

ESTABLISHING AN OPERATIONAL DEFINITION
OF JUVENILE DELINQUENCY

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I. Introduction.

The definition of juvenile delinquency historically has been problematic. Disagreements concerning the conceptualization and measurement of delinquent behavior have made estimates of its prevalence, as well as comparisons among estimates, difficult. Many of the problems stem from variations in statutes and in the treatment of juvenile offenders from jurisdiction to jurisdiction. Many referrals to the juvenile justice system are handled informally, with police and juvenile court mechanisms often favoring the advantaged [1]. In addition, the use of the term "juvenile delinquency" as a catch-all has caused considerable confusion. "Granted that we need some catch-all term to use in discussing a problem area," a report of the Institute for Juvenile Research states, "we must recognize that the term juvenile delinquency is indeed such a catch-all, and it should not be taken seriously as an operative principle." [2]

These difficulties notwithstanding, the development of an operational definition of delinquency is critical to the conduct and usefulness of juvenile justice research. [3] The need for a research-oriented

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definition became apparent to the authors when the Creighton Institute for Business, Law and Social Research (the Creighton Institute) was awarded a grant to take part in a project designed to investigate the relationship between juvenile delinquency and specific learning disabilities.[4] It became necessary to explore various approaches to classifying participants in the research either as delinquents or as non-delinquents. This paper documents our approach to the operational definition of juvenile delinquency, undertaken in the context of a complex research effort. It is our hope that the analysis presented, as well as the constraints identified in implementing the definition, will prove to be useful to other juvenile justice investigations.

A. Background of the Learning Disabilities/Juvenile Delinquency Study:

During recent years, increasing attention has been paid to the possibility of a relationship between specific learning disabilities (LD) and juvenile delinquency. If LD is causally related to juvenile delinquency and can be successfully remediated, then special educational programs could play a role in delinquency prevention. Because of the apparent lack of empirical evidence on this issue, the National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP)[5] commissioned a survey by the American Institutes for Research (AIR) to summarize the available data, and to determine whether they provide sufficient justification for funding preventative educational programs.[6]

The AIR report concluded that the existing evidence concerning a link between LD and juvenile delinquency was inconclusive at best, and

that the issue was worthy of more systematic investigation.[7] The report recommended that carefully controlled research be conducted to determine the prevalence of LD among several basic populations, including the juvenile offender and the non-delinquent. The report also recommended the funding of a demonstration project to assess the effects of a remedial educational program on a sample of learning-disabled juvenile delinquents.

In response to these conclusions and recommendations, NIJJDP funded a two-year research and demonstration program in October, 1976 to investigate systematically the extent of the relationship between LD and juvenile delinquency. The program addresses both of AIR's recommendations for further research. It is being conducted by two grantees; the national Association for Children with Learning Disabilities (ACLD), and the Creighton Institute. The ultimate goal of the program is to provide a reliable body of factual information upon which informed policy decisions can be made with respect to LD and delinquency prevention.

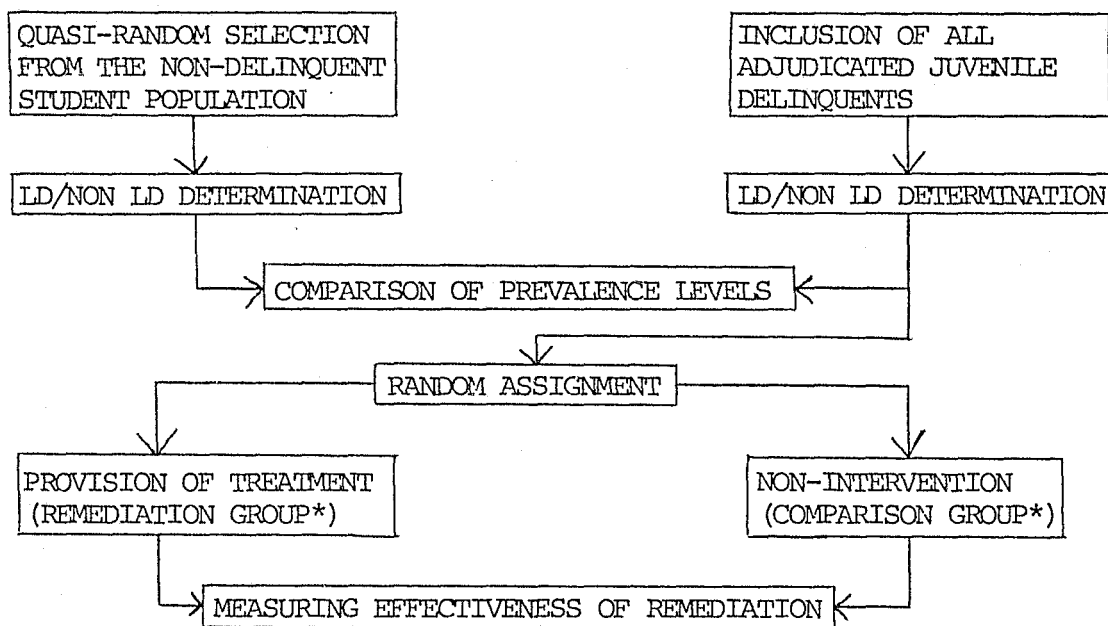
The research and demonstration program has three major components, which overlap in their schedules and in the activities involved in their implementation. The initial component is a determination of the prevalence of LD in delinquent and non-delinquent populations.[8] The second is a remediation (treatment) program for selected groups of delinquents who have been identified as learning disabled in the prevalence study. The final component is an evaluation of the effectiveness of the remediation program. The prevalence study and the evaluation are the responsibility

of the Creighton Institute, while the remediation program is being conducted by ACLD.[9] The data for the prevalence study have been gathered and the remediation program is underway. The study is being conducted in Maricopa County (Phoenix), Arizona; Marion and Madison Counties (Indianapolis and Anderson), Indiana; and the City of Baltimore, Maryland.[10]

Figure 1 illustrates the basic study design. The prevalence study sampled delinquent males between the ages of 12 and 15 and non-delinquent male public school students in the same age group.[11] The ID/non ID determinations were made on the basis of psycho-educational diagnostic assessments which were conducted by Educational Testing Service.[12]

A sample of delinquents who were judged to be ID were randomly assigned to remediation and comparison groups.[13] In addition to any regular educational programs in which they are involved youths in the remediation group are receiving intensive, individually planned instruction that is designed to ameliorate the effects of their particular disabilities. The comparison groups are receiving whatever educational services that are normally available to them. The final evaluation, currently scheduled to be completed in Fall, 1978, will measure the change in educational achievement resulting from a program designed to counter the effects of ID, and the impact of remediation on subsequent delinquent behavior.[14]

FIGURE 1
STUDY DESIGN



*Sample sizes for remediation and comparison groups depend on prevalence rates and sizes of the adjudicated populations at the study sites.

B. Alternative Approaches to Defining Juvenile Delinquent:

One focus of the study is the assessment of the effects of remediation on institutionalized adjudicated delinquents, and on youths who had been placed on probation by a juvenile court. Another is the estimation of the prevalence of LD in a population of youths who have no official record of delinquent behavior, but who might report some level of involvement in such behavior (so-called "hidden" delinquents). A critical issue, therefore, was the criteria by which a youth would be categorized either as delinquent or as non-delinquent.

A two-step analysis of the situation was undertaken. The initial step in the analysis examined alternative approaches to defining delinquency and concluded that legal criteria, rather than behavioral, should be the primary basis for classifying participants. The second step identified and analyzed various points of penetration into the juvenile justice system to determine the degree of involvement considered to be the most feasible for this study.

A purely behavioral definition of juvenile delinquent would have encompassed youths who have been formally involved with the juvenile justice system, as well as those who have not, and would recognize the behavioral continuum that exists between the categorizations of "delinquent" and "non-delinquent." This approach also would have been most likely to result in consistency among groups across the three states, although it would have involved many somewhat arbitrary judgments. Such

an approach was not feasible in the present study, however, because the nature of the study design demanded that youths be categorized as delinquent or non-delinquent before their diagnostic assessment. It was decided, therefore, that behavioral indicators would not be suitable for assigning participants to groups within the study. Nevertheless, for the purpose of evaluating the effectiveness of the remediation program, behavioral (i.e., self-reported) measures of delinquent behavior were taken. The self-report measures were designed to be as consistent as possible with legal categorizations of juvenile offenses.[15]

The decision to use legal criteria to determine whether a particular youth is delinquent is consistent with previous studies of delinquent behavior. Gaier and Samacki reported that, "[w]hile a commonly accepted definition of delinquency is lacking, age and the illegal nature of the offense remain salient criteria for labeling a juvenile as delinquent." [16] Wirt and Briggs also suggested the use of a legal definition:[17]

The term delinquency is, after all, a legal term. We believe, therefore, that the most sensible, useful, and independent definition of the behavior to which the word refers should maintain a focus upon the legal sense of its meaning, while recognizing the broader social and psychological variables involved.

Each point of penetration into the juvenile justice system was analyzed according to four criteria. First, the point must be common to, and clearly identifiable in court system records of all three sites. Records of police contacts and informal referrals to the court, for example, are maintained inconsistently from site to site. Second,

the point must not be so far into the system that it sharply limits the potential sample size. This concern is germane to the report of the President's Commission on Law Enforcement and Administration of Justice[18], and the Juvenile Justice and Delinquency Prevention Act of 1974, which emphasize policies and programs that minimize young persons' contact with the juvenile justice system. Third, the point of penetration must be far enough into the system that court resistance to the release of youth's names (directory information) for purposes of obtaining informed consent is alleviated. The juvenile court judges who are cooperating with the study refused to release the names of youths who had only informal contact with their courts. Finally, the point of penetration must be such that it is clear that the youth manifested delinquent behavior on at least one occasion.

II. Development of an Operational Definition.

After considering the various factors, the primary criterion chosen for the operational definition was official adjudication by a juvenile court. At each site, youth either are formally adjudicated by a juvenile court, or they are not. This criterion excludes youths who are transferred to general criminal court jurisdiction. Adjudication is a clearly identifiable point of penetration into the juvenile court system. No other event can be identified with as much certainty through court system records. It minimizes the number of value judgments involved in the definitional process. Although the potential sample

size is reduced considerably by the use of formal adjudication, the degree of consistency achieved within and among sites outweighs this disadvantage.[19] Different criteria among the sites regarding the appropriateness of diversion reduces the consistency resulting from formal adjudication, but it is still the most reliable alternative.[20]

The labels resulting from formal adjudication vary from state to state. For example, youth may be adjudicated as "incorrigible" or "child in need of supervision," in addition to "delinquent". Status labels, in contrast to the behavior they encompass, may easily be identified and compared. Courts may apply these labels to a broad and overlapping range of behavior.

One disposition common to all three study sites is adjudication as a delinquent. In a relative sense, juveniles who are adjudicated as delinquents have generally demonstrated the most serious antisocial behavior among those under the jurisdiction of the juvenile court system.[21] Adjudication as a delinquent for a felony would be an even more rigorous criterion; however, narrowing the definition this greatly would reduce a sample which has already been decreased because of the nature and extent of diversion programs that minimize penetration into the system.

A. State Labels:

To provide a background for the other elements of the definition, the relevant adjudicatory alternatives for the specified age group are

examined for the states in which the study sites are located, in order to identify commonalities among them.[22]

Arizona:[23]

A delinquent child is one who has committed a "delinquent act".[24] A delinquent act is defined as an act which, if committed by an adult, would constitute a public offense, and "any act which would constitute a public offense which could only be committed by a child or by a minor, including . . . failure to obey any lawful order of juvenile court".[25] Thus, the label of delinquency can be attached to non-status and criminal status offenders in Arizona. The statutes and case law grant a juvenile judge a broad range of factually-based discretion in deciding which label to use.[26]

A second relevant label which also requires adjudication is "in-correctible child".[27] This status encompasses the commission of non-criminal status offenses. A child is "incorrigible" who:[28]

does not obey the reasonable orders of parent or other custodial party, and is beyond control of the same or is habitually truant, runaway or manifests conduct which is harmful to the health or morals of self or another.

Arizona juvenile court judges may treat offenders under the age of eighteen as juvenile offenders rather than adults, regardless of the nature of the offense.[29] This is within the court's discretion.[30]

Indiana: [31]

Indiana has a single relevant category, that of "delinquent child". [32]
A child is delinquent if he commits an act which, if committed by an adult, would be a crime, except for certain traffic violations. A child may also be adjudicated a delinquent if his behavior falls within one of the following categories: [33]

it is incorrigible; or

ungovernable ("habitually disobedient and beyond the control of his parent, guardian or other custodian"); or

is habitually truant; or

the youth is a curfew violator under age thirteen.

Thus, the Indiana label of adjudicated delinquent encompasses both status and non-status offenses, a broader range of behavior than in Arizona and Maryland.

The juvenile court also may waive jurisdiction and transfer a child to adult criminal jurisdiction if the youth is at least fourteen years old and, within the discretion of the court, is considered "beyond rehabilitation" or a danger to public safety. This may occur when: [34]

the offense is heinous or of an aggravated character (greater weight is placed upon crimes against persons than against property); or

there have been repeated offenses (even though less serious); or

the child is 16 or older and the crime was one of the following: second degree murder, voluntary manslaughter, kidnapping, rape, malicious mayhem, felony while armed, inflicting injury while committing a felony, first degree burglary, robbery, aggravated assault or battery.

Maryland: [35]

In Maryland, "delinquent" is one of two relevant terms which describe youths whose behavior is subject to formal adjudication. The other relevant term is "child in need of supervision".[36] A "delinquent child" is a person under the age of 18 years who has "committed a delinquent act and requires guidance, treatment or rehabilitation".[37] A "delinquent act" is an act which would be criminal were it committed by an adult.[38] The phrase "requires guidance, treatment or rehabilitation" allows a range of judicial discretion as to whether the act is of sufficient gravity to warrant adjudication as a delinquent child.[39] Thus, the label "delinquent child" describes only non-status juvenile offenders who have manifested severe antisocial behavior.[40]

The youth adjudicated a "child in need of supervision" is one in need of (again discretionary) "guidance, treatment or rehabilitation" because he or she: [41]

is habitually truant; or

is habitually disobedient, ungovernable,
and beyond the control of the person
having custody without substantial
fault on the part of the person; or

engages in conduct which endangers
another or himself; or

has committed a status offense.

Certain conduct becomes subject to adult criminal jurisdiction, and is excluded from juvenile court jurisdiction, when the offense is very serious or other relevant criteria are in evidence.[42] The juvenile court will transfer the case to adult jurisdiction when a child over fourteen is alleged to have committed a capitol offense, or when a youth over sixteen is accused of armed robbery. The juvenile court also is precluded from jurisdiction over offenses involving a motor vehicle or boat. Since the minimum criterion of adjudication under juvenile court jurisdiction was adopted, none of these youth are considered juvenile delinquents for the purpose of the study.

B. Operational Definition of Juvenile Delinquency:

Synthesizing the statutes, an operational definition of "juvenile delinquency" which approaches uniformity across the three states would be one which encompasses only adjudications of delinquency on the basis of non-status offenses. This definition would incorporate a legal definition and a behavioral term, a desired refinement. As previously indicated, however, adoption of that definition would have decreased the size of a sample that already was small. It also could have reduced the generalizability of the study findings, since most youths who commit delinquent acts are not formally adjudicated, let alone for non-status offenses.[43] The most common infraction for which youths are referred to the juvenile justice system is status offenses.[44]

A somewhat broader definition is needed to maximize sample size and retain some behavioral consistency. Therefore, the definition cannot make a distinction on the basis of status or non-status offenses. The most reliable and useful definition of juvenile delinquent for each of the three sites is as follows:

Arizona: Child adjudicated a "delinquent child" or "incorrigible".

Indiana: Child adjudicated a "delinquent child".

Maryland: Child adjudicated a "delinquent child" or "child in need of supervision".

In addition to representing an extensive range of behavior [45], youths in these statuses are not all subject to the same dispositions by the courts at the study sites.[46] All of the youths in these categories can be placed on probation, but not all can be institutionalized.[47] Only if the sample were limited to non-status offenders, however, could there have been any greater commonality of dispositions once adjudication occurs. Table 1 summarizes the types of behaviors that are encompassed by the various legal classifications.

III. Subgroups of Adjudicated Youth.

Initially, the research design included measures of the effects of remediation on both institutionalized youths (confined) and those on probation (unconfined). Later, the decision was made to include youths who were on parole as well.[49] An analysis of the effects of remediation on these groups could contribute to decisions concerning the treatment

or disposition of learning disabled juvenile offenders. However, relatively few offenders who are adjudicated are institutionalized, and even fewer will remain so for the duration of the study.[50] Thus, because of the small sample size and the transitory nature of those youth who are institutionalized, the variable of confinement could not be controlled as rigorously as planned. Such status was recorded, however, in order to permit post-hoc analysis.

Recidivism and the transitory nature of the institutionalized population raise another barrier to the rigorous use of these classifications as independent variables. A youth who is on probation at the time he became involved in the study could later be institutionalized, following revocation of probation, for a subsequent offense. An institutionalized youth could conceivably be paroled, commit an offense and be placed on probation during the course of the study. Therefore, for classification purposes, the status at the time at which the youth began participation was selected to categorize him for the purpose of the study. Changes in status are being noted for later analysis.

Operationally then, what dispositions of an adjudicated delinquent shall be considered for this analysis? Initial dispositional alternatives for such a youth can be divided into three general categories: institutionalization, which involves confinement; probation, unsupervised or supervised to varying degrees, by many different public or private persons; and other resolutions within the discretion of the court. Again, before formulating a definition, the states' statutes will be examined as a guide to achieving uniformity.

TABLE 1 [48]
Various Types of Conduct which Constitute Delinquency and Other Relevant Adjudicatory Statuses
According to the Juvenile Codes of Arizona, Indiana and Maryland.

Omnibus Clause*	Other Status Offenses	Alcohol Offenses	Ungovernable and Disobedient	Runaway	Truancy	Violation of City or County Ordinance	Commission of a Misdemeanor	Commission on a Felony
I	I	D	I	I	I	D	D	D
	D	D	D	DC or D	D	D	D	D
C	C	C	C	C	C	D	D	D

*Omnibus Clause refers to a clause in the definition so broadly drafted as to allow the juvenile court the discretion to adjudicate a youth a particular status for almost any misconduct.

D: Delinquent
I: Incurrigible
C: Child in need of supervision
DC: Dependent Child

A. Possible Dispositions Within the Sites:

Arizona:

In Arizona, both the "delinquent" and "incorrigible" child may be committed to the department of corrections.[51] The disposition of a juvenile who has been adjudicated delinquent or incorrigible is within the discretion of the court.[52] If the delinquent or incorrigible child is not institutionalized, he may be placed on some form of probation. Probation is either with parents, with the probation department under court imposed conditions, with a person of "high moral character," or with a private agency or institution.[53]

Indiana:

In Indiana, if a child's act is of sufficient gravity, or the child is "willfully wayward or unmanageable," he may be committed to the Youth Authority of the Department of Corrections.[54] On the other hand, the court may do whatever it feels is within the best interests of the child and the public interest.[55] This includes:[56]

commit[ing] the child to a suitable public or private institution [not a penal institution]; make the child a ward of the county welfare department or any licensed agency; place a child on probation, place the child under supervision with parents, relatives or other fit persons under terms of the court or postpone disposition for up to 2 years (unless requested otherwise by child or party in custody).

Maryland:

Under terms the court deems appropriate, a child adjudicated either a delinquent or in need of supervision may be committed to the "custody of juvenile services administration".[57] The law in Maryland provides for placement only of a "delinquent child" in institutions, and requires a "child in need of supervision" to be retained in community-based rehabilitation programs.[58] Other dispositions include probation under the supervision of Juvenile Services or supervision by parents in the child's home. The child also may be placed in the custody of a relative or another "morally fit" person.[59] The decision of the court is discretionary, the goal being the best form of rehabilitation consistent with the public interest.[60]

B. Operational Definitions of Delinquent Subgroups:

For the purpose of this study, a "juvenile delinquent who is unconfined" is a youth who satisfies the definition of "juvenile delinquent," and who has been placed on any type of official probation or parole regardless of the nature or extent of court or corrections department supervision. Although the pressure of sample size is not as great with probationers, the value judgments inherent in distinguishing between the types of probation within each jurisdiction and among the three sites was considered insurmountable.

A "juvenile delinquent who is confined" is a youth who satisfies the definition of "juvenile delinquent" and whose status is as follows at the time the youth begins participation in the study.

Arizona: Committed to the Department of Corrections and is institutionalized at Adobe Mountain School of the Arizona Youth Center.

Indiana: Committed to the Youth Authority of the Department of Corrections and is institutionalized at the Indiana Boys School.

Maryland: Committed to the Department of Justice Services and is institutionalized at Montrose School.[61]

The nature of these institutional dispositions is the best common denominator across the three states for defining confined, and is the least restrictive from a geographical viewpoint for remediation purposes. At the time of parole a youth's status changes to unconfined.

IV. Conclusion.

The need for a sample large enough to ensure the reliability and validity of research findings, the need for generalizable findings, the constraints upon the remediation program, logistical feasibility, and juvenile court systems' willingness to participate, all played a part in shaping the operational definitions. Given these constraints, and after thoroughly exploring the alternatives, the course of action chosen was that reasoned to be the most desirable and workable with respect to the research effort. This detailed presentation illustrates clearly the difficulty of cross-jurisdictional research, and should identify the issues on which tradeoffs must be made. The documentation of our approach has been designed to foster replication. Other aspects of the study are being considered with equal care, to enhance the reliability and usefulness of the study's findings.

FOOTNOTES

1. Wirt & Briggs, The Meaning of Delinquency, in H. Quay (ed.), Juvenile Delinquency: Research and Theory (1965).
2. W. Simon and M. Ducey, Summary and Policy Implications of the Youth and Society in Illinois 90-91 (Department of Mental Health, State of Illinois, 1972).
3. The operational definition of a concept, as the term is used in social research, is one in which the principal characteristics of the concept under investigation is translated into procedures for measurement (i.e., operations) that are objectively verifiable and amenable to replication.
4. Creighton University's portion of the study referred to in this paper is funded under Grants 76NI-99-0133, 76JN-99-0022, and 76JN-99-0022S1 from the National Institute of Juvenile Justice and Delinquency Prevention (NIJJDP), Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice or Creighton University.
5. NIJJDP was created by the federal Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. §5600 et seq.) as part of the Office of Juvenile Justice and Delinquency Prevention of LEAA. The Act was a response to the alarming finding that arrests of juveniles had increased

by 138% during the period 1960 to 1974. For description of NIJJDP's overall program see NIJJDP, Juvenile Justice and Delinquency Prevention . . . Federal Research in Action. (1977).

6. C. Murray, The Link Between Learning Disabilities and Juvenile Delinquency: Current Theory and Knowledge [hereinafter AIR Report] (1976).

7. This also was one of the conclusions of a more recent study commissioned by the General Accounting Office. Comptroller General, Learning Disabilities: The Link to Delinquency Should be Determined, But Schools Should Do More Now (1977).

8. Conceptual and operational definitions of LD have been established for this study which may contribute to future programs. The approach being employed in diagnostic assessments is one which focuses on discrepancies within ability and academic achievement profiles, supplemented by perception measures and test situation observations, as indicators of LD.

9. A preliminary report of the prevalence study will be released in Spring, 1978.

10. The study's sites, as well as the major parameters of the study's sample, were mandated in the NIJJDP grant solicitation. The sites were chosen to represent a broad range of populations: Baltimore as a high-

density, eastern city with a large minority population; the Indianapolis area as a midwestern community with a suburban and semi-rural flavor; and the Phoenix area as a southwestern, multi-ethnic community.

11. The prevalence study included boys who were between the ages of 12 and 15, inclusive, as of February 28, 1977. The rationale for selecting this age group was to find a group of youths with at least a moderate incidence of delinquent behavior who would be young enough to enhance the likelihood of successful remediation. Girls were excluded initially because the joint incidence of delinquency and learning disabilities was expected to be low. There are believed to be greater incidences of both LD and juvenile delinquency in boys. In 1973 boys comprised 74% of the cases disposed by juvenile courts in the United States. The average over the period 1957-1972 was about 79%. Table 5.2, M. Hindelang, C. Dunn, L. Dutton & A. Amick, 1975 Source book of Criminal Justice Statistics [hereinafter Sourcebook] (1976). It has been estimated that as many as 80% of learning disabled youths are male. Table 2.1, AIR Report, supra Note 7.

As it turned out, the number of eligible 12-to-15-year old boys was smaller than anticipated, so the decision was made to include 16-year old boys and 12-to-16-year old girls in the remediation-program portion of the study. The sampling procedures will be detailed in the reports of the prevalence study.

12. Educational Testing Service (Princeton, New Jersey) has contracted with Creighton University to complete this work. In all, evaluations

were made of approximately 1,000 public school students and 1,000 delinquents. In addition to the psycho-educational assessments, a number of measures were taken, including the participants' attitudes and experiences related to self-reported delinquent behavior, school, and social and economic characteristics of their families. Subsequent papers will focus on the results of the self-reported delinquency measures.

13. It was originally suggested by NIJJDJP that the treatment and control groups be composed of equal numbers of delinquents who were confined in training schools and those who were on probation. This has not been possible, however, because of the small size of the eligible population. See III infra in the text for a discussion of these variables.

14. Longitudinal studies of members of the remediation and comparison groups are being planned.

15. Although a legal definition of juvenile delinquency, rather than a behavioral definition, eventually was adopted for the assignment of participants to the remediation program portion of the study, it is necessary to estimate the nature and extent of delinquent behavior among officially non-delinquent youth in order to gain a fuller understanding of the relationship of ID to delinquent behavior. Relatively few delinquent acts are officially recorded. A report published by the Institute of Juvenile Research (R. Rivera, Juvenile Delinquency in Illinois: Highlights of the 1972 Adolescent Survey, 1972) suggests that fewer than 5% of delinquent acts result in formal complaints; therefore

measures of self-reported delinquent behavior were included in this study. Descriptions of how the self-reported measures were developed will be included in future reports.

16. Shifts in Delinquent Behavior: 1951-1973, Juvenile Justice,
Aug. 1976, at 15.

17. Id. at 21.

18. President's Commission on Law Enforcement and Administration of
Justice, Task Force Report on Juvenile Delinquency and Youth Crime
(1967). This report recommended alternatives to the juvenile justice system. It asserted that the formal system and pronouncements of delinquency should be used only as a last resort.

19. A possible bias toward older children may have been created by this choice, since the extent of formal involvement in the juvenile justice system generally is related to the age.

20. Diversion is the process of referring youth to existing community services outside the juvenile court system in place of further juvenile justice system action. It may occur at any point between apprehension and adjudication. Factors involved in determining whether diversion should occur include: the seriousness of the offense; the history of the offender (including whether it is a first offense); the youth's home environment; the degree of parental control and cooperation; the attitude of the juvenile; the youth's age; and his school record.

The cases of juveniles who commit more serious criminal offenses, such as forcible rape, aggravated assault and robbery, are generally referred to the juvenile court, rather than disposed of informally.

21. This conforms to the recommendation of the 1967 President's Commission referred to in note 16, supra. It must be noted that adjudication as a delinquent or other status may also reflect the response of the court to the youth as much as it reflects the offense itself.

22. For the most current overview of the distinctions among all fifty states see M. Levin & R. Sarri, Juvenile Delinquency: Comparative Analysis of Legal Codes in the United States (1974).

23. See Special Project: Juvenile Justice in Arizona, 16 Ariz. L. Rev. 235 (1974) for a detailed examination of the juvenile justice system in Arizona.

24. Ariz. Rev. Stat. §§8-201.8 & 9 (1974).

25. Id. §§8-201.8; see also §§4-225 (1974), 4-244.9 (Supp. 1977).

26. Warris v. Superior Court of Pima County, 8 Ariz. App. 475, 447 P.2d 567 (1966).

27. Ariz. Rev. Stat. §§8-201.12 (1974). A third label which can be applied is "dependent child." Id. §§8-201.10. It is not relevant to this analysis.

28. Id. §§8-201.12.

29. Id. §§ 8-201.5, 222; Anonymous v. Superior Court of Pima County, 10 Ariz. App. 243, 457 A.2d 956 (1969). This provision follows the rehabilitative ideal of the juvenile court system.

30. State v. Taylor, 112 Ariz. 68, 537 P.2d 938 (1975). Rule 14(b) of the Rules of Procedure for Juvenile Courts defines the standards for transferring a youth to adult criminal jurisdiction. The child must not be amenable to rehabilitation and the "safety or interest of the public" must require the transfer.

31. For an overview of the Indiana system see League of Women Voters, A Survey of Juvenile Justice Procedures in Indiana (n.d. but early 1976).

32. Ind. Code Ann. §§31-5-7-4.1 (Supp. 1976). A dependent child is defined in §31-5-7-5 and can be construed to include runaways.

33. Id. §§31-5-7-4.1(b)-(e). See also Ind. Code Ann. §§7.1-5-7-1 to 7.1-5-7-14 which are referenced by §§31-5-7-4.1(e).

34. Id. §§31-5-7-13 & 14.

35. The Maryland Department of Juvenile Services provides a centralized, state directed program for juvenile offenders. See Juvenile Services Administration, The Juvenile Services Story (April, 1974) for a complete description of its functions.

36. Md. Ann. Code art. 26, §§3-801(f) (Supp. 1976). This section manifests the legislative policy of establishing different forms of treatment programs for juveniles whose conduct primarily reflects "the propensities and susceptibilities of youth". In re Spalding, 273 Md 690, 334 A.2d 246 (1975). The other status label is "child in need of assistance" which is the equivalent of the "dependent child" label of the other two states. Md. Ann. Code art. 26, §§3-801 (e) (Supp. 1976).

37. Md. Ann. Code art. 26, §§3-801 (k) & (l) (supp. 1976).

38. In re Appeal No. 179, 23 Md. App. 496, 327 A.2d 793 (1974).

39. Md. Ann. Code art 26, §§3-801(n) (Supp. 1976). The court must justify its position on the basis of the facts presented in order to label a youth a delinquent and to commit the youth. These facts must be related to the child's needs and receptibility to rehabilitation. In re Appeal No. 179, supra note 36.

40. A status offense is behavior which is a juvenile offense only because of the age of the offender. A juvenile non-status offense is one which would be a criminal offense were the youth beyond the age of juvenile court jurisdiction. See note 35, supra, for the rational for the distinction.

41. Md. Ann. Code art. 26, §§3-801(f) (Supp. 1976); see also art. 27

42. Id. §§3-804(d). See also §3-817. This statute follows the retributive or protection objective of criminal law. The legislature

has decided that these values outweigh that of even considering rehabilitation regardless of the seriousness of the offense.

43. For example, about fifty per cent of the referrals to the Maryland Department of Juvenile Services Intake Counselors are disposed of without a court hearing. Nationwide, more than half of the referrals are disposed of by informal means. Source book, supra note 9, Table 5.6. Statistics published by the Subcommittee to Investigate Juvenile Delinquency of the United States Senate's Committee on the Judiciary indicate that in 1975 almost half (43%) of the juveniles taken into custody by the police (1,675,711) were handled and released by the police without further penetration into the system.

44. Status offenses account for 35-40% of referrals; followed closely by crimes against property (33%). Crimes against persons account for only slightly more than 7% of referrals. Brought to Justice? Juveniles, the Courts and the Law, as summarized in Crim. Just. Newsletter, Nov. 8, 1976, at 1.

45. As indicated, the decision to use the formal step of adjudication as a criteria for sample selection was motivated primarily by considerations of practicality and generalizability. This also seemed acceptable to the funding agency. The behavior encompassed by this criterion includes nearly all of that which could conceivably be considered delinquent either in legal or lay terms. The actual delinquent behavior of the youths in the sample is likely to be of greater severity or more frequent occurrence than that of youths who have not been formally

adjudicated. The youths in the delinquent group of the study have committed one or more acts which clearly are regarded by society as anti-social.

The behaviors to which the legal labels are applied are not mutually exclusive. The evidence upon which a child could be adjudicated a delinquent could also result in a label of "incorrigible child" or "child in need of supervision"; however, the reverse is not generally true. The behavior constituting "incorrigible child" or "child in need of supervision" generally would not justify a petition for or adjudication of delinquency.

Thus, the operational definition is only intended to provide a reliable means of defining the sample. Since it encompasses a broad range of behavior, it does not limit the usefulness of the self-report measures in any way. It also permits study findings to be more generalizable.

The legal labels applied on the basis of facts constitute a broad range of criminal and juvenile status offenses. As indicated, these facts encompass nearly all of the behavior for which a youth could be considered delinquent. The range of behavior identified by the self-report instruments will be no broader than all the behavior encompassed by the legal labels of the operational definition. The selection of self-report questions was based, in part, on the likelihood of measurable occurrence of specific behaviors and the probability of obtaining valid responses. The broadness of the legally based definition is advantageous

in that it does not eliminate behaviors that are considered delinquent from analyses on the basis of "artificial" legal distinctions.

At a minimum, the hypotheses can be tested that remediation reduces the frequency or severity (less violent, status rather than criminal offenses) of delinquent behavior. Other relationships can be explored but this is the central thrust of LEAA's objective.

46. This is not as critical now since the variable of the youths' confinement is not being rigorously controlled. See III infra in the text.

47. Status offenders may not be institutionalized in Maryland.

48. Table 1 was suggested by the table in the Appendix of "Delinquent Child": A Legal Term Without Meaning, 21 Baylor L. Rev. 352 (1969).

49. This decision was made in mid-March, 1977. Use of parolees may bias the average age of the sample toward the older ages, but this was outweighed by the need for a larger sample.

50. Only about 7% of cases handled by courts result in commitment. Most cases which reach the adjudication stage result in probation. The average institutional stay in both Maryland and Indiana is about seven months. It is less than half that at Adobe Mountain School in Arizona.

51. Ariz. Rev. Stat. §8-241 (Supp. 1977). Juveniles may be committed on the basis of their first adjudicated offense. In re Appeal in Maricopa County Juv. Action No. J-78070, ___ Ariz. ___, 537 P. 976 (1975). Most youth who are committed are first sent to the Department of Correction's central diagnostic center at Adobe Mountain School north of Phoenix. Youth in the relevant age group are finally disposed of by parole or by commitment at the Arizona Youth Center or elsewhere. Very few remain at Adobe Mountain School beyond the diagnostic step.

52. In re Appeal in Maricopa County Juvenile Action No. J-78070, 24 Ariz. App. 248; 537 P.2d 974, (1975). Warris v. Superior Court of Pima County, 8 Ariz. App. 475, 447 P.2d 567 (1966).

53. Ariz. Rev. Stat. §§8-241.A.2 (Supp. 1977).

54. Ind. Code Ann. §§31-5-2-1 (1973). The Youth Authority is a separate division of the department.

55. Id. §§31-5-7-15(b) (5) (Supp. 1976).

56. Id. §§31-5-7-15(b) (i)-(v) Supp. 1976).

57. Maryland Ann. Code art. 26, §3-820(b) (2) (Supp. 1976).

58. Id. §3-823(b); in re Carter, 20 Md. App. 633, 318 A.2d 269 (1974). Montrose School is the institution to which boys 15 and under are committed. Overall, only about 3% of the youth handled by the juvenile

court during 1974 were institutionalized. The average institutional stay is about seven months.

59. Id. §§3-820(b) (1).

60. Id. §§3-820(b).

61. See note 56, supra.

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END