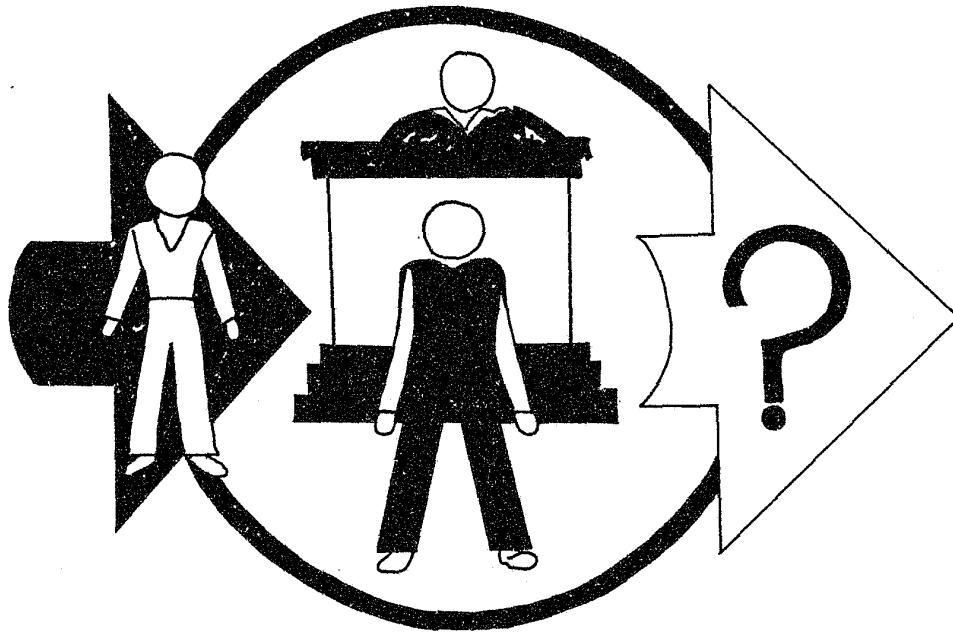


THE
TRANSFER OF JUVENILES
TO ADULT COURT



PENNSYLVANIA
1974 - 1977

54686

Pennsylvania Joint Council
on the Criminal Justice System

E R R A T A

"The Transfer of Juveniles to Adult Court--1974-1977"

Please change the ninth line of paragraph 1 on page ix to read as follows:

1975 (203), 1976 (337), and 1977 (279). In addition, social history infor-

Please change the first sentence on page 19 to read as follows:

A substantial number of cases in both 1974 (17 percent) and 1977
(8 percent) are listed as having unknown adult sentences.

DATA SUPPLEMENT

JUVENILES TRANSFERRED TO ADULT COURT--1978

Adams	2	Fayette	2	Philadelphia	46
Allegheny	18	Forest	0	Pike	0
Armstrong	1	Franklin	3	Potter	1
Beaver	1	Fulton	3	Schuylkill	1
Bedford	0	Greene	0	Snyder	0
Berks	2	Huntingdon	0	Somerset	3
Blair	3	Indiana	4	Sullivan	0
Bradford	2	Jefferson	1	Susquehanna	0
Bucks	1	Juniata	0	Tioga	2
Butler	6	Lackawanna	2	Union	1
Cambria	4	Lancaster	9	Venango	0
Cameron	0	Lawrence	1	Warren	2
Carbon	0	Lebanon	1	Washington	1
Centre	0	Lehigh	6	Wayne	1
Chester	6	Luzerne	11	Westmoreland	0
Clarion	2	Lycoming	2	Wyoming	1
Clearfield	3	McKean	0	York	1
Clinton	1	Mercer	4		
Columbia	0	Mifflin	1	TOTAL	212
Crawford	1	Monroe	3		
Cumberland	4	Montgomery	3		
Dauphin	9	Montour	0		
Delaware	10	Northampton	11		
Elk	0	Northumberland	3		
Erie	6	Perry	0		

NCJRS

FEB 23 1979

ACQUISITIONS

THE TRANSFER OF JUVENILES TO ADULT COURT
IN PENNSYLVANIA

Pennsylvania Joint Council on the Criminal Justice System
P.O. Box 866
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December 1978

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FOREWORD AND ACKNOWLEDGEMENTS

This unique and comprehensive study fills a critical gap in the understanding of the transfer process and its effect on those who are no longer amenable to the control, guidance, treatment and supervision of the juvenile courts. Transfer in Pennsylvania proceeds via a legislatively mandated judicial hearing to be conducted in conformance with statutory and case law. In order to promote a full discussion of the topic, the following Steering Committee directed the research:

THE HONORABLE RICHARD P. CONABOY--Co-Chairman; President Judge, Lackawanna County Court of Common Pleas; President, Pennsylvania Joint Council on the Criminal Justice System

THE HONORABLE MAXWELL E. DAVISON--Co-Chairman; Judge, Lehigh County Court of Common Pleas; Member of the Juvenile Court Judges' Commission

THOMAS J. BRENNAN--Executive Director, Governor's Justice Commission

CHARLOTTE S. GINSBURG--Executive Director, The Female Offenders Program of Western Pennsylvania, Inc.; Chairperson, Juvenile Justice and Delinquency Prevention Advisory Committee of the Governor's Justice Commission

THE HONORABLE MICHAEL A. O'PAKE--Pennsylvania State Senator; Chairman Senate Judiciary Committee

ALICE T. O'SHEA, ESQ.--Defender Child Advocate, Defender Association of Philadelphia

GERALD F. RADKE--Deputy Secretary of Social Services, Department of Public Welfare

THE HONORABLE ANTHONY J. SCIRICA--Pennsylvania State Representative, House Judiciary Committee

THE HONORABLE PATRICK R. TAMILIA--Judge, Family Court Division, Allegheny County Court of Common Pleas; President, Juvenile Section, Pennsylvania Conference of State Trial Judges.

The history and process of the project's development requires a position of prominence in this report. The unfolding of events also serves as a statement of acknowledgement for the individuals who moved beyond the restrictive boundaries of their respective bureaucracies and/or positions to participate in the meaningful and sometimes dramatic dialogue required to complete the project. The honest and frequently blunt sharing of biases, fears and concerns, as well as the hard facts that represent the day-to-day operation of the system, are listed to sensitize the reader to the complex nature of the issues. Prior to the creation of this select Steering Committee, a forum for the discussion and resolution of issues relating to the "systems" and community response to the serious delinquent offender did not exist, and policy for the separate agencies was largely developed without adequate review and discussion by all affected.

Stimulated by the closing of the State Correctional Institution at Camp Hill, a maximum security prison, to the acceptance of juvenile offenders on August 15, 1975, the Pennsylvania Department of Public Welfare was charged with the burdensome responsibility of providing treatment resources for youths previously handled by the Pennsylvania Bureau of Correction. This difficult situation initiated rounds of discussion and fingerpointing concerning "how one agency can discredit the efforts of another." In addition to the Steering Committee members who worked to defuse the effects of unwarranted innuendos and threats that were cast between agencies, we gratefully acknowledge:

--The efforts of the Honorable David P. Richardson, Jr., and his legislative House of Representatives Subcommittee on Corrections and Rehabilitation for the study of transfer in Pennsylvania from January 1, 1975 to May 31, 1976.

--The interest of Mr. Gerald F. Radke, who agreed to initiate a statewide study of transfer to discern whether or not the closing of

Camp Hill had been circumvented by increases in the transfer of juveniles to adult court. In a letter to Judge Richard P. Conaboy on July 1, 1977, Mr. Radke outlined "the desperate need for a rational look at the problem from an organization whose credibility would be such that all parties in the dialogue could respect their findings."¹

--The understanding and concern of judges and chief probation officers in each of Pennsylvania's sixty-seven counties who offered their time and ideas regarding the issue of transfer in the handling of the serious juvenile offender at the county level.

--The exceptional cooperation and staff support of the Juvenile Court Judges' Commission, the Pennsylvania Department of Public Welfare, the Pennsylvania State Legislature, the Pennsylvania Bureau of Correction, and the Governor's Justice Commission.

--The concern of Judge Patrick R. Tamilia and others that a distortion of the transfer issue could lead to legislative over-reaction that might reduce the age of juvenile court jurisdiction from 18 to 16, or significantly limit the courts' ability to locate or monitor treatment resources for youthful offenders.

EXECUTIVE SUMMARY

A select Juvenile Steering Committee, chaired by Court of Common Pleas judges Richard P. Conaboy and Maxwell E. Davison, directed the staff efforts as they conducted an analysis of the transfer of jurisdiction from juvenile to adult court in Pennsylvania. The Committee consisted of Pennsylvania leaders in the field of juvenile justice and provided a forum for the discussion and analysis of data developed by the staff. The project began in the summer of 1977 and compiled an accurate statewide count of the number of juveniles transferred to adult court during the years 1974 (119), 1975 (203), 1976 (377), and 1977 (279). In addition, social history information on each of the individuals transferred was obtained, and juvenile court judges in each of the Commonwealth's fifty-nine judicial districts were interviewed about the transfer process in Pennsylvania's sixty-seven counties.

The compilation of social history information developed on each juvenile transferred to adult court resulted in a profile of the typical individual. In most cases the juvenile is a male approximately 17.3 years of age. The Philadelphia juvenile who has been transferred probably was black. In other parts of the state, the probability is that he was white. Very few females have been transferred to adult court. The average juvenile transferred has a ninth-grade education and, although prior service history is not as complete as desirable, it appears that he has not been involved with mental health or county child welfare services. In 1974 the juvenile transferred to adult court had an average of 4.4 prior juvenile court petitions. This figure increased to 7.5 prior petitioned offenses in 1977. In most cases the offender is transferred on

multiple charges, often including burglary, robbery, simple or aggravated assault, auto theft or rape. All adult court outcomes were researched for individuals transferred in 1974 and 1977. It was found that in 1974 forty percent of the individuals transferred were sentenced to a county jail or to a state correctional institution. The commitment figure increased to 47 percent of those transferred in 1977. In both years, however, a substantial number of adult court dispositions could not be traced.

A composite of judges' comments was developed from responses elicited during structured interviews with seventy-three of Pennsylvania's juvenile court judges. The questions asked by interviewers related to the transfer process, the judges' perception of service needs for serious delinquent offenders, and their comments concerning strategies for the development of necessary services. Judges interviewed stated that juveniles were transferred to adult court because their previous frequent contacts with the juvenile justice system failed to inhibit their delinquent activities, consequently they were no longer amenable to treatment in the juvenile justice system in view of their extensive histories of delinquency. Other criteria used to determine the need for transfer include the seriousness of the most recently petitioned offense, the public's need for safety, and the age of the alleged juvenile offender. The judges stressed the need for thorough evaluation of the individual's social history, and a majority of judges require a psychological examination to insure that the youth is not in need of mental health/mental retardation services. Judges emphasized that additional resources and facilities are needed if juveniles are to be served within the juvenile justice system. The most prevalent needs include regional secure facilities for serious offenders that will provide effective educational and vocational training programs. Judges also recommend the improvement of resources for the treatment of

emotionally disturbed juveniles for whom a paucity of mental health treatment resources exists. The judges suggest that conflicting philosophies exist between state agencies, the State Legislature, and local and state executive offices and that increased policy discussion among these groups could lead to a resolution of those differences.

Recommendations developed by the Steering Committee are based on the philosophy that transfer procedures should serve as an alternative to the delivery of traditional juvenile justice system services without inappropriately referring youths to the adult court system. It is first recommended that, because of concern over the available treatment resources for serious offenders, an in-depth study of the need for security placements should be initiated. The study must involve all participants in the juvenile court and service delivery systems to ensure a comprehensive review of the needs and problems of the Commonwealth's most serious juvenile offenders. Secondly, the study recommends that state agencies involved in funding and monitoring local programs assist counties in promoting and/or developing local alternatives to reduce the use of the transfer provision. Program alternatives to be developed may include intensive probation services, restitution programs, highly structured group homes, and other programs as indicated by the local situation. Further, it is recommended that a management information system should be developed to provide decision-making groups with accurate information relating to the functioning of the entire Pennsylvania children and youth service system. Finally, the study recommends that guidelines be established on a statewide basis to standardize the transfer process. It is suggested that such guidelines may increase the impact of potential adult sanctions on juveniles transferred to adult court and provide better protection to the general community.

INTRODUCTION

The Pennsylvania Joint Council on the Criminal Justice System was requested by the Department of Public Welfare to conduct an analysis of the transfer² of jurisdiction from juvenile to adult court in Pennsylvania. After assessing the value of such a report with other groups in the state, i.e., the Juvenile Court Judges' Commission, legislators, the Governor's Justice Commission, the Council voted to conduct the study. Funding for the survey was obtained from the Department of Public Welfare and the Governor's Justice Commission. An ad hoc Juvenile Steering Committee was established to direct Council staff during the project.

The project began in September 1977 with three general objectives:

1. To compile an accurate count of the number of juveniles who were transferred to adult court during the period 1974 through 1977;
2. To obtain social history information on each of the individuals transferred during the years 1974 and 1977;
3. To query as many judges in the Commonwealth who hear juvenile matters about the extent and reasons for the transfer of juveniles in individual counties.

At the time the research was initiated, statistics were available from two sources: the Juvenile Court Judges' Commission and the Pennsylvania House Judiciary Subcommittee on Crime and Corrections. Since 1969, the Juvenile Court Judges' Commission has been tabulating the total number of transfer hearings in the state in any given year. In August 1976 the House Subcommittee conducted a survey of the number of transfers from January 1, 1975 to May 31, 1976. This report

included information relating to petitioned offenses, prior adjudications, juvenile court history, and sentences in adult court. It was believed by the Department of Public Welfare that a more extensive tabulation and evaluation of the types of juveniles being transferred in the state was needed for effective long-term planning purposes.

The methodology for the report outlined by the Steering Committee and staff was direct in approach. It was decided that the accurate number of juvenile transferred during 1974, 1975, 1976 and 1977 would be obtained by a thorough review of county records and statistics. For the juveniles transferred during the years 1974 and 1977,³ a questionnaire⁴ relating to the individual's prior social and juvenile court history would be completed. A structured interview⁵ was conducted by Council staff with judges in the state.

This report is presented in four sections:

1. Statistical count, by county and region, of the number of juveniles certified from 1974 through 1977;
2. Statistical summaries of the social and juvenile and adult history obtained for the individuals certified during 1974 and 1977;
3. Regional summaries of the responses of the judges interviewed during the course of this survey;
4. Observations and recommendations.

With the exception of Vermont⁶, all states allow a juvenile court judge to waive jurisdiction and transfer a juvenile to the criminal system for adjudication. The rationale for the transfer of jurisdiction is made relative to the ends for which juvenile court was established: treatment, rehabilitation, and the best interests of the child. In Pennsylvania the crime of murder is not a delinquent act, and youth under 18 alleged to have committed murder are processed by adult courts (42 Pa. C.S., Sec. 6302).

What considerations must go into the decision of the juvenile court to transfer a juvenile to the adult criminal system? In the case of Kent v. U.S., 383 U.S. 541 (1966), eight factors were enumerated as those which should be considered by the judge in making the transfer decision. The elements were: 1) the seriousness of the alleged offense; 2) whether the alleged offense was committed in an aggressive, violent manner; 3) whether the offense was against persons or property; 4) the prosecutorial merit of the complaint; 5) whether the alleged offense was committed with adults; 6) sophistication and maturity of the juvenile; 7) previous history of the juvenile; and 8) likelihood of reasonable rehabilitation of the juvenile by the use of procedures, services and facilities currently available to the juvenile court.

Since the 1923 amendment to the Pennsylvania Juvenile Act of 1903, some persons who would be included in the "delinquent child" category may be transferred from the jurisdiction of the juvenile court. This exclusionary process is called transfer, and 42 Pa. C.S., Sec. 6355 delineates both the procedure and criteria to determine when a case should be transferred from juvenile court to criminal court. The Supreme Court of Pennsylvania recently reaffirmed that the Commonwealth bears the burden of establishing that the statutory prerequisites for the transfer of jurisdiction have been met in all cases. The Pennsylvania Supreme Court in Commonwealth v. Greiner, Pa. 388A698, July 14, 1978, has made it clear that the Commonwealth must establish that the youth proposed for transfer is not amenable to treatment, supervision or rehabilitation under the Juvenile Act.

The statutory criteria for transfer are as follows:

§6355. Transfer to criminal proceedings.

(a) General rule.--After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances, of this Commonwealth, the court before hearing the petition on its merits may rule that this chapter is not applicable and that the offense should be prosecuted, and transfer the offense, where appropriate, to the division or a judge of the court assigned to conduct criminal proceedings, for prosecution of the offense if all of the following exist:

(1) The child was 14 or more years of age at the time of the alleged conduct.

(2) A hearing on whether the transfer should be made is held in conformity with this chapter.

(3) Notice in writing of the time, place, and purpose of the hearings is given to the child and his parents, guardian, or other custodian at least three days before the hearing.

(4) The court finds:

(i) that there is a prima facie case that the child committed the delinquent act; (and the court finds)

(ii) that the delinquent act would be considered a felony if committed by an adult; and

(iii) that there are reasonable grounds to believe all of the following:

((i)) (A) That the child is not amenable to treatment, supervision or rehabilitation as a juvenile through available facilities. In determining this the court may consider age, mental capacity, maturity, previous records and probation or institutional reports.

((ii)) (B) That the child is not committable to an institution for the mentally retarded or mentally ill.

((iii)) (C) That the interests of the community require that the child be placed under legal restraint or discipline or that the offense is one which would carry a sentence of more than three years if committed as an adult.

National Advisory Committee standards (1976) and recently drafted Institute of Judicial Administration/American Bar Association juvenile justice standards specify guidelines for the transfer process

that are not measurably different from the transfer criteria established in the State of Pennsylvania. Thus, the philosophy of the transfer process is established in both the law and national standards.⁷

Information developed by the research will enable groups in the Commonwealth to discuss the specific issue of transfer based on verified facts. The continuance of a decision-making process that includes research followed by multi-agency discussion is supported by all organizations involved in this effort.

TOTAL STATEWIDE JUVENILE TRANSFERS

As verified by juvenile court staff in all the counties of the state, the following table lists the total number of individuals transferred in the state to adult court for the years 1974, 1975, 1976 and 1977.

<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
119	203	337	279

CLIENT PROFILE

The following is a profile of the juvenile who is likely to be transferred to adult court:

- the juvenile will be male
- he will be 17.3 years old
- if from Philadelphia, he will probably be Black; if from another part of the state, he will probably be Caucasian
- he is at the ninth grade educational level
- he has had no involvement with mental health/mental retardation services or with county welfare services
- he has been involved with juvenile court before, having prior petitioned offenses and commitments to at least one state institution
- he is being transferred on multiple charges, usually including burglary, robbery, simple or aggravated assault, auto theft or rape
- his sentence in adult court has an equal chance of being one of the following: county jail, state correctional institution or probation.

JUVENILES TRANSFERRED IN PENNSYLVANIA 1974-1977

COUNTY	NUMBER OF JUVENILES TRANSFERRED				NUMBER OF CASES PROCESSED* FOR DELINQUENCY				PERCENTAGE**			
	1974	1975	1976	1977	1974	1975	1976	1977	1974	1975	1976	1977
Adams	0	0	3	5	61	104	84	116	--	--	3.50	4.31
Allegheny	8	11	19	12	5,992	6,881	6,629	5,323	0.11	0.16	0.29	0.23
Armstrong	3	0	2	0	96	171	143	135	3.12	--	1.40	0.00
Beaver	3	1	3	2	397	512	613	397	0.76	0.20	0.42	0.50
Bedford	0	0	0	1	84	69	82	100	--	--	--	1.00
Berks	3	4	1	2	406	459	572	562	0.74	0.87	0.18	0.36
Blair	8	5	10	7	60	--	--	NR	13.30	--	--	NR
Bradford	0	0	2	1	110	79	90	43	--	--	2.22	2.33
Bucks	3	7	9	5	921	988	914	909	0.32	0.71	0.98	0.66
Butler	1	6	1	5	314	369	377	327	0.32	1.62	0.26	0.50
Cambria	2	7	2	4	265	315	209	300	0.75	2.22	0.96	1.33
Cameron	0	0	0	0	13	16	12	32	--	--	--	6.25
Carbon	1	0	0	0	59	114	112	109	1.70	--	--	--
Centre	0	0	0	1	50	34	155	139	--	--	--	0.72
Chester	0	1	4	7	595	647	580	547	--	0.15	0.69	1.28
Clarion	0	0	0	1	44	41	46	39	--	--	--	2.50
Clearfield	0	0	1	2	141	129	133	102	--	--	0.75	1.95
Clinton	0	1	0	2	4	21	5	26	--	4.76	--	7.70
Columbia	0	0	0	1	52	60	66	78	--	--	--	1.28
Crawford	3	4	5	4	237	233	206	239	1.26	1.72	2.42	1.67
Cumberland	3	7	3	5	354	482	484	553	0.85	1.45	0.62	0.90
Dauphin	1	6	23	5	643	769	712	541	0.16	0.78	3.23	0.92
Delaware	10	19	43	28	802	826	1,236	1,518	1.25	2.30	3.48	1.80
Elk	0	1	2	2	19	103	29	47	--	0.97	6.90	2.53
Erie	16	8	12	1	385	786	759	756	4.16	1.02	1.58	0.13
Fayette	1	4	6	5	255	378	320	442	1.57	1.06	1.88	0.90
Forest	0	0	0	2	--	--	--	5	--	--	--	40.00
Franklin	8	8	4	8	207	229	218	254	3.87	3.49	1.83	3.15
Fulton	1	1	3	4	25	18	31	29	4.00	5.55	9.68	13.8
Greene	0	0	1	0	63	41	75	105	--	0.00	1.33	--
Huntingdon	2	0	0	1	52	30	43	36	3.85	--	--	2.77
Indiana	0	0	5	1	72	79	100	67	--	--	5.00	1.50
Jefferson	2	1	0	0	44	14	44	147	4.54	7.14	--	--
Juniata	0	0	3	0	31	21	25	33	--	0.00	12.00	--

*Pennsylvania Department of Justice, Juvenile Court Judges' Commission.

**Number certified/number processed x 100 = %. If the percentage is 0.82, then 82 juveniles per 10,000 processed were transferred to adult court.

JUVENILES TRANSFERRED IN PENNSYLVANIA 1974-1977

COUNTY	NUMBER OF JUVENILES TRANSFERRED				NUMBER OF CASES PROCESSED* FOR DELINQUENCY				PERCENTAGE**			
	1974	1975	1976	1977	1974	1975	1976	1977	1974	1975	1976	1977
Lackawanna	0	0	0	4	150	187	256	185	--	--	--	2.16
Lancaster	0	5	2	3	452	647	562	627	--	0.77	0.36	0.48
Lawrence	0	0	2	1	88	215	198	198	--	--	1.00	0.50
Lebanon	0	0	1	0	132	114	209	168	--	--	0.48	--
Lehigh	2	3	11	11	526	426	684	671	0.38	0.70	1.61	1.80
Luzerne	2	1	7	2	462	412	443	600	0.43	0.24	1.58	0.33
Lycoming	3	2	5	7	151	178	146	223	1.99	1.12	3.42	3.14
McKean	0	0	0	0	40	45	43	92	--	--	--	--
Mercer	1	2	5	3	194	180	194	235	0.52	1.11	2.58	1.28
Mifflin	1	1	5	2	27	55	30	34	3.70	1.81	16.57	5.88
Monroe	0	1	5	0	--	--	--	78	--	--	--	--
Montgomery	0	1	2	1	969	1,124	1,355	1,371	--	0.01	0.15	0.07
Montour	0	0	0	0	5	2	--	27	--	--	--	--
Northampton	2	10	15	14	586	561	739	610	0.34	1.78	2.03	2.30
Northumberland	3	6	3	0	67	210	175	228	4.50	2.86	1.71	0.00
Perry	0	0	0	0	40	45	24	47	--	--	--	--
Philadelphia	14	37	78	84	16,065	16,495	14,524	10,982	0.09	0.22	0.54	0.77
Pike	0	0	0	0	5	5	2	9	--	--	--	--
Potter	0	0	0	0	23	57	10	38	--	--	--	--
Schuylkill	0	4	7	1	128	251	337	344	--	1.59	2.07	0.29
Snyder	0	0	0	0	0	--	32	19	--	--	--	--
Somerset	2	0	0	2	178	139	122	139	1.12	--	--	1.43
Sullivan	1	1	0	0	7	9	10	2	14.30	11.1	--	--
Susquehanna	0	0	0	0	9	16	13	28	--	--	--	--
Tioga	1	0	2	3	36	60	115	95	2.78	--	1.74	3.15
Union	0	0	0	0	17	14	0	19	--	--	--	--
Venango	0	0	0	1	103	71	89	140	--	--	--	0.71
Warren	3	16	14	12	194	128	135	138	1.55	12.5	10.37	8.70
Washington	0	2	3	0	530	383	540	548	--	0.52	0.55	--
Wayne	0	0	0	0	6	1	5	11	--	--	--	--
Westmoreland	4	7	2	2	575	817	834	641	0.70	0.86	0.24	0.31
Wyoming	1	0	1	0	4	16	33	54	25.00	--	3.03	--
York	0	2	0	2	466	353	456	581	--	0.57	--	0.34

*Pennsylvania Department of Justice, Juvenile Court Judges' Commission.

**Number certified/number processed x 100 = %. If the percentage is 0.82, then 82 juveniles per 10,000 processed were transferred to adult court.

REGIONAL TRANSFER STATISTICS

This chart compares the four Department of Public Welfare regions⁸ for the two survey years of 1974 and 1977.

	<u>Western</u>		<u>Southeastern</u>		<u>Central</u>		<u>Northeastern</u>	
	<u>1974</u>	<u>1977</u>	<u>1974</u>	<u>1977</u>	<u>1974</u>	<u>1977</u>	<u>1974</u>	<u>1977</u>
Number of Delinquency Cases Processed in Region	9,629	10,224	19,352	15,327	3,453	4,317	2,494	3,401
Total State Percentage of Delinquency Cases Processed	28%	31%	55%	46%	10%	13%	7%	10%
Percentage of Transfers per Delinquency Cases Processed	0.50%	0.54%	0.15%	0.82%	0.98%	1.39%	0.44%	1.10%
Number of Transfers	45	56	29	125	34	60	11	38
Regional Percentage of Transfers	39%	20%	24%	45%	28%	21%	9%	14%

AGE

Number of Juveniles by Age

<u>Age</u>	<u>1974</u>			<u>1977</u>		
	<u>Allegheny</u>	<u>Phila.</u>	<u>Others</u>	<u>Allegheny</u>	<u>Phila.</u>	<u>Others</u>
14	1	1	1	0	0	1
15	0	0	0	0	6	5
16	0	5	14	2	13	39
17	6	7	76	7	61	131
18	0	0	4	3	3	4
19	0	0	1	0	1	2
Unknown	1	1	1	0	0	1

Average Age of Juvenile at the Time of Offense

Average Age at the Time of the Transfer Hearing

	<u>1974</u>	<u>1977</u>	<u>1974</u>	<u>1977</u>
Allegheny	17 yrs., 1 mo.	17 yrs., 5 mo.		
Philadelphia	17 yrs., 1 mo.	17 yrs., 3 mo.		
Others	17 yrs., 4 mo.	17 yrs., 3 mo.		
Statewide	17 yrs., 1 mo.	17 yrs., 3 mo.	17 yrs., 8 mo.	17 yrs., 5 mo.

The age was tabulated by using the date of the offense that was transferred to adult court. The eighteen and nineteen-year-olds who were transferred were juveniles who were under the juvenile court's jurisdiction prior to their eighteenth birthday. Unknown quantities were omitted when tabulating averages.

The average age of the juvenile transferred is 17 years, 3 months with no appreciable difference in age among Philadelphia, Allegheny and the other counties in the state. Nor is there a great difference between 1974 and 1977 figures in these counties.

SEX

Number of Juveniles by Sex

	<u>1974</u>		<u>1977</u>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
Allegheny	7	1	12	0
Philadelphia	14	0	84	0
Others	91	5	175	7
Statewide	112	6	271	7
% State	94.9	5.1	97.5	2.5

The majority of the individuals transferred are male. Philadelphia, having 98 transfers for the two survey years, had no female transferred for either year.

RACE

Number and Percent of Juveniles by Race

	<u>1974</u>			
	<u>Caucasian</u>	<u>Black</u>	<u>Hispanic</u>	<u>Unknown</u>
Allegheny	4	4	0	0
Philadelphia	0	14	0	0
Others	73	17	0	7
Statewide	77	35	0	7
% Statewide	64.7	29.4	0	5.9

	<u>1977</u>			
	<u>Caucasian</u>	<u>Black</u>	<u>Hispanic</u>	<u>Unknown</u>
Allegheny	6	6	0	0
Philadelphia	10	73	1	0
Others	137	35	3	8
Statewide	153	114	4	8
% Statewide	54.8	40.9	1.4	2.9

From 1974 to 1977, there has been a decrease in the percentage of Caucasians transferred (except in Philadelphia) and an increase in percentage of Blacks and Hispanics transferred.

EDUCATION

Unknown quantities were omitted when tabulating averages. For both 1974 and 1977, the average level of the juvenile's education prior to transfer is the ninth grade.

Number of Juveniles by Education Level

<u>Grade</u>	<u>1974</u>			<u>1977</u>		
	<u>Allegheny</u>	<u>Phila.</u>	<u>Others</u>	<u>Allegheny</u>	<u>Phila.</u>	<u>Others</u>
3	0	0	1	0	0	0
4	0	0	0	0	0	1
5	0	0	0	0	1	0
6	1	1	0	0	6	2
7	0	1	4	0	13	9
8	1	4	3	4	20	21
9	1	3	22	3	17	49
10	3	2	20	0	5	43
11	0	0	11	1	3	15
12	0	0	9	1	0	12
Unknown	2	3	27	3	19	31

Average Level of Juvenile's Education Prior to Transfer

	<u>1974</u>	<u>1977</u>
Allegheny	8.8	9.1
Philadelphia	8.4	8.1
Others	9.7	9.3
Statewide	9.0	9.0

MENTAL HEALTH/MENTAL RETARDATION (MH/MR) AND/OR
DEPARTMENT OF PUBLIC WELFARE (DPW) CONTACTS
PRIOR TO JUVENILE COURT CONTACT

Number of Juveniles Who Had Contact
With the MH/MR or DPW System

	<u>1974</u>		<u>1977</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Allegheny	2	6	4	8
Philadelphia	0	14	6	78
Others	16	79	49	125
Statewide	18	99	59	211

The majority of the individuals transferred in both 1974 and 1977 had, according to juvenile case file information, no contact with either the mental health/mental retardation system or the public welfare system prior to their initial contact with juvenile court. Those who did receive services prior to juvenile court involvement were more apt to have received county children's services assistance.

JUVENILE'S PRIOR JUVENILE COURT INVOLVEMENT*

	<u>1974</u>		
	<u>Allegheny</u>	<u>Philadelphia</u>	<u>Others</u>
Number of Juveniles Transferred	8	14	97
Number of Prior Petitioned Offenses	17 (6/case)	225 (16/case)	249 (4.4 case)
Juveniles with No Prior Petitioned Offenses	5	0	40
Number of Commitments to State Institutions	4	12	25
Number of Commitments to Private Institutions	1	7	20
Number of Prior Transfers	0	0	0
	<u>1977</u>		
	<u>Allegheny</u>	<u>Philadelphia</u>	<u>Others</u>
Number of Juveniles Transferred	12	84	183
Number of Prior Petitioned Offenses	108 (9/case)	1,913 (23.3/case)	1,087 (7.5/case)
Juveniles with No Prior Petitioned Offenses	0	2	38
Number of Commitments to State Institutions	23	77	108
Number of Commitments to Private Institutions	6	56	88
Number of Prior Transfers	2	1	4

When the juvenile court transfers a juvenile to adult court, in essence what the court is deciding is that the juvenile justice system can no longer provide the required treatment service for that individual.

The 1977 statistics demonstrate that the juvenile court "tolerated" the individual more than in 1974. In 1977, 14 percent of the individuals transferred had no prior petitions in juvenile court compared to 38 percent in 1974.

In Philadelphia in 1974 the average juvenile transferred had a prior history of about sixteen petitioned offenses. In 1977 his record would reflect about twenty-three petitioned offenses.

COUNTIES WITH THE HIGHEST NUMBER OF TRANSFERS

<u>1974</u>		<u>1975</u>		<u>1976</u>		<u>1977</u>	
Erie	16	Philadelphia	37	Philadelphia	78	Philadelphia	84
Philadelphia	14	Delaware	19	Delaware	43	Delaware	28
Delaware	10	Warren	16	Allegheny	19	Northampton	14
Franklin	8	Allegheny	11	Northampton	15	Warren	12
Allegheny	8	Northampton	10	Warren	14	Allegheny	12

COUNTIES WITH THE HIGHEST PERCENTAGE OF TRANSFERS
PER DELINQUENCY CASES PROCESSED

<u>1974</u>		<u>1975</u>		<u>1976</u>		<u>1977</u>	
Wyoming	25.00%	Warren	12.50%	Mifflin	16.67%	Warren	8.70%
Sullivan	14.30%	Sullivan	11.10%	Juniata	12.00%	Franklin	3.15%
Blair	13.30%	Jefferson	7.14%	Warren	10.37%	Lycoming	3.14%
Jefferson	4.59%	Fulton	5.55%	Fulton	9.68%	Northampton	2.29%
Northumberland	4.50%	Clinton	4.76%	Elk/Cameron	6.90%	Delaware	1.80%
Statewide Avg.	0.35%	Statewide Avg.	0.53%	Statewide Avg.	0.91%	Statewide Avg.	0.84%

The tables above reflect for the years 1974 through 1977:
1) the five counties with the greatest number of individuals transferred; and 2) the five counties with the highest percentage of juveniles transferred per delinquency case processed.

OFFENSES TRANSFERRED

	<u>1974</u>	<u>1977</u>
Burglary	23	71
Robbery	19	54
Violation/Drug Law	14	7
Theft	11	13
Aggravated Assault	15	43
Failure to Support Bastard Child	8	4
Simple Assault	3	5
Auto Theft	4	18
Arson	2	11
Receiving Stolen Goods	1	3
Rape	6	18
Attempted Murder	2	7
Criminal Mischief	1	1
Voluntary Manslaughter	2	2
Shoplifting	1	0
Violation of Probation	1	1
Kidnapping	1	2
Escape	1	1
Perjury	1	0
Conspiracy	1	0
Fornication and Bastardy	1	0
Forgery	0	3
Involuntary Deviate Sexual Intercourse	0	2
Disorderly Conduct	0	1
Sodomy	0	1
Reporting False Fire	0	1
Prostitution	0	1
Terroristic Threats	0	3
Failure to Stop at Accident	0	1
Resisting Arrest	0	1
Involuntary Manslaughter	0	1
Recklessly Endangering Another	0	1
Violation/Uniform Firearms Act	0	1
Unknown	1	1

The majority of juveniles transferred to adult court was transferred for more than one alleged offense. If an individual was transferred more than once during the year, only the first transfer was tabulated.

In 1974 four juveniles via counsel requested that their cases be transferred to adult court; likewise in 1977 four juveniles requested transfer.

In 1974 and 1977 burglary and robbery accounted for substantial numbers of cases. Aggravated and simple assault, auto theft, and rape rose in 1977 as transferred offenses. According to court records, two youths were transferred for murder and other charges in 1974. For our research purposes and since murder is excluded from the jurisdiction of the juvenile court, the next most serious offense was recorded.

SENTENCE GIVEN IN ADULT COURT
TO TRANSFERRED JUVENILE

A substantial number of cases in both 1974 (24 percent) and 1977 (20 percent) are listed as having unknown adult sentences. It was found that in the transfer of these cases from juvenile to adult court, they were not able to be tracked. These cases, as well as the cases still pending final disposition, were omitted from percentage tabulations.

Adult sentences are distributed between state correctional facilities, probation, county jail, and pending or unknown.

SENTENCE GIVEN IN ADULT COURT TO TRANSFERRED JUVENILE

1974

	<u>Number</u>	<u>Percentage</u>
<u>Commitment to:</u>		
State Correctional Institution (unspecified)	2	
Greensburg	3	
Camp Hill	8	
Muncy	1	
Western	1	
Rockview	4	
Huntingdon	2	
Graterford	5	
	<u>26</u>	22%
<u>Sentenced to County Jail</u>	22	18%
<u>Probation</u>	16	13%
<u>Other:</u>		
Work Release	4	
ARD	4	
Restitution	2	
Fine	1	
Support Payment	2	
Referred to District Magistrate	1	
Nolle Prose	10	
Dismissed	7	
Under Appeal	1	
Found Not Guilty	3	
Unknown	<u>20</u>	
	<u>55</u>	47%

SENTENCE GIVEN IN ADULT COURT TO TRANSFERRED JUVENILE

1977

	<u>Number</u>	<u>Percentage</u>
<u>Commitment to:</u>		
State Correctional Institution		
(unspecified)	6	
Greensburg	5	
Camp Hill	28	
Muncy	1	
Western	5	
Dallas	1	
Graterford	13	
Eastern State School and Hospital		
Diagnostic Center	1	
Rockview	2	
Philadelphia House of Correction	2	
Abraxas	3	
	<u>67</u>	24%
<u>Sentenced to County Jail</u>	64	23%
<u>Probation</u>	43	15%
<u>Other:</u>		
Work Release	6	
ARD	11	
Restitution	1	
Fine	1	
Support Payment	2	
Referred Back to Juvenile Court	2	
Nolle Prose	8	
Dismissed	7	
At Large	2	
Pending	32	
Found Not Guilty	10	
Unknown	23	
	<u>105</u>	38%

COMPOSITE OF JUDGES' COMMENTS

The material below represents the most typical responses and comments elicited from the seventy-three judges who were interviewed about transfer procedures and juvenile court needs as part of this study.

--In slightly more than one-half of the state's counties, the district attorney initiates a transfer hearing. In almost 40 percent of the counties, the petition for a transfer hearing is presented by the juvenile probation officer, and in a few, it is presented jointly by the district attorney and probation officer.

--Very few cases referred to juvenile court for transfer to adult court are rejected because most cases undergo a thorough screening before a petition is presented.

--The judges interviewed ranked the most crucial factors in making a transfer decision in the following order:

1. The juvenile's amenability to treatment in the juvenile justice system;
2. The individual's past juvenile court history;
3. The seriousness of the offense;
4. Public safety;
5. Age of the juvenile.

--In assessing the child's background before making a transfer decision, virtually all judges relied on a complete social and family

history, while a large majority required a psychological examination, either conducted specially for the occasion or provided by school or other institutional records in the juvenile's case file.

--The judges cited a number of additional resources and facilities as needed to retain in the juvenile system a child whom they would consider transferring to adult court. The most prevalent needs include: 1) regional secure facilities for serious offenders; 2) decent, more effective programs of education and vocational training; 3) more and better resources to treat retarded and emotionally disturbed juveniles who are adjudicated delinquent; and 4) provision of longer-term treatment (12 to 24 months) for serious offenders.

--The judges expressed, almost unanimously, a lack of confidence in the Department of Public Welfare's ability to operate juvenile facilities and cited basic philosophical differences between the Department and judges concerning the treatment of serious juvenile offenders. They also faulted the Legislature and the Administration for failing to understand the state's most serious juvenile delinquency problem and to provide adequate funds to meet its needs.

JUDGES' STATEMENTS

Comments of the judges interviewed are summarized according to four geographical regions: southeastern, western, central and northeastern.

Southeastern Region

This region includes five of the most populous counties in the state, accounting for approximately 32 percent⁹ of the population of youths between the ages of 6 and 17. Nine judges were interviewed in this region, and, although their view cannot totally reflect the opinions of all the juvenile court judges in this area, they do give us some indication as to how and why the transfer process operates in each of the five counties. It should be noted that interviews were conducted with five of the twenty judges who sit on Philadelphia's Family Court. To interview all twenty Philadelphia judges was deemed unnecessary for the purposes of this study.

This region accounted for 24 percent of the total number of transfers in Pennsylvania in 1974, with twenty-nine individuals being transferred to adult court. In 1977, 126 individuals were transferred, accounting for 45 percent of the state's total. In 1974, 55 percent of the state's total number of delinquency cases were processed in this region. In 1977, 46 percent of the delinquency cases were handled here. Thus, although there was a decrease in the number of delinquency cases handled in 1977 versus 1974, there was an increase in the number of transfers. In 1974 fifteen youths per 10,000 delinquency cases processed were transferred, while in 1977 eighty-five youths per 10,000 cases were transferred.

The process for initiating a transfer hearing was discussed with each of the nine judges interviewed. In two of the counties the district attorney presents the transfer petition. In the other three counties the juvenile probation officer presents the petition after a discussion process that is conducted by the probation officer and district attorney as a means of reducing the number of rejections of transfer petitions.

Judges ranked the factors considered in making the transfer decision in the following order:

1. The child's amenability to treatment in the juvenile system;
2. The danger which the child presents to the public;
3. The maturity of the child;
4. The child's past juvenile court history and the relative seriousness of the current offense.

Each judge reflected an interest in balancing their concern for the public safety with an interest in developing a plan of action that is consistent with the transfer procedures and that would also meet the needs of the accused.

All of the judges utilized extensive social history investigations prior to making the transfer decision. They stressed the importance of such investigations as developed by the juvenile probation office and stated that psychological evaluations were required in most cases.

When asked what additional resources or facilities were needed in southeastern Pennsylvania or the state to retain juveniles in the juvenile justice system, the judges responded that present regional secure facilities do not adequately address the needs of youth committed to those institutions. The judges unanimously recommended that a regional secure facility be developed that offered humane programs of education and vocational training to youths in need of secure treatment. The judges voiced

their concern over the inadequacy of present resources and stressed the need for institutional beds that provide private rooms for youths referred to those centers. Several judges stressed the need for a secure "Camp Hill-type" facility to serve Philadelphia's most serious juvenile offenders because they have no faith in Cornwells Heights' ability to provide security or decent educational programs or in the Department of Public Welfare's ability to provide and maintain a truly secure facility for juveniles in this region. Judges in the region outside of Philadelphia strongly stated that Philadelphia's high commitment rate to secure regional facilities make them highly inappropriate and counterproductive as treatment resources for youths from the other counties in this region. Several judges commented that resources are needed to enable the juvenile justice system to deal more effectively with retarded and emotionally disturbed youths who are adjudicated delinquent. Similar concern was expressed by the Philadelphia judges for providing facilities for juveniles who are "grossly aggressive, profoundly retarded and anti-social," as one judge put it. Another judge called for facilities to treat the "sophisticated, street-wise, prematurely mature, excessively aggressive child."

In general the judges stated that at the county level treatment resources are adequate. Each of the counties has promoted the development of alternatives to juvenile court processing and deinstitutionalization for juvenile offenders. One judge believed that a part of the problem in his county was that there were not enough judges to assure prompt hearings for juveniles. He suggested that more judges would allow for a comprehensive review of each case coming into the system and would enable the court to closely monitor the progress of the youth involved in the system. A fast-working and thorough system, he believes, will reduce the youth's opportunity for failure and thus reduce the frequency of transfers.

Another judge stated that there was a need for intake criteria for the referral of serious offenders to security programs. Such guidelines would ensure that appropriate youths are served by secure juvenile institutions.

It was suggested that philosophical differences concerning the operation of institutions exists between judges and Department of Public Welfare administrators. It was further suggested that these philosophical differences have eroded confidence in Welfare's ability to operate programs. The judges recommended that policy-level input to the Welfare Department be made on a formal basis by representative juvenile court judges. It was suggested that members of the Juvenile Court Judges' Commission develop a procedure by which their input would be integrated into Department of Public Welfare directives. Such a suggestion, if implemented, would increase the confidence of juvenile court judges in the management structure of the Department and thus increase judicial confidence in the operation of treatment facilities. A majority of judges in this region expressed the opinion that neither the State Administration nor the Legislature is aware of the need for more secure facilities and better institutional programs.

Western Region

The twenty-three counties in this region account for approximately 34 percent of Pennsylvania youths between the ages of 6 and 17.¹⁰ A total of twenty-six western region judges, including three from Allegheny County, were interviewed.

Although the total number of youths transferred statewide increased in 1977 from 1974, the percentage in the western region decreased. In 1974 this region accounted for 39 percent of the youths transferred; in 1977 it

was only 20 percent. Fifty youths per 10,000 cases were transferred in 1974 as compared to fifty-four per 10,000 in 1977.

In most western region counties the decision to present the transfer petition to the court follows discussion between representatives of the probation and district attorney's offices. In eight counties the district attorney files the petition; in another eight the probation officer does the filing. A more formalized discussion process occurs in eight counties, with the juvenile probation officer taking the filing responsibility. In four counties the petition is filed following a discussion with the judge. It is clear that in most counties transfer petitions are carefully considered prior to the time they are presented to the court. For this reason most counties in this region report that the rate of transfer rejection is minimal.

When asked to list the factors they consider when making a transfer decision, the judges mentioned the following:

1. Whether the juvenile is amenable to treatment in the juvenile system;
2. The seriousness of the offense;
3. The juvenile's past juvenile court history;
4. Public safety;
5. The age of the juvenile;
6. The juvenile's attitude toward treatment;
7. The availability of adequate juvenile treatment resources.

This region presents a wide diversity of opinion among judges as to who should be transferred. The range of opinion varies from judges who are totally opposed to transfer and have steadfastly refused to approve transfer petitions to those judges who express that the intensity of public pressure in their community has led them to decide that the

transfer process is a viable alternative to the juvenile court system. Similarly, the types of offenses transferred in this region represent the full range of offenses that may be petitioned into juvenile court.

Each of the judges interviewed requires a thorough assessment of the individual's social history prior to making the transfer decision. Three counties in this region require psychological examinations in all cases. Others use past psychological information that may have been completed by institutions or schools on a prior occasion.

In order to retain an individual in the juvenile justice system whom the court would normally consider transferring to adult court, the judges interviewed recommended the development of secure regional facilities with adequate educational and vocational programs. One judge recommended the development of 250 additional security beds statewide. Two judges indicated that they had had good results when they were able to sentence juveniles to Camp Hill and that they would welcome the availability of such a facility in the future. The judges also suggested that length of stay at the secure institutions be from one term of school to twenty-four months. Several judges suggested that the period of secure residential treatment be followed by a continuation of services to provide supervision in the child's own home. It is significant that only one county reported having inadequate local resources available to deal with most youthful offenders. One judge suggested that two judges should preside at transfer hearings because of the critical nature of such hearings.

Several judges in this region recommended programs for emotionally disturbed youth who become involved in the juvenile justice system. They saw this population as a category of youth presenting problems that cannot be resolved by existing service providers now available to the juvenile court.

The majority of judges in this region suggested two reasons why resources are not available for the serious youthful offender:

1. Lack of legislative understanding of the problems faced by court systems when dealing with juvenile delinquents. This causes a shortage of funding that could be used to develop local resources to deal with juveniles.

2. Philosophical differences between the judiciary and the Department of Public Welfare. Differences are evident in regulations, salary schedules, policy directives, etc.

Central Region

Judges in twenty-four central region counties were interviewed for this report. In this part of the state are 20 percent of the youths from age 6 to 17.¹¹ When the years 1974 and 1977 were compared, it was found that both the number of youths processed as delinquents and the percentage of transfers per delinquent cases increased slightly. In 1974 approximately ten youth per 10,000 processed as delinquents by the court were transferred. In 1977 that figure rose to fourteen per 10,000.

As was the case with other regions in the state, there is a diversity in the initiation of the transfer process. Eleven of the judges responded that transfer petitions were presented by the district attorney. Five judges stated that probation officers present the petitions. In two counties the judge decides whether or not a transfer petition will be brought before the court. In any case it is clear that in a majority of counties a thorough screening occurs before a transfer petition is filed.

Judges in this region listed numerous reasons and factors upon which the transfer decision is based. The majority of responses conformed with those listed by judges in other regions and were ranked as follows:

1. Whether the child is amenable to treatment in the juvenile system;
2. The child's past juvenile court record;

3. The seriousness of the current offense;
4. The age of the juvenile;
5. The impact the child's delinquent behavior may have on public safety.

A total of sixteen judges stated that complete family and social histories are required to facilitate the decision-making process at the transfer hearing. Eleven judges stated that psychological examinations are developed if warranted.

The judges cited that the greatest need in the central region is for a regional secure facility that provides educational and vocational programs. A total of thirteen judges stated that such a facility providing long-term (12 to 24 months) treatment is exactly what is required to increase the juvenile justice system's ability to deal with youths who otherwise would be certified to adult court. In several counties community-based needs were suggested. Three judges stressed the need for intensive probation services to provide supervision for recently released youths. Two judges stated that there was a need for highly structured group homes, and four judges outlined the need for regional detention centers. Additional services needed include more probation officers, local work-release programs for juveniles, programs for emotionally-disturbed youths who become involved in the juvenile system, and residential programs for girls.

Judges in this rural region suggest that philosophical differences with the Department of Public Welfare have reduced the effectiveness of county resources in dealing with juveniles who may be transferred to adult court. Specifically, four judges stated that because of federal and state jail regulations there has been great difficulty in developing local detention facilities to meet the needs of delinquent children. Six judges stated that inadequate local funding and problems that develop when

dealing with multi-county planning agencies have proven to be a frustrating experience. It seems that the judge is caught between community forces that consistently recommend removal of the youth from the community and federal and state deinstitutionalization philosophies.

Northeastern Region

A total of thirteen judges were interviewed in the northeastern region, and the variety of problems related by the judges vary widely between the more southerly and heavily populated counties and the northern rural counties. A comparison of the years 1974 and 1977 shows that there was an increase in the number of youths processed as delinquents in the northeastern region. An increase in the percentage of youth transferred to adult court was noted in 1977. Forty-four youths per 10,000 were transferred in 1974 as compared to 110 per 10,000 transferred in 1977.

Judges in five of the counties in the northeast region report that the district attorney initiates the transfer petition. In five of the northeastern region counties it is the probation office that usually presents the transfer petition. In two of the counties either the district attorney or the probation officer may file, and in one the petition is presented by the district attorney after consultation with the juvenile probation officer who is in agreement. As was the case in other regions the judges noted that thorough screening prior to the time of filing the transfer petition is done by the juvenile probation and district attorney's offices.

In response to the question of the factors involved in making a transfer decision, the judges responded as follows:

1. The child's amenability to treatment in the juvenile system;
2. The seriousness of the current offense;

3. The juvenile's past court history;
4. Public safety.

Additional reasons included the age of the juvenile at the time of offense, the individual's maturity and whether or not adults were involved in the commission of the offense.

Six of the county judges stated that complete family and social histories were used in making the transfer decision. Five recommend the development of psychological examinations if warranted and in one county psychologicals are routinely collected. In most counties the length of time that the juvenile had been in the system meant that a great deal of social history and psychological information had been developed by the juvenile probation office.

Nine judges specifically recommended the development of secure facilities for long-term (12 to 24 months) treatment of serious juvenile offenders. There seems to be a general reluctance to use the regional secure facility at Cornwells Heights, although this is done out of necessity. One judge recommended the development of adequate programs for female offenders, and three stated that there is a serious need for programs to deal with emotionally disturbed youths who have become involved in the juvenile justice system. One judge suggested programs that would keep juveniles active in vocational training programs and objected to the present "treatment" facilities that emphasize group counseling and result in the individuals' having large blocks of time with few activities to occupy their attention. As in other regions rural county judges expressed a need for detention programs to serve the local court and the youth on an interim basis prior to the time of the court hearing.

Four judges stated that inadequate local funding reduced the ability of their jurisdictions to deal with serious offenders. Two judges

suggested that the leadership gap at the state level had made the years 1975 through 1976 very difficult years for the juvenile justice system. During that time of change, secure facilities were being developed on the regional level, but those programs did not adequately meet the needs of youths. The judges also related that state programs, although functioning more effectively at the present time, still do not meet the needs of the youth or the local court systems.

Two judges outlined a need for increased communication and adequate planning for local and regional juvenile justice services. Another judge stated that the imposition of state Department of Public Welfare regulations had hampered local efforts at developing services. In addition he stated that he had not read or been convinced by DPW officials that regulations clearly improve either the quality of service delivery or the ability of service systems to deal with youthful offenders. Most judges objected to the mix of urban and rural youths in regional facilities and called for the development of programs that will differentiate between the needs of urban and rural youths. Two judges stated that philosophical differences relating to deinstitutionalization and the use of jails made it difficult for judges, legislators and Department of Public Welfare officials to develop a common point of view on some of the major issues pending in the juvenile justice system.

RECOMMENDATIONS

The following observations and recommendations are intended to modify the transfer process to ensure that dangerous youths who cannot be managed in the juvenile justice system are transferred to adult court. Among the principal reasons why youths are transferred to adult court are their previously frequent contacts with the juvenile justice system. They fail to achieve the desired deterrent effect on their delinquent behavior. It seems clear that present juvenile treatment resources cannot be expected to succeed with all clients and that some cases merit transfer to adult court. Once a juvenile is transferred to adult jurisdiction, judges are hopeful that adult sanctions and treatment programming will reduce the individual's criminal activity or that, at least while securely incarcerated, society will be protected.

An analysis of the adult court sentences for juveniles transferred in 1974 and 1977 shows that approximately 50 percent* of those transferred were incarcerated in local jails or state correctional institutions. In 1977, 131, or about 58 percent, of the individuals were committed to those facilities. Although some judges state that certain juveniles would be transferred to adult court even if secure placement was available in juvenile institutions, most judges believe that long-term security treatment programs for juveniles are needed in Pennsylvania. At the present time the Department of Public Welfare can place 181 males in a secure

*Pending and unknown cases are not included in this figure.

setting. This figure will increase to 191 placements in January 1979 when a twenty-bed security unit will be opened on the grounds of the Danville State Hospital in the Department of Public Welfare's central region.¹²

As discussed in another section of this report, Pennsylvania's law requires that prima facie evidence support a felony offense. The latter stipulation was effectuated on August 1, 1977, by the enactment of Pennsylvania law, Act 41 (currently cited as Chapter 42, Pennsylvania Consolidated Statutes 6301). Had the additional criteria existed for the entire year of 1977, the number of juveniles transferred would have decreased by thirty. Furthermore, it was discovered that in certain counties transfers were made based on a minimal amount of social, psychological and past delinquency information. In fact it was found that in 1974 forty-five juveniles transferred to adult court had no prior petitioned offenses. In 1977 there were forty youths transferred with no prior petitioned offenses.

As might be expected, a wide variety of practices govern the transfer process in Pennsylvania counties. The following recommendations, if implemented, will standardize the process to ensure that transfer serves as a viable alternative to the delivery of traditional juvenile justice system services without inappropriately referring youths to the adult correctional system.

1. IT IS RECOMMENDED THAT AN IN-DEPTH STUDY OF THE NEED FOR SECURITY PLACEMENTS FOR JUVENILE OFFENDERS BE INITIATED. JUDGES EXPRESS A NEED FOR SECURE FACILITIES WITH ADEQUATE VOCATIONAL AND EDUCATIONAL PROGRAMS THAT WILL ENHANCE THE OFFENDER'S PROSPECTS OF RE-ENTERING THE MAINSTREAM OF COMMUNITY LIFE. IT IS SUGGESTED THAT, PRIOR TO

RECOMMENDING THE EXPANSION OF PRESENT SECURE PROGRAMS OR THE DEVELOPMENT OF NEW ONES, THE STUDY SHOULD VERIFY THE SIZE OF AND THE NEED FOR SECURE FACILITIES. THIS STUDY MUST INCLUDE AN ANALYSIS OF THE TYPE OF TREATMENT EXPECTATIONS THAT CAN REALISTICALLY BE PLACED ON SUCH FACILITIES. OF UPMOST CONSIDERATION IS THE QUALITY OF THE PROGRAM AND THE EFFECT THAT TREATMENT PROGRAMS HAVE ON SERIOUS OFFENDERS. THUS, THE STUDY MUST REVIEW THE ORGANIZATIONAL STRUCTURE OF THE SECURE FACILITIES, THE TREATMENT PROGRAM, THE LIFE SPACE NEEDS OF YOUTHFUL OFFENDERS, THE EXPECTATIONS AND CRITERIA FOR THE USE OF SECURE FACILITIES, AND, FINALLY, THE NUMBER OF BEDS NEEDED IN THE STATE OF PENNSYLVANIA TO TREAT SERIOUS DELINQUENTS IN NEED OF SECURE TREATMENT. THE JUDICIARY, THE LEGISLATURE, AGENCY DIRECTORS AND OTHER APPROPRIATE GROUPS SHOULD BE REPRESENTED ON THE BODY OVERSEEING THIS STUDY.

2. IT IS RECOMMENDED THAT THE JUVENILE COURT JUDGES' COMMISSION, THE GOVERNOR'S JUSTICE COMMISSION, THE DEPARTMENT OF PUBLIC WELFARE, AND THE JUVENILE SECTION OF THE PENNSYLVANIA CONFERENCE OF STATE TRIAL JUDGES COORDINATE THEIR ACTIVITIES TO ASSIST THE COUNTIES IN PROMOTING AND/OR DEVELOPING LOCAL ALTERNATIVES TO REDUCE THE USE OF TRANSFER FOR ALL BUT THE MOST SERIOUS YOUTHFUL OFFENDERS. ALTERNATIVES MAY INCLUDE INTENSIVE PROBATION, RESTITUTION PROGRAMS, WORK EDUCATION PROGRAMS, INTENSIVE SUPERVISION GROUP HOMES, AND OTHER PROGRAMS AS INDICATED BY THE LOCAL SITUATION.

3. IT IS RECOMMENDED THAT A SINGLE MANAGEMENT INFORMATION SYSTEM BE DEVELOPED FOR THE PURPOSE OF TRACKING YOUTHS THROUGH JUVENILE JUSTICE AND RELATED SERVICE DELIVERY SYSTEMS. FORTY-THREE OF THE JUVENILES TRANSFERRED COULD NOT BE TRACKED INTO THE ADULT SYSTEM. THOSE "LOST" CASES MAKE THE RESULTS OF THIS STUDY OPEN TO INTERPRETATION AND ILLUSTRATE THE NEED FOR THE DEVELOPMENT OF A SINGLE

MANAGEMENT INFORMATION SYSTEM TO PROVIDE DECISION-MAKING GROUPS, INCLUDING JUDGES, DEPARTMENT OF PUBLIC WELFARE ADMINISTRATORS AND LEGISLATORS, WITH ACCURATE INFORMATION ON A TIMELY BASIS.

4. IT IS RECOMMENDED THAT UNIFORM AND CONSISTENT GUIDELINES BE ESTABLISHED ON A STATEWIDE BASIS TO ENSURE THE PROMPT PROCESSING OF TRANSFER PETITIONS. THIS RECOMMENDATION MAY INCREASE THE IMPACT OF POTENTIAL ADULT SANCTIONS ON JUVENILES TRANSFERRED TO ADULT COURT AND PROTECT THE GENERAL COMMUNITY FROM SERIOUS JUVENILE OFFENDERS. MECHANISMS ESTABLISHED FOR IMPLEMENTING THE ABOVE RECOMMENDATION MUST ENSURE THAT CASES ARE PROCESSED RAPIDLY AND THAT TRANSFER CRITERIA ARE CONSISTENTLY APPLIED TO SERIOUS YOUTHFUL OFFENDERS. IT IS FURTHER RECOMMENDED THAT THOSE GUIDELINES LIMIT THE JUDGES' ROLE IN THE TRANSFER PROCESS TO PRESIDING AT THE TRANSFER HEARING AND REQUIRING THE PROBATION OFFICE TO DEVELOP ADEQUATE SOCIAL, PSYCHOLOGICAL AND DELINQUENCY INFORMATION AS NECESSARY TO ASSIST IN DETERMINING WHETHER OR NOT THE COMMONWEALTH HAS ESTABLISHED THE NEED FOR TRANSFER TO ADULT COURT.

FOOTNOTES

¹Gerald F. Radke letter, July 11, 1977.

²Throughout this report, the term "transfer" is used in lieu of certify, waive, reference and bind-over.

³The Steering Committee believed that, because the State Correctional Institution at Camp Hill was closed to juveniles in 1975, the years 1975 and 1976 would be unstable years to obtain a profile of the juveniles being transferred. The committee decided that the questionnaire would be limited to those transferred in 1974 and 1977.

⁴See Appendix A: Juvenile Case File Questionnaire.

⁵See Appendix B: Judges' Interview Questionnaire.

⁶National Juvenile Law Center, Inc., 1978 Update on Transfer Legislation.

⁷See Appendix C: Institute of Judicial Administration/American Bar Association Draft Standards; and see Appendix D: National Advisory Committee Standards.

⁸See Appendix E: Map of Pennsylvania indicating specific Department of Public Welfare regions.

⁹Children in Pennsylvania, The Pennsylvania State University, University Park, Pennsylvania. (1970 interpretation of census data)

¹⁰Ibid.

¹¹Ibid.

¹²A secure bed is defined as a single program slot located within a facility that is securely locked so as to prevent escape. In most cases the secure facilities have a fence surrounding the residential cottage, and the staff follows procedures to prevent client escape. (Rated capacities of secure facilities: Cornwells Heights, 52; Elmerton House, 8; Weaversville, 12; Oakdale, 15; New Castle, 51--Total 138.) In an intermediate security or special placement unit, staff supervision is a substitute for building security. The staff is expected to maintain "eyeball" supervision of youths 24 hours a day. (Rated capacities of intermediate security units: Cornwells Height, 26; New Castle, 17--Total 43.) It is planned that Elmerton House will close when the Danville facility opens. Security for females presently (11/78) exists at the Philadelphia Youth Development Center. The population at that facility is minimal (1-5).

APPENDIX A

COUNTY: _____

YEAR: _____

PENNSYLVANIA JOINT COUNCIL ON THE CRIMINAL JUSTICE SYSTEM

FOR YOUR INFORMATION ONLY

COPY OF RESEARCH QUESTIONNAIRE

PART ONE

1. Identification of Juvenile Offender: _____
2. Birthdate: _____
3. Sex: Male _____ Female _____
4. Race: Caucasian _____ Black _____ Oriental _____ Hispanic _____
Indian _____ Other _____
5. Education (highest year completed): _____
6. Family Information:
Number of Natural Parents in the Home: 0 _____ 1 _____ 2 _____
a. Prior to certification, with whom was the child living? _____
b. Reason for natural parent(s) missing: _____
c. Number of siblings: _____
7. List contacts/placements with child welfare and mental health agencies
prior to petitioned offenses. _____

8. Date of most recent psychological evaluation: _____
a. None in file _____ b. I.Q., if available _____

9. Juvenile Justice Chronology:

Date of Offense	Intake Offense(s)	Disposition(s)

10.

Date of Offense	Petitioned Offense(s)	Date and Type of Dispositions(s)	Adjustment Record

11. Offenses Certified to Adult Court:

Offense	Date of Offense

12. Date of Certification Hearing: _____

PART TWO

DISPOSITION OF JUVENILE TRANSFERRED TO ADULT COURT

1. Pre-Arraignment:

a. Was individual detained? YES _____ NO _____

b. Where? _____

c. For how long? _____

d. Was bail/bond set? YES _____ NO _____

2. Arraignment:

a. Was the individual placed on ARD? YES _____ NO _____

2. Arraignment: (continued)

b. Offenses Tried in Adult Court:

Offense Listed by Count	Plead Guilty	Non-Jury Trial	Jury Trial	Found Guilty	Found Not Guilty	Offense Dismissed	Nolle Prose

3. What sentence was actually imposed? _____

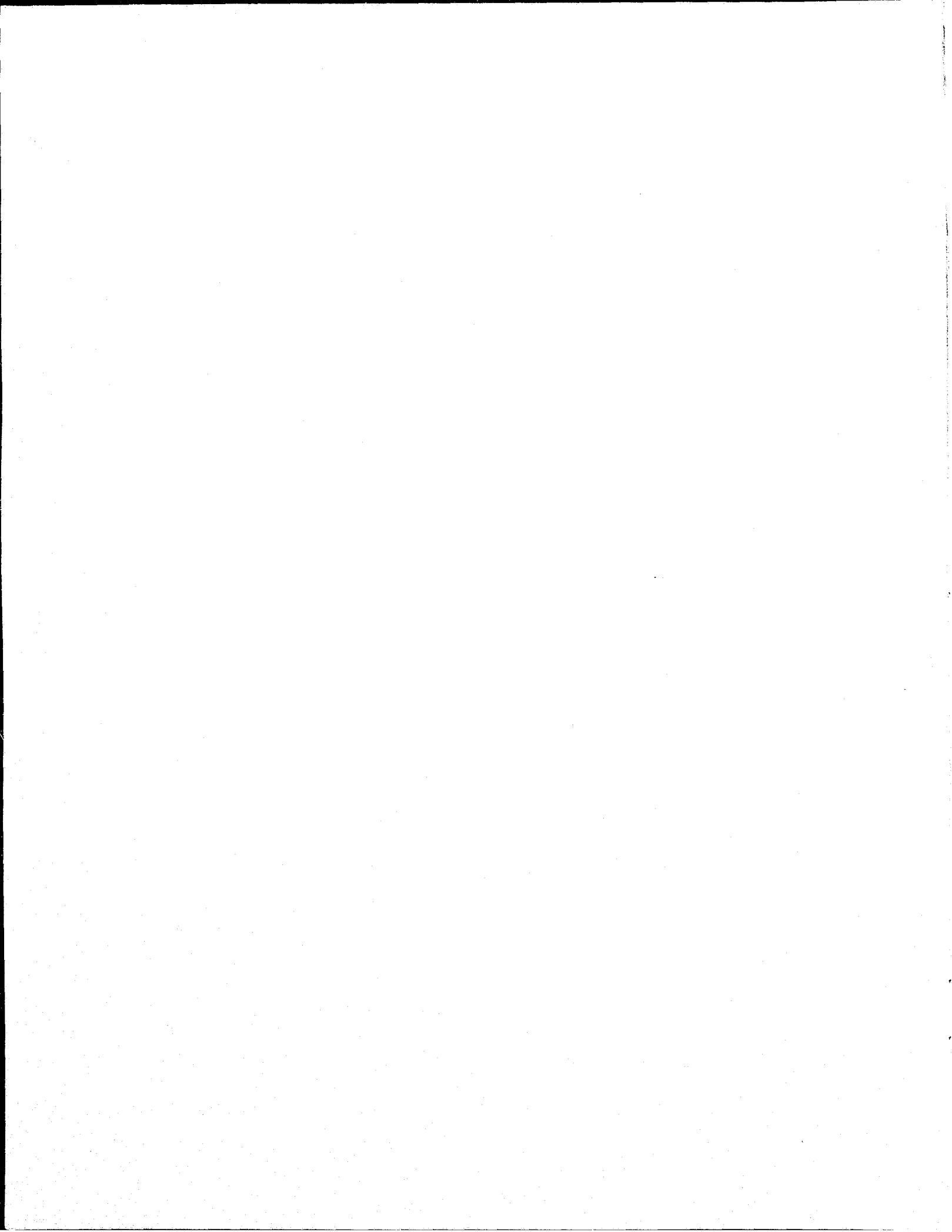
a. Time served? _____

Other Notes:

APPENDIX B

JUDGES' INTERVIEW QUESTIONNAIRE

1. What is the county's process for initiating a certification hearing?
 - a. What percent of the cases referred to juvenile court for certification are rejected? Why?
2. List and rank the factors involved in a juvenile's case which you think are most crucial in making a certification decision.
3. What, if any, formal or routine procedures do you require in helping to assess the child's background and needs before you make a certification decision?
4. What additional resources or facilities do you believe are needed in your county, immediate region, or the state to retain in the juvenile system a child whom you would consider certifying to adult court?
5. Why are these resources not available? How would you suggest their development?
6. What percentage of juveniles have you certified which in your opinion you would not have certified had there been available a secure treatment facility for adolescents.
7. It has been postulated that 1975 and 1976 were very unusual years regarding the certification of juveniles; do you think this is an accurate statement? Why?



APPENDIX C

INSTITUTE OF JUDICIAL ADMINISTRATION AMERICAN BAR ASSOCIATION

JUVENILE JUSTICE STANDARDS PROJECT

Standards Relating to Transfer Between Courts

PART I: JURISDICTION

1.1 Age limits.

A. The juvenile court should have jurisdiction in any proceeding against any person whose alleged conduct would constitute an offense on which a juvenile court adjudication could be based if at the time the offense is alleged to have occurred such person was not more than seventeen years of age.

B. No criminal court should have jurisdiction in any proceeding against any person whose alleged conduct would constitute an offense on which a juvenile court adjudication could be based if at the time the offense is alleged to have occurred such person was not more than fifteen years of age.

C. No criminal court should have jurisdiction in any proceeding against any person whose alleged conduct would constitute an offense on which a juvenile court adjudication could be based if at the time the offense is alleged to have occurred such person was sixteen or seventeen years of age, unless the juvenile court has waived its jurisdiction over that person.

1.2 Other limits.

A. No juvenile court disposition, however modified, resulting from a single transaction or episode, should exceed thirty-six months.

B. The juvenile court should retain jurisdiction to administer or modify its disposition of any person. The juvenile court should not have jurisdiction to adjudicate subsequent conduct of any person subject to such continuing jurisdiction if at the time the subsequent criminal offense is alleged to have occurred such person was more than seventeen years of age.

1.3 Limitations period.

No juvenile court adjudication or waiver decision should be based on an offense alleged to have occurred more than three years prior to the filing of a petition alleging such offense, unless such offense

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would not be subject to a statute of limitations if committed by an adult. If the statute of limitations applicable to adult criminal proceedings for such offense is less than three years, such shorter period should apply to juvenile court criminal proceedings.

PART II: WAIVER

2.1 Time requirements.

A. Within two court days of the filing of any petition alleging conduct which constitutes a class one juvenile offense against a person who was sixteen or seventeen years of age when the alleged offense occurred, the clerk of the juvenile court should give the prosecuting attorney written notice of the possibility of waiver.

B. Within three court days of the filing of any petition alleging conduct which constitutes a class one juvenile offense against a person who was sixteen or seventeen years of age when the alleged offense occurred, the prosecuting attorney should give such person written notice, multilingual if appropriate, of the possibility of waiver.

C. Within seven court days of the filing of any petition alleging conduct which constitutes a class one juvenile offense against a person who was sixteen or seventeen years of age when the alleged offense occurred, the prosecuting attorney may request by written motion that the juvenile court waive its jurisdiction over the juvenile. The prosecuting attorney should deliver a signed, acknowledged copy of the waiver motion to the juvenile and counsel for the juvenile within twenty-four hours after the filing of such motion in the juvenile court.

D. The juvenile court should initiate a hearing on waiver within ten court days of the filing of the waiver motion or, if the juvenile seeks to suspend this requirement, within a reasonable time thereafter.

E. The juvenile court should issue a written decision setting forth its findings and the reasons therefor, including a statement of the evidence relied on in reaching the decision, within ten court days after conclusion of the waiver hearing.

F. No waiver notice should be given, no waiver motion should be accepted for filing, no waiver hearing should be initiated, and no waiver decision should be issued relating to any juvenile court petition after commencement of any adjudicatory hearing relating to any transaction or episode alleged in that petition.

2.2 Necessary findings.

A. The juvenile court should waive its jurisdiction only upon finding:

STANDARDS

1. that probable cause exists to believe that the juvenile has committed the class one juvenile offense alleged in the petition; and

2. that by clear and convincing evidence the juvenile is not a proper person to be handled by the juvenile court.

B. A finding of probable cause to believe that a juvenile has committed a class one juvenile offense should be based solely on evidence admissible in an adjudicatory hearing of the juvenile court.

C. A finding that a juvenile is not a proper person to be handled by the juvenile court must include determinations, by clear and convincing evidence, of:

1. the seriousness of the alleged class one juvenile offense;
2. a prior record of adjudicated delinquency involving the infliction or threat of significant bodily injury;
3. the likely inefficacy of the dispositions available to the juvenile court as demonstrated by previous dispositions of the juvenile; and
4. the appropriateness of the services and dispositional alternatives available in the criminal justice system for dealing with the juvenile's problems and whether they are, in fact, available.

Expert opinion should be considered in assessing the likely efficacy of the dispositions available to the juvenile court. A finding that a juvenile is not a proper person to be handled by the juvenile court should be based solely on evidence admissible in a disposition hearing of the juvenile court.

D. A finding of probable cause to believe that a juvenile has committed a class one juvenile offense may be substituted for a probable cause determination relating to that offense (or a lesser included offense) required in any subsequent juvenile court proceeding. Such a finding should not be substituted for any finding of probable cause required in any subsequent criminal proceeding.

2.3 The hearing.

A. The juvenile should be represented by counsel at the waiver hearing. The clerk of the juvenile court should give written notice to the juvenile, multilingual if appropriate, of this requirement at least five court days before commencement of the waiver hearing.

B. The juvenile court should appoint counsel to represent any juvenile unable to afford representation by counsel at the waiver hearing. The clerk of the juvenile court should give written notice to the juvenile, multilingual if appropriate, of this right at least five court days before commencement of the waiver hearing.

C. The juvenile court should pay the reasonable fees and expenses of an expert witness for the juvenile if the juvenile desires, but is

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unable to afford, the services of such an expert witness at the waiver hearing.

D. The juvenile should have access to all evidence available to the juvenile court which could be used either to support or contest the waiver motion.

E. The prosecuting attorney should bear the burden of proving that probable cause exists to believe that the juvenile has committed a class one juvenile offense and that the juvenile is not a proper person to be handled by the juvenile court.

F. The juvenile may contest the waiver motion by challenging, or producing evidence tending to challenge, the evidence of the prosecuting attorney.

G. The juvenile may examine any person who prepared any report concerning the juvenile which is presented at the waiver hearing.

H. All evidence presented at the waiver hearing should be under oath and subject to cross-examination.

I. The juvenile may remain silent at the waiver hearing. No admission by the juvenile during the waiver hearing should be admissible to establish guilt or to impeach testimony in any subsequent criminal proceeding.

J. The juvenile may disqualify the presiding officer at the waiver hearing from presiding at any subsequent criminal trial or juvenile court adjudicatory hearing relating to any transaction or episode alleged in the petition initiating juvenile court proceedings.

2.4 Appeal.

A. The juvenile or the prosecuting attorney may file an appeal of the waiver decision with the court authorized to hear appeals from final judgments of the juvenile court within seven court days of the decision of the juvenile court.

B. The appellate court should render its decision expeditiously, according the findings of the juvenile court the same weight given the findings of the highest court of general trial jurisdiction.

C. No criminal court should have jurisdiction in any proceeding relating to any transaction or episode alleged in the juvenile court petition as to which a waiver motion was made, against any person over whom the juvenile court has waived jurisdiction, until the time for filing an appeal from that determination has passed or, if such an appeal has been filed, until the final decision of the appellate court has been issued.

APPENDIX D

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Report of the Task Force on Juvenile Justice and Delinquency Prevention

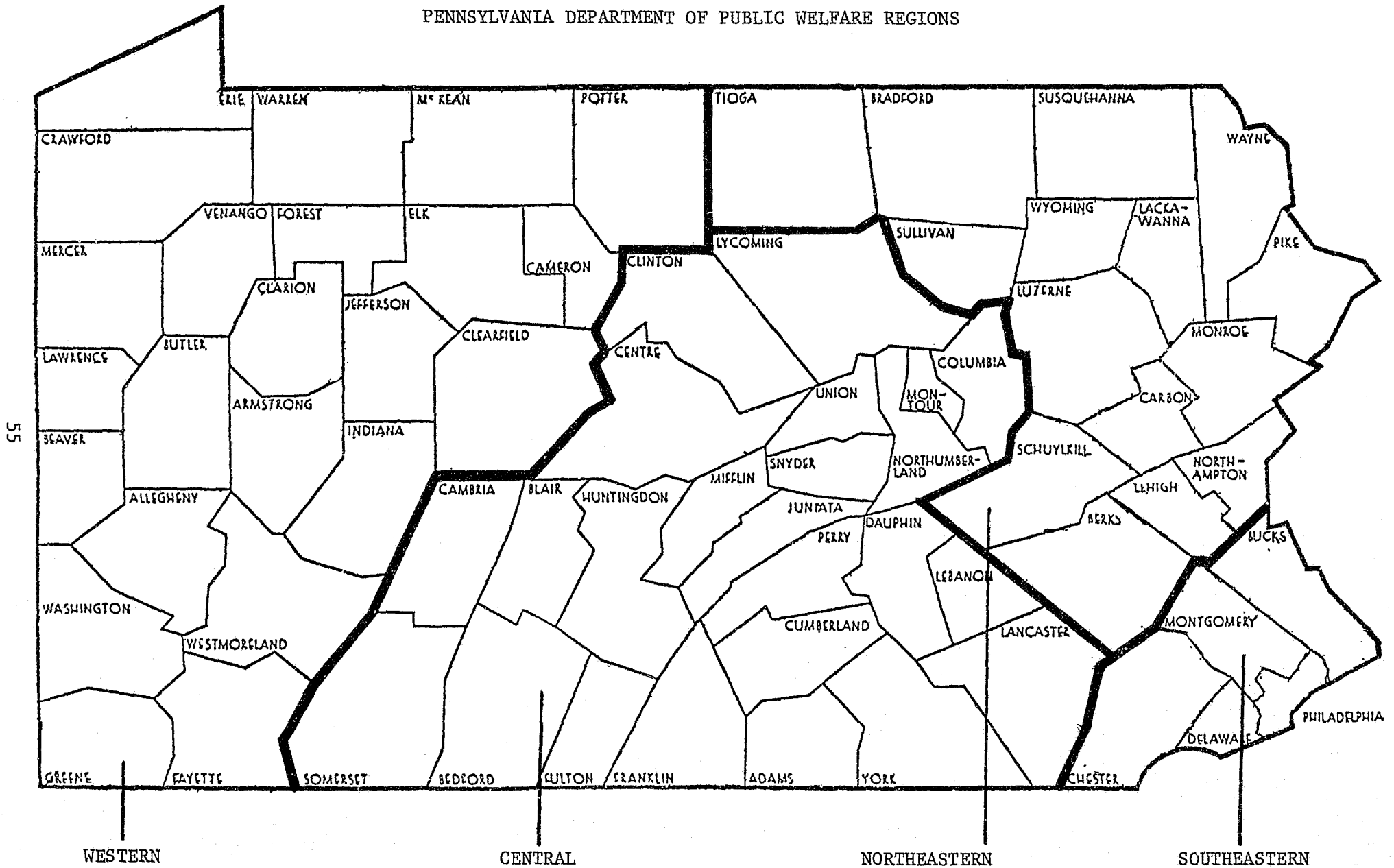
9.5--WAIVER AND TRANSFER

The family court should have the authority to waive jurisdiction and transfer a juvenile for trial in adult criminal court if:

1. The juvenile is charged with a delinquent act as defined in Standard 9.1.
2. The juvenile was 16 years or older at the time of the alleged commission of the delinquent act.
3. The alleged delinquent act is:
 - a. aggravated or heinous in nature or
 - b. part of a pattern of repeated delinquent acts.
4. There is probable cause to believe the juvenile committed acts that are to be the subject of the adult criminal proceedings if waiver and transfer are approved.
5. The juvenile is not amenable, by virtue of his maturity, criminal sophistication, or past experience in the juvenile justice system, to services provided through the family court.
6. The juvenile has been given a waiver and transfer hearing that comports with due process including but not limited to the right to counsel and a decision rendered in accord with specific criteria promulgated by either the court or the legislature. The *Kent v. United States*, 383 U.S. 541 (1966), criteria should be the minimum specific criteria on which these decisions are based.

APPENDIX E

PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE REGIONS



END