
Judicial plurality	4.8	5.5	5.8	7.3	.29	.002
Judge/probation influence	1.5	1.2	1.3	1.3	.26	.018
Ratio of probation supervisors/line	4.0	3.5	2.6	1.3	.21	.044
Probation participation	5.8	5.6	5.6	4.0	.25	.003

NOTE: All means were standardized on a scale of 1-10. The higher the mean score, the greater the complexity, specialization, control, or participation.

^aCourt jurisdiction size: small = 50,000-99,999 population; medium = 100,000-199,999; large = 200,000-699,999; very large = 700,000 and over.

The slight but steady decline in the supervisor-to-probation officer ratio as jurisdiction size increases deserves further discussion. At first glance, it would seem that the reverse should occur; that is, that larger organizations should have proportionally more supervisors, since

large-scale operations have a great demand for full-time coordinators.⁵ A full-time supervisor can naturally cover more probation officers than a part-time one. The implication of this rationale is that supervision intensity might be more appropriately considered an indicator of specialization than of control proper. This interpretation receives some indirect support from the significant negative correlation between supervisory intensity and the other items of specialization. The relative number of supervisors decreases (indicating more specialized supervisors) as intake (-.26) and administrative (-.18) specialization increase. Increases in full-time intake workers and administrators tend to be accompanied by increases in full-time supervisors.

THE EFFECT OF JURISDICTION LEVEL ON COURT STRUCTURE

Guidelines from the organizational literature that were helpful in formulating hypotheses concerning jurisdiction size are nonexistent in relation to level of jurisdiction. Propositions about the manner in which level of jurisdiction is expected to affect structural dimensions of courts will be based on the pre-service differences and relevant characteristics of service organizations. Courts, like any other people-processing organizations, tend to fit into a human-relations model rather than a purely bureaucratic model.⁶ This is especially important because the task of administering justice is clearly complex and cannot be highly routinized. Assuming that the human relations characteristics of courts will be more marked the greater the awareness of the complexity of their task, the general court would be expected to show more such characteristics. Typically, human relations organizations have been described as tending to underplay centralized control, encourage participation and complexity, and favor generalists rather than specialists (Litwak, 1961). With this rationale in mind, it was hypothesized that the general court would rank higher in complexity and participation but lower in control and specialization than any of the other court types. The results are presented in Table 6.4.

Administrator specialization, judge plurality, centralization of control, and participation of probation officers in policy decision making did not vary across jurisdictional levels. "Diversity of personnel and services" as well as "frequency of case conferences" vary significantly in the expected direction; but intake specialization,

5. Supervision in large courts is more likely to be a full-time assignment than in small courts.

6. Bureaucratic organizations have been characterized by impersonal social relations, specificity of job definitions, and hierarchical authority organization, while human relations organizations more often have horizontal patterns of authority, generality of job definitions, and more personal involvement in social relations.

contrary to predictions, is higher in general than in limited courts. The general court is more differentiated, specialized, and uses case conferences more frequently than the limited court.

The very low ranking of juvenile courts on these indicators is, however, perplexing. The significance of the difference between the general and the juvenile courts suggests that they are much farther apart on these organizational characteristics than the general and limited courts. The juvenile court with its "service goals" should, in principle, fit a human relations model best, but the findings indicate the contrary. There seems, then, to be an inconsistency between the proposed goals and the organizational capabilities of this court.

TABLE 6.4
VARIANCE IN STRUCTURAL DIMENSIONS BY LEVEL OF JURISDICTION
OF THE COURT
(N range = 145-232)

Structural Dimensions	MEAN SCORES ^a			Eta	Level of Significance
	<u>Level of Jurisdiction</u>				
	General	Limited	Juvenile		
Intake specialization	5.4	4.2	3.8	.18	.05
Diversity of personnel	4.7	4.6	4.0	.14	.03
Diversity of services	5.2	4.4	4.0	.19	.04
Frequency of case conferences	3.0	2.6	2.2	.16	.08

^a The higher the mean, the more the structural variable is present.

The interpretation that the general court fits a human relations type of organization best receives further reinforcement from the correlations between specialization, complexity, and frequency of case conferences. These are significant only for courts of general jurisdiction. The significant organizational differences among courts with varying domains (as defined simultaneously by size and level of jurisdiction) are shown in Figure 6.1.

That large courts are more complex and differentiated is confirmed, but differences by level of jurisdiction are varied. Large limited and large general jurisdiction courts have similar scores, but the large juvenile court diverges and falls below on several measures. Explanation of why the latter occurs is not necessarily obvious. Specialization and complexity might depend on resource stability, which is more precarious

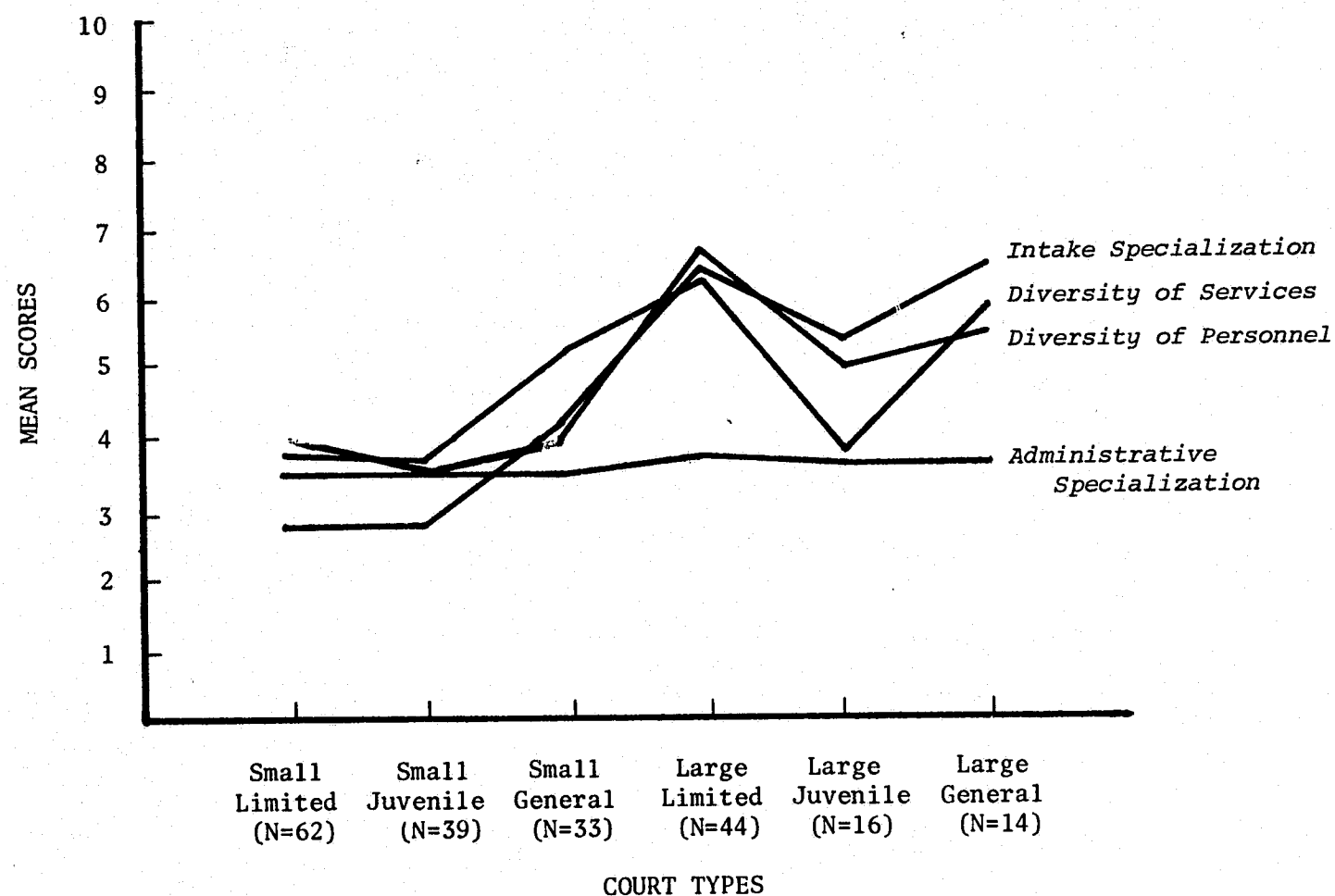


Fig. 6.1. Significant Means Variation of Organizational Characteristics by Types of Courts.

for the juvenile court, the findings indicate.⁷ Budget certainty, however, is a reasonable predictor of complexity and specialization only in small courts. In large courts size alone appears to have the greater impact on these characteristics. The importance of resources cannot be ignored, because there is some evidence that diversification of personnel is more correlated with certainty of resources for the juvenile court ($r = .32$) than for the limited ($r = .17$) or the general court ($r = .24$). Another possible explanation is that the goals of the court (due process and treatment) and so interwoven informally that specialization is not viewed as desirable, as it would be in other courts.

COURT STAFF CHARACTERISTICS

Whether structural variables precede personnel characteristics or vice versa, analysis of both of these characteristics is important to any assessment of organizational behavior. Staff, regardless of their training, are influenced by structural patterns, but any design for an organization will fail if the appropriate manpower is not available (Scott, 1967).

Five court staff subgroups will be described. These represent the major occupational subgroups employed in the juvenile court. Table 6.5 summarizes the relevant sociodemographic background information for each of these subgroups: judges, administrators, probation supervisors, line probation staff, and detention supervisors. It is obvious that the court staff are generally middle-aged, white, male, married, possess at least a bachelor's or law degree, and have had prior juvenile justice experience, or in the case of the judge, prior judicial experience.

When these findings on staff characteristics are compared with similar information obtained by the National Assessment of Juvenile Corrections in a survey of juvenile correctional programs (Vinter, 1976), marked differences are readily apparent. In contrast to personnel in juvenile institutions, group homes, and day treatment centers, court personnel are older, more often male, white, married, and have had more education. They have slightly less prior experience, however, in working with children or in juvenile justice programs. Given the data presented in Chapter 4 about the characteristics of juveniles referred to and processed by the court, there are marked disproportions with respect to sex and race. That survey of courts reported a male/female clientele ratio of approximately 5 to 1; the referral rate for white youth was 7 per thousand and 19 for nonwhite

7. Juvenile courts had a mean of 2.8 as compared with 3.3 for courts of general jurisdiction on the measure of certainty of resources.

TABLE 6.5
COURT STAFF CHARACTERISTICS, BY OCCUPATIONAL SUBGROUPS

	Mean Age	Male (%)	White (%)	Mar- ried (%)	B.A. De- gree (%)	Law De- gree (%)	Post- Grad. Educa- tion (%)	Prior Exper- ience ^a (%)	(N) ^b
Judge	-- ^c	97	94	93	82	96	4 ^d	92	(274)
Administrator	43.56	79	89	85	71	5	59	78	(237)
Probation supervisor	40.0	72	93	82	88	4	65	76	(119)
Line probation	31.96	61	89	68	92	1	52	44	(388)
Detention supervisor	41.51	82	86	81	73	0	62	53	(171)

^aPrior experience was calculated for all juvenile justice experience except for judges, where the question asked referred to prior judicial experience.

^bThe N varied slightly for each of the items for the several subgroups.

^cInformation on age was not asked.

^dFor judges the response was for postgraduate legal training.

youth. Characteristics of the court staff do not reflect these sex and race ratios. The personal characteristics of judges in this survey compare closely to those reported by Smith (1974) from the survey of the National Council of Juvenile Court Judges in 1973. He reported that the mean age was 52.1 years; 96% were male; 93% were married; and the modal judge spent 25% or less of his judicial time on juvenile matters.

In order to examine relationships between staff and organizational characteristics (size and level of jurisdiction), three indicators of staff characteristics were utilized:

1. Educational level

- Judges' postgraduate legal education
- Court administrators' actual education
- Probation officers' required education

2. Professional involvement

- Professional affiliations of judges
- Professional affiliations of administrators

3. Commitment

- Judges' judicial commitment
- Judges' commitment to juvenile justice
- Administrators' organizational commitment

Educational Level

Almost all judges (96%) in charge of juveniles have a law degree. This represents an improvement over the past decade. In a national study conducted in 1963 by McCune and Skoler (1965), it was reported that only 75% of all juvenile judges had a law degree. Smith (1974) reported in the survey described above that 82% had three or more years of law school and 86% were licensed to practice law. Since the current survey excluded courts in counties below 50,000 population, these findings may be slightly biased toward areas where higher levels of legal education are required. The percentage of judges with postgraduate legal training is considerably lower (58%). The average education of court administrators is above a bachelor's degree, but not quite at the master's level. Approximately 85% of the probation officers were required to have a bachelor's degree; but 13% of the respondents answered that a high school education or less was acceptable in their courts. Only in 2% of the courts was a master's degree required for probation officers.

Professional Involvement

Judges and court administrators were asked to indicate professional groups of which they were members. Judges said they belonged to an average of 5.5 professional organizations.⁸ The state bar associations were the organizations most often cited; 70% of the judges were members of these organizations. By comparison, the American Bar Association has a much lower (48%) affiliation rate. This difference is even more evident in relation to offices held by the respondent judges: 19% said they had held office in their state bar association, while only 6% had had similar positions with the American Bar Association. Overall, membership in the local bar association (50%), state judges association (53%), and National Council of Juvenile Court Judges (55%) is above that of the American Bar Association. Of special interest is the fact that as many as 40% of the respondents have held or still hold offices in local bar associations. This suggests that a sizable proportion of the judges have high local involvement.

8. The judge's professional involvement was measured by the number of organizations the judge was affiliated with, but holding office was weighted twice as much as simple membership.

The most common professional affiliation of court administrators was with the state or regional probation or correctional association (63%). This suggests that administrators are often selected from the ranks of probation officers or are only part-time administrators who have duties in probation. The two other organizations selected frequently were the National Council on Crime and Delinquency (45%) and the National Council of Juvenile Court Judges (31%). Court administrators were only slightly lower than judges in professional affiliation, averaging membership in 5.2 organizations.

Organizational Commitment

This group of indicators is varied, so each will be discussed in turn. Court administrators were asked about the length of time (years) they had worked for the court in which they then held a position. It has been observed that the longer people work for an organization, the greater the likelihood that they will identify their interests with those of the organization (Gouldner, 1957). Accordingly, it was assumed that administrators who have been with the same court for many years would be more committed to the maintenance of that court than newcomers. The median length of employment for administrators was between six and ten years.

Because the administration of juvenile justice is known to be freer from legal constraints than the administration of adult justice, it was assumed that the legal commitment of judges would be higher if they had held another judicial position in the past. Legal commitment was defined as a strong due process orientation. Half of the judges indicated they had held a previous judicial position. Vinter (1967) stressed that most juvenile judges used their position as a stepping-stone for their judicial career and had no real interest in juvenile justice. Judges were asked how they became interested in their judicial roles and, on the whole, their responses supported Vinter's argument: 70% said they had no special interest in juvenile justice but that it was part of their career, 11% indicated that such a position was consistent with their desire to serve the community, and only 19% answered that they were especially interested in youth problems.

SIZE OF JURISDICTION AND STAFF CHARACTERISTICS

Presumably, the larger the court, the more important and difficult the job of the judge (executive) and of the administrator (coordinator). Accordingly, one would expect that persons with better training, experience, and professional standing would more often occupy such positions in large courts than in small courts. The underlying assumption is that organizations assign responsibility on the basis of competence (education, experience, and professionalization). The

verified association between size, specialization, and complexity suggests that the education criteria for probation officers should also be higher in courts of large jurisdiction. Similarly, the more clearly defined a position, the greater the probability of longer tenure of its incumbents. Administrative specialization, known to occur more often in large courts, should imply a greater stability among administrators.

It was predicted that the educational level of courts' key personnel and the professional involvement of both judge and administrator would rank higher the larger the jurisdiction of the court. It was also expected that the judicial experience of the judges and the length of employment of the administrators would vary directly with the size of jurisdiction. There are, however, no clearcut grounds on which to predict any association between a judge's commitment to youth and the court's size.

The findings reported in Table 6.6 only partially support the above hypotheses. Administrator education, professional involvement, and organizational commitment are indeed significantly associated with size, as are standards for probation officers' education. On the other hand, size was not important in relation to the judges' education, experience, and professional involvement. This lack of association might be due to the fact that many courts have more than one judge, and plurality of judges is especially conspicuous in the very large courts. Given the plurality of judges in many courts, the argument presented previously--that the larger the court, the greater the responsibility and accordingly the expectation of higher competence of the judge--could only be tested if the questionnaires were answered by the presiding judges, rather than by judges in charge of juvenile justice. Conversely, there is little difference in education, professional involvement, and experience among judges responsible for juvenile justice across courts of varying sizes.

It should be noted that for the other indicators, the increase of education for administrators and probation officers as well as the professional involvement of administrators levels off beyond the 700,000 jurisdiction size. This is consistent with the findings, reported in the previous section, that organizational "sophistication" does not progress beyond a certain point. Very large courts (above 700,000 in jurisdiction) do not have better-trained personnel than courts with jurisdiction over populations ranging from 200,000 to 700,000. Although the judges' overall professional involvement does not vary with jurisdiction size, their involvement in local professional organizations does (e.g., local bar association, local judicial, legal, or youth service groups). As Table 6.6 shows, the larger the courts, the less locally involved are the judges. A possible interpretation of this inverse relationship is that local involvement might be a response to local dependence and that such dependence is less likely to occur in large or very large jurisdictions.⁹

9. This relation between size and dependence is discussed in Litwak et al. (1970, chap. 2).

TABLE 6.6
VARIATIONS IN STAFF CHARACTERISTICS BY COURT SIZE
(N = 195)

	MEAN SCORES				Eta	Level of Significance
	Size Levels					
	Small	Medium	Large	Very Large		
Administrators' education	7.0	7.8	8.2	7.6	.19	.06
Probation staff's education	6.7	7.0	7.3	7.5	.22	.02
Judges' local involvement	3.3	3.1	2.7	2.9	.27	.002
Administrators' professional involvement	4.6	5.2	5.9	5.1	.21	.02
Administrators' organizational commitment	3.4	3.0	4.2	5.6	.27	.001

NOTE: All means were standardized on a scale of 1-10. The higher the mean score, the higher the education, involvement, or commitment.

LEVELS OF JURISDICTION AND STAFF CHARACTERISTICS

Courts of general jurisdiction have been described as having more prestige within the judicial system than courts of limited jurisdiction. Such prestige results from the tasks they handle, which are considered to be legally more important and complex. Handling matters of greater responsibility would be expected to fall to individuals with greater competence (experience, training, professionalization). Accordingly, it was expected that the general educational level and professional activism of judges and administrators would be highest in courts of general jurisdiction. Similarly, judges' legal experience and administrative stability were expected to be associated positively with general jurisdiction. Commitment to juvenile justice was, however, expected to be highest in juvenile courts. If a judge has a special interest in youth problems, it is reasonable that he would try to work in courts specializing in those problems.

The above predictions were for the most part unsupported. Only judge-related characteristics were significantly associated with jurisdiction level. With one exception--judge's commitment to youth--the associations were not in the predicted direction. Judge's education,

professional involvement, and judicial experience were as high or higher for the courts of limited jurisdiction as for the courts of general jurisdiction. Although juvenile court judges ranked the lowest in education and judicial experience, they ranked first in youth commitment and in overall professional involvement as well.

It was also found that general court judges were the least involved in local organizations. This is consistent with findings and arguments developed earlier about the greater autonomy of the general court. Indeed, it reinforces our assumption that local involvement might be an appropriate indicator of local dependence.

To summarize: (1) jurisdictional level seems to be important only in relation to judges' characteristics, while size has an effect on characteristics of other personnel, but not on judges; (2) juvenile court judges are more interested in youth and show greater professional involvement than any other judges, although they have the least training and judicial experience; (3) in training and judicial experience, the limited-jurisdiction court judge ranks ahead of all other judges. From this analysis, the juvenile court judge emerges with an interesting profile--more complex than the one proposed by Vinter (1967) and Lemert (1967). His education and judicial experience are consistent with the descriptions of those authors, and are suggestive, as they contend, of the low prestige of the juvenile court in the judicial system. However, the clear interest in youth problems and high professional involvement denies the proposition that such judges are marginal to the legal profession and indifferent to their charges.

ORGANIZATIONAL EFFECTIVENESS

The foregoing analysis indicated that courts with different domains have different organizational "equipment." The next relevant question concerns aspects of the court's functioning. Does the court's context (jurisdictional size and level) affect the degree of effectiveness with which courts perform their tasks? Before attempting to answer this question, a few preliminary considerations are in order.

Since each court jurisdiction level has a different mandate, it was assumed that the tasks required to fulfill such mandates were variable and called for different organizational characteristics. It follows that organizational "sophistication" would not necessarily be related to organizational effectiveness in all courts. For instance, if most cases referred to a small court of limited jurisdiction were rather simple, high degrees of specialization and complexity might be a waste of resources and even counterproductive. Imagine how senseless it would be, if for every minor traffic violation one had to go through a court psychiatric evaluation and be forced to accept counsel. Moreover, this would clog processing channels and eventually paralyze the traffic court.

Effectiveness is a very fluid concept that can only be assessed in relation to specifically defined goals. Formal organizations, such as the courts, have a multiplicity of goals, and the assessment of organizational effectiveness will necessarily be multiple (see Chapter 3). Because goals within each organization are not necessarily interdependent or congruent (Perrow, 1970), the profile of an organization's effectiveness cannot be expected to be evenly distributed.

In evaluating how effective courts are, the present study only focused on two functional outcomes defined as desirable for all courts: (1) administrative effectiveness, which was operationalized in terms of the absence of problems in a variety of intraorganizational aspects relevant to the functioning of any formal organization; and (2) procedural effectiveness, which was defined and measured in relation to the extent each respondent court followed due process guidelines in decisions related to adjudication.

Administrative Effectiveness and Size of Jurisdiction

The items used to measure this restricted definition of administrative effectiveness are related to intraorganizational work conditions. If a court administrator reported that "excessive paperwork," "uncooperative staff," "ill-trained staff," "poor communication among staff," "staff turnover," and "conflicting directions" were definite problems for the court's delivery of services, such a court was considered to have ineffective work conditions. Almost half (49.5%) of the valid responses indicate that paperwork is a common problem in the courts; conflicting directions and problems with the staff (communications, turnover, and lack of training) were a problem for 15%-20% of the respondents. For the overwhelming majority (95%) there were no problems of lack of cooperation among staff.

Existence of problems in these areas varies directly with size except for "conflicting directions." The data presented in Table 6.7 show that the larger the jurisdiction of the court, the more problems it has with excessive paperwork and with staff that is inadequately trained, unstable, and isolated. In relation to problems with staff, the difference between pairs (small-medium, medium-large, and large-very large) of court groups increases steadily with size, establishing clearly the linearity of the association.

Multiple structural analysis (AID), including jurisdiction level as well as structural dimensions and staff characteristics as predictors of organizational problems, showed size to be consistently the prime explanatory dimension.¹⁰ Administrative ineffectiveness is

10. Because of the small N, the AID tree never surpassed the second split level, and consequently there were never large increases in the percentage of variation explained. This method was used here mainly as a check on the validity of the results of the simple analysis of variance.

TABLE 6.7
VARIANCE IN COURTS' ADMINISTRATIVE PROBLEMS
BY SIZE OF JURISDICTION

Problems	Size Levels				(N)	Eta	Level of Significance
	Small	Medium	Large	Very Large			
Too much paperwork	2.4	2.7	2.3	2.0	(192)	.25	.004
Conflicting directives	3.1	3.3	3.1	3.0	(192)	.11	.493
Uncooperative staff	3.6	3.6	3.6	3.4	(193)	.09	.669
Ill-trained staff	3.3	3.2	3.0	2.4	(190)	.29	<.001
Poor communications among staff	3.4	3.3	3.0	2.8	(192)	.25	.005
Staff turnover	3.5	3.3	3.2	2.4	(192)	.36	<.001

NOTE: Analysis of variance (range: high = 1; low = 4).

often due to the size of the court's operation rather than to the type of cases it handles, the level of education of the staff, or the existence of specialized positions. The only exceptions were the responses about "conflicting directives." The longer an administrator was employed in a court, the less likely it was that he reported "conflicting directives" as a problem. This is in accord with the prior argument that length of employment would be positively associated with organizational commitment, and consequently decrease the perception of organizational conflict.

Although large courts have more favorable structural and characteristics, they report more administrative problems that inhibit effectiveness. Demands imposed by size strain the ability to coordinate and integrate staff (Thompson, 1967). The discovery of internal strain in courts of large and very large jurisdiction is not surprising. It suggests, however, that there are clearly diminishing returns on investment (in terms of structural and personnel sophistication) in establishing very large jurisdictions for courts.

Due Process and Judicial Level

Selection of due process measures to assess court effectiveness is in accord with present reform efforts in juvenile justice. Items selected for analysis here were restricted to adjudication, because this is the

core function of the court and the task is purely judicial and not to be delegated. Furthermore, this was the first area of process to receive substantial attention from the Supreme Court. Indicators of due process were therefore expected to be more reliable. Adjudicatory decisions are also more insulated from external pressures than are intake or disposition. There is ample evidence in the latter instances that these decisions are conditioned by the environmental network of which the court is a part. It was expected that courts of general jurisdiction would use more procedural safeguards than courts of limited jurisdiction. Because cases handled by limited-jurisdiction courts are supposedly of less importance, such safeguards are thereby less necessary.¹¹ A leveling effect was expected in procedures used for the courts' major jurisdiction (general or limited) and the subsidiary jurisdiction (juvenile), so it was hypothesized that courts of general jurisdiction would rank higher in due process than courts of limited jurisdiction.

Specialized courts with exclusive juvenile jurisdiction were expected to be the most responsive of all, because these are the courts most identified with juvenile justice; therefore, departures from new standards are more conspicuous. The fact that juvenile court judges were especially concerned about youth problems and professionally very active further supported the expectation that these judges would be sensitized to changes affecting their court jurisdiction.

The items utilized in the analyses are presented in Table 6.8, and the hypothesis is for the most part confirmed.¹² Juvenile courts rank highest in compliance with the legislated due process items across jurisdictional levels, and even for nonlegislated items, the juvenile court ranks high, except for the "right of access to the youths' file by parents."¹³ As expected, the limited-jurisdiction court was the least responsive to due process changes. The intercorrelation

11. In a recent comparative study of juvenile courts, it was found that consistency of standards had no relation to due process. The court that consistently dismissed first offenders was also the most punitive in relation to status offenders (McDonough, 1975).

12. For a detailed discussion of the general issues in due process, see Chapter 9.

13. It is debatable whether such access signifies protection of the juvenile offender's rights. To consider parents' access to the social file as a guarantee of the individual's rights, one has to assume that the parents' and the child's interests are the same. This assumption is made in other spheres of life (e.g., medical treatment), and is a correlate of the limited responsibility of childhood. There is, however, some evidence that this assumption often does not hold in relation to juvenile justice. It is not unusual for parents to use the juvenile court as an extension or a substitute for the authority they might lack with their children.

TABLE 6.8
CONCERN WITH DUE PROCESS BY COURT JURISDICTION LEVEL

Due Process	UNIFORM MEANS ^a			(N)	Eta	Level of Signi- fificance
	<u>Level of Jurisdiction</u>					
	General	Limited	Juvenile			
<u>Legislated</u>						
Appointment of counsel at adjudication	.55	.60	.50	(245)	.17	.03
Cross-examination of witnesses	.36	.36	.30	(243)	.14	.08
State rules of evidence	.22	.26	.20	(246)	.19	.01
<u>Nonlegislated</u>						
Parents' access to social file	.54	.58	.66	(244)	.17	.03
Judge's lack of access to social file	.28	.42	.20	(244)	.22	.003
Transcripts of adjudication	.05	.35	.05	(243)	.59	<.001

^aThe lower the score, the higher the due process orientation (range is 0-1).

among all due process items, stratified by court level, suggests that the juvenile courts not only are more due process oriented, but also are more consistent in their orientation at adjudication (see Table 6.A2 in the Appendix). Using multiple structural analysis (AID), the impact of size, structure, and staff characteristics, as well as jurisdiction level, on due process at adjudication was tested. This analysis also confirmed that jurisdiction level was the primary explanatory variable.

SUMMARY

Throughout this chapter, the major premise has been that the courts' organizational structure would condition the success of reforms in the administration of justice. The ideologies shaping those reforms are of two, apparently contradictory, types. Given the duality of the juvenile court goals (to administer justice and to provide service), the failure to do either well is often attributed to the irreconcilability of these goals. However, in Chapter 3 it was observed that service and

due process orientations were interwoven. If one were to propose organizational mechanisms for reconciliation of those goals, it would first be necessary to identify those conditions necessary for the protection of individual rights, and then the service of needs. The more effective court would be one whose organizational characteristics were consistent with the requirements of the justice model and also with the complexity of service. Although our findings indicate that the due process goal is better served by specialized juvenile courts, these same courts rank lowest on structural and personnel indicators of a professionalized organization. They have little specialization at intake (major diagnostic or screening function), and they have a minimal diversity in personnel or services to attend to the needs of their clients. Therein lies the dilemma between justice versus service.

Organizational capabilities assumed to be favorable to diversity in service technologies appear either in very large courts or in courts that rank high on resource certainty (courts of general jurisdiction). However, large courts were also found to be plagued with administrative inefficiency. Thus, expansion does not appear to be the ideal solution to the problem of scarcity of personnel and services in the juvenile court. The alternative appears to be to increase the dependability of resources. In small and medium-sized courts, complexity is significantly associated with certainty of funding. Furthermore, this association is distinctively high for juvenile courts. Therefore, the importance of resources cannot be overestimated.

At present, the court of general jurisdiction is probably the best equipped to fulfill both mandates of juvenile justice, due process and service. It has the best organizational characteristics for handling the complex tasks of service, and its orientation favors due process. In contrast, the court of limited jurisdiction is probably the least desirable on both counts. The juvenile court appears, however, to have the potential to promote the two directional reforms. It shows the greatest responsiveness to due process reform, and it appears to diversify (in terms of personnel and services) as a function of funding certainty.

CASE PROCESSING: INTAKE, ADJUDICATION, AND DISPOSITION

MARK CREEKMORE

This chapter will develop a normative model of case processing based on standards promulgated by such national organizations as the National Advisory Commission on Criminal Justice Standards and Goals, the National Council on Crime and Delinquency, the John Howard Society, and the American Bar Association, as well as on intensive field study by this project staff. The chapter will then contrast the empirical findings from the national sample with the model. In doing so, we hope to identify problems in the handling of juvenile cases in the courts and some of the key policy issues in this area.

A PEOPLE-PROCESSING ORGANIZATION

Juvenile courts can be conceptualized as people-processing organizations in the sense that they meet these criteria (Vinter and Sarri, 1966):

Input

1. A person or situation is assessed to determine whether it is legitimately subject to processing.

Throughput

2. The person or situation is examined to determine what types of action alternatives are appropriate.
3. The most appropriation action is chosen from among the alternatives.

Output

4. Once an alternative course has been chosen, the person's relocation in a new status/system is managed.

The products of people-changing organizations are "people with changed statuses and locations in various community systems" (Hasenfeld, 1972). In the juvenile court, statuses are designated by formal and informal processes. "Delinquent," "in need of supervision," and "dependent/neglect" are labels or statuses formally conferred in three

kinds of cases. "Informal probation," "diversion," "continued," and "held open" are informal. These statuses (both formal and informal) are usually given in conjunction with locating or relocating youth in various community systems--educational, social service, or correctional. Where the youth are placed in these systems reflects the degree of court intervention and disruption in the lives of youth. The most intervention may involve long-term incarceration at training schools outside the community; placement in group homes or residential facilities in the community may only partly remove youth from their usual lives. The majority of youth handled by the court are placed on probation, but the terms usually include restriction from activities, places, and people. For example, youth may be restricted from dating, seeing friends, driving a car, or shopping in certain stores, and generally must observe a curfew. They may also be required to attend treatment programs, schools, probation interviews, or work. Whenever youth are involved with court actions, a record is kept. These records often carry prejudicial information which may influence future processing decisions.

The juvenile court is the only community agency with the power to change the legal statuses of youth. Fulfillment of this mandate is the most crucial task of the court because the changes in the statuses of youth are permanent (except in the rare occurrence of formal expungement) and may have lasting, disruptive consequences on their lives. At the least, the outcome of court intervention into the lives of youth is uncertain. For this reason, schools, peers, police, parents, and even processed youth themselves may react negatively to even the suspicion of court intervention (Gold, 1970). Most complainants and youth perceive and anticipate coercive and negative action by the court, and this impression is reinforced by public media, public agencies, and individuals. Even on cases dismissed from court, workers often threaten processing with more coercive consequences if the youth reappears.

THE NORMATIVE MODEL

The normative model has been developed to establish a comparison between what should actually take place in juvenile court case processing and what actually does take place. The model therefore presents a baseline against which courts can measure their own patterns of juvenile processing. The model assumes that there are three stages in the processing of juveniles through the courts: (1) intake, (2) adjudication, and (3) disposition.

THE INTAKE STAGE

The pretrial investigation and screening of referred cases is generally defined as intake, corresponding to the arraignment stage in adult court processing. Decision making at intake is based on broad criteria: the alleged offense, the circumstances surround its commission, prior behavior of the youth, and the perceived needs of the youth, the

youth's family, and the community.

The intake stage is important not just because of national trends to handle more cases there; intake is critical because intake personnel have the power and discretion to effect long-term consequences for youth. They determine the "track" youth are initially placed on. As the Manhattan Bail Project and other research have amply demonstrated, these initial decisions are of critical importance for how cases are finally disposed (Vera Institute of Justice, 1972; Pawlak, 1972).

Figure 7.1 illustrates the complexity of the intake stage although only the minimum number of decisions necessary are shown.

The Referral Process

Complaints may enter the court from several types of sources--police, schools, social service agencies, businesses, private citizens, parents, or court workers. In practice, the police are the source of most referrals. In the field study, police referred from 50% to 90% of all complaints. Parents referred 11% of the total number of cases. In some courts, however, they were the source of almost 30% of all referrals. Some of the variability in the latter is due to the screening practices of police departments which often make referrals for parents, schools, private citizens, and businesses. Some police, however, refer every apprehended youth to the court. The number of police agencies, especially those with juvenile divisions, have an impact on these rates; in the national sample, courts included an average of 13 police agencies in their geographical jurisdictions and an average of 4 police agencies with special juvenile divisions.

Preliminary Complaint Processing

The Normative Model. Preliminary complaint processing is performed by the clerk or clerical workers, the intake supervisor, and intake workers in three decisions (#1, #2, and #3 in Fig. 7.1). These decisions are made quickly, before the youth is seen at court. In each, dismissal should occur (1) if the offense is trivial (first referral for a minor problem, first referral of a runaway, first referral because of school or family problems), (2) if routine, essential information that would allow later processing or substantiate probable cause is unavailable (e.g., details about the offense, names of parties involved, witnesses, time and place), (3) if probable cause can not be shown, and (4) if the court does not have jurisdiction. Cases that do not meet these criteria should not be exposed to further processing and labeling in an intake interview, nor should information about cases that do not pass these criteria be collected by the court. Trivial cases should be referred to organizations outside the court where noncoercive solutions may be attempted first. Complainants, especially police, are encouraged to

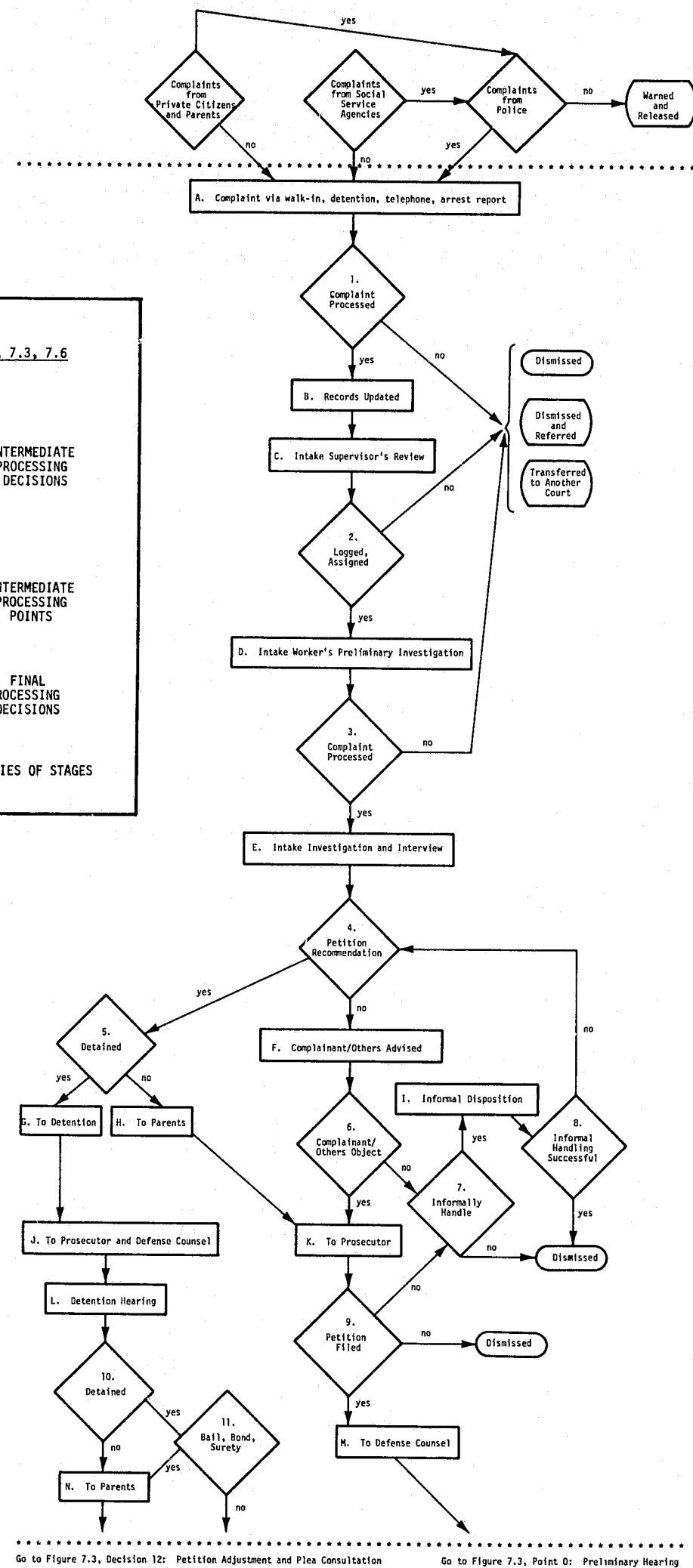
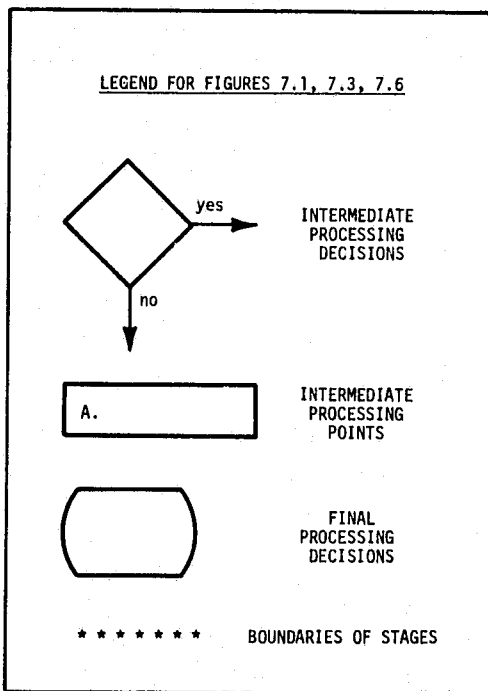


Fig. 7.1. Flow Chart of Case Processing: Intake Stage

supply information of sufficient quality for prosecution. Furthermore, the court's resources should not be needlessly expended on cases that would probably be dismissed. Preliminary complaint processing serves other specific purposes.

At decision 1, when the complaint is processed, the case record system should be checked and initiated or updated. At this point, clerical workers should dismiss or refer cases under the four specific, routine conditions outlined above.

Decision 2 is necessary for the supervision of case flow through intake. The intake supervisor reviews, logs, and assigns cases to workers. The supervisor should also review decision 1 and may dismiss or refer cases out of court. Ideally, logging assures that cases are handled within a reasonable time. Assignment depends on many factors (e.g., size of intake caseload and expertise of workers). Logging also assures the smooth movement of cases and prevents overload. Supervision primarily involves direct review and discussion of cases and decisions as they are being made, especially for less-experienced workers, to assure that proper and uniform criteria are being used. Supervision, ideally, also includes buffering intake workers from any influence not related specifically to appropriate criteria. These influences may come from within the court (e.g., prosecutor, judge, or probation officers) or from outside the court (schools, police, parents). One means of buffering is for the supervisor to act as liaison between workers and these parties; another is to maintain ongoing communications and training about intake decisions.

Decision 3 permits the intake worker to obtain as much factual detail as possible about the offense from complainants, police, witnesses, or anyone with firsthand knowledge. Such inquiries should be brief and discreet to avoid unnecessary speculation and anxiety about the case (especially by agencies like schools, by parents, or by the youth) and to avoid unsolicited information about nonoffense behaviors (youth's school or other general behavior). The purpose of this process is to prepare for the intake interview.

Empirical Findings. In the national sample some intake functions were allocated to clerks by 23% of the courts. In the field study, only one court permitted clericals to exercise even limited intake discretion; but in two courts, clericals automatically filed petitions on all referrals. The use of clericals and the exclusion of discretion by other court workers at intake was found in the national sample as well. The more often clerks performed intake functions, the less decisions to file petitions were influenced by probation/intake (P/I) workers ($r = -.32$) or chief P/I officers ($r = -.26$). Simultaneously, the influence of referring agencies (police) increased as clerks/clericals performed more intake ($r = +.21$). Almost no courts allowed clericals to routinely dismiss cases, as the normative model recommends, while still maintaining intake discretion for other court workers.

P/I supervisors were still central to intake decisions in most courts; they had almost as much direct and indirect influence over intake decisions as P/I workers. In the national sample, 73-80% of the P/I workers thought that P/I workers and chief P/I workers had "much" influence. As will be shown later, when intake was more specialized, chief P/I officers wielded less influence over intake decisions.

The existence of preliminary investigations (point D, Figure 7.1) also depended on the role of intake workers. One of the indications of the existence of a preliminary investigation was whether workers sought information supplemental to the complaint form before the interview. Such information was sought more by intake workers who were active in making extensive recommendations about how to handle cases.

In the national sample, only minimal intake records were routinely kept. The number of cases referred were routinely kept by all (96%) of the courts. The more detailed the information, however, the fewer the courts that kept it: 86% kept offense data; 89%, dispositional data; 79%, information about the source of referrals; and 65%, the characteristics of cases.

Core Intake Case Processing

The Normative Model. The core of intake case processing begins with the intake investigation and interview (point E) and ends with the dismissal of the case, with informal handling (point I) or referral to the prosecutor and defense counsel (points K and M). Three decisions must be made after this interview: (1) whether grounds exist for a petition, (2) whether to dismiss or handle cases for which a petition exists informally or formally, and (3) whether to detain cases that are to be handled formally. The primary information for making these decisions is allegations of offenses. Cases should be dismissed or referred, regardless of the social problems, if no grounds exist for a petition based on an offense. Some intake decisions, below, are made using limited social data. Basing decisions largely on offense data, however, assures that cases will be handled uniformly and fairly according to criteria that can be monitored by judge, prosecutor, and defense counsel (President's Commission, 1967). Active and effective representation of the youth's interests by defense counsel should be enhanced (Stapleton and Teitelbaum, 1972; Cayton, 1971). Reliance on the uncertain and empirically unproved relations between social problems and criminal offenses should be avoided, as well as the notion that social service delivery reduces offenses (Gold, 1970; Lemert, 1967; Allen, 1964; *In re Gault*, 1967). Coercive court intervention into youth's lives for the sole purpose of social service delivery must also be avoided (Morris, 1975).

The intake interview is the first face-to-face contact youth and parents have with the court, and it is designed to elicit information

from them for these decisions. Ideally, to ensure that the youth and parents understand the importance of this contact, the interview should begin with a careful explanation of their rights (to an attorney, to remain silent), the worker's role, the decisions available, and what effect the decisions might have on the youth.

Once the process has been explained, the interview should proceed through a two-step process. First, the complaint needs to be read and examined in factual detail and the youth questioned about the allegations. If the youth admits to the substance of the complaint, informal and formal handling or dismissal are possible. If the youth denies the complaint, only formal handling or dismissal is possible. The circumstances surrounding the offense in question need to be examined to determine if the complaint accurately represents what happened and if sufficient reason exists to file a petition based on information about this offense alone. The youth's involvement in the planning and execution of the offense, delinquent intent, and likelihood of repeating this or other offenses must also be gauged. If grounds for a petition are not found, the case should be dismissed or referred to another agency.

If the worker finds grounds for a petition, the next decision determines the need for detention (decision 5). Standards developed by national commissions concur on the two primary criteria for detention: that the youth's behavior presents a clear danger to other persons or self, and that evidence exists to suggest that the youth would not appear for trial.¹ Failing those criteria, youth should be released to parents. A decision to detain should presume that a petition will be recommended. Detention should occur only after this intake decision has been made (National Advisory Commission, 1973b; Wisconsin Council on Criminal Justice, 1975).

Once the decision is made to recommend a petition, the interview may be expanded to determine which alternatives (dismissal, informal or formal handling) are best suited for the case. Some social information may be necessary to determine the need, availability, and sufficiency of the various resource alternatives for informal handling. Extensive social investigation for formal referrals should be made by the probation department if the youth is adjudicated. One of the most crucial questions for informal resources concerns the ability of the youth to receive services voluntarily. Most of the social information

1. Numerous national commissions and associations have formulated standards for detention, including the National Council of Juvenile Court Judges, the American Bar Association, the National Advisory Commission on Criminal Justice Standards and Goals (1973b), the National Council on Crime and Delinquency (1961, 1969), the John Howard Society, and the Juvenile Justice Standards Project. See also National Juvenile Law Center, 1974:174-184.

gathered here should address that issue. Questions and discussions unrelated to the offense or this issue (e.g., general behavior at home or school) should be avoided; nonetheless, unsolicited complaints may emerge. They are appropriately used, however, only if complainants come forward to sign a complaint after a period of independent deliberation.

Simple relationships do not exist between the criteria used to make decisions, the type of complaint, and the type of processing decision (to dismiss, informally or formally handle). But a rule of thumb should exist: the intervention by the court should be proportionate to the severity of the case, that is, the degree of imminent danger the youth poses to self or others. Severity in criminal offenses is relatively easy to determine compared to status offenses (running away, incorrigibility, truancy). Decisions about status offenses and criminal offenses, however, should be judged using approximately the same criteria, with most of the judgments grounded on the facts of the case, with few references to nonoffense behavior, and with about the same number of references to resources.

Cases informally handled or dismissed by intake workers may be reviewed by the prosecutor if the complainant objects (point F). If no objection exists, cases to be handled informally should be given a fixed, definite set of conditions or services which must be reviewed before the case is dismissed (decision 8). Cases referred for formal handling automatically go to the prosecuting counsel for a review of their prosecutive merit (point R) (National Juvenile Law Center, 1971). Thus every intake decision may be reviewed by the prosecutor. Cases the prosecutor agrees to handle formally will also be referred to defense counsel (point M), even if the youth has shown no desire for an attorney. The exposure of intake decisions to review by both prosecution and defense counsels should assure that intake involve no violation of the youth's rights and that sufficient reason exists for prosecution.

Empirical Findings. In the process of gathering information on intake decision, workers in the survey indicated that interviews were more expansive for the less serious offenses. The data in Table 7.1 indicate that information about offenses and parental relationships were clearly of greatest importance, but workers apparently accepted offense information at face value more readily for those charged with person and property crimes than those charged with status or misdemeanor offenses.

Criteria about decisions varied more directly with the type of offenses. Criteria about resources (i.e., the need, availability, and sufficiency) were most frequently used for decisions about status offenses (66%), less frequently with misdemeanors and property offenses (42%), and much less frequently with person offenses (35%). Criteria concerning nonoffense behaviors, which should be used rarely, were cited for almost every status offense, and the frequency decreased to 56% of

TABLE 7.1
INTAKE INTERVIEW FOR TYPE OF ALLEGED OFFENSE
(in percentages of staff; N = 369)

	Offense	Parent- Youth Relation- ships	Sibling Relation- ships	Attitude toward Adults	School Perform- ance	Other Deviance
Status	93	70	23	19	60	16
Misdemeanor	96	68	23	20	64	16
Property	88	74	21	19	60	13
Person	84	61	10	13	52	26

the cases charged with offenses against persons. Criteria about (present and past) offense behavior, which should be important to every case, were used in only about half of the cases charged with status offenses but in every case charged with person offenses.

One would expect that intake decisions would be affected by the type of offense the juvenile is charged with. For example, juveniles charged with minor offenses would be dismissed or handled informally. However, as shown by Table 7.2, with the exception of offenses against persons, no apparent relationship exists between type of offense and intake decisions. Therefore it seems that other factors may play a more important role in the intake decision than type of offense.

TABLE 7.2
INTAKE DECISIONS BY TYPE OF OFFENSE CHARGED
(in percentages)

	Dismiss	Informal Handling	Formal Handling	(N)
Status	26	36	38	(77)
Misdemeanor	33	34	33	(123)
Property	29	34	35	(132)
Person	16	32	51	(37)

While probable cause and the danger the youth poses to himself and to the community are the most important criteria for detention decisions, the field study revealed that youth were detained for "preventive," "therapeutic," or "assessment" purposes. Another inappropriate, yet common, practice was detention to make youth more amenable to treatment. Often detention for this purpose occurred with cases that were not being processed, i.e., cases that were already on probation. Most detention decisions, however, occurred in conjunction with the filing of a petition; in fact, detention was one of the best predictors of serious formal handling (e.g., institutionalization).

Structure of Intake

The Normative Model. The ideal model of intake decision making presented in Figure 7.1 requires the employment of personnel specialized in intake decision making, as well as a special intake unit. It is well recognized that the decisions made at intake are the most critical in determining the future fate of the juvenile, because it is at this point that the court determines whether to take jurisdiction over the youth. Therefore it would be expected that intake workers would be among the best trained and most experienced, since they need to negotiate both within and outside the organization. A major virtue of having a specialized intake unit is the ability of workers to be autonomous of pressures from police, parents, and other reforming agencies.

Empirical Findings. In the national sample, only 15% of the probation officers were engaged in full-time intake activities (i.e., full time means over 50% of their time). Another 46% engaged both in intake and probation activities (designating them as "mixed workers"). The rest of the court line staff (38%) were exclusively engaged in probation activities. Table 7.3 shows the percentage of time each category of workers spent on various activities in the court.

Full-time intake workers, as expected, were consistently better trained and more experienced than other court staff. Twice as many full-time intake workers (22%) as other probation staff (11%) had graduate degrees. The former were also two years older on the average and had been employed in the court or a correctional agency one year longer than other probation staff.

The relative autonomy of full-time intake workers supported the expectations of the normative model as well. Compared to mixed probation and intake workers, full-time intake workers reported less influence from referring agents. They also reported less influence by the chief P/I officer (see Figure 7.2).

Basically, further analysis suggests that full-time and "mixed" probation staff are more similar to each other in their role performance

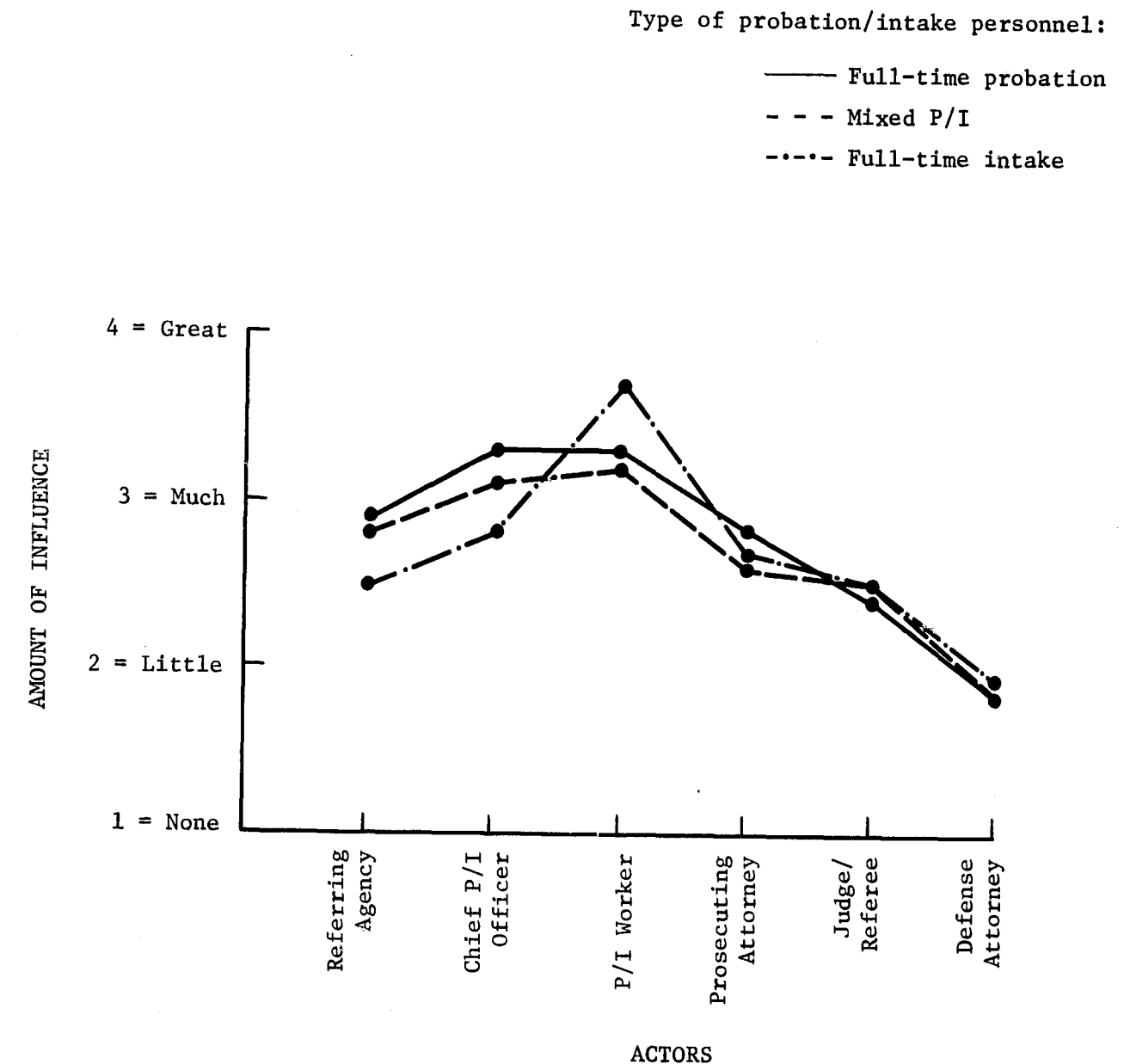


Fig. 7.2. Probation/Intake Workers' Perceptions of Actors' Influence at Intake Stage Averaged by Type of Probation/Intake Personnel.

TABLE 7.3
COURT LINE PERSONNEL TASK ACTIVITIES
(mean percentage of time by staff group)

	Full-Time Probation (N = 164)	Mixed (N = 197)	Full-Time Intake (N = 67)
Screening and counseling juveniles at intake	1.1	7.6	31.1
Reading and preparing other reports, correspondence, and other paperwork	13.1	10.9	15.8
Conducting investigations for hearings and dispositions	15.3	13.0	12.4
Counseling juveniles on your probation caseload	27.8	29.4	8.5
Contacting other agencies about or on behalf of your cases	8.7	8.3	7.6
Writing disposition reports	8.4	7.4	6.9
Appearing in court	10.8	8.9	5.1
Discussing cases with other staff or with supervisors	6.4	5.8	4.7
Attending staff meetings or staff training sessions	4.3	3.8	3.7
Supervising other staff (including volunteers)	1.6	2.3	3.4
Other--public relations	0.1	0.5	0.2

in the court. They are different from full-time intake workers. This was expected since probation counseling is postdispositional and presumably probation workers would only be involved in dispositional and review hearings.

Interestingly, for full-time intake workers, the more time spent in screening and counseling juveniles at intake, the less time spent in formal processing tasks (i.e., conducting investigations for hearings and dispositions [$r = -.39$], writing dispositional reports [$r = -.29$], and appearing in court [$r = -.37$]). This suggests that as intake workers specialized in screening cases, they became less directly involved in formal processes.

Full-time intake workers also differ from the other line staff in their perception of the type of cases that should be handled by the

juvenile court. Specifically, they were more likely to favor the removal from the court of some status offenses (running away, promiscuity) and victimless crimes (liquor and drug offenses) than mixed P/I workers. Correspondingly, more full-time intake workers responded that the juvenile court should handle some misdemeanors and felonies (armed robbery, breaking and entering). Differences between mixed P/I and full-time intake workers regarding the best location for the remaining offenses were not statistically significant, but the patterns were consistent and in accord with the behavior one would expect from staff who differentiated youth more clearly (see Table 7.4).

TABLE 7.4
STAFF PERCEPTIONS OF JUVENILE COURT RESPONSIBILITY
FOR HANDLING DELINQUENT BEHAVIOR
(in percentages of staff groups)

	Full-Time Probation (N = 176)	Mixed P/I (N = 210)	Full-Time Intake (N = 76)
Breaking and entering	94	92	99
Purse snatching	93	92	96
Vandalism	92	93	95
Shoplifting	91	86	91
Auto theft	88	87	81
Gang fighting	87	85	83
Liquor violations	68	69	51
Drug violations	67	69	44
Armed robbery	47	55	62
Running away	43	53	42
Dependency and neglect	36	44	47
Truancy	32	38	29
Promiscuity	29	41	32

NOTE: Percentages above are for the proportions of each staff group who answered "juvenile court" to the question "For each of these problems, which do you feel are best handled by the juvenile court, an adult court, or other social agencies . . . ?"

Courts with full-time intake workers were also likely to have a specialized intake unit. In the national sample, 41% of the courts reported having a separate unit or department for intake.² In 29%, the probation workers performed intake undifferentiated from their other duties and without the delineation of a separate unit. In the remaining 30%, miscellaneous arrangements existed, with some delineation of intake but also with intake responsibilities variously delegated to other members of the court staff. These three forms of departmentalization will be referred to as specialized, undifferentiated, and composite.

There were several important differences between courts with specialized intake units versus undifferentiated or composite units. The staff in courts with specialized intake was not only larger but more differentiated as shown by the employment of full-time attorneys and referees, in the use of volunteers, and in liaison relationships with other agencies. In addition, judges in courts with specialized intake were more involved in the juvenile court: they spent a greater proportion of their time on the bench in juvenile matters, were more likely to be in courts with specialized, juvenile-only jurisdiction, and were more likely to be full-time judges (see Table 7.5).

TABLE 7.5
ORGANIZATIONAL CHARACTERISTICS BY INTAKE-STAFFING MODE

	Specialized (N = 87)	Undifferentiated (N = 64)	Composite (N = 61)
More than 200,000 population in jurisdiction	66%	21%	33%
Proportion with liaison staff from other agencies	55%	36%	41%
Full-time referees	51%	14%	32%
Proportion with liaison staff to other agencies	45%	35%	38%
More than 40 full-time staff	43%	2%	6%
Full-time staff attorneys	20%	12%	19%
Mean number of volunteers	65	30	29

Finally, courts with full-time intake workers and units had more extensive development of services for diversion, community treatment, detention, and so forth. Table 7.6 summarizes these differences, which

2. Seventy-seven percent of the courts with specialized intake units also had full-time intake workers.

are all statistically significant ($p < .05$) except for provision of alternatives to detention and for vocational and educational services.

TABLE 7.6
JUVENILE COURT PRACTICES AND SERVICES BY INTAKE-STAFFING MODE
(in percentages of courts)

	Specialized (N = 89)	Undifferentiated (N = 62)	Composite (N = 62)
Formally organized diversion program	93	58	64.5
Volunteer program	84	71	66
Alternatives to detention	81	74	74
Use of new treatment technology	74	53	50
Periodic visits by judge to correctional facilities receiving commitments	71	45	55
Establishment of residential treatment programs in the community	67	42	55
Provision for vocational or educational services	63	56	55
Reimbursement of court per- sonnel for educational expenses	55	39	33
Routine medical exams for all detained youth	50	29	33
Computerized information system	36	18	16

THE ADJUDICATION STAGE

The basic purpose of the adjudication stage in juvenile court case processing is to arrive at a decision about the charges in the petition on the basis of the evidence presented at a formal adjudication hearing. Juveniles and parents should be formally notified of this hearing, and on the basis of constitutional rights and Supreme Court decisions, provision must be made for proper representation of all parties with standing in the case (National Juvenile Law Center, 1974).

The format and content of the adjudication stage is influenced by the judge, but certain basic elements can be identified in formulating the normative model of adjudication presented in Figure 7.3.

The Preliminary Hearing

Normative Model. The first step in the adjudication stage is the preliminary hearing (point 0 in Figure 7.3), which is quite different from its counterpart in the adult courts (National Advisory Commission, 1973b). In the juvenile court, its purposes are to ensure: (1) that the youth has access to counsel, and, if waived, that the decision was carefully considered; (2) that judge and prosecuting and defense attorneys, if present, examine the evidence for probable cause and for sufficient reason for formal court action; and (3) that a date for an adjudication hearing is set to allow time for adjustment of the petition, consideration of the plea, and preparation for the adjudication hearing. At the preliminary hearing, the right to an attorney and the right to remain silent should be explained, and the youth should not be permitted to waive them without careful consideration and close scrutiny by the judge. The judge, if necessary, may insist that youth be represented by counsel (National Advisory Commission, 1973b). Prior to this hearing, defense counsel, if accepted by the youth, should have sought information and encouraged actions by the youth (e.g., attendance at treatment programs or restitution for damages) to lessen the seriousness of, and the necessity for, formal court action. One of the judge's options at this hearing is dismissal. Dismissal should occur when appropriate remedial actions are voluntarily taken by youth or their families. If intake has performed the screening properly, however, few petitions should be dismissed as being insufficient for court intervention unless aspects of the case have substantially changed. If the prosecutor has properly performed the review of formal referrals from intake, few cases should be dismissed for lack of probable cause, unless witnesses have refused to give evidence or new evidence has emerged.

Empirical Findings. The most important structural elements for effective involvement and influence by attorneys are the functions of the preliminary hearing and who performs intake. As shown above in the section on intake, judges in courts with undifferentiated intake units had greater influence over intake and performed some intake functions at the preliminary hearing. This required access to information normally prejudicial to adjudication (e.g., offense and social files and information from the youth about the offense). It was not surprising that the more influence defense attorneys had at adjudication and disposition, the more intake functions were performed by specialized intake units ($r = .16$) and the less by clerical staff ($r = -.19$) and judges ($r = -.22$). In addition, the more full-time intake workers employed by the court, the greater the influence of defense attorneys ($r = .20$).

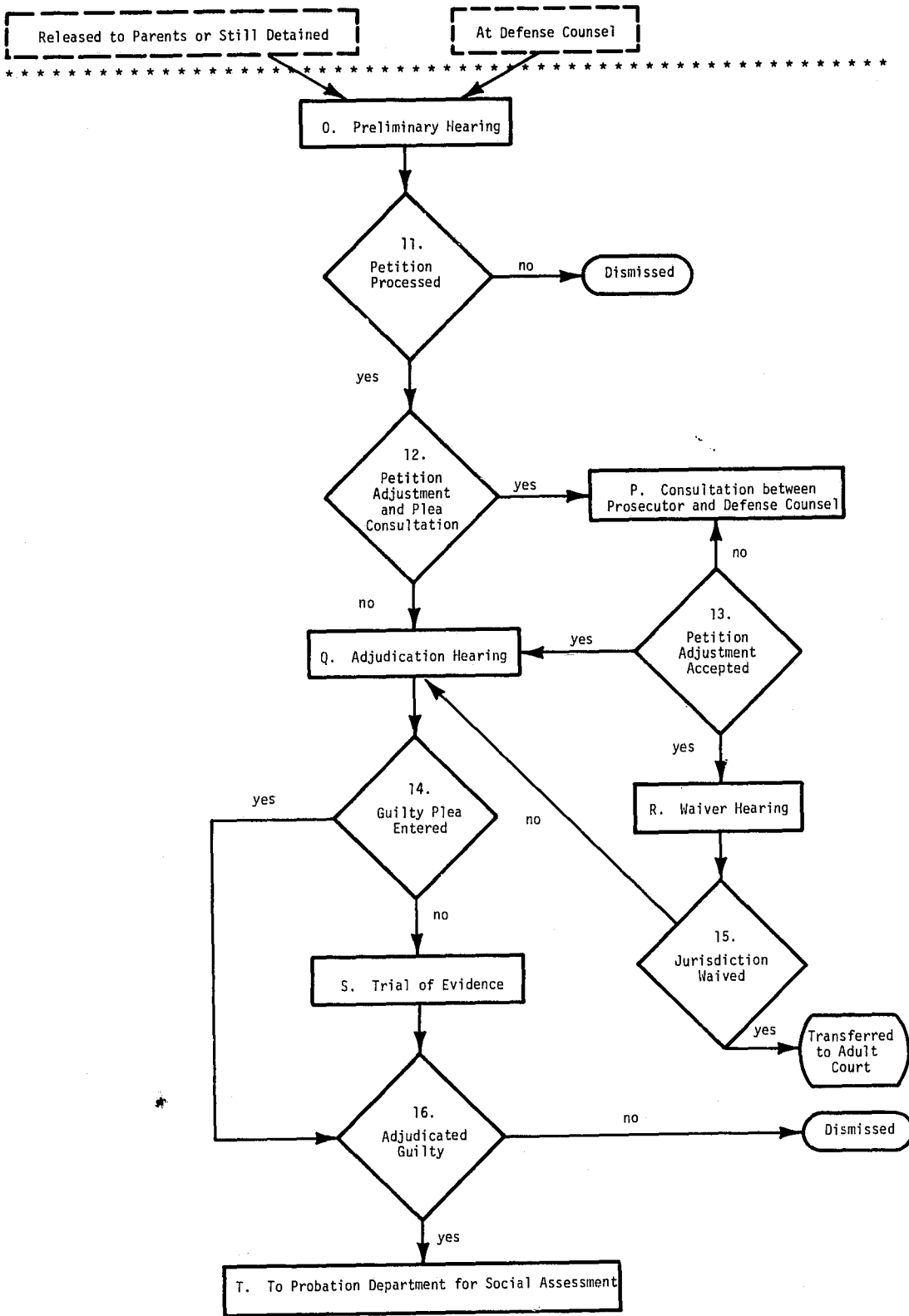


Fig. 7.3. Flow Chart of Case Processing: Adjudication Stage

Prosecutors are also important to the appropriate use of the preliminary hearing. When the judge performs intake, and as the influence of defense counsel decreases, the likelihood that prosecuting attorneys will have influence also decreases, as suggested by the high correlation between the influence of prosecuting and defense attorneys ($r = .69$). Specialized intake units, however, may exist in courts without prosecuting attorneys and without high attorney influence. Two courts in the field sample with specialized intake did not use prosecuting attorneys, and preliminary hearings were often used for cases that intake wanted dismissed or informally handled. The judge/referee in these hearings threatened enforcement of intake decisions for restitution or payment of fines and warned youth about further misbehavior; frequently the judge/referee was consulted and prompted in cases before hearings, and the hearings served no official purposes.

If preliminary hearings were limited to the functions in the model (Figure 7.3), then the proportions of preliminary and adjudication hearings should be about the same. Of the 85 hearings observed in the field sample, the proportions were the same (25%) for preliminary and adjudication hearings in courts with specialized intake units and active prosecuting and defense attorneys. The disparity between the courts without either a specialized intake unit or active prosecutors was remarkable: about 45% of the hearings were preliminary, 10% adjudication. In these latter courts, preliminary hearings were used for intake functions.

Direct observation of the misuse of preliminary hearings for intake purposes revealed an astonishing disregard for due process by judges and very little activity by attorneys. In almost every court of the field sample, the practice was to inform youth of their right to an attorney. In the two courts with specialized intake and active prosecuting and defense attorneys, youth were informed of their rights carefully and with much explanation. Familiar language was used, and youth were even quizzed to determine whether they really understood the judge. In courts where judges performed intake, they informed youth of their rights often in brief formal statements. If the youth did not respond, the assumption was made that the youth understood, and a question in more colloquial English was asked, such as "Why don't you begin?" Several judges gave such little attention to these memorized recitals of rights that they forgot where they were and had to start over. Youth, unsure what having legal counsel meant to them, sometimes asked questions, such as whether processing would take longer with an attorney. In one instance the youth was told that it would; in another, the question was given an equivocal response.

It was often difficult to determine whether cases were being formally or informally handled when the judge performed intake. In one case, a judge stopped the hearing to convince defense counsel to change the plea to guilty so that the case could be handled informally.

Little consideration was given to the accuracy of the offenses stated in the petition in courts that used preliminary hearings to perform intake. After one hearing, a youth, who had been given informal supervision and instructions to pay restitution for damages, was overheard by the judge to say that he was also involved in cashing a bad check; the judge then ordered the clerk to add that complaint to the petition and the youth to make restitution, even though no complainant existed.

Involvement of Defense Counsel

The Normative Model. Defense counsel should review all cases on which a formal petition is to be filed, prior to the adjudication stage. The process performed by the intake worker and prosecutor should be reviewed to ensure that the petition accurately interprets what occurred and that the youth's rights were not violated from apprehension to intake. Attorneys are crucial for this, because they (1) formally represent the youth's interests and perspectives, (2) are shielded from exigencies within the court (e.g., pressures to process many cases and meet organizational criteria for processing) and outside the court (e.g., pressures from police or complainants), (3) can exert influence on judges and prosecutors as legal colleagues, and (4) can bring critical thinking to routine decisions.

For cases in which the petition is to be processed beyond the preliminary hearing, defense counsel is especially important for plea consultation and petition adjustment. Early participation of defense counsel is essential for effective protection of the rights of youth. It increases the likelihood that the adjudication hearing will concern the facts of the alleged offense, and it decreases the likelihood that the petition will be amended in the hearing (Stapleton and Teitelbaum, 1972).

Some conditions may prevent the adjustment of the petition and consultation about the plea (decision 12 and point P). The prosecutor may be unwilling to alter the petition because of the seriousness of the charge, the youth's involvement, or past offenses. Defense counsel may not conscientiously be able to alter the plea if the petition does not accurately interpret what occurred or if the youth flatly denies the charge. If no discretion exists for prosecuting and defense counsels, the case should go immediately to hearing.

A crucial decision in the adjudication stage concerns the plea. If it is "guilty," the case is referred to the probation department for social assessment. If the plea is "not guilty," then the case should move to a trial of the evidence. The plea should be decided by the youth, parents, and the defense counsel. Three types of criteria exist for making this decision--substantive, strategic, and procedural. Substantive criteria have been discussed above and concern whether

the petition (and plea) accurately interprets the offense in terms of the youth's involvement, past record, and needs. If the petition does not accurately reflect these perceptions, then a not-guilty plea is appropriate. Strategic criteria involve forcing the state to prove its case, which presumably might occur even if the youth otherwise admits and agrees to the petition (National Advisory Commission, 1973b). While this may cause concern that defense counselors will try to get youth off the hook, this criterion legitimately provides a test of the facts alleged in the petition, which may not necessarily be settled in the petition adjustment-plea consultation process. It also provides a test of how important the case is to the complainant and prosecutor in relation to the inconvenience and difficulty in providing testimony and evidence. These tests can also serve useful and important policy goals by ensuring that prosecutors and intake workers refer only cases for which they are willing to undergo a trial of the evidence. Lastly, procedural criteria perform a record-keeping function. Evidence is entered into the record that may be important for future handling or appeal.

As indicated in Figure 7.3, if the judge has agreed to the results of the petition adjustment and plea consultation, the case moves to an adjudication or to a waiver hearing (points Q and R). The adjudication hearing is formal and similar to procedures in adult courts (National Advisory Commission, 1973b). The criterion for adjudication is limited to proof beyond a reasonable doubt that the youth committed the offenses in the petition. The waiver hearing may be more informal, and criteria for that decision include the seriousness of the offense, the offense and social history, and the availability and effectiveness of court resources. If waiver is denied, the case moves to adjudication. Once a case is adjudicated guilty, the judge refers the case to the probation department for social assessment.

The judge's role at adjudication is to monitor the formal processes and assure protection of the rights and interests of all parties, and to adjudicate evidence of the offense. No opportunity is given for informal handling by the judge at adjudication in this model, although the formal record may be expunged. The use of social information necessary for informal handling and formal dispositions is limited to the intake and dispositional stages, respectively.

Empirical Findings. One basic premise of this model is the conscientious and direct representation of all interested parties by prosecuting and defense counsels. At some point in Figure 7.3, every case is reviewed by defense counsel, and every case is presented by a prosecuting attorney. In the national sample very few courts employed attorneys; of the 234 courts that responded, 17% employed lawyers full time and 11% employed them part time. Prosecuting and defense attorneys had very little influence on "how a case should be adjudicated" in most courts: prosecutors in 25% of the courts and

defense attorneys in 33% had no influence whatever. They both had a great deal of influence in only 11% of the courts. Both types of attorneys had more influence outside adjudication; the prosecutor had at least "moderate" influence over "whether a petition should be filed or a case should be informally handled" in 60% of the courts, and the defense attorney had at least "moderate" influence on "what disposition to give an adjudicated delinquent" in 66% of the courts. Comparisons in Figure 7.4 of the average influence by each actor at intake, adjudication, and disposition illustrate the differences between attorneys' influence and the overshadowing influence held by the judge at adjudication and disposition.

In the hearings observed in the field study (all types), participation was ranked from none (0) to very much (4). The rank for participation averaged 2.6 for defense attorneys and 2.1 for prosecutors. Judges' participation averaged 3.4. Furthermore, if evidence were examined, very few of those examinations were made by defense attorneys (16%) and prosecutors (13%). Of the motions made, only 25% were by attorneys and an equal proportion were by probation officers.

Given the low degree of attorney involvement, it is not surprising that hearings in the national sample were not reported to operate with the same standards of due process suggested in the model. Four summary measures of due process are presented in Chapter 9: (1) procedure-oriented formal compliance, (2) attorney-oriented formal compliance, (3) procedure-oriented full compliance, and (4) attorney-oriented full compliance. Procedure-oriented compliance depends on the activity of the judge, and lawyer-oriented compliance on the activity of lawyers, especially defense attorneys. Since judges were so active and dominant at adjudication, and since attorneys had so little influence, it is not surprising that procedure-oriented compliance was more prevalent than lawyer-oriented compliance. Furthermore, formal compliance was much more common than full compliance (Tables 9.5 and 9.6).

The amount of attorney influence did vary somewhat, and courts were separated into three groups for comparison depending on how much influence defense attorneys had in adjudication and disposition.³

3. These measures of attorney influence were chosen for three reasons. First, various combinations of influence were examined, and these groupings were found to differentiate due process and decision criteria most clearly. Second, defense attorneys had more influence at both adjudication and disposition than prosecuting attorneys, especially at the disposition stage. In order for the attorney to represent the youth's interests effectively, that influence must be competitive with influence of other actors. Finally, effective representation required influence at both adjudication and disposition.

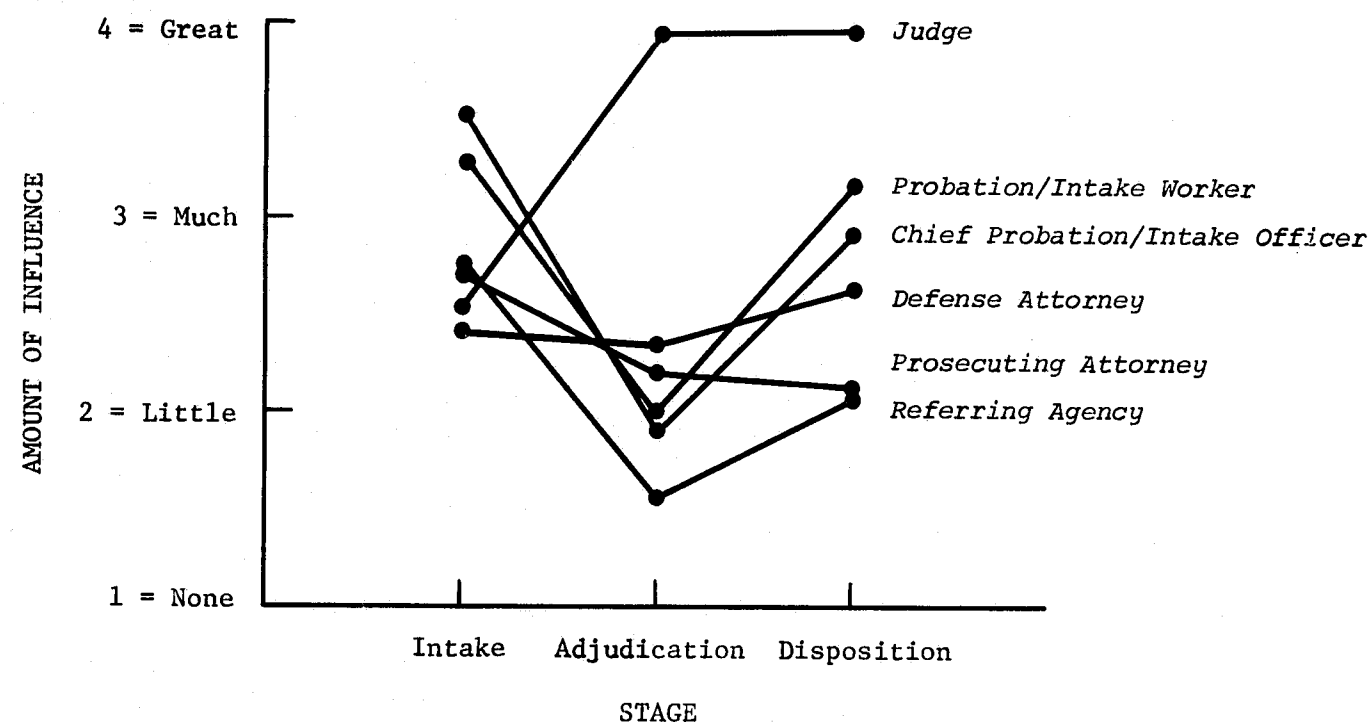


Fig. 7.4. Judges' Averaged Perceptions of Actors' Influence at Intake, Adjudication, and Disposition.

The first group (N = 69) included courts in which the judge ranked the defense attorneys as having low ("none" or "little") influence at both adjudication and disposition. The second group (N = 64) consisted of courts with low influence at either adjudication or disposition and high ("much," "a great deal of") influence at the other stage. The third group (N = 105) consisted of courts in which the judge ranked attorney influence "high" at both stages.

The influence of every actor at adjudication was greater in courts with high attorney influence. Only the differences between influence of prosecuting attorneys and referring agents were statistically significant, however. These findings are illustrated in Figure 7.5.

Increases in defense attorneys' influence did not adversely affect the influence of others. Just the opposite occurred: others' influence, including the judge's, increased at every stage. Other interests were also better represented through the sizable increases in influence of the referring agency and prosecuting attorney. Active involvement of defense attorneys increases the sensitivity of the court staff to the importance of each party involved in the adjudication stage.

The proportion of judges who responded that youth had a right to counsel at various hearings was uniformly high regardless of the amount of attorney influence. For only one hearing (probation review/revocation) did a greater proportion of judges from high-attorney-influence courts respond that youth had a right to an attorney.

The disparity between the right to counsel and the appointment of counsel was compared for four hearings--intake, detention, waiver, and adjudication. Overall, less disparity existed for judges in high-attorney-influence courts at detention, waiver, and adjudication hearings. Again, however, differences were not large. Measures of the involvement of counsel in hearings also revealed some differences. Twice as many judges from courts with high attorney influence indicated that "only in conjunction with an attorney" were youth permitted to waive the privilege against self-incrimination. On the average, approximately twice as many cases (5.3 to 3.1) were appealed from courts with high attorney influence, but these differences were not significant beyond chance.

The number of motions made in courts with high attorney influence were consistently greater, but they were statistically significant for only two types of motions--to vacate findings, and to dismiss petitions. These differences persist even when controlling for the number of cases handled formally.⁴

4. The number of cases formally handled correlates with motions to vacate findings at $r = .39$, and with motions to dismiss petitions at $r = .44$.

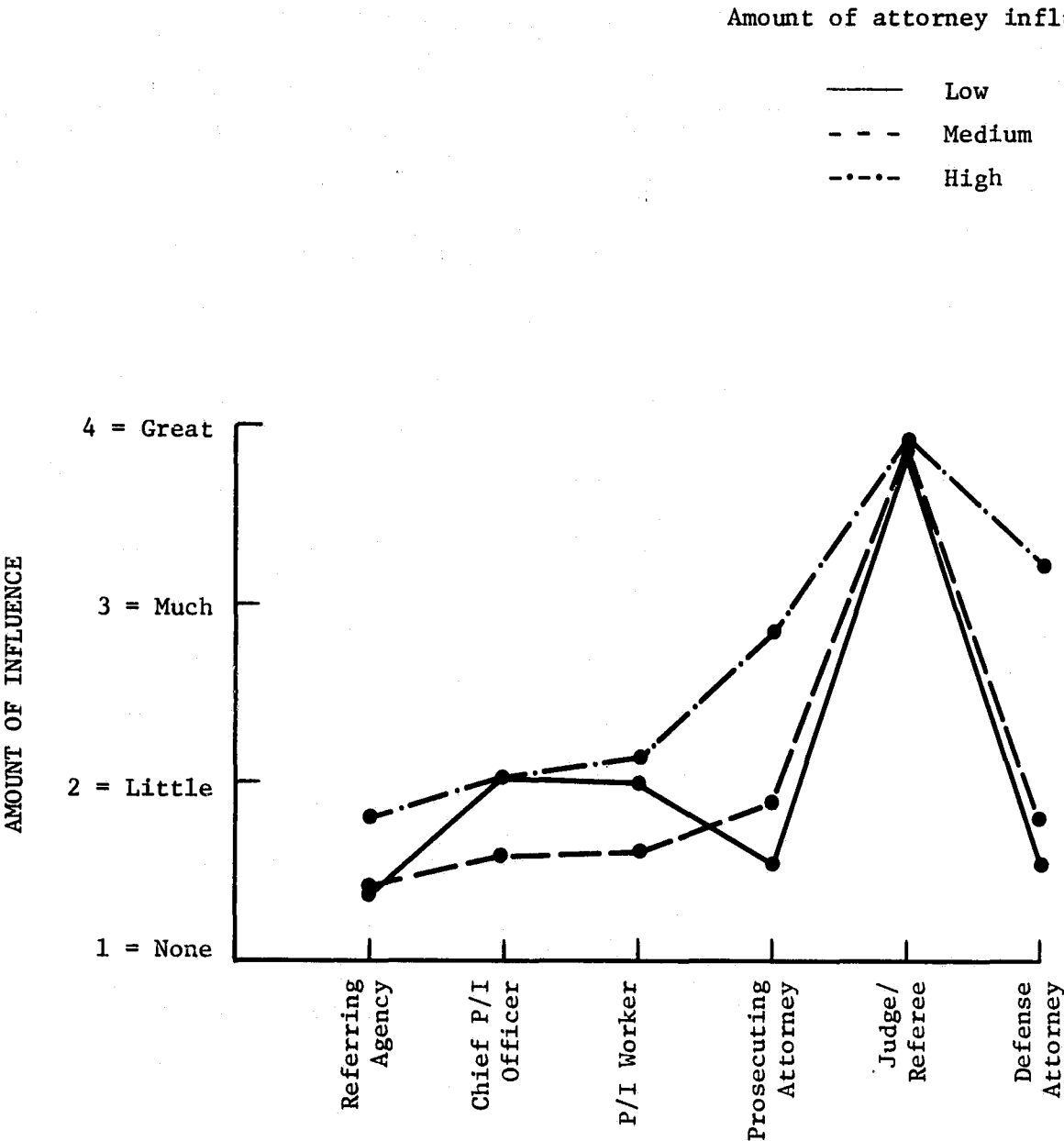


Fig. 7.5. Judges' Perception of Actors' Influence at Adjudication Stage Averaged by Amount of Attorney Influence.

All judges agreed that the most important criteria at adjudication were "evidence about the offense charged" and "protection of the juvenile's rights" (see Table 7.7). Some slight difference existed between judges in courts with high and low attorney influence over the importance of "evidence," but the difference was not significant beyond chance. Judges from courts with high attorney influence did rank "protection of the juvenile's rights" as more important; 84% of them ranked it first or second, compared to 66% of the judges from courts with low attorney influence. "Protection of parent's rights" was also more important to judges from courts with high attorney influence.

TABLE 7.7

JUDGE-RANKED IMPORTANCE OF ADJUDICATION CRITERIA BY AMOUNT OF DEFENSE ATTORNEY INFLUENCE

	Influence of Defense Attorneys		
	Low (N = 69)	Medium (N = 64)	High (N = 105)
Evidence about the offense charged	1.6	1.3	1.5
Protection of the juvenile's rights	2.3	2.0	1.9
Degree of danger the juvenile poses to the community	3.5	4.0	4.1
Needs and capabilities of the juvenile	3.7	4.4	4.2
Protection of the parent's rights	4.5	3.9	4.1
Interest and resources of the juvenile's family	5.8	5.5	5.7
Community concern about the case	6.4	6.3	6.0

NOTE: Items were ranked from "most important" (1) to "least important" (7). The scores above are the means for judges.

Access to social reports during adjudication was reported less frequently by judges in courts with high attorney influence. In addition more judges in courts with high attorney influence (76% and 47%, respectively) routinely allowed attorneys and parents to have access to social files than judges in courts with low attorney influence (57% and 30%, respectively).

The data above suggest that judges in courts with high attorney influence show a consistent, if moderate, tendency toward processing juveniles with some of the due process normally accorded adults. The most striking confirmation of this tendency is the proportion of

judges in courts with high attorney influence who felt status offenses were best handled outside the court. Less than half of these judges considered the juvenile court the appropriate agency for truancy (39%) or promiscuity (45%), and barely half (55%) thought running away belonged in the court. These offenses are the most difficult to handle with due process and high attorney involvement. In the national sample, when attorney influence was greater, the proportion of judges who considered agencies outside the juvenile court appropriate was greater for truancy ($r = .18$) or promiscuity ($r = .21$). Other measures of due process and attorney involvement were directly related to this evaluation by judges in courts with high attorney influence:

1. The more important parents' rights at adjudication, the greater the proportion of judges who thought truancy was best handled by an agency outside the juvenile court ($r = .24$).
2. The more frequently attorneys had access to the social files, the greater the proportion of judges who thought an agency outside the court could best handle truancy ($r = .17$) and runaways ($r = .21$).
3. The less access the judge had to the social files, the greater the proportion of judges who thought an agency outside the court could best handle truancy ($r = -.46$), runaways ($r = -.37$), and promiscuity ($r = -.23$).

To process juveniles with some of the due process accorded adults does not mean, however, that juveniles are to be equated with adults. Judges in high-attorney-influence courts perceived the juvenile court as better suited than the adult court for handling felonies and misdemeanors. Other measures of these judges' views toward due process and individual rights include the following:

- a. The more important parents' rights at adjudication, the greater the proportion of judges who thought breaking and entering was best handled in the juvenile court ($r = .20$).
- b. The more important juveniles' rights at adjudication, the greater the proportion of judges who thought armed robbery was best handled in the juvenile court ($r = .23$).
- c. The less important the needs of the juvenile at adjudication, the greater the proportion of judges who thought armed robbery was best handled in the juvenile court ($r = -.29$).
- d. The more access attorneys had to social files, the greater the proportion of judges who thought breaking and entering ($r = .51$), auto theft ($r = .51$), and armed robbery ($r = .30$) belonged in the juvenile court.

No such correlations were found for judges in low-attorney-influence courts. Due process and attorney involvement thus appear to

be linked to agreement that the juvenile court should handle serious juvenile offenses.

Judges in courts with high attorney influence generally considered all offenses more serious to the community than judges in courts with low attorney influence. In addition, judges in courts with high attorney influence recorded more frequent suggestions from organizations outside the court about ways to handle offenses, especially truancy and running away. At the same time, these judges were under more pressure from external agencies about how to handle juvenile offenders.

The admonition that juvenile courts with due process and attorney involvement will become replicas of adult courts was not corroborated by these data. Furthermore, courts in which attorneys had considerable influence were more specialized in juvenile matters; specifically, judges in these courts spent more time on the bench in juvenile matters and they chose to be juvenile judges more frequently. Judges from low-attorney-influence courts were more often assigned by law or rotation to the juvenile bench. The courts with high due process also had more professional workers, more new procedures and programs, and closer ties with other agencies in the community. The courts with attorney influence were exemplary of what juvenile courts are thought to be.

THE DISPOSITION STAGE

After a case has been adjudicated, a plan must be developed for surveillance and offering services. Typically, a social investigation is undertaken by probation staff, and from it recommendations for the disposition of the case are made. These are presented in an informal hearing with the judge/referee, prosecution and defense attorneys, youth, and parents. The disposition plan may have various goals (treatment of social or emotional problems, social control/surveillance, punishment or retribution), depending on what the investigation discovers are the fundamental reasons for the offense/behavior.

In recent years defense attorneys have increasingly represented the interests of youth in disposition plans and hearings. The immediate purpose of defense counsel in hearings is to assure that the disposition is in basic accord with the adjudication decision and with consistent and reliable information about the offense, the youth, and family. The judge, however, has final discretion in dispositional decisions.

The Normative Model. The basic elements of the normative model for the disposition stage are presented in Figure 7.6. The complete dispositional process includes the initial dispositional decisions, review of progress and subsequent behavior, rehearings, and the termination of court supervision.

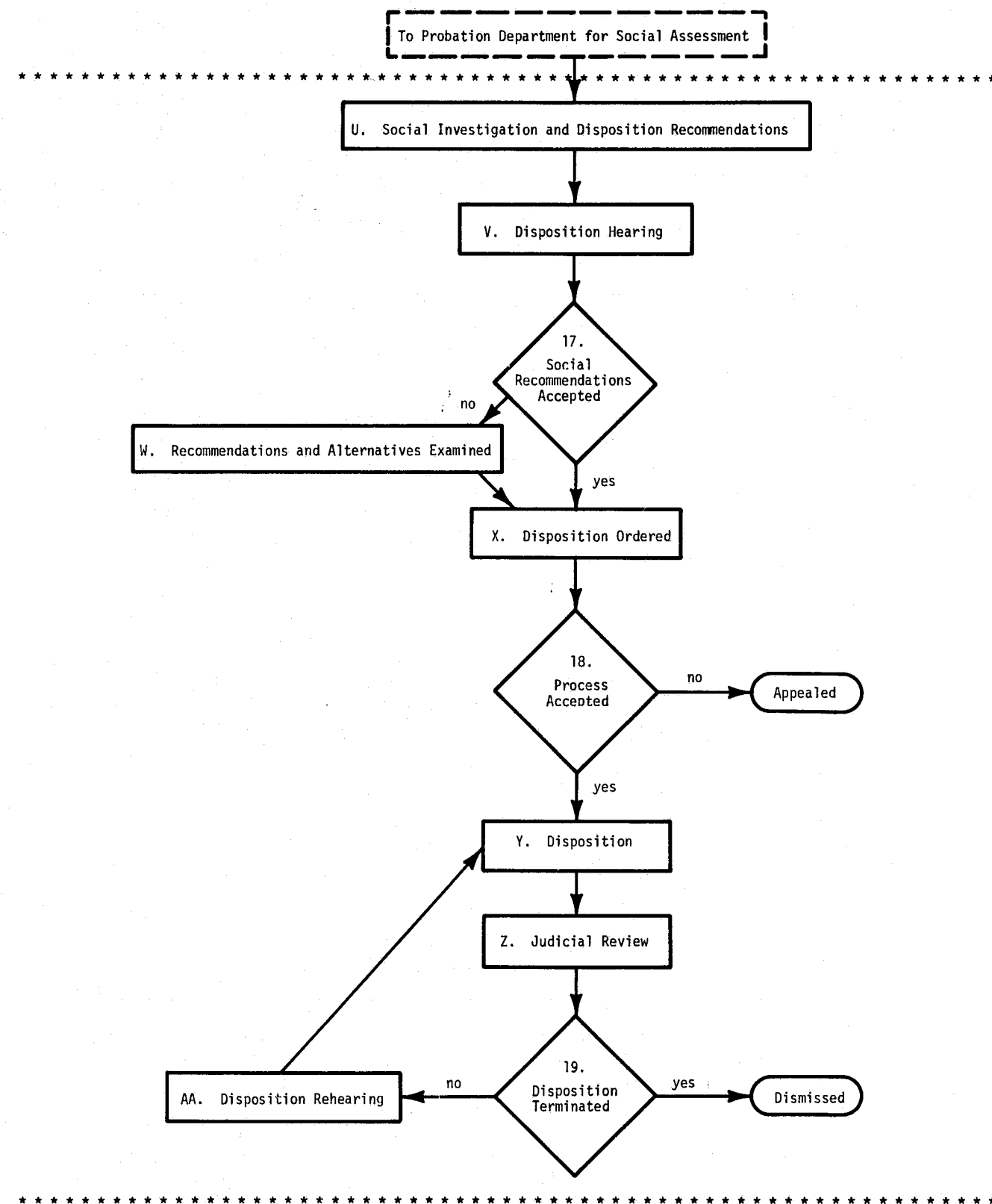


Fig. 7.6. Flow Chart of Case Processing: Disposition Stage

The disposition hearing should vary, depending on the degree to which dispositional recommendations are challenged and new information and suggestions are introduced by defense counsel. Given a copy of the social report and recommendations before disposition, defense counsel should have a better opportunity to prepare critical responses to the recommendations. The separation of disposition and adjudication hearings and the restriction of social information to the disposition hearing should also allow more careful consideration of the needs and capabilities of the youth and the availability and sufficiency of resource alternatives (Wisconsin Council on Criminal Justice, 1975; Glen, 1970).

The degree of involvement of counsel in dispositional hearings varies between cases. Most dispositional decisions are routine and constrained by the small number of available resources and services inside and outside the court. Extensive involvement in disposition planning by counsel should occur only in areas where some discretion exists. Since probation is the disposition most routinely given, less disruptive and potentially less restrictive--efforts by the attorney should be concentrated on making the conditions of the disposition definite and on establishing a fixed period of time for review. In cases involving more serious restrictive dispositions (e.g., transfer of custody, institutionalization or change of residence, large amounts of monetary retribution), counsel may be effective in restraining the court as well. Counsel, in all cases, may suggest alternative or even additional, specific dispositions, which may be eventually in the youth's best interests (Wisconsin Council on Criminal Justice, 1975). Naturally, involvement of this kind requires knowledge and sophistication on the part of counsel (National Juvenile Law Center, 1974).

The social investigation should be performed by the probation officer who will supervise the youth. It consists of an interview with the youth and family and an examination of pertinent records from other organizations (e.g., police, hospital, psychological, and school records). In cases of suspected and serious emotional or physical problems, information may be sought through psychological or medical evaluations.

Empirical Findings. In the national sample, three types of information were almost always gathered: the assessment of the youth's relations with family, the police report, and the school record. Less frequently, but routinely collected in over half the courts, was information about the family's economic situation, an assessment of the youth's and his parent's moral standards. The social investigation relied less frequently on sources external to the youth, family, or police reports. For example, teacher and psychological evaluations were not routinely collected in most courts. Table 7.8 presents the frequency with which different types of information were available at disposition hearings.

TABLE 7.8
INFORMATION AVAILABLE AT DISPOSITION DECISIONS
(in percentages)

	"Always + "Usually"	"Sometimes" + Seldom"	"Never"	(N)
Assessment of the youth's relations with family	92	8	0	(225)
Police report	92	8	0	(225)
School record	90	10	0	(225)
Family's economic situation	78	21	1	(222)
Assessment of the youth's moral standards	65	35	0	(217)
Assessment of parents' or guardians' moral standards	56	42	2	(218)
Possible crime record of other other family members	46	48	6	(223)
Teacher's evaluation	37	62	1	(222)
Psychological evaluation	29	71	0	(222)

The field study showed that evaluations by experts--attorneys, psychiatrists, psychologists--only occurred in cases where youth had serious emotional, social, or physical problems, or in cases in which a serious disposition (transfer of custody, institutionalization) was being considered. Specialized personnel were used to protect the rights of youth and families and assure that such serious decisions were being carefully made. Most dispositions involving probation personnel did not involve extensive plans or complex treatment "technologies." The reliance, above, on information about day-to-day behavior (i.e., at school, with family, or police) corroborates this field impression.

In making dispositional decisions, the judge was the most influential actor, followed by the probation officer. In ranking criteria in terms of their importance to dispositions, judges overwhelmingly ranked the "needs and capabilities of the juvenile" first; after that, judges ranked "protection of the juvenile's rights" and "the degree of danger which the juvenile poses to the community." It is unclear to what extent the "needs and capabilities" of youth could be considered, given the alternatives available for disposition. They were limited in their capacity to meaningfully address the needs of youth and in the numbers of youth they could serve. Observation of 78 probation interviews in the field sample revealed that very little counseling occurred; most of

the interviews (68%) involved surveillances--either general checks on youth's current conditions (e.g., at home or school) or specific discussions of probation rules. Very few interviews (14%) involved actual problem solving. In 70% of the probation interviews observed, no services were requested, and in 54% no services were suggested by the worker. Services were requested and offered for interpersonal problems in only 2% and 3%, respectively, of the interviews.

In most courts dispositions were indefinite and left to the discretion of those delivering the service. Few statutes specify the length of dispositions or require periodic review. Seven states have placed time limits on probation, and some states have specified differential time limits and dispositional alternatives for status and delinquent offenses. Other states have placed limits on institutionalization, but these restrictions are exceptional, as indicated by the fact that nineteen states allow institutions to transfer juveniles to adult correctional institutions with the sole requirement that they find the juvenile "incorrigible." Data from the national sample corroborated the indefinite quality of sentences: 25% of the judges never used definite sentences. Almost all judges (i.e., 96% and 97%) routinely relied on a probation violation or probation officers' evaluations to terminate probation.

The comment by probation officers common to all field courts was that "the charge made little difference"; as long as a youth was adjudicated, any disposition was available. The indeterminacy of dispositions was illustrated when only 64% of the judges said they "always" filed a new petition on the commission of a felony by a youth on probation. Hearings were "always" held in only 37% of the courts when a disposition was changed. When probation was revoked, hearings were held in 92% of the courts; presumably, probation revocation was followed by a much more serious disposition, such as institutionalization. These hearings usually served only to formalize the decision; no indication exists that youth were represented by counsel or that the influence of attorneys had any effect. Judicial review over all cases did occur in a surprising number of courts; 40% reviewed dispositions within six months' time. But slightly more than half (53%) conducted no periodic reviews at all.

CONCLUSIONS

In each stage particular structural factors associated with case processing have been examined to determine their effects on case processing. To some degree, specialized intake and the existence and influence of prosecutors and defense counsel have been shown to enhance fair, uniform processing, which is currently limited in practice. Handling of status offenses was a consistent problem throughout case processing, as reflected in the willingness of specialized intake workers to remove them from court processing. Courts

with high attorney influence also wanted status offenders removed, as did judges who wanted them removed because of due process issues.

The complexity, variability, and importance of intake provides substantial support for the often-heard statement that "intake is where the action is in the juvenile court." Intake decisions about dismissal, informal handling, detention, and referrals for formal processing are obviously important to what happens to youth. Many intake units make dispositional recommendations as well. Intake by specialized workers, review of intake decisions by the prosecutor for prosecutive merit, and involvement by defense counsel early in the case are critically important for processing at the adjudication stage. Given the dominance of the judge in the hearing process, discretion exercised by intake workers, prosecutors, and defense counsels in most cases must be exercised prior to formal processing to be effective at all.

The intake stage, however, is subject to the least statutory control and the most court discretion. Control over adjudicatory processes (e.g., by statute or appellate decisions) thus cannot be completed without further control over case processing at intake.

SERVICE TECHNOLOGIES: DIVERSION, PROBATION, AND DETENTION

ROSEMARY SARRI

Throughout this report the juvenile court has been presented and analyzed as a people-processing rather than people-changing organization. Such a portrayal, however, is not entirely accurate. In the vast majority of instances, the court also provides services directly to youth in order to alter their behavior, attitudes, or values. The court also provides custodial care, and education and treatment services to youth awaiting adjudication or disposition decisions, or else it refers and controls the access of youth to service programs provided by public and private agencies in the community. The extent of the people-changing effort varies from court to court and also within courts for youth with varying problems and in different situations. These services operate on the philosophy of parens patriae and the mandate to rehabilitate rather than punish youth.

It is impossible in this report to describe accurately the full range of service technologies utilized and the programs provided under juvenile court auspices, because they are extremely varied in their content and organization. Thus, in this chapter information will be presented only about three program areas or technologies that are of particular importance to the juvenile court in the United States today: (1) diversion, (2) probation, and (3) detention. Data from the national survey will be used to highlight aspects of these programs that have been of concern recently.

DIVERSION

In the early 1970s, overreach of the law and overuse of criminal sanction to control juvenile behavior led to an increasing concern about the relative ineffectiveness of these sanction in reducing crime or preventing negative secondary or tertiary consequences. Out of this concern grew an interest in directing youth from the criminal justice system. This concern was similar in many aspects to the earlier interest of many persons in preventing serious delinquency or adult criminality through community crime prevention programs. Diversion has grown so rapidly that it can now be described as a key strategy in criminal

justice programming in a substantial number of states.¹

Diversion programs are usually defined as nonresidential service programs directed toward youth who have come in formal contact with the justice system through arrest or informally through referral to the court by parents, school personnel, social agencies, and so forth. They are designed to serve as alternatives to court processing.

When one examines the programs labeled diversion and the literature in this area, it seems as if there are as many definitions as definers. In the analysis done by NAJC, only activities that result in the direct referral of juveniles to agencies and persons capable of handling problem behavior outside the juvenile justice system have been labeled diversion. These actions are made at court intake prior to any adjudicatory or disposition decision by court staff. If youth do receive preliminary processing into the system and are then diverted, the process is expected to include purging youth of their "delinquency" label.

Diversion is an alternative to juvenile court. It has been developed because many experts now believe that the juvenile court, established to treat or rehabilitate juveniles, actually tends to increase deviant behavior. Gold and Williams (1969) suggest that any intervention by the justice system results subsequently in more delinquency processing. As Cressey and McDermott (1973) note, two academic traditions support this belief: First, the labeling perspective indicates that the process of arrest, trial, and conviction changes the self-image of juveniles. Once juveniles enter the court system, they begin to believe they are criminals and start acting like them.² Second, differential-association theory predicts criminal behavior for individuals who are in contact with others interested in committing illegal acts. It is believed that the juvenile court brings children in contact with others who have this orientation.

Given this restrictive definition, it is obvious that much of the activity termed "diversion" today really involves informal adjudication and dispositions that lessen the penetration of the juvenile into the justice system. The NAJC study by Cressey and McDermott (1973) clearly demonstrates the broad range of definitions of diversion structures, programs, and activities. With a more restricted definition, diversion would also include activities of court officials toward and with other agencies to inhibit the referral of youth to the court, and to facilitate the acceptance of cases referred from the court to the public school or other social agencies.

1. For a report and analysis of juvenile diversion programs in one state in the early 1970s, see Cressey and McDermott (1973). They note that diversion programs may exist as often within the system as outside it. The programs within it primarily recycle the youth through alternative phases of the juvenile justice system rather than direct them out of it.

2. Grichting, in his analysis of youth in correctional programs (Vinter, 1976), also comes to this conclusion.

WHY THE CONCERN ABOUT DIVERSION?

The failure of the justice system to provide adequate services to youth, plus the research findings that show more positive results from lesser penetration, have undoubtedly increased the interest in diversion of youth from the system as early as possible. Many prominent juvenile court judges have stated that 50% or more of the cases that come before the court should be diverted. Unfortunately, only in a minority of courts does it appear that such policies are in operation. Others continue to assert that the juvenile court should exert its authority "when necessary," which some consider to be often. Even though many juveniles are known to seek help or be willing to accept it from youth service bureaus, shelter homes, runaway programs, and the like, courts remain unpersuaded that youth services would be available through agencies other than the courts. Court intervention may in fact reduce services to youth by inhibiting the delivery of services by these outside agencies.

A number of reasons can easily be delineated to demonstrate the benefit to the court from increased diversion of cases:

1. The powers of the juvenile court are extraordinary and should be reserved for extraordinary, not minor, cases.
2. Large numbers of cases interfere with optimal functioning of the court, with the result that processing of cases will be slow and highly bureaucratic.
3. Juvenile courts have limited staff and monies. If they are overloaded, ineffectiveness will increase and it will not be possible to concentrate on serious delinquency cases.
4. The juvenile court was established as a court of law, and its limitations in remedying social ills must be accepted. It cannot order morality, make a child or a parent good, or induce respect for authority.

Juvenile court staff have expressed views about which agencies should handle categories of behavior now under the jurisdiction of the court. Table 8.1 reports the views of judges and probation officers on status offenses, misdemeanors, and felonies. Probation officers more frequently than judges say that status offenses should be removed from the court and handled by a nonjudicial agency. Judges and probation officers agree that truancy is best handled nonjudicially but differ about running away and promiscuity. Probation officers are the staff most directly involved in the delivery of service to youth, so their responses have particular relevance. Among the judges who responded, those who spent at least 35% of their time on juvenile matters were more likely to hold views similar to probation officers'. These responses further suggest that the more contact with status offense situations, the more court staff state that noncriminal behavior should be handled by a nonjudicial agency--in other words, that these youth should be directed from the court.

TABLE 8.1

JUVENILE JUDGES' AND PROBATION OFFICERS' PREFERRED JURISDICTION
OVER CERTAIN OFFENSES COMMITTED BY JUVENILES
(in percentages)

	Juvenile Court		Adult Court		Nonjudicial Agency	
	Judges	P.O.'s	Judges	P.O.'s	Judges	P.O.'s
<u>Status offense</u>						
Truancy	44	35			56	65
Promiscuity	54	35			46	65
Running away	61	47			39	53
<u>Misdemeanor</u>						
Liquor violation	81	68	5	4	14	27
Vandalism	94	95	2	2	4	3
Shoplifting	94	90	2	2	4	8
<u>Felony</u>						
Armed robbery	69	58	31	42	<0.5	<0.5
Breaking and entering	94	96	5	3	<0.5	1
Auto theft	92	91	7	9	1	<0.5

NOTE: The question was, "Which of these problems do you feel are best handled by the juvenile court, an adult court, or other social agencies (schools, child welfare, etc.)?" The percentages shown are based on responses from 252-269 judges and 469-491 probation officers; numbers vary due to responses that did not fit either of the three choices.

ARE YOUTH EFFECTIVELY DIVERTED?

The key decision-makers in diversion are police and court intake officers. Both are permitted wide discretion in many courts, with the result that it is nearly impossible to predict the types of cases or situations that will result in diversion. Obviously their knowledge of community services, types of cases, their corrections philosophy, and views of the court all affect their decision-making behavior.

Many juveniles are channeled into the justice system, but there are far too few resources for effective diversion or processing. Many juvenile courts lack specialized intake units, with the result that probation officers function in that capacity. They are inevitably impacted by their experiences with probation caseloads. Many components

of the court are isolated from outside community resources, and staff encounter barriers in gaining access or assistance for youth whom they divert. For all these reasons, diversion tends to be fragmented, uneven, and often unrelated to the conditions and resources of the community.

Youth are typically diverted through recommendations that they go to a specific location or agency, but only in a minority of situations does there appear to be follow-through to facilitate the youth's getting there and receiving at least preliminary assistance. There is seldom any follow-up to determine the outcome of diversion activity. It is not surprising, therefore, that court staff are skeptical at best about how youth are diverted. They come to believe that diversion within the system or under the court's general supervision is better because they know more of what actually transpires in these cases. If, however, the court had systematic follow-through and follow-up mechanisms, the effectiveness of outside diversion could be evaluated successfully.

In the national sample survey, court administrators were asked if a formally organized program for diversion of juveniles had been established in their court. Only 42% of them reported having such a program--a clear indication that diversion is not explicitly established as an alternative in the majority of courts in this sample. Court staff were also asked if the number of cases dismissed or diverted had increased in the previous five years. Marked discrepancies among staff were noted: 36% of the court administrators, 47% of the judges, and 62% of the probation officers reported that there had been a significant increase in diversion and dismissal. The discrepancies appeared largely due to lack of information by judges and court administrators about the actual processing of juveniles. Despite these differences, however, substantial consistency did exist for responses about community reaction to the increased diversion and dismissal, as Table 8.2 reveals. Approximately 15% reported that most people in the community supported the change and that very few were critical of it. Again the most significant findings were the perceived lack of community knowledge and lack of information available to court personnel. These findings suggest that juvenile justice is not likely to be a high priority with respect to community concerns or else that court staff are quite ignorant of views of the public. The latter seems questionable given the sensitivity of judges to public attitudes in other areas, as has already been noted.

Probation staff were also asked about the extent of feedback they received about cases diverted from formal handling. The findings first of all indicate that feedback is not routine for all cases, because the majority of staff responded that information is received "sometimes" or "often," with the latter less frequent than the former, and 37% said they received no feedback. They reported, however, two ways feedback information was obtained most frequently: (1) probation officers kept tabs on youth informally, and (2) probation officers reviewed the programs with parents or youth. These findings suggest that the court does not relinquish control of youth who are diverted, nor does it develop mechanisms for obtaining information from agencies in ways that have lower visibility and fewer negative consequences for youth.

TABLE 8.2

STAFF PERCEPTION OF COMMUNITY RESPONSE TO INCREASES
IN CASE DIVERSION OR DISMISSAL
(in percentages)

	Judges (N = 277)	Court Administrators (N = 240)	Probation Officers (N = 499)
Most people support change	10	10	9
Influential leaders support change	6	6	5
Most people unaware of change	28	13	37
Most people critical of change	2	5	12
Influential leaders critical of change	2	1	2
No increase in diversion or dismissal or no information	52	65	35

NOTE: In courts where staff reported a significant increase in diversion or dismissal, staff were asked about community response to this change. Responses represent staff perceptions of community views.

Because the concept of diversion has come to mean informal disposition within as well as outside the system, juveniles frequently find themselves diverted only from formal courtroom hearings to informal handling or indefinite "continuance" status. When probation officers were asked what happened to youth who refused to take advantage of referral to a diversion program, a variety of responses were received:

1. The case was "seldom" or "never" dismissed without further action (41%).
2. A formal petition was often filed (30%).
3. Other alternatives were explored and presented to the youth (25%).
4. The case was often placed on informal probation (18%).

Forty-five percent of the probation officers reported that they told youth the diversion referral was a "trial period" and if the youth engaged in delinquency, his case would be dealt with more severely. These officers less frequently reported using persuasive techniques or information about alternative types of referrals. Their efforts minimized the penetration of youth into the justice system and tended to

reduce the stigma of formal court processing, but again youth were seldom diverted from the court to other community resources independent of the court and without some court surveillance.

The issues in diversion of youth from the juvenile court are relatively straightforward. The goal is maximization of service to youth and their families outside the justice system under conditions that do not have negative secondary and tertiary consequences. If youth continue to be served within the confines of the juvenile justice system, diversion becomes a sham. Lerman (1975), in a study of two treatment programs in California, indicated that partial diversion programs resulted in more referrals and greater use of detention. If other, similar outcomes are to be prevented, the control of the court over diversion programs must be sharply reduced and preferably eliminated.

Court staff lack information about successful diversion programs outside the court, and as was noted in Chapter 5, they have limited contact with critical community agencies that could provide services. Decision makers and leaders within the justice system must worry more about conditions in schools, homes, and communities that result in youth being brought to the juvenile court. If diversion policies result in more effective societal response to the needs of youth today, they deserve to be supported and enforced. But if they result merely in even larger numbers of youth being processed through the system, with the inevitable negative outcomes for most, then a great injustice will have been wrought. Norval Morris (1975) has cautioned society to be parsimonious in justice-system intervention if we do not wish to increase social control and surveillance by the state. Overenthusiasm for so-called diversion programs and alternatives to incarceration may lead courts to process far too many youth, with long-term negative consequences for the development of capable and responsible adult citizens. Lerman (1975) concluded in his California study that community-based programming resulted in increased numbers of youth under local social control because courts were more likely to view such programs as potentially beneficial. Moreover, there were state-financed incentives which permitted increased rates of local detention. Thus, the original goals of community treatment were subverted.

PROBATION

The majority of youth adjudicated by the juvenile court are assigned to formal probation. In addition to these are large numbers not adjudicated who are placed on informal probation. The differences between these statuses ranges from almost none in some courts to substantial, qualitative differences in others.³ Although probation is

3. It is often asserted that informal probation is a voluntary status in which no official records are retained. However, in the field study of courts, cases were assigned to informal probation and elaborate records were retained although petitions were not filed. Moreover, information was provided to community agencies about these youth indicating they were receiving counseling, although in some court jurisdictions elaborate programs are provided to youth on probation, including residential treatment, alternative education, and ward placement.

considered one of the juvenile court's primary service technologies, too often there appears to be as many definitions of it as there are definers. The literature on probation (Carter and Wilkins, 1970) contains at least four conceptions of the functions of probation:

1. Probation is a legal classification that indicates a formal status in the juvenile system. It ranges from dismissal to commitment to the state for supervision. The minimal function of probation includes youth surveillance by probation staff.
2. Another function of probation is punishment in the form of required conformity to specified behavior for a specific or an undetermined period.
3. Probation is seen as an administrative process where the officers function as brokers to secure services for juveniles from community agencies.
4. Probation is also viewed as social casework.

Although it can be expected that a court will give priority to one of these conceptions in terms of its operational patterns, all of these modalities have been observed in juvenile courts today. As a result, an operational definition of probation is difficult to formulate. For purposes of this analysis, probation is defined as a legal status in which a youth remains in the community but must conform to specific behavior required by the court. These behaviors can be as minimal as having to telephone a probation officer periodically or they may involve a full-time treatment program. The services may be delineated either by the court, a local unit of government, or the state. But the youth is not removed from the community and committed to a state program. For example, in the states of Massachusetts, Florida, and Wisconsin, probation services are provided locally although youth may have legal status as state wards. It is often asserted that centralized state probation services differ significantly in service delivery from those locally provided. As shall be noted, the NAJC survey of both types produced no significant differences as measured by probation officers' reports of their activities.

CASELOADS AND FREQUENCY OF CONTACT

One of the first issues likely to be mentioned in any discussion of probation is the size of the individual worker's caseload. Any effective treatment or referral service to youth inevitably requires considerable time. Probation offices in the national sample reported a median caseload of 55 juveniles, with 25% who reported 35 or fewer cases per worker. At the other extreme, there were twenty-three workers who reported caseloads in excess of 100 per worker, and a single worker who reported a caseload of 500 youth. Obviously, caseloads beyond 50 make intensive counseling and referral difficult. There was some evidence of differential assignment of youth for intensive versus superficial supervision, but this was not done systematically except in a few courts.

Probation staff were also asked how often clients were seen; the modal response was once a month. However, it appears that probation officers have considerable discretion about the frequency of contact: some clients were seen weekly, others biweekly, and others monthly. The response from probation supervisors indicated less frequent contact of the supervisees than did the line probation staff, again suggesting that line workers have autonomy in this area. Very small percentages of youth were seen less than once a month. But again, responses were highly variable among line probation staff.

Two patterns emerged as to the place where youth were seen by probation officers. Some officers (20%) see 75% or more of their caseload in offices. Others have varied patterns. Some see their clients at home and others at the office. Probation staff seldom reported seeing juveniles in other settings, as often occurs in adult probation.

The median length of time for each contact by a probation officer was 30 minutes, with one quarter seen for 20 minutes or less and the third quartile for 45 minutes. Given the median caseload of 55 and an average of 1.5 contacts a month, these findings would suggest that considerably less than half of the probation officer's time is spent in direct service contacts with clients. Telephone contacts were not reported, but it is probable that they are used more for surveillance than counseling services.

PROBATION OFFICERS' ACTIVITIES

To determine how probation officers' time is allocated among activities they are asked to do, they were asked to report the percentage of time actually spent in specified tasks and also how they would spend their time ideally if they could reallocate it. The findings in Table 8.3 indicate that there are consistent significant differences between probation supervisors and line workers, but almost no differences were observed between state and local court probation workers. These latter findings would suggest that regardless of the agency auspices (whether state or local), there are commonalities in the activities of probation staff.

For line probation staff, between 36% and 41% of their time is spent in direct contact with clients in counseling or intake. Line staff would increase these percentages to 49% and 54%, respectively, if they could. In contrast, supervisors report spending far less time in contact with juvenile clients and far more in case conferences, supervising, management, and miscellaneous paperwork. It was also interesting that supervisors would not spend appreciably more time counseling. Line probation staff also spend substantial time in court hearings and investigatory activity before and after disposition decisions. However, these staff would substantially reduce this proportion of time if they could. Overall, comparison of "actual" with "ideal" responses produced smaller differences for supervisors than for line staff. Such results are not unexpected--supervisors probably have greater control over their activity than do line staff.

TABLE 8.3

PROBATION STAFF TIME ALLOCATION
(in mean percentages)

	Local/Court Auspices (N = 499)		State Auspices (N = 209)	
	Supervisory	Line	Supervisory	Line
Counseling clients	13	27*	17	33*
Intake screening	9	10	7	8
Case conferences	9	7*	10	7
Staff meetings	7	5*	7	5
Supervising	22	3*	21	3*
Interagency case contacts	9	9	8	8
Public relations	2	1	2	2
Investigating activity	8	15*	8	15*
Preparing disposition reports	5	9*	5	8
Appearing at court hearings	8	10	8	8
Management and training	5	2	2	1
Travel	1	2	2	2
Correspondence, reading, etc.	16	13*	17	13

* $p < .05$ between supervisory and line staff

TIME ON PROBATION

The mean length of time a youth was placed on probation was reported as 11.5 months. Approximately 25% of probation offices reported that this referred to active probation and that youths would not necessarily be discharged at the end of that period; they would more likely be placed on inactive status. And if a new offense were charged, handling was expedited because the juvenile still had a formal status in the courts and some of the initial due process requirements could be bypassed. Decisions on termination are typically not based on formal review, as shall be noted later.

CONTENT AND CONTEXT OF PROBATION SERVICES

What kinds of problems do probation officers discuss with youth? The report on time allocation indicated that only about 35-40% of officer's time was available for direct service to clients, but probation staff responded that there were problem areas frequently discussed with

clients. These are the kinds of problems discussed "always" or "often" with probations, in order of frequency reported by supervisors and line workers:

1. Personal problems (supervisors 50%, line workers 87%)
2. Attending school (supervisors 51%, line workers 81%)
3. Getting or holding a job (supervisors 46%, line workers 69%)
4. Use of drugs or alcohol (supervisors 43%, line workers 58%)
5. Probation rules and forms (supervisors 30%, line workers 50%)
6. Legal matters (supervisors 17%, line workers 26%)

The consistent and relatively large differences in responses between supervisors and line staff appears to be due to the supervisor's relatively infrequent contact with youth. Moreover, it is probable that in supervising conferences, line workers do not report such information to their supervisors. Since few courts had information systems for systematic feedback of organizational behavior, supervisors would have no other way of obtaining this information. Having reliable information is, however, important for the types of decisions supervisors regularly have to make about staff activity and priorities.

Many statements can be found in the literature on juvenile corrections about the problems of parents and youth that interfere with effective service delivery. More than half of the probation staff reported that inability or unwillingness of youth or their families to recognize their own problems caused difficulty for them in providing service. On the other hand, relatively few staff reported that clients' lack of understanding of court procedure was an important obstacle. Observations of the difficulties youth and parents encounter in handling legal procedures make this finding somewhat surprising. It does suggest however that probation staff may not be sensitive to the problems experienced by youth and parents in attempting to cope with legal requirements and processing. Other studies of public welfare agencies and hospitals indicate that staff were unaware of clientele problems in coping with complex bureaucracies (Street, forthcoming). When probation staff were asked if social or ethnic minorities had the same or more difficult problems which interfered with case processing, more staff (especially those in the court rather than under state auspices), reported that these clients had greater difficulty understanding legal procedures. There were also small differences reported in recognizing the problems of minorities.

The findings suggest that probation officers do deal with relatively concrete problems such as employment, school, and substance abuse. Since most probationers are 16 or under, the frequency of intervention in the school on behalf of probationers was also investigated. Only 5% reported that they "always" intervened with the school; 43% said they "often" did; and 20% said "never" or "seldom." Relatively few request help from the school or law enforcement agencies with respect to surveillance of their probationers. Probation officers also contact police infrequently about police treatment of juveniles. These findings are in accord with

the ones discussed in Chapter 4 where it was observed that the majority of courts lack viable interorganizational relations to aid in service delivery to clients. With respect to the above contacts, differences between line workers under state or local court auspices were nearly nonexistent, but substantial differences existed between supervisors and line staff, with supervisors reporting almost no contact with external agencies on behalf of clients. These findings are particularly noteworthy in view of the often observed relationship between school malperformance and delinquency (Polk and Schafer, 1972).

Juvenile courts use various treatment technologies in serving juveniles on probation. Although counseling programs were reported most frequently, the following treatment programs were reported available for at least some clientele by the indicated percentages of courts:

- 1. Individual counseling (44%)
- 2. Group counseling (38%)
- 3. Guided group interaction (16%)
- 4. Reality therapy (15%)
- 5. Behavior modification (23%)
- 6. Work placement (35%)
- 7. Academic or remedial education (33%)
- 8. Vocational education (33%)
- 9. "Other" (2%)

Since less than half of the probation officers have had professional training in criminal justice, corrections, or social work and their tenure as line workers was brief (state workers, 10-12 months; local court workers, 22-24 months), it could be expected that in-service training would be provided to help them deal more effectively with clientele problems. It might also be expected that community organizations and agencies would offer suggestions on how to deal with specific problems. Probation officers were asked about problem situations that have received some national attention and for which priorities have been established by LEAA for juvenile programs. They were also asked if they had received special training in handling problem cases. The findings in Table 8.4 are similar to those observed in other measures of inter-organizational relationships--namely, that there is relatively little contact between court staff and external groups. However, three problem areas stood out as receiving more attention from the community: running away, marijuana use, and school malperformance. Problems related to minority youth and to sexual conduct received little attention.

DISPOSITION AND PROBATION REVIEW

As already noted, probation officers report that the judge has the greatest authority in making disposition decisions. They also report that the prosecutor and defense attorney have very little influence.

TABLE 8.4
PROBATION OFFICERS' REPORTS OF EXTERNAL SERVICES
REGARDING PROBLEMS OF JUVENILES
(in percentages; N range = 671-708)

Cases Involving--	Outside Suggestions ^a			Training Provided ^b		
	Many	Some	Few or None	Often	Occasion-ally	Seldom or Never
Runaways	21	30	49	20	35	45
Minority youth	6	16	78	4	11	85
Sexual promiscuity	5	19	76	7	17	76
Marijuana use	22	34	44	16	30	54
Homosexuality	2	10	88	4	10	86
School malperformance	32	36	32	30	34	36

^aThe question was, "During the past years to what extent did organizations or groups outside the court suggest different ways to handle cases involving-- . . . ?"

^b"How often were special staff meetings or training sessions held to discuss specific ways of handling cases involving-- . . . ?"

Probation officers exercise much of their authority in the way the pre-disposition investigation is conducted and in the types of alternatives they present to the judge. Observations in the field study indicated it was quite unusual for a judge to request alternatives other than those provided by the probation staff, although the judge did make the final decision. Some probation officers commented, however, that they were aware of how the information could be presented to control the decision that would be made.

Given the indeterminacy of most dispositions made by juvenile courts, the question of routine review of a juvenile's behavior becomes paramount. When probation services were developed and linked to the juvenile court, it was argued that there should be no fixed sentences because the goal was treatment and rehabilitation. Moreover, the probation officer was apparently the one who was to make the final decision about achievement of that goal and then arrange for official termination and discharge by the judge. As the system has actually evolved, vast discrepancies have resulted, and many persons are now raising questions about the justice and fairness of indeterminate sentences. For example, a number of studies have noted that youth

charged with status offenses may be sanctioned more stringently and for longer periods than youth charged with serious felonies. Similarly, youth may be assigned to probation for relatively long periods for misdemeanor and minor property crimes that would have been resolved for adults with either a fine or a brief period of probation.

The majority of probation officers (55% of court-appointed and 62% of state probation officers) reported that there was no routine review of probations. Despite the median length of time on probation reported earlier (12 months), the findings in Table 8.5 clearly indicate that there is no established annual review except in a very small number of courts. Obviously, factors such as the juvenile's age, end of the school year, and court population pressures have more influence on the length of probation than any rational review procedure.

TABLE 8.5
FREQUENCY OF PROBATION REVIEW
(in percentages)

	Local Court Auspices (N = 499)		State Auspices (N = 209)	
	Supervisory	Line	Supervisory	Line
No routine review	55	55	62	63
Annually	8	8	4	5
Six months	23	19	16	17
Within six months	11	14	14	13
No information	3	4	4	2

As public concern about crime increases, it is expected that these views would influence the handling of juvenile offenders--particularly the work of probation officers since these youth remain in the community where their delinquent acts are committed. Table 8.6 reveals that probation officers think that the community wants serious offenders removed and the community protected "at any cost." Differences between state and local court offices were negligible, as were differences between supervisors and line workers. The needs of offenders and the desirability of community-based treatment were less important. In fact, only 15% to 17% of the officers responded that community-based intervention was preferred by the community. These findings, whether they accurately reflect public opinion or not, have an impact on the handling of juveniles by probation officers. As a result of perceived public opinion, they are likely to take far fewer risks in handling youth and to emphasize control and punishment over treatment and education of youth.

TABLE 8.6
PROBATION OFFICERS' VIEWS OF COMMUNITY EXPECTATIONS
(in percentages)

Perceived Community Expectations ^a	Auspices	
	Local (N = 499)	State (N = 209)
Remove offenders with serious problems	89	90
Protect the community at any cost	51	55
Make examples of those who commit serious offenses	54	57
Consider needs of offenders rather than seriousness of offense	29	26
Keep offenders in the community	17	15

^aThe question: "In handling juvenile offenders, do you feel that the community generally expects the court or probation agency to-- . . . ?"

These observations about probation service provide little basis for optimism about the potential for effectiveness in reducing juvenile delinquency and in rehabilitating delinquent youth. Although caseloads are not overly large, workers spend the major part of their time in investigations, court hearings, management, and routine bureaucratic tasks. These officers identified a number of problems areas, but also indicated that they lacked adequate resources to meet the problems adequately. Relationships with community agencies are weak at best, and this situation becomes problematic with respect to the officer's view that community protection is a more important factor than needs of the offender or the desirability of community-based intervention.

It was noted that systematic review of probation cases was non-existent in the majority of cases, with the result that probation officers often have considerable influence over termination decisions. But the criteria for those decisions were ambiguous and influenced by bureaucratic pressures and routine.

Despite the many statements made about probation provided under state versus local court auspices, the responses of the two samples of workers in this research indicate almost no differences in probation services between them. The pronounced differences that emerged were between probation supervisors and line workers in both contexts. Supervisors appeared less informed about the actual service delivery and were less sensitive to the community expectations. In view of their role and authority in administration of these agencies, accurate information about the behavior of subordinates is essential.

Lastly, priorities in juvenile justice for the court and community have been shifting at federal and state levels, but systems for effective communication of that information to line staff are lacking. Only a small proportion of line workers reported receiving special training in such national priority areas as status offenders, minority youth, substance abuse, and school malperformance. Probation officers were not professionally trained in the majority of courts, although substantial percentages did report participation in organizations and associations concerned with improvements in juvenile justice. Training of staff, therefore, becomes critical if priorities are to be pursued effectively. Such training could also benefit probation officers in the more effective and efficient performance of already accepted activities.

DETENTION

One of the most problematic aspects of juvenile justice is the detention of youth in juvenile detention facilities and in adult jails. Analysis of population distribution in juvenile justice indicates that on a given day, 9 out of 10 youth in residential facilities in the juvenile justice system will be found in detention units or adult jails (Sarri, 1974). It is conservatively estimated that nearly one million youth spend one or more days in jail or detention in the United States each year. Comprehensive information about detention practices is lacking because most of these programs are operated under local control and very few systematic studies have been completed. This section will not consider the general problem of jailing and detention, since NAJC has already reported on state detention rates and practices in Under Lock and Key (Sarri, 1974). Instead, attention will be focused on the responses of detention unit directors to the questionnaire in the national sample survey. In that survey, responses were received from 147 juvenile detention units, 16 adult jails, and 8 shelter care facilities. Questionnaires were sent directly to the local juvenile court judge except in states with regional detention facilities, where the contact was made through the state director of juvenile corrections. Eleven states reported having state-administered facilities--a total of 18 such units responded in this survey. (For further information about detention respondents, see Chapter 2.)

Detention is defined as the "temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities pending court disposition" (Sheridan, 1966:23). The object of pretrial detention in the adult court is to assure the alleged offender's presence at trial; but in the case of juveniles, the purpose is much broader because of the court's power to act in the "best interest of the child" and to provide services that the judge or staff deems necessary or desirable. The discussion of due process implementation in Chapter 9 points out that probable cause for an alleged act or fear that the juvenile will abscond are less important to judges than protection of the community or the needs of the youth.

The National Council on Crime and Delinquency has recommended that the percentage of youth detained should not exceed 10% of the cases

referred to the court. Seldom, however, is that standard achieved on a local or state level. For example, in a study of juvenile courts in a large urban eastern state, detention rates varied between 0.2% and 76% of the cases referred (Pawlak, 1972). Further, McNeece (1976) noted that police who were located close to detention units brought in many more youth than did police further away in the same county. Last, it was reported that 83% of youth charged with incorrigibility in Hennepin County, Minnesota, were detained, compared with 77% for armed robbery, 60% with assault, and 51% with burglary (Children and Youth in Crisis Project, 1976). In that same court, status offenders constituted 46% of all referrals to the court but 56% of all admitted to detention. Thus, as Lerman (1970) and Ferster and Courtless (1971) point out, seriousness of offense is not a useful basis for differentiating between detainees and nondetainees. Obviously, youth who have no home or whose parents refuse to accept them run the highest risk of detention regardless of what they have or have not done. Police are reluctant to release youth on the street once there has been an apprehension.

WHO ARE THE YOUTH IN DETENTION?

Responses to the national sample indicate that systematic data about youth held in detention are not kept in many courts. Thus our analysis is necessarily limited, especially with respect to age, offense, and other characteristics of these youth. But as the data in Table 8.7 indicate, the number reported is in accord with other censuses of detention (Appendix Table 2.A2 compares these censuses). The largest detention unit in the sample reported detention of 380 males and 170 females, a total of 550. The vast majority (more than 90%) of youth detained in the United States are held in large units, exceeding 75 beds. These are almost exclusively in large urban communities.

Data on offense characteristics were often incomplete in this survey, but it is clear that there are pronounced male and female differences. Status offenses were predominant for females, while property, status, and person offenses were most frequent for males. When total population size and density were correlated with offense characteristics, it was clear that the larger the size, the greater the likelihood of status offenders (.51), property offenders (.66), and person offenders (.58). In addition, the larger units were more likely to have proportionally more nonwhite youth. Previous court referral was also an important variable: approximately 35% of the males and 34% of the females had a prior history in the court.

The median age was 14 years. This is similar to the 14.7 years reported by Pappenfort, Kilpatrick, and Kuby (1970). Only 3% of the youth were under 9 years old.

TABLE 8.7

MEAN NUMBER OF YOUTH DETAINED ON A GIVEN DAY,
BY TYPE OF FACILITY AND OFFENSE

	Boys	Girls
<u>Type of facility</u>		
Juvenile detention (N = 147)	25.2	10.4
Adult jails (N = 16)	2.4	0.1
Shelter (N = 8)	2.1	1.6
<u>Offense^a</u>		
Dependency and neglect	0.4	0.2
Status	5.4	6.3
Victimless (alcohol, drugs)	3.1	0.4
Probation & parole violations	1.3	1.1
Sexual offenses	0.2	1.2
Property crimes	7.1	0.4
Person crimes	2.3	0.2
Not determined	10.0	2.4
Mean number of previous offenses	7	3

^aBecause of missing data, totals for offenses do not equal the mean number of youth.

WHAT IS DETENTION LIKE?

Health Services. Although 6% of the respondents stated that at least a quarter of the youth had severe emotional disturbances, screening examinations were not routinely provided except in the cases of medical and social-work examinations, where two-thirds of the youth were reported to have been examined. Social-work examinations are not surprising, since the professional staff most likely employed in detention are social workers. Concerning other personnel, only nurses were employed full or part time to any appreciable extent. Less than one nurse per unit, however, was the average. Only 9 units of the 171 sampled had full-time physicians; 2 units had dentists; 7 units had full-time psychiatrists. For the vast majority of the units, health care was provided on a special or emergency basis only. Thus, one should not overestimate the extent of screening that takes place given this great lack of resources. Only 13% of the units indicated that youth could see health care personnel on request. For many youth, detention is traumatic; thus, suicide and

other evidences of trauma must be expected. But detention facilities have few or no resources to handle such problems. In the case of youth held in adult jails, few reported any type of servicing at all, not even medical examinations. These results are very similar to those presented in the earlier NAJC report (Sarri, 1974:55), indicating that almost no progress has taken place between 1966 and 1975. Shelter care facilities reported that they relied on the health care facilities of the local community.

TABLE 8.8

SCREENING EXAMINATIONS IN DETENTION
(in percentages of units reporting services;
N = 147)

	None	All or Most	Some
Medical	6	62	32
Dental	24	17	59
Psychological	2	20	78
Psychiatric	4	10	86
Social work	3	64	33

In view of the frequent reports of suicide attempts, it was particularly interesting that 83% of the detention directors stated that between 1% and 10% of the youth in detention make one or more suicide attempts. These findings are in accord with those from the NAJC study of juvenile correctional programs (Vinter, 1976), which reported up to 17% of the youth attempting to seriously hurt themselves while in jail or detention. Obviously this proportion is alarmingly high, and it highlights the need for reexamination of conditions of incarceration and detention of youth who are no risk to the community's safety.

Education Services. Seventy-seven percent of the juvenile detention units reported that school facilities were available in the unit. In the remaining units, education was provided only on an irregular or special basis for certain youth. Of the facilities with education programs, 45% said all youth attended school but the majority attended part time. The mean number of teachers was between 1 and 2, and they were provided by the local public school system in 63% of the cases (where information was available). Obviously, any systematic education is limited under these circumstances.

Attendance at community schools was not permitted in 66% of the units; where permitted, 22% stated that only a few youth in each unit were allowed to attend. By way of contrast, jails reported no formal

educational programs for juveniles, as would be expected, but the shelter care facilities all reported that more than 75% of their youth were enrolled in community schools. This finding would clearly support the use wherever possible of shelter care to prevent serious disruption of a youth's education.

Supplementary education programs were reported in the majority of the facilities--individual tutoring, remedial classes, religious education, and creative arts. Seldom did units report that more than 25% of the youth received such supplementary services.

Treatment Services. Specialized interpersonal treatment technologies are seldom employed in detention units. Small proportions of units provided these services:

- Counseling (4%)
- Reality therapy (2%)
- Guided group interaction (3%)
- Positive peer culture (1%)
- Behavior modification (1%)
- Family therapy (1%)
- Religious counseling (5%)

No pattern emerged about the providers. In some cases the service was provided by detention staff; in others it was contracted from external agencies; in others, both. Services often were provided by probation staff of the court, who also had control over these aspects of the detention program. Thus, distinctions between youth in a pre-adjudicatory status and those in a postadjudicatory status might well be obfuscated.

Community Interaction of Youth in Detention. Community contacts for youth in detention were sharply restricted. In a minority of instances, a few youth were permitted to work in the community or to attend religious services. On the other hand, 90% or more of the units reported that nearly all youth had opportunities to attend movies or other organized recreation in the community. Apparently youth could be securely handled in these situations but were not trusted in more individualized activity.

Although the parents are said to play important roles in juvenile justice, family contact is often not encouraged. Parents were permitted contact with the youth by 16% of the units at admission; by 38% on a weekly basis; by 13% on a biweekly basis; and less frequent contacts were arranged by the remaining 33%. The average time for a parent visit was thirty minutes. Youth contacts with parents by letter or telephone were also restricted, often censored: 40% of the units reported that all mail--incoming and outgoing--was censored. Denial of family visitation as a means of discipline was reported by 15% of the units.

Control and Custody. Detention units typically have extensive services to maintain physical control over youth and to prevent escape. Control and custody are asserted to be essential functions of all correctional programs, but nowhere is control more prominent than in detention. Staff reports of organizational goals in Chapter 3 make it clear that control is an important goal priority for all staff.

Correctional programs have a vast array of technological devices and techniques for controlling disorder. Among the prominent security devices in most detention units were locked rooms, areas, and buildings, seclusion rooms, gates and fences, electronically controlled doors, and listening devices.

Surveillance and control of youth in detention is made more difficult because adolescent youth often strongly resent incarceration. Thus, actual control may be more difficult than in some adult facilities. Staff reported use of a variety of techniques to control behavior: continuous room monitoring, control of possessions, body checks, and so forth. Youth were monitored most often by having staff members accompany them, but passes and telephone surveillance were also used. Table 8.9 reports the types and frequencies of inspections in detention units. Random or daily checks are made in 75% or more of the cases. Random checks are particularly problematic because youth may readily perceive them as harassment.

TABLE 8.9
DETENTION UNIT INSPECTIONS OF DETAINEES
(in percentages; N = 171)

	Daily	Random	Weekly	Never	No Information
Youth's personal property	36	38	8	7	11
Living quarters	80	11	8	0	1
Person	52	37	4	1	6
Work area or school	63	20	4	3	10
Visitors	31	18	10	32	9

Contraband was reported as a problem by 61% of the directors, and it was often stated as a reason for the frequent searches. All types of contraband were reported found in detention units.

Phone and mail restrictions were reported by most units, especially on phone use. Mail censorship, as mentioned above, was reported by 40% of the units; the distribution of responses was bimodal, with another 40% reporting no censorship, and the remaining had variable patterns.

Youth were restricted to their rooms many hours each day. It is clear that not much is provided other than solitary activities. In 85% of the units, individual juveniles' rooms were used for discipline and seclusion, but they were also places for solitary studying and recreation, for listening to the radio, and for resting. There appeared to be little concern about negative effects of sensory deprivation through isolation. Moreover, the extensive use of television contributed to reduced interpersonal interaction. Few units restricted radio or television, so it was not surprising that youth watched television an average of 3-4 hours a day. Differences are noteworthy between viewing time and time spent in regularly scheduled, organized recreation. A mean of just less than 20 hours a week was reported--primarily in indoor and outdoor gymnastic and other sports activities.

Disruptive behavior is apparently frequent in correctional facilities: 68% of the units reported one or more incidents in the previous six months. Some units reported that disruptions occurred at least weekly. Only half of the units, however, reported standard operating procedures for handling such incidents; of those that did, only 10% had written rules and policies. It is probable that inconsistent handling is followed by more, not less, disruption.

The planned use of seclusion as a discipline measure was reported in all of the detention units except shelter care facilities (which did not have physical arrangements for secure holding). Thirty-four percent reported having special seclusion rooms; 20% had holding rooms; 8% had maximum-security wings or areas. The minimum time for youth to be held in these units averaged 30 minutes, while the maximum averaged 24-36 hours. The average length of time youth remained in them was reported as 6-12 hours. These are the reasons given by units for placing youth in seclusion:

- Hitting a staff member (84% of the units)
- Fighting with youth (67%)
- Escape (54%)
- Refusing to obey orders (49%)
- Use of drugs or alcohol (39%)
- Homosexual behavior (37%)
- Stealing (31%)
- Heterosexual behavior (26%)
- Hurting oneself (26%)

Youth whose disruptive behavior becomes problematic are sent to the adult jail by 69% of the units. In fact, 21% reported that more than one case a month is placed in the local adult jail because of disruptive behavior.

While youth are held in seclusion, their activities are further restricted, in most cases, to reading and listening to the radio.

However, 15% of the units reported that youth in these situations were given no materials of any kind.

Staff in 97% of the detention units were not armed, but staff were permitted in 44% to use physical controls or restraints for youth who broke the rules.

SYNOPSIS

The findings from this study suggest that detention should be used with great discretion since it is primarily a custodial program. The majority of detention facilities in the United States are operated in conjunction with the juvenile court; therefore the following recommendations are pertinent if the most negative consequences of detention are to be avoided.

- Intake screening should be available 24 hours a day and should be handled by professionally trained court staff--not by law enforcement officials. The right to counsel and the availability of counsel in detention hearings must become a significant reality, not merely a formal gesture of little purpose and unrecognized value by juveniles and parents. Since several studies of adult court processing have observed that the mere fact of detention increases the probability of subsequent conviction and institutional commitment, such intervention should be most carefully controlled and avoided whenever possible. The Pawlak study (1972) substantially corroborated this finding among the more than sixty courts studied in one state.

- The court must take initiative in stimulating the development of alternatives to detention and, when necessary, must enjoin community child welfare and other agencies to provide services to youth in need. Too often detention facilities are misused for administrative convenience when another form of care would be more appropriate. As long as the court continues to accept youth inappropriately, those who apprehend and process youth will continue to overuse the court to aid police investigation, serve the diagnostic aspects of probation, hold for treatment, and so forth. Because so few of all detained youth are institutionalized following adjudication, court staff would be well advised to use preadjudicative detention more parsimoniously.

- Although detention is not supposed to be used as punishment, the reports from Sumner (1971) and the Montana survey (Logan, 1972) point to frequent use of preventive detention and of weekend holding. Nearly all of these detained youth were released without petitions being filed. One criterion of effective detention practice could be the level of subsequent adjudication and institutional commitment: detainees subsequently institutionalized are more likely to have required detention. However, it would also be necessary to make sure that commitment rates did not become affected by having to prove the necessity of detention after the fact. After studying detention practices in the Denver Juvenile Court, Cohen (1975a) stated that youth who were held in detention were more likely to receive severe dispositions than those

not detained. He also reported that the rate of detention for status offenses, auto thefts, and other property crimes was equal (22% of those referred). Moreover, the rate for youth charged with violent crimes was only 27%, which is 2% below that of those charged with alcohol violations (Cohen, 1975b:22). If one goal of detention is protection of the community, then such organizational behavior is clearly questionable.

- Accountability in detention decision making is urgently needed; and if it is to become a reality, more adequate information must be gathered and made available. Twenty-two states do not even bother to keep any detention statistics. And in states that maintain statistics, our survey of courts indicates that their information is incomplete and seldom prepared for use by court administrators. If court staff can agree on the goal of facilitating the well-being of juveniles, regardless of their offenses, they can help reduce delinquency by judiciously and parsimoniously processing youth into and through the juvenile justice system. This idea of reducing penetration into the system is being attempted in several states. Research has indicated that apprehension and incarceration of youth at early ages increases rather than decreases the likelihood of subsequent delinquency and crime.

- The architecture and physical conditions of most detention facilities tend to increase the trauma associated with detention for many youth. We agree with most other observers that some youth must be held, but they need not be locked up in stark, frightening, jail-like units. Physically, each facility should permit privacy, adequate and healthful food, shelter, and personal care; recreation and education; use of the telephone; the right to have visitors and counsel daily; and a physical plant that permits visual and auditory supervision.

- Detention facilities need more professionally trained staff responsible to the court. They also need higher levels of child-care staff coverage with appropriate assignments of male and female staff. A total of 4.7 persons are required to cover one position for 24 hours a day, seven days a week. Staff should be able to relate to youth on a warm yet firm basis. They must have or be trained to use varied program skills so that youth can be constructively occupied during incarceration.

- Each presiding judge of a juvenile court should personally monitor the physical conditions and service delivery of his court's detention facility. This will require ongoing study of routine information about its operation as well as periodic visitations. Where private facilities are used for shelter care and holdover, they too should be subjected to the same monitoring and standards for adequate performance. Meeting such performance standards would probably require higher per diem allowances for shelter care than are currently provided.

- Education programs must be provided through the local community school and, whenever possible, youth should attend the local school and have some exposure to external community activities. The enforced idleness that characterizes many detention facilities can only lead to

negative results and has no place in a system aimed at help and rehabilitation.

Detention in secure facilities is necessary for pretrial holding of youth, but the variation between states and between courts within states indicates that it is often used far more extensively than necessary and for youth who present no serious threat to community safety. Many youth report that their most frightening experiences in the justice system occurred when they were held in detention units, police lockups, or adult jails. Nevertheless, incarceration of youth in these types of facilities appears to be increasing throughout the country faster than incarceration in any other type of residential correctional facility (Wisconsin, 1976; Lerman, 1975). If another generation of youth is not to be harmed irrevocably, greater parsimony in the use of detention is essential.

DUE PROCESS--REALITY OR MYTH?

MICHAEL SOSIN
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Until quite recently the extent and nature of due process guarantees in juvenile courts were often matters of great discretion. The type of courtroom process through which the fate of a juvenile was decided was often determined by the judge and staff, with some guidance from state juvenile codes. Indeed, the amount of guidance from the codes was limited: often codes were quite ambiguous or were overlooked by juvenile court judges.

Such discretion was not unique to matters involving juveniles. Until at least World War II, in fact, it is likely that the adult courts were quite like their juvenile counterparts. One authority even argues that compared to adult courts, the early juvenile courts had more due process and protected the rights of defendants more seriously (Schultz, 1973). Whether this is true or not, it is clear that many government services have historically operated under their own set of vaguely defined rules.

The lack of formal procedures for protecting the rights of individuals has been common in American society, and it also has a philosophical base. The United States has historically granted its states and localities considerable discretion in determining standards of governmental conduct. It is often claimed that the country is so heterogeneous that such discretion is necessary to ensure that procedure matches local needs. On a more formal level, the Supreme Court often supported this theory in its doctrine of local sovereignty. No matter how uneven the application of justice, often the issue of states' rights proved an effective barrier to standard procedures regarding issues as disparate as direct grants to localities and national civil rights efforts.

America's localist philosophy has been seriously challenged during the last two decades. Largely due to issues involving racial injustice, considerable doubt has been expressed about the ability and desire of local institutions to handle problems of justice and human welfare. Concern spread as it became apparent that the disparity in justice between localities was enormous. Such concern has led to an insistence that the national government take more control over local matters and establish reasonable standards for human rights and welfare. Indeed,

such an expansion of the central government is evident in many areas. Consider the following four examples:

1. A constitutional amendment, legislative acts, administrative decisions, and court policies aimed at ensuring the civil rights of minorities were promulgated during the last two decades. These regulations attempted to reduce injustice through mandates on such issues as open occupancy, equal opportunity in employment, voting rights, and school desegregation.

2. Concern with improving the welfare system increased, especially during the 1960s. Reforms included banning the use of "man in the house" regulations and midnight raids, as well as easing and standardizing the requirements for establishing eligibility for assistance. Federally supported service programs were also instituted through the idea of matching grants. All of these efforts were aimed at an issue related to justice--increasing the participation of the poor in the society as a whole.

3. A series of court cases have expanded the rights of incarcerated individuals in jails, mental hospitals, and juvenile institutions. Cases involved such issues as a right to treatment and a right to a formal hearing when important decisions are made within the institution.

4. The Supreme Court, in a series of decisions, resolved the debate about the lack of due process procedures for juveniles, protection of juvenile rights, and the dominance of the *parens patriae* doctrine. The Court mandated the introduction of important due process measures into the juvenile justice system. These decisions then sparked a variety of legislative changes at the state and federal levels.

For this report, the "due process revolution" in the courts themselves is a central example of the effort to enhance individual rights (Lemert, 1970; Fox, 1970). This revolution began with Supreme Court mandates involving adult criminal courts. The Bill of Rights, the Court suggested, is applicable to local units because the Fourteenth Amendment guarantees all citizens "due process of law." By a process of selective incorporation, different aspects of the Bill of Rights were highlighted for enforcement in local courts. These included the exclusionary rule, the right to counsel, and the right to a jury of one's peers in state courts.

The Supreme Court later took up the special case of juvenile court procedures. In *Kent v. United States* (1966) it was mandated that a right to counsel and to a proper hearing were necessary in cases involving waivers to adult court. This decision was important partly due to the issue, and partly because it noted that the behavior of juvenile courts was suspect. In this decision the Court warned that further safeguards were possible.

Indeed, a year later the *Gault* (1967) decision was reached, in which four rights were acknowledged at delinquency hearings:

1. The right to notice of the charges
2. The right to counsel and to proper notification of this right
3. The right to remain silent
4. The right to confront evidence and cross-examine witnesses

Finally, the decision in In re Winship (1970) extended the rights of juveniles further. Denying the notion that the juvenile proceeding is substantively a civil one, the Court declared that "proof beyond a reasonable doubt" is required in delinquency hearings.

These Supreme Court decisions were based as much on an indictment of the current juvenile courts as on constitutional law. The Supreme Court had been impressed with a wide array of evidence pointing to the dangers of informal proceedings. The Court noted in Gault, for example, that the informal, family-type hearing envisioned by the 1899 reformers had some difficulties from the start:

Juvenile court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure. . . . The absence of procedural rules based upon constitutional principle has not always produced fair, efficient, and effective procedures. Departures from established principles of due process have frequently resulted not in enlightened procedure but in arbitrariness. [387 U.S. at 21]

Indeed, proponents of reform have claimed that the discretion of the court resulted in a crime control organization in conduct (if not in goals), as informal trials tend to protect the community more than the juvenile (Platt, 1969). Thus, it was argued, the juvenile court gave the advantage to the prosecution and not the defense. Perhaps the Supreme Court was influenced by descriptions such as Forer's (1970:92), published shortly after the Supreme Court mandates:

Although under the Constitution the burden of proving commission of a crime and the burden of proving the guilt of the defendant is always on the prosecution, this is not the rule in the juvenile court. It is essential to prove an affirmative defense. In any court it is difficult to prove that one did not do something . . .

In short, it appears that the informal nature of juvenile courts has not worked to the advantage of the young defendants. Often informality leads to arbitrariness and to denying individuals the chance to prove their own innocence or to avoid a serious disposition. The Supreme Court believed that its decision would reduce arbitrariness by imposing standards that would protect juveniles and provide them with sound legal counsel to which they were entitled by the Constitution.

Despite its obvious desire to change juvenile court operations, the Supreme Court was very careful in limiting its decisions. Thus Gault applies only to hearings in which commitment "may" be an outcome.

This has been interpreted by legal scholars to mean that cases that by statute cannot result in commitment need not conform to these rules (Skoler, 1968). Further, the ruling does not cover the intake or disposition phases of case processing. Finally, other protections afforded adults, such as the right to a transcript or the protections against the use of hearsay evidence, are not covered by Supreme Court decisions thus far.

For a long time lawyers tended to believe that Kent, Gault, and Winship were the first steps in a selective incorporation of the Bill of Rights which would eventually make the juvenile court mirror its adult counterpart. However, since 1971 the Supreme Court has taken some steps in the opposite direction. McKeiver v. Pennsylvania (1971) notes that jury trials are not required in juvenile cases. Further, the Court's dictum indicates that further attempts to increase guarantees in the juvenile court may also be looked upon unfavorably, for the Supreme Court noted some doubts about the utility of a full adversary proceeding in the juvenile court:

There is a possibility, at least, that the jury trial, if required as a matter of constitutional precept, will remake the juvenile proceeding into a fully adversary process and will put an effective end to what has been the idealistic prospect of an intimate, informal, protective proceeding. [403 U.S. at 550]

In fact, this decision indicates that the Supreme Court has come to accept a position that is quite common in arguments concerning the juvenile court, the notion that due process may be opposed to all that the juvenile court has stood for. It is argued that a complete adversary system reduces the informality of a hearing, infusing the court with the "conflict model" atmosphere. As a result, information necessary for appropriate dispositions is often not collected. Thus, due process is thought by some to be directly opposed to the attempts of juvenile courts to treat delinquent.

It should be noted that the lack of further advancement toward juvenile rights in this area has not necessarily implied that the Supreme Court has rejected all other complaints. In issues relating individual rights to welfare and to due process in school hearings, a further expansion seems to be developing (Stanton v. Stanton, 1975; Goss v. Lopez, 1975). Nevertheless, in the court hearing itself, at least temporarily, some limits to change have been set.

Indeed, one school of thought criticizes the Court for not going far enough with due process. This school notes that in many areas due process guarantees are not mandated by the highest court in the land. Only adjudication is covered, so that counsel at intake--and the protections against self-incrimination at an early stage which counsel implies--as well as other protections, is not part of mandated court procedures. As a result, due process does not ensure fair process:

Veterans of the juvenile court in the years since Gault will no doubt smile at the naivete of these assumptions. The high hopes attending the Gault litigation have not been fulfilled. True, there have been paper gains through judicial extension of constitutional doctrine and legislative revision of juvenile courts which resemble the worst lower criminal courts. [Besharov, 1974:xvii]

Certainly, these different characterizations of the impact of due process in the juvenile courts are an appropriate topic for study. Certain aspects of the debate will be dealt with in this chapter. However, it is crucial to note that one aspect of study is prior to an analysis of effect. To have an effect, a legal mandate must first achieve compliance. Most concerned people would like to believe that the mandating of an action assures compliant behavior. However, much evidence in social science literature reveals that this is not the case (Skolnick, 1966). Some scattered evidence, in fact, directly points to some problems in the implementation of Supreme Court decisions in the juvenile courts. Lefstein, Stapleton, and Teitelbaum (1969) note in a study of three juvenile courts that full protection against self-incrimination is present between 0% and 33% of the time, depending on the court; that full rights to confront witnesses are present from 3% to 38% of the time; and that full, nonprejudicial advice concerning the right to hire counsel is provided 15% to 65% of the time. Of course, this research included only three courts studied in the late 1960s, but the findings are still important. The present national survey of courts provided a stronger and more recent foundation for studying compliance with Supreme Court decisions. This compliance, along with some of the effects, will be examined in this chapter.

WHAT IS DUE PROCESS?

One set of assumptions leading to Supreme Court decisions involving the juvenile courts includes notions about the character of these organizations. The informality of juvenile courts, their potential for arbitrary action, and their service orientation played a role in the decisions to set national standards.

However, it is quite obvious that another set of assumptions are involved in court action--those relating to the nature of due process itself. The type of guarantees accepted in our society clearly influences decisions in the Supreme Court. Before an analysis of the impact of such decisions on behavior can be made, however, it is necessary to spell out what due process is and what it hopes to accomplish.

Concern about due process in criminal proceedings is clearly a product of the twentieth century. But for the juvenile court, it has been a matter of importance only since the 1960s. For the purposes of this study, due process is defined as the presence in judicial proceedings of the traditional procedural safeguards guaranteed by the

Bill of Rights of the U.S. Constitution. These guarantees protect individual liberties and restrict the action of the state.

A classical way to understand the operation of a court is to look at it as a conflict game. On one side stands the state as represented by the prosecution. On the other side stands the defendant and the defendant's representatives, such as parents or attorney. The judge and jury represent neutral forces who set rules of conduct and declare the winner. The game is not physical, of course, but it is real. The prosecution tries to present its side as strongly as possible, given the rules set for conflict. The defense presents its side as well. In theory, between the two sides of the conflict the truth will emerge and the verdict and disposition will reflect this truth.

Many aspects of due process may be considered as ways of assuring that the conflict is an equal one, especially for the defendant. Due process is intended to develop rules for conflict resolution that ensure that the defense has its say. Thus Kent and Gault very carefully prescribe the presence of counsel who may cross-examine witnesses and confront evidence. These guarantees are meant to ensure protection by someone who understands the rules, namely, the juvenile's attorney. They also ensure that the attorney can bring legal skills into play in the courtroom. Supreme Court decisions also involve issues relating to notification of the hearing. This helps the defense by ensuring that the information needed to correctly utilize the law exists.

There is, however, a second set of principles underlying due process in this country. All individuals who come to trial have some "unalienable rights," and due process is aimed at ensuring they are not violated. Some such rights safeguard privacy. Only the evidence relevant to a case should be collected, so that other parts of a defendant's life will not become public knowledge. Similarly, regulations against illegal search and seizure protect the basic right to privacy of all individuals, as does the right to remain silent. Also, rights may set up a baseline condition needed before the state can intervene. The decision regarding proof beyond a reasonable doubt indicates that an appropriate baseline is one that minimizes state intervention to cases about which there is no doubt that a law was broken by the individual accused. Due process also implies that the accused will participate knowledgeably in the processing of the case; counsel serves this function along with the adversary role. Of course, the two sets of rights--procedural and substantive--may overlap, but perhaps it is important to note that a distinction is possible.

With respect to the juvenile court, issues of procedural safeguards are more complex and are clouded by the ambiguity surrounding youths' status and rights as people. Due to acceptance of the juvenile court as a court of law more than a treatment agency, questions of due process inevitably arose. In his critique of parens patriae and rehabilitation philosophies, Allen (1959:231) highlights some of the concerns:

A child brought before the court has a right to demand, not only the benevolent concern of the tribunal but justice. And one may rightly wonder as to the value of therapy purchased at the expense of justice. The essential point is that the issues of treatment and therapy must be kept clearly distinct from the question of whether the person committed the acts which authorized the intervention of state power in the first instance.

These issues are being debated across the land, and as will be observed in the examination of results from the national survey, consensus is apparent only on a minimal set of procedural safeguards. Moreover, there is apparently relatively little pressure on the juvenile court to comply with or extend these safeguards.

DUE PROCESS--SUBSTANTIVE ISSUES

Before proceeding to examine summary measures of due process compliance of the juvenile court, it will be useful to examine some of the more critical elements separately to ascertain their relative importance in court behavior. Several of them have been of particular interest to practitioners and students of the court in recent years. Among them are these, each of which will be described in terms of the responses from this survey of courts:

1. What is the frequency of and basis for appeals in juvenile court proceedings?
2. How prevalent are formal transcripts and probation reports? When they exist, who has access to them?
3. How often are cases waived or transferred to adult court? What are the constraints on waiver? Do judges have information on the outcomes of their waiver decisions?
4. What procedures govern detention of juveniles?
5. Are probation cases reviewed regularly, and if so, by whom?
6. What rules of evidence are applied by the court in adjudication?
7. Does the juvenile have a right to counsel? If so, how often and under what conditions is defense counsel utilized?

APPEALS

Adult criminal proceedings are subject to far more monitoring and scrutiny than juvenile courts. Greater concern with due process safeguards is shown in the adult court because infringement of liberty is perceived as more deprivational for adults than juveniles. In fact, a distinguished juvenile judge recently reiterated his colleagues' collective position that juveniles have a right to custody but not to liberty (Young, 1975). It is therefore not surprising that the court

assumes considerable autonomy in decision making. Moreover, there are few challenges to this assumption of autonomy. Two areas are relevant in this regard, neither of which have been mandated by the Supreme Court, namely, appeal and the preparation of transcripts.

The appeal process can be thought of as a kind of enforcement, and it is perhaps the only kind that judges are susceptible to, given our tradition of an independent judiciary. Appeals are a check on a judge's discretion: as long as cases are appealed, judges cannot indefinitely disregard the correct application of a law or legal procedure--their decisions will eventually be reversed. The appeal process only serves this watchdog function when a party to an action appeals a decision or when appeal is automatic, which is to say appeals depend on the presence of counsel and on the state's law regarding appeals.

A critical factor is where a case can be taken for appeal--to an appellate court or to a higher trial court. Review by an appellate court indicates that the juvenile court has status equal to that of the highest trial court of the state. In an earlier report of juvenile statutes (Levin and Sarri, 1974) it was observed that in 30 states, appeals are taken to an appellate court, or directly to the state's supreme court if it does not have an appellate court. In 15 states, appeals go to a higher trial court, which is not limited to reviewing questions of law as is the appellate court. The case may be tried *de novo* if the higher trial court judge so desires. In 5 states, juvenile courts have different statuses in different counties, so appeals will be taken to different courts. One state has no statutory provision relating to appeals.

Findings from the national survey indicate that appeals are a rare phenomenon in juvenile courts as compared with adult court, where most states have specific appellate divisions for adult court appeals. Of the 277 judges who responded, 157 (58%) stated that they had no appeals the previous year or else that they had no information there were any appeals. Of the 120 courts with appeals, the median number of appeals was 3, with a range of 1 to 110 per court. Some clear differences emerged between courts with judges who spent most of their time on juvenile matters and the less-specialized courts, as Table 9.1 reveals. Part-time-juvenile judges, as has been noted, are more likely to be found in small courts--72% of them report no appeals in an entire year, compared with 40% of the full-time juvenile court judges. It is not inconceivable that full-time judges encourage juveniles and their counsel to appeal, since the greater number and types of cases they adjudicate may make the utility of appeals more evident. In addition, full-time judges are found in larger communities where there are more likely to be public defenders who initiate appeals.

Judges were also asked the bases for the appeals and their outcomes. The most outstanding finding is that few had specific information about the appeal or knew its outcome, suggesting that information systems are inadequate. The total aggregate of judges reported that they had no information about the outcome of 65% of the cases appealed, that 14%

CONTINUED

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TABLE 9.1

APPEALS, BY TYPE OF JUVENILE COURT JUDGE
(in percentages; N = 274)

Type of Judge ^a	Number of Appeals in Year			
	None	1-2	3-5	6+
Full time	40	24	24	12
Half time	59	22	11	8
Part time	72	16	6	6
All	58	20	14	8

^aJudges were classified according to the proportion of time spent on juvenile matters--"full time" if they reported 60-100% of their time on juvenile cases, "half time" if 21-59%, and "part time" if 1-20%.

were successful, and 21% unsuccessful. Among the full-time juvenile judges, 20% of the appeals were known to be successful, in contrast to 13% in courts with half-time judges and 2%, part-time. In the latter cases the absence of adequate transcripts may contribute to the lower levels of success in appeals.

When asked about the basis for appeal, only 1% of the judges indicated an automatic right of appeal. This finding puts the juvenile court in sharp contrast with the adult court, where the majority of states grant an automatic right to appeal adverse rulings. Thus adult defendants are afforded an additional procedural safeguard before deprivation of their rights and juveniles are not. Judges stated that the reasons for appeals included issues of legal procedure (17%) and contested decision (18%). These findings make it clear that appeals do not function as a mechanism to enhance accountability in the juvenile court. Depriving juveniles of the benefit of this due process probably is not intended but occurs because intervention is viewed differently in the juvenile court--that is, its effects are seen as less permanent, and intervention is justified as "treatment" on occasions when guilt cannot be determined.

TRANSCRIPTS AND PROBATION REPORTS

The issue of inadequate case information is frequently raised by observers of juvenile court processing, particularly with respect to official transcripts of case processing. Whether transcripts are made is probably more a function of a court's location within the system than of individual idiosyncracies. Only 19% of the courts that responded in

this study said they had no transcripts of juvenile hearings. However, this does not imply that 81% of the courts do, in fact, have case transcripts. Depending on the type of case and hearing, an official transcript will or will not be made. Among the responding courts, 58% had transcripts for adjudicatory hearings, with nearly the same percentage for disposition hearings and for dependency and neglect cases, as Table 9.2 reveals. Very few courts (4%) used tape recordings instead of transcripts, and few responded differently to special requests.

TABLE 9.2

TRANSCRIPTS IN JUVENILE HEARINGS
(in percentages; N = 274)

	Adjudication	Dependency & Neglect	Disposition
Transcripts always made	58	55	55
Transcripts if requested	11	11	10
Transcripts for selected hearings	8	7	7
Tape recordings made	4	4	4
Transcripts never made	18	23	24

When the responses of full-time juvenile judges are compared with those of part-time juvenile judges, marked differences are revealed: 71% of the full-time judges usually had transcripts of adjudicatory hearings, but only 24% of the part-time judges had them. The respective percentages for hearings on dependency and neglect were 67% and 21%, and for disposition hearings 66% and 24%. As noted earlier, full-time juvenile court judges are likely to be in large and more urbanized communities. Such communities are likely to have more formalized court procedures, and the availability of transcripts is one indicator of such formalization.

The availability or use of probation reports also facilitates counsels' roles in ensuring due process to juveniles. Three-fourths of the judges responded that probation reports are always open to challenge and that defense attorneys have access to the juvenile's social file. Again full-time judges reported greater access to information than part-time judges.

Although the judges permit reports to be challenged, 14% said that juveniles or their attorneys are not permitted to obtain the names of those supplying information so that they can call them as witnesses at adjudication. Such practices are least used in courts with part-time juvenile court judges. This characteristic is less likely to be associated with the relative availability of counsel as with judicial characteristics.

The existence of transcripts and records is important to appeals of a court decision, for often they are the only basis on which an appeal may be made (Wald and Schwartz, 1974). Moreover, their existence determines the direction of the appeal. For example, an appeal may be made vertically to the appellate court, if the statute so provides, when a transcript exists; without a transcript the appeal is horizontal--a trial *de novo* in another court, usually a court of record. The ability of the appellate or supreme court to assess judicial performance is obviously greatly reduced without transcripts.

WAIVER AND TRANSFER

Nearly all states allow a juvenile court judge to waive jurisdiction and transfer a juvenile to the adult criminal system for adjudication or disposition. Only New York and Vermont, where the maximum age for original jurisdiction is 15, do not allow voluntary waiver. Apparently the legislators reason that juveniles who have reached certain ages and committed serious offenses should be processed as adults. Because of the unavoidable arbitrariness of age and offense characteristics, provision for judicial discretion could be expected. Differences between states in their waiver statutes relate primarily to the exercise of that discretion. (For a discussion of statutory provisions in this area, see Levin and Sarri, 1974.)

Thirty-six states have set minimum ages below which youth may not be waived. In 12 states there is mandatory transfer if the youth has committed a serious offense, and in 5 states transfer is at the discretion of the prosecutor.

Nearly half of the juvenile court judges (45%) responded either that no cases were waived from their court to adult court in 1973 or else that they had no information about the number waived. The findings in Table 9.3 indicate that full-time juvenile court judges waive jurisdiction more frequently than judges in other courts: 31% of the full-time judges reported six or more waivers in 1973, compared with 16% of the half-time and 8% of the part-time judges. It is quite possible that a control factor affecting waiver is stronger in courts with part-time judges. Those judges may hear adult as well as juvenile cases, so they have greater discretion to determine the conditions for the juvenile proceedings. In other cases many part-time judges operate in courts with less specialization, as has been noted; therefore they may be less willing to relinquish control over cases that other judges would readily waive to another court.

Although the waiver device is used most frequently in courts with full-time judges, the rate is partly a function of community size and level of urbanization. However, waiver varies widely between the large metropolitan areas. For three of the largest jurisdictions in the United States, each over one million in population, city A waived 292 youth in 1973, city B waived 72, and city C waived 136. When controlled for the rate of waiver relative to the total number of cases processed in these three cities, A had a waiver rate of 37 per thousand, B a rate of 3 per

TABLE 9.3
WAIVER OF JURISDICTION, BY TYPE OF JUDGE
(in percentages)

Number of Cases	Full Time (N = 88)	Half Time (N = 102)	Part Time (N = 84)	Aggregate (N = 279)
ALL WAIVED CASES				
No information				
or 0	35	41	61	45
1-2	14	24	21	20
3-5	19	14	10	14
6-10	13	13	2	10
11-20	8	5	5	6
21-100	8	3	1	4
101+	2	0	0	1
WAIVED CASES IN WHICH PROSECUTION WAS BROUGHT				
No information	42	45	62	50
0	0	1	1	1
1-2	15	22	21	19
3-5	19	13	10	14
6-10	11	11	2	8
11+	13	45	4	9

thousand, and C a rate of 4 per thousand. Moreover, the maximum age of original jurisdiction for A and B was 16 but 17 for C.

Admittedly, waiver depends on a number of criteria, but there will be few differences in the total number of youth waived because of statutory provisions. Statutory provisions were not predictive of the frequency of waivers except in the states where voluntary waiver is prohibited--New York and Vermont. Organizational and local community characteristics were more likely to influence waiver decisions than statutory provisions. Waivers may depend on criteria established by the local prosecuting attorney, or on standards of the state juvenile court system or supreme court administrator. Waivers also may be made ad hoc, as when a judge decides a particular case is too hot to handle.

Responses about the number of cases in which criminal prosecution was brought after waiver revealed a substantial increase in the number

of courts who responded "don't know." Only 43 out of 274 were unable to provide information about the number of waivers in 1973, but 137 lacked information about action subsequent to the waiver decision. Since proportionally more waivers occur in large, populous communities, informal communication is unlikely to inform judges effectively about case processing outcomes; yet there are apparently few formal mechanisms for transmitting such information to judges. Information on outcomes of waiver decisions would appear to be of considerable importance because it would enable judges to modify their behavior based on outcomes. For example, in some courts criminal prosecution might have been brought for only a small proportion of the cases waived; judges would want to know why and might decide to handle future cases differently.

Ninety percent of the judges report that hearings are held before waiver decisions, as required by Kent.¹ However, in other processing phases, hearings are held less frequently: decisions involving transfer from one disposition to another, 63%. In revocation of probation situations where a transfer is made to a state institution, 88% of the judges reported that a youth would "seldom" be transferred without a hearing. In contrast to the usual practice of holding court hearings before a youth on probation is committed to a state institution, court hearings are seldom held for youth transferred from state juvenile facilities to adult correctional facilities. In most states, authority for such transfers rests with the state administrative agency rather than the court. Recent litigation has challenged this authority to transfer youth from juvenile to adult agencies without hearings where there is proper due process.² Twenty-two states statutorily permit a juvenile court to commit a juvenile to an adult correctional institution (Levin and Sarri, 1974:57). In states where the age of original jurisdiction ends at 15, youth are often tried and convicted in adult courts and then transferred back to juvenile agencies for disposition. Thus there is considerable commingling between adult and juvenile judicial and corrections agencies, with marked discrepancies in adherence to due process procedures in effecting these transfers. For the majority of these states, the data available suggest that neither local juvenile judges nor the state supreme courts have been active in controlling or even being informed about this processing.

DETENTION

Since more than one million youth are held in juvenile detention and adult jails each year, this is a critical area in which due process compliance is at issue (Sarri, 1974). Chapter 8 dealt in detail with

1. Of the full-time judges, 96% reported that hearings were held before waiver, compared to 87% of the part-time judges.

2. The most recent such challenge is Saunsoci v. Exon (filed Jan. 30, 1976), in which a 17-year-old was placed in an adult prison based on an act he was adjudicated for in juvenile court when he was 10 years of age. This case challenges the power of the state to incarcerate in an adult prison an adjudicated delinquent who has not been convicted of a crime as an adult.

the operation of detention programs; therefore this chapter will consider only the aspects related directly to due process. Because of the high rate of detention utilization in many jurisdictions, one of the first inquiries to be made is whether detention is used parsimoniously and whether alternatives to it are available. Thus this section examines judges' reported use of alternatives such as release on recognizance, to parents or other adults, bail, and shelter care facilities, as well as procedural guarantees in the detention admission and review process.

The alternative most frequently employed by all judges is release to parents: 93% reported "always" or "often" used. In contrast, only 42% reported they "always" or "often" release youth on their own recognizance, and 36% stated they "always" or "often" use foster or shelter care. Bail was utilized by 7% of the courts "always" or "often," although 24% of the judges stated that youth were allowed to post bail. Full-time juvenile judges use foster and shelter care more often than part-time judges, but they are far less likely to release youth on recognizance. Again, because full-time judges are more often in populous urban communities, they may be less willing to relinquish control over youth because of perceived public attitudes about youth and crime.

Bail is apparently not considered a serious option for juveniles by any of the judges. Although twenty states permit the posting of bail, 43% of the judges in this study stated that juveniles are not allowed to post it. Many of the judges who so responded were from states where bail is permitted by law. Obviously one could argue that because of youths' lack of resources for it, bail is not desirable or perhaps even possible for them; but if that were the case, there should be greater willingness to release them on their own recognizance.

The willingness to rely heavily on release to parents as an alternative to detention may seem desirable from a due process perspective since the youth's freedom of movement is less restricted. However, when it is recalled that parents may be initiators of complaints and that home problems are a significant factor in the referral of females to the court, this tendency becomes somewhat problematic. Moreover, release to parents could, under many circumstances, precipitate a case of running away or truancy.

Judges were far more likely (49%) to believe that "placing a youth in detention is a good way to show him that the court means business" than detention directors (28%) or shelter care operators (26%). Full-time judges more often agreed with this view than part-time judges. Their response may be a consequence of who controls detention. For full-time judges, 60% of the detention facilities are under local control (usually the judge's), whereas for part-time judges, an almost equal majority (59%) of units are under the control of a state agency.

Admission to detention is another area where issues of due process arise in decision making. Although 94% of the judges responded that they could authorize admission, there were more restrictions on all other relevant personnel in or out of the court. Only 20% of the judges said police could authorize admission, 28% that referees could, 39% that

intake officers could, and 51% that probation officers could. For all categories, full-time judges delegated authority far more frequently than part-time judges, probably a consequence of size and location of jurisdiction. With regard to the conduct of hearings for detention, detention directors reported no formal hearings were held for nearly a third of the cases. In fact, in 47% of the detention units studied, directors reported that hearings were conducted within 48 hours (the maximum time specified in the juvenile codes of nine states) in less than a tenth of the cases. Only 42% reported that judges always reviewed detention decisions.

From a due process perspective, probable cause ought to emerge as a strong factor in decisions to detain youth; such factors as protection of the community or of the youth ought to rank somewhat lower. Judges' responses were tallied on the criteria they used in detention decisions. These criteria were used "always" or "often" by the indicated proportions of judges:

1. Protection of the juvenile (70%)
2. Protection of the community (66%)
3. Probable cause related to allegation (48%)
4. High risk that juvenile will abscond (43%)
5. Nowhere else to send youth (24%)
6. Preventive detention (22%)

Among the full-time judges, protection of the juvenile and community were far more important factors than probable cause. But among part-time judges, probable cause ranked the highest. Moreover, part-time judges more often reported they would never send juveniles to detention merely because there was nowhere else to send them. It is the full-time, specialized judge who seems least concerned with probable cause or the possibility the youth will abscond. It appears, instead, that the judge justifies detention as treatment or for the good of the youth in general. As will be noted subsequently, what appears to emerge also are distinctions between formal compliance with due process and full compliance. Full-time judges formally comply with the letter of the law, but often do not comply as fully as part-time judges with the spirit of the law. Thus, more full-time (76%) than part-time judges (49%) agree that "where the evidence does not clearly establish the offense charged, the case should be dismissed, regardless of the child's apparent need." Probation officers show a greater tendency to favor treatment or sensitivity to the perceived needs of the youth and community over due process.

PROBATION REVIEW AND REVOCATION

Until very recently, juvenile statutes were silent about probation review, with the result that very young children could be placed on probation and kept on it until they reached the age of majority. This was in contrast to adult sentences, where time limits were established

for review if not for the sentence itself. In the majority of states, juvenile court judges can terminate probation whenever they see fit. Only in 7 states is the court required to review cases periodically, and in 6 others maximum time limits are set for probation (Levin and Sarri, 1974). One state establishes shorter time limits for status offenders than for other adjudicated youth.

Both judges and probation officers in this survey concur that review of probation is relatively infrequent: "no routine review" was reported by 59% of the probation officers, 64% of the part-time judges, and 48% of the full-time judges. In most cases probation is terminated on the basis of the probation officer's recommendation: 94% of the judges responded "very often" or "often," as did 88% of the probation officers. Thirty-nine percent of the judges and 46% of the probation officers reported "very often" or "often" using "definite sentence set by judge" as the criterion for length of probation. Preferences of parents, schools, or employers were very seldom used in decisions on probation termination. Part-time judges used definite sentences more frequently than full-time judges (48% versus 29%), and also parental or school preferences (27% versus 15%).

With regard to probation revocation, it has already been noted that 89% of the judges reported always having hearings. But new petitions may or may not be filed depending upon the seriousness of the new offense. Only 12% of the judges reported a new petition when curfew is violated. School disruption and truancy also warrant new petitions infrequently (22% and 25%, respectively). But the judges report that when a felony is committed, or the youth is unable to live at home, or a probation officer is assaulted, a hearing will be held or a new petition will be filed in nearly all cases.

RULES OF EVIDENCE

In adult courts it is expected that a state's rules of evidence will always be followed, but in juvenile courts they are not always adhered to. Among full-time judges, 93% reported they always followed state rules, compared with 64% of the part-time judges. Responses to other items about hearings and criteria in adjudication decision making suggest that formal rules often are secondary to informality and perceptions of needs and capabilities of the juvenile.

RIGHT TO COUNSEL

An important element of the process for which there appears to be widespread acceptance is the right to counsel. This right has been affirmed in statutes and Supreme Court and appellate court decisions. Overwhelmingly, judges responded that juveniles should have counsel at adjudication (97%), disposition (96%), and review or revocation (93%) hearings. Although few differences existed among the judges regarding these decisions, part-time judges were less likely to recognize a right to counsel at transfer and waiver hearings than full-time judges (82%

versus 94%). Counsel at detention hearings and at intake were reported far less frequently, with 86% of the judges acknowledging this right at detention and 69% at intake. There was significantly less enforcement of these rights by part-time than by full-time juvenile judges. Moreover, in all cases a lower proportion of judges arranged for the appointment of counsel when needed than acknowledged a juvenile's right to counsel. This was observed at all stages of case processing.

Another way the right to counsel may be examined is in terms of the roles and influence of defense counsel. Responses of judges were classified by the perceived amount of influence of defense counsel. The findings were illuminating: in courts where attorneys were reported to have high influence--

1. cases are appealed twice as often;
2. motions are made more frequently;
3. social reports are more accessible to defense attorneys and to parents, and ultimately are less accessible to judges before disposition decisions;
4. judges show greater concern with protection of youths' rights and toward the rights of parents;
5. criteria at adjudication relate more to the allegations than to the needs and capabilities of the juvenile; and
6. the right to counsel is exercised throughout all stages of processing.

If one selects one of these criteria, the frequency of motions, for further examination, the importance of an active defense counsel becomes more apparent if due process is to be enhanced. Overall, judges report very few motions being made in juvenile courts; also they were not able to report accurately about the number of motions. The most frequently made motion was to suppress evidence, followed by the motion to dismiss a petition. Both of these require the assistance of counsel in the majority of instances. Full-time judges reported more motions than part-time judges--not surprising, since they preside over larger, metropolitan courts where attorneys are more likely to be present on a regular basis.

It is apparent from these results that the relative activity and influence of defense counsel does not guarantee greater attention to due process. However, the greater their influence, the more the conditions associated with due process were likely to exist.

COURT REACTION TO DUE PROCESS REQUIREMENTS

If a single word may be used to describe the complex and varied response of the juvenile court to due process demands, that word would be ambivalence. Judges tend to agree with the general idea of providing legal safeguards in the court, and often make attempts to bring courtroom procedure in line with Supreme Court mandates. However, both in ideology

and in practice they often ensure that such protections do not go "too far" in altering the court. Thus, as has been shown, judges rank due process as a quite important goal. Even in the "should be" category, only two treatment items rank higher than "protecting the rights of juveniles." On the other hand, severe discrepancies occur when questions concerning more specific aspects of due process are involved. Of particular note is an item asking judges their opinions of the proposition that "with respect to due process juveniles should be treated differently than adults in the criminal justice system." On most such questions, responses tended to form a normal distribution--that is, many replies were somewhere in the middle response categories, with few at the extremes. However, responses to this question differed markedly, with 43% of the judges agreeing that juveniles should be handled differently and slightly more than half stating that they should not be handled differently. These responses demonstrate deep and evenly divided opinions about what due process actually should involve, despite near unanimity that some type of due process is important in the court.

TABLE 9.4

JUDGES' VIEWS TOWARD DUE PROCESS
(in percentages; N = 277)

	Strongly ^a Agree	Agree ^a
Where the evidence does not clearly establish the offense charged, the case should be dismissed regardless of the child's apparent need.	30	34
With respect to due process, juveniles should be handled differently from adults in the criminal justice system.	11	32
Bail should be used more often in juvenile cases than it is now.	3	16
The Supreme Court has gone too far in protecting the rights of criminals.	10	18
Placing a youth in detention is a good way to show him that the court means business.	4	18
^a Other response options were "mildly agree," "mildly disagree," "disagree," and "strongly disagree."		

Certain opinions concerning the propriety of specific due process safeguards demonstrate similar discrepancies. Thus 65% of the judges "agree" or "strongly agree" with the statement that cases should be

dismissed if there is not sufficient evidence. Perhaps even here it is indicative of the state of due process in many courts that roughly one-third of the judges do not agree with this very basic premise of the Supreme Court decisions. Moreover, the right to bail was disapproved of by 65% of the respondents. Certainly this indicates that most judges are unwilling to take due process further than the statutes go; it also showed a disproportionate share of judges who believe in bail are in states where bail is provided by law.

When judges were queried about the alternatives to detention used in their courts, only 7% said that it was used "always" or "often," suggesting even less use of this alternative than their responses suggested relative to the desirability of bail. In addition, 37% responded that youth were "seldom" or "never" released on recognizance, but release to parents was utilized "often" or "always" by 93% of the judges. When one considers the cases of status offenders where the parents may be the complainants, it becomes obvious that such youth do not have the same due process rights available to them that an adult, or even youth charged with other crimes not involving the family, would have. Certainly these data suggest further ambiguity and division about the civil rights of juveniles relative to those fully recognized and accepted for adults.

IMPLEMENTATION OF SUPREME COURT MANDATES

Inconsistency in responses--wide agreement on general principles and differences on specifics--is as present in the actual adoption of due process as it is in attitudes concerning the issue. If one looks only skin-deep, it appears that the Supreme Court mandates have been almost universally adopted by juvenile courts. However, compliance becomes less complete the more deeply one looks at the operation of the court.

EVIDENCE

One question asks whether the court uses the criterion of proof beyond a reasonable doubt or the preponderance of evidence in making adjudication decisions. Winship, of course, demands the former, and judges report almost complete compliance: 95% of judges say they use "proof beyond a reasonable doubt," only 3% use "preponderance of the evidence," and the rest did not answer. Yet, if Winship were to be fully implemented, such standards should be reflected in the way evidence is gathered at trials. In a court fully committed to Winship, the judge would not have access to the social report during adjudication, for such access would tempt the judge to look at the past behaviors and social needs of the juveniles rather than at the evidence concerning the charge itself. Yet only 52% of the judges say they "never" have access to the social file before or during adjudication. The rest, presumably, at some hearings violate the spirit of the law mandated in Winship: they claim to use a standard of proof based only on evidence, but they use other, potentially compromising material before making their decision.

Perhaps use of the "never" category as indicative of compliance to Supreme Court mandates needs some explication. It is believed that a court that occasionally violates a due process provision should be considered as not complying with that mandate. Judges who use social reports only for the few cases in which they are unsure of their decisions are in serious breach of the law: these few, unsure cases are precisely the ones that proof beyond a reasonable doubt is meant to safeguard. Just as a police department that refuses to read rights to even 10% of its suspects misses the point of Miranda, a judge who refuses to observe due process safeguards in some cases must be considered to be missing the point of the Kent, Gault, and Winship decisions. Indeed, using this standard, the pattern of partial but not complete compliance determined for Winship holds true in other areas as well.

NOTICE OF THE CHARGE

Ninety-five percent of the judges report that written notice of the charges is always given to defendants. At first glance this appears to indicate almost complete compliance with the Gault provision requiring notice. However, often the way notice is given is somewhat deficient. Juveniles, of course, would have difficulty understanding notice in statutory form because they often cannot decipher legal terminology. However, 14% of the courts present notice only in statutory form. Sixteen percent of the judges report that notice is given only in factual form that the juvenile is more likely to be able to understand. In this case it may be argued that the notice is still insufficient since it does not contain all the information counsel might need. Indeed, 68% of the courts present notice in both forms: statutory language and factual allegations.

COUNSEL

The Gault decision provides for counsel at adjudication, while Kent provides for counsel at waiver hearings. In both cases there are many components of this right. For example, courts must not only inform juveniles that they have a right to counsel but also that counsel will be appointed by the court if the defendant cannot afford to pay an attorney.

As already noted, there appears to be much compliance with the right to and appointment of counsel at adjudication. Ninety-seven percent of the judges report that juveniles have a right to counsel, while 86% note that counsel is appointed when necessary. Thus it appears that considerable--but not universal--compliance with the mandate exists at adjudication.

Waiver hearing procedures tend to comply with court mandates somewhat less often. At this stage, 86% of the judges report a right to counsel and only 77% will appoint counsel if needed. To be sure, 77% compliance is a large majority of the courts. However, it cannot be

ignored that a sizable minority of courts do not follow proper guarantees. In fact, 12% of the judges report they "seldom" appoint attorneys at any stage.

The conflict model of due process implies that defense counsel is important in presenting the juvenile's side of the case. (Of course, the defense attorney is also useful in providing other guarantees.) To present the case, lawyers must be active in the courtroom. However, the activity of most lawyers in the courts appears minimal. Thus only slightly more than half of the judges report that lawyers "always" confront witnesses. Further, only 20% report that lawyers "often" call witnesses named in reports on the case. And as has been mentioned, in nearly half the courts lawyers made no appeals at all in 1973.

The field observations of courts strongly confirm these survey results. Seldom in the courts visited did it appear that lawyers were vigorously defending their clients. For the most part, attorneys tended to prefer to plea-bargain with the judge on small points rather than on the adjudication decision itself. For example, some lawyers would have their clients admit guilt on three of six counts if the other three would be dropped. Judges often agreed to this arrangement, and for good reason: once a child is adjudicated a delinquent, three rather than six counts makes no legal difference, as legally the judge need not fit the disposition to the number of charges.

Further observation makes it clear that not all types of defendants have equal access to lawyers. Most often, cases involving crimes against persons (a very small percentage of all cases) or serious crimes against property were formally tried while cases involving status or minor offenses were not. On some level this seems reasonable: the most serious cases are dealt with more formally. However, the most serious cases observed in the field study were usually the most clear-cut ones. Those assault or burglary cases brought to court often involved individuals caught in the act. Offenses involving family arguments or school problems were far more ambiguous; yet legal counsel was used sparingly in these proceedings. And, of course, many status offenders are eventually committed to institutions through these trials. With these practices, it is not surprising that youth charged with status violations receive disposition sanctions as stringent as those received by youth adjudicated for serious property or person crimes. Once a youth is adjudicated delinquent, the disposition is based far more on perception of sociopsychological needs than on manifest criminal behavior (Arthur, 1975; Piliavin and Briar, 1964).

These discrepancies between the almost complete theoretical existence of counsel in the juvenile court and their rather low levels of activation may appear surprising to some observers of the court. Certainly, one would expect defense counsel to take an active role in court hearings and to do so if present in the juvenile court. Although these data cannot fully explain why this does not occur, at least three explanations appear plausible.

First, juvenile courts may be arranged so that lawyers enter the process too late to provide any substantial aid. Thus, one question

asks judges to report who usually waives the right of self-incrimination in the court. Only 47% of the judges reported that counsel, along with the parents and youth, usually makes the decision. Thus, in many cases, lawyers often enter juvenile cases after the defendant has already admitted guilt. Obviously, at this point in the procedure there is only a limited amount the lawyer can do. (See Chapter 7, Case Processing.)

Second, it is possible that lawyers are "co-opted" into the juvenile justice system. It has often been noted with respect to lower adult courts that while clients are quickly passed through the court system, the judge, defense attorney, and prosecuting attorney remain. Often bonds of friendship and of coordination develop that tend to undermine the adversary model of the court. This hypothesis is supported by evidence from the 220 courts in the sample that report having public defenders' offices. In these courts, the judge was asked how much conflict there was with the public defender. On a 1-to-5 scale, with 5 representing no conflict at all, the average court placed conflict at 4.1. On the whole, it seems, a rather harmonious relation exists between the defender and the court, substantially different from that presented in descriptions of the ideal model.

Finally, our experience in the courts seems to indicate that part of the problem may reside in the defense attorneys themselves. Like many members of the general public, these lawyers are somewhat unsure what their role should be. They believe that juveniles need attorneys, but they often wince at providing full legal services to juveniles if it means that some who may be guilty will "get off the hook." Perhaps Sanford Fox (1970:161) states the problem best:

Lawyers generally tend to share the view that misbehaving children ought not to be permitted to believe that they can get away with breaking society's rules. To the extent that a vigorous demand for legal rights would produce an acquittal on delinquency charges, there develops a conflict between this shared belief and the professional role as children's advocate.

CONFRONTATION AND CROSS-EXAMINATION

Overlapping with the other due process areas is the right to confront evidence and cross-examine witnesses, also provided for in Gault. On a formal level, again, quite high rates of compliance exist. Eighty-seven percent of the courts apparently follow state's rules of evidence, which implies the ability to confront evidence, and 72% of the judges report that the attorney always has access to the social file. At the same time, 86% of the courts at least allow lawyers to call witnesses named in the social report.

Measures of more complete compliance to such rights have been reported in previous sections. As mentioned, judges often have access to social reports and may therefore base their decisions on criteria not related to the efforts of lawyers; lawyers seldom confront witnesses, and social reports are rarely used by lawyers to call witnesses.

SUMMARY MEASURES OF DUE PROCESS

If an overall impression of compliance with due process were presented, how would it proceed? Such an impression depends on summarizing the various measures presented, and two distinctions may be useful in this respect. First, one important division is between formal compliance and full compliance. Formal compliance includes only the most obvious and observable behavior required by law--for example, theoretically upholding the right to and appointment of counsel, no matter how active counsel is. Full compliance entails paying attention to the spirit of the law. Thus active lawyers are needed for full compliance, because of the varieties of tasks to be fulfilled if youth are to be defended appropriately. Our second distinction divides two types of behaviors mandated by law. One may be considered procedure-oriented. This involves activities (such as providing for a waiver hearing) that depend almost completely on the activities of the judge. The other category is attorney-oriented. Here activities involving defense attorneys are key.

Table 9.5 indicates the four measures that may be derived from the two distinctions--formal compliance to procedural and attorney-oriented requirements, and full compliance to procedural and attorney-oriented issues. Several interesting patterns emerge: First, formal procedural requirements were adopted more fully than formal attorney requirements, while if anything the pattern is reversed for full compliance. Second, as expected, full compliance is less common than formal compliance. Thus 95% of formal procedure-oriented decisions are complied with across the courts, and 86% of formal attorney-oriented decisions are met with such compliance. On the other hand, an average of 48% is obtained for the mandates relating to full compliance with procedure, and an average of 53% of mandates relating to full compliance with attorney requirements meet with compliance. Most important, overall compliance with Supreme Court decisions (adding the four scales together) is about 70%. To put the matter another way, the average court complies with 70% of the requirements of Supreme Court decisions. However, such compliance is nearly complete in formal areas, but drops down to only half in terms of the above definition of "full" compliance. In a large number of courts, due process receives only surface attention in daily practice.

ISSUES NOT MANDATED BY THE SUPREME COURT

It has been noted that some authorities believe the Supreme Court has not gone far enough in protecting the rights of juveniles, and that the few rights which are mandated do not generalize to the entire operation of the court. On the other hand, some argue that the Supreme Court has gone too far in protecting the rights of criminals, and as noted earlier, about half (51%) of the judges responded that the Court had gone too far in this regard. To examine this issue more fully, it is first necessary to develop some notion of other due process components.

Table 9.6 presents a series of behaviors which, thus far, are not mandated by the Supreme Court but are variously implemented in juvenile

TABLE 9.5
COURT COMPLIANCE WITH MANDATED DUE PROCESS
(N = 277 judges)

	% of Courts
<u>Procedure-oriented formal compliance</u>	
Always have written notice of charges	96
Always use criterion of proof beyond a reasonable doubt	95
Must hold hearing before waiver	90
Always use state's rules of evidence in adjudication	87
<u>Attorney-oriented formal compliance</u>	
Right to counsel at adjudication	97
Appoint counsel at adjudication	96
Counsel may call witness from social report	86
Right to counsel at waiver hearing	86
Appointment of counsel at waiver hearing	77
Counsel always has access to social file	72
<u>Procedure-oriented full compliance</u>	
Nature of charges in both factual and statutory language	70
Judge has no access to social file at adjudication	52
Only counsel can waive right to self-incrimination or no waiver permitted	20
<u>Attorney-oriented full compliance</u>	
Counsel seldom appointed when not requested	14
Counsel always cross-examines witnesses	54
Counsel often calls witness from social report	20

courts. The items are presented in three clusters similar to the dimensions used to analyze the compliance with current Supreme Court requirements. Formal compliance refers to adherence to minimal due process safeguards in court procedures. It is obvious that regulations controlling detention decision making are adhered to more frequently than are those affecting hearings, transcripts, and bail: the percentage of courts reporting adoption varied between 99% and 35%.

Attorney-oriented compliance refers to items involving the right to counsel and the appointment of counsel. Again variable patterns are

TABLE 9.6
COURT COMPLIANCE WITH NONMANDATED DUE PROCESS
(N = 277 judges)

	% of Courts
<u>Formal compliance</u>	
Service agencies cannot admit to detention	99
Probation revocation hearings always held	90
Hearings held when probationers committed to state	90
Detention staff cannot admit to detention	86
Police cannot admit to detention	80
Hearings always held re change in disposition	64
Intake cannot admit to detention	61
Have transcripts	57
Bail sometimes used	53
Probation cannot admit to detention	49
Court orders never modified without hearing	35
<u>Attorney-oriented compliance</u>	
Right to counsel at disposition hearing	97
Right to counsel at probation violation hearing	93
Appoint counsel at probation violation hearing	86
Right to counsel at detention	86
Appoint counsel at disposition	73
Right to counsel at intake	69
Appoint counsel at intake	64
<u>Substantive compliance</u>	
Probation reports always open to challenge	75
Judge reviews probation cases routinely	45
Parents always have access to social file	27

apparent, with 90% or more reporting right to counsel at disposition and hearings and considerably fewer reporting that counsel is actually appointed. Particularly notable are the responses about intake. It is clear that judges view the right to counsel as problematic at this stage.

The consequences of this orientation have been considered in Chapter 7 on intake and will also be discussed further in a later section of this chapter.

Substantive compliance involves fewer issues and far greater variability in responses. Seventy percent of the judges state that probation reports are "always" open to challenge, but parents' access to social files and judicial case review produced far lower compliance levels. Averages for these three types of due process also illustrate some interesting patterns. Attorney-oriented due process issues averaged 83% compliance; formal compliance items averaged 69%; and substantive items averaged 51%.

The reduction in the utilization of formal compliance items, when these are not mandated by the Supreme Court, demands some further attention. There is some evidence to suggest that items relating more closely to intracourt processing produce lower levels of compliance; for example, only 35% of the judges report court orders may "never" be modified without a hearing. Perhaps fewer persons are able to monitor intracourt behavior, or else judges are more comfortable in making decisions with less reference to due process considerations when the juvenile will remain within the jurisdiction of the court. Due process is more strictly followed, they respond, when the case involves transfer or referral to state or adult authorities.

Table 9.7 shows the correlation of each mandated due process measure with its corresponding nonmandated measure. The strongest correlation was between the two measures of attorney-oriented compliance (.43). Thus it appears that the presence of attorneys does have some generalizing effect, because the relative influence of attorneys in the court is strongly correlated with a number of court practices. If one examines compliance with respect to presence of counsel, what is noteworthy is the consistency of responses (with the one notable exception of intake). This finding is not surprising since it was observed that so frequently the various stages of court processing link together in a single

TABLE 9.7
INTERCORRELATIONS OF DUE PROCESS MEASURES

Items Mandated by Supreme Court versus Nonmandated Items	Correlation
Procedure-oriented formal compliance	.13*
Attorney-oriented formal compliance	.43*
Procedure-oriented full compliance	-.05
Attorney-oriented full compliance	.15*
*p < .05	

undifferentiated hearing. Adjudication and disposition decisions are often made at the same hearing, and at a trial a probation violation may be treated as a new offense. Thus the Supreme Court mandates have not generalized. As the correlations indicate, courts have been reluctant to apply these standards to other areas of processing.

FAIR PROCESS

Up to this point the discussion has focused on courtroom rules. In some respects these rules are an important end in themselves. In this society, in fact, justice is often measured with respect to the degree of compliance with an ideal set of such guarantees. However, rules are also important because they lead to certain desired ends. Due process is largely a way of ensuring that youth will receive more of a "fair shake" from the court. Therefore we must study how due process interacts with the way decisions are reached and the type of decisions. In short, our interest is in how due process relates to fair process.

A complete study of fair process would need to be quite lengthy and complex. Fair process is defined as the implementation of procedures that will enhance individual juvenile rights and justice in judicial processing. It may be seen as encompassing everything from rights of confidentiality to avoiding needless community pressure to handling cases in certain ways. It also involves activity at every stage in court processing. The focus here is on stages closely tied to recent court decisions: adjudication and disposition. Matters relating quite closely to case outcome will also be stressed. Preliminary findings indicate that Supreme Court-mandated due process does not appear to have a large impact beyond these specific matters, although further research will be necessary to state the case more positively.

ADJUDICATION

Critics of due process mandates insist that many problems remain in the processing of youth, and some of these data supported this point. Information concerning fair process at adjudication suggests a limited effectiveness of court-mandated due process guarantees. Due process is expected to help juveniles, largely because it changes the balance of power. Mandated guarantees allow juveniles to have lawyers and allow lawyers to be active in the court. At the same time, such procedures should restrain prosecutors, the police, and judges themselves.

Table 9.8 points out the correlation between the overall measure of compliance with mandates and the influence of various individuals at the hearings. Surprisingly, the results suggest that the due process guarantees do not increase the influence of defense attorneys at adjudication at all, as would be expected from the arguments presented in Gault and other cases. Further, judges are not affected by the mandates, while prosecutors apparently experience a quite small addition to their power when there is more complete implementation of mandates. On the other hand, significantly less influence is given to the police

TABLE 9.8
CORRELATION BETWEEN COMPLIANCE WITH DUE PROCESS MANDATES
AND SELECTED FACTORS AT ADJUDICATION
(N range = 188-248)

	Correlation
Influence of police	-.23*
Influence of probation	-.24*
Influence of prosecutor	.11**
Influence of defense	.07
Influence of judge	.06
Use of evidence at hearing	.13**
Extent of protection of juvenile rights at hearing	.25*
Percentage of cases handled informally	.11
Percentage of cases dismissed	.01

* $p < .05$
** $p < .10$

and to probation officers when there is a high level of due process.

Obviously, these results are most important in indicating that due process does not have the expected effect at adjudication. It is interesting to speculate, however, why certain individuals are affected by these mandates. Apparently, if it does nothing else, due process reduces the influence of individuals who do not have legal training. Police experience reduced influence in a court with higher levels of mandated rights. However, such a change seems to do little for protecting the rights of juveniles; the average influence of advocates of children (defense attorneys) is not increased by the procedures.

At the same time, due process leads to at least some paper gains in the use of legal criteria at hearings. Thus the findings in Table 9.8 suggest that judges give higher ranks to the use of evidence and the protection of juvenile rights at adjudication when they also report more compliance to approved legal procedures. Unfortunately, the gains do not seem to result in significantly changed treatment of juveniles. For example, less formal handling of juveniles and more dismissed cases would be expected if due process actually contributed to more fair process for juveniles. However, the table shows that overall compliance is not significantly related to either of the two measures. There is one

interesting qualification to this last finding: when one looks at partial correlations of the submeasures, attorney-oriented formal compliance leads to slightly fewer dismissed cases ($r = -.18$), while full compliance to attorney-oriented mandated items leads to a slightly higher rate of dismissals ($r = .12$). While these results are not earthshaking, they are interesting. Stapleton and Teitelbaum (1972) warn that some courts react negatively to lawyers, and thus treat children who have attorneys more harshly. While this report does not look specifically at subsamples of courts or cases to validate the Stapleton-Teitelbaum hypotheses, it sheds some light on the issue. The mere presence of attorneys may result in a backlash and thus fewer dismissed cases. However, active defense counsel can reverse this relationship if they are in courts where such behavior is permitted.

DISPOSITION

The most severe challenge to due process comes not from its lack of great impact at adjudication but from fears that the mandates will reduce the ability of courts to carry out their treatment goal. Even the Supreme Court appears to believe that due process will result, if taken to its extreme, in less informal handling and in a reduction in counseling techniques. The findings of this study indicate at best scant evidence for the above hypothesis.

Table 9.9 points out the correlation of due process compliance with the influence of actors at disposition, with various factors at disposition hearings, and with two measures of dispositions. The results indicate that while mandated practices do not encompass disposition, the effect of due process does overflow in this direction. Apparently procedures adopted at the adjudication stage result in different inputs that are used in disposition. Thus defense attorneys are more influential in dispositions in courts with a due process orientation, while the police have slightly reduced power. The prosecuting attorney also experiences some increase in influence, but not as much as does the defense attorney; on the average, due process compliance increases the importance of child advocates in courts. One might expect such influence to decrease the use of child-oriented factors at disposition, but due process actually leads to an increase in the use of decision factors that should support treatment of children. Mandates lead to somewhat greater use of criteria such as the needs of juveniles and the interest and resources of the family at disposition. In fact, while due process leads to a greater use of evidence at adjudication, it leads to a reduced use of this factor at disposition.

Finally, due process has some interesting relations to dispositional outcomes. First, it reduces the likelihood of commitment. Commitment is the harshest alternative the court can mete out, and a reduction in the commitment rate certainly is a vital matter. At the same time, due process bears no overall relation to the use of treatment alternatives. As Table 9.9 points out, there is no relation between implementation of court procedures and the number of different programs that are available

TABLE 9.9
CORRELATION BETWEEN COMPLIANCE WITH DUE PROCESS MANDATES
AND SELECTED FACTORS AT DISPOSITION
(N range = 190-248)

	Correlation
Influence of police	-.11**
Influence of probation	.07
Influence of prosecutor	.13**
Influence of defense	.23*
Influence of judge	-.07
Use of evidence at disposition	-.15*
Use of juvenile records at disposition	.11**
Use of family resources and influence at disposition	.15*
Rate of commitments	-.21*
Number of types of treatment	.04

* $p < .05$
** $p < .10$

(but the number is affected by other factors beyond the control of the court in many states).

Again, analysis of partial correlations provides one slight qualification: there is a slight tendency ($r = -.11$) for full compliance with attorney-oriented mandates to reduce the number of treatment programs available. This is in keeping with the Supreme Court objection to further due process improvements, but it is a slight and selective phenomenon at best. Further, attorney-oriented formal compliance is associated positively ($r = .22$) with the number of treatment programs.

NO DUE PROCESS REVOLUTION

The findings in this chapter clearly indicate that no revolution has occurred in the implementation of due process in the juvenile court. Most judges do concur that juvenile rights should be acknowledged and protected, but they agree far less about how and to what extent procedural safeguards must be implemented. Inconsistencies about intake, hearings, review, appeals, waiver and transfer, and disposition decision making are quite apparent.

Formal compliance was supported more than full, substantive compliance. Similarly, areas related to the activity of counsel were more fully supported than were substantive procedures relating to the nature of the charge or the judge's access to the social file before adjudication.

Due process must be viewed as much less spectacular in its impact thus far than its proponents claim, and much less damaging than its opponents would have us believe. Court mandates have often received only surface-level compliance from courts; there has been no due process revolution. Moreover, when these are instituted, the actual changes made in the court are not large. Greater participation by lawyers is the only way the decisions have been generalized; however, there is still much difficulty at intake in this respect. Due process seems to make limited differences at adjudication and disposition, but these differences are almost always in the direction of more fair process for children. Finally, the implementation of greater due process does not show a marked tendency to reduce the quality of dispositions made by the court or the use of treatment alternatives.

Stapleton and Teitelbaum (1972) concluded in their study of due process in the juvenile court that issues surrounding the role of the attorney were of crucial importance. The findings reported in this chapter are in accord with that conclusion. But it is also clear that there must be far more positive action toward implementation of the rights of individual juveniles in all phases of case processing than has occurred in the vast majority of juvenile courts in the United States, if the responses from the judges in this sample are accepted as valid. This society also must examine more fully the philosophical question of whether juveniles are entitled as individual persons to the same rights and protections as adults in criminal justice processing. If these rights apply equally to youth and adults, should due procedures in the justice system be employed identically? This question remains to be explored, and the answer will have implications far beyond the processing of juvenile delinquents by the court.

THE JUVENILE COURT REEXAMINED

YEHESKEL HASENFELD
ROSEMARY SARRI

The designers and founders of the juvenile court sought to create a new judicial mechanism that would reduce the harsh and undifferentiated treatment of juveniles characteristic of youth handling in the criminal system prior to the twentieth century. These social reformers were both idealistic and optimistic about what could be achieved through intervention by the state into the lives of the young. They neglected to provide a system of accountability adequate to ensure self-correcting organizational behavior in case of unanticipated negative consequences. As a result, nearly all who have studied the court concur, at least to some degree, with one conclusion of this study: namely, there is a large gap between aspiration and reality. Seldom did we observe in practice consistent implementation of the values and philosophy of the founders of the juvenile court.

SHORTCOMINGS

Variability in both structure and practice is perhaps the most noteworthy finding from this research. Moreover, that variation occurred not only between states, but also within states. Some courts were small, heard less than 50 cases a year, and had a staff of two or three persons, so informality was not a problem if the court sought to create such an environment. Other courts had probation staff in excess of 500 and processed more than 8,000 cases each year. Informality and individualization in a bureaucratic organization of that size is simply impossible to achieve. Courts with juvenile jurisdiction were of all types and were located at various levels in the structure of the judiciary in many states. Very few states had a coherent structure whereby the juvenile courts were essentially similar in all of the counties of the state. Thus, agencies such as the state administrative office of the courts must find it difficult to retrieve information and to enforce fair and comparable practices that are necessary if justice is to be achieved.

Although all court staff generally concur that juveniles' rights should be acknowledged, it was observed that due process was inconsistently enforced within and between courts. Court practice

appeared particularly problematic with respect to appeals, waiver, review, and postdispositional transfers. The complexity of the judicial administrative structure further compounded difficulties in these areas.

Due process protections in the intracourt processing of youth were especially lacking in decision making at intake, detention, and disposition. These lacks are particularly significant because, if the rights of individuals are not fully protected at all stages of processing, they may be jeopardized at adjudication where they today are more fully enforced. However, there continues to be much inconsistency in the decision making among these several stages in many courts. The role of defense attorneys remains problematic, but the evidence suggests rather clearly that the greater the influence and activity of the defense attorney, the more likely it is that procedural rights will be provided. Our findings indicated that youth charged with serious felonies were more likely to have their rights fully protected than were youth charged with status offenses or minor misdemeanors. Clearly, this is an unfortunate unanticipated consequence of the implementation of due process in the present context.

Problems of racism and sexism were apparent not only in referral rates and in processing patterns, but also in the serious underrepresentation of minority groups and women in the staff of juvenile courts. Yet, when asked what was being done to alleviate these problems, few courts reported any substantial effort toward change.

SOURCES OF VARIABILITY

When we attempted to consider the sources for the variations among the courts included in this study, a number of factors emerged. Some of these were similar to the sources of diversity noted in other studies by NAJC.

1. The center of a juvenile justice system consists of an official body of statutes and prescribed rules governing the administration of justice within that system. Justice cannot be served if these provisions are weak, vague, and inadequate. Until the 1970s the processes were governed by sparsely worded statutes that granted vast discretion to the juvenile court judge. Few distinctions were made between dependency, neglect, minor delinquency, or serious delinquency. Since 1966, the juvenile court and juvenile codes have been forced to change in the majority of the states. Supreme court decisions at the national and state level have directed the courts toward greater consistency in the administration of justice. Second, state legislatures have enacted revised codes with major changes related to court decisions. A third force for change toward greater consistency in practice has been the development of standards and guidelines for practice by both private and public interest groups and commissions (National Advisory Commission, 1973c; President's Commission, 1967).

2. Variability in the rates of youth investigated and processed was observed in the juvenile courts, but it also was characteristic of the rates of youth sent to institutions, ranches, and camps in the NAJC study of state juvenile correctional systems (Vinter, Downs, and Hall, 1975). State systems also varied widely in the numbers and types of community-based programs provided; thus, disposition decisions by judges were constrained by the relative availability of alternatives.

3. It has often been asserted that state-administered probation services will provide greater consistency and effectiveness in service delivery than such services administered at the local level. This study observed that in both types of organizational structure the juvenile court judge played a critical role. However, no consistent differences in activities were reported by state-employed versus locally employed probation workers.

4. Specialized juvenile courts reported higher levels of financial uncertainty than did other courts; but they appeared unable or unwilling to take the steps necessary to provide for more effective interorganizational relationships.

5. Lack of information retrieval and feedback systems was particularly pervasive in the reports of many court administrators. The modal court simply did not have an operational system for providing routine information for daily operations and for more rational problem solving. Courts lacked reliable and valid information about the numbers of youth processed, their age, sex, race, offense, and source of referral to the court. No organization of the size and complexity of the majority of juvenile courts can operate effectively or efficiently without such information about the clientele served. Moreover, it was observed that many courts were unable to provide full budget information. In many instances probation staff reported that they were unsure whether they were employees of the court or of the state level of government. Thus, it is not surprising that variations and inconsistencies occurred in many juvenile courts. Information that would have permitted more rational behavior was absent.

THE FUTURE: ISSUES AND DILEMMAS

The range of issues confronting the juvenile court today is broad, and few easy answers for resolving these issues are apparent. Given our policy orientation, we have chosen to highlight five issues we believe demand solution in the near future, if the integrity of the court is to continue, and if socialization of youth in this society is to be better served.

SOCIAL CONTROL VERSUS SOCIAL REHABILITATION

Throughout this study one is repeatedly confronted with inescapable ambiguities and contradictions in the goals, ideology, structure, and operations of juvenile courts. Thus, for example, courts profess to pursue both a "crime control" and a "youth concern" goal. Courts operate under the assumption that they must protect the community, yet the bulk of the cases referred to them are in fact "juvenile nuisances." Courts profess to assist troubled youth to receive needed services and yet they tend to be quite isolated from the community network of youth-serving agencies. Courts develop complex and elaborate decision-making structures, presumably to identify the needs of the child and determine the best approaches to meet them. Yet over half of all the children referred to the courts are sent away with little more than a friendly warning, and most of the rest are put on probation, which is little more than surveillance. Courts establish formal procedures to maintain due process, but, in practice, adhere to few of them.

Moreover, the national survey clearly shows that on almost any dimension of operation, vast variations among courts exist to a point that casts doubt about what constitutes a juvenile court. At one extreme, one may find a court solely designated to process juveniles with a full complement of personnel trained to carry out such a mandate. At the other extreme are courts comprised of a part-time judge hearing juvenile cases in a court of limited jurisdiction with hardly any staff designated to handle juvenile cases. In responding to juvenile offenders, there are courts that rarely commit a child to a correctional facility, and courts that commit one out of every ten children referred to them. In discharging their mandate, one encounters numerous courts that process cases very informally, often with little regard to due process, but also courts that closely resemble adult criminal courts in the formality of case processing. On the one hand, one finds few courts that attempt to develop an elaborate network of services for juvenile offenders. On the other hand, a large number of courts offer nothing more than minimal probation services. In short, beyond the common fact that a given court has jurisdiction over children within a certain age range, there are vast variations on all other dimensions by which these courts may be characterized.

It is proposed that one key factor in the internal contradictions and ambiguities is the inherent incompatibility between the social control objective and the social rehabilitation objective that juvenile courts are required to pursue. Put differently, what is "in the best interest of the child" inherently conflicts with what is "in the best interest of the community." Juvenile courts are among a few sets of institutions asked to optimize both interests, and clearly they seem to flounder in the pursuit of both. This overwhelming contradiction built into the very character of the juvenile court has long been recognized in theoretical essays and case studies (Platt, 1969: 137-175). This study, however, indicates that the social control

versus social rehabilitation dilemma affects all juvenile courts in the United States; it permeates every major aspect of court operations; and it generates a national picture of "juvenile justice" that is incoherent and full of conflicting images and patterns.

In essence, the incompatibility between a social control and a social rehabilitation orientation results because each calls for diametrically opposing patterns of behavior and role performance, and hence radically different organizations. A social control orientation views the juvenile offender as a person endangering the peace and moral stability of the community, and whose behavior elicits the community's moral indignation. The court is therefore mandated to seek retributive justice whereby the juvenile found guilty of the offense must be punished in accordance with the magnitude of the offense. There are two critical components to retributive justice. First, the decision of guilt or innocence must be just and fair. Second, if found guilty, the principal aim of the court's action is to deter and punish the offender. Matza captures the meaning of fairness as follows:

It is only fair that some steps be taken to ascertain whether I was really the wrongdoer (cognizance); it is only fair that I be treated according to the same principles as others of my status (consistency); it is only fair that you who pass judgment on me sustain the right to do so (competence); it is only fair that some relationship obtain between the magnitude of what I have done and what you propose to do to me (commensurability); it is only fair that differences between the treatment of my status and others be reasonable and tenable (comparison). [Matza, 1964: 106]

A social rehabilitation orientation views the juvenile offender as "sick" and the offense itself as "maladaptive behavior." Rather than seeing the offender as a threat to the moral values of the community, he is viewed as a victim of circumstances--social, economic, psychological, and biological--that have resulted in his debilitation. The function of the rehabilitative agency is to provide the offender with the necessary resources and tools to overcome his adverse circumstances and to engage him in a therapeutic process to improve his social functioning. Thus four main elements comprise social rehabilitation: First, the actions of the rehabilitation agents are not determined by the offense but rather by the needs of the child. Second, these actions are not predicated on proof of guilt or innocence, but rather on the existence of adverse circumstances debilitating the child. Third, successful rehabilitation necessitates possession of resources of which the child has been deprived. Fourth, successful rehabilitation requires voluntary compliance and cooperation by the juvenile with the rehabilitation agents.

It thus becomes apparent that when juvenile courts attempt to implement both goals, they are bound to generate a system riddled with internal inconsistencies and paradoxes, and in which the behavior of

judges and probation officers often appears highly capricious and irrational. Several examples may be illustrative of the courts' dilemmas. A social control orientation gives no discretion to probation officers; their behavior must be dictated by the specified punishment. A social rehabilitation orientation necessitates that the officers have considerable discretion in responding to the child's needs. A social control orientation requires that the court relate only to the agencies administering the means of punishment. A social rehabilitation orientation necessitates that the court mobilize all available resources the child may need. A social control orientation requires strict adherence to due process. A social rehabilitation orientation requires only the elicitation of cooperation.

Thus in reality we find that juvenile courts fail to accomplish either objective since they neutralize each other. Alternatively we find that in seeking to resolve the conflict, courts must opt for one objective at the expense of the other. In the final analysis, it becomes clear from our findings that such a dual mandate prevents the courts from serving the community, including its children, effectively and efficiently (Allen, 1964).

MUCH ADO ABOUT NOTHING?

The apparent inconsistencies that riddle the juvenile court also raise a fundamental question concerning its actual function as a social institution. As we have noted in Chapter 4, on the average, within one year juvenile courts touch the lives of approximately 4% of all the children under their jurisdiction. This percentage may not seem inordinately high to some, but when it is realized that the majority of apprehended youth have only one contact with the court and that they are between the ages of fourteen and eighteen years, then the rate will be far higher for populations at greater risk. Little wonder that in some city precincts, it is reported that as many as 90% of the youth have contact with the justice system. Under such circumstances, solutions that focus on the individual youth are impossible to implement because of limitations on the resources available.

Following the public school, the juvenile court and the public welfare agency occupy central positions in the youth service network. It has been assumed that the juvenile court should be the agent of last resort, since it is empowered with the most severe tool of intervention, namely, the revocation of the personal rights of the child and his parents. Thus, it must be further assumed that the juvenile court should handle youth who pose a serious threat to themselves or the community. Empirically, however, we find that 40% or more of the youth referred to juvenile courts have committed status offenses such as truancy, incorrigibility, running away, curfew violations, alcohol violations, and the like. These offenses that Rosenheim (1976) so aptly terms "juvenile

nuisances" can hardly be conceived as a serious threat to the community. The court thus becomes the "agent of first resort" for many of these youth. While these behaviors could pose a serious threat to the youth without appropriate response, it is difficult to comprehend why juvenile courts should be the appropriate responding agency. Our data indicate that juvenile courts possess neither the expertise nor the resources to help such youth. In fact, the majority of the respondents in the national survey agree that these problems are more appropriately handled by social service agencies. It seems reasonable to conclude that 40% or more of the cases referred to juvenile courts should not have been referred there in the first place. This is a rather onerous mishandling of "juvenile nuisances" with inestimable social costs. Consider, for example, the social and psychological costs of detention and institutionalization of status offenders by the courts, when it has been aptly demonstrated that such measures hardly have any ameliorative effects (Martinson, 1974).

Why do juvenile courts receive such a large proportion of "juvenile nuisances" for handling? The juvenile court's broad yet vague mandate over many juvenile problems enables it to become the "safety valve" for youth service agencies (excluding, of course, public correctional agencies) and parents. In particular, youth service agencies that want to protect their own domain, select the youth they wish to serve, reduce failures, and rid themselves of uncooperative youth find the juvenile court a convenient agent to handle their "unwants." Once these referrals are made to the court, youth service agencies and parents can wash their hands of responsibility to the youth involved. By its symbolic act of processing such a referral, the court in essence provides a legal certification that the referring parents and youth service agencies are not liable for the behavior of the youth and are absolved from responsibility if they fail to contain it.

A major latent consequence of this role of the juvenile court is to reduce the pressure on youth service agencies, such as schools, child and family service agencies, employment services, and mental health programs to respond more effectively to adolescence-related problems. Thus, for example, when children fail in school and are officially defined as delinquent because of behavior frequently resultant from such failure (i.e., truancy, incorrigibility), the schools are relieved from having to deal with the very causes of the failure.

The situation described above is not dissimilar to that encountered in the case of hospital emergency services. Several studies have shown that from 30% to 50% of the caseload of hospital emergency services is not urgent, and that over half consists of nontraumatic conditions. Donabedian (1972: 395) suggests that "the emergency service functions to a considerable extent as a substitute for physician care and as standby capacity for physicians in private practice who have effectively renounced their standby function." Yet the analogy between the juvenile court and the emergency service ends here. In the latter, 85% of the patients do in fact receive some kind of treatment. This is not the case for juvenile courts.

The national survey indicates that one-half or more of the juveniles referred to the courts receive no specific services at all. They are simply dismissed, or counseled, warned, and released, or referred to other agencies. In a sense, this pattern illustrates the inherent ambivalence in the response of juvenile courts to demands for action by the community. Court staff recognize that parents and other youth service agencies attempt to use the court as a "dumping ground" for their problem youth and that for most cases a legal action is inappropriate and ineffective. Hence, while the courts cannot stop the inflow of referrals, they certainly can attempt to exit them with minimal or no court intervention. By this revolving-door policy, the referring agencies can show that they at least have tried to cope with the problem youth, and the court can display its benevolent--in the best interest of the child--posture. The only victims of this policy, unfortunately, are the youth themselves, since they are not likely to receive needed services from either the referring agencies or the court.

THE EXCESS OF DISCRETION

Under the parens patriae concept the juvenile court has been granted very broad discretion in assuming jurisdiction over a wide array of youth problems. As an analysis of juvenile codes (Levin and Sarri, 1974) reveals, very few limits are placed on the courts in this regard, and juvenile court judges have almost complete discretion in determining the scope of court intervention. Moreover, basic to the juvenile court philosophy is the concept of "individualized justice," which asserts that decisions about the juvenile offender must be governed by his needs, particular personal circumstances, and the requisites for his rehabilitation. As benevolent as these criteria may be, they give juvenile court judges a degree of discretion hardly matched anywhere in the judicial system. Subscribing to the principle of parens patriae and individualized justice gives the juvenile courts the authority to determine when and how to intervene on the basis of personal and professional belief systems, moral commitments, perceptions of community sentiments, and administrative convenience. Moreover, the lack of an active appeal system results in little pressure for court accountability.

Matza (1964) has argued that individualized justice reinforces a sense of injustice in the delinquent subculture. The national survey implies that the excess of discretion also results in objective inconsistencies in the modes of operation within juvenile courts and wide variations among them. Having very broad discretion, juvenile court judges can structure and define the court's mode of operation with reference to few limits. Therefore, they can operationalize their personal belief system in the court with little challenge. The only major constraint imposed on them is the need for organizational survival and maintenance.

It is remarkable how limited are the demands for accountability on juvenile courts and how few effective monitoring mechanisms exist. The legal constraints on the court are few, and the extensive use in the adult court of litigation, case law, and appeals as devices to enforce accountability is the exception rather than the rule in juvenile courts. Thus, for example, we have noted that both the public prosecutor and defense attorneys, who are indispensable in the adult criminal court, occupy a marginal role in the juvenile court.

Seldom does one find a periodic review of the activities of the juvenile court by external regulatory agencies such as the state supreme court. Nor are the services offered by or through the courts monitored regularly by other state agencies. In fact, one can attribute the primitive structure and dismal performance of the juvenile courts' information systems to the lack of effective demand for accountability.

At the local level, the national survey indicates that the court is subject to very few external influences or conflicts, further pointing to the broad autonomy it enjoys. This does not deny that on occasion there may be a public controversy about court performance, when a dramatic case or the zeal of a moral crusader stirs public sentiment. But these are infrequent occurrences. Undoubtedly, juvenile courts are sensitive to the political undercurrents in the community and attempt to avoid controversy, and this serves as an important constraint.

Thus, what may determine the mode of operations in juvenile courts is the interaction between the belief system of the judges and their sensitivity to the political sentiments in the community. The combination of these two factors generates a system of juvenile justice that is particularistic, idiosyncratic, and frequently arbitrary. It is a system in which the voices of those it claims to serve are least likely to be heard.

Efforts to develop more rational policies and reform in juvenile courts are thus highly frustrated by excess discretion. Judicial standards, for example, cannot be implemented unless the discretion is reduced and an effective system of accountability is established. These two prerequisites, therefore, must be the cornerstone of any successful reform of juvenile courts.

COURT JURISDICTION AND NONCRIMINAL BEHAVIOR

At several points throughout this report reference has been made to the extent of court involvement in processing youth charged with status offenses, and to the lack of positive results from this involvement. Federal legislation will undoubtedly reduce the commingling of status offenders with other delinquents, but it may not result in modification of court jurisdiction by state legislatures.

Unfortunately, recent reports suggest that many states may be increasing their capacity to handle status offenders rather than attempting to remove them from court control.

Juvenile courts are hampered in attaining high levels of effectiveness because of the volume of "juvenile nuisances" that they process, and because they spend disproportionate amounts of time on these cases. These behaviors are overdramatized, as the case of runaways illustrates. Runaways are characterized as serious offenders in many courts, when, in fact, two-thirds are over the age of fifteen, remain away from home no more than two days, and spend that time with a relative or friend less than ten miles from their homes (Brennan et al., 1975; Gold and Reimer, 1975). Certainly some runaways have serious personal and social problems, but coercive action by the court is not a reasonable solution for most. A recent report by Murphy (1974) of his experience in a legal assistance office for juveniles highlighted many of the problems of the justice system, not from the vantage point of the court as we have observed them in this study, but from the perspective of youth and their families as they are cycled and recycled through the justice system. He concluded that the court could only fail when it attempted to become a rehabilitative agency, because the goals it could serve most effectively were to resolve disputes among claimants that could not be resolved outside the court.

Because the consequences are disproportionate to the offenses and are largely based on ascribed characteristics and chance elements, jurisdiction over status offenses should be removed from the juvenile court and assigned to the child welfare or youth services agencies in the various states. The critical role for the juvenile court is to ensure that these agencies provide the services needed by these youth at risk. In the past decade as the community and its voluntary agencies have increasingly failed to cope with or solve the problems of youth, the courts have been pressed into processing a wide array and greater volume of these problems. The community refuses to acknowledge that morality cannot be enforced by negative sanctions, or to face the serious implication of the increasingly disproportionate numbers of poor and minority group persons who are absorbed into this system. Moreover, in the case of status offenses, youth are processed rather than their adult parents, when the latter are often at least as culpable as the juvenile.

Creation of local youth services systems for the design, implementation, and coordination of comprehensive services to youth outside the justice system should be a top priority for this nation. Many European countries have already developed alternative mechanisms to achieve comprehensive services of the type proposed (Fox, 1974). Recently the National Association of Counties at its annual conference adopted a resolution calling for (1) removal of status offenders from processing as delinquents; (2) removal of the administration of juvenile justice services (e.g., probation, detention) from judicial

control, and placement of administrative responsibility in the executive and legislative branches of county government; and (3) increased action by nonjudicial agencies in delinquency prevention, diversion, and control so as to reduce the number of youth processed through the court (National Association of Counties, 1976). Proposals such as these require many changes at the state and local level, but these deserve serious examination.

YOUTH SOCIALIZATION AND SOCIAL CONTROL: COUNTERVAILING STRATEGIES

The "in" concepts in social welfare and criminal justice programming are decriminalization, diversion, deinstitutionalization, and deterrence. At all levels of society there are increasing efforts to decriminalize a variety of behaviors, including the use of drugs, sexual relationships between consenting persons, gambling, and status offenses of juveniles. In addition there are efforts to divert large numbers of persons from full criminal justice processing to voluntary community agencies. Deinstitutionalization has been linked to diversion policy but goes beyond it into the area of community-based placement of many categories of persons formerly placed in institutions.

Deterrence is now also receiving renewed attention because research findings are consistently revealing that legal processing and sanctions do not have a deterrent effect on subsequent criminal behavior. The earlier youth are processed and the more stringent the sanction, the more likely it is that a youth will subsequently report or be processed for more frequent and more serious criminal law violations. Thus, if one wished to deter delinquent behavior, the findings would suggest a strategy of parsimony with respect to judicial intervention.

This society faces serious problems for its youth, including declining educational performance, increasing delinquency, family dissolution and inadequate parenting, increasing mental illness, high levels of substance abuse, and serious unemployment for at least one-third of young adults. These problems are further compounded by the fact that between now and the mid-1980s there will be a disproportionately large percentage of the population in the age group from 12 to 25. It is expected that the youth bulge in the age structure will begin to dissipate by 1990; therefore, it is important that long-range policy decisions be made with this demographic pattern in mind. Otherwise, we may have to undo in the 1990s inappropriate social structures created in the 1970s.

Although formal systems of social control will probably always be found in all societies, it is not essential that these systems become so elaborate and extensive as is the case with the juvenile justice system in the United States. Accurate data are not available for a comparison, but it appears that many states are presently spending far

more money for social control of certain categories of adolescent youth than they are spending for positive socialization through appropriate education, health, and child welfare services. Past decisions resulted in an expansion of the juvenile justice system with the expectation that the threat of coercive control would induce greater law-abiding behavior in youth. The continued increase in juvenile crime suggests rather clearly that the desired results were not achieved. Therefore, this is the time to examine other alternatives.

Three distinguished books on youth and youth socialization in the United States have recently received considerable attention. They were authored by James Q. Wilson on crime (1975), Fred and Grace Hechinger on education (1975), and Alvin Schorr on the welfare system (1974). Undoubtedly, one could add others to the list of commentators on contemporary youth socialization and the point that we wish to make would still apply. What is noteworthy about the above-mentioned writers is that although they all focus their primary attention on youth and young adults, they define those youth and their problems totally differently, and their proposed solutions have little, if anything, in common. In fact, at some points they are contradictory. This poses serious problems for the policymaker who needs to make a decision about social programs. It further suggests that if the problems of youth socialization and social control are to be resolved, mechanisms must be created whereby these authors and other experts can join together to focus their attention on the difficulties of growing up in a postindustrial society, rather than concentrating on narrowly defined social problems where one's stance is more reactive than proactive. Roger Heyns of the American Council on Education has stated that we urgently need a new theory of youth and youth socialization.¹ Without cooperative joint action, isolated efforts are likely to continue to fail. Moreover, solutions developed jointly by persons with a variety of viewpoints would undoubtedly involve change at the social system level, not merely proposals for programs that are targeted on the individual youth in trouble. Much of our experience in solving social problems suggests that epidemiological and preventive programs can produce successful outcomes, when the proper levels of intervention are addressed. From our observation of the contemporary juvenile court in the United States, comprehensive societal action toward enhancing the conditions for growing up in this country are long overdue.

1. Speech delivered at the Council on Social Work Education annual meeting, in Philadelphia, 1 March 1976.

APPENDIXES



APPENDIX TO CHAPTER 1

NATIONAL ASSESSMENT OF JUVENILE CORRECTIONS

The University of Michigan
203 East Hoover
Ann Arbor, Michigan 48104
Phone 313 763-2308

April 10, 1974

Dear Judge,

The National Assessment of Juvenile Corrections, an independent research project funded by the National Institute of Law Enforcement and Criminal Justice, LEAA, Department of Justice, has selected your court to participate in a nationwide survey of courts that handle juveniles. Many changes are taking place in American social institutions, especially in those charged with handling juveniles who have violated the laws or norms of society. As a member of the judiciary, you are aware of the changes occurring in the nation's juvenile justice system. Therefore, we are particularly interested in learning how you and your staff view the responsibilities of the juvenile court. We have thus enclosed with this letter several questionnaires that we earnestly hope you and members of your staff will complete. These questionnaires have been designed to allow us to gather basic, comparative information about a variety of court processes and practices.

Major policy issues are being raised in all the states about the goals of the juvenile court, the ways juveniles are or should be processed and adjudicated, the services courts provide or should provide, and the relations between the court and the larger community. Juvenile courts have developed many different policies and modes of operation in these areas. But, unfortunately, such information has not been collected nationally in ways that allow it to be analyzed and reported back to the courts and other interested organizations linked to the court. If judges and court personnel are to develop effective policies, programs, and procedures, they must have adequate, useful information. With your participation and cooperation we believe such information can be obtained, processed, and reported directly back to you. The data collected in this survey will be made available to all participating courts to help them better understand national trends and patterns in juvenile justice and improve the operation of their own courts.

All questionnaire responses will be kept strictly confidential. No one except our research staff will ever see the responses or even know that your court participated in the survey. Survey results will be sent directly to all participating courts as soon as the data have been collected and summarized. We would be pleased to receive any suggestions you may wish to offer on how the information might be most usefully reported to you.

We recognize that the questionnaires ask for a considerable amount of information, and that you and your staff have very busy schedules. Nevertheless, your contribution in providing this information will be extremely important to all juvenile justice and youth-serving agencies throughout the country, as well as to your court. These questionnaires have been reviewed by judges and other court staff in several states, and their suggestions have been included whenever possible.

We also wish to thank the National Council of Juvenile Court Judges and The National Center for Juvenile Justice for their cooperation and assistance. Nonconfidential general research information from the survey will be made available to them for dissemination and discussion.

We sincerely appreciate your participation in this important national survey. If you have any questions, please feel free to call us collect at (313) 763-2308.

Thank you very much.

Sincerely yours,

Robert D. Vinter
Project Administrative Director

APPENDIX TO CHAPTER 2

TABLE 2.A1

RESPONSE RATE FROM THE RANDOM SAMPLE QUESTIONNAIRE

	JUDGE			PROBATION			ADMINISTRATOR			ADMINISTRATOR STATISTICS		
	Number Received	Existing Sample Courts	%	Number Received	Existing Sample Courts	%	Number Received	Existing Sample Courts	%	TOTAL RESPONSE %	Additional Statistics	% Administrator Statistics
Alabama	9	10	90	10	20	50	6	10	60	63	4	100
Alaska	0	1	0	0	2	0	0	1	0	0	1	100
Arizona	2	3	67	4	6	67	2	3	67	67	0	67
Arkansas	1	4	25	3	8	38	1	4	25	31	3	100
California	16	20	80	31	40	78	16	20	80	79	3	95
Colorado	6	7	86	10	14	71	5	7	71	75	2	100
Connecticut	1	2	50	4	4	100	1	2	50	75	1	100
Delaware	1	1	100	20	2	100	1	1	100	100	0	100
Florida	16	19	84	13	38	34	10	19	53	51	9	100
Georgia	6	14	43	11	28	39	5	14	36	39	8	93
Idaho	2	2	100	2	4	50	1	2	50	63	0	50
Illinois	7	14	50	12	28	43	6	14	43	45	0	43
Indiana	10	18	56	22	40	55	12	19	63	57	0	63
Iowa	6	7	86	8	14	57	5	7	71	68	2	100
Kansas	3	4	75	6	8	75	3	4	75	75	1	100
Kentucky	2	3	67	4	6	67	2	3	67	67	1	100
Louisiana	8	22	36	13	44	30	4	22	18	28	6	45
Maine	4	14	29	9	28	32	3	14	21	29	0	21
Maryland	3	5	60	6	10	60	2	5	40	55	3	100
Massachusetts	26	41	63	33	50	66	13	41	32	55	22	85
Michigan	4	17	24	19	34	56	4	17	24	40	10	82
Minnesota	4	6	67	9	12	75	3	6	50	67	3	100
Mississippi	2	6	33	8	12	67	2	6	33	50	4	100
Missouri	2	10	20	4	20	20	2	10	20	20	8	100
Montana	1	2	50	1	4	25	1	2	50	38	0	50
Nevada	0	1	0	2	2	100	1	1	100	75	0	100
New Hampshire	3	10	30	5	18	63	1	10	10	29	0	10
New Jersey	9	13	69	17	26	65	8	13	62	60	4	92
New Mexico	0	2	0	0	4	0	0	2	0	0	0	0
New York	14	23	61	22	43	51	15	23	65	57	8	100
North Carolina	9	20	45	22	40	55	11	20	55	53	9	100
North Dakota	0	1	0	0	2	0	0	1	0	0	1	100
Ohio	13	24	54	31	48	65	15	24	63	61	7	92
Oklahoma	3	5	60	3	10	30	4	5	80	50	0	80
Oregon	8	9	89	11	18	61	7	9	78	72	0	78
Pennsylvania	14	20	70	35	40	88	15	20	75	80	5	100
Rhode Island	1	1	100	2	2	100	1	1	100	100	0	100
South Carolina	3	6	50	7	12	58	2	6	33	50	4	100
South Dakota	1	1	100	1	2	50	1	1	100	75	0	100
Texas	13	26	50	23	41	56	11	26	42	51	0	42
Tennessee	4	8	50	7	16	44	3	8	38	44	4	88
Utah	2	2	100	3	4	75	1	2	50	75	1	100
Vermont	0	1	0	0	2	0	0	1	0	0	1	100
Virginia	2	4	50	3	8	38	2	4	50	44	2	100
Washington	4	9	44	14	18	78	4	9	44	61	0	44
West Virginia	2	5	40	6	10	60	3	5	60	55	2	100
Wisconsin	11	13	85	21	26	81	10	13	77	81	1	85
Wyoming	1	1	100	1	2	50	0	1	0	50	0	0
TOTAL	259	455	57%	480	866	52%	226	456	50%	54%	138	80%

TABLE 2.A2

NAJC DETENTION UNIT RESPONSES COMPARED WITH 1973, 1971, AND 1966 CENSUSES

	NAJC Sample, 1974 Type ^a	1973		1971		1966							
		State	Local	State	Local	State	Local						
		Youth	Units	Youth	Units	Youth	Units						
Alabama	D&J	(0)	(3)	0	(0)	57	(3)	0	(0)	130	(6)	60	(2)
Alaska		(0)	(0)	0	(0)	0	(0)	7	(1)	0	(0)	7	(1)
Arizona	D	(0)	(1)	0	(0)	146	(8)	0	(0)	140	(6)	112	(2)
Arkansas		(0)	(0)	0	(0)	16	(2)	0	(0)	15	(2)	18	(1)
California	D	(0)	(17)	0	(0)	3,782	(42)	0	(0)	3,761	(42)	3,914	(38)
Colorado	D	(2)	(0)	138	(5)	0	(0)	148	(5)	0	(0)	101	(2)
Connecticut	D	(1)	(0)	31	(4)	0	(0)	35	(4)	0	(0)	29	(4)
Delaware	D	(1)	(0)	26	(2)	0	(0)	44	(2)	0	(0)	22	(1)
Florida	D	(4)	(0)	137	(3)	347	(15)	0	(0)	753	(20)	641	(17)
Georgia	D	(5)	(0)	165	(6)	249	(7)	166	(6)	318	(8)	282	(6)
Hawaii	D	(1)	(0)	27	(2)	0	(0)	20	(2)	0	(0)	36	(1)
Idaho	D	(0)	(1)	5	(1)	17	(1)	0	(0)	0	(0)	0	(0)
Illinois	D	(0)	(3)	0	(0)	392	(11)	0	(0)	585	(11)	473	(7)
Indiana	D	(0)	(7)	0	(0)	256	(8)	0	(0)	233	(6)	225	(5)
Iowa	D	(0)	(1)	0	(0)	35	(3)	0	(0)	32	(3)	10	(1)
Kansas	D	(0)	(3)	0	(0)	128	(5)	0	(0)	126	(6)	77	(4)
Kentucky	D	(0)	(1)	0	(0)	58	(5)	0	(0)	79	(4)	73	(4)
Louisiana	D&J	(0)	(5)	0	(0)	137	(7)	0	(0)	146	(6)	83	(4)
Maine		(0)	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
Maryland	D	(2)	(1)	34	(1)	0	(0)	66	(1)	0	(0)	104	(2)
Massachusetts	D&S	(0)	(4)	135	(3)	0	(0)	203	(4)	0	(0)	122	(3)
Michigan	D	(0)	(7)	0	(0)	809	(18)	0	(0)	925	(18)	610	(18)
Minnesota	D	(0)	(2)	0	(0)	96	(3)	0	(0)	60	(2)	49	(2)
Mississippi	J	(0)	(2)	0	(0)	48	(4)	0	(0)	30	(2)	0	(0)
Missouri	D	(0)	(1)	0	(0)	187	(8)	0	(0)	206	(5)	163	(4)
Montana		(0)	(0)	0	(0)	2	(1)	0	(0)	1	(1)	4	(1)
Nebraska	D	(0)	(1)	0	(0)	46	(2)	0	(0)	4	(1)	35	(1)
Nevada	J	(0)	(1)	0	(0)	61	(3)	0	(0)	73	(2)	21	(1)
New Hampshire	D	(1)	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
New Jersey	D&S	(0)	(8)	0	(0)	475	(15)	0	(0)	467	(14)	389	(9)
New Mexico		(0)	(0)	0	(0)	54	(2)	0	(0)	51	(2)	57	(2)
New York	D	(0)	(7)	0	(0)	290	(8)	0	(0)	442	(8)	790	(11)
North Carolina	D&J	(0)	(5)	0	(0)	63	(8)	0	(0)	78	(7)	73	(6)
North Dakota	D	(0)	(0)	0	(0)	0	(1)	0	(0)	1	(1)	0	(0)
Ohio	D&J	(0)	(12)	0	(0)	524	(18)	0	(0)	598	(18)	593	(18)
Oklahoma	D	(0)	(2)	0	(0)	28	(2)	0	(0)	16	(2)	19	(1)
Oregon	D	(0)	(5)	0	(0)	162	(5)	0	(0)	160	(5)	158	(4)
Pennsylvania	D&J	(0)	(13)	0	(0)	403	(21)	0	(0)	474	(21)	454	(22)
Rhode Island	D	(0)	(1)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
South Carolina	D	(0)	(1)	0	(0)	7	(1)	0	(0)	11	(1)	0	(0)
South Dakota	D	(0)	(1)	0	(0)	14	(1)	0	(0)	17	(1)	0	(0)
Tennessee	D&J	(0)	(4)	0	(0)	118	(4)	0	(0)	134	(4)	53	(2)
Texas	D&J	(0)	(13)	0	(0)	305	(13)	0	(0)	291	(12)	205	(7)
Utah	D	(1)	(0)	0	(0)	62	(7)	0	(0)	64	(4)	68	(3)
Vermont		(0)	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
Virginia	D	(0)	(2)	11	(1)	267	(9)	0	(0)	210	(9)	146	(8)
Washington	D	(0)	(6)	0	(0)	282	(13)	0	(0)	222	(13)	229	(8)
West Virginia	D	(0)	(1)	6	(1)	13	(1)	0	(0)	36	(1)	24	(3)
Wisconsin	D&J	(0)	(10)	0	(0)	115	(4)	0	(0)	92	(3)	78	(2)
Wyoming		(0)	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
No ID#	D	(0)	(1)										
TOTAL		(18)	(153)	715	(29)	10,051	(289)	689	(25)	10,981	(277)	10,607	(238)

SOURCES: The 1973 and 1971 data are from LEAA's *Children in Custody* series (U.S. NCJISS 1975, 1974a). The 1966 data are from volume 7, *Detention Facilities*, of the census compiled by Pappenfort, Kilpatrick, and Kuby (1970).

NOTE: These censuses represent essentially comparable information about the location, auspices, and populations of juvenile detention facilities in each of the fifty states. For the NAJC sample, responses in a small number of cases were received from county jails for adults where juveniles were held (N = 16), and a smaller number of shelter care facilities for juveniles (N = 8). The other censuses were limited to facilities for juveniles only.

^aThe types are detention (D), jail (J), and shelter (S).

TABLE 2.A3
JUVENILE COURT QUESTIONNAIRE TOPICS

Type of Questionnaire	Section Titles
Judge (102 items)	1. Attitudes about Delinquents and How They Should Be Handled
	2. Objectives and Aims of the Court
	3. The Court and the Judicial Position
	4. Court Decision Making
	5. Legal Procedures
	6. The Court and the Community
	7. Personal and Professional Background
Court Administrator (94 items)	1. Attitudes about Delinquents and How They Should Be Handled
	2. Objectives and Aims of the Court
	3. Information about Cases (referral rates and social characteristics)
	4. Court Resources
	5. Court Operations
	6. Court Staff Characteristics
	7. The Court and the Community
	8. Personal and Professional Background
Probation/Intake Worker (79 items)	1. Attitudes about Delinquents and How They Should Be Handled
	2. Objectives and Aims of the Court
	3. Court Operations
	4. Interaction with Probationers
	5. The Court and the Community
	6. Personal and Professional Background
Detention Administrator (116 items)	1. Attitudes about Delinquents and How They Should Be Handled
	2. Objectives and Aims of the Court
	3. Physical Characteristics of Unit
	4. Intake Procedures and Demographic Composition of Population
	5. Medical Services
	6. Education
	7. Treatment and Social Services
	8. Control Procedures
	9. Activities
	10. Family Interaction
	11. Agency Structure and Practices
	12. Personal and Professional Background

NOTE: Persons interested in examination or use of these instruments in whole or in part should contact Rosemary C. Sarri, University of Michigan, Ann Arbor, Michigan 48109.

APPENDIX TO CHAPTER 4
JUVENILE COURT RESPONSE RATES FOR CASE PROCESSING STATISTICS

(in percentages, based on N = 378)

QUESTIONNAIRE ITEM	COURTS RESPONDING	
	%	(N)
1. During 1973, how many <u>cases</u> in the following categories were referred to your court? (<u>all</u> cases--new referrals and repeaters)		
a. Dependency and Neglect	88	(333)
b. Delinquency (excluding traffic)	95	(360)
c. Traffic	69	(261)
d. Children in need of supervision (unruly, incorrigible)	63	(238)
e. Other (specify)	86	(324)
TOTAL	87	(330)
2. During 1973 how many delinquency cases and "in need of supervision" (INS) or unruly cases were handled by your court in the following ways? (The terms "judicial" and "nonjudicial" are used in the same sense that they are employed in the HEW statistical reports. A case handled <u>nonjudicially</u> is one in which no petition is filed, while a case handled <u>judicially</u> is handled through the filing of a formal petition.)		
a. Nonjudicial handling	TOTAL	77 (290)
1) Dismissed, no further action	55	(209)
2) Referred to other agencies	55	(207)
3) Counseled, warned, and released	55	(209)
4) Informal probation	54	(205)
5) Held open, continued	52	(198)
6) Other (specify)		
(Return runaways)	51	(193)
(Miscellaneous)	50	(189)

QUESTIONNAIRE ITEM		COURTS RESPONDING	
		%	(N)
<i>b. Judicial handling</i>	TOTAL	77	(290)
1) Formal probation, remained at home		61	(232)
2) Formal probation, sent to group home or foster care		57	(215)
3) Committed to a state agency		70	(265)
4) Committed to a public institution		67	(255)
5) Committed to a private institution		68	(257)
6) Committed to other agency (specify)		67	(254)
7) Jurisdiction waived		69	(264)
8) Dismissed		74	(281)
9) Other (specify)			
(Held open)		66	(251)
3. Please <u>estimate</u> the number of alleged delinquency and "in need of supervision" cases referred to the court in 1973 by:			
a. Police		61	(230)
b. Schools		58	(218)
c. Social agencies		56	(214)
d. Parents		57	(217)
e. Other (specify)			
1) (Courts and probation officers)		54	(204)
2) (Citizens)		54	(204)

QUESTIONNAIRE ITEM	COURTS RESPONDING	
	%	(N)
4. <i>Of all the cases referred to the court in 1973 for alleged delinquency or "in need of supervision," could you estimate the totals by race and age?</i>		
<u>Race</u>		
<u>Whites</u>	52	(196)
Male	44	(168)
Female	45	(169)
<u>Nonwhites</u>	52	(196)
Black	50	(188)
Male	42	(160)
Female	42	(160)
Spanish Speaking	46	(175)
Male	41	(156)
Female	41	(156)
Indian	44	(166)
Male	42	(161)
Female	42	(161)
Other	46	(174)
Male	41	(155)
Female	41	(155)
<u>Age</u>		
Under 10 years	49	(186)
10 - 12 years	49	(187)
13 - 14 years	50	(188)
15 - 16 years	49	(185)
17 and over	46	(176)

QUESTIONNAIRE ITEM	COURTS RESPONDING	
	%	(N)
5. <i>Of all the delinquency and "in need of supervision" cases referred to the court in 1973, how were they distributed among the following offense categories?</i>		
a. Offenses against persons	57	(217)
Male	32	(122)
Female	32	(122)
b. Offenses against property	57	(218)
Male	32	(123)
Female	32	(123)
c. Sex offenses (other than rape)	56	(212)
Male	32	(120)
Female	31	(119)
d. Liquor violations	54	(203)
Male	32	(121)
Female	32	(121)
e. Drug violations	57	(217)
Male	32	(122)
Female	32	(122)
f. Truancy from school	58	(220)
Male	32	(121)
Female	32	(121)
g. Curfew violations, runaway, incorrigibility	59	(222)
Male	33	(124)
Female	33	(124)
h. Violation of probation/parole	51	(195)
Male	30	(113)
Female	30	(113)
i. Other frequent offense categories (specify)	51	(193)
Male	28	(106)
Female	28	(105)
TOTAL	78	(296)
Male	56	(212)
Female	55	(210)

APPENDIX TO CHAPTER 5

COURT PERFORMANCE MEASURES*

Indicators of court performance used for this chapter were grouped into four categories: (a) due process; (b) service provision; (c) community protection; and (d) diversion from formal handling. For each category, with the exception of the community protection indices, two types of measures were used: (1) case outcome, and (2) court activities. Table 5.A1 lists all the different measures used as indicators of court performance. Tables 5.A2 through 5.A6 show the actual distribution of each measure for the entire sample.

TABLE 5.A1
INDICATORS OF JUVENILE COURT ACCOMPLISHMENT

Categories	Case Outcomes	Court Activities
Due Process	Appeals (%)	Average processing time (days)
	Dismissed (%)	Frequency of use of due process provisions
Service Provision	Probation (%)	Number of services provided
	Volume of cases served (ratio of cases handled inside/outside court)	Number of service innovations
Community Protection	Waived (%)	
	Committed (%)	
	Detained (%)	
Diversion from Formal Handling	Detained for nonserious offenses (%)	
	Nonjudicial handling (%)	Ratio of court-provided to community-provided service types
	Ratio of cases receiving court services to those receiving community services	

*These measures were developed by John Pfeiffer

TABLE 5.A2
DUE PROCESS INDICATORS

	Mean	Median	Standard Deviation	Minimum	Maximum	(N)
Appealed (%)	0.82	0.00	2.89	0.0	29.81	(204)
Dismissed (%)	8.09	4.18	10.85	0.0	77.82	(246)
Average processing time (days)	19.06	19.20	7.77	6.79	34.50	(177)
Frequency of use of due process provisions	61.66	62.59	8.91	19.00	76.00	(224)

TABLE 5.A3
SOCIAL SERVICE PROVISION INDICATORS

	Mean	Median	Standard Deviation	Minimum	Maximum	(N)
% on formal probation	20.41	15.90	16.04	0.0	78.44	(187)
Number of services provided by court	3.39	3.27	2.29	0.0	8.0	(120)
Number of innovations adopted	5.67	5.96	2.38	0.0	10.0	(218)
Ratio of volume handled inside/volume handled outside	3.75	1.00	12.69	0.0	89.06	(100)

TABLE 5.A4
JUVENILE COURT INNOVATIONS (PERCENTAGE OF COURTS ADOPTING) AND
SOCIAL SERVICES (PERCENTAGE OF COURTS PROVIDING)

	% of Courts	(N)
<u>Innovations</u>		
a. Formal diversion	74.4	(219)
b. Detention alternatives	76.7	(219)
c. Judges' visits to programs	59.1	(220)
d. Automated information system	24.2	(219)
e. Educational provisions	58.9	(219)
f. Treatment technology	60.7	(219)
g. Residential treatment	56.6	(219)
h. Court volunteers	74.9	(219)
i. Routine medical exams	38.4	(219)
j. Reimbursement to staff for educational purposes	43.1	(218)
<u>Services</u>		
a. Psychological or psychiatric diagnosis	53.4	(133)
b. Educational or vocational services	30.7	(127)
c. Drug treatment or counseling	37.2	(129)
d. Foster or group homes	43.5	(131)
e. Family counseling	59.4	(128)
f. Intensive individual counseling	66.2	(130)
g. Residential institutions	33.1	(130)
h. Medical examination	51.2	(129)

TABLE 5.A5
COMMUNITY PROTECTION INDICATORS

	Mean	Median	Standard Deviation	Minimum	Maximum	(N)
Waived (%)	0.75	0.20	2.16	0.0	24.00	(237)
Committed (%)	6.47	4.52	6.76	0.0	43.98	(210)
Detained (%)	39.56	37.82	23.77	0.0	88.31	(76)
Detained for serious offenses (%)	22.09	18.52	20.05	0.0	100.00	(131)

TABLE 5.A6
DIVERSION INDICATORS

	Mean	Median	Standard Deviation	Minimum	Maximum	(N)
Handled nonjudicially (%)	54.67	58.40	27.63	0.0	96.49	(301)
Ratio of volume handled inside court/volume handled outside court	3.75	1.00	12.69	0.0	89.06	(100)
Ratio of services provided inside/ services provided outside	0.90	0.57	1.06	0.0	7.00	(83)

APPENDIX TO CHAPTER 6

LOCATION OF JUVENILE JURISDICTION IN THE FIFTY STATES

To analyze responses of court officials accurately, it was necessary to classify the various court jurisdictions pertaining to matters of juvenile delinquency in the fifty states. The statement that follows is presented to aid other students of the juvenile court in understanding differences within and between states. Information for this analysis came primarily from the 1971 and 1972 National Surveys of Court Organization (U.S. NCJISS, 1972, 1973) and questionnaire responses by judges and court administrators. In a few instances, states were also contacted to clarify conflicting information or to fill gaps.

Although the juvenile court was established in 1899 with the notion that it would be separate and specialized, only 8 of the states have separate statewide juvenile court systems (see Table 6.A1). In the others, juveniles are dealt with in courts of general or limited jurisdiction.¹ In 11 of these states, separate juvenile courts are set up in a few of the most populous counties. Responsibility for juveniles lies with courts of general jurisdiction in 20 states and with courts of limited jurisdiction in 18 states. Both kinds of courts are responsible for juveniles in 4 states (Alabama, Maryland--where the overlap involves only one county--Nebraska, and Texas).

Most states have several court systems--a network of courts that penetrates each county. All 50 states have at least one system of courts of general jurisdiction, and 9 states maintain dual (law and equity) systems.

In addition, 45 states have at least one system of courts of limited jurisdiction. Ten states have only one such system, but it is far more common for a state to have several: Kansas has a probate court system, a county court system, and a juvenile court system. Statewide juvenile courts, where they exist, are considered systems of limited jurisdiction.

Many states have other courts of limited jurisdiction; these "additional" courts, however, are not established as statewide systems. Frequently they are courts individually created by special acts of the state legislature. For example, a "court-enabling act" may permit

1. In courts of limited jurisdiction, criminal jurisdiction is generally restricted to misdemeanors and felony preliminaries, excluding felonies themselves. Courts with limited criminal jurisdiction also frequently restrict civil jurisdiction to a maximum disputed amount. Courts of general jurisdiction have unlimited civil and criminal jurisdiction (felonies and misdemeanors).

TABLE 6.A1

JUVENILE JURISDICTION, BY STATE

	CTS. OF GEN. JUR.		CTS. OF LTD. JURISDICTION			Kinds of Add'l ^a Courts	Juv. Cts. ad. Hoc ^b
	Number of Systems	x if Juv. Jur.	Number of Systems	x if Juv. Jur.	Separate Juvenile System		
Alabama	1	x	2	x	...	2	3
Alaska	1	...	2	x	...	0	0
Arizona	1	x	2	...	...	0	0
Arkansas	2	...	2	x	...	4	0
California	1	x	2	...	...	0	0
Colorado	1	x	2	...	...	2	1
Connecticut	1	...	3	...	x	0	0
Delaware	2	...	4	...	x	1	0
Florida	1	...	2	x	...	0	0
Georgia	1	...	4	...	x ^c	3	0
Hawaii	1	...	1	x	...	0	0
Idaho	1	x	0	...	...	0	0
Illinois	1	x	0	...	...	0	0
Indiana	2	x	2	...	...	2	2
Iowa	1	x	2	...	...	2	0
Kansas	1	...	3	...	x	4	0
Kentucky	1	...	3	x	...	1	0
Louisiana	1	x	2	...	...	5	3
Maine	1	...	2	x	...	0	0
Maryland	1	x	2	x	...	0	0
Massachusetts	1	...	2	x	...	2	4
Michigan	1 ^d	...	2	x	...	3	0
Minnesota	1	...	1	x	...	4	0
Mississippi	2	...	2	x	...	1	1
Missouri	1 ^e	x	2	...	...	3	0
Montana	1	x	0	...	...	3	0
Nebraska	1	x	1	x	...	2	2
Nevada	1	x	1	...	...	1	0
New Hampshire	1	...	2	x	...	1	0
New Jersey	2	...	4	...	x	0	0
New Mexico	1	x	2	...	...	2	0
New York	2	...	4	...	x	7	0
North Carolina	1	...	1	x	...	0	0
North Dakota	1	x	2	...	...	1	0
Ohio	1	x	1	...	...	3	1
Oklahoma	1	x	0	...	...	2	0
Oregon	1	x	2	...	...	2	0
Pennsylvania	1	x	1	...	...	5	0
Rhode Island	1	...	3	...	x	1	0
South Carolina	1	...	2	x	...	3	16
South Dakota	1	...	1	x	...	2	0
Tennessee	2 ^f	...	2	x	...	3	7
Texas	1	x	2	x	...	2	29
Utah	1	...	2	...	x	1	0
Vermont	1	...	2	x	...	1	0
Virginia	1	...	1	x	...	1	0
Washington	1	x	2	...	...	1	0
West Virginia	2	...	2	x	...	2	0
Wisconsin	2	x	0	...	...	1	0
Wyoming	1	x	1	...	...	1	0

TABLE 6.A1--Continued

^a"Additional" courts are the specially established courts that are not part of a state system. The "additional" column here does not include specially established juvenile courts.

^bThese are juvenile courts established ad hoc by the state legislature, usually in larger cities and counties.

^cIn Georgia a juvenile court system is established for counties with populations in excess of 50,000. In the other counties the courts of general jurisdiction have juvenile jurisdiction. However, only counties of over 50,000 were sampled, and for the purposes of this study, Georgia can be assumed to have a statewide juvenile court system.

^dThe Recorder's Court of the City of Detroit is also a court of general jurisdiction, but serves only Detroit.

^eThe Hannibal Court of Common Pleas is also a court of general jurisdiction, but serves only two townships in Marion County.

^fThere are specially established law and equity courts in five counties and the Common Law and Chancery Court of Dyer County, all of which have general jurisdiction and are not part of a state court system.

municipal courts to be established in cities with populations in excess of a certain minimum. But the court must first be enacted by special legislative act or, in some cases, by city ordinances or charter amendment. Also, additional courts of limited jurisdiction may be established specially in one or several cities or counties. In West Virginia, courts of limited jurisdiction were created to serve seven counties, in addition to the courts of general jurisdiction already operating. The remaining counties of the state have no such courts. As another example, a large city may have a special traffic court although no other traffic courts exist in the state.

"Additional" courts like these serve special needs, are often established out of administrative necessity in response to docket pressures, and are usually present only in larger cities. Thus it happens that 11 states have at least one countywide or citywide juvenile court, mandated by the state juvenile code for certain population levels. In Colorado, for example, the code mandates that a separate juvenile court be established in all counties with a population of 500,000 or above, and Denver is the only Colorado city to have a juvenile court.

It becomes clear that there is much interstate variation in the location of juvenile jurisdiction, and occasionally variation within a state. It is desirable to develop some explanation for the restricted development of juvenile court systems in a small number of states and the inclusion of juvenile jurisdiction in existing systems in others. There does not appear to be any relationship between the existence of separate juvenile systems and juvenile codes with CHINS/PINS provisions.

Of the 8 states with separate juvenile systems, 4 have CHINS provisions (Georgia, Kansas, New York, and Rhode Island) and 4 do not (Connecticut, Delaware, New Jersey, and Utah). Furthermore, there is no apparent relationship between separate courts and the age of a state's juvenile code.

It is apparent, however, that the creation of separate juvenile courts is related to population size. For example, the four most densely populated states are Connecticut, Massachusetts, Rhode Island, and New Jersey. All have in excess of 600 persons per square mile. All except Massachusetts have a separate statewide juvenile court system. In Massachusetts, separate juvenile courts exist in the four largest population centers--Boston, Springfield, Worcester, and Bristol County. In the rest of Massachusetts, jurisdiction is in separate juvenile divisions of courts of limited jurisdiction.

The four next most densely populated states are New York, Delaware, Maryland, and Pennsylvania. New York and Delaware have separate juvenile (family) courts with exclusive jurisdiction. In Pennsylvania, juveniles are within the purview of courts of general jurisdiction (with juvenile divisions in the larger cities), as in Maryland (with the exception of Montgomery County, where they are under a court of limited jurisdiction).

Of the 20 largest U.S. cities (excluding Washington, D.C.), only 1 (New York) has a juvenile court that is part of a statewide system. However, 7 (Houston, Dallas, Cleveland, Indianapolis, Boston, Memphis, and New Orleans) have separate juvenile courts which were specially established for them. Of the 12 remaining, 10 have juvenile divisions located within courts of general jurisdiction (Chicago, Los Angeles, Philadelphia, Milwaukee, San Francisco, San Antonio, Columbus, San Diego, Saint Louis, Phoenix, and Baltimore). In Detroit, the juvenile division is part of a court of limited jurisdiction.

Thus, states have dealt with the problems of where to locate jurisdiction over juveniles in one of two ways: they have either been placed within an existing court system, or a separate system has been created to handle an exclusively juvenile caseload. It is administratively more complicated and financially costlier to create and maintain additional court systems, and thus separate juvenile courts or court systems tend to be restricted to the densely populated states or cities that can benefit most, and best support, such separate structures. Kansas and Utah are two exceptions to such a population-density explanation. However, Utah does not maintain a separate court with one judge per county. The state is instead divided into five districts with one or two judges per district. Kansas does have a juvenile judge in each county--possibly many of these are part time.

Separate juvenile court systems exist almost exclusively in states which already have multiple systems of courts of limited jurisdiction. Of the 8 states that have three or more systems, 7 have a statewide juvenile court as one of the systems. (Kentucky is excluded from consideration. In theory it has three systems, but in practice it has two. Each county in Kentucky has a quarterly court and a county court,

but they are served by the same judge. His caseload is merely split between two courtrooms. For all practical purposes, the courts are part of the same, rather than separate, systems.)

The 4 states that have four systems each of courts of limited jurisdiction all have statewide juvenile court systems (Delaware, Georgia, New Jersey, and New York). The 3 remaining states have three systems each of courts of limited jurisdiction (Connecticut, Kansas, and Rhode Island). Utah has only two such systems, of which the juvenile courts are one.

Undoubtedly there is a tendency toward establishing statewide systems as population increases. In South Carolina, for example, the juvenile code allows each county to set up a juvenile court if it wants to. Thus far, 16 courts have been established, and it is likely that over a period of years most counties will follow suit. In Georgia the juvenile code mandates establishing juvenile courts when county population reaches 50,000. Of 80 counties, 46 had juvenile courts in 1973. Tennessee has established separate courts in 7 counties. The Texas code states that 1 court per county shall serve as the juvenile court for the county, but in 29 of the 254 counties a separate juvenile court has been established.

There are probably financial reasons for including juvenile jurisdiction within an existing court rather than establishing separate courts. It is more economical to locate all or most judicial functions in one court of general jurisdiction and to dispense with other courts. Such is the case in Idaho, Illinois, Montana, Oklahoma, and Wisconsin. Administratively this is probably more efficient, as it is cheaper to operate one or two courts per county, with multiple judges, than to operate multiple one-judge courts. Duplication of administrative structure and services is avoided, and the number of support personnel is probably reduced.

TABLE 6.A2
CORRELATION MATRIX OF ADJUDICATION WITH DUE PROCESS
VARIABLES BY COURT LEVEL

		Dismissal for Lack of Evidence	Call Witnesses ^a	Right to Counsel ^a	Appointment of Counsel ^a	Cross-Examine Witnesses ^a	No Judge Access to Social File Before Adjud.	Parental Access to Social File	Def. Attorney Access to Social File ^a	Challenge Probation Report	State Rules ^a of Evidence
<u>Call witnesses^a</u>											
General	G	-.03									
Limited	L	-.01									
Juvenile	J	-.24									
<u>Right to counsel^a</u>											
	G	.13	.04								
	L	.00	.00								
	J	-.02	.22								
<u>Appoint counsel^a</u>											
	G	.02	.00	.18 ^b							
	L	.06	.10	.00 ^d							
	J	-.06	.23	1.00 ^d							
<u>Cross-examine^a witnesses</u>											
	G	.14 ^b	.15	-.05	.06						
	L	.26 ^b	.30 ^c	.00	.06						
	J	.03	-.08	-.09	-.10						
<u>No judge access to social file before adjudication</u>											
	G	.29 ^c	.11	.15 ^b	.12 ^b	.06					
	L	.34 ^c	.16	-.00 ^b	.11 ^b	.02					
	J	.00	-.13	.29 ^b	.29 ^b	-.01					
<u>Parental access to social file</u>											
	G	-.10	.30 ^d	-.01	-.10	-.00	.05 ^c				
	L	-.04	.06	.00	.13	.22	.29 ^c				
	J	-.05	.36 ^c	.06	.06	-.01	.44 ^d				
<u>Attorney access to social file^a</u>											
	G	.16 ^b	.25 ^c	.01	-.01	.02 ^b	.07	.38 ^d			
	L	.07	.24 ^b	.00	.08	.23 ^b	.09	.27 ^b			
	J	.23	.30 ^b	.14	.14	-.21	.25	.48 ^d			
<u>Challenge probation report</u>											
	G	.19 ^b	.18 ^b	.27 ^d	.00	.22 ^c	.12	.17 ^b	.31 ^d		
	L	.12	.18	.00	.18	.43 ^d	.14	.03	.35 ^c		
	J	.36 ^c	.19	.40 ^c	.39 ^c	-.13	.05	.32 ^c	.52 ^d		
<u>State rules of evidence^a</u>											
	G	.11 ^b	.09	.11	.12	.13 ^b	.11 ^b	-.08	.16 ^b	.09 ^b	
	L	.25 ^b	.02	.00	.11	.32 ^b	.29 ^b	.21	-.00	.25 ^b	
	J	-.04	-.00	-.03	-.03	-.34 ^c	.15	.02	-.12	.11	
<u>Transcripts at adjudication</u>											
	G	.20 ^c	-.00	.24 ^c	.17 ^b	-.05	.20 ^c	-.02	-.00	-.07	.02
	L	-.03	.34 ^c	.00	.00	-.03	-.01	.07	.13	.00	.04
	J	-.03	.08	.04	-.05	-.05	.00	.10	-.04	-.14	-.08

^aLegislated items

^bSignificant at .05 level

^cSignificant at .01 level

^dSignificant beyond .01 level

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