

MICROFICHE

REPORT TO THE GOVERNOR  
FROM  
KEVIN M. CAHILL, M.D.  
SPECIAL ASSISTANT TO THE GOVERNOR  
ON HEALTH AFFAIRS  
GOVERNOR'S PANEL ON JUVENILE VIOLENCE

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ACQUISITIONS



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

January 5, 1976

Honorable Hugh L. Carey  
Governor  
Executive Chamber  
State Capitol  
Albany, N. Y. 12224

Dear Governor Carey:

I have the honor to submit this report based on the work of the Panel on Juvenile Violence appointed by you in June, 1975, to study the problems presented by juvenile violence and to develop recommendations for appropriate executive and legislative action. The Panel, composed of outstanding citizens, including jurists, administrators of programs, academicians and advocates, gave generously of its knowledge and time through weekly sessions of the task forces and several planning sessions.

The Panel gave careful consideration to the many problems raised by the reports of increased juvenile violence in New York State as well as throughout the nation. Through the work of task forces, it examined the facts available in New York State on juvenile violence and the demands of citizens for greater protection from such violence.



It reviewed federal reports, reports from other states and studies available on juvenile violence and the limited capacity of experts to predict future violence on the basis of past conduct or any other factors.

In the light of this work, it has submitted proposals for legislative and executive action directed toward providing both greater safeguards to communities against juvenile violence and toward developing more effective ways to rehabilitate youths who engage in acts of violence against other persons.

Before reaching the recommendations submitted herewith, Panel members expressed deep concern about the underlying social and economic conditions that incited or contributed to violence by children or youth at this time. They deplored the failure of the federal government in recent years to take meaningful measures to alleviate these conditions. Despite awareness of the relationship between such conditions and the behavior of juveniles, the Panel recognized that the focus of its work for this report was limited to finding facts and making recommendations to the Governor for appropriate action by the executive and legislative branches of state government to meet the problems created by juvenile violence in New York.

After months of study, discussion and consideration of the facts available and expert opinion, the Panel, herewith, submits its recommendations for legislative and executive action in New York State. The major recommendation is for legislative and executive action that will provide statutory procedures and state-supported programs for the

identification, containment and rehabilitation of juveniles who are found to have committed serious violent acts and to be dangerous to others or themselves. To achieve these purposes legislation is recommended to mandate placement by the Family Court of juveniles, 14 and 15 years of age, who have committed certain serious and violent acts against other persons and who are found by the court to be a danger to others or themselves. Such legislation shall mandate placement in a secure setting for a minimum period of one year and continued placement or supervision by the state or a voluntary agency for up to two additional years.

In recommending legislation to provide for secure and longer deprivation of freedom for juveniles found to have engaged in violent acts, the Panel recognized that the continuation of a specialized system of juvenile justice requires both compliance with procedural due process and on-going efforts to study the problems of each youth so as to secure such care and treatment as is best suited to contribute to the youth's healthy growth and rehabilitation. These are mandated responsibilities imposed on every juvenile court by the United States Supreme Court and must be obeyed. In 1975, the United States Supreme Court once more (Breed v. Jones) referred to its "decisions in recent years (that) recognized that there is a gap between the originally benign concept of the (juvenile justice) system and its realities." That gap must be narrowed and not widened.

In accordance with constitutional requirements, the legislation proposed by the Panel provides for due process at all stages of the



new procedures that may result in the imposition of orders for minimum placements in secure settings and longer periods for restriction of freedom. It also provides for review and modification of such orders by the courts where there is a change of circumstance or evidence that a youth is ready for greater freedom in a less restrictive setting without danger to the community. The power of the courts to safeguard the community is thus joined with the responsibility for continuing efforts to achieve individualized justice for juveniles.

The proposed legislation requires that use of secure settings with increased or prolonged deprivation of freedom shall be accompanied by provision of specialized services that are directed to meet the serious problems of juveniles who have engaged in violent acts and are found to be a danger to others or themselves. It calls for executive and legislative action to increase the mental health services and other services for such youths that hold maximum promise for their rehabilitation. It agrees with the recent standards proposed by the IJA/ABA National Juvenile Justice Standards Project that "juveniles adjudicated delinquent shall have access to all necessary services needed for their individual growth and development."

In considering issues raised by juvenile violence in New York, the Panel was influenced by the fact that only three states (Alabama, North Carolina and Vermont) besides New York limit juvenile court jurisdiction to youths who commit unlawful acts prior to their 16th birthdays. Forty states and the District of Columbia extend such jurisdiction to the 18th birthday and seven states, to the 17th birthday.

The national figures concerning juvenile delinquency by youths under 18 years of age are not applicable to juveniles within the Family Court jurisdiction in New York State who are under 16 years of age.<sup>1</sup> The Panel, therefore, restricted its study and recommendations to legislative and executive action to deal with juvenile violence by youths under 16 years of age, a majority of whom are 14 or 15 years of age at the time of committing serious acts.

In confronting the task of developing recommendations that can assure greater protection for the community against violent acts by juveniles 14 and 15 years of age, the Panel agreed that nothing would be gained and much would be lost by legislation that transferred or waived such young children to the overburdened criminal justice systems in which all the worst defects of the juvenile justice system are exaggerated.<sup>2</sup>

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In 1970, the National Jail Census found 7,800 juveniles in jails on a certain day. Over half of them were juveniles between 16 and 18 held in two large jails in New York City.

2.

See, Report by the New York State Commission on Investigation, The Criminal Justice System in the City of New York - An Overview, November 1974. This report finds that overcrowded detention facilities and long court calendars with a heavy backlog force the plea bargaining process to such an extent that the criminal justice process has become a revolving door in which only the "guilty prosper." (P. 49) Most cases do not go to trial until a minimum of nine months after arrest. Felony charges are downgraded to misdemeanors and lenient sentences are based on prior plea bargains. Finally, the system does not provide liaison with treatment programs or job training opportunities.

It found that other states which have enacted waivers to the criminal justice system have used such procedures almost entirely for 16 and 17 year old juveniles, who are already subject to the criminal justice system in this state. It also noted that the Federal Juvenile Justice and Delinquency Prevention Act of 1974 and the national Juvenile Justice Standards Project<sup>3</sup> have opposed any mixing of juveniles with adult offenders. The Panel has also recommended that the proposed new legislation shall include the repeal of the present law which authorizes the Family Court to place 15 year olds who have committed A or B felonies in state prisons with adults.

The recommendations for legislative and executive action proposed by the Panel to meet the problems of juvenile violence are submitted together with a brief summary of the organization of the panel and the work of its four Task Forces. The full reports of the Task Forces are in the appendices.

In submitting this report, based on the work of the Panel appointed by you, I want to express my appreciation to all the members of the Panel, the chairmen of the Task Forces, and to the senior staff person who carried the major share of the work, John Starrs of the Department of Mental Hygiene. The cooperation of Commissioner Frank Rogers, Division of Criminal Justice Services, has been of inestimable value. I also wish to express appreciation to Judge Richard J. Bartlett for his helpful and gracious assistance. The list of Panel members is annexed.



I believe and trust you will find that the recommendations of the Panel fulfill your request that it should "...judiciously balance the need for the protection of society and the rights of juveniles."

Respectfully,

*Kevin M. Cahill*

Kevin M. Cahill, M.D.  
Special Assistant to  
the Governor  
Chairman of the Panel

GOVERNOR'S PANEL ON JUVENILE VIOLENCE

Dr. Kevin Cahill	Chairman
Peter Edelman, Esq.	Ex-Officio member
Dr. Lawrence Kolb	Ex-Officio member
John Starrs, Esq.	Executive Secretary to the Panel
Thomas S. Chittenden	
Oscar Garcia-Rivera	
Bernard Gifford	
Hon. I. Leo Glasser	
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Charles King	
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Henry Steadman, Ph.D.	
Paul Strasburg	
Hans Toch, Ph.D.	
Rena K. Uviller	
Hon. Joseph B. Williams	

# Organization of the Governor's Panel on Juvenile Violence

## Summary of Task Force Reports

This Panel was organized in June, 1975 to study the problem of juvenile violence and develop recommendations for appropriate Executive and Legislative action. In forming the Panel, the Governor re-emphasized a key point made in his January, 1975 message to the Legislature in which he said:

There will be no higher priority in this Administration than to restore a sense of security, of justice and order in every corner of the state.

He called the attention of the Panel to the high level of public concern which had developed over the last several years in response to frequent reports in the news media that violent crime, particularly serious acts by juveniles, was increasing at an alarming rate. In directing the Panel to examine both the strengths and weaknesses of the juvenile justice system, he asked that the Panel's efforts "... judiciously balance the need for the protection of society and the rights of juveniles."

In order to carry out its mandate, individual working Task Forces were organized to examine the philosophy of the juvenile justice system in New York State and evaluate the operation of each of its components. More specifically, the study was sub-divided into four separate but related investigations with the following objectives:

- To define the nature and extent of the problem of juvenile violence in New York State by reviewing available data and the many recent reports and studies suggesting possible



relationships between juvenile violence and factors such as educational failure, mental disability, social deprivation and parental neglect.

--To examine the appropriateness and adequacy of the current classification system under which we define the juvenile misconduct that requires public intervention and the responsibilities of the dispositional and service components of the juvenile justice system.

--To evaluate the suitability and effectiveness of the current roles and relationships of the various agencies, public and private, that share service responsibilities for juveniles whose violent behavior brings them to the attention of the Family Court.

--To review the approaches taken by the legislatures and executive agencies in other states with a view toward developing viable, new program and policy strategies at both state and local levels in New York that will enable us to strengthen the juvenile justice system and eliminate its weaknesses in dealing with juvenile violence.

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Task Force I was charged with determining, if possible, the scope of the problem of juvenile violence. Information was gathered from the Federal Bureau of Investigation reports, the

Division for Youth, the State Board of Social Welfare, the Office of Court Administration, and the Division of Criminal Justice Services, concerning children who came to the attention of law enforcement officials and the Family Court. A determination was made that, given limited time, the Task Force should not undertake a study of unreported violence in schools and elsewhere.

The Task Force reported to the Panel that, while there has been an increase in juvenile violence in the last five years, it has not been as dramatic as the media has made it seem. In addition, the Task Force found major gaps in the information available. For example, it is not possible to determine how many children arrested for serious acts were actually taken to Court, nor in how many cases a petition was filed against them and, if found to be delinquent, whether they were found to have committed the major act alleged or some lesser included charge. The report of the Task Force and commentary on each set of statistics appear in the appendices.

Task Force II considered the issues of categories and labels for children and public intervention in the children's lives based on those categories and labels. "Categories" are created by law or administrative decision to determine jurisdictional procedures for handling juvenile offenders. "Labels", however, are attached so the children may be slotted into or excluded from certain services. The basic concept of public intervention into the lives of juveniles, however imperfectly realized, is to provide services according to a juvenile's need.

Task Force II took the position that "The creation of a new category based solely on the offense with mandated disposition to secure facilities to satisfy demands for punishment would undermine, if not destroy, the concept of juvenile justice. It would abrogate the right and the duty of the juvenile court to seek care and treatment appropriate in the light of the individual child's history, problems, needs and potential for rehabilitation. "Authority for the Court to order separate and secure placement should require a finding on clear and convincing evidence that such placement is needed and that on such placement the offender should receive appropriate and specialized services for such period as found necessary."

The Task Force noted the absence of any research that offered a reliable basis for prediction of future violence on the basis of past acts. It expressed concern that creation of a new label would not in itself provide either protection for the community or any assurance of more effective rehabilitation efforts. It also was concerned that the application of a new label would only increase the exclusion of youths most in need of care from the agencies regarded as having the best services. The Task Force recommended that the focus of the Panel's recommendations should not be placed on labels but rather on identification of juveniles who had committed serious and violent offenses and required secure settings with special services.

Task Force III interviewed representatives of all agencies and participants in the State's juvenile justice system: judges, probation officers, law guardians, police, representatives of private child care agencies, the Division for Youth, the Depart-



ment of Mental Hygiene and state and municipal psychiatric hospitals, and the State Board of Social Welfare. Both their interim and final reports draw a picture of a fragmented, disorganized "non-system" that must, of necessity, work against the child's best interests rather than in the interest of the child or public safety. It has proposed a series of recommendations, most of which can be accomplished by executive action, that can achieve a rational system to respond to the best needs of all children and provide greater protection for the community from children who are now dangerous, or may become so for lack of adequate help now. The full reports, which should be read by all who are concerned with juvenile justice in this state, are contained in the appendices.

Task Force IV reviewed literature about programs in other states: notably, Massachusetts, Connecticut, Maine and California. It also reviewed the Model Sentencing Act proposed by the National Council on Crime and Delinquency as it related to the juvenile court process and preliminary reports of the IJA/ABA National Juvenile Justice Standards Project. This work gave the Task Force invaluable background against which to measure the functioning of New York's juvenile justice system and to consider the recommendations of the Panel. Its report, providing valuable insight into the successes and failures of other states and some of the leading theories about juvenile justice, is included in the appendices.

## Governor's Panel on Juvenile Violence

### Recommendations

The reported increase in violent acts by juveniles under 16 years of age has required reconsideration of the State's juvenile justice system. It requires steps to provide both greater protection for the community and more effective services for the rehabilitation of juveniles found to have committed violent acts against persons.

The Panel, appointed by the Governor to submit recommendations for dealing with juvenile violence, agreed that legislation was needed to identify juveniles found to have committed serious or repeated violent acts and to provide special services for such children. The Panel agreed that there was a need for small secure facilities to protect the communities from further danger.

In reaching this decision, the Panel found that there were serious gaps in hard information concerning the number of youths under 16 who were found to have committed acts that are serious crimes when committed by adults<sup>1</sup>. It found a lack of statistical data on which valid predictions of future violence by such children could be based<sup>2</sup>.

The Panel, despite the reservations noted, unanimously agreed that the Family Court should be authorized to order more

1. See report of Task Force I.

2. See report of Task Force II.

restrictive dispositions that it now may, upon a finding, on proof beyond a reasonable doubt, that a youth, 14 or 15 years of age, had committed one or more specific acts of violence against another person.

The Panel unanimously opposed the waiver or transfer of youths to the criminal court system. It also unanimously agreed that no youths under 16 years of age should be confined with adults in any correctional facility.

In making proposals to deal with juveniles who commit violent acts, the Panel urges that immediate steps shall be taken to:

1. Develop a reliable statewide information system so that the public and public officials can know how many juveniles arrested for violent acts were actually found to have committed such acts or some lesser included charges.
2. Develop a centralized indexing system, consistent with the needs of the Family Court and probation services, in both urban and rural counties. Such a system must provide appropriate safeguards to protect confidentiality. There is no way, at present, to know if a juvenile, apprehended in one county, has had a prior adjudication in another county.
3. Develop small secure facilities within the Division for Youth for juveniles for whom the court finds such facilities are needed both for the protection of the community and for the rehabilitation of the juvenile.
4. Develop residential treatment facilities within the Division for Youth appropriate to provide control, care and treatment for juveniles placed with the state. There is no justification in law or morality for providing a lower level of services for juveniles placed with public services than for juveniles for whom services are purchased. To assure equal and adequate protection for juveniles, the State must upgrade its services and effectively monitor those provided through purchase of service.



5. Develop adequate facilities within the Department of Mental Hygiene for Youths who have been charged with, or found to have committed, a violent act who are also mentally disabled.
6. Develop cooperative services by the Division for Youth, the Department of Mental Hygiene, and voluntary agencies to assure quality mental health services for both mentally disabled and emotionally disturbed youths who have been found delinquent and placed with the Division or a voluntary agency.
7. Expand the mental health services available to the Family Court so that it can properly screen, diagnose and provide expert clinical assessment of juveniles alleged or found to have committed violent acts, to guide the court so that dispositions shall provide protection for the community and provide appropriate services for the rehabilitation of the youths.<sup>3</sup>
8. Support and encourage responsible and constructive proposals by the Division for Youth and the Department of Mental Hygiene for the improvement of services, the coordination of fragmented programs for juveniles, serious research on causative factors for serious delinquency, and the evaluation of the outcomes of various programs.

#### Recommendations for Legislation

In reaching a consensus the Panel was mindful that only three states beside New York restricted juvenile court jurisdiction to juveniles whose unlawful acts were committed prior to their 16th birthday. Under the laws of 40 states and the Federal Juvenile Justice and Delinquency Prevention Act of 1974, juvenile jurisdiction is defined as extending to the 18th birthday. Seven states limit jurisdiction to the 17th birthday.

3. This should be provided by the Court's own services in metropolitan areas; elsewhere, Community Mental Health Boards and state hospitals should provide it. When the Court determines that there is a need for in-patient diagnosis of a juvenile, state, county and municipal psychiatric facilities must be required to admit the juvenile.

Despite differences among panel members, consensus was reached in regard to proposed legislation that should be enacted during the 1976 legislative session. Essential to this consensus was the agreement that the Family Court should be authorized to order longer and more severe restrictions on the freedom of certain juveniles and that the granting of such authority imposes on the state the obligation to provide special services. Specifically:

Youth subjected to the more restrictive dispositions proposed below must be provided with specialized rehabilitative services, including, but not limited to: mental health treatment and counselling; remedial and on-going medical care; remedial or special education; vocational training, and special transitional services when they return to the community.<sup>4</sup>

All the safeguards for procedural due process and confidentiality, now required by the Family Court Act and mandated by United States Supreme Court decisions<sup>5</sup> must be accorded to juveniles subject to the new dispositions proposed below.

The concept of juvenile justice began with the creation of the label of juvenile delinquency in order to exclude juveniles from the criminal justice system and its consequences.

Other labels and categories have been established during the past decades to lessen the consequences of the use of the

4. Failure to provide such services might be grounds for challenging the more restrictive dispositions here proposed. See proposed standards, IJA/ABA National Juvenile Justice Standards project.
5. E.g., Kent v. United States, 383 U.S. 541 (1966); In re Gault, 387 U.S. 1 (1967); In re Winship, 397 U.S. 353 (1970); Breed v. Jones, 96 Supreme Court 1779 (1975)

label of juvenile delinquency. We do not propose a new label, or category of juvenile delinquent, that will have an even greater and more destructive impact on a juvenile's life than the present one. Rather we propose alternative dispositions for those juveniles between their 14th and 16th birthdays whose acts require greater protection for the community and more intensive rehabilitative efforts.

### Proposed Legislation

The Law shall provide for:

#### I. Definition of a juvenile subject to new and more restrictive dispositions

Such a juvenile is one, 14 or 15 years of age, found by the Family Court to have committed one or more acts which, when committed by an adult, would be: murder 1<sup>o</sup>, murder 2<sup>o</sup>, rape 1<sup>o</sup>, manslaughter 1<sup>o</sup>, sodomy 1<sup>o</sup>, arson 1<sup>o</sup> or robbery 1<sup>o</sup>. Robbery 1<sup>o</sup> is included where there has been a previous adjudication of robbery 1<sup>o</sup> or one of the above listed acts.

#### II. A Two Stage Procedure

The complainant shall be represented by either the corporation counsel or a county attorney at both the fact finding and special dispositional hearing under the new legislation. Such representation would be provided whenever a petition alleges the commission of one of the acts enumerated in paragraph I above.

1. The adjudicatory hearing, with all the safeguards now required by the Family Court Act, including proof beyond a reasonable doubt, shall also require that the Judge who finds a juvenile 14 or 15 to have committed one of the acts enumerated above shall make findings in writing on each charge alleged in the petition. The judge presiding shall also order a probation investigation and a full diagnostic assessment prior to the dispositional hearing.
  - a. The probation investigation shall include the history of the juvenile, the family situation, the previous conduct of the juvenile, previous psychological and psychiatric reports, school adjustment, previous social assistance provided by voluntary or public agencies and the response of the juvenile to such assistance.
  - b. The diagnostic assessment shall include psychological tests and psychiatric interviews to determine mental capacity and achievement, emotional stability and mental disabilities. It shall include a clinical assessment of the nature and intensity of impulses and controls of the juvenile, and of the situational factors that may have contributed to the act. When feasible, expert opinion shall be rendered as to the risk presented by the juvenile to others or himself, with a recommendation as to the need for placement in a secure facility.
  - c. It shall be the duty of all appropriate public and private agencies having knowledge of the juvenile to assist in the preparation of this material.
  - d. State, county and municipal psychiatric facilities shall have the duty to comply when in-patient psychiatric examination is ordered by the judge.
2. Dispositional Hearing to determine whether a juvenile is a juvenile within the scope of this Act.

Upon a finding of fact that one of the acts enumerated in paragraph I was committed by a juvenile between 14 and 16 years of age, a special dispositional hearing must be provided on motion by the corporation counsel or county attorney, or by the court on its own motion.

The judge presiding at the adjudicatory hearing shall preside at the dispositional hearing.

Information from in-depth assessment evaluations shall be made available to the court to allow the court to make a determination that a juvenile is a danger to himself or others and requires special services in a secure setting. Such information shall also be made available to prosecution and defense counsel. The respective attorneys shall have the right to cross-examine the makers of the reports and produce additional evidence, at state expense, at the dispositional hearing.

The corporation counsel or county attorney, law guardian, and probation officer may submit recommendations to the court on issues of a minimum placement period and the need for intensive care.

A specific time constraint on the completion of psychiatric and clinical evaluations should be legislated.

At the conclusion, or within ten days after the special dispositional hearing, the judge presiding shall determine whether the evidence submitted warrants a finding that the juvenile requires a disposition under this Act for his own safety or that of the community.

The finding of the court at the dispositional hearing to determine whether the juvenile is in need of a disposition under this Act shall be set forth in writing with the reasons for such a disposition and the reasons for not imposing a less restrictive disposition.<sup>6</sup>

### 3. Order of disposition

Following a finding by the judge that a juvenile has  
(a) committed one of the acts set forth in paragraph I;  
(b) was 14 or 15 years of age at the time such act was committed, and (c) is in need of disposition under this Act, the Court must:

- a. Enter an order of placement directing that the juvenile shall be placed in a secure facility of the Division for Youth or in a secure facility of a voluntary agency for a minimum period of one year; and
- b. Enter an order of placement to the Division for Youth or voluntary agency for a period of up to three years.

6. See IJA/ABA Juvenile Justice Standards Project, minutes of meeting, October 13-19, 1975.



- c. Credit for periods of confinement in detention prior to adjudicatory or dispositional hearings shall be granted and applied to the three year placement period but not to the one year placement period in a secure facility.
- d. The provisions of Section 760 of the Family Court Act regarding placement of adjudicated juvenile delinquents and subsequent transfer for admission to a psychiatric hospital in the Department of Mental Hygiene shall be modified to define the Department of Mental Hygiene's responsibilities so that they will conform to the requirements in II. 3 a & b above.
- e. In all cases where a placement is made under the provision of II. 3a, the agency in which the juvenile has been placed shall be authorized to petition the court which made the order of placement to modify the order on a showing of new circumstances.

### III. Dispositional Placement

The Division for Youth shall provide small secure facilities, each suitable for not more than twenty-five juveniles, whom the Court has found to be in need of placement in a secure setting. It is recognized that it will require both money and time to develop these facilities. In the meantime the Division should use its existing secure annexes, Goshen and Brookwood.

The Division for Youth shall, in cooperation with other departments of the State (including Mental Hygiene and Education), provide special and appropriate services for the education, care, treatment and rehabilitation of all juveniles for whom secure placements are ordered by the Court.

The Division for Youth shall provide for appropriate facilities that are less restrictive when juveniles are found ready for such placements after the period for secure placement ordered by the court has been completed. Less restrictive facilities shall include open facilities within the Division for Youth, including

half-way houses and foster care homes under the auspices of the Division for Youth, and such other services purchased from agencies within the State of New York.

The Division for Youth shall provide for appropriate and meaningful after-care whenever a juvenile is returned to the community prior to the expiration of the three year placement. Such aftercare shall include provisions for living, education, vocational training, physical and mental health services and employment.

The Division for Youth shall develop cooperative procedures so as to maximize the use of personnel of the Department of Mental Hygiene and shall be authorized to develop joint projects where juveniles require substantial mental health services.

The Division for Youth shall develop its research division to undertake evaluation of all programs for violent juveniles, and provide for outcome studies by follow-ups on juveniles placed in its programs and in any agency program purchased by the State.

1. Dispositional Court order for placement in a secure facility

The Division for Youth or a voluntary agency shall continue placement in a secure facility for the minimum time ordered by the court except when:

a. The Division for Youth or the agency finds that a juvenile is ready for a less restrictive placement prior to the expiration of one year, so advises the court, and receives the consent of the court for a modification of the original order. In the event the Court does not act within 30 days, the modification shall be deemed granted.

b. The juvenile appeals from the order of placement in a secure setting and the Court, upon review and a finding that the juvenile does not represent a danger to himself or others, modifies the order.

c. The court on its own motion reviews and modifies the initial order.

2. Continued placement after the one year minimum in a secure setting

The Division for Youth or a voluntary agency shall have continuing responsibility for residential care, supervision and such other placement or services as are required for the full period of three years.

When the dispositional order of the court directs placement of the juvenile in a secure facility for up to one year as part of a longer order of placement, the juvenile shall be entitled, at the end of the court ordered secure facility placement period, to have the Administrative Committee<sup>7</sup> consider a less restrictive placement or service than that which is currently in effect.

IV. Privacy of records

In any case in which the court makes a finding that a juvenile is in need of a dispositional placement as provided for in this Act, the juvenile shall be entitled to the same protection of his record as is accorded to other juveniles found to be delinquent under the laws of New York.

V. State Aid for Special Proceedings

The State shall bear the expense of the appearances of the corporation counsel or county attorney at all stages of the proceedings and for the appearances of expert witnesses called at the special dispositional hearings.

VI. Additional Legislation

On the enactment of the above legislation to provide for juveniles found to have committed the acts covered by this Act,

7. The Division plans to establish a high level review committee consisting of both Division staff and outside professionals.

legislation should be enacted to repeal Section 758 (b) and (c) of the Family Court Act. This provision, enacted in 1967, authorizes the Family Court to commit youths 15 years of age, found to have committed what would be an A or B felony, if committed by an adult, to specified institutions within the adult correctional system for periods up to three years. This section does not provide for any separation of such juveniles from adult criminals. As a result, the Family Court has not, except in rare instances, invoked this section. According to the figures from the Office of Court Administration, of the cases in New York State that came to disposition in 1974, only seven juveniles were committed under Section 758 of the Family Court Act.

#### VII. Other recommendations

The Panel expressed dissatisfaction with the present overall configuration of the service components involved in the juvenile justice area, with specific reference to the lack of efficiency, accountability and coordination of agency efforts in the public and private sectors.

One suggested option for rectifying this situation was the development of a single comprehensive agency in the Executive Department responsible for the control, care and treatment (including after-care) of all children in need of public intervention, through direct service or purchase of service for violent juveniles placed by the court. Such an agency would

have responsibility for developing appropriate facilities for all youths found delinquent by the Family Court, including juveniles found to be in need of special dispositions under the proposed legislation. It would also have responsibility to develop preventive measures through fact finding, research and the provision and development of alternative community services. This agency should have the responsibility and authority to work with other state agencies and voluntary agencies to provide comprehensive and adequate services and facilities for all children, including preventive services, community facilities and services required after residential placement. This agency should also develop plans and programs for the best use of federal funds available to New York under the Juvenile Justice and Delinquency Prevention Act of 1974 and the Law Enforcement Assistance Act.



FINAL REPORT OF TASK FORCE I

Ms. Elizabeth Schack (Coordinator)  
Hon. Joseph Williams (Coordinator)  
Mr. Thomas Chittenden  
John Martin, Ph.D.  
Mr. Paul Strasburg  
Rena K. Uviller

M E M O R A N D U M

November 12, 1975

TO: Governor's Panel on Juvenile Violence  
FROM: Task Force I  
RE: Scope of the Problem

Task Force I of the Governor's Panel on Juvenile Violence was given the following charge:

Task Force I will be asked to define the nature and extent of the problem of juvenile violence in New York State after reviewing available data as well as a variety of current reports and studies some of which suggest possible relationships between juvenile violence and factors such as educational failure, mental disability, social deprivation and parental neglect. Task Force members include: Mr. Paul Strasburg, Mrs. Elizabeth Schack, John Martin, Ph.D., Judge Williams, Mr. Thomas Chittenden and Ms. Rena K. Uviller.

The following is a summary statement of the major findings and recommendations of Task Force I based on the material reviewed by the group. These general statements are amplified in the comments offered with respect to each of the five statistical summaries attached to our report.

1. The problem we are addressing is the commission of violent acts by juveniles. We have tried to collect data on the scope of the problem, but this has been particularly difficult since the data have not been available for uniform time periods, nor uniform categories of crimes. In addition, some of the data provided appear to be inaccurate. Specific caveats are appended to each set of figures, which are attached.

The information we collected covers the following areas:

Juvenile and Youth Arrest data for New York State for 1970-1973 as reported to the FBI.

1974 Admissions of Juvenile Delinquents to the Division for Youth.

Reason for petition by disposition, by age, by sex, and by county as reported to the Office of Court Administration.

Delinquent children in placement in non-Division for Youth facilities.

Inadequate as they are, these data have nevertheless led the Task Force to some general conclusions. The problem of violent juvenile crime is greatest in the urban areas, particularly in New York City which according to the Office of Court Administration information represented over two-thirds of the violent crimes committed by juveniles which came to court disposition in New York State in 1974.

The problem is clearly expressed more dramatically among the older children (14 & 15 year olds) but undoubtedly has its roots at an earlier age. 70% of the juveniles whose petitions for crimes of violence came to a disposition in the Family Court in 1974 were 14 and 15 years old.

The violent crime committed the most frequently is robbery. Homicide and rape, while serious crimes which are on the increase, actually are a minor part of the overall picture of violent juvenile crimes. Assaults occur more often than homicide and rape but less often than robbery. From 1970-1973, of the youths arrested for crimes of violence, 43.5% were arrest for robbery, 18.8% for aggravated assault, 17.1% for other assaults, 1.6% for forcible rape and .7% for murder and non-negligent manslaughter.

While the number of assaults committed by female juvenile offenders is substantial, female offenders are a relatively minor part of the problem. 84.4% of the children whose cases for crimes of violence came to disposition in 1974 were males; 15.6% were females.

While there has been an increase in juvenile violence since 1970, it has not been as dramatic as the media has made it seem. Statewide arrest figures give cause for concern regarding homicide, rape, robbery and weapons charges. The extent of the increases in these categories may be due to a host of factors (such as changes in reporting procedures, increased number of reporting agencies or the incidence of gang activity) other than the number of such crimes actually being committed by juveniles. Arrest data must be considered in light of self-report studies which show a decrease in delinquent behavior over this period.

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2. There is a noticeable funneling (or sieve) aspect to the juvenile justice system. Specifically, (a) the vast majority of children contacted by police are given a YD-1 card but no further processing; (b) the proportion of juveniles charged with violent crimes who are diverted at court intake is approximately the same as the proportion of juveniles charged with less serious crimes who are diverted.--(an OCS study in New York City shows that juveniles charged with 11 categories of violent crimes were diverted at a rate of 53.5 percent); (c) once in court, a large number of cases are withdrawn or dismissed (OCA data show that 67.1% of New York City petitions for the seven serious index offenses, and 59.3% of such petitions upstate, are dismissed or withdrawn; a study by the Vera Institute of Justice suggests that the rates are about the same as those for the delinquent population as a whole.)

It appears that the handling by the Family Court of youths charged with violent crimes is not substantially different from the handling of youths charged with lesser delinquencies. However, there are other factors considered by the court such as prior court record, age, family background and the like which undoubtedly are given considerable weight in the decision-making process. We were unable to capture any of these factors in our data. We recognize, however, that if these factors were considered the court handling of violent crimes would undoubtedly appear more appropriate.

3. There are crucial areas (e.g., the nature of the finding, if any, reasons for dismissals, etc.) in which information is either completely unavailable, or retrievable only by costly, time-consuming manual efforts, or of questionable validity. As a result, more specific conclusions are not possible.

4. The Division of Criminal Justice Services should, through its own staff or grants to appropriate agencies and researchers, see that the missing information is developed speedily and accurately.

5. The Task Force feels that certain changes should be made and studied in various aspects of the processing and treatment of violent delinquents as a means of testing proposed improvements in limited areas. The Task Force believes that it is essential to implement differential statutory maxima (beyond the 18 months now allowed) for certain specified violent crimes: murder, rape and assault that results in serious physical injury. Thus, a youth who was found guilty of committing one of those acts could be (but need not be) placed for longer than 18 months.



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6. We maintain our position that this Panel on Juvenile Violence can only deal with violence by juveniles that is brought to the attention of law enforcement agencies although we recognize the importance of and need to deal with violence in schools, etc.

7. We recognize and appreciate the legitimate concern of legislators who must be responsive to and protective of their constituents. We hope to work with the legislators, the media and the researchers so that needed and rational changes can be brought about, change that represents the best interest of the children and society.



JUVENILE AND YOUTH ARREST DATA FOR NEW YORK STATE  
FOR 1970-1973 AS REPORTED  
TO THE FBI

The figures in this chart are based on arrests reported to the FBI by local police departments. We have been advised that not all police departments in New York State have reported arrest data to the FBI so that these figures should be viewed as showing trends rather than as absolute numbers of arrests for a given year.

It can be seen that the number of arrests for crimes of violence dropped somewhat in 1973. Whether this reflects a decrease in number of crimes, as well as number of arrests, or reflects a change in reporting methods, cannot be ascertained.

Figures for 1974 arrests are not currently available. As soon as they become available, they will be shared with the Task Force.

Task Force I comments:

These figures show an increase in juvenile crime, particularly over the four year period. However, they probably also reflect better, or more complete, reporting.

However, it is crucial to remember that:

1. These are arrests only and do not reflect findings of guilt.
2. These are not numbers of criminal incidents, since children act in concert (probably more frequently than adults, but that cannot be documented.) It should be noted that there has been an increase in gang activity in recent years which might lead to an increase in the number of arrests but not necessarily in the number of crimes.

JUVENILE AND YOUTH ARREST DATA FOR NEW YORK STATE  
FOR 1970-1973 AS REPORTED TO THE FBI

	1970	1971	% Change 1970 - 1971	1972	% Change 1971 - 1972	1973	% Change 1972 - 1973	% Change 1970 - 1973
<u>Murder and Non-Negligent Manslaughter</u>								
Under 12 Years	6	3		11		6		
13-14 Years	8	26		36		45		
15 Years	4	29		39		55		
Total Juvenile Offenders	18	58	+222%	86	+48%	106	+23%	+489%
Total Adult Offenders Age 16-21	245	363	+ 48%	386	+ 6%	511	+32%	+109%
<u>Arson</u>								
Under 12 Years	163	151		163		153		
13-14 Years	146	125		149		156		
15 Years	69	58		80		81		
Total Juvenile Offenders	378	334	- 12%	392	+17%	390	- 5%	+ 3%
Total Adult Offenders Age 16-21	173	226	+ 31%	245	+ 8%	238	- 3%	+ 38%
<u>Forcible Rape</u>								
Under 12 Years	26	17		11		26		
13-14 Years	43	67		81		84		
15 Years	48	49		74		91		
Total Juvenile Offenders	117	133	+ 14%	166	+25%	201	+21%	+ 72%
Total Adult Offenders Age 16-21	387	410	+ 6%	508	+24%	677	+33%	+ 75%
<u>Sex Offenses (Except Forc- ible Rape &amp; Prostitution)</u>								
Under 12 Years	132	123		115		133		
13-14 Years	199	245		220		191		
15 Years	112	135		153		152		
Total Juvenile Offenders	443	503	+ 14%	488	- 3%	476	- 2%	+ 7%
Total Adult Offenders Age 16-21	848	806	- 5%	892	+11%	958	+ 7%	+ 13%
<u>Robbery</u>								
Under 12 Years	574	671		910		902		
13-14 Years	1530	1815		2241		2147		
15 Years	1237	1449		1606		1751		
Total Juvenile Offenders	3341	3935	+ 18%	4757	+21%	4800	+ 1%	+ 44%
Total Adult Offenders Age 16-21	6535	8528	+ 30%	8146	- 4%	7441	- 9%	+ 14%
<u>Aggravated Assault</u>								
Under 12 Years	446	377		516		293		
13-14 Years	822	769		927		697		
15 Years	505	584		732		632		
Total Juvenile Offenders	1773	1730	- 2%	2175	+26	1622	-25%	- 9%
Total Adult Offenders Age 16-21	3317	3672	+ 11%	4151	+13%	4878	+18%	+ 47%

	1970	1971	% Change 1970- 1971	1972	% Change 1971- 1972	1973	% Change 1972- 1973	% Change 1970- 1973
<u>OTHER ASSAULTS</u>								
Under 12 Years	306	266		362		251		
13-14 Years	682	770		875		675		
15 Years	569	559		677		615		
Total Juvenile Offenders	1557	1595	+2%	1914	+20%	1541	-19%	-1%
Total Adult Offenders Age 16-21	6164	6759	+10%	6701	-1%	6331	-6%	+2%
<u>WEAPONS: CARRYING, POSSESSION, ETC.</u>								
Under 12 Years	67	102		136		133		
13-14 Years	253	327		542		481		
15 Years	270	339		539		482		
Total Juvenile Offenders	590	768	+30%	1217	+58%	1096	-10%	+86%
Total Adult Offenders Age 16-21	2382	2935	+23%	3417	+16%	2333	-32%	-2%
<u>TOTAL</u>								
	<u>1970</u>	<u>1971</u>		<u>1972</u>		<u>1973</u>		
Under 12 Years	1720	1710		2224		1897		
13-14 Years	3683	4144		5071		4476		
15 Years	2814	3202		3900		3859		
Total Juvenile Offenders	8217	9056	+10%	11195	+24%	10232	-9%	+25%
Total Adult Offenders Age 16-21	20051	23699	+18%	24446	+3%	23367	-4%	+17%

NEW ADMISSIONS IN 1974 OF JUVENILE DELINQUENTS  
TO THE DIVISION FOR YOUTH BY COUNTY

The information in this chart was provided by the Division for Youth Research Department.

During this time period there were ten children admitted to DFY facilities who were labelled "other J.D." These were children who were admitted to DFY while their cases were still pending, or children who, for some reason, had an unknown adjudication. According to DFY, the children who were admitted while their cases were pending were usually admitted for one of two reasons:

- (1) because of a shortage of detention facilities upstate, children are occasionally detained in the training schools.
- (2) the judge hearing the case has requested that the child be admitted before adjudication (usually because the child is dangerous.)

After adjudication the child may or may not be formally placed with DFY.

The children who fall within this category come from the following counties:

Schenectady	1
Interstate	1
Brooklyn	4
New York	2
Queens	2

Task Force I comments:

- (1) These figures show the extent to which state facilities (DFY) are used for the placement of delinquent children. Almost three quarters of the children (504) came from seven counties and New York City:

Erie	63
Monroe	52
Nassau	34
Onondaga	24
Orange	28
Suffolk	17
Westchester	31
New York City	255

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These figures relate to all delinquents placed with DFY, not just those adjudicated for serious crimes, and only to new admissions during calendar year 1974. One must question whether the fact that only 150 children from New York City were placed in Title III training schools as opposed to 322 from the remainder of the state results from a more effective system for representation of children, more lenient judges, more placement resources or a combination of the three.

- (2) These figures clearly show that the majority of the children placed in the training schools are 14 and 15 years old.
- (3) DFY was not able to give us the categories of crimes the children were found to have committed because they frequently do not receive that information from the court. Therefore, we do not know how many children guilty of serious crimes are in the training schools.



NEW ADMISSIONS OF 1974 OF JUVENILE DELINQUENTS TO  
THE DIVISION FOR YOUTH BY COUNTY

	<u>TITLE II</u>	<u>TITLE III</u>	<u>TOTAL</u>
Unknown	-	4	4
Albany	1	6	7
Broome	3	12	15
Cattaragus	-	3	3
Cayuga	-	4	4
Chataqua	2	4	6
Chemung	3	5	8
Chenango	-	1	1
Clinton	2	2	4
Columbia	-	3	3
Cortland	1	-	1
Dutchess	5	11	16
Erie	9	54	63
Essex	-	2	2
Franklin	-	1	1
Genesee	-	2	2
Greene	1	-	1
Herkimer	2	2	4
Jefferson	2	3	5
Lewis	-	1	1
Livingston	4	3	7
Madison	-	2	2
Monroe	20	32	52
Montgomery	1	1	2
Nassau	10	24	34
Niagara	2	7	9

NEW ADMISSIONS OF 1974 OF JUVENILE DELINQUENTS TO  
THE DIVISION FOR YOUTH BY COUNTY

	<u>TITLE II</u>	<u>TITLE III</u>	<u>TOTAL</u>
Oneida	2	10	12
Onondaga	9	15	24
Orange	7	21	28
Orleans	1	2	3
Oswago	2	6	8
Otsego	2	2	4
Rensselaer	-	2	2
Rockland	-	3	3
St. Lawrence	-	1	1
Schenectady	-	2	2
Schuyler	-	2	2
Steuben	-	6	6
Suffolk	5	12	17
Sullivan	-	5	5
Tompkins	1	4	5
Ulster	3	5	8
Warren	-	2	2
Washington	-	1	1
Wayne	1	6	7
Westchester	7	24	31
Wyoming	1	-	1
Yates	-	1	1
Interstate*	1	1	2

\*Out of state children in New York State care.

NEW ADMISSIONS OF 1874 OF JUVENILE DELINQUENTS TO  
THE DIVISION FOR YOUTH BY COUNTY

	<u>TITLE II</u>	<u>TITLE III</u>	<u>TOTAL</u>
Bronx	23	18	41
Brooklyn	36	74	110
New York	25	26	51
Queens	18	23	41
Richmond	3	9	12
Total	215	472	687

The following counties had no Juvenile Delinquent admissions to DFY Title II or Title III during 1974:

Allegany  
Delaware  
Fulton  
Hamilton  
Ontario  
Putnam  
Saratoga  
Schoharie  
Seneca  
Tioga

Source: New York State Division for Youth  
Research Department

DFY ADMISSIONS FOR 1974 BY AGE

<u>TITLE II</u>		
<u>NEW YORK CITY JUVENILE DELINQUENTS</u>		
10	-	
11	-	
12	-	
13	5 (4.8)	
14	20 (19.0)	
15	56 (53.3)	
16	23 (21.9)	
17	1 (1.0)	
18	-	
<u>NON-NEW YORK CITY JUVENILE DELINQUENTS</u>		

9	-
10	1 (.9)
11	1 (.9)
12	2 (1.8)
13	3 (2.7)
14	17 (15.5)
15	62 (56.4)
16	19 (17.3)
17	5 (4.5)
18	-
19	-

TOTAL JD

215

<u>TITLE III</u>		
<u>NEW YORK CITY JUVENILE DELINQUENTS</u>		
10	-	
11	-	
12	-	
13	8 (5.3)	
14	37 (24.7)	
15	75 (50.0)	
16	30 (20.0)	
17	-	
18	-	
<u>NON-NEW YORK CITY JUVENILE DELINQUENTS</u>		

9	-
10	1 (.3)
11	3 (.9)
12	4 (1.2)
13	28 (8.7)
14	76 (23.6)
15	182 (56.5)
16	26 (8.1)
17	1 (.3)
18	-
19	1 (.3)

TOTAL JD

472

Source: New York State Division for Youth  
Research Department



DFY ADMISSIONS FOR 1974 BY ETHNIC ORIGIN

TITLE II

NEW YORK CITY JUVENILE DELINQUENTS

WHITE	11 (10.5)
BLACK	68 (64.8)
HISPANIC	23 (21.9)
OTHER/UNK	3 (2.8)

NON-NEW YORK CITY JUVENILE DELINQUENTS

WHITE	61 (55.5)
BLACK	34 (30.9)
HISPANIC	6 (5.5)
OTHER/UNK	9 (8.1)

TOTAL JD

WHITE	72
BLACK	102
HISPANIC	29
OTHER/UNK	12
	<u>215</u>

TITLE III

NEW YORK CITY JUVENILE DELINQUENTS

WHITE	26 (17.3)
BLACK	97 (64.7)
HISPANIC	20 (13.3)
OTHER/UNK	7 (4.7)

NON-NEW YORK CITY JUVENILE DELINQUENTS

WHITE	169 (52.5)
BLACK	128 (39.8)
HISPANIC	5 (1.5)
OTHER/UNK	20 (6.2)

TOTAL JD

WHITE	195
BLACK	225
HISPANIC	25
OTHER/UNK	27
	<u>472</u>

Source: New York State Division for Youth  
Research Department



REASON FOR PETITION BY DISPOSITION FOR  
CALENDAR YEAR 1974 (BY COUNTY)

This chart is based on information given to us by the Office of Court Administration, and employs the categories used by OCA in their data collection. The OCA data are based on the JC-103 form which is filed after the disposition of each juvenile delinquency or PINS petition. Those forms were summarized for the calendar year 1974 and some of the dispositions reflected in these data were of petitions filed prior to 1974.

We asked OCA for a listing of all petitions in which one of the seven enumerated crimes was given as the major allegation. We do not know, and cannot ascertain, the basis for findings of delinquency - i.e., whether the finding (if any) was on the major allegation or a lesser included crime.

The categories are supposed to include all the possible dispositions of delinquency cases available to the Family Court. In our research, however, we found that many cases were dismissed either for failure to prosecute or without prejudice; neither of those categories is included in OCA's list of possible dispositions. Hence, we do not believe that the category "No adj--fail proof fact-find" is limited to cases which were dismissed because allegations were not sustained. We have asked OCA to provide us with the instructions given to the court clerks, and were informed that "To the best of our knowledge, there are no instructions for the JC-103 cards". (Letter from Peter Gray, Deputy State Administrator, October 16, 1975. OCA instituted a new reporting system in 1975 that is somewhat broader but does not address some of the specific gaps in the data, such as the specific act for which the child has been found guilty, reason for dismissal, etc.)

It should be noted, too, that one of the categories employed by OCA (discharged to mental hygiene institution or school for defectives) does not appear in the information given us, presumably because no such dispositions were made in 1974.

The following placement listings should be noted: "Division for Youth", "Placed State Training School", "Committed State Training School". We cannot tell how many of the "placed DFY" children are in training schools as opposed to Title II facilities. "No adj-acd" stands for "no adjudication - adjourned in contemplation of dismissal."

Task Force I comments:

These figures, provided by the Office of Court Administration, raise serious questions about police arrests, court procedures and data collection.

We see for example, that, statewide, 44.4% of the petitions alleging one of seven major crimes were dismissed for failure of proof at factfinding and at disposition; in New York City, 50.8%. We see that, statewide, 14.9% of the petitions were withdrawn; in New York City, 16.3%. There is no indication of the number of cases dismissed for failure to prosecute, yet we know from the OCS study in New York City that a sizeable number are dismissed for that reason. We believe failure of proof at factfinding includes this and other categories of dismissals.

Most importantly: (1) There is no way to know whether a child whose major allegation was homicide, for example, was found to be delinquent on the basis of that charge or a lesser included crime.

(2) There is no way to know how many criminal acts are involved because these petitions relate to individual children not to crimes in which two or more children participated or were alleged to have participated.

(3) There is no way to know from Office of Court Administration data how many children were actually placed or "committed" with the Division for Youth. Court data indicates "placed Division for Youth", "placed State Training School", "committed State Training School." There is no way to know whether the 202 children "placed Division for Youth" were in Title II or Title III facilities. In addition, children are frequently placed on probation on condition that they "cooperate with DFY" (meaning that they reside in a DFY Title II facility) so some of those listed as placed on probation may actually be in placement.

We believe that the Office of Court Administration must be urged to maintain a more accurate and complete data collection system if the state is to be able to determine the true extent of alleged juvenile crime, adjudication and disposition. DCJS should cooperate in developing and maintaining a more viable data collection system.

We believe that if Court administrators evaluate this information carefully they will find great disparities between case outcome which must lead them to question the availability and quality of the legal representation of the children, the availability and quality of county attorneys and corporation counsel who present petitions, police practices and court procedures.

REASON FOR PETITION BY DISPOSITION FOR CALENDAR YEAR 1974 (BY COUNTY)

COUNTY NEW YORK STATE

<u>DISPOSITION</u>	<u>HOMICIDE</u>	<u>ARSON</u>	<u>RAPE</u>	<u>OTHER SEX CRIMES</u>	<u>ROBBERY</u>	<u>ASSAULT</u>	<u>DAN- GEROUS WEAPON</u>	<u>TOTAL</u>
NO ADJ-FAIL PROOF FACT-FIND	41 (33.9)	75 (30.6)	69 (35.2)	96 (40.0)	927 (40.8)	668 (35.6)	135 (31.9)	2011 (57.1)
NO ADJ-FAIL PROOF DISP HEAR	7 (5.8)	13 (5.3)	7 (3.6)	8 (3.3)	150 (6.6)	157 (8.4)	36 (8.5)	378 (7.9)
NO ADJ-WITHDRAWN	20 (16.5)	24 (9.8)	42 (21.4)	39 (16.3)	304 (13.4)	321 (17.1)	52 (12.3)	802 (14.4)
NO ADJ-DISCHARGE TO PETITION		9 (3.7)	3 (1.5)	8 (3.3)	64 (2.8)	40 (2.1)	17 (4.0)	141 (2.6)
NO ADJ-DISCHARGE TO INST		1 (.4)		1 (.4)	1 -			3 (.1)
NO ADJ-TRANSFERRED TO COUNTY		6 (2.5)		1 (.4)	46 (2.0)	33 (1.8)	12 (2.8)	98 (1.8)
DISCHARGED TO PETITION	1 (.8)	4 (1.6)	10 (5.1)	4 (1.7)	70 (3.1)	39 (2.1)	12 (2.8)	140 (2.5)
DISCHARGED TO INSTITUTION					2 (.1)	3 (.2)		5 (.1)
DISCHARGED WITH WARNING		1 (.4)		3 (1.3)	13 (.6)	11 (.6)		28 (.5)
JUDGEMENT SUSPENDED	2 (1.7)	13 (5.3)	11 (5.6)	7 (2.9)	63 (2.8)	77 (4.1)	18 (4.3)	191 (3.6)
PROBATION W/O PLACEMENT	14 (11.6)	51 (20.8)	19 (9.7)	45 (19.7)	340 (14.9)	244 (13.0)	86 (20.3)	749 (14.1)
PLACED PRIVATE INSTITUTION	1 (.8)	2 (.8)	5 (2.5)	1 (.4)	38 (1.7)	27 (1.4)	2 (.5)	76 (1.4)
PLACED PRIVATE AGENCY		1 (.4)	1 (.5)		2 (.1)	4 (.2)	2 (.5)	10 (.2)
PLACED PUBLIC WELFARE DEPT	1 (.8)	1 (.4)	1 (.5)		18 (.8)	14 (.7)	3 (.7)	38 (.7)
PLACED DIV. FOR YOUTH	22 (18.2)	11 (4.5)	7 (3.6)	3 (1.3)	100 (4.4)	49 (2.6)	10 (2.4)	202 (3.8)
PLACED OWN HOME OR RELATIVE		2 (.8)		5 (2.1)	7 (.3)	21 (1.1)	17 (4.0)	52 (1.0)
PLACED FOSTER HOME		1 (.4)		1 (.4)		2 (.1)		4 (.1)
PLACED STATE TRAINING SCHOOL	6 (4.9)	3 (1.2)	5 (2.5)	4 (1.7)	11 (.5)	11 (.6)		40 (.7)
COMMITTED STATE TRAINING SCH	1 (.8)		7 (3.6)	1 (.4)	8 (.3)	6 (.3)	2 (.5)	25 (.5)
COMMITTED DEPT OF CORR.	2 (1.7)		1 (.5)		2 (.1)			5 (.1)
COMMITTED AGENCY SEC 758	2 (1.7)							2 -
NO ADJ-ACD	1 (.8)	27 (11.0)	8 (4.1)	13 (5.4)	107 (4.7)	149 (8.0)	19 (4.5)	324 (6.0)
TOTAL COUNTY	121 (100.0)	245	146	240	2273	1876	423	5374

REASON FOR PETITION BY DISPOSITION FOR CALENDAR YEAR 1974 (BY COUNTY)

COUNTY NEW YORK CITY

<u>DISPOSITION</u>	<u>HOMICIDE</u>	<u>ARSON</u>	<u>RAPE</u>	<u>OTHER SEX CRIMES</u>	<u>ROBBERY</u>	<u>ASSAULT</u>	<u>DAN- GEROUS WEAPON</u>	<u>TOTAL</u>
NO ADJ-FAIL PROOF FACT-FIND	38 (34.6)	44 (47.8)	56 (37.8)	80 (52.3)	813 (44)	449 (45.8)	119 (39.4)	1599 (4)
NO ADJ-FAIL PROOF DISP HEAR	5 (4.5)	5 (5.4)	5 (3.4)	3 (2)	124 (6.7)	82 (8.4)	23 (7.6)	247 (6.8)
NO ADJ-WITHDRAWN	20 (18.2)	15 (16.3)	39 (26.3)	29 (19)	279 (15.1)	159 (16.2)	51 (17)	592 (16.2)
NO ADJ-DISCHARGE TO PETITION		6 (6.5)	3 (2)	4 (2.6)	54 (2.9)	25 (2.5)	13 (4.3)	105 (3)
NO ADJ-DISCHARGE TO INST		1 (1.1)		1 (.6)	1 -			3 (.1)
NO ADJ-TRANSFERRED TO COUNTY		2 (2.2)		1 (.6)	42 (2.3)	19 (1.9)	10 (3.3)	74 (2)
DISCHARGED TO PETITION	1 (.9)	4 (4.3)	10 (6.1)	3 (2)	61 (3.3)	23 (2.3)	9 (3)	111 (3.1)
DISCHARGED TO INSTITUTION					2 (.1)	2 (.2)		4 (.1)
DISCHARGED WITH WARNING				1 (.6)	13 (7)	6 (6)		20 (.6)
JUDGEMENT SUSPENDED	2 (1.8)	1 (1.1)	5 (3.4)	2 (1.3)	39 (2.1)	30 (3.1)	5 (1.6)	84 (2.3)
PROBATION W/O PLACEMENT	12 (11)	7 (7.6)	7 (4.7)	19 (12.5)	253 (13.7)	99 (10.1)	54 (17.9)	451 (12.4)
PLACED PRIVATE INSTITUTION	1 (.9)		5 (3.4)	1 (.6)	31 (1.7)	13 (1.3)	1 (.3)	52 (1.4)
PLACED PRIVATE AGENCY			1 (7)		2 (.1)	3 (.3)	2 (7)	8 (2)
PLACED PUBLIC WELFARE DEPT	1 (.9)		1 (7)		11 (.6)	4 (4)	1 (.3)	18 (.5)
PLACED DIV. FOR YOUTH	20 (18.2)	4 (4.3)	6 (4)		57 (3.1)	26 (2.7)	5 (1.6)	118 (3.2)
PLACED OWN HOME OR RELATIVE						1 (.1)		1 -
PLACED FOSTER HOME								
PLACED STATE TRAINING SCHOOL	5 (4.5)	1 (1.1)	2 (1.4)	4 (2.6)	1 -			13 (4)
COMMITTED STATE TRAINING SCH	1 (.9)		5 (3.4)	1 (.6)	5 (3)	3 (.3)	2 (7)	17 (.5)
COMMITTED DEPT OF CORR.	1 (.9)		1 (7)					2 -
COMMITTED AGENCY SEC 758	2 (1.8)							2 -
NO ADJ-ACD	1 (.9)	2 (2.2)	2 (1.4)	4 (2.6)	61 (3.3)	37 (3.8)	7 (2.3)	114 (3.1)
TOTAL COUNTY	110	92	148	153	1849	981	302	3635



REASON FOR PETITION BY DISPOSITION FOR CALENDAR YEAR 1974 (BY COUNTY)

COUNTY NON NEW YORK CITY

<u>DISPOSITION</u>	<u>HOMICIDE</u>	<u>ARSON</u>	<u>RAPE</u>	<u>OTHER SEX CRIMES</u>	<u>ROBBERY</u>	<u>ASSAULT</u>	<u>DAN- GEROUS WEAPON</u>	<u>TOTAL</u>
NO ADJ-FAIL PROOF FACT-FIND	3 (27.2%)	31 (20.3)	13 (27.1)	16 (18.4)	114 (27)	219 (24.4)	16 (13.2)	412 (23.7)
NO ADJ-FAIL PROOF DISP HEAR	2 (18.2)	8 (5.2)	2 (4.2)	5 (5.7)	26 (6.1)	75 (8.4)	13 (10.7)	131 (7.5)
NO ADJ-WITHDRAWN		9 (6)	3 (6.2)	10 (11.5)	25 (5.9)	162 (18.1)	1 (8)	210 (12.1)
NO ADJ-DISCHARGE TO PETITION		3 (2)		4 (4.6)	10 (2.4)	15 (1.7)	4 (3.3)	36 (2.1)
NO ADJ-DISCHARGE TO INST								
NO ADJ-TRANSFERRED TO COUNTY		4 (2.6)			4 (.9)	14 (1.6)	2 (1.7)	24 (1.4)
DISCHARGED TO PETITION				1 (1.2)	9 (2.1)	16 (1.8)	3 (2.5)	29 (1.7)
DISCHARGED TO INSTITUTION						1 (.1)		1 —
DISCHARGED WITH WARNING		1 (.6)		2 (2.3)		5 (.6)		8 (.5)
JUDGEMENT SUSPENDED		12 (7.8)	6 (12.5)	5 (5.7)	24 (5.7)	47 (5.2)	13 (10.7)	107 (6.2)
PROBATION W/O PLACEMENT	2 (18.2)	44 (28.8)	12 (25)	26 (30)	87 (20.5)	145 (16.2)	32 (26.5)	348 (28)
PLACED PRIVATE INSTITUTION		2 (1.3)			7 (1.6)	14 (1.6)	1 (.8)	24 (1.4)
PLACED PRIVATE AGENCY		1 (.6)				1 (.1)		2 (.1)
PLACED PUBLIC WELFARE DEPT		1 (.6)			7 (1.6)	10 (1.1)	2 (1.7)	20 (1.2)
PLACED DIV. FOR YOUTH	2 (18.2)	7 (4.6)	1 (2.1)	3 (3.4)	43 (10.1)	23 (2.6)	5 (4.1)	84 (4.8)
PLACED OWN HOME OR RELATIVE		2 (1.3)		5 (5.7)	7 (1.6)	20 (2.2)	17 (14)	51 (2.9)
PLACED FOSTER HOME		1 (.6)		1 (1.2)		2 (.2)		4 (.2)
PLACED STATE TRAINING SCHOOL	1 (9.1)	2 (1.3)	3 (6.2)		10 (2.4)	11 (1.2)		27 (1.5)
COMMITTED STATE TRAINING SCH			2 (4.2)		3 (.7)	3 (.3)		8 (.5)
COMMITTED DEPT OF CORR.	1 (9.1)				2 (.5)			3 (.1)
COMMITTED AGENCY SEC 758								
NO ADJ-ACD		25 (16.3)	6 (12.5)	9 (10.3)	46 (10.8)	112 (12.5)	12 (10)	210 (12.1)
TOTAL COUNTY	11	153	48	87	424	895	121	1739

REASON FOR PETITION BY AGE AND COUNTY

The information in these charts was provided to us by the Office of Court Administration.

We have compiled the charts from the information given us, despite what appear to be obvious errors regarding children aged 5, 16 and 17. The age is supposed to reflect the age of the youth when the act was committed. However, it may be that some or all of these were youths who lied about their ages and had their cases dismissed because they were over 15 at the time the act was committed. It is also possible that the youths listed as over 15 were over 15 at the time of disposition rather than at the time the act was committed.

We are unable to explain the two 5-year olds other than by clerical error.

Task Force I comments:

Again, these figures show that the majority of the children petitioned to court on allegations of serious crimes are the 14 and 15 year olds. Hence, we conclude those children found guilty probably need intensive rehabilitation services.

We also believe the figures indicate that if appropriate preventive services for children and families are available early in the children's lives, we might not have so many disturbed and dangerous 14 and 15 year olds.

REASON FOR PETITION BY AGE AND COUNTY

NYS TOTAL

AGE	HOMICIDE	ARSON	RAPE	OTHER SEX CRIMES	ROBBERY	ASSAULT	POSS. OF DANGEROUS WEAPONS	TOTAL
UNKNOWN		1 (.4)		2 (.8)	4 (.2)	25 (1.3)		32 (.6)
5						2 (.1)		2 -
7		3 (1.2)			1 -	3 (.2)		7 (.1)
8	1 (.8)	3 (1.2)	6 (3.1)		5 (.2)	10 (.5)		25 (.5)
9	1 (.8)	5 (2.0)	2 (1.0)	5 (2.1)	15 (.7)	26 (1.4)		54 (1.0)
10		12 (4.9)	2 (1.0)	3 (1.3)	34 (1.5)	35 (1.9)	4 (.9)	90 (1.7)
11		16 (6.5)	5 (2.5)	11 (4.6)	52 (2.3)	73 (3.9)	5 (1.2)	162 (3.0)
12	3 (2.5)	26 (10.6)	6 (3.1)	20 (8.3)	174 (7.6)	136 (7.2)	18 (4.3)	383 (7.1)
13	9 (7.4)	47 (19.2)	30 (15.3)	43 (17.9)	333 (14.7)	276 (14.7)	49 (11.6)	787 (14.7)
14	35 (28.9)	69 (28.2)	68 (34.7)	67 (27.9)	635 (27.9)	505 (26.9)	136 (32.1)	1515 (28.2)
15	69 (57.0)	61 (24.9)	71 (36.2)	85 (35.4)	985 (43.3)	765 (40.8)	208 (49.2)	2244 (41.8)
16	3 (2.5)	2 (.8)	6 (3.1)	4 (1.7)	31 (1.4)	17 (.9)	3 (.7)	66 (1.2)
17					4 (.2)	3 (.2)		7 (.1)
TOTAL	121	245	196	240	2273	1876	423	5314

REASON FOR PETITION BY AGE AND COUNTY

NEW YORK CITY

AGE	HOMICIDE	ARSON	RAPE	OTHER SEX CRIMES	ROBBERY	ASSAULT	POSS. OF DANGEROUS WEAPONS	TOTAL
UNKNOWN		1(1.1)		2(1.3)	3(.2)	6(.6)		12(.3)
5								
7		2(2.2)			1 -	1(.1)		4(.1)
8	1(.9)	1(1.1)	6(4)		2(.1)	4(.4)		14(.4)
9	1(.9)	3(3.2)	2(1.4)	2(1.3)	13(.7)	10(1)		31(.9)
10		4(4.3)	2(1.4)	1(.7)	30(1.6)	6(.6)	1(.3)	44(1.2)
11		2(2.2)	5(3.4)	9(5.4)	42(2.3)	31(3.2)		89(2.5)
12	2(1.8)	8(8.7)	5(3.4)	16(10.5)	146(7.9)	58(5.9)	13(4.3)	248(6.8)
13	8(7.3)	20(21.7)	23(15.5)	25(16.3)	273(14.8)	134(13.7)	31(10.3)	514(14.1)
14	33(30)	25(27.2)	47(31.7)	42(27.4)	508(27.5)	278(28.3)	96(31.8)	1029(28.3)
15	62(56.4)	26(28.3)	55(37.2)	53(34.6)	807(43.6)	434(44.8)	154(52.6)	1601(44)
16	3(2.7)		3(2)	3(2)	21(1.1)	11(1.1)	2(.7)	43(1.2)
17					3(.2)	3(.3)		6(.2)
TOTAL	110	92	148	153	1849	981	302	3635

REASON FOR PETITION BY AGE AND COUNTY

Non NYC

AGE	HOMICIDE	ARSON	RAPE	OTHER SEX CRIMES	ROBBERY	ASSAULT	POSS. OF DANGEROUS WEAPONS	TOTAL
UNKNOWN					1 (.2)	19 (2.1)		20 (1.2)
5						2 (.2)		2 (.1)
7		1 (.7)				2 (.2)		3 (.2)
8		2 (1.3)			3 (.7)	6 (.7)		11 (.6)
9		2 (1.3)		3 (3.4)	2 (.5)	16 (1.8)		23 (1.3)
10		8 (5.2)		2 (2.3)	4 (.9)	29 (3.2)	3 (2.5)	46 (2.6)
11		14 (9.2)		2 (2.3)	10 (2.4)	42 (4.7)	5 (4.1)	73 (4.2)
12	1 (9.1)	18 (11.8)	1 (2.1)	4 (4.6)	28 (6.6)	78 (8.7)	5 (4.1)	135 (7.8)
13	1 (9.1)	27 (17.6)	7 (14.6)	18 (20.7)	60 (14.2)	142 (15.9)	19 (14.9)	273 (15.7)
14	2 (18.2)	44 (28.7)	21 (43.7)	25 (28.7)	127 (29.9)	227 (25.4)	40 (33.1)	486 (27.9)
15	7 (63.6)	35 (22.9)	16 (33.3)	32 (36.8)	178 (42)	326 (36.4)	49 (40.5)	643 (37)
16		2 (1.3)	3 (6.3)	1 (1.2)	10 (2.4)	6 (.7)	1 (.8)	23 (1.3)
17					1 (.2)			1 (.1)
TOTAL	11	153	48	87	424	895	121	1739



REASON FOR PETITION (1974) BY SEX

This chart represents the number of petitions that came to disposition, statewide, calendar year 1974, in which one of the seven crimes listed was the major allegation. It does not indicate that findings were made on these or lesser allegations.

REASON FOR PETITION BY SEX

	MALE		FEMALE		TOTAL
HOMICIDE	111 (91.7)		10 (8.3)		121 (100)
ARSON	213 (86.9)		32 (13.1)		245 (100)
RAPE	182 (92.9)		14 (7.1)		196 (100)
OTHER SEX CRIMES	222 (92.5)		18 (7.5)		240 (100)
ROBBERY	2040 (89.7)		233 (10.3)		2273 (100)
ASSAULT	1372 (73.1)		504 (26.9)		1876 (100)
POSSESSION DANGEROUS WEAPON	396 (93.6)		27 (6.4)		423 (100)
TOTAL	4536 (84.4)		838 (15.6)		5374 (100)

Source: Office of Court Administration

FINAL REPORT OF TASK FORCE II

Hon. Justine Wise Polier (Coordinator)  
Mr. George Silcott (Coordinator)  
Mr. Oscar Garcia-Rivera  
Hon. I. Leo Glasser  
Henry Steadman, Ph.D.

Ms. Carol Parry (Consultant)

## Categories, Labels and Public Intervention

### Report by Task Force II

#### Introduction

Task Force II considered the issues of violent juveniles within the context of Categories, Labels and Public Intervention. In doing so it became evident that: Categories have been created by law and administrative decision to determine jurisdictional areas in regard to juvenile offenders. Labels are attached to juveniles so they can be slotted into or excluded from categories that may or may not be appropriate or where they may or may not be wanted. Public Intervention is expected to provide services for juveniles regardless of the labels attached to them or to what extent they fit or fail to fit into existing categories.

One cannot speak of reexamination of these three areas of thought and action in regard to violent juveniles. They have been too largely developed in separate and fragmented fashion so that decision-makers have had to proceed on a day to day basis without basic guidelines from information, research, planning, or the development of special services.

Categories, labels and services can be effective only when based on needed information, research, planning and implementation of plans to meet the problem of how to most effectively help violent juveniles and give maximum protection to the community. Such data and resources are practically non-existent, and what there is remains fragmented.

In its discussion of categories, labels and public intervention the Task Force was confronted with a series of questions:

1. While there is a widespread assumption that a "violent juvenile" can be identified, is this true and who is to be held accountable for such identification?
2. To what extent is there reliable data or research on which prediction of future danger to others can be based?

3. What is meant by a secure facility for youth and how is it to be used? After disposition to a secure facility on the basis of a court finding that a juvenile is "violent" or "violence-prone", who should decide when he is ready for a less restrictive placement?
4. Can a judge in the Family Court direct secure placement solely on the basis of the juvenile's offense without consideration of who the child is, what he is, what problems he has, and how to deal with him in the light of his needs and the safety of the community, without violating the premise on which juvenile law is based?
5. When a child who has committed a violent offense is diagnosed as not dangerous, but in need of community services, what public agency will be held accountable for providing the community services and protecting the community on the return of the offender to the community?
6. Is the creation of one new category followed by different procedures and disposition to a secure facility an inadequate response to the complex issues involved in categorizing, labeling and public intervention?
7. Is the availability of possible treatment models for violent youth not central to any attempt to control juvenile violence and help the juveniles involved?
8. How can decision-makers avoid the danger of simplistic or malevolent labels as a response to juvenile violence?
9. To what extent will a new label and category for violent juveniles involve changes in the law without adding to the supply of appropriate services, and do violence to those who are defined as "violent"?
10. Without assurance of benefit from specific treatment, if the state incarcerates does it not have the duty to use the most humane and helpful treatment known for youths under its control? What is meant by treatment? Who is to render it? For what purpose is it to be rendered? To what extent and in regard to what types of treatment must there be informed consent in regard to treatment by the child and the parent?
11. If a new label for violent juveniles is followed by placement in a special category and facility, does public intervention require strict accountability for the quality of treatment, its humaneness, and the evaluation of outcomes of various models of treatment?

These questions had to be considered as the Task Force reviewed Categories, Labels and Public Intervention in regard to violent juveniles.



## I Categories

### 1. Age Category of "Violent Juveniles"

Juvenile Court jurisdiction extends to offenses committed prior to the 18th birthday in 40 states and in the District of Columbia and to the 17th birthday in 7 states. Only three states besides New York (Alabama, North Carolina and Vermont) restrict juvenile jurisdiction to the 16th birthday. The Juvenile Justice and Delinquency Prevention Act of 1974 defines juvenile delinquency as a violation of law committed prior to the eighteenth birthday which would have been a crime if committed by an adult<sup>1</sup>.

Restriction by this Task Force to the under 16 year old age group affected issues involved in categories, labels and public intervention in many ways<sup>2</sup>. Studies and procedures that include 17 and 18 year olds cannot be applied mechanically to issues involved in dealing with "violent juveniles" under 16 years of age.

### 2. "Violent Offenses" by Juveniles Covered

The focus of the panel efforts was consideration of proposals for legislation, executive and administrative action to provide greater safety to the community from juvenile violence, and to provide more effective services to juveniles who committed violent offenses. This Task Force, therefore, concentrated on juveniles found guilty of violent offenses by the Family Court. It did not concern itself with the statistics on arrests or charges against juveniles under 16, which, as in adult statistics, far

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1. Sec. 5031

2. The maximum age of 16 for juvenile jurisdiction in New York has resulted in a finding that more juveniles under 18 are in jails in New York than in any other state. National Jail Census (1972). In view of the New York law which limits juvenile court jurisdiction to offenses committed prior to the 16th birthday, this Task Force did not explore what happens to juveniles who commit offenses between their 16th and 18th birthdays and who are subject to the criminal justice system.

out number those tried and found guilty of serious offenses.<sup>3</sup> In limiting the population under study to juvenile delinquents found guilty of violent offenses, we recognize that further study is needed of juveniles who commit violent acts at home, in schools, in child caring agencies, in hospitals, and in PINS cases, and who may well compose a large proportion of violent and violence-prone juveniles. Such a study would hopefully include consideration of appropriate services to prevent subsequent violent offenses.<sup>4</sup>

This Task Force did not explore the problems that inevitably affect categories, labels and public intervention which result from the absence of an adequate information system, since that issue is one of the subjects covered by Task Force I. However, the absence of reliable data on the numbers of children under 16 arrested and charged with violent offenses, the numbers for whom such charges were withdrawn or reduced, the numbers against whom petitions were filed for violent offenses, the numbers against whom findings were made, the dispositions that resulted, and the outcomes of such dispositions through follow-up studies, was a source of constant concern to Task Force II.

### 3. New York Categories that Define Violent Juveniles by Statute

The New York Family Court Act defines a juvenile delinquent:

"Juvenile delinquent" means a person over seven and less than sixteen years of age who does any act which, if done by an adult, would constitute a crime.<sup>5</sup>

In addition to this provision, since 1967 youths 15 years of age who are found by the Family Court to have committed what would be an A or B felony if committed by an adult have been subject to commitment to

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3. See, Report by Commissioner Rogers, N.Y.S. Division of Criminal Justice Service, New York Times, Nov. 10, 1975 (p. 37).

4. Memorandum to Task Force II by Dr. Michael G. Kalogerakis, July 25, 1975.

5. Family Court Act §712(a).

specified state institutions within the adult correctional system for up to three years<sup>6</sup>. After a period of classification, such youths may be transferred to maximum security prisons<sup>7</sup>.

4. A New Category for Violent Juveniles

Task Force II has given careful consideration to proposals that a new category should be created by statute for juvenile offenders under 16 found guilty of violent offenses so that they may be placed in secure facilities and held in such facilities for longer periods than are now authorized by the Family Court Act. It has reviewed the disagreements as to whether such a new category should be created and different proposals for determining what offenders or offenses should be brought within such a new category. Some proponents of such a category would base it only on the offense and have it include offenses that would constitute felonies of a certain grade if committed by an adult. Others would want such a category to be available only when there is a finding of a pattern of serious violent offenses and when the court finds that the juvenile is a danger to himself or to others and requires a secure placement.

Review of waiver statutes in other states on which the proposals for a new category are largely based, disclose wide variations in regard to the offenses covered, the age groups to which the statutes are applicable, and also the age groups for whom they are actually used in practice<sup>8</sup>.

The offenses covered range from treason or homicide, offenses for which the penalty for adults could be death or life imprisonment, to a range of offenses which would constitute various grades of felonies if committed by an adult. The age range covered by waiver

6. Family Court Act §758(b)(c).

7. See, U.S. ex rel Murray v. Owens, 465 F2d 289 (C.A.N.Y.) reversing 341 F. Supp. 722 (D.C.N.Y. 1972) holding that such imprisonment of a juvenile without a jury trial at the initial Family Court hearing, did not constitute a denial of due process.

8. Most states which have waiver provision report that they are used in practice only for 16 and 17 year olds.

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statutes varies from 13 years of age in Mississippi, to 14, 15 and 16 years of age or older in other states.

The Institute of Judicial Administration - American Bar Association National Standards Project has approved a recommendation that waivers to the criminal justice system shall be limited to conduct that constitutes a Class One felony and to juveniles who were 16 years or older at the time of such alleged conduct. The proposed standards would require that the juvenile court may waive only on a finding of probable cause that the alleged conduct would constitute a Class One felony and would require a finding that the juvenile is not a proper person to be handled by the juvenile court.<sup>9</sup>

The United States Code creates a special category for "a juvenile sixteen years and older alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony punishable by a maximum penalty of ten years imprisonment or more, life imprisonment, or death..."<sup>10</sup>

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The creation of a new category for "violent juveniles" is supported by those who see it as a way of providing greater protection for potential victims; by those who regard the separation of violent juveniles as protection to other delinquent youths placed by the court; by those who hope that separation of violent juveniles from others will lead to more intensive treatment of the violent and less restrictive treatment of the non-violent; and by some who see such separation as a necessary political response to demands for safety in the streets, regardless of the consequences to youths who are incarcerated in secure facilities.

In weighing the benefits of creating such a category, it is necessary to recognize that there is no data available on which to determine how much more security the public obtains as a result of secure incarceration of a violent juvenile beyond the period of incarceration. Examination of 100 correctional outcome studies showed that the "evidence of effectiveness of correctional treatment is inconsistent, contradictory and of questionable

9. This finding must include determination of 1) the seriousness of the conduct alleged; 2) a prior record of adjudicated offenses, and 3) the inefficiency of each of the dispositions available to the juvenile court. It is also stated that expert opinion should be sought in determining the existence of these factors.



reliability"<sup>11</sup> In the field of juvenile justice there are not even any significant follow-up studies of outcomes from which the effectiveness of different correctional treatment programs can be evaluated in terms of resulting protection to the public.

The creation of a new category based solely on the offense with mandated disposition to secure facilities to satisfy demands for punishment would undermine, if not destroy, the concept of juvenile justice. It would abrogate the right and the duty of the juvenile court to seek care and treatment appropriate in the light of the individual child's history, problems, needs and potential for rehabilitation. By reducing the juvenile court to a mini-criminal court it would also raise serious questions concerning the constitutional basis for the juvenile court system.

The independence of the judiciary (in fulfilling its responsibility under law for individualized justice) is as essential to the administration of justice in the Family Court as to the highest court of the land. There is every reason to protect judges of the juvenile court from pressure to order secure placement or longer sentences in response to public clamor. They cannot be expected to predict with certainty the potential for violence of every youth so long as there are no scientific guides for such prediction. They can only act on the facts of the case and on the expert opinion presented to them for decisions as to dispositions.

With the reservations noted, there is, however, the possibility of creating a new and carefully defined category for those youths who evidence violent conduct toward other persons as a pattern of behavior. Such a category must be accompanied by provisions for a process through which the court can secure evidence from experts as to the risk of such offenders being a danger to themselves and others. Authority for the

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11. Study by Bailley quoted by Wilkins. p. 76

court to order separate and secure placement should require a finding on clear and convincing evidence that such placement is needed and that on such placement the offender would receive appropriate and specialized services for such a period as found necessary. To assure accountability from the agency providing secure placement, plans for treatment, periodic agency review and court review at fixed intervals should be required to assure both maximum benefits for the youth and maximum protection to the community.

The value of creating a new category thus depends on the provisions for its implementation.

It is the view of Task Force II that the use of a new category for "violent juveniles" should not be restricted to looking solely at the offense or offenses of the juvenile. It is significant that after extended hearings and review of much data, the U.S. government now requires in regard to possible transfers of juvenile offenders over 16 years of age that they be based on far more than the offense.

Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer would be in the interest of justice: the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems.<sup>12</sup>

The Task Force believes that in view of the heterogeneous offenses included within various felony groupings, that any new category for juveniles found guilty of violent offenses should be based on definitions similar to those used in the U.S. Code and not on felony grades.



5. A Sub-Category: The Violent and Mentally Disabled Offender

Within any category of violent juveniles there is a sub-category composed of children and youths who are also mentally disabled. It is now recognized that this group has neither been defined nor given appropriate mental health services. The size of the population is not known since there has been a pervasive rejection by mental health facilities, both private and public, of children who present serious behavior problems as well as the ordinary symptoms of mental illness or retardation.

In the report by the New York State Department of Mental Hygiene Task Force on Violent, Mentally Disabled Youth, it is stated that the number of court related and non-court related violent children housed in each of the five psychiatric facilities varied from only a few to a maximum of over 20 children.<sup>13</sup>

While there is no adequate information on the number of "violent children" needing residential care in Mental Hygiene facilities, such a small number reflects the resistance of mental health personnel to dealing with behavioral problems, their uncertainty about what they can achieve, and fear that they will be used as dumping grounds for social problems.

Some mental health professionals explain that they exclude children from their services because they do not know what treatment can prove effective for those who are both delinquent and mentally ill. Such an explanation reminds one of those given by educators who explain the exclusion of children from school on the ground that they do not know how to make them learn. ~~One must ask why a different or lower level is expected~~ of ongoing research and efforts to treat and allay symptoms in the field of mental health than in the realm of physical illness, where the cure for diseases, such as cancer, continues to be unknown.

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13. Task Force on the Treatment of the Violent Mentally Disabled, Draft Report to the Sub-Committee on Violent, Mentally Disabled Youth, N.Y.S Department of Mental Hygiene, September 1975. p. 14.

Miller and Kenney<sup>14</sup> state that there has been a substantial decrease in the past 20 years of referrals of patients for hospitalization for mental illness and a marked increase in referrals of adolescents with personality disorders, or problems of living in or adjusting to moral or social norms. They present a three year study on 247 adolescents referred to a teaching and research hospital in Nebraska. They report that apart from the stated reasons for referring for study and recommendations for treatment, when adolescents were engaged in acting out or illegal behavior, there was frequently the unstated purpose or reason to get a patient out of trouble or jail. Of the 247 adolescents, they found 175 where the real reason behind referral was anti-social behavior in some form. Of this group of 175, according to the authors, only 32 (18 percent) were found to fit categories of schizophrenia, organical mental illness or mental difficiency.

Depending on the attitude toward a half empty or half full glass, one wonders what would have happened to nearly one fifth of the group who were found to be mentally ill by the hospital, if the referrals had not been made. The report also states that of 116 adolescents referred as schizophrenic or psychotic, the study found "only" 71 (47 percent) to be psychotic or brain damaged.

The authors acknowledge that most of the adolescents referred over a three-year period were described as mentally ill and that such illness was the concern of the referral sources. The question raised was what is meant by mental illness and whether the definition used by the authors is too restricted. They express concern lest the psychiatric

14. "Adolescent Delinquency and the Myth of Hospital Treatment", Ch. 6. in Delinquency and Social Policy. Prager, New York (1970).

hospital should become more sociological than medical in its therapeutic approach, since the behavior disorders of adolescents remains "an illusive problem".

In turn, there is no consideration of the responsibility of mental health professionals to develop ways of strengthening mental health in adolescents or preventing mental illness, in addition to treating those diagnosed as mentally ill. It seems as though in this important area, unlike those areas of physical medicine, the illusiveness of answers has justified avoiding research and efforts to overcome the disabilities. In fact, the authors take the position that "...a psychiatrist, a social worker, or a psychologist in a hospital cannot, or should not, presume to tell a court how to deal with a delinquent, even if he knows what to recommend."

In contrast, Dr. Mesnikoff and Dr. Lauterbach in a review of the research literature on the association of violent behavior with psychiatric disorders take a far different position. Rather than avoiding the problems they state:

The occurrence of violent dangerous behavior on the part of individuals with a psychiatric disorder, has been the subject of serious and recently growing scientific and professional concern...The question of objective knowledge regarding the association of violence to mental illness has been made all the more urgent by the general trend toward liberalized release of increasing numbers of psychiatric patients into the community in recent years.<sup>15</sup>

Within any category for violent juveniles there is need for a sub-category of children who are also mentally disabled since such children have neither been adequately defined nor given appropriate services.

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15. Alvin M. Mesnikoff, M.D. and Carl G. Lauterbach, Ph.D., The Association of Violent Dangerous Behavior with Psychiatric Disorders, A Review of the Literature, Prepared for the use of the Task Force on Violent Juveniles in the New York State Department of Mental Hygiene (June 1975).

In the past, the Family Court has rarely had prompt and adequate mental health professionals to identify children before trial who should be screened out as so mentally disabled as to warrant immediate referral to mental health facilities. Due to fiscal problems, an early screening program in the Family Court in New York City, and recently the Rapid Intervention Project (RIP), despite their recognized value to the court, were disbanded.

The practical application of a category to divert violent juveniles is further complicated by conflicts between hospitals which diagnose children as mentally disabled and in need of hospitalization and State Hospital Children's Centers which reject the diagnosis or refuse to accept children who present serious management problems. Even when such children are not rejected at intake by the facilities within the Department of Mental Hygiene, they are all too apt to be discharged prematurely without notice to the court, and until recently, were discharged when they went AWOL.

The Department of Mental Hygiene has now engaged in a current research program focused on four areas of mental health services: violence, mental health and the law; gerontology; and service delivery and client identification.<sup>16</sup> This long over-due research will hopefully lead to far more clarity as to the youth population in need of mental hygiene services, and the special needs for service and secure units for violent juveniles who are also mentally disabled.<sup>17</sup> Up to the present they have too generally

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16. G. C. Salmoiraghe, M.D., "N.Y.S. Department of Mental Hygiene, Research Programs of the Department of Mental Hygiene", (July 1975). The Department has also undertaken a clinical evaluation program to determine the effects of psychiatric hospitalization on children.

17. "Mental disability" as used in this state refers solely to mental illness as defined in the Mental Hygiene Law (§1.03(17)): "...an affliction with a mental disease or mental condition which is manifested by a disorder or disturbance in behavior, feeling, thinking, or judgment to such an extent that the person affected requires care and treatment."

been rejected by all services.

In a recent Draft Report to the Commissioner of Mental Hygiene on Violent Mentally Disabled Youth, the Task Force composed of distinguished mental health experts noted:

The deeper we delved into the many issues surrounding the care and treatment of violent, mentally disabled youth, the more we realized the complexity of the problem and the critical inadequacy of the existing information on which to propose meaningful policy.<sup>18</sup>

It is clear that serious study of what categories or sub-categories are needed is just begun. Hopefully while it moves forward there will be an ongoing effort by mental health staffs, court staffs, and the executive department charged with responsibility for the care of delinquent youth to develop means to identify the mentally disabled juvenile offenders promptly and provide such care and treatment as is most appropriate.

At this time the absence of sufficient information and knowledge make it impossible to develop a category. Here again, a new category, without plans for the process by which children placed in it are identified or will be assured appropriate services, becomes a meaningless gesture and offers no substantive progress in dealing with a complex problem.

The subject of a new category should be defined, with direction for ongoing research studies and recommendations by the agencies responsible for screening, dispositional recommendations, and care.

#### FF-Labels for Violent Juveniles

There are always risks in applying labels to human beings. The risks of mislabeling with resulting misclassification for institutional purposes is even greater when applied to children or adolescents who are

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18. Supra, fn. 13.

growing, developing, volatile, and more susceptible to change in significant physical, psychological and social ways than adults.<sup>19</sup>

It is far easier to speak of violent juveniles or violent-prone juveniles than to identify and label them in order to protect the community from future injury.

There is the inherent risk that labeling the more serious juvenile offenders will cause concentration on the control of those who are labeled as "dangerous". If this happens there will be an avoidance of the necessity for dealing with the preceding violence done to "violent juveniles" and an ongoing failure to provide preventive services that are desperately needed. In speaking of violent youth or youths who commit violent acts, one is reminded that Americans have been described as "ready" for violence and that the extent to which they are ready depends on them as members of the human species, as members of American cultures where they live, and as members of subcultures exposed in varying degrees to a climate of violence, to frustrations, and to a sense of alienation.

In seeking to define violent youth these factors are relevant. They require consideration of what a member of this panel called the root causes of violence if appropriate remedial strategies are to be developed.<sup>20</sup> None is more important for a youth than the disparity between what he sees as legitimate expectations and what is available in his environment. A "stake" in life (in education, in hope for his future) has been described as the key inhibiting factor to impulses for criminal and violent activity.

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19. Specification or definition of violence or violent offenders has been recognized as "even more difficult a task with regard to youth, since certain violent or aggressive behavior may be age appropriate...While extreme ends of the continuum can be clearly identified, it is important that researchers and others with some expertise in this area work toward classifying and specifying terms such as violent, aggressive, and dangerous as they apply to youth." Task Force, Classification of Violence and Mental Disability. p. 5

20. See, Memorandum by T. George Silcott to Task Force II (Sept. 26, 1975).



Statistics show higher rates of serious offenses among the very poor and non-white who live in slum areas... In the words of the Staff Report to the National Commission:

A repressive response to youthful violence may well assure the violence it seeks to halt.<sup>21</sup>

There is also reason to question whether a new label for "violent juveniles" may not continue to invite greater concern for less threatening delinquents by agencies which select "manageable" juveniles for most intensive treatment services in the community or for residential care, while they neglect those who are most in need of such services.<sup>22</sup>

It is, therefore, urged that if a new label is developed, that new safeguards shall be carefully devised so that it will not reinforce selection of youths for special services on the basis of age, religion, race or allow new ways of "creaming" those juveniles who seem most acceptable to agencies or institutions.<sup>23</sup>

#### 1. The Definition of "Juvenile Violence"

The establishment of a new label demands the most careful concern for the way in which "juvenile violence" is defined. The validity of any definition will depend on documentation of the actual scope and intensity of the problem, the methods proposed for identifying the population to be included, and the rationale for treatment programs for those defined. In striving for objective criteria in these efforts, it is necessary to recognize dangers that arise from pressure to manipulate figures by expanding or contracting the target populations. It is also necessary to

21. Mulhill and Turmin (1969).

22. See, Ramos, Kitsure et al. p. 89

23. See, Quay, "Classification in the Treatment of Delinquency and Anti-Social Behavior", Ch. 14, in Issues in Classification of Children, p. 389.

face the institutional considerations for restricting or expanding particular services, and the fiscal limitations that will limit the services that are provided.

There is a lack of agreement, and in fact, wide divergence in attempts to define "violent juveniles". In examining definitions now used we found that the range of definitions used by agencies included youths who "acted out" in delinquent ways, youths who had committed a specific violent offense (which might vary widely in the resulting injury to person or property), and youths who had actually engaged in a pattern of violent offenses.

Task Force II found that among those who supported a new label for violent juveniles, there was a tendency to take the position that it should not be applied to first offenders. In view of the fact that arrests and court action are disproportionately frequent as against children who are non-white, who live in urban ghettos, and whose families are poor or disorganized, focus only on prior arrests would incorporate past discrimination.<sup>24</sup>

## 2. Discrimination Through Labeling

Early arrest rates and the beginnings of records for a child or youth inevitably lead to more censure for the second arrest, more severe penalties, and the increased likelihood of placement in custodial or punitive settings. Over-emphasis on the second as against the first offense inevitably bears down hardest and disproportionately on those for whom alternative or preventive services were not available when their actions were first brought to attention. The apparent justice of using labels based on first or subsequent offenses thus can become one more

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24. See, Sophia Robison, Can Delinquency Be Measured? Columbia University Press, New York (1936).

form of discrimination.<sup>25</sup>

If a new label of "violent juvenile" is to be used as a basis for dispositions that will order secure incarceration, safeguards will be required to protect such juveniles from misclassification and misuse. Such safeguards would have to include requirements that the court shall consider and make findings concerning the child's family and social history, past efforts to help the child, the child's response to such efforts, and a full diagnostic study to determine whether the child is a danger to himself or others.

Mislabeled and the unfair use of labels is not restricted to racial discrimination. Misclassification to exclude children and youth from school through expulsions and suspensions, from assistance by social agencies, from mental health services, have denied both preventive services and help to children most in need in timely fashion.<sup>26</sup>

### 3. To Label a "Violent Juvenile" is to Predict Future Violence

Under the impact of reports on the sharp rise of violent offenses by juveniles, proposals to provide new labels for "violent juveniles" have been urged so that such juveniles may be identified as dangerous to others in the community and placed in a special category for secure holding or treatment. Such proposals largely assume that future violence can be

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25. Racial discrimination has become clearly evident in the administration of the juvenile justice system. Thus, in a study in Maryland, it was found that white children were likely to be classified as PINS and sent for residential treatment care while non-white children charged with similar offenses were likely to be classified as juvenile delinquents and sent to training schools (unpublished report by John Howard Associates). In Minnesota, where an analysis was done on the use of waivers in Hennepin County (including Minneapolis) it was found that although 17 percent of juvenile delinquents brought before the court were non-white, over 40 percent of non-white delinquents were waived to the criminal justice system.
26. See, Children's Defense Fund, Children Out of School in America (1974); School Suspensions-Are They Really Helping Children? (1975).

predicted.

Norval Morris, rejects dangerousness as a basis for imposing sentences since it presupposes a capacity to predict future criminal behavior beyond the current ability to do so. He describes the preemptive judicial strike as "a trap":

The concept of dangerousness so plastic and vague - its implications so imprecise that it would do little to reduce either the present excessive use of imprisonment or social injury from violent crime.<sup>27</sup>

The report of the President's Commission in 1967 also found that "...all currently available prediction methods still have only relatively low predictive power."<sup>28</sup> The science of prediction concerning future behavior even in regard to the assessment of future violence by mentally ill offenders has been described as in a primitive state.<sup>29</sup>

Because of public concern about increased violence by juveniles and the centrality of the issue of violence to the work of the Governor's Panel, the Task Force reviewed available literature on the prediction of future violence among children, and adults. Unfortunately, this review revealed that no reliable and accurate indicators of violence in young people exist, and that the inability to predict future violent behavior holds not only for adults but for children.<sup>30</sup>

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27. See, Norval Morris, The Future of Imprisonment, University of Chicago Press (1974). pp. 62-3.

28. Ibid. p. 761; See also, Ernest A. Wenk, James O. Robinson, Gerald W. Smith, "Can Violence be Predicted?", Crime and Delinquency, (October 1972). "...there has been no successful attempt to identify within either of the offender groups (the known offender or the known violent offender groups), a sub-class whose members have a greater than even chance of engaging again in any assaultive act." p.

29. Alvin Mesnickoff, M.D. and Carl G. Lauterbach, Ph. D. The Association of Violent Dangerous Behavior with Psychiatric Disorders. Report prepared for Task Force on Violence, New York State Department of Mental Hygiene (1975). See also, Baxstrom Case Studies, New York, by the Department of Mental Hygiene.

30. Henry Steadman, M.D., Summary of Report by Department of Mental Hygiene Task Force Report on "Control of Juvenile Violence", (Sept. 1975).

A task force composed of distinguished professional experts in mental hygiene, after reviewing the literature on the identification of violence-prone children and the prediction of future violence among children found: "...No reliable and accurate indicators of violence in youth exist."<sup>31</sup> This report stated that there was little evidence that future violence could be predicted with any accuracy and that "given the current state of knowledge, the only way of being sure that most violence-prone children are being cared for and treated is by institutionalizing many who will not be violent."<sup>32</sup>

The largest and most systematic research conducted on violent youth involved 4,146 California Youth Authority wards. The attempt to apply classification devices for estimating assault potential with the use of 100 variables, including information from case histories, measures of mental and emotional functioning and professional programs, failed. The authors concluded that even if the single best predictor variable, the history of actual violence, was used 19 out of 20 youths would be falsely identified as potentially violent. Even with a later more sophisticated device, the best one could expect would be that 8 out of 20 youths would be falsely identified as potentially violent.

In the forward to the California study, Leslie T. Wilkins wrote: "This exhaustive study has found little which discriminates the violent offender from the 'normal' offender in terms of any personality characteristics."<sup>33</sup>

It must also be noted that contrary to general assumptions there

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31. Supra, fn. 13, p. 11.

32. Ibid. p. 13.

33. Ernest A. Wenk, Robert L. Enrich, Assaultive Youth: An Exploratory Study of Assaultive Experience and Assaultive Potential of California Youth Authority Wards, National Institute of Law Enforcement and Criminal Justice Law Enforcement Assistance Administration, Washington, D.C. (1972).



is no evidence that offenders convicted of violent offenses are more likely to commit further violent offenses. "Offenders against persons have been found at least since 1923 to be generally better risks so far as parole violations are concerned, than are offenders against property."<sup>34</sup>

Much more research is needed if we are to avoid over-confinement on the basis of false predictions and if we are to develop ways for recognizing those children or youths who require special services, including secure facilities, who are overlooked or released prematurely without such treatment.

Eagerness to achieve such goals does not, however, warrant placing trust in prediction based on what is known of that art at this time.

This Task Force finds that the studies and research now available confirm that reliance on current prediction methods to label and order secure institutionalization of youths for longer periods of time is not justified. It would result in lengthy incarceration for many who will not be violent in order to confine a far smaller number who will actually act out violently.

While appreciating the reasons for demands for new ways to confront juvenile violence, justice requires more than labeling of a child under 16 as "violent" or "violent-prone" on the basis of questionable predictions, and then fixing sentences on such predictions. It must also be recognized that such a label may well impose a shadow on the life of a child which will dog him or her for years, if not throughout his life. If any new label is to be developed, strict safeguards will be needed to protect a child from being

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34. Donald M. Gottfredson, Assessment of Prediction Methods in Crime and Delinquency, Report to President's Commission on Law Enforcement and Administration of Justice. Appendix K, Wash. D.C. (1967), pp. 171-187. See also, Illinois Study showing recidivism rates of 9 percent for offenders found guilty of murder or manslaughter as compared to 42.4 percent for those guilty of non-violent offenses against property (e.g. fraud, embezzlement, etc.).



permanently branded by it.

### III Public Intervention

The multiple service deficits in public and voluntary child care agencies, in the delinquency and in the mental health systems available to the Family Court, have created the need for addressing the gaps in community and residential services for the "violent juvenile".

Rejection by voluntary agencies and by the agencies under the auspices of the Department of Mental Hygiene have left the Division for Youth as practically the sole depository for this most difficult group of delinquents. However, the Division for Youth has never been given the facilities, the personnel, or the mental hygiene assistance to provide secure care when needed or the kinds of treatment that are regarded as appropriate for children or youths regarded as violent or violent-prone.

Last year in opposing proposed legislation to authorize waivers of juveniles under 16 years of age to the criminal justice system, the Office of Court Administration stated that such legislation was a response to the absence of appropriate facilities. The Family Court Advisory and Rules Committee in opposing the same legislation and proposals to reduce the upper age limit for Family Court jurisdiction of juvenile delinquents (now only up to 16) saw such legislation as "triggered" by the lack of appropriate secure facilities for children or youth when needed.

The policy and practice of using waivers to the criminal justice system for youths found guilty of serious offenses was examined by a juvenile court judge in Minnesota at the direction of the Supreme Court of that state. In answer to the question: What is available for their rehabilitation in the Juvenile Corrections System - his answer was "nothing". He then described what happened to youths waived to the adult system: "Thus by administrative fiat an appointive official has decided that children over 13 years of age who require security will be locked in long rows of stone and steel cages, mixed with the state's most crime-prone and depraved young

adults, freely admitting that their safety cannot be assured."<sup>35</sup>

It is urged that public intervention by New York shall not follow such a hollow and destructive program in dealing with the serious problem presented by violent juveniles under 16 years of age for lack of appropriate facilities and services.<sup>36</sup>

In New York legislation permitted fixed sentences for 16 to 21 year old offenders (up to four years) in return for the promise of rehabilitative services. In 1974, the Federal District Court found that since the promised services were not provided and the youthful offenders were mixed with older offenders, the law as enforced violated the constitutional right of such youths to equal protection.<sup>37</sup> The decision of Judge Lasker also raised the issue of the right to treatment, an issue to which the federal courts are giving increasing consideration.

In some states, enlightened administrators and legislators ensure that there is a bona fide attempt to treat, no punish juvenile offenders. In too many states, however, good intentions must yield to tight financial policies, as juveniles do not rate high on the priority list for the limited available funds. In those states a juvenile's only recourse is to go to the courts to insist that he receive some tangible benefit for his loss of liberty. Eventually the juvenile justice system may survive or fail, but if it survives it must do so on its

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35. In the Matter of the Welfare of J.E.C., Findings and Order, J. Arthur, District Court, Juvenile Division, 4th Jud. Dist., Hennepin County, Minn. Feb. 25, 1973.

Governor Reagan of California called for an end of "the college of crime syndrome inherent in programs which expose impressionable youth to hard-core criminals." Los Angeles Times, Mar. 29, 1973.

36. The Supreme Court in Minnesota held that the absence of rehabilitative facilities to treat a juvenile may not be interpreted to mean that the juvenile is not amenable to treatment. In re J.E.C., 225 N.W. 2d, 245 (Minn. 1975).

37. Sero v. Preiser, 377 F. Supp. 463 1974. Judge Lasker wrote: "in sum we find...the command of the (equal protection) clause is violated when the sentence is longer but treatment and all other conditions are the same." See, also, 506 F2d 1115 (1974).

ability to deliver services and "treatment", not on empty rhetoric and promises too long delayed<sup>38</sup>

1. Who Has Responsibility for Violent Juveniles

"Violent" or "violence-prone" juveniles include both court and non-court related cases. However, the charge by the Governor limits the scope of the Panel to consideration of juveniles who commit and are convicted of violent offenses. The responsibility for public intervention to provide care, control, education, treatment, and hopefully, rehabilitation for such youth rests primarily on the Division for Youth. Within the group of such youth there is a smaller group (size unknown) of youth who are found to be both violent and mentally disabled. For them the Department of Mental Hygiene has direct responsibility<sup>39</sup>

Even this apparent division of responsibility has been marred not only by conflicting diagnoses but by administrative decisions that have led to the shunting of youths from one agency to another, and to the denial of appropriate services. It is encouraging to note that in recent months concern about the violent juvenile and the rise in violent offenses by juveniles have caused the Division for Youth and the Department of Mental Hygiene to reexamine their responsibilities for violent juveniles separately and even more importantly, together.

Such self-examinations of existing facilities by both the Division for Youth and the Department of Mental Hygiene confirm that they have been inadequate to serve violent juveniles or protect the community from their

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38. Wald and Schwartz, Trying a Juvenile Right to Treatment Suit, 12 American Civil Liberties Review, 125, 163.

39. Some voluntary child caring agencies and mental health facilities accept placements by the Family Court of youths found to have committed serious offenses, but the public agencies have final responsibility.

acts through escape or premature discharge.

The examination of placements or commitments to voluntary and other public agencies also shows the need for comprehensive programs within such agencies where violent juveniles are placed, to deal with such youths during the period when they act out or become emotionally disturbed. The shipping of youths from one program to another, including to state hospitals for short periods, reflect the incapacity of the residential agency (except in unusual instances) to handle violent or disturbed youth adequately. The establishment of separate small units with specially trained staff in both the Division for Youth and the Department of Mental Hygiene and other residential agencies should reduce the shipping of children between agencies to a substantial degree. Such measures are necessary if further disturbance for the youth, a sense of failure by the agency, and the temporary dumping of youth in state hospitals are to be minimized.

2. Responsibilities of the Department of Mental Hygiene for Violent, Mentally Disturbed Youth

A Task Force was appointed within the Department of Mental Hygiene in response to a direction by Commissioner Lawrence Kolb, to study the care and treatment of violent, mentally disabled youth and make recommendations. The resulting, excellent draft report<sup>40</sup> was shared with this Task Force. It presents the limited facilities within the Department now available for the care of violent juveniles, whether court or non-court related cases. The Mental Health Task Force found:

There is a dearth of appropriate services for violent, mentally disturbed youth whether they be court or non-court related.

As of August 22, 1975 there were no special units for violent children in the Children's Centers of the Department of Mental Hygiene. Four were reported to be "in the works" and attempts were reported to be under way to reallocate staff for smaller units in the absence of

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40. N.Y.S. Department of Mental Hygiene, Task Force Draft Report (Sept. 1975).

a supplemental budget allowance.

In the regular State Hospitals of the Department of Mental Hygiene no beds were specifically allocated for violent children and youth.

The Institute for Basic Research had no beds for violent youth.

The New York Psychiatric Institute has one eight bed unit for violent patients through its affiliation with Meyer-Manhattan, but it is not specifically for children.

The Department of Mental Hygiene Task Force faced the consequences of inadequate facilities and services to violent juveniles. It recognized the growing controversy in New York, as elsewhere in the country, about the adequacy of mental health services for the growing number of youths involved in crimes of violence. It acknowledged that much of the criticism of mental health arose from the failure of mental hygiene facilities to accept violent juveniles despite diagnostic studies that they were in need of such facilities, its failure to retain such juveniles, and its failure to provide adequate after-care services for them.

Most importantly, it presented a series of recommendations to fill the gaps in public and voluntary services for mentally disabled and emotionally disturbed youths who committed violent offenses:

These included the creation of a Division within the Department of Mental Hygiene to expand, coordinate and reorganize psychiatric services within the Department; coordinate efforts by both public and private agencies for the care and treatment of violent, mentally disabled youth, and monitor the quality of their services; systematic research to respond to problems of violent, mentally disabled youth and establish firmer foundation for the development of policy and programs, including evaluations of services and examination of outcomes through follow-up studies; and etiological research to discover factors that led to violent behavior.

The Department of Mental Hygiene Task Force mentioned the joint efforts undertaken by the Department of Mental Hygiene and the Division for Youth through the Bronx Pilot Project for violent court related youth and urged the expansion of such programs on a regional basis. It further urged the exploration of other alternatives including the provision of full-time mental health professionals by both the Department of Mental Hygiene and the Division for Youth, and the

provision of Department of Mental Hygiene mobile treatment teams to serve juveniles in the Division for Youth facilities.

In approaching the management of violent, non-court related, mentally disabled children, the Task Force urged that special units would be needed, but should be used only for therapeutic purposes and that criteria should be established for transferring children in and out of such units.

The Task Force recommended that the Department of Mental Hygiene should take greater responsibility for after-care planning and services for both court related and non-court related violent youth.

In conclusion, the Task Force stated that in view of the serious problems presented by violent, mentally disabled youth, a serious commitment must be made by both the Department of Mental Hygiene in terms of redirecting its present resources and by the state in supplementing resources available to the Department.

Task Force II of the Governor's Panel supports the recommendations of the Department of Mental Hygiene Task Force and sees them as essential to providing protection to the community and to providing the mental health services to which all mentally disabled youth are entitled.

### 3. Responsibilities of the Division for Youth for Violent Juveniles

As stated earlier, the Division for Youth carries the laboring oar in regard to juveniles who have committed violent offenses, for whom the Family Court orders placement or commitment.

Like the Department of Mental Hygiene, the Division for Youth has not had small secure units in which intensive supervision and adequate treatment services are made possible. It has also never had adequate mental health personnel to work with violent youth, who, while not diagnosed as severely mentally disabled, are seriously disturbed. It has also not received mental health services from the Department of Mental Hygiene. Like voluntary agencies without such services, it has therefore been forced to shunt youths into state hospitals for periods of acute acting out or depression with little benefit to the youths involved.



The Division for Youth has examined its facilities and personnel and begun to move toward securing more adequate facilities and personnel to deal with violent juveniles. In doing so it has sought the cooperation of the Department of Mental Hygiene so as to secure quality special services and avoid duplication. Included in plans for strengthening the services for all delinquent and PINS children placed with the Division for Youth, steps and plans are being taken specifically directed to provide secure facilities and treatment for violent juveniles.<sup>41</sup> The latter include:

The development of 10 bed units at two of the training schools for boys who require secure placements, supported by a special treatment team.

The institution of plans for a capital budget item to design a five to twenty bed treatment unit within a secure facility for violent youth.

Continuing cooperation with the Department of Mental Hygiene in the demonstration project at Bronx State Hospital for violent juveniles placed or committed by the Family Court, and for the expansion of such joint projects in other regions of the state.

Development of more secure facilities at Brookwood so as to reduce the population of violent youths at Goshen, which is now the sole facility that provides maximum security.

In addition to these steps that are directed to provide greater security and services for violent juveniles, the Division for Youth will seek federal funds for the development of mental health programs at three of the training schools, including Goshen (the sole secure facility), and for the development of small group homes for younger boys who are not violent.

4. Responsibility of the Family Court for Identification of Violent Juveniles and of Violent Juveniles Who Are Mentally Disabled

Efforts to provide more effective public intervention in regard to violent juveniles must begin in the Family Court. The Family Court judge cannot be expected to identify violent youths except on the basis of the

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41. Conference with Peter Edelman, Director of the Division for Youth, Oct. 20, 197

offense committed or to identify violent youths who are mentally disabled without the assistance of diagnostic services. If such services are not available or require lengthy detention before they can be used, the identification of youths who need secure placement will not be accomplished. The cost to the youths, to the facilities to which they are sent, and to the security of the community is great.

In planning programs to meet the needs of the violent youth and the community, provision for mental health diagnostic services available to the Family Court in timely fashion is essential.

#### 5. Responsibility for Preventive and Community Services

To narrow concern to providing maximum intervention based only on a serious offense of which a child is convicted is to avoid responsibility for preventive public intervention. Proponents for non-intervention, except when children commit acts which would be crimes if committed by adults, justify this position on the grounds of compassion, civil libertarian convictions, or on the basis of despair that public intervention will prove helpful. They fail to recognize that cumulative anger which erupts in violence by children, as in violence by battering parents, is generally preceded by neglect and injuries which society has ignored.

Even while the state undertakes new programs to aid youths who have committed violent offenses, it has the ongoing responsibility to study the causes of such violent behavior and develop appropriate preventive services to vulnerable children in their families. The failure to provide such services does violence to vulnerable children and, in turn, invites their violence. The failure to provide services to the family while the offender is in placement makes his reinfection all too likely on his

return home<sup>42</sup>

The staff report to the National Commission on Causes and Prevention of Violence singled out focusing attention and resources on youths who are subject to all the negative factors that accompany a high rate of violence as the most significant approach to reducing juvenile violence.<sup>43</sup>

#### Summary: Public Intervention

The development of more adequate public intervention in regard to juveniles found guilty of violent offenses may require that a new label be attached to such juveniles so that new categories for special services will be provided. However, the key element for meeting the real problems of violent juveniles will depend on the steps taken by the state to assure appropriate public intervention. Neither new labels nor categories will be sufficient to rehabilitate the youths or protect the community.

Responsible and thoughtful proposals from both the Division for Youth and the Department of Mental Hygiene directed to the development of a credible information system on violent juveniles, the improvement of services, the coordination of fragmented programs for violent juveniles, serious research on causative factors, and the evaluation of the outcome of various programs, give promise for the future.

To meet the urgent necessity for intervention, it is necessary to provide small secure units both within the Division for Youth and the Department of Mental Hygiene so that violent youth will be provided with humane and appropriate services, and the community will be more adequately

42. See, T. George Silcott, Memorandum to Task Force II, September 26, 1975.

43. Mulhill and Turmin, (1969)

protected. Programs in secure settings should also provide for a "gradual testing of fitness for freedom"<sup>44</sup>.

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44. Norval Morris, The Future of Imprisonment, University of Chicago Press (1974), p. 27. For this reason Morris opposes legislative fixed sentences that are not subject to reduction through the exercise of judicial discretion.

FINAL REPORT OF TASK FORCE III

Michael Kalogerakis, M.D. (Coordinator)  
Hon. Howard Levine (Coordinator)  
Sister Mary Paul Janchill  
Mr. Charles King

Mr. Wayne Mucci (Consultant)

# TASK FORCE III

## Interim Report

The mandate of Task Force III was to "evaluate the suitability and effectiveness of the current roles and relationships of the various agencies, public and private, that share responsibilities for juveniles whose violent behavior brings them to the attention of the Family Court". The approach initially taken by the group has been to obtain as accurate a picture as possible of the actual operation of the treatment phases of the juvenile justice system through a sharing of the experiences of the members of the Task Force and by enlarging on those experiences through interviews and discussions with representatives of the key agencies having service and treatment responsibilities within the State for juveniles who commit violent acts. Those interviewed included representatives of the Division for Youth, (Milton Lugar, Peter Edelman and several aides), the New York City Police Department (Capt. Daly and several of his assistants of the Youth Aid Division), the State Board of Social Welfare, (Bernard Shapiro and aides), State and Local Probation (Walter Dunbar, Director of State Probation, Norman Dix of the New York City Probation Department, William Collins, of the Saint Lawrence County Probation Department, Scotia Knauff, of the Nassau Probation Department and various other probation aides). We intend to interview representatives of the Department of Mental Hygiene and the voluntary agencies. We have had the complete and enthusiastic cooperation of the foregoing agencies who have given us frank and candid appraisals of the problem as they see it and useful suggestions for improving the State's response to the problem of treatment of the violent juvenile.

Several introductory comments are in order at this time, First, while an attempt has been made to ascertain and develop a State-wide picture of the situation, a general tendency to focus upon the situation encountered in the city of New York has been unavoidable because of the acuteness of the problem in that region of the State. Second, the Task Force has been struck by the paucity of comprehensive and accurate data concerning the numbers of violent juveniles, how they are treated in the system, and what the results of such treatment has been heretofore. What data is available from various sources is incomplete, sketchy and is often mutually inconsistent from such sources as the Office of Court Administration, police records and the State Division of Correctional Services. In some instances, data concerning children arrested for felonies has vanished following the arrest stage.



Nevertheless, despite the absence of a comprehensive statistical foundation for analysis and recommendations, the Task Force has reached some tentative findings and conclusions with respect to the juvenile treatment system, which we herewith submit for consideration by the Panel. These findings and conclusions are organized in terms of each progressive stage of penetration of the juvenile through the Juvenile Justice System:

### Arrest Phase

Decisions are made at the arrest stage which have a significant effect on treatment of a juvenile who commits a violent act. They include, deciding whether or not to proceed with formal charges, the nature of the charges to be filed, if any, whether to refer to Probation-Intake or directly to Court and in some communities, whether to make direct referrals to community service agencies. There seems to be an absence of criteria and agreement upon objectives in the area of police diversion. There is also a wide variety of practices as to whether the police or victims become the ultimate formal complaintive. There is also a wide variety of practices without rational organization with respect to the decision making process as to evaluation of a case following arrest and, the determination of the actual charge to be filed, whether immediate detention is necessary, etc. There is no system of accountability governing police practices and individual decisions in connection with police treatment of the violent juvenile, in that reports of reasons for decisions are either not mandated or are not standardized. Clearly, in the city of New York, the shortcomings seen cannot be rectified as long as the Youth Aid Division continues to be understaffed, with a complement of less than 30 officers for the entire city.

### Probation Intake-Fact Finding Phases

In the City of New York serious delays occur before a juvenile enters the intake process following arrest, unless he has been placed in detention. There is an under-utilization of available evaluative services for determining whether diversion is appropriate. Probation intake officers have minimal contacts with arresting police officers, thus losing a valuable source of information for decision making. Adjustment at intake is often completed at the initial contact. There is also no followup made on referrals to community service agencies to ascertain whether the service was actually sought and delivered. There is no useful inventory of available community

services available to all probation officers. There is no systematic reporting system to record the bases for individual intake decisions. On a state-wide basis, heretofore there has been little effort to effect uniformity of criteria or standards for diversion, although recently through new rules and regulations the State Division for Probation is making an effort to enforce standards and accountability upon local probation departments.

#### Dispositional Phase

Again, in the City of New York there is an under-utilization of diagnostic and evaluative resources to aid the courts in selecting dispositional alternatives. There is also no useful inventory of community resources which would be helpful in making the decision whether to retain the juvenile in the community or place him in an institution. There is no organized and coordinated system for referral for possible placements with the voluntary agencies, resulting in delay between the fact finding hearing and final disposition.

#### Community Supervision Phase

In the City of New York, probation supervision is generally restricted to the hours of a standard business day. Moreover, supervision of youths from the neighborhoods where violence is the most prevalent generally consists of office visits of the client to the probation office rather than contacts at home. There is an insufficient utilization of differential case load assignments, whereby special attention could be given to selected cases. The Task Force has been furnished descriptions of various probation projects which support our belief that intensive supervision by probation in the community, with sufficiently low case loads and heavy employment of community resources, can be an effective means of control and rehabilitation of violent prone youths.

#### Placement Phase

There seems to be little question that the vast majority of juveniles institutionalized for having committed seriously violent acts are placed in the State training school system. Heretofore, the Division of Mental Hygiene has not been a significant placement resource for those of such youngsters who are emotionally disturbed or mentally ill, either through direct placement by the courts or through the transfer procedures from the Division for Youth provided for under the Executive Law. Similarly, the voluntary agencies have not

played a major role in serving violent juveniles, at least part due to the lack of programs and facilities specifically required for such youths. Recently there are some indications, however, of a greater receptivity on the part of these agencies to shoulder more of the burden of treatment of the more seriously acting-out juveniles. We have also found that the Division for Youth receives inadequate diagnostic and descriptive material on those youths placed with the agency, thus making the intake function more difficult. Differential treatment exists only in broad categories within the training school system. Moreover, Division for Youth has not had the resources to provide services to the families of youngsters while they are in placement, in an effort to modify the home environment to which such youngsters will ultimately return. Mental health treatment resources for youngsters within the training schools is extremely limited and dependent upon the Division of Mental Hygiene. The actual professional service offered is largely diagnostic and evaluative rather than therapeutic. Therapy for such youngsters is generally conducted by the individual cottage directors.

#### Release Phase

In general, the Task Force has found that release from the training school system is far too often dictated by the population capacity of the institutions rather than on an objective evaluation of the readiness of the juvenile to return to the community. This has been somewhat ameliorated, however, through the "sensitive case" procedures instituted by Division for Youth this past year. The decision to release is made by the staff directly involved in the treatment process. We have found that aftercare case loads are too high for intensive supervision once the juvenile returns to the community. There seems to be little liaison between aftercare workers of the Division for Youth and the police and schools within the community. Thus it is unlikely that aftercare workers will get any "early warning" of a youngster whose adjustment to the community is unsatisfactory.

#### Some General Conclusions

The service and treatment components of the juvenile justice system in New York State lack accountability, coordination and planning. Until this is changed our efforts to rehabilitate and control the violent juvenile will continue to be too slow, wasteful, ineffective and discriminatory.

A necessary step for any permanent improvement is a system for sophisticated, comprehensive and uniform reporting of decisions at each stage of the treatment process, with central records, subject to providing adequate safeguards as to use or disclosure of such records.

A second step will require the creation of a mechanism, either within or independent of the Executive Branch, to enforce coordination of the efforts of the various service and treatment components in both the public and private sectors and to insure that agencies fulfill their legal responsibilities. This would avoid the present wasteful system of ad hoc negotiation between agencies, courts and institutions which is now characteristic of the system. We intend to explore various alternative organizational structures to accomplish this goal.

## Final Report

Since the date of the interim report, Task Force III continued its review of the treatment and service components of the juvenile justice system through a series of full-day conferences and discussions with persons and representatives of agencies and institutions performing such functions, or having crucial contacts with violent youths. Again, because of the limits of time and the gravity of the problem, the tendency has been to focus on services and treatment in the City of New York. We met with: The Directors of the childrens' psychiatric units of the State Mental Hospitals in the City of New York, the chief child psychiatrists of the New York City municipal hospitals, representatives of the Mental Health Information Service, the Legal Aid Society of the City of New York, the director of the New York City Youth Board, the staff of the Lieutenant Governor, the Chief Administrative Judge of the Family Court of the City of New York, the Administrative Judge of the State of New York, the Regional Director of the State Board of Social Welfare in New York City, representatives of various voluntary agencies and representatives of the Citizens Committee for Children and the Community Service Society.

The major points of further inquiry centered upon mental health services, education, the voluntary sector and the Family Court. The following represents the Task Force's findings concerning those elements of the treatment and service system examined since the interim report:

### (1) Mental Health Treatment

Admission of emotionally disturbed or mentally ill

violent youth to the adolescent or children's units of the State Mental Hygiene Department's hospitals is dependent almost completely upon the autonomous discretion of each individual director of these units. In the City of New York, that has resulted in wide variations in the degree to which juveniles from different areas of the city can obtain long-term residential treatment, to the disadvantage of youths from the most deprived areas of the City. According to the chief adolescent psychiatrists of the City municipal hospitals the overall percentage of acceptance of their referrals to the state hospitals has decreased, and rejections occur after a perfunctory examination of such youths whom they determined to need such care after a lengthy study of up to 30 days. Where such youths have been admitted to the state hospitals directly from the Family Court or from the municipal hospitals, the absence of coordination or liaison with the referring agency (Family Court, probation or city hospitals) makes it unlikely that there will be an out-patient continuation of clinical service following discharge and the child will simply be returned to the community after his condition has been temporarily stabilized. The Division for Youth has experienced difficulty in transferring youths in acute psychotic episodes from its facilities to the state hospitals. The lack of liaison and coordination between the Division for Youth and Department of Mental Hygiene results in the absence of clinical follow-up



upon discharge from the state hospitals and retransfer to DFY facilities. The State DMH has also not been a significant resource for those youths who are in community treatment programs, whether on probation or in DFY group homes or after-care. In the City of New York, the day treatment resources of the municipal hospitals' psychiatric units are presently being underutilized by the service agencies. There is a lack of coordination between the Family Court, probation and the municipal hospitals where referrals are made for evaluations during the pendency of Family Court proceedings before disposition. Thus it is not uncommon for children to be released after remand without notification or return to Family Court.

(2) The School System

We were unable to obtain a meeting with the chief officers of the New York City school administration, but from interviews with the head of security of the City schools, and discussions with other persons having knowledge of, and contact with the school system, we have acquired the following basic information:

First, despite the looseness of, and changing patterns in reporting policies of school principals, there has been a significant increase in the incidence of seriously violent behavior within the City schools. Many of these incidents are not followed up by referrals to law enforcement authorities, partly because of internal politics involving the administration and the UFT and also because of the lack of confidence

of school personnel in any effective response by the juvenile justice system.

Second, the present means employed by the schools to deal with the severely acting-out student, apart from deployment of security staff, consist of reduced hours, home instruction, exclusion and special classes generally lacking in any programmatic content. All of these means appear to be counter-productive and responsive more to the desires of teachers and staff than to the true needs of the children. The tendency of these existing programs within the school is to encourage non-attendance and ultimately withdrawal of the student from the school system even before attaining the required legal age, and while still within the jurisdiction of the Family Court. This has had particularly serious impact on the court-related youngster who is either on probation or back into the community after placement and who desperately needs re-integration into the system of public education.

Third, liaison between the schools and other service agencies having responsibilities for the same youngster such as Mental Hygiene, Probation and DFY after-care, is non-existent except for what is being done in a few isolated pilot programs.

Thus, the school system, the single most important institution in the lives of these youngsters outside of the family itself, is not playing any significant positive role in either identifying, controlling or rehabilitating the violent juvenile.

(3) The Voluntary Agencies

The voluntary agencies accept some youngsters who have committed violent acts into their residential programs, but only on a selective basis. Thus, at this time they cannot be considered as a primary placement resource for those youngsters who are in need of intensive treatment, at least temporarily in a secure setting. The reasons for this are manifold. Partly it is due to the agencies' traditional self-concepts of their role as being essentially to treat those who wish to receive services; partly it is also due to the historical sectarian origin and sponsorship of many agencies, which may exclude children of different faiths. Partly, however, it is also due to the fact that agencies are deterred from accepting such youngsters because programs for residential treatment of the target group are expensive and payment for such care is now subject to a chaotic process of negotiation with local commissioners of social services, with little overall control by either the State Board of Social Welfare or Department of Social Services. Agencies are also deterred from "taking a chance" on accepting a borderline case because of the lack of access to other treatment resources for temporary acceptance with a child in a crisis situation. Thus, there is no ability to guarantee temporary transfer to a mental hygiene facility and there are serious delays in getting access to the Family Court for a new disposition if the placement does not work out. The State Board of Social Welfare has historically played

no major role in promoting new policies and programs by the voluntary agencies for dealing with the seriously violent prone youngster; nor in promoting coordination between the voluntary sector and the public sector. However, recently initiatives have been made to encourage agencies to develop programs and also to review the appropriateness of placements. There still remains very little liaison or cooperation between the voluntary agencies and the public agencies having service and treatment responsibilities, resulting in wasteful duplication of services and gaps.

(4) The Family Court

Delay still exists in the processing of cases where the underlying offense consists of a serious crime of violence. We believe that such delays represent a significant factor in the number of cases which are dismissed without a trial on the merits. A major effort is underway in the Family Court of the City of New York to rectify this through implementation of the Standards and Goals of the Office of Court Administration. One factor presently beyond the control of the Family Court which materially contributes to the current situation is the lack of quality and degree of involvement in the prosecution of cases by the Corporation Counsel's Office. Another major factor is the caseload in the Family Court which has continued to increase in all categories and has been further aggravated by the imposition of new responsibilities under legislation such as Title IV- of the

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Social Security Act, and foster care review under Sections 358-a and 392 of the Social Services Law. Despite these increases in workload, the court itself has not been infused with any new resources by way of judicial and non-judicial staff and personnel. Indeed, some supportive staff and services have decreases, i.e., probation and the court mental health clinic.

#### Recommendations

It is noteworthy that there was virtual unanimity among the persons and representatives of agencies with whom we conferred concerning the need for fundamental changes and restructuring of the present "non-system" of the delivery of treatment and services to troubled youth. From discussions with these persons and agencies presently working within the system and our own reflections, it is clear to the members of Task Force III that changes will be necessary in order to provide for coordination, planning and accountability, but that the problem is not merely with the provision of services and treatment to the violent juvenile but extends to the child welfare system as a whole. In another succeeding section of this report we shall discuss some of the alternative means for fundamental reorganization of the child welfare system which have been suggested. However, the Task Force will not make any specific recommendations in this regard, believing that this is beyond the scope of the mandate of the Panel, and requires far more extensive study and staff input than has been available to us.



Nevertheless, we do offer the following suggestions for shortrange modification and improvement which may be accomplished without basic reorganization of the system. They are as follows:

(aa) Police.

The appropriate State agency or the appropriate bureau of the State Division of Criminal Justice Services should develop guidelines and uniform standards regarding the adjustment of cases in which juvenile offenders are charged with the Commission of Violent Crimes.

Special efforts should be made to correct a common failure of the police to apprehend violent juvenile delinquents for whom arrest warrants have been executed.

Individual police officers should be urged to be more vigorous in asserting their rights to obtain a hearing before the Family Court in cases involving violent juvenile offenders when the complaining party or victim of the crime alleged to have been committed is not available or is unwilling to appear. The subpoena power of the court should be used when necessary in such cases.

(a) Probation Services.

Because of the major role played by probation at all critical stages of the juvenile justice process up to placement we believe that infusion of new vitality into juvenile probation in the City of New York is an absolutely necessary first step. All available funding sources, Federal, State and private, should be explored for the initial implementation of this recommendation. It is our suggestion that there be created a new and special unit of juvenile probation to deal with all cases where the underlying offense is a serious crime of violence. The staff of this new unit should be selected on the basis of experience, ability and motivation, without reference to seniority, and should be compensated accordingly. Its operation should be organized on the community or precinct level and it should handle all of the major probation functions from the inception of the case, namely, intake, investigation and supervision. Accountability for intake decisions should be enforced ~~through the requirement that for all cases~~ adjusted at intake a full report is required including the reasons for adjustment, a diagnostic evaluation and a specific treatment program if necessary. With the aid and support of the executive branch, this unit should

negotiate agreements with the State mental hospitals, the municipal hospitals and other diagnostic centers for expeditious availability of diagnostic services without court order if consented to by the juvenile. Similar agreements should be effected for liaison and co-operative efforts with other agencies and institutions having contact with or responsibility for the child, including the school system. The special probation unit should provide case management and child advocacy to insure that juveniles in fact receive the services from agencies to which they have been referred and does not "fall out" of the system in moving from one stage in the system to another or from one treatment or service source to another.

The special unit should be given ready access to the Family Court or to the executive branch for the enforcement of its determinations in exercising its case management and advocacy functions.

The New York City Youth Board should be given the means for completing its inventory of youth services and programs to cover the entire City of New York and its report should be available for use by the probation services.

(b) Division for Youth.

The need for an expansion of DFY's secure residential treatment capacities needs no extensive discussion. However, the programmatic capacities of these new facilities require some comment. In general, they should be adequately staffed to provide for differential treatment alternatives to a far greater degree than presently exists. A major emphasis should be placed on remedial education to improve cognitive skills, since this appears from our discussions with various experts to be a vital component for rehabilitation and prevention. In addition to provisions for quality and quantity of residential facilities, the other major area of necessary reform of DFY services is in after-care. The DFY after-care unit should be organized and have functions similar to the special probation unit, with similar access to the court and executive branch to enforce its will.

(c) Mental Health Treatment.

The present autonomy of directors to control intake into state mental hospitals must be restricted. Guidelines for admissions should be enforced on a uniform basis. Disputes between the directors of the childrens' units of the State mental hospitals and the referring

agencies should be resolved in the first instance by the Associate Commissioner of Mental Hygiene in charge of childrens' and youth services. A specific mechanism should be created for liaison between municipal hospitals, the State hospitals and the Family Court and probation service so that specific individuals will be responsible for handling interagency coordination and communication. Similarly, guidelines and a review mechanism should be worked out to handle the problem of transfer of youths from the Division for Youth facilities to State Mental Hygiene facilities. With respect to mental health treatment for youths in the care and custody of the Division for Youth who are not in need of hospitalization, the Division for Youth should be given the capability of providing such treatment on a continuing basis either through budgetary appropriations for the hiring of its own staff or through transfer of services from the Department of Mental Hygiene with the supervision and control of those services by the Director of the Division for Youth. The Task Force has concluded that the Bronx State Project does not represent the most appropriate model for statewide solution of this problem. The executive branch should require agreements to be effected

between probation, Division for Youth after-care, the Family Court, State Department of Mental Hygiene, and the municipal hospitals for providing day treatment mental health services to youths needing such services while under supervision in the community.

(d) The School System.

It is absolutely essential that enriched, substantive remedial programs for the "acting out" child be created within the City school system. It is also essential that special efforts be made through such programs, or others, to reintegrate the court-related child within the school system through coordinated and cooperative efforts of designated staffs of the schools, probation service, DFY, and voluntary agencies having responsibilities over each case. Therefore, either through existing regulatory authority or by new legislation, the State Commissioner of Education should be empowered to impose requirements for the creation of such programs, to monitor their effectiveness and to enforce the schools' responsibility to cooperate and communicate with other agencies. Specific mechanisms for liaison and communication between the school system and these other treatment and service components should be created. These reforms will not only benefit the child but should provide enormous support to the schools'



efforts to educate and control the conduct of these youngsters while they are in attendance. The commissioner should also review the responsibilities of local school districts to provide educational services to youths who are in residential treatment, at centers or hospitals located within their geographic boundaries. The special programs within the schools for acting out children should emphasize the requirement of full day attendance and the possibility should be explored as to whether state aid should be made contingent upon such full day attendance. Regulations should also be imposed requiring notification to the appropriate service agency, whether probation, DFY or voluntary, before any youngster over whom such agency has responsibility is suspended or excluded from school. Treatment agencies should have ready access to the Commissioner of Education or the Family Court for any failure of the school system to provide appropriate programs or exercise its responsibility to cooperate.

(e) Family Court.

Until the Family Court of the City of New York has been given a fair opportunity to implement the OCA standards and goals for speedy disposition of cases, the Task Force does not recommend any mandatory creation of special

"felony parts" of the court to handle serious violent offenses. Likewise, the Task Force is not prepared at this time to recommend any changes in the present policy of the court with respect to the rotation of assignments of judges, but does recommend that the same judge who hears the initial phases of the case carry it through to final disposition. The Family Court clinic, however, should be fully reactivated and staffed. Also, new resources should be devoted to beefing up the prosecutorial capabilities of the Corporation Counsel's office through the joint efforts of the Mayor's Office, the Division of Criminal Justice Services and the Family Court. In this regard it would be desirable for the Corporation Counsel's office to be required to appear and participate at every stage of the proceeding where a serious violent offense is involved, starting with the drafting of a petition through disposition, similarly to the participation of the District Attorney's office in serious adult felony cases.

The Family Court itself is in need of continuous support and attention within the judicial system. If necessary, non-judicial staff from other courts should be transferred to insure that the experience of appearing in Family

Court proceedings, whether as a respondent, complainant or witness, is free from some of the frustration, confusion and delay now frequently complained of. Means should also be explored for freeing judicial time and resources to give more attention to juvenile proceedings. One of such means would be to reduce the number and length of court appearances in other less critical areas of the court's jurisdiction, such as support, violation of support orders and family offenses by expanded use of informal adjustment procedures now authorized under the Family Court Act.

(f) The Voluntary Agencies.

The executive branch should initiate negotiations between representatives of the voluntary agencies and the State Commissioner of Social Services, State Board of Social Welfare, the Division for Youth and the State Division of Probation leading to agreements on (1) specific programmatic responsibilities of the voluntary agencies for serving violence-prone youths; (2) guidelines for admission of such youths to voluntary agency programs; and (3) fair and reasonable rates for compensation for such care and services. The State Commissioner of Social Services should keep local commissioners of social services informed of the progress of these negotiations and actively seek their

cooperation and adherence to the agreements once achieved. These negotiations should not be limited to consideration of residential programs, but should include other treatment modalities for which the voluntary agencies have an actual or potential capability, for example, day treatment. The State Board of Social Welfare should monitor the responsiveness of the voluntary agencies in meeting the responsibilities they have undertaken under such agreements.

(g) Coordination of Federally Funded Programs.

The Executive should undertake to maximize the impact of federal funds available under the Safe Streets Act and the Juvenile Justice and Delinquency Prevention Act of 1974 by encouraging the Division of Criminal Justice Services and the Crime Control Planning Board to concentrate on major service components of the Juvenile Justice System - the Family Court and the Probation System - in allocating federal monies. It is hoped that such an approach would reduce the current program fragmentation in juvenile justice and substantially increase the cost-effectiveness of the State's efforts to address the problems related to serious juvenile crime.

(h) Coordination, Accountability and Planning.

A mechanism for coordinating and enforcing the

performance of the various service and treatment components of the juvenile justice system is absolutely necessary if the foregoing suggestions are to be effective. In the shortrun, this mechanism can be accomplished either through the creation of an ad hoc Cabinet level committee composed of the department heads of the Division for Youth, Department of Social Services, Division of Criminal Justice Services, Department of Mental Hygiene, Division of Probation and Department of Education, with the chairman to be designated by the Governor, or by activation of the inter-departmental committee of the Youth Commission presently provided for under Section 417 of the Executive Law. Among the immediate responsibilities of such committee would be to devise a uniform system for the keeping, using and safeguarding of records concerning juveniles committing seriously violent offenses (in consultation with the Office of Court Administration). A second immediate objective of the committee would be to devise a uniform system of classification of offenders, including the formulation of uniform evaluative criteria to be used by all service and treatment components of the system. Another major function would be the arbitration and resolution of disputes over

the responsibilities of respective agencies for particular youths and programs. Lastly, the committee should be given a monitoring and planning capability. The chairman of the committee should report and have ready access to the Governor and oversight of the committee should be provided, either through making the reports of its proceedings regularly available to the State Temporary Commission on Child Welfare or the appropriate legislative standing committees.

Suggested Alternative Structural Changes  
in the System

The following represent a summary and distillation of the major alternative suggestions for fundamental changes in the system which we have heard and merit further extensive study:

- (1) The creation of a new placement agency which would supplant the placement decision-making function of the Family Court and have regulatory authority to determine both placement and release from placement over both the public (DFY and DMH) and private agencies.
- (2) The expansion of the State Board of Social Welfare's regulatory authority over both public and voluntary sectors. The Board would perform the function of the monitoring of services including the creation of standards, both qualitative and quantitative, for testing the effectiveness of services, the identification



of service gaps and creation of new services to fill such gaps and the coordination of all components of the service system. The Board would continue to remain independent of the executive branch and would continue to have no funding control over components of the system.

- (3) The creation of a single new regulatory agency or commission having jurisdiction over all public and voluntary services for youths and their families. It would have no direct service or other operational responsibilities, but would perform the function of providing a single central intake for all forms of foster care or placement. Its regulatory functions would include funding all components of child services and care (which would eliminate the roles of both local commissioners of social services and State Department of Social Services), the licensing of the voluntary agencies, and monitoring and evaluating both public and private agencies. The new agency or commission would be part of the executive branch of government.

- (4) The reorganization of the entire present State system for childrens' services through the creation of a new State Commission for Children and Youth. This body would take over all the present childrens' services functions of local and State Probation, the Division for Youth and the Department of Social Services. It would

have regulatory authority over the voluntary agencies and other State departments now providing services to children and youth, by way of monitoring, evaluating, and acting as an ombudsman. It would also exercise the overall planning function.

FINAL REPORT OF TASK FORCE IV

Mrs. Trude Lash (Coordinator)  
Mr. Paul Strasburg (Coordinator)  
Mr. Milton Rector  
Hon. William Rigler  
Mr. David Rothenberg  
Hans Toch, Ph.D.  
Mr. Lloyd Sealy

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## FINAL REPORT OF TASK FORCE IV

Task Force IV was to examine current legislative plans and program approaches of other jurisdictions to public intervention concerning juvenile violence.

Members of the Task Force agreed that before proceeding with their task, they would have to define the basis on which they either chose or rejected programs, and urged support or opposition to various legislative measures.

Since other Task Forces were charged with the definition of "juvenile violence," the scope and dimension of the problem in New York State, the classification of "violent juveniles" and the relationships of the various agencies -- public and private -- that share responsibilities for violent juveniles, Task Force IV limited itself to an attempt to secure consensus of its members on those problems and issues which would be decisive in its choice of approaches, programs, and systems it would recommend to the Task Force as a whole and to the Governor for closer study.

### I. "WAIVERS"

Members of the Task Force did not consider the waiver concept (whereby certain juvenile offenders are transferred from the jurisdiction of the Family Court to the adult criminal justice system) applicable to New York State, since Family Court jurisdiction stops at age 16. In most states which provide for waiver procedures Family Court jurisdiction extends to age 18, and waiver is not permitted for juveniles under 16 years.

## II. JUVENILE VIOLENCE

The Task Force studied the model sentencing act proposed by the National Council on Crime and Delinquency and the proposed revisions in that model which is being adapted to the juvenile court process. There was agreement that "violence proneness" and previous arrests should not be admitted in the determination of what constituted a violent delinquent but that a certain number of previous adjudications for particular "violent" offenses should be considered in the dispositional phases of violent cases. None of the members questioned the proposition that definite, proportionate sentencing and mandatory parole supervision seemed appropriate in certain limited, narrowly defined juvenile cases.

## III. SECURE FACILITIES

While agreeing that a certain number of secure places would be necessary (probably more than are available now in the program of the State Youth Division though no exact number was ever mentioned) there was insistence that a program answering the needs of the child would have to be small, provide built-in mental health services; and a full educational and training curriculum.

The Task Force members agreed, however, that in planning for institutional facilities the following points should be kept in mind:

- that the numbers of juveniles actually needing the institutional setting of the training school is small;
- that the numbers of so-called violent juveniles requiring special dispositional attention and protected public supervision is small; and

- that no strategy to implement a special dispositional approach should modify the judicial role in considering individual circumstances and their adjudicatory process.

### III. Large Institutions Phased Out

While it was acknowledged that the State Youth Division has already closed several training schools and decreased the capacity of others, it was recommended that this process continue and be accelerated. This need for "de-institutionalization" will have to be faced as well by voluntary agencies caring for juvenile delinquents and PINS.

### IV. Status Offenders

Only some members felt that the PINS classification should be eliminated; all agreed that certain changes would be necessary and that no PINS should be placed in training schools. (At present, while not placed together with delinquents, they are placed in Title III facilities of the State Youth Division.) At the same time it was recommended that the Title II programs of the State Youth Division -- not only the residential camps, foster homes and group homes -- but the non-residential community-based programs as well should be expanded for juvenile delinquents as well as PINS -- but primarily for PINS.

### V. A Dispositional Panel and Co-ordinating Agency.

There was agreement that New York State does not have a comprehensive system for the care of children who need public interven-



tion. Not even those children who reach the juvenile justice system - or perhaps especially those children - are assured of service according to their needs. More than half of the children who arrive at the court are "adjusted" by probation intake. Little is known about how they fare unless they reappear at court. This is true as well for children who are discharged or dismissed by the judge, placed on probation or placed with various public officials and public and private agencies. Availability of beds seems a more decisive factor than the needs of the child. The only definite facts seem to be that those children no one else will accept are placed with the State Youth Division and program planning for the Division becomes extremely difficult; that there is little or no coordination between departments responsible for certain groups of children and that children often fall between cracks and are not helped. The task force felt that certain aspects of the Court's dispositional role such as the type of placement facility, length of institutional stay and alternate forms of supervised, non-institutional placement following adjudication might be delegated to a panel or agency which would have to be given authority and appropriate staff to make treatment decisions. It was understood that in order to enforce cooperation between the various departments and agencies - both public and private - a top level agency would be needed.

The Task Force had thus established a consensus on informal guidelines for the examination of approaches and programs in other states and jurisdictions that might prove helpful to New York State and which in any case should be closely observed.

From the large number studied (see Materials Reviewed by Task Force IV - Appendix 1) four were selected for brief presentation in this report.

- I. The Massachusetts Intensive Care Program, which tries to provide continuity of care in small settings for the violent delinquent.
- II. The California Probation Subsidy Program, which tries to reduce commitment to state institutions and encourage small group treatment in community-based situations.
- III. The Connecticut Department of Children and Youth Services, which tries to "break down .... barriers between mental health, welfare and juvenile corrections ...."
- IV. Elan (Maine), a program for hard-core delinquents.

Not enough is known about any of the programs: The Connecticut program is to start January 1, 1976; the ability to rehabilitate by either the California or the Maine program has not been reliably evaluated. While Paul Strasberg's reports (Connecticut, Massachusetts, and Elan (Maine) are based on personal visits, the account of the California Probation Subsidy Program relies entirely on agency reports. Still, the departures from conventional practice in all four approaches deserve close attention.

## I. The Massachusetts System

In 1972 the Massachusetts Department of Youth Services - after strenuous, but unsuccessful attempts to reform them, decided to close its network of training schools and substitute community-based care for children in trouble with the law. The most difficult political and practical problems it faced was what to do with violent and seriously acting-out delinquents. The issues of control, treatment and continuity were thrown into sharp relief by the abrupt dismantling of the existing structure. Finding a workable solution to the problem proved extremely difficult and the approach and concepts finally adopted, are instructive.

Perhaps the most innovative and controversial feature of the Massachusetts experiment is the concept that there would be a predetermined limit to the number of delinquents admitted to secure care facilities (or, as they are called in Massachusetts, "intensive care" facilities). This concept stems from a conviction that too many delinquents are unnecessarily labelled unmanageable. It explicitly prefers an arbitrary limitation on the size of the group so labelled to an arbitrary expansion of it. The goal is to have 96 intensive care beds available throughout the state, allocated on a regional basis. In theory, if the intensive care program reaches maximum enrollment, some current resident will have to be relocated to another form of care before a new resident can be admitted. Selection criteria for the program stress preference for the most seriously disturbed delinquents.

As of July 1975, the number of intensive care placements still exceeded the target ceiling. There were 110 delinquents in IC facilities, 18.6 percent of the total residential delinquent population and 10 percent of all youth receiving services from DYS.<sup>1/</sup>

Intensive care is currently provided in six separate facilities, three of which are public institutions, and three private - operating under contracts with DYS. The common characteristics of these facilities are that they are secure, in the sense that it is difficult for residents to leave without permission, though not all are necessarily locked; they are small, the largest housing 24 and the smallest, 12; and they generally include delinquents of both sexes (one that stresses physical accomplishment has males only).

All intensive care facilities have a rehabilitation orientation, but the orientation, and the corresponding program, varies. One uses milieu therapy. Another emphasizes physical challenge on the Outward Bound model. Others stress education, cultural enrichment, vocational training, and individual and family therapy. In this way, the IC network seeks to provide rehabilitative treatment tailored to the particular needs of each juvenile.

Another key feature of the Massachusetts system is the concept of an intensive care team whose principal role is case management. The team is made up of representatives from each region and from the central office of DYS. The entire team is responsible for

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<sup>1/</sup> "Quarterly Report of the DYS Project, Center for Criminal Justice, Harvard Law School, July 1975, p. 1.

monitoring the IC facilities, advising the regional programs on policy and program development, controlling intake to the facilities by deciding who is to be admitted and who is not, and assisting the regional offices in finding alternative placements for youth not accepted for admission to IC facilities. In addition, it is the responsibility of individual members of the IC team and DYS staff in the corresponding regional offices to develop follow-up plans for each juvenile released from an IC facility, and to assure that the plans are implemented.

The IC team is thus an administrative device to avoid the twin problems of unaccountability and discontinuity that seem to plague programs dealing with violent delinquents. Responsibility is lodged with the IC team, not only to see that juveniles get placed, but to assure that they are appropriately placed and that placement is followed with effective aftercare.

Intensive care is at one end of the treatment spectrum in Massachusetts, but only in the sense that it provides a comparatively secure treatment setting. There are other non-secure treatment programs for delinquents not deemed to require the level of control available in IC units. Programming on a regional and statewide basis permits residents of IC facilities to be released to non-secure residential treatment programs when they are ready, or to day treatment programs or individual supervision, as appropriate.

The IC program has been in development for over a year but functioning with a full array of programs under the supervision

of the intensive care team for only seven months. Consequently, it is too soon to evaluate its impact on program residents or on violent delinquency generally. Preliminary experience suggests that it will not be used exclusively or even predominantly for juveniles who act out violently. The variables that correlate most significantly with placement in intensive care, in addition to the nature of the offense, are a previous history of running away, family and social history, and the commission of auto theft.<sup>1/</sup> According to the Assistant Commissioner of Clinical Services in DYS, more delinquents charged with crimes against the person go to community-based facilities than to IC facilities.<sup>2/</sup> This is consistent with a widely held view that many violent delinquents do not need to be held in secure facilities but can be treated appropriately and effectively in community settings.

Preliminary results of a longitudinal study by the Harvard Center for Criminal Justice show that youths released from intensive care directly into the community fare less well, in terms of recidivism, than those who are released first to some other program offering an intermediate level of care.<sup>3/</sup>

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- <sup>1/</sup> Interview with Robert Coates, Harvard Center for Criminal Justice, July 14, 1975  
<sup>2/</sup> Interview with Ed Budelmann, July 14, 1975  
<sup>3/</sup> Telephone Interview with Robert Coates, September 22, 1975



### III. The California Probation Subsidy Program<sup>1/</sup>

The California Probation Subsidy Program for adult and juvenile offenders was initiated in 1966-67 "to provide state funds to counties for the development of intensive supervision programs. These funds are disbursed to probation departments according to their level of commitment reduction to state institutions based on past commitment performance levels."

Four original program goals were established:

- (1) to increase the protection afforded the citizens of the state
- (2) to permit a more even administration of justice
- (3) to rehabilitate offenders
- (4) To reduce the necessity for commitment of persons to state correctional facilities.

#### Program Mechanics

Participation is voluntary. Counties earn funds under a formula which creates an incentive to reduce commitments to state institutions. From a base period an "expected number of commitments" is generated for the fiscal year and should the county commit fewer offenders to state institutions it receives anywhere from \$2,030 to \$4,000 per case with the larger amounts taking effect as counties increase their reduction percentage. Counties with lower bases need a smaller reduction to reach the 4,000 per case rate.

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<sup>1/</sup> Staff report based on Progress Reports 1 and 2.

The Youth Authority is responsible for administering the program and enforces standards approved by the Board of Corrections including the following:

- The average monthly work load of a deputy probation officer is to be "substantially below" the absolute maximum of 50 active supervision cases. (During the first eight years of the program the statewide average was approximately 30 cases per officer.)
- The maximum number of deputy probation officers supervised by the full time supervisor shall not exceed six deputies. (Experience showed the statewide average to be 5.9 deputies per supervisor.)
- Probation departments are required to include in their system a process of diagnosis and treatment prescription based on the needs of individual probationers.

Each program must submit an annual budget and Program to the Department of the Youth Authority which monitors and inspects all programs. Programs are also audited each year by the State Controller's office. Various new local programs for the treatment of offenders have been developed with funds from the subsidy program and other special appropriations.

Participation has increased steadily from 31 counties in 1966 to 47 in 1973. Earnings by counties increased from \$5.7 million to \$22.1 million reflecting a growth in reduced commitments from 1393 to 5449.

Comparison of years under the program to the base period (5

year average 1959-63) indicated a decrease in the range of county commitment rates (commitments/100,00 population) from 98 to 55.

while  
~~While~~ Critics of the program maintain that/the reduction in the number of/<sup>state</sup> commitments has unquestionably been accomplished, commitment rates to county jails have increased. Available trend tables do not indicate such increases (see Appendix for tables).

The measures employed for analysis of program performance were in many cases superficial. For example probation supervision is measured by number of contacts and phone calls between probation officers and clients. The computation of recidivism rates was done only during a twelve-month period and was complicated by peculiarities of the juvenile justice system. In sum, nothing can be reliably concluded concerning the rehabilitation of offenders.

However, several favorable conclusions can be drawn at this time concerning the program.

- Construction of new state prison facilities has been halted.
- Case load size has been reduced to about 30 per probation officer in participating counties.
- New programs for probation and supervision have been developed focusing on individual or small group treatment in community based situations.

-- Economies have been achieved as the cost of maintaining an incarcerated offender is believed to be significantly higher than the maximum \$4,000 award granted for a foregone commitment.

However, the all important question about the rehabilitation of offenders remains unanswered: while the rehabilitation of offenders is discussed, particularly in the second report, results are admittedly inconclusive.

### III. Connecticut Department of Children and Youth Services

In legislation to take effect January 1, 1976, the state of Connecticut has transferred all mental health services and facilities for children and adolescents from the Department of Mental Health to the Department of Children and Youth Services (DCYS). Prior to this legislation, DCYS had responsibility for care of children who were delinquent or who were status offenders placed by the juvenile court. It operated one juvenile facility (Long Land School) and some group homes, but was dependent on the Department of Mental Health for psychiatric and related services for these children. The purpose of the transfer was to assure better mental health care for these children as well as other dependent, neglected, mentally ill or emotionally disturbed children.

According to the report of the Commission which recommended this legislation, its purpose is also to create a new department "important enough in the structure of state government to insure that children's services have parity with other human services in the state" and to "break down the previously existing and inappropriate barriers between mental health, welfare and juvenile corrections that in the past have repeatedly victimized rather than helped children."

The critical elements of the new system include the following:

- a single point of entry for all children and their families, whether voluntary or court-referred;
- a single, centralized funding source for all services provided to children, whatever their needs, ranging from hospitalization to special education and even vocational training;

- continuity of case management for each client, regardless of the changing nature of service needs;
- access for each client to all services provided by the Department, regardless of the specific need which first brought the child and his or her family into the system.

In addition, the legislation calls for citizen participation in the development and review of the department's operations and a regionalized structure of administration.

#### IV. ELAN (Maine)

Among programs that are willing to take hard-core delinquents with records of violence, one stands out for its eagerness to do so, the Elan program in Maine. It excludes only psychotics and the most extreme psychopaths who present an immediate danger to others in the program. It takes many violent, disturbed children, however, including drug addicts, homicides, rapists, potential suicides, children with long assault and robbery records, even arsonists. Elan does not expel residents, and when one runs away, staff will bring him back.

Elan is relatively isolated; residents live in 25-bed houses located on three "campuses" in rural Maine. Like many milieu therapy programs, its staff consists primarily of paraprofessionals, mostly graduates of the program. Unlike some milieu therapy programs however, paraprofessional residential staff are backed up by, and relate closely to, a professional group that includes a psychiatrist (one of the co-founders), psychologist, physician, registered nurse, and 23 teachers (some of whom are also paraprofessionals).

Elan's program consists essentially of work, therapy, and education. The residents are almost completely responsible for the management and maintenance of the program.

The highly stratified organizational structure of the residential units resembles the army. New residents begin at the bottom of the organization, taking on the more menial maintenance tasks. Advanced residents are responsible at all times for supervising and training newcomers in their assignments.



Motivation and control are managed by an extensive system of rewards (promotions, recreation time, occasional passes to visit home and other privileges) and "consequences" (demotions, public denunciations, loss of privileges, controlled encounters in therapeutic groups). Three cardinal rules ban sex, physical violence and drugs. But when these rules are broken, as they not infrequently are, the offender is not banished as he might be elsewhere but is subjected to the negative "consequences" built into the program.

The approximately 200 residents share one common characteristic: their failure in other treatment or correctional programs. In other respects they are a diverse group. Approximately 60 percent come from "middle-class" families, who pay. (The cost of the program is \$1,200 per month.) The other 40 percent are wards of the state for one reason or another -- usually their delinquent behavior. Referrals come from ten to twelve states. Residents range in age from 14 to about 28.

Elan has recently been embroiled in controversy. A review team from the Illinois Department of Children and Family Services visited Elan in July to evaluate the program. The team reacted so negatively to what it saw -- charging "inhumane" treatment of children, brain-washing, forced labor, and physical abuse -- that it immediately removed the eleven Illinois children in the program and took them home.<sup>1/</sup> (On the way home, three escaped and ran back to Elan.) The Governor of Maine ordered an investigation, and Massachusetts, Connecticut and Rhode Island sent investigating

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<sup>1/</sup> "Evaluation Report: Elan I Corporation," Illinois Department of Children and Family Services, July 22-23, 1975 (mimeo).

teams as well. In the end, the four states gave their endorsement to the program; Massachusetts temporarily withheld its endorsement and froze intake but has since reinstated referrals to Elan.

Though the Illinois allegations have been refuted, strong defenders of children's rights have serious objections to the program. Elan staff on the other hand maintain that in dealing with highly disturbed, manipulative children, the full range of adult rights cannot apply. Total control is crucial to effective therapy for this group in order to screen out reinforcements of negative behavior.

While a thorough follow-up of participants has not yet been done, Elan staff claim a retention rate of 90 percent, and a recidivism rate (measured by any subsequent contact with "authorities") of 20 percent. Caution must be exercised until a reliable evaluation of the progress of graduates is done.

Materials reviewed by Task Force IV

- The Children of the State (Interim Report, May, 1975, NYS Temporary Commission on Child Welfare)
- "Juvenile Justice & Delinquency Prevention Act of 1974" and Preliminary Report of the Subcommittee to Investigate Juvenile Delinquency (1971-1975) dated April 1975 entitled "Our Nation's Schools--A Report Card: "A" in School Violence and Vandalism". were furnished by Senator Birch Bayh
- "Radical Correctional Reform: A Case Study of the Massachusetts Youth Correctional System" by Lloyd E. Ohlin et al. (Harvard Educational Review, Vol. 44, No. 1) February, 1974
- "Juvenile Offender Programs and Delinquency Prevention" by Stevens H. Clarke. (Crime and Delinquency Literature) September, 1974
- "The Ego and the Integration of Violence in Homicidal Youth" by Charles H. King (American Journal of Orthopsychiatry) January, 1975
- "Toward a New Criminology" by Eugene Dolleschal and Norma Klapmuts (Crime and Delinquency Literature) December, 1973. Provided by Mr. Dolleschal at the Information Center of the National Council on Crime and Delinquency
- "The Dilemma of Punishment and Rehabilitation" by Allen F. Breed, Director of the California Youth Authority. (Youth Authority Quarterly, Vol. 27, #3) Fall, 1974
- "The Defective Delinquent Statute-Article 31B of the Annotated Code of the Public General Laws of Maryland" (1968 Cumulative Supplement)
- "The Evaluation of Prison Treatment and Preventive Detention Programs: Some Problems Faced by the Patuxent Institutions" by Nathan T. Sidley, M.D. [Bulletin of American Academy of Psychiatry & Law, Vol. 2 (2)] June, 1974
- "The Maryland Defective Delinquency Law: An Eight Year Follow-Up" by Harold M. Boslow, M.D. and Werner A. Kohlmeier, M.D. (American Journal of Psychiatry, Vol. 120, #2) August, 1963
- "The Indeterminate Sentence and Judicial Bias" by Leonard Cargan and Mary A. Coates. (Crime and Delinquency) April, 1974
- "The Indeterminate Sentence at Patuxent" by Francis L. Carney (Crime and Delinquency) April, 1974

The following <sup>reports</sup> items furnished by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration:

--"Diversion from the Juvenile Justice System" (Monograph--California)

--"Prosecution in the Juvenile Courts--Guidelines for the Future"  
(Monograph--Massachusetts)

--"Children in Custody" A Report on the Juvenile Detention and  
Correctional Facility Census of 1971

--"The Philadelphia Neighborhood Youth Resources Center--  
An Exemplary Project"

--"Providence Educational Center--An Exemplary Project"

--"Model Sentencing Act"

"Guides for Sentencing"

Items provided by Mr. Milton Rector, President, National Council  
on Crime & Delinquency

--"Juvenile Delinquency: A Study of Juvenile Codes in the U.S."  
(A Study from the National Assessment of Juvenile Corrections)

--"Closing Correctional Institutions"

--Introduction

--Chap. 1: "The Politics of Change: Correctional Reform"

--Chap. 2: "The Creation of a New Network of Services  
for Troublesome Youth"

--Chap. 14: "Closing Massachusetts' Institutions: A  
Case Study"

--Articles of the California Code

--Bibliographies:

a) National Council on Crime and Delinquency

b) Abstracts/Office of Children Services of  
the State Division of Criminal Justice Services

c) Lieutenant Governor's Office

Materials related to 1975 legislative proposals:

- A summary of recent New York State legislative and administrative developments which was incorporated in the final report on violent mentally disabled youth recently submitted to Commissioner Lawrence C. Kolb, New York State Department of Mental Hygiene.
- Memorandum of disapproval concerning Senate Bill 21,031 A (reprint). This legislative proposal is mentioned in the above summary. The Governor's veto message refers to a number of other proposals that were approved following the 1975 Session.
- The following items which were provided at our request by the State Office of Court Administration, Honorable Richard J. Bartlett, State Administrative Judge include:
  - Statement of Position and Recommendations by Family Court Advisory and Rules Committee on Legislation Authorizing Waiver of Family Court Jurisdiction, or Lowering the Upper Age Limit for Juvenile Delinquency Adjudication, for Certain Juveniles;
  - Statement of Position by The Office of Court Administration on Legislation Authorizing Waiver of Family Court Jurisdiction, or Lowering the Upper Age Limit for Juvenile Delinquency Adjudication, for Certain Juveniles;
  - Memorandum in opposition to S.6770 - Senator Marino, et al. A.7832-A - Mr. Gottfried, et al. (Senate Reprint 21,031-A)
  - Memorandum in support of S.6769 - Senator Marino, et al. (Senate Reprint 21028) A.8050-A - Assemblyman DelliBovi, et al.
  - Memorandum in support of A.7829-A - Mr. Lentol, et al.
- Legislative memorandum prepared by the Community Service Society of New York in connection with Senate 21,028 and Senate 21,031-A.

TABLE 10

Appendix 2.

CALIFORNIA COUNTY JAIL POPULATION AS  
OF ONE MIDWEEK DAY IN SEPTEMBER\*

Year	Total	Unsentenced	Sentenced	Percent Sentenced	Percent Unsentenced
1965	24,091	7,890	16,201	67.2	32.8
1966	21,794	7,460	14,334	65.8	34.2
1967	21,785	7,875	13,910	63.9	36.1
1968	24,974	9,617	15,357	61.5	38.5
1969	25,471	11,000	14,471	56.8	43.2
1970	26,035	10,205	15,830	60.8	39.2
1971	25,500	11,000	14,500	56.9	43.1
1972	24,924	10,794	14,130	56.7	43.3

\*Crime and Delinquency in California, individual reports for the years 1965-71. Data for 1972 appears in Crimes and Arrests Reference Tables, 1972, page 91.

The total population of juvenile homes, ranches, and camps in California, as shown in Table 11, peaked at 2,992 in 1968-69. In 1972-73, this number declined to 2,612, a decrease of 13 percent, even though California's juvenile population continued to increase during this period. Many juvenile halls are now below capacity.

TABLE 11

AVERAGE DAILY POPULATION IN CALIFORNIA  
COUNTY YOUTH CAMPS AND SCHOOLS  
1965-66 through 1972-73\*

Year	Average Daily Population
1965-66	2,669
1966-67	2,648
1967-68	2,817
1968-69	2,992
1969-70	2,787
1970-71	2,740
1971-72	2,446
1972-73	2,612

\*Statistical Facts on the California Youth Authority, November, 1973, p. 15

END