

From

The Commonwealth of Massachusetts

COMMITTEE ON CRIMINAL JUSTICE
110 TREMONT STREET • BOSTON, MA 02108

DIAGNOSTIC STUDY OF THE
MASSACHUSETTS CHILDREN
IN NEED OF SERVICES PROGRAM

Prepared by:
Abt Associates, Inc.
55 Wheeler Street
Cambridge, MA 02138

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Diagnostic Study of the Massachusetts Children in Need of Services Program

Final Report

NCJRS

MAY 30 1980

ACQUISITIONS

Prepared by:

**Robert L. Spangenberg, Project Director
Laura R. Studen, Principal Investigator
Deborah A. Day, Project Analyst**

Abt Associates Inc., 55 Wheeler Street, Cambridge, Massachusetts 02138

For:

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PREFACE

The research described in this report represents a milestone for the Commonwealth in developing an effective program for the treatment of the status offender. For the first time since the deinstitutionalization of status offenders, information is available on the characteristics and numbers of runaway, stubborn, and truant children statewide; the level of court intervention; the range of services delivered and the type of services needed; and the impact of status offender legislation in Massachusetts on this unique adolescent population. The legislative recommendations offered at the end of this report attempt to capture the best aspects of the existing statute--Chapter 1073--combine these with current practices in the courts which have proven helpful, and recommend practices which would increase the overall quality of the program.

Although the existing legislation governing the treatment of the status offender permits considerable latitude in interpretation and, therefore, in the treatment of the child, the findings of this research consistently reinforced the positive intentions of agency and court personnel in preserving the best interests of the child. These good intentions also stand as testimony to the receptiveness in the state for improving the system for delivering services to those identified as Children in Need of Services. With the benefit and knowledge gained by this research, and the collective experiences of those who work throughout the juvenile justice system, decision-makers in the Commonwealth should take the opportunity to establish a status offender program which will represent a model for themselves as well as other states struggling with this difficult problem.

The fundamental nature of this CHINS research project precluded examining two crucial areas of continued concern. First, no attempt could be made to evaluate the quality or effectiveness of services delivered to children. As will be discussed, little information exists on which constellation of services most clearly impacts on the troubles of runaways, truants, or stubborn children. Second--and most important--no information is available on what happens to the status offender once treated; where do these children go?

How effective has intervention at the status offender level been in ameliorating problems and preventing further future involvement in the criminal justice system? Without knowledge of the ultimate impact of the process on children we cannot truly say whether or not we have accomplished what was intended. Here too, Massachusetts is now in an excellent position to examine this issue and provide guidance to other states on the ultimate individual, systemic, and programmatic effects of dealing with the status offender. In the end, we hope all these efforts benefit the children.

Chapter 1

BACKGROUND

1.1 History of the CHINS Program

Two of the most consequential developments in the handling of status offenders¹ in Massachusetts were the attempts at deinstitutionalization of status offenders and the establishment of the Children in Need of Services (CHINS) Program. Chapter 1073, enacted in 1973, authorized special treatment of the CHINS population and significantly altered the role of the courts and social service agencies in dealing with the status offender.²

At the heart of the CHINS legislation was the notion that status offenders--truants, runaways, and stubborn children--should be treated differently than juvenile offenders. It was hoped that CHINS youth would not be labeled delinquents or housed in the same facilities as delinquent youth. It was also expected that the unitary screening and placement system for youth would be replaced with a bifurcated system permitting two distinct pathways to services--one for juvenile delinquents and one for status offenders. To understand the legislative intent of Chapter 1073 it is necessary to consider the evolution of reform schools, training schools, and other settings which in the past were considered appropriate for "treating" all juvenile offenders in the Commonwealth, including those that are now classified as status offenders.

It was during the early part of the nineteenth century that social reformers became concerned about the general welfare of children. Cities were growing rapidly as the number of immigrants increased and as society became more and more industrialized. Crowded living conditions and poverty created "bad environments" for children. In addition, the reformers perceived the urban setting as offering vice, degeneracy and unknown evil influences, all of which were completely unsuitable for children.

¹ In Massachusetts, a status offense is defined as an act committed by a youth which, if committed by an adult, would not be considered a crime. In essence, it is the "status" of the youth as a child which makes the act problematic.

² This brief chapter attempts to outline some of the significant events leading up to the enactment of Chapter 1073 and the transfer of authority for CHINS cases from the Department of Youth Services to the Department of Public Welfare in July, 1977. A more complete and detailed history of the CHINS Program is contained in a History of the CHINS Program, Spangenberg, Studen, and Day, for the Committee on Criminal Justice, December, 1977.

As an offshoot of the generalized concern for the condition of children, public awareness about the incarceration of children with adults in harsh, punitive institutions became an issue. A movement developed to "save" the children from this system. The theory which precipitated the establishment of separate institutions for children was based on the belief that an environment of strict discipline would be the proper setting in which to give children moral and vocational training to guide them into their adult roles. The institutions were to be placed in rural surroundings, separated from the cities by distance and philosophy. A charitable group in New York founded the House of Refuge in 1825 with this philosophy as the impetus. The first actual reform school supported by state funds was the Lyman School for Boys in Westborough, Massachusetts, established in 1847. The movement for "saving" children also created pressures for separate court proceedings. Again, Massachusetts led the reform movement. In 1870, some Massachusetts courts scheduled separate hearings for all children. By comparison, other jurisdictions had established separate hearings for minor offenses only.¹

In 1899, Illinois created the first statewide court for children, combining many features of the modern juvenile court. Delinquency, dependency and neglect cases made up the jurisdiction of this court. Wayward and incorrigible children were included in the category of delinquency. The Illinois statute decreed that hearings should be private, informal, and non-adversarial. Facilities for detention were to be exclusively for children and were not to contain any incarcerated adults. The Chicago Bar Association described the underlying philosophy of this court:

. . . the State, acting through the Juvenile Court, exercises that tender solicitude and care over its neglected, dependent wards that a wise and loving parent would exercise with reference to his own children under similar circumstance.²

Removal of the stigma and punitive effect of the adult system on accused children were goals of the reform movement. The propriety of the intervention

¹Massachusetts has actually long played a leadership role in the treatment of juveniles. The first three reform schools nationwide--Lyman, Lancaster, and Shirley--were established in Massachusetts. Subsequently, Massachusetts was the first state to close such institutions for juveniles.

²Anthony M. Platt, The Child Savers: The Invention of Delinquency (1969), p. 138.

of the state into the lives of the children for their own best interests was a basic assumption behind the creation of the juvenile court.¹

Although there has been considerable criticism of the juvenile justice system based on its lack of procedural due process, it has survived many attempts to declare it unconstitutional. The sublimation of constitutional safeguards to the benevolent intervention of the state through the court has roots deep in early English history. This concept, known as parens patriae, developed in the early English chancery courts. Originally, the concept was limited to property rights but expanded to include protection from personal injury after being transplanted to the United States. The 1931 National Commission on Law Observance and Enforcement had strong words of praise for the institution of the juvenile court. It regarded the court as a beneficent social organization which dealt with individual failings with compassion and attention to each individual's rehabilitation.

In the late 1960's, however, the juvenile court came under attack, as did many, if not most, of society's institutions. Criticism was directed at the failure of the juvenile justice system to guarantee constitutional due process protections. By 1973 the general opinion of the justice system had become even more negative. The recommendations of the National Advisory Commission on Criminal Justice Standards and Goals indicated that diversion from the system is the preferred option for juveniles. The Commission stated "The highest priority must be given . . . to minimizing the involvement of young offenders in the juvenile and criminal justice system." The intervention of the justice system was considered to be actively harmful to the child's future. ". . . [T]he further an offender penetrates into the criminal justice process, the more difficult it becomes to divert him from a criminal career."² The 1967 Commission had already recommended that status offenders be removed from the jurisdiction of the juvenile court and that they never be adjudicated as delinquents or confined in an institution for delinquents.

¹ Edwin Schur in Radical Nonintervention: Rethinking the Delinquency Problem (1973) identifies three basic societal reactions to juvenile behavior which help to explain the changes in philosophy and "treatment" of the juvenile offender since the time that it was recognized as a separate category in the criminal justice system. For a discussion of Schur's analysis, see Spangenberg, Studen, and Day, History of the CHINS Program (1977), pp. 6-8, for the Massachusetts Committee on Criminal Justice.

² National Advisory Commission on Criminal Justice Standards and Goals, 1973a. "A National Strategy to Reduce Crime." P. 23.

Not until 1974, however, with the enactment of the Juvenile Justice and Delinquency Prevention Act (JJDP Act), did the federal government play a major role in the area of juvenile justice. This law required the removal of status offenders from juvenile institutions within two years (subsequently amended to three years) of receiving funding for juvenile programs under the Act. Any jurisdiction failing to do so would be denied federal funding for the support of juvenile programs or services funded under this Act.¹

In many ways, Massachusetts was a forerunner in the area of deinstitutionalization, since its major juvenile institutions were closed down between 1971 and 1972, several years before the requirements of the JJDP Act. Public attention began to focus on the Massachusetts Youth Service Board in the 1960's because of allegations of brutality at the Institute of Juvenile Guidance at Bridgewater. This facility was designed to provide "extra security" and treatment for boys who had aggressive behavior problems and who were not suited for the more "open" institutions.

These allegations spurred a series of investigations. Six such studies were made between 1965 and 1968 and each one criticized the Youth Service Board. Former Governor Volpe then requested that technical experts in the Children's Bureau of the U.S. Department of Health, Education and Welfare look into the situation and recommend changes. Again the final report contained many criticisms of the Youth Service Board, including the emphasis of custodial goals over those of treatment; the lack of a program of diagnosis and classification of children; the lack of a professional personnel system; and the inadequacy of the parole function.

Legislative reform was sought in 1968 but no action was taken at that time. Another crisis occurred at the Bridgewater facility when staff became divided over the priorities to be given to punishment and treatment. Groups favoring reforms and seeking an increase in clinical services to juveniles continued to press for change. In 1968, Governor Sargent was sworn in and sided with the reform coalition. The Governor obtained the resignation of the Youth Service Board Director and Dr. Jerome Miller assumed that position in October 1969. That same year legislation was passed which reorganized

¹ Section 223(1)(2) of the JJDP Act of 1974 as amended calls for full compliance with the deinstitutionalization requirements within three years of a state's initial approved application for funding under the Act.

the old system into a new Department of Youth Services (DYS). Authority was centralized in the DYS with bureaus responsible for institutions, education, clinical services, and aftercare.

The first major effort for reform of the juvenile justice system began in 1971. First, the new Commissioner of DYS appointed a committee to study the Hampden, Middlesex and Essex County Training Schools. The committee concluded that the schools had a generally inadequate academic program; that they were isolated from the community both physically and psychologically; and that they showed a disregard for current innovative techniques in treatment and education. Recommendations included: (1) the abolition of the schools as they presently existed and their temporary incorporation under the Department of Human Services; (2) the complete diagnostic study of all the boys currently living at the three schools and referral to additional services in cases where rehabilitative needs were suggested; and (3) a study of alternative public and private youth care resources and programs.

Several bills were filed in the state legislature in 1971, each attempting to deal with some aspect of the problem. The most significant bill was H6226. This bill is in large measure the forerunner of Chapter 1073. House 6226 under the definition of "Child in Need of Supervision" attempted to deal with children between the ages of 9 and 18 categorized as runaways and stubborn children and those between 9 and 16 who willfully failed to attend school or persistently misbehaved in school. Most important was the provision that no child found to be "In Need of Supervision" could be committed to an institution or facility designated or operated for delinquent children.

House 6226 ultimately died in Senate Ways and Means, but not before a confrontation with the Massachusetts Committee on Children and Youth (MCCY). This group charged that the bill failed to set up the essential machinery and alternatives to be employed before adjudication in order to direct noncriminal children out of delinquency channels and into more appropriate child welfare channels. Secondly, they opposed the bill on the grounds that appropriate child welfare resources--such as psychiatric treatment, foster care, residential homes and group homes--were not made available in the proposed legislation. It was H6226, along with the suggestions made by MCCY and other child advocate groups, that ultimately framed the essential features of Chapter 1073. Similar legislation was filed in the 1972 session but was not enacted.

When the Massachusetts legislature passed Chapter 1073, in 1973, the Act reflected a number of compromises entered into as a result of the filing of at least six prior bills in the 1973 session of the legislature. The central and most important objectives of the legislation are as follows:

- • To separate the status offender from the juvenile delinquent by decriminalizing status offenses.
- • To attempt to deal with status offenders informally, including the use of Department of Public Welfare (DPW) short-term social services.
- To further separate the delinquent child from the status offender by lodging responsibility for the status offender program with DPW rather than DYS.

Since the enactment of Chapter 1073, the organization and delivery of services to CHINS youth have been mired in controversy. Because of the provisions for arrest, detention, bail, and authority for probation officers to place youth at their discretion, some have attacked the bill as being about as regressive as the previous system for dealing with status offenders. On the other hand, there are those, including some judges, who feel that Chapter 1073 fails to give them sufficient sanctions to enforce their orders when children fail to respond to the court process. Beyond legislative problems and ambiguities, however, the CHINS program also continues to struggle with problems of program design and needed resources.

While Chapter 1073 gave responsibility for adjudicated CHINS youth to DPW, it made no specific provision concerning responsibility for detention of CHINS youth nor were any significant budgetary adjustments made to accommodate the increase in DPW caseload. Since DYS was in a better position to provide detention services, the Executive Office of Human Services directed DYS to retain this portion of the CHINS program. This arrangement, albeit expeditious, created a problem since DYS was not equipped to insure that pre-adjudicated CHINS cases would be satisfactorily separated from other juvenile populations detained in the same facilities. Although Chapter 1073 shifted primary responsibility for CHINS to DPW, no specific adjustments were made in allocating the necessary resources to insure that CHINS youth could be detained in separate facilities or that there would be additional staff and service providers to handle the CHINS caseload within the existing fiscal year budget of DPW. The net result of this was that the initial transfer of the program to DPW had little overall effect on the delivery of services to

CHINS youth, thus frustrating the legislative intent that these children be treated differently than juvenile offenders.

Planning for the actual transfer of responsibility for the CHINS Program for pre-adjudicated youth from DYS to DPW began gradually in the summer of 1976 and culminated in an Executive Agreement in the summer of 1977. Since the transfer process would necessitate careful planning, the agreement allowed for gradual staging of the transfer, a key element of which related to detention, with complete divestment by DYS of CHINS youth by July 1, 1977. A description of the current organization of the CHINS program within DPW and the operations of the CHINS program statewide is contained in the following section.

1.2 Organization of the CHINS Program

The Department of Public Welfare is organized into Community Service Areas (CSA) according to six regions statewide:

Region I:	Boston
Region II:	Springfield
Region III:	Worcester
Region IV:	Lawrence
Region V:	Greater Boston
Region VI:	New Bedford

The CSA's serving these areas are displayed on the following page. The DPW regional organization is a keystone to the delivery of public welfare services and to the current operation of the CHINS program.

Each DPW region is assigned a CHINS regional supervisor. Field responsibilities for CHINS youth rest with the CHINS regional supervisor and the CHINS workers assigned to each of the juvenile and district courts located within each region.¹ Theoretically, the supervisors participate in the organizing, planning, assigning and reviewing of the work of the CHINS social work staff in their respective regions. The regionally-based CHINS workers (some of whom have offices within the local CSA's) are to accept responsibility for

¹ The number of CHINS workers assigned to each region is as follows: Region I: 6; Region II: 6; Region III: 6; Region IV: 8; Region V: 8; Region VI: 7. Additionally, there are five backup workers who take CHINS cases on a part-time basis in Region II plus a CETA worker in the Greenfield CSA. In Region III there are six full-time CETA workers plus a student who remained through November, 1977. These numbers are subject to fluctuation as workers take other jobs and new positions are created.

COMMUNITY SERVICE AREAS ACCORDING TO REGIONS

BOSTON (I)

Adams Street
Church Street
Columbia Point
"D" Street
Dimock Street
East Boston
Grove Hall
Hancock Street
Morton Street
Nursing Homes
Roslindale
Roxbury Crossing
South Huntington
West Howell

SPRINGFIELD (II)

Adams
Athol
Chicopee
Great Barrington
Greenfield
Holyoke
Northampton
Palmer
Pittsfield
Springfield
Westfield
West Springfield

WORCESTER (III)

Clinton-
Fitchburg
Gardner
Leicester
Leominster
Medway
Northbridge
Rutland
Shrewsbury
Southbridge
Spencer
Templeton
Worcester

LAWRENCE (IV)

Amesbury
Beverly
Billerica
Chelmsford
Chelsea
Dracut
Everett
Georgetown
Gloucester
Haverhill
Lawrence
Lowell
Lynn
Malden
Medford
Melrose
Methuen
Newburyport
North Andover
Peabody
Reading
Revere
Salem
Tewksbury
Wakefield
Westford
Winthrop

GREATER BOSTON (V)

Arlington
Brookline
Cambridge
Concord
Dedham
Framingham
Hingham
Hudson
Marlborough
Natick
Newton
Norwood
Quincy
Randolph
Somerville
Waltham
Watertown
Weymouth
Wilmington
Woburn

NEW BEDFORD (VI)

Attleboro
Barnstable
Bourne
Brockton
Fairhaven
Fall River
Falmouth
Marshfield
Nantucket
New Bedford
Oak Bluffs
Orleans
Plymouth
Taunton
Wareham

developing a short-term plan of services based on the youth's needs and a long-term plan developed in conjunction with DPW generalists or other state agency representatives who may have a continuing responsibility for the CHINS youth. A number of agencies and units of government may accept the responsibility for delivery of services to CHINS cases, including the Department of Mental Health, the Department of Public Health, the individual counties, private agencies, or a variety of special LEAA-funded court probation projects. It is the responsibility of the CHINS worker, working in cooperation with court juvenile probation staff, to insure that appropriate services are secured for CHINS youth.

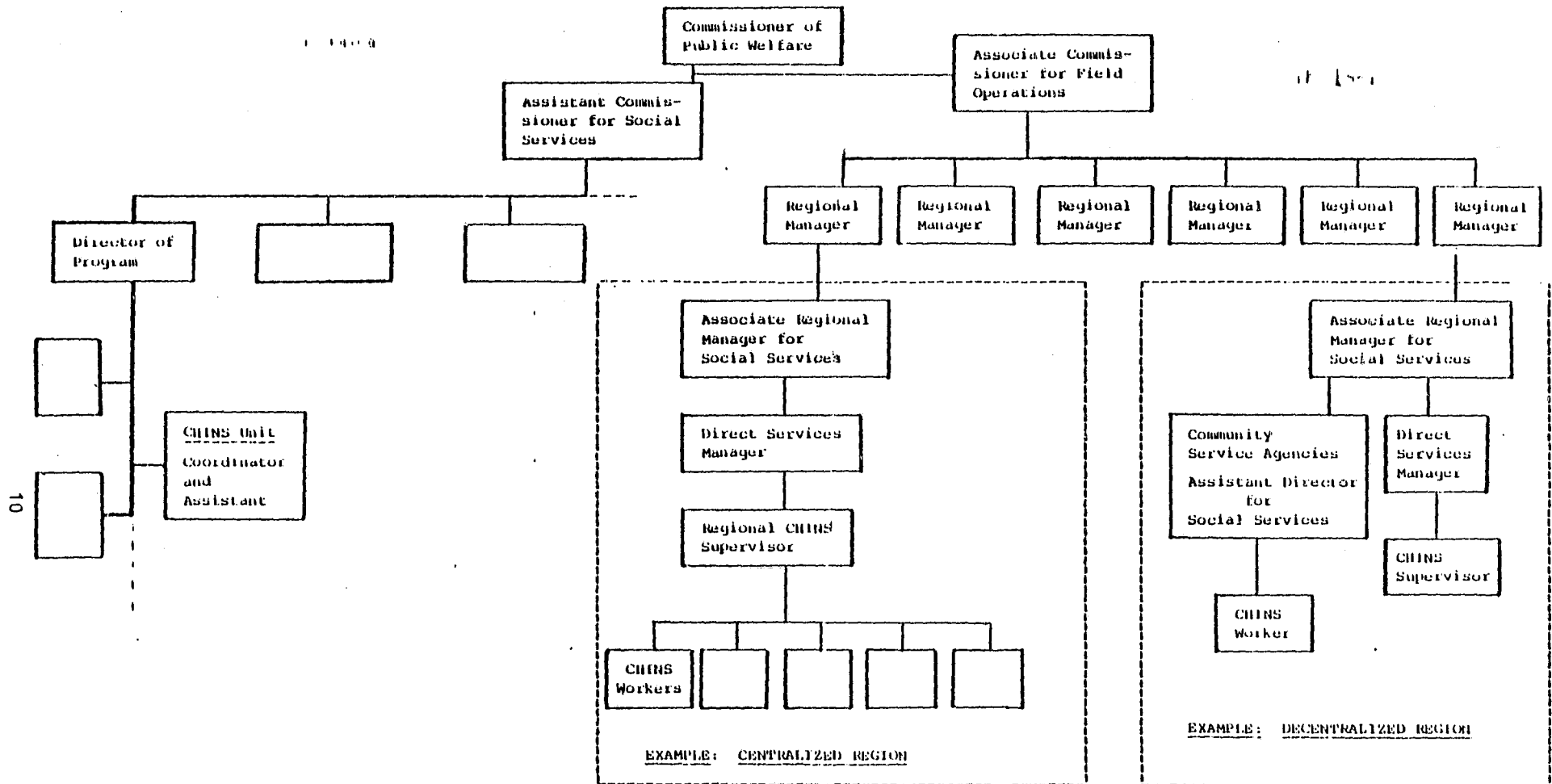
The special emphasis of DPW's regulations regarding the delivery of services to CHINS youth include: (1) initiating early intervention in the juvenile system prior to court action and seeking diversion of inappropriate referrals; and (2) dealing only with cases referred by courts and probation officers, offering brief and intensive services, and providing for transfer after 30 days to a CSA caseworker.

In an attempt to implement this special emphasis and to prepare for accepting full responsibility for the CHINS program, DPW in 1977 made the following decisions:

- to request an additional \$1.3 million in its FY 1978 budget (Children in Crisis Account) which would supplement the existing \$2.3 million budgeted for other prior services contracts, some of which were with providers offering services to CHINS youth. (Additional services in the area of group care placements and foster home placements are accounted for under the DPW Care and Maintenance Account. This fiscal arrangement made it possible to provide both short-term emergency care to CHINS youth as well as to insure longer term care, if needed);
- to hire a CHINS coordinator to assist in the training and supervision of field staff as well as management of the program within the agency;
- to assign and train six regional CHINS supervisors and to transfer twenty-one CHINS workers from generalist positions to work in the district courts in each region. (The number of workers has since risen to over 40 by the transfer of additional generalist workers);
- to evaluate and renegotiate some DYS contracts in the regions and to add others so that there would be over fifty programs providing emergency care to CHINS youth.

Administratively, the CHINS program is somewhat of an anomaly. As Figure 1.2.1 illustrates, the CHINS Coordinator and Assistant to the Coordinator

Figure 1.2.1



are responsible to the Director of Program and the Assistant Commissioner for Social Services and have offices in the central office in Boston. The regional CHINS supervisors and the CHINS workers who are assigned to the courts are under the Associate Commissioner for Field Operations and are responsible to supervisory level personnel in each of the six regions.

In each of the six DPW regions there is a Regional Manager and an Assistant Regional Manager for Social Services. In three out of the six regions the CHINS supervisor and workers are organized in a centralized manner, share a common location at the Regional Office and report directly to these two officials although technically the Direct Services Manager also has supervisory responsibilities. In the remaining three regions, the CHINS workers are assigned to local Community Service Agencies (CSAs) and the CHINS supervisor is based in the Regional Office. These workers are directly supervised by the Assistant Director for Social Services in each CSA who report to the Associate Regional Manager for Social Services. To a large extent, therefore the significant decisions regarding the CHINS program take place at the local community level, particularly, as will be demonstrated, as the workers interact with the probation departments of the courts to which they are assigned.

1.3 Description of the Court Process

In Chapter Four the CHINS statute (Chapter 1073) will be thoroughly discussed and its procedures illustrated with detailed flow diagrams. At this point, however, it is useful to outline the most significant steps in intake, processing and placement of CHINS as envisioned by the legislation.

The initial contact with the court is made at the time an application for a petition is requested from the clerk of court by a parent or guardian, a police officer or a supervisor of school attendance. Once this application is filed, the probation department is contacted to do an investigation and prepare recommendations for the preliminary hearing before the judge. The court has the option at this point in the proceeding to offer assistance to the child and the parents on an informal basis or to issue the petition and schedule a hearing on the merits or to close the case immediately. If the choice is to provide informal assistance, the possibility of later issuing the petition and holding a hearing on the merits remains open if the child or the parents do not cooperate.

If the child is a runaway under arrest, the petition must be issued immediately. The court may, however, provide informal assistance at this juncture if it feels scheduling a hearing on the merits is not necessary.

The issue before the court at the hearing on the merits is whether or not, beyond a reasonable doubt, the child should be adjudicated to be a child in need of services. Various placement alternatives are available to the court after this finding has been made.

The statute specifies the right of the child to counsel and to an appeal. Provision is made for the use of bail and detention under certain limited circumstances for a maximum of forty-five days with court review of the detention every fifteen days.

1.4 Study Design and Research Objectives

Early in 1977, the Massachusetts Committee on Criminal Justice (MCCJ) surveyed principal agencies and criminal justice personnel throughout the Commonwealth concerning appropriate evaluation priorities over the coming months. Not suprisingly, the CHINS program was identified as a major problem area. The MCCJ commissioned Abt Associates Inc., Cambridge, to conduct a research study beginning in late November 1977 and to be completed by June 1978.

The research is designed to look at a number of crucial issues related to CHINS, including defining the size and characteristics of the CHINS population and examining problems stemming from the vagueness of the CHINS legislation. Depending on the procedures of the various district courts, a CHINS youth may become a "case" at the point of entry (i.e., upon first contact with the court), at the time an application for a petition is signed, or at the point a petition is issued.

The CHINS study has a number of related objectives, all of which culminate in recommendations to MCCJ on how to deal with the serious problems inherent in the CHINS program and suggestions on how the legislation might be amended to correct some of the ambiguities and conflicts associated with the implementation and operation of the program.

As a diagnostic study, the research on the CHINS program is concerned with several basic components: children, process, services, and costs. In addition, the study examines the legal aspects of the CHINS program to

determine how the legislation specifically guides the process of delivering services to this special population. In summary, there are five basic aspects to the study:

1. The Client Population Analysis. Here the study is concerned with how to best characterize the current CHINS population, both in terms of numbers and in terms of needs.
2. The Implementation Analysis. The major concern here is to determine how the CHINS program is implemented statewide and on a region-to-region basis and to isolate those aspects of the process which seem to facilitate or impede the successful realization of program goals.
3. The Legal Analysis. The way in which the requirements of the legislation may be structuring the program or contributing to the confusion and ambiguity now apparent is a question of some concern and certainly appropriate to this research.
4. Social Service Survey. Little is really known about the constellation of programs which provide services to CHINS children and additional information was sought to determine what services are available exclusively to the CHINS population.
5. Cost Analysis. Here an attempt is made to determine how much the current CHINS program costs and what the implications would be of making changes in the delivery system.

A brief review of the major elements of the methodology used to conduct this study may be helpful to the reader in considering the analyses performed in subsequent chapters of this report. The primary data collection tasks included:

- Selection of 30 sample courts in the Commonwealth for the purposes of: interviewing the clerk, probation staff, the judges most knowledgeable about the CHINS process in each court; and collecting individual case data from the clerk's and probation's records in each court for a sample period in 1976 and 1977;
- Interviewing all DPW CHINS supervisors and all CHINS workers assigned to district and juvenile courts throughout the state;
- Surveying the clerks, probation staff and judges in the remaining 39 non-sample courts in the state;
- Surveying over 370 providers of social services to youth, including "potential" CHINS providers and contracted CHINS programs;
- Researching the legislative history of Chapter 1073 as well as other state statutes dealing with the treatment of status offenders;

- Researching the budgetary history of the CHINS program in the Department of Public Welfare, including both the administrative costs, costs of contracts, and cost incurred to the agency through the Group Care Unit that may be attributable to CHINS:

Two of the more complex tasks, the court sampling and in-court data collection and the service provider survey, are reviewed in greater detail below.

1.4.1 Court Sampling Procedures

The procedures used to select the sample courts for the diagnostic study of the CHINS program were based on a number of criteria identified jointly by the Massachusetts Committee on Criminal Justice (MCCJ) and Abt Associates Inc. Because the study has a primary interest in analyzing the CHINS process and characteristics of the CHINS clients on a region-by-region basis, the initial sampling task was to organize the 69 district and juvenile courts with juvenile jurisdiction throughout the Commonwealth according to the six Department of Public Welfare planning districts. MCCJ specified that the total sample should represent 30 district and juvenile courts with juvenile jurisdiction including the four designated juvenile courts--Boston, Bristol County, Worcester, and Springfield. Since the courts vary considerably within even a single region, it was desirable to ensure that a consistent and fixed number of courts per region be represented in the sample. The final sample plan, although modified slightly later in the data collection, specified inclusion of five courts from each of the six DPW planning districts. Table 1.4.1 lists the sample courts.

Once the courts were arrayed by region, selection was based on the following set of information:

- urban characteristics
- size of the population served by the court
- county in which the court was situated
- number of juvenile complaints reported in FY'76
- number of CHINS petitions reported in FY'76
- ratio of juvenile complaints to population served
- ratio of CHINS petitions to population served
- ratio of CHINS petitions to juvenile complaints

Table 1.4.1

Sample Courts

Region I: Boston	Boston Juvenile Dorchester 1 West Roxbury Brighton South Boston
Region II: Springfield	Springfield Juvenile Pittsfield 1 Chicopee 1 Northampton 1 Greenfield
Region III: Worcester	Worcester Juvenile Fitchburg Leominster Dudley Ayer
Region IV: Lawrence ³	Lowell Salem Gloucester Ipswich
Region V: Greater Boston ³	1 Quincy Cambridge Concord Somerville 1 Hingham 1 Natick
Region VI: New Bedford	2 Bristol County Juvenile Brockton Stoughton Barnstable Wareham

¹These courts were selected as sample courts and personal interviews were completed with clerks of court, probation officers, and judges. However, due to a variety of difficulties with respect to accessibility of court records, in-court data collection was not conducted.

²The Bristol County Juvenile Court actually is comprised of four courts: Attleboro, Fall River, Taunton, and New Bedford District Courts. Personal interviews and in-court data collection were completed in each of these four courts.

³Region IV is represented by four courts and Region V by six because of a recent realignment of DPW districts.

In selecting the courts, consideration was given to the larger more urban courts where there was a significant level of both total juvenile complaints and CHINS petitions reported. The emphasis on urban courts reflects the desire to insure that sufficient caseloads would be present in the sample courts to facilitate selection of at least 600 individual case records for detailed analysis with respect to both the processing of CHINS cases and the characteristics of the CHINS population.¹ Although many courts serving urban populations were selected, at least one rural court was selected within each region to ensure representation across the total continuum. In the final region-by-region analysis, it was important to maximize differences in a given region and across all courts.

In selecting the sample, an attempt was also made to include as many different counties as possible; all but two (Dukes and Nantucket) have been included. The ratios of the number of juvenile complaints and CHINS petitions to the population served, and the number of CHINS petitions to the total number of juvenile complaints, were computed to detect unique courts with either unusually high or unusually low rates. The sample includes courts with unusually high or low ratios that had not already been selected due to size. A random selection procedure was not used because it would make it impossible to include courts that are of particular interest, e.g., courts with apparent large discrepancies in the computed ratios, the juvenile courts, and courts representing all counties in the Commonwealth. Selecting courts in a way that maximizes differences in the dimensions of size, location, urban or non-urban workload assures that the final analysis will capture the full range of CHINS experiences in Massachusetts.

The final sample was narrowed to a field of 29 courts because of delays experienced in gaining access to the court records in West Roxbury, Chicopee, Greenfield, Quincy, and Natick. Personal interviews were conducted in these courts, but their case records are not included in the data analysis. Nonetheless, the loss of case record sample size was compensated with the inclusion of all four courts which comprise the Bristol County Juvenile Court: Attleboro, Fall River, Taunton, and New Bedford District Courts.

The sample of CHINS cases selected from each court was confined to two periods: July 1, 1976 through November 30, 1976 and July 1, 1977

¹ In fact, almost 900 cases were ultimately selected.

through November 30, 1977. Since DPW actually took over the CHINS program on July 1, 1977, these two sample periods provide an excellent base of comparison and a large enough sample on which to generalize about the CHINS process in the courts and the characteristics of CHINS children statewide. The number of cases selected per court was derived by compiling a universe list of all CHINS in each of the two sample periods who were on the clerk's docket, in the probation files, and/or in DPW CHINS worker records (known as CHINS Logs). The size of the sample was weighted according to a scale which captured all cases up to a universe size of 15 and sampled roughly one-third of all cases on any universe of 16 cases and over.

1.4.2 Service Provider Survey

The goal of the survey of social service providers was to supplement information obtained through personal interviews on the issue of what services are currently available to CHINS youth and what services should (or could) be made available in the future. The social service delivery network in Massachusetts is extremely complex, partly because social services of different types are delivered by predominantly private agencies which have ~~purchase-of-service~~ contracts with multiple state agencies. In order to prepare a survey of providers to youth, therefore, it was necessary first to compile a universe of the programs which were providing services to CHINS youth and the programs which possibly provide services but were currently under no obligation to participate in the children's services network.

Service provider directories were obtained from relevant state agencies, with a clear emphasis on those agencies which have the ability to contract for services for youth with court involvement. Of the 12 directories we received, ten were suitable for our purposes. They were:

<u>Source</u>	<u>Title</u>
A. DPW	Directory of Residential Child Care Facilities
B. DPW	Group Care Unit Directory
C. DPW	Invoice Foster Care
D. DMR	Resource Directory--Drug Treatment and Prevention Programs in Massachusetts
E. DMR	Fiscal Year 1978 Contracts

<u>Source</u>	<u>Title</u>
F. DMH	Children's Services and Partnership Clinics
G. DYS	Master List of Contracted Programs
H. OFC	Group Care Facilities, Foster Care Agencies, Adoption Agencies and Temporary Shelter Facilities
I. Office of Fed/State Resources	Directory of Residential and Non-Residential Service Providers in Massachusetts
J. DOC	Massachusetts Department of Corrections Facilities

Because of excessive duplication of provider listings, and the limited information they added about services provided to youth, the Department of Public Health Directory of Residential Care Facilities and the Contract Summary of Purchase of Service Units (OHS) were not utilized.

While not all data were available for each provider, the types of data we recorded were:

1. An alphabetical listing of the providers, by name
2. Location of the provider by DPW region
3. Residential or non-residential services provided
4. Male and/or Female clients served
5. Types of cases served
6. Source(s) of our data
7. The range of services provided

To narrow our universe down to only relevant service providers, each source listing was screened for a number of characteristics. Providers were excluded if they met any of the following criteria:

1. only served clients 19 years of age and older
2. had a primary or sole focus of:
 - a. hotline
 - b. family planning agency
 - c. adoption agency
 - d. pre-school day care facility
 - e. program for the physically handicapped
 - f. care for acute physical illnesses
 - g. pre-release program from the adult correctional system

Each directory (A through J) was carefully examined for inappropriate providers. We found 1,080 suitable providers and recorded data on all of them. To assist MCCJ in complying with OJJDP monitoring requirements¹ at the same

¹ See JJDP Act of 1974, and related Amendments 1977, Section 223(a)(14) and Sections 223(12) and (13) for an explanation of reporting requirements.

time that the provider survey objectives were met, certain populations were guaranteed inclusion in our sample. These populations were:

<u>Description</u>	<u>Number</u>
DMH Facilities (from directory F)	48
CHINS Service Providers funded through the Children in Crisis Account (from directory C)	85
DYS-Operated Facilities (principally from directory G)	12
Out-of-State Service Providers Although they are not located in Massachusetts, they are approved for funding by either DPW, DMH or DYS and are likely to receive children from Massachusetts. (principally from directory A)	19
Massachusetts DOC Facilities (from directory J)	<u>56</u>
Total	220

Subtracting these 220 providers from our universe of 1,080 left 860 in our random sample pool. A profile of our sampling universe of 860 providers was prepared. The profile categories were intended to be only roughly descriptive of the kinds of programs in the universe. Moreover, the profile only reflected data that we were able to code from existing sources; there are a number of programs on which no descriptive data could be coded.

To supplement our sample of 220 programs selected with certainty, we needed to select an additional 150 service providers. The remaining universe of 860 cards were sorted by DPW region and alphabetically within each region. Starting with region one, letter A, each card was assigned a number from 1 to 860. Consulting a table of random numbers, the first 150 three-digit combinations from 1 to 860 became our random sample. The total sample of providers to be surveyed (370) represents 34.3 percent of the universe.

The provider survey instrument was sent registered mail, both for an initial mailing and a follow-up to non-respondents. An attempt was then made to reach non-respondents by phone. Of the 373 programs included in the survey, 209 were accounted for and included in the analysis.

Chapter 2

SUMMARY OF MAJOR FINDINGS

Introduction

In the following chapter the major findings of the diagnostic study of the CHINS program are summarized. The findings have been separated into five major categories: characteristics, court process, placement and services, organization and administration, and costs. These categories provide a useful way of organizing the findings in more manageable terms; they do not mean to imply that there is not considerable overlap and dependency of variables in the program.

This summary of findings is offered in the spirit of the "executive summary" for those who want a brief overview of the most salient portions of the research. Such summaries run the risk, however, of misleading or confusing readers who have not had an opportunity to consider the findings within the context of the entire program. Because many of the major findings of this study have to do with complex relationships--relationships between CHINS workers and CSA generalists, between CHINS workers and the courts, between the courts and the service delivery network, between service providers and the CHINS youth and family--it is imperative that they are not substituted for a complete review of the contents of the remaining chapters of this report.

Finally, it should be recognized that the research necessarily focused on potential problems in the CHINS program with greater emphasis than it did its strengths. The ambiguities of the statute and the relative newness of the program could have resulted in weaknesses and abuses that might have had serious consequences for the children. In general, this did not happen. To the contrary, the probation officers, clerks, judges, CHINS central unit, CHINS workers, and service delivery personnel uniformly demonstrated a concern for serving the needs of the status offender and for finding solutions to the problems which made serving the child difficult. In both their words and their actions, the people charged with responsibility for the status offenders demonstrated that they are receptive to developing the best possible mechanisms for treating the status offender in the Commonwealth. Although the program is not without its problems, the support and sincere desire for change is a strength that should not go unnoticed as the major findings are reviewed.

CHARACTERISTICS

- CHINS are generally adolescents between the ages of 13 and 16; over 50 percent of the children are between 14 and 15 years of age.
- The distribution of girls and boys in the CHINS population is nearly equal; there are only about 10 percent more girls.
- Many CHINS children have serious emotional problems. CHINS were frequently described as children whose problems emerge within the home rather than as delinquent conduct outside the home. CHINS problems are most often victimless and were described as "attitude," "lack of motivation," "acting out," etc.
- A CHINS problem is a family problem as well as a child problem, but there are a surprising number of non-AFDC families (more than 50 percent) and only about one-third of the families are divorced or separated.
- Probation officers and judges described CHINS as more difficult and more time consuming cases because they tend to have multi-faceted problems, unlike delinquent cases where there seems to be more highly focused issues. Probation officers frequently indicated that the CHINS cases required more time and effort than other cases because of the complex nature of the personal and family problems.
- Over one-third of the CHINS (in the sample) had some evidence of involvement in a delinquency act known to the probation department.
- CHINS workers and probation officers agree that a major distinction between CHINS and C&P's is that C&P's are younger, below the age of 13.
- Children from minority background make up less than 10 percent of all CHINS statewide. Almost 50 percent of the black children statewide were processed through the Boston Juvenile Court.
- There were no black children reported as truants in the entire 1977 sample.
- More than half of the CHINS children have been provided with various types of public and private services, secured exclusively through the probation departments of the juvenile and district courts.
- In FY 1978 there will be approximately 6,460 children processed as CHINS, with an estimated 43 percent of these cases involving a DPW CHINS referral. Approximately 50 percent of these children will be runaways, 30 to 35 percent stubborn children and 10 to 15 percent truants.

Truants

- there are twice as many truant boys as truant girls.

CHARACTERISTICS (continued)

- while truants make up only 14 percent of the population overall, when type of offense is controlled for evidence of Chapter 766 involvement (special education needs), truants represent 25 percent of all children
- with 766 involvement, a significant increase and evidence of the truant's inability to adjust to a school environment. On the other hand, the lack of 766 involvement for almost 75 percent of the truants tends to confirm the view of court personnel that a number of school systems too frequently refer children to the courts, refusing to provide core evaluations and special education programs.
- truants often have an associated lack of cooperative parents.
- most truants fall between the ages of 13-15 and are in grades 7 and 8; they tend to run behind in school by approximately two years on the average.

Runaways

- A surprisingly high percent of the runaways come from families where one or more parents have re-married. And, a surprisingly low number come from divorced or separated families. Field interviews substantiate the suggestion that internal adjustments to a step-parent are far more difficult for girls than boys.
- 60 percent of the runaways are girls.
- Runaways are the older children; a high percentage are 14, 15 and 16 years old, in the 10th and 11th grades; therefore, runners tend not to be as far behind in school as truants.
- While about 50 percent of all CHINS are runaways, police applications overall average about 15 percent, which means that parents and guardians far more frequently bring the runaway application than do police officers.

Stubborn Children

- There is no particular age or grade in school pattern for stubborn children, except that there is a peak in the number of 16 year olds in the 10th grade.
- There are more male (by 10 percent) stubborn children than female.
- More stubborn children come from divorced, separated and widowed families than married or remarried families.
- The stubborn child application is almost always brought by a parent or guardian and not a police officer.

COURT PROCESS

- CHINS workers have noted, along with many probation officers, that the CHINS proceeding may be most devastating for the child, inasmuch as the parent is (frequently) the petitioner. In a delinquency matter the parent can offer support to the child, but in a CHINS matter the parent is the adversary. The adversary role of the parent in filing a CHINS aggravates the situation between the child and the family--the child perceives the parent as believing he or she is a criminal or "bad child"; fueling already bad communication between the parties. The situation is further aggravated by the absence of a person who is able to advocate the desires of the child. Although many probation officers attempt to do this, their first obligation is to act in the best interest of the child.
- In other circumstances, the CHINS process is looked upon by some parents as a way to abdicate their responsibility by "turning over" the child to the court and turning their back on the child.
- The CHINS program is a program involving substantially more children than was ever anticipated. This is particularly true in light of the fact that more than one-third of all CHINS are diverted from the court process informally by probation departments who do not report these to DPW or, in many instances, keep any probation files. The "informal" cases offer an opportunity to ameliorate the potential CHINS problem without involving a child in the court process, but may run the risk of imposing a placement or conditions on a child and/or parents through the coercive use of "voluntariness."
- The degree to which courts deal with cases "informally" differs substantially. Some apply a literal interpretation to the statute by requiring a signed application before informal assistance can be offered. Others provide a rather wide range of services, including DPW emergency placements with no formal application whatsoever.
- In practice, depending on the court's policy with regard to adolescents, the CHINS proceedings can be as formal as the delinquency proceedings or extremely informal. By and large, the children are not aware that they are of special "status." Although most courts have juvenile sessions, few have separate sessions entirely for CHINS matters. Most often the CHINS, C&P, and juvenile matters are scheduled for the same day, same courtroom. The goal to reduce "stigmatization" certainly cannot be realized as long as the CHINS process is primarily a court process.
- There is some evidence that a few courts manipulate the CHINS and delinquency process to track girls as CHINS and boys as delinquents (under similar circumstances). Presumably this evolves as a result of the common social bias against involving girls in the "tougher" juvenile processes. In addition, there appear to be more runaway girls than boys; partly because socially the "on-the-run" status of boys is more easily tolerated and partly because girls tend to escape from difficult situations in which the boys may "act out" and become "stubborn."

COURT PROCESS (continued)

- There are two variables which appear to be responsible for decisions regarding the signing of an application or whether a case should proceed to the next step in the process: voluntariness and service availability. If the child is cooperative and the appropriate services available, the case is likely to be treated informally. If either condition is not present, the case goes forward to seek greater sanction (hypothetically) or more time or force to deal with the social service network difficulties.
- With a few notable exceptions, the clerk's office plays no role in screening CHINS applications or making decisions about process. Some clerks involve themselves in insuring that both the petitioner and the child meet the criteria defined by the statute before permitting an application to be signed. In the vast majority of cases, however, the clerks simply refer all parties directly to the probation department.
- The police are reluctant to be involved at any level with CHINS, including making an arrest on runaways or filing a CHINS application. The process requiring a summons on a runaway before a warrant will issue is cumbersome to the court and frustrating to the parent. A few clerks and probation officers indicate that they simply accelerate the summons process and permit a default warrant to issue.
- A substantial number of courts are operating under the belief that a child must be placed on bail in order to be referred to a DPW CHINS worker for placement in an emergency shelter. Bail proceedings only serve to reinforce for the child the perception of both the seriousness and "criminal" nature of his or her problem and serves no practical purpose to the court since there are no "locked" CHINS facilities operated by DPW or other consequences to violation of bail.
- A significant number of probation officers feel that school departments "dump" truants into the courts. Some school departments tend to resist performing core evaluations, home visits, or working with children as a first option rather than relying on the courts to compel these activities or direct that these services be delivered. The CHINS program is a convenient way of ridding the school of difficult children. Some courts will not accept an application for truancy until the school has completed a core evaluation and offered special education programs to the child.
- Court interviews disclose that the role of counsel in the CHINS process tends to be ambiguous. Clarification has recently been offered in an ethical opinion of the Massachusetts Bar Association which clearly states that the appointed attorney's role is to advocate "the best interest of the child" to the court, but to include a statement of the child's view if it differs. Few attorneys in the Commonwealth are familiar with the CHINS law and even fewer are actively involved in representing their clients. The presence of the attorney was frequently reported as perfunctory and necessary but not helpful.

COURT PROCESS (continued)

- The point in time in which attorneys are appointed differs from court to court. Some courts appoint attorneys as soon as an application is signed, while others wait until the petition is issued. Overall, attorneys were appointed in about 45 percent of the cases for both sample periods.
- Several courts appoint separate counsel for the parents when conflicts with the child are apparent. This does not, however, deal with the infrequent but serious problem of the parent wishing to appeal the order of the court removing the child from the home. No authority currently exists for such an appeal.
- In terms of safeguarding the rights of CHINS, the due process requirements set out in the statute are loosely applied (e.g., appointment of counsel, bail hearing, two judge requirement, issuance of warrant, etc.) and there are no over-all guidelines or standards to assure adequate due process procedures.
- Although judges uniformly recognize that they have no legal authority to enforce their orders, they frequently threaten children, feign authority to impose sanctions, and attempt to "finesse" the issue of lack of power in CHINS cases. There is no advantage to proceed to the issuance of a petition other than to pose the illusion of greater authority, and there is no advantage to adjudicating a child a CHINS unless the child is to be placed in the permanent custody of DPW when the decision is not voluntary on the part of the child.
- The adjudication standard "beyond a reasonable doubt" is vacuous since there is usually no formal adversary process and almost all trials result in an adjudication that the child is a CHINS. The purpose of the adjudication is to either commit the child to DPW or to perpetuate the illusion of power as the attempts to deliver services to the child are frustrated.
- The CHINS process lacks closure and sufficient protection of information. Few cases are ever dismissed or adjudicated "not a CHINS." Most remain open in the records of the probation department, become part of any child's subsequent delinquency file, and presumably, many cases will continue until the child is no longer a minor.
- Every effort on the part of DPW and the courts is made to keep the child at home. The removal of the child from the home is not taken casually or without much consideration, despite how readily this can be done if either the parent or child cooperate. Almost uniformly, the probation officers who work with CHINS throughout the Commonwealth have placed an emphasis on early intervention, placement back in the home, and the delivery of services to youth within the community in which he/she lives.
- A majority of probation officers and judges would agree that the court should be used as a last resort in dealing with status offender problems. They believe that the court should be given sanctions to deal with CHINS matters when social service agencies are unable to deliver services or the child and family are not willing to accept needed services. Most court personnel agree that if the CHINS process is to remain in the court, the court needs authority to enforce its orders when all else fails.

PLACEMENT AND SERVICES

- In general, the referrals from probation departments to the CHINS workers are appropriate for DPW. This is due in large measure to the outstanding working relationship that has been developed between DPW CHINS workers and probation staff in most courts. However, the CHINS workers feel that in a few courts, referrals come very late, after the probation department has exhausted treatment alternatives. Some CHINS workers perceive themselves simply as placement workers for the courts and are frustrated by their inability to do a greater degree of early intervention and family casework. The workers' frustrations are further exacerbated by the caseload size in a few courts which also leaves little time for extensive social work. There are a few courts with existing backlogs and no CHINS workers available at present. There are two courts where no referrals are presently being made.
- There seems to be a reluctance of some school departments to provide a core evaluation that stipulates a residential alternative or other services that will involve a relatively expensive placement. Many probation departments recognize that some children may be tracked as CHINS and given inappropriate placements for problems which are essentially school-related, but for which the schools cannot or will not accept responsibility. State-wide, about 30 percent of CHINS have evidence of being involved in either a core evaluation or Chapter 766 special education program.
- In some courts, DYS is viewed as having better services than DPW. In these courts, probation officers ~~admitted that~~ they would prefer to track a child as a delinquent to get the services. This is particularly prevalent where residential (i.e., "secure") psychiatric diagnostic services are needed. Most probation officers view this manipulation of the charges as being in the best interest of the child since the court process for either track is so similar.
- There is a general lack of diagnostic resources at the probation department level, particularly for adolescents. Even though some courts do have access to court clinics, few have a psychiatric staff who concentrate on the special needs of children or who are able to maintain a counselling caseload. In general, most courts perceive a complete lack of diagnostic services or outpatient treatment for CHINS youth.
- There appears to be few residential placements for CHINS who have mental/emotional problems. A surprising number of probation officers and CHINS workers cited the emotional problems of the CHINS adolescent as the single most difficult and prevalent problem. Most courts consider there to be no adequate adolescent psychiatric help anywhere in the state except for an occasional private facility.
- With the exception of emergency placements, DPW is frequently viewed as a referral of last resort for difficult cases. The failure to permit earlier intervention by DPW may be causing an over-reliance on the use of emergency placements which take a child out of the home. Moreover, this delay may result in long-term placements in cases where the social worker may have been able to ameliorate problems before they developed into long-term family crises.

PLACEMENT AND SERVICES (continued)

- The placement of children into long-term DPW foster or group care may be excessively simple in cases where the parent and child are amenable. In no other proceeding in the Commonwealth that deals with the separation of a child from his or her family is there less process, fewer requirements, or less adequate safeguards of the rights of the child or the parent. In fact, as long as the parent and child agree, the court need not even adjudicate the child in need of services and neither the parent nor the child is advised by an attorney.
- Many CHINS workers expressed frustration over the amount of time it takes to secure a suitable placement in Group Care. Workers estimated that two to three months is the average wait because during the interim, providers may refuse to take a child or the child may refuse to go. The long delays of DPW's Group Care Unit are exacerbated by the policy to make a single referral at a time to a provider.
- The time lag before placement in a group care facility (two-to-three months) may result in children being shuffled from one 30-day placement to another, until a more permanent placement is finalized, or the child is returned home awaiting placement--a situation which presents obvious contradictions.
- With only one or two exceptions, most courts have not attempted to seek county reimbursement for services to CHINS because (A) they are not aware of the alternative; (B) the county has no money, so application is fruitless; and (C) they are intimidated by the county stronghold over their general budget and do not wish to strain their budgetary relationship.
- The purchase-of-service contract on which the service delivery network is based in Massachusetts creates some difficult placement problems for the "hard to place" child. A provider is under no obligation to accept a child and many providers depend on the voluntariness and cooperativeness of the child as a criteria for intake. For extremely difficult children, there may be open service slots but no one willing to service the child. These children often bounce around in the system, are carried for long periods by social workers, and ultimately may never receive what they need. In other cases, providers develop their own informal rules such as the policy that a child will not be accepted back into a placement if he/she runs away once.
- Although there are no locked DPW facilities to hold runaways, a majority of probation officers, judges, and even CHINS workers favor a small, short-term, residential, "secure placement." In most instances, those who favor a "secure" placement alternative are amenable to the use of heavy supervision rather than the use of locks or other physical constraints. Examples of this philosophy can be found in the general acceptance and praise for the 24-hour individualized monitoring programs. The desire for more secure placements is stimulated by the presence of a small number of extremely difficult children (usually runaways) who either refuse service delivery or who render any continuity in diagnosis or treatment impossible.

PLACEMENT AND SERVICES (continued)

- Contrary to the statute, in a few courts children who are processed as CHINS are placed in DYS secure facilities. There also appears to be some mixing of CHINS and delinquents in non-secure settings, particularly with respect to emergency placement providers (foster homes) who contract with both DPW and DYS (and other state agencies as well). The concurrent placement of both CHINS and delinquents is a practical issue of providers contracted to serve both populations without monitoring the flow into and out of these services. Even though such mixing may raise compliance issues with respect to the JJDP Act of 1974, the preadjudicatory nature of the client's status, and the absolute service needs of the two populations, minimize the importance of any mixing issue to most probation officers and CHINS workers.
- Frequently identified service gaps statewide included:
 - secure facility (where children are restrained and given services on a short-term basis)
 - residential schools
 - residential mental health facilities for dangerous/acting out children
 - foster homes for adolescent girls
 - better foster homes (trained, better monitoring, better quality, more backup support, better matching)
 - foster homes closer to the normal home of the child
 - psychiatric diagnostic services and long-term psychiatric counselling.
- Statewide there is a noted absence of the monitoring of service providers, other than checking on availability of slots. The lack of monitoring and evaluation leaves an enormous gap in the availability of information about which programs are effective for different types of children. The placement process is rarely based on suitable criteria--e.g., needs of the child, effectiveness of proposed treatment, etc.--but is frequently driven by time available for placement and service availability. Placement decisions are too often made on the basis of expedience rather than good information about needs and appropriate service strategies.
- The community-based social service network in Massachusetts is comprehensive and appears to offer both a full range and adequate volume of services for adolescents including CHINS. The evolution of this network now begs for attention not on the question of quantity of services or service gaps but on the quality of services. More information is needed on what types of treatment or service delivery modes seem to be most effective given definable constellations of needs.

ORGANIZATION AND ADMINISTRATION

- Under extremely difficult circumstances the CHINS Coordinator and Assistant Coordinator have given the new program excellent leadership during the first year. However, management and organization of the CHINS Unit needs to be clarified in terms of communication with regional offices, relationships with local CSA's, lines of authority within the agency, and responsibility for monitoring the quality of CHINS Unit staff. In some regions it is possible for CHINS workers to go largely unsupervised. Moreover, the complicated DPW organization of the program makes it virtually impossible for the CHINS Coordinator to make important management decisions without first sifting through formalities of a cumbersome and bureaucratic system of supervisors and managers.
- The regional organization of the CHINS program has the distinct advantage of allowing the CHINS workers to be more flexible and responsive to individual probation departments and the variation in resources that may exist from region to region. Although the program is in need of more central coordination, there should be sufficient latitude to permit the workers to be responsive to needs as they perceive them.
- The role of the supervisor varies considerably, which impacts on the caseload size of each worker, relationships with courts, ability to negotiate with local CSA's, and the monitoring of the quality of services delivered. In some regions workers do not have routine case review obligations with their supervisors.
- The organization of the program prohibits effective caseload monitoring. In some regions the distance that must be travelled between courts affects caseload; in some regions the casework nature of the CHINS worker role affects caseload. The distribution of cases to workers needs to be monitored more closely by regional supervisors and adjusted by transferring cases more efficiently to CSA generalists (or controlling intake) to account for differences across regions.
- CHINS workers experience considerable difficulty in transferring cases within 45 days to CSA generalists in their areas, as the DPW regulations prescribe. The link between the CSA generalists and the CHINS worker tends to be extremely poor statewide. Generally, CHINS workers perceive the CSA's as being too busy to accept cases or not equipped to deal with the complexity of the cases. CHINS workers also hold onto cases because of case commitment, inability to complete paperwork, or because the case is essentially "closed." There are no clear criteria or standards for when and under what circumstances cases should be transferred to local CSA workers.
- Because the CHINS workers are dependent on the policies and attitudes of the probation departments and courts to which they are assigned, there is a great deal of variation in the role the DPW CHINS worker plays statewide. Some workers do strictly placement work while other workers coordinate with probation departments in providing social worker casework services to the child and the family. The variation in roles is another reflection of the variation in procedures used by the courts to process CHINS and their willingness to encourage early DPW involvement.

ORGANIZATION AND ADMINISTRATION (continued)

- The lack of specific and standard criteria for the screening and intake of CHINS renders the organization of the program somewhat fragmented. Without specific policies and procedures it is possible for parents to use the CHINS program as a way of abdicating responsibility for their children by turning it over to either the probation department or DPW.
- The probation staff and many judges throughout the Commonwealth were generally complementary of the work performed in their courts by the CHINS workers. Where weaknesses in performance were identified, they tended to concentrate on the organizational capabilities of DPW rather than on the individual workers.
- Likewise, the CHINS workers for the most part were high in their praise of the quality and concern of probation officers toward CHINS children.
- The successes of the program to date despite widespread confusion and uncertainty are due in large measure to the manner in which the courts and the CHINS workers are cooperating in bringing necessary services to the children and their parents.
- Although the Department of Mental Health has a legitimate obligation to the CHINS program, DMH suffers from an almost uniform perception statewide that services for emotionally or mentally troubled adolescents are not available anywhere in the Commonwealth. Overwhelmingly, CHINS workers, probation staff, judges and others noted the lack of quality diagnostic and treatment services (both inpatient and outpatient) for adolescents as the single most critical service gap for CHINS. The absence of children's specialists in the court clinics or the presence of a DMH representative on Assessment Boards was viewed as both a serious service gap and an organizational weakness of the program.

COSTS

- The lack of accurate provider cost data makes it extremely difficult to provide a detailed utilization analysis; some providers have not submitted invoices and other providers who have delivered services appear to be billing based on a schedule rather than on actual service units delivered. Developing better utilization data will provide a more accurate planning tool and will enable DPW to generate cost data on the costs per year of different types of service for different types of client population.
- The initial distribution of DPW financial resources to the six regions statewide may currently be inequitable given information on caseload distribution and the reliance of the juvenile and district courts on the use of local resources prior to a referral to a DPW CHINS worker, and in a few courts the availability of private resources.
- Given current utilization data, the cost of the CHINS program in the initial year may be lower than forecasted, although this may be an artifact due to the rate at which each region is reporting actual service demand rather than spending its allocation, coupled with the slow "start-up" of some providers.
- When the regions are ranked in descending order both in terms of caseload and dollar distribution, Region III (Worcester) has obviously the most disproportionate share of the resources given their high caseload. Moreover, given the low referral rate by the courts in the Boston region, the presently allocated DPW resources appear to exceed need.
- The Boston region appears to be significantly under-utilizing DPW resources due in part to the availability of private social service providers to the Boston Juvenile Court through allocation of county funds. Nonetheless, Boston has been allocated the second largest portion of DPW contracted services.
- The desire of CHINS workers to serve clients in the community in which they live, and the proprietary attitude which workers tend to develop over resources in their own regions, limits the amount of cross-regional sharing of resources that may be possible. Contracting for certain types of services within a region may be beneficial since it enables closer monitoring and accountability.
- The discrepancy between the number of CHINS children referred and placed by the Group Care Unit (as reported by the Unit) with the number of children referred by the workers (as reported by the CHINS workers) is considerable. In part this discrepancy may be definitional. Nonetheless, better mechanisms for tracking group care placements are necessary to determine the effectiveness of the CHINS workers in getting children returned home and to determine the cost of group care placements for CHINS. Currently, estimates vary by more than 100 percent.
- Data on group care placements annualized, based upon nine months of experience, range from roughly 180 to 360 placements, a discrepancy of 100 percent which gives an upper limit of group care costs of \$4,118,400.

COSTS (continued)

- Data supplied by the Group Care Unit indicate that the average yearly weighted cost for CHINS youth in group care was \$11,440 per year. They report that CHINS youth represent roughly 25 percent of all group care placements.
- When the costs and estimates of the group care placements are subtracted from the cost of delivering services to CHINS, the approximate annual cost to DPW of servicing a CHINS child is \$1,279.
- In fiscal year 1978, it is estimated that exclusive of long-term foster care and group care placements, the annual cost of the CHINS program will be \$3,082,608. Of that figure \$1,842,460 was applied to direct client services as follows:
 - \$1,437,242 budgeted from the Children in Crisis Account for CHINS emergency placement,
 - Approximately \$299,000 of the \$2.3 million General Budget Account taken from the Children in Crisis Account, and
 - \$106,218 for foster care budgeted through the Care and Maintenance Account.
- The total cost of the CHINS program in fiscal 1978 apportioned to the staffing of the CHINS Coordinator's Office and the six regional offices amounted to \$1,240,148 which includes both fringe benefits and DPW overhead.

Chapter 3

CHARACTERISTICS OF CHINS CHILDREN

Introduction

One of the most difficult aspects of analyzing the CHINS program in the past has been the lack of descriptive information about the characteristics of the children: how many children become involved in the CHINS program each year; what best describes the age, sex, race, and family status of the children; what set of problems differentiate CHINS from other troubled adolescents. The lack of this type of information has handicapped efforts to develop resources, modify legislation, and develop new strategies for meeting the needs of runaways, stubborn children, and truants.

By collecting data on over 750 CHINS cases in the juvenile and district courts from July to November 1976 and the same period in 1977, and over 1,350 cases reported by the Department of Public Welfare CHINS workers--from July through November, 1977--we are able to provide a profile of the CHINS population statewide. While the profile provides a standard set of descriptors which most commonly define the nature of CHINS in the Commonwealth, there are obvious differences that occur when a number of variables are examined simultaneously. What follows is a summary of the major characteristics. Subsequent chapters of this report will attempt to describe these characteristics, and significant variations, in more detail. For purposes of this analysis, the chapter explores the characteristics of CHINS by examining: the nature of the allegation, age at application, sex, race, family status, and application source. Other characteristics will also be explored when regional or court variations prove to significantly influence the following composite profile of the CHINS population:

- There are slightly more girls than boys in the CHINS population;
- CHINS children are predominantly between the ages of 13 and 16, almost one-third are 15 years old;
- The majority of CHINS children are at least one grade behind their expected age range in school;
- Approximately 85 percent of all CHINS children are non-minority;
- A majority of children come from two-parent homes;
- No more than one-third of the children come from families on AFDC;

- One-half of all CHINS children brought to court are processed as alleged runaways;
- One out of every three children brought to court has had at least one prior delinquency contact;
- One out of every four children brought to court has previously been identified as a child with educational needs through the Chapter 766 special education process; and
- More than half of the CHINS children have previously been provided various types of public and private services, as recorded in probation department records.

In order to estimate the number of CHINS children statewide and the number of CHINS children handled by DPW and the number of CHINS cases handled by each court (in the 1977 sample) and cases recorded on the CHINS logs in the sample period were used to compute a ratio--the ratio of court cases to the number of cases handled by DPW. In the sample period there were 968 cases referred by the courts to CHINS workers (July through November 1977). This represents about 43 percent of all CHINS cases formally handled by the courts during the sample period. By annualizing the data and applying this ratio, the following statistics can be generated:

Estimated Total FY 1977-1978	
CHINS Population Statewide	6,500
Estimated Number Runaways	3,230 (50%)
Estimated Number Stubborn Children	2,000 (31%)
Estimated Number Truants	1,030 (16%)
CHINS Application Category Unknown	260 (4%)
Estimated FY 1977-1978	
DPW CHINS Caseload Statewide	2,775 (43%)

The following section presents a more detailed analysis of the characteristics of the CHINS population.

3.1 Analysis of Client Characteristics

Age at Application

The age of the child at the time the application was signed was recorded for all of the cases for which data was collected in the 1976-1977 court sample. In examining the 767 court cases, we find that approximately 85 percent of all children in the sample were between the ages 13-16. There are some interesting patterns which emerge when the nature of allegation is observed along with age. Runaways are generally older, 15 and 16 years old,

while truants tend to be younger, grouping around 13 and 14 years old. Stubborn children fall about equally within the 13-16 age range. An analysis by DPW region discloses that on the average, CHINS children in the Boston region are younger while children from the Lawrence region tend to be older than the average statewide.

Sex

In examining the 1976-77 court data we find that 44.3 percent of all children were male and 51.2 percent were female. The following table sets out the sex data by nature of allegation for the combined 1976-1977 court sample.

Table 3.1.1
Nature of Allegation by 1976-77 Court Data

	Male	Female	NR	Total
Runaway	137 40.3%	242 61.6%	5	384 50.1%
Stubborn	123 36.2%	109 27.8%	3	235 30.6%
Truant	78 22.9%	42 10.7%	1	121 15.8%
NR	2 .06%	---	25	27 3.5%
Total	340 44.3%	393 51.2%	34 4.4%	767

In examining Table 3.1.1 it is interesting to note the high percentage of female runaways compared to male. During our interviews with CHINS workers and court personnel this observation was repeatedly substantiated. Several explanations were offered for this phenomenon. First it was felt that boys have greater resistance to family disharmony than girls; while boys may "stick it out" the girls tend to run. Second, in a troubled household, boys are frequently given a larger degree of independence and fewer structures than girls; i.e., the girls are running from the lack of liberty that many boys

have already achieved. Finally, the higher percentage of female runaways may be an artifact of the lower societal tolerance for girls "on the run." Parents and police tend to worry less about boys out over night than they do girls and may, therefore, tend to file more runaway applications on girls.

In contrast, we note that there are ten percent more males charged with being stubborn than females. This again, we were told, relate to the fact that more girls tend to run when the family is in crisis while boys tend to "stay, but act out." It may also very well be that a parent would be inclined to file a stubborn on a runaway boy believing the lack of cooperativeness to be the issue rather than focusing on the child being out of the home or on the run.

Finally, we observe that over twice as many boys as girls are charged with truancy. Our field interviews revealed that the vast majority of cases involved an application based upon truancy rather than a violation of school regulations. There is no obvious explanation for why boys are truant more often than girls. A small percentage of this phenomenon may be the result of truant girls also being on the run, the runaway application taking precedence over the truancy.

An analysis of sex by region discloses some variations. While overall males represent 40 percent of the children, they make-up only 35.3 percent of the population in the Boston region and 36.5 percent of the Greater Boston region CHINS population. Girls in these two regions constitute almost two-thirds of the cases. These variations are accounted for by examining the sex of children in certain courts within these two regions. In the Boston region we find that males are only 30.2 percent of the CHINS population in the Boston Juvenile Court, 25.7 percent in Dorchester, 37.5 percent in South Boston and 22.2 percent in West Roxbury. Similarly, several courts in the Greater Boston region show a low male population such as Dedham, 37.5 percent; Haverhill, 22.7 percent; Malden, 22.4 percent; and Newton 30.8 percent.

There appears to be at least two possible reasons for variations in sex distribution. The first is that while some police departments are extremely reluctant to initiate court action on runaways (which are predominantly girls), others are not. Police departments within the jurisdiction of these courts may be bringing CHINS applications and arresting runaways

with greater frequency than is happening statewide. The other reason may well be the fewer than average number of stubborn and truancy cases in these courts, since most male CHINS fall into these two categories.

Race

Over 80 percent of CHINS children are non-minority. As the following table shows, 8.4 percent of the children were black, 2.7 percent Spanish-speaking, and less than one percent were other minorities. Population data for 1976, projected from the 1970 U.S. Census Data on Massachusetts, indicates a non-white adolescent population of roughly five percent of children aged 10 through 16 statewide. Although the minority representation in the CHINS sample might be slightly higher than the proportion of minority adolescents in general, there are two notable exceptions--the Worcester and Lawrence regions--where the minority representation is obviously below what might be expected.

Table 3.1.2
Race by DPW Region

	Boston	Spring- field	Wor- cester	Lawrence	Greater Boston	New Bedford	Total
Black	69 41.3%	9 5.4%	0 0.0%	2 0.8%	14 6.1%	22 9.1%	116 8.4%
White	86 51.5%	145 86.8%	282 86.8%	228 90.8%	212 92.2%	204 84.0%	1157 83.7%
Spanish- Speaking	4 2.4%	7 4.2%	10 3.1%	14 5.6%	1 0.4%	1 0.4%	37 2.7%
American Indian	1 0.6%	0 0.0%	0 0.0%	0 0.0%	1 0.4%	0 0.0%	2 0.1%
Other	2 1.2%	1 0.6%	0 0.0%	1 0.4%	2 0.9%	2 0.8%	8 0.6%
NR	5 3.0%	5 3.0%	33 10.2%	6 2.4%	0 0.0%	14 5.8%	63 4.6%
Column Total	167 12.1%	167 12.1%	325 23.5%	251 18.1%	230 16.6%	243 17.6%	1383 100.0%

An analysis of Table 3.1.2 shows that over 40 percent of all black CHINS children are located in the Boston region. Of those 69 children, 31 are from the Boston Juvenile Court and 22 are from the Dorchester District Court. These two courts account for almost 50 percent of the black children statewide.

The small number of cases of minority CHINS in the sample makes further detailed analysis extremely difficult. However, of the 69 courts in the Commonwealth, 37 had no black CHINS children, while another 13 had only one black CHINS. Of particular note is the fact that while 152 cases were reported to CHINS workers in the sample period from the Worcester Juvenile Court (an area with a relatively high black population overall), none were black.

Table 3.1.2 also reveals the fact that there were only 37 Spanish-speaking CHINS statewide during the sample period. It is interesting to note that the Boston region, with a large Spanish population, reported only four cases. In our entire 1977 court sample, there were no black truants reported, and only three black truants were reported in the 1976 sample.

The seemingly low participation of black and other minority children in the CHINS program is a difficult phenomenon to explain with any degree of conclusiveness. A number of theories were posed by CHINS workers, probation officers, and judges during our field interviews. Among them: (1) black and other minority families do not utilize the courts for remedies to problems like stubbornness or running away; as for truants, truant officers seem to shy away from pursuing the black truant, especially in schools where truancy among blacks is nearly epidemic; (2) black children are treated more harshly than white children--e.g., if given a choice, the court will track a black child through DYS rather than DPW; and (3) the courts do not take the black family seriously, and refer complaints of stubbornness or running away outside the court indicating that these problems are not matters for the probation department to consider. It was impossible to determine from the interviews which of these theories, or mix of explanations, could adequately account for the seemingly low proportion of minority CHINS.

Families on AFDC

As Table 3.1.3 indicates based on data supplied by the CHINS workers, only 31.9 percent of all CHINS families were on AFDC. The following table displays this information on a regional basis.

As might be expected, the Boston region has the highest percentage of families on AFDC, at 51.5 percent. Within the Boston region, cases in the East Boston court show a figure of 68.2 percent, the Brighton court 68.2 percent and the South Boston court 75.0 percent.

Table 3.1.3

Families on AFDC by DPW Region

	Boston	Spring- field	Wor- cester	Lawrence	Greater Boston	New Bedford	Total
Yes	86 51.5%	55 32.9%	67 20.6%	85 33.9%	56 24.3%	92 37.9%	441 31.9%
No	51 30.5%	102 61.1%	164 50.5%	149 59.4%	156 67.8%	135 55.6%	757 54.7%
Don't Know	2 1.2%	0 0.0%	3 0.9%	4 1.6%	0 0.0%	0 0.0%	9 0.7%
NR	28 16.8%	10 6.0%	91 28.0%	13 5.2%	18 7.8%	16 6.6%	176 12.7%
Column Total	167 12.1%	167 12.1%	325 23.5%	251 18.1%	230 16.6%	243 17.6%	1383 100.0%

On the other hand, the Worcester region reports an AFDC figure of only 20.6 percent with the cases from the Worcester Juvenile Court reported at only 25 percent on AFDC. This is lower than we might expect for a large urban area. It does not compare at all, for example, with figures from the Bristol County Juvenile Court of 47.7 percent or the Springfield Juvenile Court's figure of 50 percent. It should be noted, however, that the CHINS workers and probation officers in these regions reported that simply because the family was not on AFDC did not mean the family was not poor. A number of families were described as being "on the poverty margin." Additionally, it was reported that many families who may be eligible for AFDC do not apply out of "pride and refusal to accept public welfare assistance." Nonetheless, the CHINS program is obviously not an exclusively lower-income level program or a problem of poor families, as some had theorized in the past.

Parents Marital Status

One of the more interesting characteristics of CHINS children was found in examining parental marital status. Table 3.1.4 shows marital status for the court cases collected in 1976 and 1977:

Table 3.1.4
Parents Marital Status

	1976	1977	Total
Married	104 27.4%	120 30.9%	224 29.2%
Remarried	63 16.6%	65 16.8%	128 16.7%
Divorced/ Separated	111 29.3%	122 31.4%	233 30.4%
Widowed	22 5.8%	16 4.1%	38 5.0%
Other	13 3.4%	15 3.9%	28 3.7%
NR	66 17.4%	50 12.9%	116 15.1%
Totals	379	388	767

The table can also be most productively considered by combining the "Married" and "Remarried" categories and the "Divorced/Separated" and "Widowed" categories. Moreover, the data becomes even more interesting when the relatively high number of "no responses" are removed and the percentages and totals are recomputed, as Table 3.1.5 illustrates.

Table 3.1.5
Parent's Marital Status*
 (*Adjusted to remove non-respondents)

	1976	1977	Total
Married	104 33.2%	120 35.5%	224 34.4%
Remarried	63 20.2%	65 19.3%	128 19.7%
Divorced/ Separated	111 35.5%	122 36.1%	233 35.8%
Widowed	22 7.0%	16 4.7%	38 5.8%
Other	13 4.1%	15 4.4%	28 4.3%
Totals	313	338	651

We are now able to see that over 54 percent of all CHINS parents are married or remarried, while only 35 percent are divorced or separated. The significance of this data is highlighted when the parents' marital status is examined along with the nature of the application. Table 3.1.6 displays the marital status of the parents by the nature of the CHINS application.

Table 3.1.6
Nature of Allegation by Parents' Marital Status

	Married	Re-married	Widowed	Separated	Other	NR	-	Total
Runaway	67 55.8%	39 60.0%	6 37.5%	55 45.1%	11 73.3%	18 36.0%	-	196 50.5%
Stubborn	26 21.7%	23 35.4%	8 50.0%	44 36.1%	4 26.7%	20 40.0%		125 32.2%
Truant/ School Offender	27 22.5%	3 4.6%	2 12.5%	23 18.9%	0 0.0%	8 16.0%		63 16.2%
NR	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	4 8.0%		4 1.0%
Column Total	120 30.9%	65 16.8%	16 4.1%	122 31.4%	15 3.9%	50 12.9%		388 100.0%

It now becomes apparent that runaways, in general, come from families with parents who are married or remarried, while stubborn children come from divorced or separated families. This data, when combined with the analysis of the data on sex by nature of allegation contained in Table 3.1.1 verifies the views expressed by CHINS workers and probation officers that the majority of runaways are girls from married or reconstituted families who are unable to cope with their family crisis, and tend to run. Boys, on the other hand, tend to stick it out in the home, particularly when there is a divorce or separation, and act out their problems, which will tend to cause the single parent to bring a CHINS application alleging the child is stubborn. Finally, it appears that truants more frequently come from married or remarried families than divorced or separated ones. Interestingly, many CHINS workers and probation officers indicated that parents are frequently culpable in truancy cases. When probation officers investigate truancy cases, they often find that parents are not helping in insuring the child is awakened on time for school, one of the indicators that the parents are not willing to take an active part in the child's education. On occasion, even when the parents are confronted with the truancy problem, they refuse to help in getting the child back to school or even to take the problem seriously.

Application Source

A related aspect of the nature of the allegation is the question of the source of the application: i.e., who is initiating applications for CHINS petitions? Chapter 1073 permits the parent, guardian or police to bring either a runaway or stubborn application; and the supervisor of attendance to bring a truancy application.

Table 3.1.7 shows a breakdown of the nature of allegation by application source.

Table 3.1.7
Nature of Allegation by Application Source

	Parent/ Guardian	School Office	Police	Other	NR	Total
Runaway	121 51.5%	0 0.0%	48 87.3%	18 85.7%	9 39.1%	196 50.5%
Stubborn	110 46.8%	0 0.0%	4 7.3%	3 14.3%	8 34.8%	125 32.2%
Truant/ School Offender	4 1.7%	54 100.0%	3 5.5%	0 0.0%	2 8.7%	63 16.2%
NR	0 0.0%	0 0.0%	0 0.0%	0 0.0%	4 17.4%	4 1.0%
Column Total	235 60.6%	54 13.9%	55 14.2%	21 5.4%	23 5.9%	388 100.0%

Of particular significance is the fact that the police are involved in only about 25 percent of the runaway applications. This is consistent with our court and CHINS worker interviews which indicated that a number of police departments refuse to file applications for petitions in runaway cases. This reticence is partly because of some confusion regarding the legal authority of the police, partly because they feel that with limited resources they should concentrate on what they consider to be more serious problems, and partly because police feel there is no secure facility to house runaways once an "arrest" is made and that the attempt borders on being futile.

The statutory requirements with respect to police involvement with runaways has caused considerable frustration. The statute requires that a summons issue before an arrest warrant can be granted. The necessary time factor often frustrates attempts to retain children who give every appearance of preparing to run. In a few courts the problem is viewed as so severe that the summons process is omitted and the issuance of an arrest warrant is made immediately. Nonetheless, a frantic parent who comes to court seeking assistance in returning his or her child to the home, and is told of the necessary "process" and time required before the child can be arrested, loses considerable faith in the ability of the criminal justice system to respond to these crises.

Other Characteristics

During the course of our examination of the 1976 and 1977 court data we analyzed probation records to gather some additional descriptive data on CHINS. The information we attempted to gather related to prior delinquency involvement, prior care and protection involvement and prior contact of these children with other types of public and private services, as reported primarily through the probation departments of the juvenile and district courts.

In analyzing this data it is necessary to keep in mind that a probation file that contained no information, for example on prior delinquency, does not mean that the child had no prior contact. It simply means that the information was not contained in the CHINS file studied. Moreover, we have removed 110 cases from the 1977 sample, which were selected from the CHINS workers' case logs, to make the 1976 and 1977 court data comparable. The following estimates, therefore, since they involve only cases where data was available, may be considered to be extremely conservative.

Table 3.1.8 sets forth the information on prior delinquency for the two sample periods.

Table 3.1.8
Number of Children with One or More
Prior Delinquency Contacts

	1976	1977	Total
Yes	147 38.8%	144 37.1%	291 37.9%
No	232 61.2%	244 62.9%	476 62.1%
Column Totals	379	388	767

As can be noted, more than one-third of the children in the sample had some form of prior delinquency contact, a figure which was surprisingly stable from 1976 to 1977. When these figures are analyzed with additional data on the total number of delinquency offenses recorded for each year, it is possible to compute an average number of prior delinquency contacts per child. When the delinquency offenses recorded in probation files for each child (with some delinquency involvement) are counted--we counted all offenses including unauthorized use of a motor vehicle; larceny under \$100; larceny over \$100; breaking and entering; assault; malicious mischief; trespassing; and uttering--we find 285 offenses in 1976 and 253 offenses in 1977. Thus, we find an average level of approximately two delinquency offenses per child for those CHINS children who have any delinquency involvement.

Many probation officers indicated that they had prior knowledge of some families before the filing of a CHINS application because the court had seen the child or other family members on other problems before. Many probation officers described CHINS problems as "running through the family"; if one child was involved in a problem, it was likely that a brother or sister had or would also be seen by the court.

Table 3.1.9 displays the additional involvement of CHINS in some form of a Care and Protection (C&P) proceeding.

Table 3.1.9
Care and Protection Involvement

<u>1976</u>		<u>1977</u>	
YES	23 (6.1%)	YES	26 (6.7%)
NO	277 (73.1%)	NO	318 (82.0%)
NR	79 (20.8%)	NR	44 (11.3%)
TOTAL	379	TOTAL	388

The relatively small number of CHINS with C&P involvement--less than 10 percent--may be a reflection of the rather rigid demarcation made between CHINS and C&P proceedings. Beyond the obvious differences--C&P proceedings concentrate on the abuse and neglect by the parent (thereby make the parent the "defendant"), and the CHINS focus is on the unacceptable behavior of the child (thereby make the child the "defendant")--courts make added distinctions based on the age of the children involved. Few courts indicated that a Care and Protection proceeding would be initiated on adolescent children. There appears to be a relatively dominant perception among probation officers and judges that "C&P children are younger; under 13 years old." This sentiment most commonly concentrated on the difficulty of proving "neglect" of an older child and the court preference to secure services for children through the CHINS law rather than the more complex C&P proceeding. In general, therefore, it appears as if few older children become involved in C&P proceedings, not because of the nature of the problem (for example, level of neglect or abuse) but because of age. Our evidence would indicate that only the most seriously physically abused children ever become involved in a C&P proceeding once

a CHINS proceeding has begun. The seemingly low percentage of C&P involvement may also be an artifact of the record-keeping procedures in the courts; C&P proceedings alone will not give rise to a juvenile record. Overall, one could consider the ten percent estimate to be extremely conservative; possibly many more CHINS have come from families where there is a disturbing level of abuse and neglect. In sum, the CHINS problem should not mistakenly be seen simply as a problem of the child but instead, as one that encompasses the entire family.

The following table breaks out the 1976 and 1977 samples in terms of the evidence recorded in files on Chapter 766 involvement.

Table 3.1.10
Chapter 766 Involvement

<u>1976</u>		<u>1977</u>	
<u>YES</u>	98 (25.9%)	<u>YES</u>	111 (28.6%)
NO	201 (53.0%)	NO	226 (58.2%)
NR	80 (21.1%)	NR	51 (13.1%)
TOTAL	379	TOTAL	388

Here we are concerned with the number of children who had a core evaluation performed or who were already participating in special programs as a result of a prior core evaluation. As the figure illustrates, over one quarter of the children showed some evidence of Chapter 766 involvement at the time that the court data was collected. The probation officers and CHINS workers frequently stated that problems in school were associated with CHINS matters. Certainly not all children who have problems, or even all children who have problems in school, need a special education program. Nonetheless, there is substantial evidence that CHINS are at least one year behind their age range in school and CHINS on a truancy application are usually two years behind in school. Given the prevalence of school-related problems, probation departments have begun to be more reluctant to permit the filing of a truancy application without a core evaluation being completed.

During our court data collection we also examined case files to determine whether or not there were any patterns to the type and range of other services frequently given to CHINS youth. When a psychiatric evaluation, counselling program, physical examination, recreational program or other unit of service was delivered, the data was noted if available in the probation files. Table 3.1.11 summarizes the result of the recording of the "Other Services" in the case records in the 1976 and 1977 sample.

Table 3.1.11
Other Services

<u>1976</u>		<u>1977</u>	
YES	213 (56.2%)	YES	222 (57.2%)
NO	104 (27.4%)	NO	123 (31.7%)
NR	62 (16.4%)	NR	43 (11.1%)
TOTAL	379	TOTAL	388

The significantly high level of other service delivery (over 50 percent) can almost entirely be attributed to the efforts of the probation officers assigned to work with CHINS. In over half the cases, the probation officers were able to secure help for the CHINS child without dependency on public service agencies. For the most part, many of the services were secured through local private community agencies. The enormous efforts of the probation officers throughout the Commonwealth to work on behalf of CHINS youth is, in itself, a notable finding of this study. Almost without exception the probation officers demonstrated a willingness and concern for the CHINS youth which translated into a high degree of effort in securing the necessary resources and services within the community in which the child lived. This degree of service delivery to CHINS could not have been realized without this independent effort on the part of the probation service to locate resources for youth within their communities before relying on the resources of statewide public agencies.

3.2 Case Studies

No profile of the CHINS youth could be complete without considering some actual cases that have taken place over the last two years. Statistics, findings, and generalities about these children often fail to transmit the everyday tragedies (and successes) of working with the troubled status offender population. What follows is a series of short case studies taken from the interview and court data collected throughout the Commonwealth during the study period. The reader is cautioned that a number of peculiarities exist in the case studies which have not been edited out; much of the language is as it was in the probation records. We believe these case studies stand alone in emphasizing the enormous impact the courts and social welfare personnel have on children's lives. We hope they help remind the reader that the children studied in this research are not abstractions but human beings whose lives often hang in the balance of what we choose to do for them. -

Case Study One

The case of fifteen-year old Jennifer W. contains many of the elements common to CHINS cases which continually frustrate the efforts of the courts and the welfare system to provide services to these children, e.g., over a ten-month period, Jennifer was placed unsuccessfully in seventeen different foster homes, transferred from facility to facility and detained for longer than the statutory limit.

Jennifer's contact with the court originated in September 1976 with an arrest for being a runaway. She was detained by DYS, then responsible for the CHINS program detention facilities, while a court-ordered clinical evaluation was completed. When the court received the reports from the evaluation, the judge ordered DFW to find a placement for Jennifer in a secure facility by the end of that day.

One week later it appeared the order had not been carried out and the judge summonsed five DFW workers to court to account for the lack of any secure facilities. A makeshift arrangement was proposed by DFW at the subsequent court hearing. While DFW continued to search for a secure facility, Jennifer was held in a DFW home. A placement at the University of Massachusetts Advocacy Program fell through due to unavailability of a slot and several other placements were made, but Jennifer ran from every one of them.

The judge was extremely upset with the inability of any program to prevent Jennifer's continual running. He ordered DFW supervisors into court to once again explain the reason no facility which could hold Jennifer was available. ~~One week later~~, on January 31, 1977, Jennifer was still without a placement. Her brother died of a drug overdose around this time. Approximately two weeks later, Jennifer attempted suicide and voluntarily committed herself to a state hospital.

In early March she returned home and was to be placed in a residential school in the western part of the state. When this placement had not been accomplished by April 7, the judge demanded an explanation from the Commissioner of DFW. Not until May 4 was a temporary placement in a special foster home found. During the month of June, Jennifer was shuffled between many foster homes. DFW officially received custody of her at this time, partly because her mother had become somewhat fearful of Jennifer. On July 6, the residential school in western Massachusetts still had no opening and the court ordered that Jennifer return home, although DFW technically retained custody.

Jennifer's mother filed assault and battery charges against her daughter so she would be removed from the home again. The judge once more ordered that an interim placement be made, marking the seventeenth placement of Jennifer since September. Jennifer continued to bounce from foster home to foster home, staying in each for only short periods of time.

On August 20, both the CHINS and the delinquency charge were continued to September 15. With Jennifer in detention at the Brockton YWCA, a DYS facility, the judge ordered that the 45-day limit be waived. A continuance to October 4 with the same detention was ordered. Jennifer was to be placed at the Solomon Carter Fuller Mental Health Center on October 4 but the program indicated it would be unable to take her until the end of October. On October 3, Jennifer was placed with the New Bedford Proctor Program. DFW had made arrangements for Jennifer to be taken to the Charlestown YWCA, a DYS facility, if difficulties arose while she was at Proctor.

Case Study One (continued)

The placement at the Solomon Carter Fuller Mental Health Center was not effectuated until November 18. At that time, the assault and battery charges were dropped, tutoring was ordered since Jennifer had not received schooling for over a year and the case was continued for six months.

Case Study Two

The provisions of referrals by DPW which give both the child and the program the power to veto a placement draws a significant level of criticism. Frustrated case workers and court personnel feel that a program receiving DPW funds should accept children referred by DPW. They also believe the court should be able to dictate a placement over the child's objections in some cases. The case of Jeffrey M. illustrates the difficulties that can be created by these provisions.

Jeffrey M. had never been involved with the juvenile court until July, 1976 when his mother signed an application for a CHINS petition on the grounds that he was a stubborn child. At age thirteen Jeffrey was in the appropriate grade in school but doing poorly. Jeffrey's behavior at home had been a problem for almost two years and had worsened in the last six months. When his mother, who was not well physically and needed help with things around the house, asked him for assistance, Jeffrey would verbally and sometimes physically abuse her and throw temper tantrums. Mrs. M. finally decided to seek the help of the court when she observed Jeffrey's ten-year old brother begin to imitate Jeffrey.

At the first court appearance, Jeffrey was committed to a DYS secure facility in lieu of bail. Initially the commitment was for two weeks but was extended for a second two-week period when Jeffrey refused to attend school or counselling sessions.

Attempts were made to arrange a long-term placement, but two separate programs refused to accept Jeffrey. The judge committed him to DYS again and this time he was placed in an individualized monitoring program. Simultaneously the judge notified DPW that it had to arrange a placement rapidly because the forty-five day maximum limit for detention was near.

Earlier in the case, Jeffrey's lawyer had admitted there were sufficient facts for an adjudication. On August 27, Jeffrey was committed to DPW until February. He was placed in a foster home from which he ran just before the scheduled court hearing to review the commitment.

A week later the default was removed when Jeffrey voluntarily surrendered. He informed the court that he refused to be placed in any of the DYS programs he had been in previously. He stated he wanted to live with friends in another city. His mother refused to permit his return to her home.

Custody remained with DPW and Jeffrey was placed in a foster home after rejection by another potential home. Six months later, DPW recommended dismissal of the petition. DPW hoped that Mrs. M. would agree to a voluntary commitment under the implied threat that Jeffrey would be returned home if she did not cooperate. The probation department disagreed and the judge extended DPW's order of custody for another six months.

Case Study Three

Sometimes the court and the service providers can intervene in a period of temporary crisis and assist a family to work out their problems successfully.

When fourteen year old Sara K. ran to Boston from the home she shared with her mother she was exhibiting characteristic behavior of a troubled adolescent girl faced with seemingly insurmountable problems at home. Running from a difficult situation is more common for girls than boys and a major city such as Boston is a frequent destination.

On the same day she fled her home, Sara was picked up by the police and taken to Project Place Runaway House. This agency reserves beds for overnight intake and has developed an arrangement with the police so that runaways are immediately brought to Place. Therefore, Sara avoided a formal arrest and was not held at the police station.

Sara stayed at Project Place until the first court hearing. The court ordered that she remain at Place and allowed DPW approximately two weeks to arrange a foster home placement. At the end of that continuance, DPW recommended that Sara be placed with her aunt. The court agreed and ordered therapy for the whole family.

Over the course of the next three months, Sara lived alternately with her aunt and her mother. Six months after she initially ran from home, Sara was in a different foster home and enrolled in a special counselling program. A month later, Sara was reportedly doing well in this program and had returned home to try to work things out with her mother. Simultaneously, Mrs. K was making considerable efforts at combating her alcoholism which had been a major source of the problems between her and her daughter.

Nine months after the case started, the K. family was still making progress. Although DPW technically still had custody, Mrs. K. had physical custody of Sara. The probation department helped Sara with job interviews and arranged an alternative education program. Sara attended alcoholism counselling sessions with her mother and began to understand her mother's problems.

The situation continued to improve. One year after she ran away from home, Sara's case was continued for three months and then dismissed. DPW agreed to assign a social worker to work with Sara and Mrs. K. to secure the progress that had been achieved.

Case Study Four

Some children have multiple problems and require services from a wide variety of agencies. Although DMH bears the brunt of considerable criticism, there are cases in which DMH does deliver extensive services. In such cases, there is often disagreement as to which agency has custody of the child."

Gayle T. was a fourteen-year old at the time the CHINS action commenced but had already been involved with the juvenile court, DMH and DPW for approximately a year and a half. While she was before the court on a delinquency charge, Gayle was sent to a state hospital for an evaluation. The resulting recommendation was for residential placement and DMH referred Gayle to a local DPW office. When Gayle ran away, DPW initiated the CHINS action in July, 1976.

Gayle remained at home for two months while a group care placement was pending. She rejected a referral to Madonna Hall, was unsuccessfully placed in two foster homes and rejected a third home. A group home placement and an arrangement for counselling services were made two months later. Gayle ran away and insisted that she be placed in a foster home not a group care facility.

A foster home was found for Gayle and she attended counselling sessions for a while. In February, 1977 she went to the police and charged that her foster mother had physically abused her. She lived with relatives for a short while and then was placed in another foster home where she could continue the counselling sessions. Things were stable for a while until Gayle ran away in July, claiming her foster father was beating her.

~~Gayle was taken to the Human Resource Institute in Brookline for a~~ complete psychological evaluation. She was temporarily placed in and ran from a series of foster homes. The evaluation resulted in a recommendation that Gayle be placed in a contained facility.

DPW argued that they could not handle Gayle and that she be placed in DMH's Gaebler Children's Unit in Medfield State Hospital. Instead she was placed in a special program at Taunton State Hospital in August. In December, DPW unsuccessfully petitioned the court that custody of Gayle be granted to DMH.

A placement to the Family Life Institute in Danvers did not take place in January, 1978 as scheduled so Gayle remained in Taunton. In March, she once again ran away. A few days later, the police apprehended her. The court continued the case until June with custody to remain with DPW.

Case Study Five

The combination of status offenses and delinquent acts present the court system with added difficulties. This case shows a typical situation of where DPW and DYS both have responsibility for a child and the flexibility of the court in tracking such a child to services.

Mark L., a fourteen-year old runaway, came to court as a result of two applications by his parents and an arrest by the police. This third action took precedence since it triggered the automatic issuance of the petition. The parents' applications were dismissed.

After the first court appearance in October, Mark was permitted to live with a counselor from a DPW program. This went smoothly until early January when Mark was arrested on a breaking and entering charge. The counselor claimed he could no longer work with Mark who was then placed in a foster home. DYS was ordered to conduct an evaluation while Mark was in their custody on the delinquency charge. By the next court appearance, Mark had also been charged with larceny.

DPW informed the court of difficulties in finding a suitable placement so Mark remained in DYS for two more weeks. On March 18, the judge released Mark to his parents on probation officer surety since DPW was still without a placement and the judge felt Mark had been in detention for too long.

On April 1, Mark was adjudicated a CHINS and committed to DPW until October, 1977. On May 13, Mark was at home still awaiting placement and had been charged with additional property crimes.

In October, Mark's case came up for review. The commitment to DPW was extended twice and Mark was placed on probation. He was later arrested for drug offenses and increasingly serious property crimes. While these were pending, the court used them as a threat to force Mark's cooperation with DPW.

Case Study Six

We have stated that a CHINS action is like a divorce between parent and child. This is emphasized when the parent is the applicant and seeks removal of the child from the home against the wishes of the child. -

Patty was a thirteen-year old with no prior court involvement and no history of difficulty in school. She had run away from home before but was brought before the court as a stubborn child.

The first hearing resulted in a temporary commitment to DPW. Patty was placed in the Proctor Program where she would be intensely supervised since she had run in the past to live with her boyfriend, an adult who was frequently in trouble with the law. Her stay in the Proctor Program lasted only for two weeks after which time the judge released her on probation officer surety.

After a month at home, Patty once again ran away. Four weeks later she was apprehended, committed to DPW on bail and placed in a foster home. She was next placed in a group residence for two weeks. Even though she expressed a desire to go home, her mother rejected the idea.

Patty ran twice from the group residence and was placed in a different but similar program on bail. Patty ran from this program also and was placed on default with a warrant outstanding.

Case Study Seven

Julie B. was arrested by police as a runaway when she was fifteen. The following chronology shows the extent of court activity in many CHINS cases.

8/31/76 Julie B. arrested as a runaway. Petition issued automatically. Court ordered a medical examination, pregnancy test and psychiatric evaluation. Continued to 9/30.

9/23/76 Julie picked up on charges of prostitution. CHINS case continued to 9/30.

9/30/76 Failed to appear in court.

10/1/76 In court, but judge refused to remove default. Prostitution charges filed without a finding. Julie ordered to go to an emergency shelter. She filed kidnapping charges against her pimp.

10/12/76 Julie switched to a different program then went home to her mother.

10/14/76 Julie ran way from home because she was afraid of revenge by her pimp's family.

10/26/76 Judge ordered Julie back to DYS custody.

11/9/76 Custody remained with DYS. Judge imposed \$1 bail to be paid only by the mother or sister. Julie placed in a DYS foster home.

11/19/76 Mrs. B signed papers for voluntary placement of Julie in a DPW foster home.

3/9/77 Two interim continuances resulted in little change in the case. On this date custody was given to DPW and the court ordered that she stay in the same foster home since things were going well there.

3/16/77 Case continued until 6/15. Julie ordered to remain in the same foster home.

6/15/77 Court learned Julie had run from the foster home several times since 3/16. DPW social worker involved in arranging a placement in Madonna Hall for Julie.

6/22/77 Case continued with no change.

7/13/77 Julie was living at home at this point. The court ordered that she attend counselling.

8/31/77 Custody retained by DPW but Julie was living at home. She was ordered to attend school when it began and to start psychiatric treatment.

9/27/77 Routine court appearance with the same conditions continued.

Case Study Seven (continued)

10/4/77 Court informed that Julie had refused to obey its orders and was not attending school or counselling sessions. Case continued.

10/24/77 Case was dismissed based on a report that the family was moving out of the jurisdiction.

Chapter 4

ANALYSIS OF SCREENING, INTAKE, PROCESSING AND PLACEMENT

Introduction

Issues of process are central to understanding the nature of the CHINS program. There are three critical areas to be considered: the specifications of the CHINS statute (Chapter 1073); the procedures developed by the courts, both in response to the statute and as a result of the unique characteristics of the juvenile and district courts; and the interface between the courts and the social service delivery network established to provide needed services to CHINS youth. Both the relative autonomy of the district and juvenile courts and the variations in range of services available in each of the six DPW regions (and geographic areas served by the courts) statewide have tremendous impact on how children are tracked to services. Moreover, variations in interpretations of the law and the availability of services have also affected the criteria used to screen CHINS and the options available for placement.

In order to provide some context for examining the problems and issues associated with the processing of CHINS, this chapter has been divided into three major sections. In Section 4.1, Analysis of the CHINS Statute, the major requirements and specifications of Chapter 1073 are reviewed. This analysis will highlight some of the critical areas of ambiguity that have resulted in a lack of standardization statewide. In Section 4.2, Procedural Variations Statewide, the stages of the CHINS process are analyzed in terms of differences across regions of the state and within the individual juvenile and district courts. Major portions of this section concentrate on the varying policies of the courts which have a substantial impact on what happens to CHINS children. Finally, in Section 4.3, Tracking and Placement, two major issues are explored: what drives the decision to "place" CHINS and what placement alternatives are available. As this final section will indicate, the criteria for determining which services should be utilized are based in no small part on what is available rather than what may be needed.

4.1 Analysis of the CHINS Statute

Chapter 1073 defines a child in need of services in terms of three types of behavior. A child can be brought to the attention of the court for being a

runaway, a stubborn child, or a truant or school offender. Parents or guardians, and police officers can initiate a case under the runaway or the stubborn child category. In addition, police officers have the power to arrest a child if there is probable cause to believe that the child is a runaway and will not respond to a summons. A supervisor of school attendance is the only person eligible to request an application for a petition alleging that a child willfully fails to attend school or persistently violates school regulations.

Except in the instance of a runaway placed under arrest, the statutory process is standardized for all categories of CHINS. Figure 4.1.1 shows the process for most CHINS through the petition stage; Figure 4.1.2 diagrams the special circumstances of a runaway under arrest, where the initial stage of the process is eliminated and the case begins with the issuance of a petition.

In all other circumstances, a case is initiated when a person authorized under the statute seeks an application for a petition from the clerk of the court with jurisdiction over the case.

In the absence of any language to the contrary, it would appear that an application sought by an authorized person should be accepted by the clerk. When this document is filed with the clerk, the official legal process begins. The clerk must set a date for a hearing before the judge, notice must be given to the child, and the probation department is asked to make a preliminary investigation. This inquiry is to focus on whether the best interests of the child would be served through the issuance of a petition. At the preliminary hearing, the court receives the probation department's recommendation and can (1) decline to issue the petition due to a lack of probable cause, (2) decline to issue the petition and instead refer the child to a probation officer for informal assistance if the child and parents agree, or (3) issue the petition and schedule a trial on the merits. If the second option of informal assistance is selected, a petition may later be issued if the probation officer certifies in writing that the child or the parents have failed to participate in good faith.

Under the statute a probation officer has the authority to refer the child to "an appropriate public or private organization or person for psychiatric, psychological, educational, occupational, medical, dental or social services. . ." These informal arrangements can extend only for a period of six months unless the parents and child agree to one further six-month extension.

Figure 4.1.1

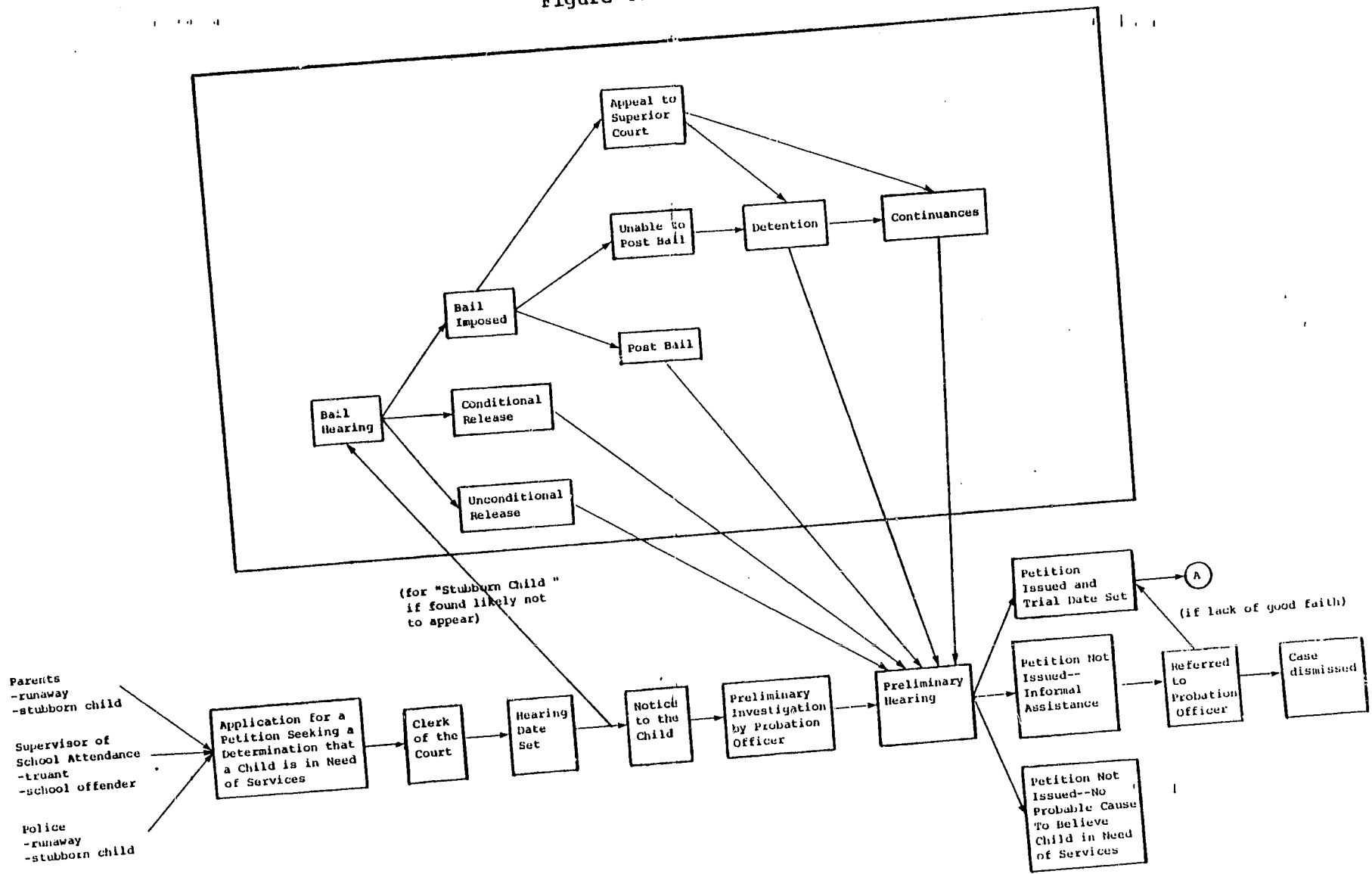
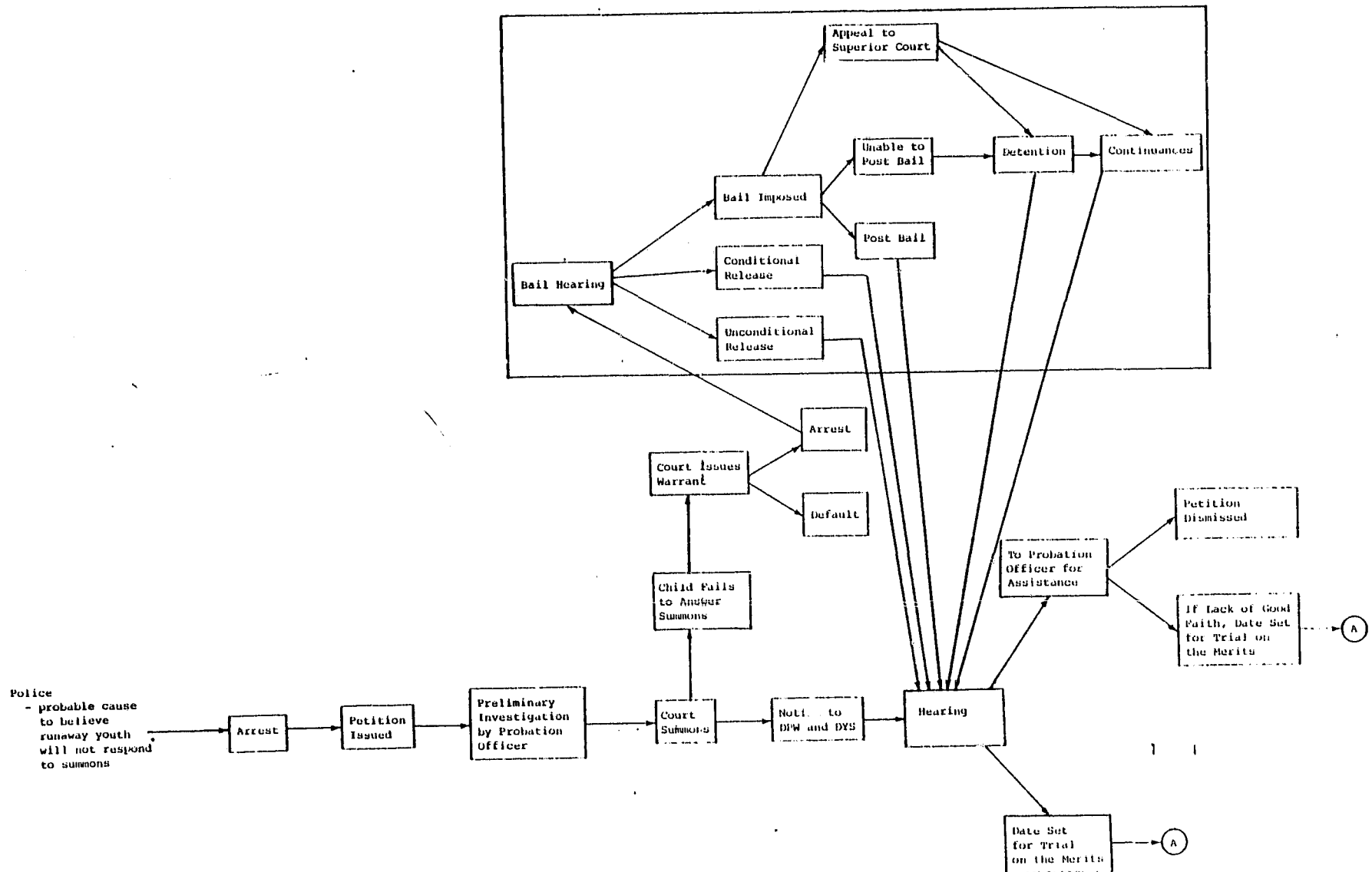


Figure 4.1.2



When a child is arrested by a police officer on grounds that the child is a runaway, the statute mandates that a petition be issued unless one is already outstanding. The clerk may send the child a summons and must give notice of the case to both DPW and DYS. Probation then performs an investigation and recommends to the court either informal assistance or that the case proceed to the trial on the merits. Again, if the child or the parents do not participate in good faith in the informal assistance, the case may be advanced to the trial stage.

Figure 4.1.3 shows the process after a petition is filed. Once the case reaches the trial on the merits, the statute dictates that the judge who decided that the petition should issue can no longer sit on the case and a second judge must conduct the trial. This hearing can result in a finding that the child is not in need of services or an adjudication that the allegations have been proven beyond a reasonable doubt. A child who is adjudicated a CHINS has the right of appeal for a trial de novo with or without a jury to a specified district court within the county or, if in Boston, to the Boston Juvenile Court.

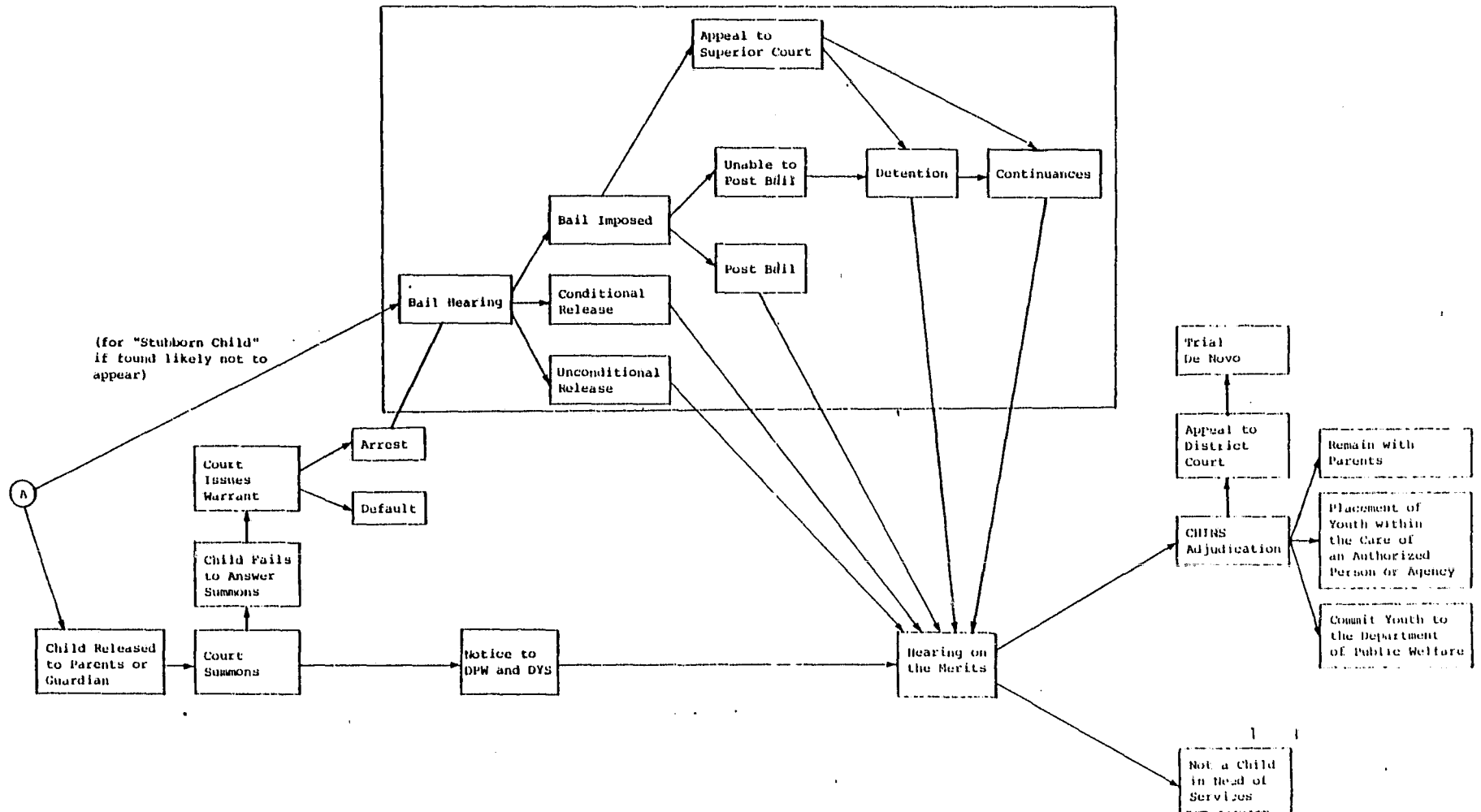
If the child is adjudicated as a child in need of services, the court then must consider the question of disposition. The statute indicates that the court may select between allowing the child to remain at home, placing the child in the care of authorized persons or agencies, or committing the child to the Department of Public Welfare. The court may not commit such a child to any county training school or to an institution designated or operated for juveniles who have been adjudicated as delinquents. A group home providing therapeutic care is an appropriate placement regardless of the categories of juveniles served.

Section 39F of the CHINS statute outlines the child's right to legal counsel. The court must inform the child of the right to have an attorney present at all hearings. Counsel must be provided if the child is unable to retain an attorney, but the court has the authority to assess all or part of the cost of the appointed attorney against the parent or guardian.

Chapter 1073 contains provisions allowing the use of arrest, bail and detention in specified circumstances in CHINS cases. When the final version of this law was before the legislature in 1973, these provisions caused considerable concern to some of the original advocates of the move to

Figure 4.1.3

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decriminalize status offenses.¹ It was felt that such procedures were appropriate only in cases of a criminal nature, not for the new CHINS process. However, a number of these provisions were enacted under Chapter 4073.

Any CHINS may be arrested or admitted to bail if he or she fails to respond to a summons. If the court finds that a child will likely not appear, either at the preliminary hearing or at the trial on the merits, bail may be considered only when the child is charged with being a stubborn child. Truants and runaways are therefore excluded from bail until a summons has been issued and the child has failed to respond.

A child who is not able to post bail may be detained in a facility operated by DPW for the care of juveniles. Such detention cannot exceed 15 days unless the child is brought before the court for another hearing on the continuation of the detention. If the bail is to be extended, the court must indicate the reasons in writing. A child may be detained no longer than 45 days, with a court hearing every 15 days. Upon imposition of bail, the child has an immediate right of appeal to the Superior Court.

Although Chapter 1073 sets out certain procedures to be followed, as discussed above, it provides only a general outline of action to be taken by the courts. For example, notice to the child is required prior to the preliminary hearing, but at the filing of the petition (itself a vague phrase) the statute specifies that a summons may be issued. Another area of confusion is whether the clerks have the authority to issue a warrant and, if so, at what stage in the proceedings. As a result of this confusion and the autonomy of the courts, clerks are responding in a variety of ways: from treating the application itself as a warrant, to refusing to issue warrants at all since the statute says that "the court" may issue warrants without specifically naming the clerk of the court.

The CHINS statute creates uncertainty and confusion in another way by the absence of detailed standards to guide the decision-making process in the courts. The court is to act according to "the best interests of the child" in deciding whether to proceed with the trial on the merits or to refer the child for informal assistance. The legislature did not expand on this language and

¹ See History of the CHINS Program, Spangenberg, Studen, and Day, for the Committee on Criminal Justice, December, 1977.

therefore, each court is left to its own interpretations. The decision of whether a child is better served by counselling or placement in a foster home or by a trial which has the trappings and aura of a delinquency proceeding is one which creates considerable difficulty for probation officers and judges. The courts often feel they have not been given the tools to best serve the child's interest within the procedures laid out by the law. Therefore, many courts have improvised and created their own methods for responding to the statute's directives and the needs of children.

Given a somewhat confusing statute with little precedent to guide them, the courts have taken the initiative in implementing the law as they interpret it. Since the Massachusetts district court system is not really a unified system but a collection of individual courts, many different ways of responding to the CHINS law have developed.¹ To understand the extent of the variety it is necessary to look at the district courts and see the degree of latitude each court has in regulating its own procedures.²

The Massachusetts district courts have historically been local courts, often with key personnel having spent many years in the local community. Judges are appointed to a specific court although they may also receive assignments to cover other district courts. This is in contrast to the Superior Court which is considered a statewide court with sittings in 14 different counties and rotation of judges between these sessions.

The juvenile courts in the cities of Worcester and Springfield have jurisdiction over juvenile cases for the same geographic area served as the district courts in those cities. The Boston Juvenile Court has juvenile jurisdiction for the Boston Municipal Court and the Roxbury District Court.

The exception to the above local orientation is the newest juvenile court whose jurisdiction is all of Bristol County. The Bristol County Juvenile Court is not as different from other district and juvenile courts as one

¹ See e.g., Rose and Spangenberg, Action Plan for Legal Services Part II: Criminal Defense Services to the Poor in Massachusetts, June, 1978.

² It should be noted that a district court committee has been created to examine the need for uniform rules in the CHINS area. The committee is presently awaiting the results of this study.

might assume. The county has four district courts in the cities of New Bedford, Fall River, Attleboro, and Taunton. The juvenile court holds sessions and probation officers are based in all four of these localities. Thus, the local contact is still an important factor in the functioning of the Bristol County Juvenile Court.

Responsibility among the 72 district courts is centralized in the Chief Justice of the District Courts for purposes such as promulgation of standards, development of training program for judges, and communication of new legislation and rules of court. Within this framework, however, each district court has the authority and opportunity to develop procedures and programs with substantial latitude. In reality, the presiding judge in each court is the person actually exercising these rights and determining procedures for that court.

The juvenile courts do not have a chief justice and therefore operate with what may be an even greater degree of autonomy and flexibility.

One of the primary results of the local nature of the courts and the absence of strong centralized control is a considerable degree of diversity in the way courts process cases. Each presiding justice can establish intake, referral, and dispositional alternatives within the framework mandated by the various relevant statutes. New programs can be implemented utilizing any available community resource. Informal mechanisms to deal with persons before the court can be experimented with, modified and adopted or rejected, depending on how the ideas work in practice.

It should come as no surprise that a systematic pattern of innovation and variation between individual courts is clearly present in the processing of CHINS cases. In the remainder of this chapter, we will highlight some of the more significant variations from those statutory procedures and the consequences of their adoption.

4.2 Procedural Variations Statewide

There are several significant steps of the CHINS process which can be determinative of the final outcome in any individual case. Because each court places its own interpretation on the statute and determines what its policy will be in regard to each of these steps in the process, the client population, the court procedure and the service delivery mechanism can differ substantially from court to court.

The areas of the statute which show the largest variety of implementation between courts and have the most impact on what happens to the children involved are highlighted in this section. Topics discussed include screening and diversion activities, intake decisions, purpose and format of court hearings, appointment of counsel, and the use of bail and detention.

4.2.1 Pre-application Screening and Diversion

Chapter 1073 focuses on activities commencing at the point that an application for a petition is signed. There is no indication of whether the legislature intended that all applications be accepted by the court if the person seeking the application is one legally designated in the statute nor is there reference to a burden of proof before the application can issue. There is also no mention of the concept of screening cases for the appropriateness of their entry into the judicial system.

Some courts feel that all applications must be accepted and that selection of cases that do not require intensive intervention should be done at the stage where the probation department recommends either informal assistance or that the petition issues. Even though the decision at this point is to handle the case informally, many formal procedures may have already taken place. In most instances, the signing of the application triggers the creation of a file, the assignment of a docket number, and a hearing before a judge. Even more significantly, the signed application in most courts gives rise to the creation of a juvenile record even though it was the intent of the legislation to decriminalize status offenses.

The vast majority of courts, however, permit informal assistance before an application is signed. Out of the 30 courts in our sample, 26 (87 percent) indicate that referrals to social services are sometimes made pre-application.¹ In these courts, attempts are made to assess and divert a certain percentage of cases away from the court process. Some courts have implemented diversion activities as a matter of policy, while others practice

¹ As a matter of fact, approximately 25 percent of all cases found in the 1977 court sample involved pre-application referrals even though there is no direct statutory authority.

them on a more irregular basis. This latter group of courts may consider diversion in certain instances and invoke the court process in other cases based on random factors such as the availability of a probation officer at the time an application is sought, or the philosophy of the individual clerk who is handling the intake of a case. In spite of the wide range of methods and consistency of diversion efforts, all of the courts which fit this model have in common the concepts that not all alleged CHINS need to be brought before a judge prior to initiating services to alleviate the problem and that the court is not always the proper forum for every family problem.

Within the group of courts involved in early diversion are several sub-categories illustrating differing models of accomplishing similar goals. These sub-categories reflect the roles of different people with intake responsibility and the use of different resources to avoid the need for judicial involvement.

A. The Role of the Clerk of Court in Screening

In less than 25 percent of our sample courts, the clerk has the ~~primary responsibility for deciding which cases will become formally involved~~ with the CHINS process and which will not. In some courts the clerk's function is to analyze the allegations and to decide if they warrant a delinquency complaint, a CHINS application or no court proceeding at all. In other situations where the appropriateness of the type of proceeding is not at issue, the clerk still has an opportunity to make intake decisions. Cases are screened to determine the need for a court proceeding. The clerk looks at factors such as the severity and longevity of the problem, past efforts to resolve it and on occasion will consult probation for its opinion on the likelihood of successful intervention at this level. If the clerk's decision is to avoid a formal proceeding, probation usually becomes responsible for the case.

As a general rule, when the clerk is the individual making intake decisions, cases brought to the attention of the court by persons in their official capacity such as a police officer or a school attendance supervisor will usually be scheduled for a preliminary hearing without attempts at pre-application diversion. The philosophy behind this is that such officials come to court with a thoroughly documented case, remedial efforts have been unsuccessful and the court is in effect a last resort. There is no benefit to be gained from exploring other service delivery mechanisms.

It is the policy of slightly more than one-third of the courts in our sample that no application on the grounds of truancy be accepted until the local school department has undertaken its obligations detailed in Chapter 766 and performed a CORE evaluation of the child. Once a CORE evaluation has been completed, the case is handled in the same fashion as in courts that do not require an evaluation. Again, there is no statutory authority for this position.

The District Court of Chicopee is an example of the maximization of the clerk's role in intake and screening. Unless a case is of sufficient urgency to necessitate immediate attention by the judge, the clerk initiates a show cause hearing where all parties present their version of the situation. The clerk attempts to facilitate an agreement between the parties to work together on a voluntary basis to resolve the difficulties if the child can and will remain at home at least on a trial basis. If this is not a viable option, more formal court involvement will be initiated.

School authorities are asked to become involved and provide assistance to the child when appropriate. The DPW CHINS worker in the Chicopee court is contacted for services in a small percentage of cases. ~~These services can~~ include making placement referrals if the child is voluntarily committed to the temporary custody of DPW by the parents.

The clerk will continue the case on this "show cause" status indefinitely if it appears that the parties are making some progress towards working out the conflicts that precipitated court contact. Should the voluntary agreement break down or an impasse be reached, the clerk will schedule a hearing before the judge on the issuance of a petition and the case will proceed following the statutory model.

B. The Role of the Probation Officer in Screening

The probation officer is clearly the person who is primarily responsible for screening activities in most courts. As a general rule, the courts which consider the possibility of diversion, instead of taking a signed application at the point of first contact, require the applicant to talk with a probation officer before any court action is initiated. Where this is the policy of the court, the clerk has no decision responsibilities at this point in the case.

Police officers on occasion do contact a probation officer after a runaway child has been picked up to determine whether the child should be held for court or can be released to his parents. With this level of cooperation, a child can be diverted from a court proceeding even after the police become involved.

Truant officers often contact probation directly in those courts emphasizing pre-application screening when they have a case needing intervention beyond the capabilities and resources of the school system. Probation generally contacts the family and sets up a conference between the family and school personnel to try to handle the problem informally.

When parents approach probation with a CHINS-type problem, either directly or by referral from the clerk's office, there are a wide range of options available. Most probation departments are very careful to describe the process involved in a CHINS case, the possibility of removal of the child from the home, the type of services available, and the legal sanctions and limits on the court's ability to impose them. This contact often results in the parents decision to drop the case because the problem is not of sufficient severity to justify having their child subjected to such formal proceedings. At the opposite extreme, there are a few cases that drop out here because of the applicant's disillusionment with the inability of the court to force compliance with its decrees. When some applicants learn there are no locked facilities for CHINS and the ultimate disposition is commitment to DPW, they decide there is no benefit to be gained by continuing to pursue the case.

Many probation departments, as part of their efforts to screen cases and fully investigate the extent of the problem, will offer to discuss the problem with the child. Diversion from the court may result either from this initial meeting or as a result of a series of contacts between the family and a probation officer.

Occasionally, parents will come to the court with what could be labeled a stubborn child situation but which also involves a considerable amount of school difficulty. By bringing school personnel into the case at this level and providing supportive counselling to the family, a probation officer may reach a solution to the case with a minimum of involvement. If special education evaluations or services are the answer, they can be initiated through this mechanism unless formal court involvement is necessary

to compel the school to perform them. The District Court of Lowell has had a program for children with school-related problems for approximately ten years. This program involves about 40 Deputy Volunteer Probation Officers who supervise children in the school department, including some who are at the pre-application stage in a CHINS case.

If the child and family need services other than counselling by a probation officer, there are a vast assortment of resources available in many areas of the state. Courts which have a court clinic frequently make a referral at this stage. Private and state agencies are all utilized according to need.

Some courts, typically those in major metropolitan areas, rely heavily on the social service agencies available in the community. For example, in the Lawrence DPW region the network of social service providers is extensive and well organized. A board of social service representatives holds regular meetings to consider service availability and needs, on occasion even analyzing cases for which no service seems available or adequate.

The choice to use community resources or the Department of Public Welfare is motivated largely by variations in DPW and court policies as well as the availability of services. DPW policies are not always consistent even within each region. In some areas of the state, DPW seeks to become involved in a case at the earliest possible moment. Court personnel and CHINS workers encourage the parents to voluntarily commit the child to the custody of DPW if placement outside the home is needed rather than go through the court process.¹ Other DPW offices will accept cases on a voluntary, pre-application basis, but make it clear to the court that they would prefer a more formal arrangement. The Lawrence Regional CHINS Unit has a stated policy of not accepting CHINS cases until after an application is signed. This policy does not unduly hinder diversion by the courts, however, since that region has such a highly

¹ This policy may indeed result in a difficult dilemma where the commitment is long-term. On the one hand, when parent and child agree to a long-term commitment, they should not be required to wait out the long court process to adjudication. On the other hand, many of the people we interviewed expressed concern about the degree to which the referral process is in fact "voluntary" and further concern that no elements of due process are invoked in cases where children are removed from the home for substantial periods of time.

efficient network of service providers as described above. At the other extreme is the DPW CHINS relationship to the Worcester Juvenile Court. That court has a policy of pre-application referral to DPW that resulted in a reference of over 30 percent of all their cases in 1977 on a pre-application basis.

The Bristol County Juvenile Court has access to an LEAA funded program called the Intervention Program which accepts referrals from the police and probation. Most of the referrals from probation are pre-application CHINS cases. The program provides counselling and support to the family with the length of involvement averaging about six months. The probation department, however, is not actively involved in these cases once they are referred.

Different interpretations of the significance of the application give rise to variations in the timing of diversion activities. Many courts, as described above, provide counselling and referrals before an application is signed, reserving that action for cases that do not respond to the offered services. Once the application is signed, the formal court hearings commence.

A few courts view the application as a request for judicial intervention which does not mandate the formal judicial process. Where this philosophy exists, a person completes an application and probation then initiates the range of services discussed above, with the difference being that no preliminary hearing is scheduled at that time. If the case is successfully resolved, it is closed without any appearances before the judge. The courts in this group feel that such cases have been diverted since no formal court proceedings have occurred. The application's existence makes these cases technically different from the other diversion examples in this section, but the services offered and the final outcome are, as a practical matter, identical.

C. The Role of Outside Agencies in Screening

A small number of courts have devised a system which allows the authority and responsibility for screening and diversion to be either delegated to or shared with other social service professionals.

The district court in Concord was involved in 1977 with a program which is an example of shared responsibility for screening. The CHINS Intervention Program was funded by a foundation grant and the Concord Family Services Society. The stated purpose of the project was to process CHINS applications informally through use of community resources, while avoiding,

to the maximum extent possible, penetration by the family into the judicial and welfare systems. Although an application was completed, these cases were in all other aspects, true diversion cases.

The Assistant Chief Probation Officer (ACPO) for Juveniles received all CHINS cases before forwarding them to the CHINS Program Coordinator who worked for Concord Family Services. At least weekly, probation representatives including the ACPO met with the CHINS Coordinator to initially assess the case. After the assessment process was completed, the case was either referred to Concord Family Services for the Intervention Program, referred to other social service agencies, or handled within the framework of the formal court process.

Another example of a probation department involving outside screening is in operation in the Worcester Juvenile Court. In this court, an Assessment Board is convened by the Assistant Chief Probation Officer when an attendance supervisor notifies the court of a potential truancy case. Meetings are attended by the child, the parents, the Assistant Chief Probation Officer, the supervisor of attendance, a DPW CHINS worker, a representative of the Child Study Department of the Worcester School Department, and other social workers if they have had prior involvement with the family. After the attendance officer relates the facts in the case, an inquiry is made regarding any attempts the school department has initiated through CORE evaluations or school adjustment evaluations to address the problem. Then the ACPO explains the court process to the family. Generally, unless there are indications of child abuse, the Board will come to a consensus in the presence of the family. Recommendations include referral to the school department for additional tests or services or referral to an agency such as Big Brother or Sister. The child is brought before the court in a formal proceeding only if the truancy persists.

The Worcester Juvenile Court can be used to illustrate another unique approach. The screening function is delegated to the DPW CHINS Unit when applications are sought for the stubborn child category. The clerk refers all applicants in this group to the CHINS Unit, which is located in the same building as the court. Cases that can be handled at this juncture never return to the court. If difficulties are encountered, the child becomes involved in the formal court process at that point in time.

While the courts involved in early diversion feel strongly about limiting formal court involvement in the majority of cases, they informed us that there are some cases that need such urgent and intensive intervention that they should enter into the formal procedure as rapidly as possible. Factors which indicate the need for immediate attention are a long history of difficulty, violence in the home, and extensive prior contact with a variety of social service providers. Runaways whose whereabouts are unknown are also scheduled for immediate court action.

In all courts a certain percentage of cases which are diverted early run into additional difficulties. Either the agency to which they have been referred or the original applicant notifies the probation officer of the unsuccessful efforts and the case is returned to the clerk and the formal court mechanism is activated.

When the process of diversion does bring the case to a successful conclusion, the impact on all involved is substantial. The family has not only been spared the ordeal of court appearances and the divisiveness of a trial situation but has in addition received services to alleviate the difficulty. The child has received these same services without the stigmatization of a formal court record. In most instances, the child has been able to remain at home throughout most, if not all, of this process. Court personnel feel strongly that when a case is heard by a judge in a courtroom, the child cannot perceive the distinction between his situation and that of a delinquent regardless of whatever attempts are made to give the appearance of something different.

Effective, thorough pre-application screening and diversion to local resources does have an impact on the caseload of the courts. Both the time of judges and probation officers are saved. However, this policy usually means that court involved CHINS will be the most complex and difficult children to deal with. Their problems are frequently deeply rooted and extraordinary measures may be required to extend beneficial services to them. These children may well need long term care beyond the short period of time available through the CHINS Unit and its emergency shelter facilities. A great deal of effort will be needed to place these children in appropriate long-term foster homes or group care facilities. In those courts where DFW CHINS resources are used only as a result of formal court proceedings it can

be expected that DPW CHINS workers will be faced with the most difficult of CHINS children. In several courts it was the policy to retain for informal assistance the so-called "light children" and to refer the "heavy children" to DPW CHINS workers.

4.2.2 Intake Practices

Chapter 1073 defines three specific types of behavior intended to be regulated under the special category of Children in Need of Services. The primary intention of this legislation was to decriminalize status offenders and to segregate such children from juvenile delinquents.

The intake practices by some courts may be counter to the statutory intent, however. Court clerks on occasion will recommend that a CHINS application be signed rather than have a child processed as a delinquent if the charges are relatively minor. Even children that are already before the court or on probation as alleged delinquents sometimes become simultaneous CHINS cases at the suggestion of a probation officer.

The establishment of the DPW CHINS Unit, with its contracts for services specifically for CHINS has contributed to this situation. The CHINS contracts for short term emergency shelter care are available for referrals that are processed rapidly and with a minimum of bureaucratic red tape. The referral is made and service delivery starts almost immediately. The fact that there is a specific worker assigned to most courts generally insures that channels of communication are open between DPW and court personnel.

The courts have some valid criticisms of DPW but, in general, are far more satisfied with its services and placements than those available through the Department of Youth Services. The criticisms that do exist are usually directed to the Group Case Unit or other units of DPW; almost universally there was praise for the CHINS workers who we were told were extremely valuable and dedicated.

Serious problems have developed in one or two courts, however. The result is that at present, no referrals are being made to DPW. Our initial impression is that in these courts, probation is unwilling to recognize the proper role of DPW CHINS workers, despite every effort on the part of DPW.

DYS on the other hand is frequently viewed as a punitive agency and the desire to give a child a break may motivate court personnel to track delinquents as CHINS on occasion.

There is, however, a percentage of cases that are tracked in the opposite direction. Some children who are clearly CHINS are charged with delinquent acts, at times due principally to the lack of available DPW services. The result, of course, is in direct contravention to Chapter 1073.

Children who are labeled delinquents can be referred to Madonna Hall and Pelletier Cottage for psychiatric diagnosis and evaluation. DPW does not have comparable facilities under contract for CHINS cases. Court and DPW workers have largely been unsuccessful in obtaining such services from the Department of Mental Health. Therefore, in cases where mental health services are urgent, a delinquency charge may be lodged against the child to facilitate the service delivery.

Although the CHINS statute allows for detention, there are no locked facilities now available. On occasion, when faced with a child who is constantly running away and identified as a danger to himself or others, the court may treat the child as a delinquent so that a DYS secure unit may hold the child. We were also told in three courts that occasional referrals of CHINS children to a DYS detention facility were still being accepted by DYS despite the lack of legal authority.

4.2.3 Purpose and Format of Court Hearings

Pursuant to the statute, the preliminary hearing in a CHINS case is the point in the proceedings where the probation department submits the result of its investigation to the judge and makes a recommendation on whether the case should be handled informally or the petition should issue. In reality, the first hearing is rarely used for this purpose. Court personnel typically refer to this hearing as an arraignment, a term more appropriate in cases that are criminal in nature. The child is informed of the "charges," often the question of counsel and bail are considered and a continuance is usually granted during which the probation department determines what should be done with the case. This hearing typically takes place about two weeks after the application is signed.

Some courts do suggest a placement plan for a CHINS at the preliminary hearing. In many instances, this is done for cases that have been handled on a pre-application basis for a period of time but now need the involvement of the court in facilitating the case. The Brockton court, for example, has regular meetings between probation, DPW and DYS after an

application has been signed but prior to the preliminary hearing. At these meetings, a child's situation is assessed and service and placement plans are prepared for submission to the judge at the preliminary hearing.

In most courts, the period of time from a preliminary hearing to petition or adjudication is marked by multiple continuances. The effort here is to clearly attempt all possible alternatives before the case reaches the formal stage of petition or adjudication.

Courts almost universally view the petition and adjudicatory stage as legal mechanisms necessary to commit a child to DPW for long-term placement. The procedures and stages themselves do not change the interaction between the child and the court since the court does not gain any additional options or leverage once these stages are reached.

The statutory requirement that the judge who hears the trial on the merits cannot be the same judge who ordered that the petition should issue is regarded as unnecessary by the courts and is avoided in a variety of ways. Some courts have been known to collapse the issuance of the petition and the trial on the merits into one hearing. Another device to circumvent this provision of the statute involves an arrangement with the child's attorney whereby the preliminary hearing is waived and the petition issues by agreement.

In an increasing number of courts, judges are becoming aware of the fact that the adjudicatory hearing has severe limitations in dealing with CHINS children. As a general rule, most courts do not hold a trial on the merits unless there is a need for a commitment to the DPW. Only 71 (18.7 percent) of the 379 cases in our 1976 court sample reached the adjudication stage and the majority of these (63 percent) involved a commitment to DPW.¹

At all stages in a case, the parents are urged by some CHINS workers and probation officers to sign a voluntary commitment if long-term residential services are needed. The voluntary commitment procedure is a surprisingly easy and quick route to services. Some individual workers and welfare offices would prefer a court commitment but do accept the voluntary arrangement. The

¹ It should be pointed out here that the courts are currently engaged in a debate with DPW over whether or not the court can commit to DPW with certain conditions and limitations. DPW's present position is that they control the placement of the child once the commitment is made. We are informed that there is currently a case on appeal specifically testing the court's ability to place conditions around the commitment to DPW.

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court will proceed toward an adjudication if the voluntary is not forthcoming or if the parent later seeks to withdraw from the agreement.¹ It is almost always a foregone conclusion that once a hearing on the merits is scheduled, the child will be adjudicated a CHINS.²

The format of the hearings is almost always non-adversial in practice. Testimony may be taken under oath but only the skeleton of allegations needed to support the charge are required by the court. Cross-examination is extremely unusual. Part of the reason for this is to avoid increasing the family breakdown by a full court hearing with the parent testifying against the child. Most of the courts concentrate the hearings on discussions of service options. The probation officer is typically the person responsible for guiding the proceeding to the desired result. A trial on the merits may be slightly more formal but the outcome of adjudication and DPW commitment are really not in issue by the time the case has reached this point and appropriate placement plans have usually been agreed upon by probation and counsel for the child.

4.2.4 Appointment and Role of Counsel

Chapter 1073 states that a child who is alleged to be in need of services and brought before the court "shall be informed that he has a right to counsel at all hearings, and if such child is not able to retain counsel, the court shall appoint counsel for said child."

All courts in the state acknowledge the child's right to an attorney in a CHINS case but differ in their interpretations of when the appointment should take place. The policy of 70 percent of the sample courts is to appoint an attorney before, or at the time of the preliminary hearing so that the child will have legal representation throughout the case. Only rarely is

¹We have no statistics on the number of voluntary commitments to DPW for long-term services that do not involve some formal aspect of the CHINS process. Based upon our interviews, however, we believe that this process is used with some regularity. It should be repeated for emphasis that a number of court personnel and legal advocates expressed their deep concern about the ease in which this process can be accomplished, without elements of due process including the assistance of counsel.

²There was only one case in the entire 1976-1977 sample in which a child was adjudicated not-a-CHINS.

the attorney who is appointed present in the courtroom at the time of appointment. The system in most courts is to continue the case after the initial hearing and to send notice to the attorney who is expected to be present on the continuance date.

Other courts believe that counsel is not necessary in cases that are less serious and can be resolved by contact with the judge and a probation officer. The courts that do not appoint counsel at the preliminary hearing do so when and if the petition is issued. Some courts that believe the attorney is needed at the petition stage, or only in "serious" cases, will make the appointment at the preliminary hearing if the seriousness of the case is apparent at that time. Since the statute specifies the "right to counsel at all hearings" (emphasis added) it would appear that these later arrangements do not fulfill the requirements of the statute.

A few courts also appoint an attorney to represent the parents in some CHINS cases. This practice is evident in cases where it seems likely that the child will have to be removed from the custody of the parents and the judge wants to ensure that their rights are protected.

Attorneys who represent CHINS are generally either part of a county or local bar association program or private attorneys eligible for appointment under Rule 10 of the Rules of the District Court. The Massachusetts Defenders Committee no longer represent CHINS children.

The role of attorneys in CHINS proceedings is quite unlike their role in other types of cases. Since the proceedings are not in fact adversarial, but more oriented to service planning, the child's attorney is normally not involved in discovery, pleadings or examination and cross-examination of witnesses. The lawyer is not plea bargaining for a finding that the child is not a CHINS or trying to refute the allegations of the charges. The Children's Law Project of Greater Boston Legal Services represents CHINS primarily in the Boston Juvenile Court and are much more active in actually litigating cases than other attorneys who are not specialists in the area. The child's position is strongly advocated by attorneys working for this project and all legal avenues of redress are explored with the "best interest of the child" in mind.

The attorney appointed by the court frequently becomes involved in the social work aspect of the case and almost always goes along with probation and

DPW recommendations. Court observers generally believe most attorneys have little understanding of the purpose and procedure of the CHINS law and simply follow the recommendations of those who deal with CHINS cases regularly. The Massachusetts Bar Association has recently issued an ethical opinion on the obligations of an attorney representing the child in a CHINS case. The Ethics Committee's opinion states that the lawyer "has an obligation to the child to advocate to the court that disposition of the case which the lawyer believes to be in the best interests of the child even if such disposition of the case is not consistent with the expressed wishes of the child. . . . [We] believe the lawyer should inform the court of the contrary views of the child on the matter."¹ The latter requirement of communicating the child's wishes to the court takes on added significance when one observes that in some courts the child sits alone and isolated from the adult participants and can be virtually forgotten as arguments about his or her future rage back and forth. If the judge does not take the responsibility to inquire of the child as to his or her preference and the lawyer does not communicate the child's wishes to the court, there can be no one at all speaking for the child.

4.2.5 Use of Bail and Detention

The bail and detention provisions of Chapter 1073 created the greatest amount of debate while the bill was in the enactment process. Some people who had long advocated special treatment for status offenders were so opposed to the introduction of criminal procedures into these cases that they urged the governor to veto the bill. Others counselled that the bill was the result of much compromising and was the best that could be expected. This latter group felt that the bill should be signed even with these provisions present since status offenders were being removed from the delinquency category and many due process safeguards were built into the new procedures.

Chapter 1073 states that any CHINS can be arrested and admitted to bail if he or she fails without good cause to respond to a summons. This provision creates substantial difficulty for the courts when confronted with a parent seeking immediate action on a runaway child. It is true that police

¹"Ethical Opinions: . Opinion No. 76-1," 61 Mass. L.Q. 54-55 (1976).

can arrest a suspected runaway without a warrant, but they are extremely reluctant to do this, instead advising the parents to go to court to get a CHINS application.

The parents then contact the clerk of court, sign an application and ask when their child will be apprehended. They are advised in many courts that a summons will be sent out to the child's last known address. This address is generally the home that the child has run from and of course he or she will not be there to receive it, making the entire procedure futile. Clerks adhering to the statute feel that a summons must be issued and the child fail to respond before they can issue an arrest warrant. Once the child is arrested, the court may consider the issue of bail. Some clerks informed us that they ignore the summons procedure completely and issue a warrant immediately.

Other than the failure to respond to a summons, the only grounds for bail is if the court finds that an alleged stubborn child is unlikely to appear at the preliminary hearing or the trial on the merits. The practical effect is that if a runaway is brought before the court after an arrest, or ~~for some reason responds to the summons~~, the court cannot legally impose bail and detain this child even if the child states that he or she is going to run immediately upon leaving the court. Regardless of the quantity of proof that a child will not appear at a hearing, the court cannot resort to use of bail unless the charge is that the child is stubborn.

Prior to July 1, 1977, DYS had authority for services to pre-adjudicated CHINS including detention placements. When the CHINS program was transferred from DYS to DPW, responsibility for CHINS at all stages of the proceedings was given to DPW. However, a question was raised as to whether DPW had the legal authority to detain children since it is a social service department not a corrections agency. As discussed in more detail in Chapter 7, the legislature amended Chapter 1073, effective in December 1977. DPW now has the clear authority to provide services for all CHINS, including those detained in lieu of bail.

In our 1976 sample of CHINS cases, 72 out of 355 (20 percent) were committed to DYS but in 1977 that dropped to 3 percent. Some of the 1977 cases are potentially those with simultaneous CHINS and delinquency actions pending in the courts. Others may be cases sent to DYS prior to the amendment specifically authorizing DPW to detain CHINS.

Some courts indicate that they never impose bail because it has no impact. There are no secure facilities in the sense of locks and bars created by DPW. Detention means only that the child is placed in a foster home or other emergency facility and the court must review the detention every fifteen days with a maximum of forty-five days allowed. The most secure arrangement offered by DPW is the two individualized monitoring programs which place the child in the care of an adult on a twenty-four hour, one-on-one basis.

Two-thirds of the courts indicate that they do use bail to some extent. An area of misunderstanding with DPW has been the interpretation by some courts that bail must be imposed before a child can receive services in an emergency shelter. Some courts speak of allocation of slots for bail and nonbail cases. DPW denies that this is so and attributes the belief to a holdover from DYS days. Regardless of the source of the confusion, there are CHINS being placed on bail solely because the court believes that this is the only way in which to achieve a specific placement.

4.2.6 Appeals

There have been very few appeals from a CHINS adjudication state-wide. One of the major reasons is the perception of most attorneys that they are to serve the best interests of the child and their agreement that a certain plan of social services achieves that goal. Another important reason is that most attorneys, judges and probation officers understand that if the child is unhappy with the disposition following adjudication, the child simply leaves the placement and returns home. There are presently no sanctions available to the court to enforce its orders.

The statute requires that the court inform the child of his right to appeal an adjudication that he is a CHINS. This right of appeal is not extended to the parents. This has placed a few courts in the somewhat uncomfortable position of forcibly taking a child away from his parents after they were the ones who came to the court seeking help and initiated the CHINS action.

4.3 Tracking and Placement

The CHINS program, as currently structured, revolves around the district and juvenile courts. It is to these institutions that the statute

directs parents and others seeking a solution to a child's problems. Although alternative mechanisms to avoid the formal court process have evolved in many of the courts as discussed in the preceeding section, the court and its probation office remains as the main facilitators of service delivery and processing of a case.

The CHINS statute provides procedures that are the most practical when all parties can reach a voluntary agreement to render and receive services. Although DPW policies vary from locality to locality, all welfare offices will accept at some stage a voluntary commitment of the child by the parents to the custody of DPW. The vast majority of courts are quite content to forego further proceedings in a case when this type of arrangement can be worked out. It is only when there is an obstacle to this agreement on either side that the court feels it must intervene. The courts are willing to hold back on legal proceedings as long as the child, the family and the service providers can accomplish what is necessary.

Some parents are very ready to give custody of their children to DPW. Their motivation may be beyond question or it may stem from an intent to "dump" their child, to abdicate responsibility for its care whether onto the court or a social welfare agency such as DPW. In either case, placement of a child in short or long-term DPW placement by a voluntary agreement is easily achieved under the CHINS law and DPW policy as they now exist.

A voluntary commitment will be encouraged along the way. To induce cooperation when it is not voluntarily given, or to address an attempted revocation of a voluntary agreement, the courts move a case from application to petition to a trial on the merits. It is almost universally conceded by court personnel, however, that the CHINS statute is applicable primarily to voluntary situations and the court is powerless to force parties to perform. It is only by proceeding all the way to a commitment that the court can mandate the child's custody into the hands of DPW for more than a short-term basis. Several judges who were interviewed expressed real concern over the lack of sanctions to impose their orders. Some are considering holding a child in civil or criminal contempt. A few simply encourage the filing of delinquency charges. A few threaten the children, while one judge holds alleged truants in the court lock-up for repeated violations of his orders.

Few cases that require only counselling services while the child remains at home proceed very far into the formal procedure. The CHINS process is primarily a mechanism to bring about a placement of the child away from the home. If the need is only for short-term placement, this can be achieved at an early level often by probation making a referral to a community resource, even pre-application, if that practice is followed in the particular jurisdiction. On the other hand, if long-term services are needed it is almost guaranteed that the case will proceed through to a trial on the merits and will be adjudicated, and the child will be committed to DPW unless a voluntary arrangement is made.

The DPW CHINS Unit was designed to be an early intervention program providing emergency shelter care for thirty to forty-five days. In many areas of the state this does not occur because many probation departments will work first with local resources before referring the case to a CHINS worker. The DPW CHINS workers are largely regarded by these courts as placement workers rather than case workers. The normal practice is to involve the CHINS worker only in cases where the court has determined that a particular placement ~~should be made through~~ DPW.

The decision to place a child in one of DPW's short-term emergency shelters can be made by several persons. The parents sometimes refuse to allow the child to come home; the child may insist that he or she cannot or will not return home; the court may impose bail and order the child placed; or the probation officer or the CHINS worker may seek a placement for the child to allow delivery of needed services.

The short-term placements currently available include the individualized monitoring programs, some small group type homes and foster homes. This last type of placement accounts for the large majority of emergency shelter slots.

All courts in the state were surveyed by interview or mailed instrument to determine their perceptions of service gaps for CHINS. The greatest area of need expressed by 60 out of 69 courts is for some type of secure facility. Many court personnel pointed out that a well-staffed, heavily supervised residence would suffice that locks and bars were not necessarily needed, but that some level of control was currently lacking. DPW feels that its contracts for individualized monitoring covering all but the Springfield region provide this needed security. The individualized monitoring programs

have relatively few slots and although courts speak very highly of the concept, most still feel the need for something more. The Springfield region has a secure home that can hold two children at one time. This is a foster home with alarms on the windows and security minded foster parents. Courts in that region acknowledge that this comes closer than any other DPW facility to meeting the need for a secure facility.

Another area of pressing need mentioned by two-thirds of the courts is for a full range of mental health services: residential, outpatient, diagnostic and treatment capabilities. The need for diagnostic services is often mentioned hand in hand with the need for a secure facility. A common remark is that a place is needed where CHINS, especially the constant runners, can be held long enough to be evaluated and assessed so that appropriate plans can be developed. One half of the respondents felt that a secure setting was also necessary.

The perceived lack of secure settings and mental health services has caused some court personnel to channel a child through the delinquency process instead of CHINS. This is done with the belief that it is in the best interests of the child and that the label is ~~generally meaningless and used~~ only as a mechanism to get needed services. DYS does have some secure placements and even more importantly access to residential diagnostic facilities. At least 35 percent of all CHINS have some charges of delinquency on their records. Our interviews indicate that some of these exist because of court intake decisions to label children in a particular way to get needed services.

The Children's Puzzle, a legislatively commissioned study of publicly funded services to children in the Commonwealth conducted by the Institute for Governmental Services of the University of Massachusetts predicted this dilemma as resulting from the transfer of responsibility for detention from DYS to DPW. It cites DPW workers' concern that DPW would end up creating its own secure facilities. Another prediction was that more DYS commitments would occur as DPW placement shortages and administrative roadblocks became apparent to the courts. Fortunately, neither has occurred.

Mental health services are available and utilized by the courts that have court clinics. These are set up by DMH in conjunction with the local court. The most recent information from DMH indicates that in fiscal year 1976 there were twenty-eight court clinics in district courts and two in juvenile

courts. These clinics are valuable resources to the courts and are used in CHINS cases. They are not generally perceived as being part of the state DMH structure. The large amount of criticism directed at DMH for the lack of services to court related youth is somewhat mitigated by an analysis of the contributions made by the court clinics. Even the clinics, however, are somewhat lacking in their services to CHINS youth since generally there are no specialists in children's mental health services available at the clinics.

The value of DMH to the courts is limited almost entirely to the court clinics. Beyond these clinics, DMH services are tragically lacking. Court and DFW personnel are consistently critical of DMH's services to court-involved youth. One DFW supervisor describes how DMH denied responsibility for cases referred to it by categorizing each case as "too sick or not sick enough" for DMH treatment.

The Children's Puzzle identified a common attitude towards DMH which is still valid. "The universal consensus of all state agencies and the schools who were interviewed is that DMH could and should be doing more for children and adolescents."¹

Currently before the legislature is a request by DFW for funds to contract for two secure residential treatment facilities for CHINS where evaluation and treatment could be provided. Purchase of service itself is a controversial topic. It becomes all the more so when the contracted service is the clear obligation of another state agency which is failing to provide the services for which it is established. This is not an uncommon paradox, however.

"Undoubtedly, DYS and DFW have pressing needs for clinical services-- DMH has in place a comprehensive network of publicly-salaried psychiatrists and clinical psychologists. Yet DFW and DYS have to contract with the private sector in order to support anyone with clinical services. This makes no sense."²

Now, we have DFW not only contracting for clinical services, but attempting to create facilities in which they can be provided.

¹ "The Children's Puzzle", Institute for Governmental Services, University of Massachusetts, 1977, p. 15.

² Ibid., p. 30.

Another important issue raised by DMH's failure to provide services is the financial burden of paying for services from private sources. If a child of an AFDC family receives such services, AFDC will pay the bill. Some CHINS youth receive services through a family insurance plan. Workers are referring children to private facilities based on considerations of availability of payment rather than the appropriateness of the particular facility or the absolute needs of the child. Where AFDC and insurance are unavailable, the child may go without services, unless the worker is experienced and can cut through bureaucratic channels.

Another perceived deficit in DPW emergency services is in the area of foster homes. Generally, the numbers seem ample but questions are raised about quality. Frequent complaints are the lack of training of foster parents, the lack of supportive services in the home for the foster parents, too few homes in the child's community, and the placement of a child in the first available bed rather than a placement based on a system of matching the child to a home best equipped to handle his or her needs.

On the issue of long-term placement, there is no question that the prime source of difficulty is in the Group Care Unit (GCU) of DPW. Referral forms are extremely complicated and take a great deal of worker time. The referrals by GCU, once their own lengthy assessment procedure is complete, are made one at a time and allow for refusal by the child or the group home. Estimates as to the length of time between referral to the GCU and actual placement vary from two or three months to six months. This creates pressure on the short-term emergency placements where the stay is generally thirty days, since the child must be frequently shuffled from one home to another while awaiting a permanent placement. In other circumstances the child is forced to remain at home in an extremely hostile environment. The lengthy process then is likely to complicate the existing difficulties and make the goal of returning the child home all the more remote.

In theory, when a CORE evaluation indicates a child needs residential care, a cost sharing arrangement can be worked out between DPW and the local school department. This is still extremely costly to the school department and the result is the classic tug of war over responsibility for payment with the child the ultimate loser. In practice, very few COREs result in a recommendation for placement because of the financial complications. Thus, whatever placement plans are developed are done by court and DPW personnel only.

In a report to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of LEAA¹ on the predicted impact of the mandatory deinstitutionalization of status offenders, Arthur D. Little, Inc. regarded the development of a network of community-based resources to be a significant step in a state's response to this federal mandate.

These programs frequently suffer, however, when they have multiple contracts with several agencies and are subject to statutory and regulatory requirements which they at times are unable to comprehend.

One of the interesting outcomes of our survey of service providers was the realization that the people dealing directly with children have little awareness of these requirements and categorical distinctions. They also are unaware of the legal status of the individuals in their care. In foster homes and group homes, there is likely commingling, especially in light of the multiple contracts held by providers with DFW, DYS, DMH and sometimes other agencies. The question must be asked if this situation is more detrimental than isolating children by legal category thus emphasizing the importance of the label rather than focusing on a child and his needs.

Massachusetts was not one of the states surveyed in the ADL study, but it is clear that this state is far ahead of most others in this regard. As discussed in Chapter One of this report, Massachusetts closed its juvenile institutions several years ago and redirected its funds and energies toward developing such a service delivery network on a local level. Our interviews indicated that, for the most part, there are a considerable number of providers and facilities available. Many complaints center around process issues and questions of quality rather than quantity.

Certainly DMH resources have to be available to those working directly with CHINS. Facilities must be made available to CHINS children to avoid the labeling of children as delinquents solely because this is the only way to provide them with the most appropriate services.

¹"Cost and Service Impacts of Deinstitutionalization of Status Offenders in Ten States: 'Responses to Angry Youth,'" Arthur D. Little, Inc. for the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 1977.

The morass that is DPW bureaucracy also needs streamlining to allow for more efficient referrals to long-term placements and appropriate temporary care while children are awaiting such referrals. Greater authority for budget and planning should be placed in the hands of the state CHINS coordinator.

The availability of diagnostic services and improvements in the quality and training of foster parents will make it easier to match a child to a placement rather than to place him or her in any available bed.

Almost eighteen months ago the Children's Puzzle pointed out all of these barriers to more effective children's services. It placed major emphasis on the absence of monitoring and evaluation of service providers. The report quotes an unidentified state official as saying:

"No one knows what they are buying. No one knows whether they are paying a reasonable price. No one knows whether the services were ever provided. No one knows what the quality of the services were."

The situation has not changed since that was written.

The state has many resources, public and private. We have achieved the first stage of development of alternatives to detention and institutionalization of status offenders. To insure that the quality is as well developed as the quantity of services, the next step must be that of monitoring and evaluating the services being provided to CHINS youth.

¹ The Children's Puzzle, P. 37.

Chapter 5

CLIENT FLOW

Introduction

When considering how CHINS children flow through the court system and into the social service delivery system network there are two dimensions that need to be examined. On the first level we are concerned with determining how many CHINS children come into and through the courts and what proportion of these come into contact with DPW CHINS workers in each of the regions in the state. On the second level we attempt to establish a "snap shot" of children as they move through the justice system to describe how children come into and flow out of the system each month. As we will later describe, developing accurate estimates of the flow of children through the system is a difficult task; analytically it depends on data which simply was not contained in court records, in probation records or in CHINS worker logs. Nonetheless, a composite of the descriptive and quantitative data that was collected over the course of the research does at least make it possible to provide some gross estimates of the number of children as they flow through the CHINS process within the courts and the welfare department.

This chapter is divided into two sections. In Section 5.1, CHINS Population Statewide, we present estimates of the CHINS population statewide, by region, by district and juvenile court, and with some indication of the DPW share of these cases as they are referred to the CHINS workers. Section 5.2, DPW CHINS Worker Caseloads, then examines the flow of cases each month; how many new cases are opened; how many cases are closed; how many cases are carried over into the following months; how many cases are transferred, etc. An analysis of the caseload is extremely important in determining the appropriate caseload size for the CHINS workers as well as being somewhat descriptive of how long children are in the care of the Department of Public Welfare workers.

Two of the more significant findings from the analysis of the case flow both through the courts and as handled by the CHINS workers are:

- It is anticipated that the Department of Public Welfare will handle about 40 percent of all CHINS cases in FY 1977-78, or 2,770 out of 6,460 statewide;
- An analysis of five months of intake and processing data indicates that the CHINS workers can be expected to open and refer or close about 30 percent of their caseloads each month; that is, 70 percent of each worker's caseload is--on the average--carried over each month.

The quantitative data used to develop these statistics and a more descriptive analysis of their significance are presented in the following sections.

5.1. CHINS Population Statewide

One of the more frustrating aspects of attempting to deal with CHINS program issues has been the lack of data on the number of children involved in the CHINS program statewide. In order to develop accurate projections of the number of CHINS, several sources of data and statistical manipulations were utilized. Table 5.1.1 "CHINS Population for Sample Courts and DFW CHINS Caseload for Both Sample and Non-sample Courts for the Period July 1 to November 30" was prepared to allow us to determine what share of the total CHINS caseload experienced by the courts was serviced by--or came into contact with--CHINS workers. By knowing the proportion of cases which DFW served in relation to the number of all cases on record in the courts during the sample period, we can analyze both totals statewide and observe regional variations.

As Table 5.1.1 indicates, for analytic purposes, each region is divided into two sections: sample courts and non-sample courts. It will be recalled that the sample courts were those courts in which we collected data directly from the probation files and conducted personal interviews with the clerk, probation officers, and judges. Questionnaires concerning the CHINS process were sent to the non-sample courts, except for five courts in which personal interviews were conducted, but data collection was not accomplished. In each sample court we were able to count the total number of cases on record during the sample period; this "universe," or total of all cases, was prepared for the sample periods in both 1976 and 1977. These columns show as "1976 Sample Court Universe" and "1977 Sample Court Universe," respectively.

Table 5.1.1

CHINS Population for Sample Courts and DPW CHINS Caseload for Both Sample and Non-sample Courts for the Period from July 1 to November 30

	July 1 through November 30			
	1976 Sample Court Universe	1977 Sample Court Universe	1977 DPW CHINS Caseload	1977 Ratio DPW: Court Caseload
REGION I: Boston			92	
Sample Courts	121	138	64	.46
Boston Juvenile	83	67	28	.42
Dorchester	12	43	19	.44
Brighton	7	11	9	.82
South Boston	19	17	8	.47
Non-Sample Courts			28	
West Roxbury			4	
East Boston			19	
Charlestown			5	
REGION II: Springfield			122	
Sample Courts	147	156	66	.42
Springfield Juvenile	101	104	37	.36
Pittsfield	17	22	16	.73
Northampton	29	30	13	.43
Non-Sample Courts			56	
Chicopee			7	
Holyoke			3	
Palmer			4	
Westfield			6	
Lee			3	
Adams			1	
Greenfield			23	
North Adams			5	
Great Barrington			2	
Williamstown			2	
Ware			0	
REGION III: Worcester			280	
Sample Courts	169	310	174	.56
Worcester Juvenile	98	209	123	.59
Fitchburg	16	29	12	.41
Leominster	20	18	4	.22
Dudley	14	30	25	.83
Ayer	20	24	10	.42
Non-Sample Courts			106	
Uxbridge			11	
East Brookfield			9	
Gardner			12	
Clinton			4	
Milford			13	
Orange			6	
Winchendon			1	

Table 5.1.1

July 1 through November 30				
	1976 Sample Court Universe	1977 Sample Court Universe	1977 DPW CHINS Caseload	1977 Ratio DPW: Court Caseload
REGION IV: Lawrence			195	
Sample Courts	75	121	61	.50
Lowell	50	73	29	.40
Salem	16	32	26	.81
Gloucester	9	13	4	.31
Ipswich	0	3	2	.67
Non-Sample Courts			134	
Lawrence			29	
Haverhill			14	
Lynn			46	
Chelsea			10	
Peabody			13	
Amesbury			6	
Newburyport			16	
REGION V: Greater Boston			157	
Sample Courts	42	80	28	.35
Cambridge	13	20	5	.25
Somerville	10	18	5	.28
Concord	13	27	3	.11
Hingham	6	15	15	.53
Non-Sample Courts			129	
Quincy			23	
Woburn			30	
Newton			3	
Malden			16	
Dedham			8	
Framingham			8	
Waltham			9	
Wrentham			16	
Brookline			0	
Westborough			12	
Marlborough			3	
Natick			1	
REGION VI: New Bedford			178	
Sample Courts	247	330	153	.46
Bristol County Juvenile	121	203	73	.36
Brockton	63	66	58	.88
Stoughton	26	18	3	.17
Barnstable	24	28	10	.36
Wareham	13	15	9	.60
Non-Sample Courts			25	
Plymouth			16	
Orleans			8	
Egartown			1	
Nantucket			0	

SOURCES: CHINS case logs for July through November
 Clerk and probation records from sample courts for July through November

For both the sample courts and the non-sample courts we then counted the number of children who appeared on the CHINS worker's case logs. This form is completed by each CHINS worker on a monthly basis and indicates each child, the circumstances of the referral, and service activity for the reporting period. The log includes information on both new cases referred to the individual worker during the month as well as updating information on children referred in previous months. All new intakes by each worker, for each court, during the sample period were counted and recorded in the column on Table 5.1.1 as "1977 DPW CHINS Caseload." The number of cases in the "DPW CHINS Caseload" column divided by the total universe of court cases for 1977 provides the "1977 Ratio of DPW to Court Caseload." This simply represents the percentage of the total number of cases that were handled by DPW CHINS workers. The following summarizes the percentage of the total CHINS population in each region which is served by DPW:

Region I:	Boston	46%
Region II:	Springfield	42%
Region III:	Worcester	56%
Region IV:	Lawrence	50%
Region V:	Greater Boston	35%
Region VI:	New Bedford	46%
Statewide Average DPW Share		43%

As can be noted, the regions generally do not vary significantly from the estimated 43 percent average statewide in terms of the relative share of the CHINS caseload that they are handling. Two possible exceptions may be the Worcester region (13 percent higher than the average) and the Greater Boston region (8 percent lower than the average). Several variables help to account for these differences. In courts where the probation departments have a policy of early referral to the CHINS workers, the ratios tend to be higher. In regions where the courts view the CHINS workers mainly as referral agents for emergency placement services or long-term foster or group care, the ratios tend to be lower. In addition, in regions where the courts have probation departments which take extremely active roles in seeking assistance from local community resources and private agencies before referring to the CHINS workers (or courts who secure services through means other than DPW) the ratios tend to be lower. Worcester Juvenile Court, for example,

has a policy of early informal referral to the CHINS workers; this is reflected in the high proportion of DFW involvement in the Worcester region. Greater Boston, however, is made up of one court that has had their own CHINS diversion project (Concord) and courts which have a policy of relatively late referral to workers, primarily for placement services. This accounts, in part, for the low proportion of DFW cases in the Greater Boston region. As Table 5.1.1 further indicates, ratios were computed for all of the sample courts. These are relatively good indicators of the level of DFW involvement and activity in the courts throughout the Commonwealth.

The ratios computed in Table 5.1.1 were used to project the CHINS population statewide. Table 5.1.2 "Estimated FY 1977-78 DFW CHINS Caseload and Total CHINS Population by Region" displays this data. By using data provided on the CHINS logs and the court data, we:

1. Counted the total number of new DFW CHINS cases recorded during the period July through November;
2. Recorded the average ratio between the universe of cases and the DFW share (previously computed);
3. Estimated the FY 1977-78 DFW CHINS caseload, and
4. Using the ratio and the absolute caseload in the court universe, computed the total CHINS population by region and statewide.

As Table 5.1.2 indicates, it is estimated in FY 1977-78 that there will be roughly 6500 CHINS youth statewide, of which 43 percent or 2770 will be handled by the Department of Public Welfare. Table 5.1.2 also indicates the proportion of these totals absorbed by each of the regions. The following additional narrative provides a more detailed example of how the FY 1977 and 1978 statewide projections were computed. The reader should refer to both Tables 5.1.1 and 5.1.2 as data sources.

EXAMPLE: Computation of Statewide Projections--Region I: Boston

1. Total Number of New DFW Sample Period CHINS (Caseload counted from the CHINS logs for both sample and non-sample courts).

$$28 + 19 + 9 + 8 + 4 + 19 + 5 = 92$$

Table 5.1.2

Estimated FY 1977-78 DPW CHINS Caseload and Total CHINS Population by Region

	Region I Boston	Region II Springfield	Region III Worcester	Region IV Lawrence	Region V Greater Boston	Region IV New Bedford	Statewide
Total number of new DPW sample period CHINS	92	122	230	195	150	179	968
66 Average ratio between the universe and the CHINS logs	.46	.42	.56	.50	.35	.46	.43
Estimated FY77-78 DPW CHINS caseload	260	350	660	560	430	510	2,770
Estimated FY77-78 total CHINS population	570	830	1,180	1,120	1,650	1,110	6,460

SOURCES: CHINS case logs for July through November
Clerk and probation records from sample courts for July through November

2. Average Ratio Between the 1977 Sample Court Universe and the CHINS Logs Data (sample courts only).

$$\frac{28 + 19 + 9 + 8}{67 + 43 + 11 + 17} = \frac{64}{138} = .46 = \text{DPW Share of Total CHINS Caseload in Region I: Boston}$$

3. Estimated FY 1977-78 DPW CHINS Caseload

The approximate number of DPW CHINS during FY 1977-78 is estimated from the five month sample period by first computing the average number of new CHINS per month.

$$\frac{28 + 19 + 9 + 8 + 4 + 19 + 5}{5 \text{ month sample period}} = 18.4 = \text{Average Number of New DPW CHINS Worker Cases Per Month.}$$

4. The approximate number of new CHINS for FY 1977-78 is obtained by simply multiplying the average number of new CHINS per month by twelve:

$$18.4 \times 12 = 221$$

5. This number must be adjusted to provide an estimate of the number of CHINS already in the system on July 1, 1977. Assuming a constant CHINS population with 30 percent entering and leaving the court system each month² we compute the average monthly caseload that was already in the system.

$$\frac{18.4}{.30} = 61.3 = \text{Average Court Cases already in the system (i.e., average monthly caseload)}$$

6. Subtracting the average number of new CHINS per month from the average monthly caseload results in the average number of cases continuing from one month to the next.

$$61.3 - 18.4 = 42.9$$

7. We will use this average as an estimate of the number of CHINS already in the system on July 1, 1977. Thus the estimated FY 1977-78 DPW CHINS caseload is equal to:

$$221 + 42.9 = 263.9$$

or, approximately 260.

8. The estimated FY 1977-78 Total CHINS Population is computed by applying the known ratio of DPW cases to court cases in Region I (46 percent) to the estimated DPW caseload:

$$\frac{264}{.46} = 574$$

or, approximately 570.

¹ There was insufficient data to consider seasonal variations, so no adjustments have been made to account for differences in truancy intake by month.

² This estimate is derived from the flow of the CHINS workers caseload found on Figure 5.2.1 and discussed in the following section.

Based on these statewide projections, and the characteristics and statistical data analyzed and presented in Chapter 3, the roughly 6500 CHINS children statewide consist of nearly 50 percent runaways (3165 children); 30-35 percent stubborn children (roughly 1980 cases); and 15-20 percent truants (or nearly 1000 children). The statewide and regional projections presented in this section should enable the courts and the Department of Public Welfare to have a better sense of the magnitude of the CHINS problem, the volume of cases being handled through the juvenile and district courts, the number of cases for which DPW accepts responsibility, and how the CHINS cases are distributed throughout the state--both within the regions and across some of the sample courts in the regions.

In the next section we will examine the flow of the CHINS cases in the first five months of the Department of Public Welfare experience with the CHINS program. Although the program was officially transferred on July 1, 1977, many of the CHINS workers had been trained and began accepting referrals in June 1977. The size of this June caseload, and the effects of this "start-up" month on intake, will also be explored to learn about trends in intake, transfer, and closing and possible predictions for the future flow of cases through the program.

5.2 DPW CHINS Worker Caseloads

In order to examine the flow of cases being handled by the DPW CHINS workers we collected and recorded all CHINS log entries from June through the month of November 1977. This resulted in the coding of 1383 cases that included 1357 individual children (when the data file was cleaned for duplicates and double-reporting across workers). The following table provides detail on the total number of new cases referred to DPW CHINS workers by region for the sample period.

Table 5.2

Number of DPW Referrals by Region

Region	Number of Referrals To DPW CHINS Workers
Region I: Boston	159
Region II: Springfield	191
Region III: Worcester	337
Region IV: Lawrence	265
Region V: Greater Boston	186
Region VI: New Bedford	<u>245</u>
	1383

Variations in the size of the caseload for the sample period by region are affected by a number of variables (number of workers in the region, distance workers have to travel to the individual courts, worker start-up and phasing-in within regions, etc.). In no sense, therefore, should this data be construed to reflect caseload burden or activity; it simply illustrates the regional sources for the data analyzed in considering individual worker caseload.

Figure 5.2.1 displays the CHINS workers caseload from the start-up of the CHINS DPW program in June and July through November 1977. Each month's caseload is determined by the number of continuing cases from last month and the number of new cases that entered during the month. Subsequent month's caseloads are determined by the number of cases continuing to the next month and the number of cases that leave the system due to transfer or closure.

The following illustrates how the figures of Figure 5.2.1 are read.

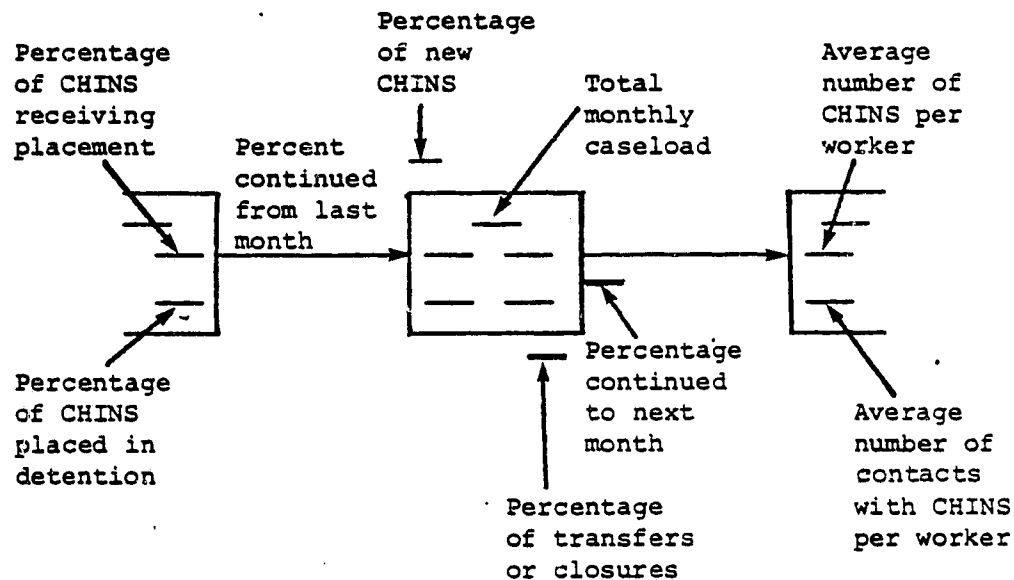
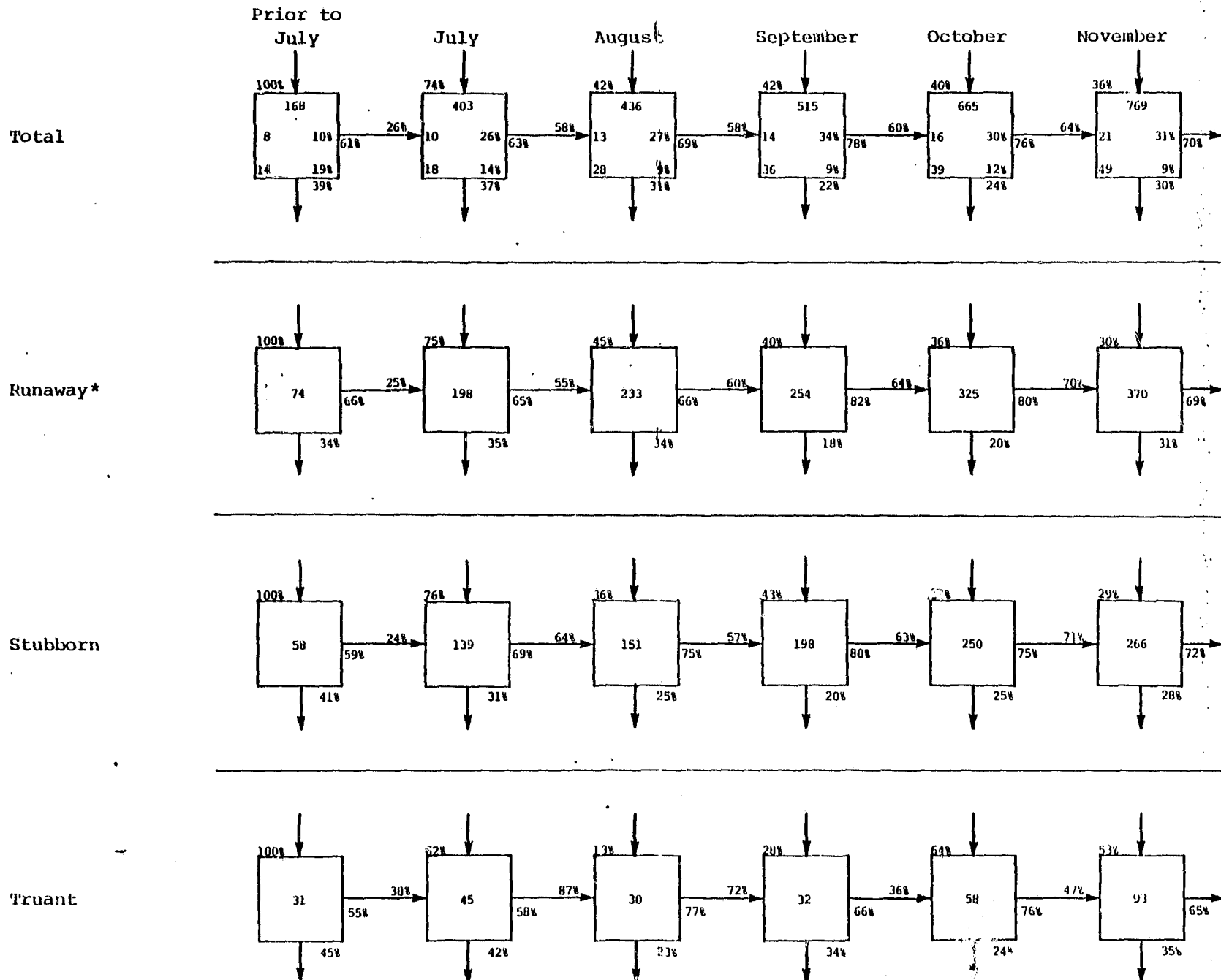


Figure 5.2

Monthly Flow of the CHINS Workers Caseload by the Nature of the CHINS Application



*Monthly caseload figures have been included for the breakdown by the nature of the CHINS application. Because of missing values, these figures do not necessarily add to the total monthly caseload.

Because June was the first month of operation for the DFW CHINS workers, June's logs consisted entirely of new cases (i.e., no "intake" data is shown). Subsequent months' input is partitioned into two components (i.e., continuing and new cases) that add to the total caseload for that month. Output for each month is also partitioned into two components (i.e., continuing cases and cases which have been transferred or closed) that add to the total caseload for that month. Therefore, the percent continued from the previous month added to the percent of new CHINS shown for that month will equal 100 percent; the percent continued to the next month added to the percent of transfers and closures for each month will also equal 100 percent.

As Figure 5.2.1 indicates, the DFW CHINS caseload has steadily increased from 403 cases in July to 769 in November. This is an average increase of approximately 18 percent per month, or an overall increase of about 90 percent over the period from July to November. The average number of CHINS per worker (8 to 21 cases) has more than doubled and the average number of contacts with CHINS per worker (14 to 49 contacts) has almost trebled during this same period. We have some evidence that suggests that part of this increase may be an artifact of improved reporting practices on the CHINS logs; therefore some caution must be exercised in the interpretation of these increases. Nonetheless, there has undoubtedly been a considerable increase in workload over this period and some regions are beginning to develop a back-log of referrals from some courts.

The data also suggest a slight increase in the percentage of CHINS receiving placement as well as a slight decrease in the percentage of CHINS placed in detention. However, these percentage changes must also be circumspectly interpreted. The number of days in placement or detention was sometimes interpreted by the CHINS workers to mean the cumulative number of days, rather than only the number of days for that particular reporting month. It also appears that the definitions of placement and detention were not as clear to the CHINS workers as they might have been. There is reason to believe that some cases that should have been coded as placements were instead coded as detentions. Perhaps the most useful aspect of this data is to highlight how it might be helpful in analyzing caseload as the completeness and accuracy of casework reporting on the logs improves.

Figure 5.2.1. also breaks out the flow of the caseload by the nature of the CHINS application. An examination of the flow for runaways and

stubborn children for September through November shows a decrease in the percentage of new cases and an increase in the percentage of transfers and closures. Although there is not sufficient data to come to any firm conclusions, it would appear that the system has begun to stabilize in November at a point for runaways and stubborn children where approximately 30 percent of the caseload involves new cases and approximately 30 percent involves closures or transfers. Stated another way, approximately 70 percent of the total caseload for any month continued on to the next month. We used this 70 percent figure to estimate the number of CHINS already in the system on July 1, 1977 for our earlier projections of CHINS population statewide.

Truants make up approximately 15 percent of the total caseload for our sample period. Because truancy is seasonal, there is an excellent chance that we have underestimated the extent of truancy in the yearly caseload of the DFW CHINS worker. An examination of the flow for truants shows few new cases in August and September and a large jump in October and again in November in the number of new truants. It is difficult to come to any meaningful conclusions concerning the flow of truants for DFW CHINS workers using only our five-month data from the CHINS log and without being able to adjust for the seasonal nature of the offense.

For analytic purposes, it is important to note that the workers may not be as successful as was hoped in transferring and closing cases. The notion that the CHINS workers would be involved on a short-term basis with cases and then transfer to DFW generalists located in local Community Service Agencies (CSA) has not been realized. In part this is due to the relative "newness" of the program; although there were organizational problems articulated by the workers with respect to the transfer process. Nonetheless, the trend data formatted and analyzed for this study should continually be collected as an ongoing DFW management task to better monitor the flow of cases, the average caseload per worker, and the degree of worker success in assuming only a short-term role with CHINS clients.

Chapter 6

COST OF THE CHINS PROGRAM

Introduction

Although a reasonable topic for consideration, the task of analyzing the cost of the CHINS effort is essentially a descriptive process rather than analytic. The social service delivery system is too diffuse and the program too recent to develop detailed cost analyses. For purposes of this report the CHINS program encompasses all preadjudicated CHINS in need of emergency service from initial court contact to adjudication and all adjudicated CHINS. A CHINS youth is only so designated until the close of the fiscal year in which the youth first received CHINS services. In subsequent fiscal years, the cost of providing services to the youth is attributed to the general service category which describes the type of services the youth receives. For example, if a youth referred by a CHINS worker is placed in a long-term foster home or group care facility, the youth is considered for this report to be a CHINS youth only in the fiscal year in which he is referred. In later years the youth is classified according to the type of long-term placement facility in which he or she resides. We do not, therefore, estimate the total cost of providing services to all youths who are currently receiving services from providers reimbursed by DFW and who were originally categorized as CHINS youth. In order to make a reliable estimate of these costs, we would need to know the total number of youth in long term facilities that originally were CHINS and the annual changes in the numbers of CHINS youth residing in these facilities. This information is not yet available.

DFW pays for services to adolescents from three different accounts: the Children in Crisis Account, the Care and Maintenance Account, and the Protective Services for Children Account. Of these, the Children in Crisis Account is the primary account for services to CHINS youth. The Care and Maintenance Account pays for foster care, group care and subsidized adoptions. The Protective Services for Children Account pays for casework services for child abuse and neglect cases (commonly referred to as Care and Protection cases). Each account defines its service population in a manner that does not allow for comparability across accounts in child age and case background. No

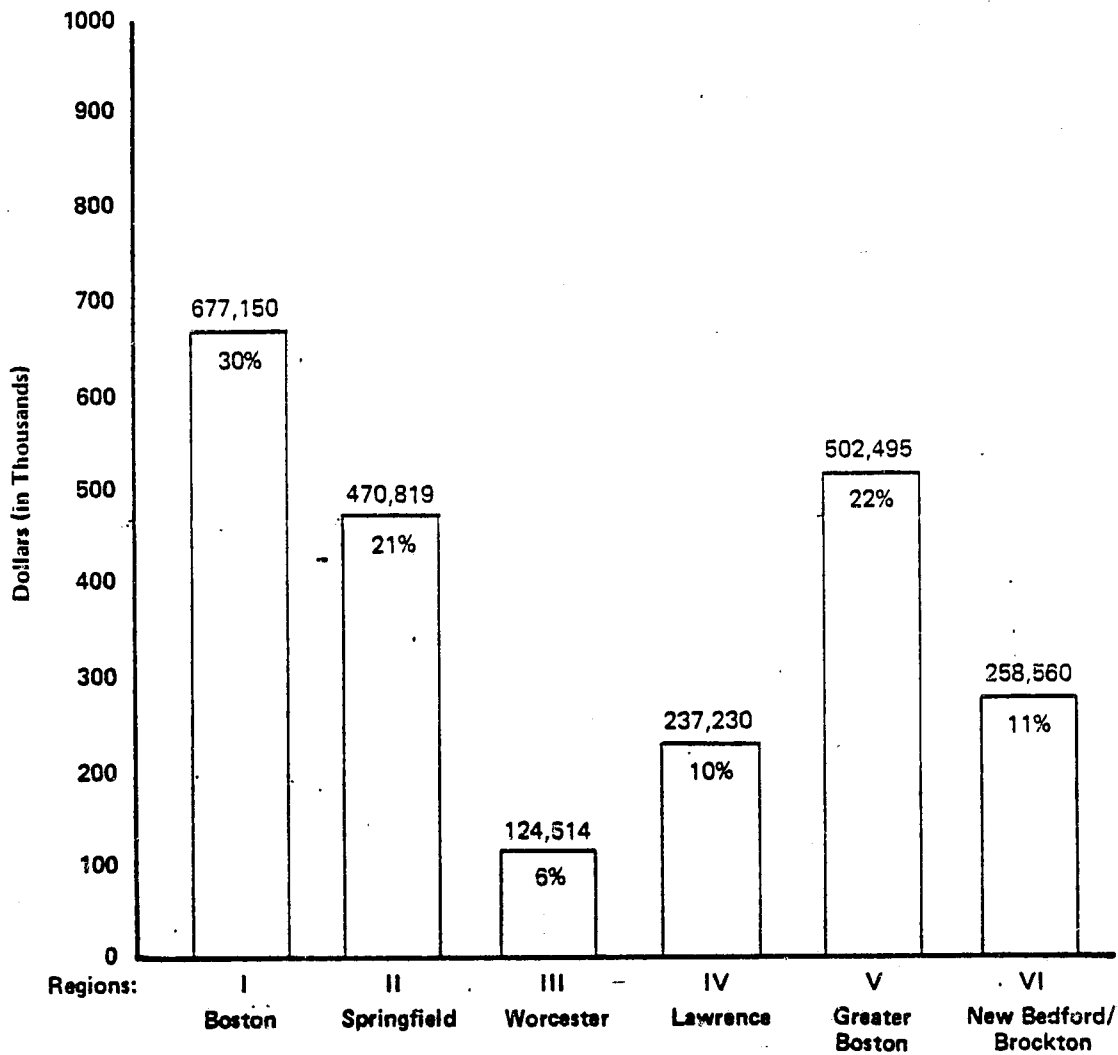
cost estimate could be made for youths who were considered to be neglected and abused or primarily in need of mental health services. Without such estimates the total cost of treating youths among these programs and the CHINS program are unknown. Consequently we are not able to assess the cost implications which may result from a redistribution of services among the four different accounts: the Children in Crisis Account, the Care and Maintenance Account, the Protective Services for Children Account, and the Department of Mental Health's Children's Budget. A limited analysis of the costs of group care and foster care services to CHINS youth is presented in the final section of this chapter. The bulk of the chapter focuses on the Children in Crisis Account and the portion of that account used for the CHINS program.

6.1 Children in Crisis Account

Prior to July 1, 1977, DFW was responsible for the diagnosis, development of treatment plans, and placement of adjudicated CHINS youth. The Department carried out its responsibilities with the assistance of roughly 50 private agencies throughout the Commonwealth. These agencies were contracted to provide specific services to youths whose families met the Title XX income levels. The contracts, however, were not limited to adjudicated CHINS youth and were categorized as "open referral" contracts. Other youths who were, and still are, eligible to receive these services include adolescents (whether they are court referred or not), neglected and abused youths less than 18 years old, and families with retarded children. The funds for these services come from DFW's Children in Crisis Account.

In Fiscal Year 1978 (which ends June 30, 1978), \$3.6 million was appropriated to the Children in Crisis Account. This appropriation was 56.5 percent higher than the \$2.3 million appropriated in the preceding fiscal year. The major reason for the increase in funds was due to the takeover by DFW of the responsibility for providing services to preadjudicated CHINS youth who were formerly the responsibility of DYS. In Fiscal Year 1978, \$1.3 million of the \$3.6 million in the Children in Crisis Account was appropriated for DFW's new responsibility. The remaining \$2.3 million in the account was spread throughout the Commonwealth among 50 private agencies. The contracts with these agencies neither cover services exclusively to preadjudicated CHINS youths nor are they specific to adjudicated CHINS. Figure 6.1.1 displays the distribution of these monies across all six of DFW's regions.

Figure 6.1.1
REGIONAL ALLOCATION:*
DPW CHILDREN IN CRISIS ACCOUNT (\$2.3 MILLION)



* Since these allocations were made several CSAs were transferred from Greater Boston to the Lawrence region, an adjustment that is not expected to substantially influence the distribution profile.

It is possible, however, to estimate the amount of the \$2.3 million appropriation that might be spent on CHINS youth. A DFW analysis of the FY 1977 appropriation estimated that about 13 percent (or \$303,287) of the monies were primarily directed to CHINS youth. If this spending pattern holds in this year, the Children in Crisis Account will direct about \$299,000 (\$2.3 million x an estimated 13 percent) to CHINS youth. Although additional services from the Children in Crisis Account are not earmarked for CHINS, many of the services--including emergency shelter, purchased foster care, and counselling--could easily be spent on CHINS rather than on other adolescents.

Compared with the estimated \$299,000 that might be spent on CHINS youth from the \$2.3 million Children in Crisis Account, the CHINS program directed specifically towards "preadjudicated" youth constitutes a much higher portion of DFW spending on CHINS youth. The preadjudicated youth has been considered, for the purposes of DFW service delivery, court involved youths who require emergency services short of long-term group care or foster care placement. The allocation of these monies is described in the next section.

6.2 The New CHINS Program

Upon taking over the detention and protective custody services from DYS, DFW organized a CHINS unit to carry out this new function. In the FY 1978 budget, the legislature allocated \$1.3 million for the DFW Children in Crisis Account to provide a range of provider services to CHINS youth. With these funds, the Department signed 38 contracts with private agencies to provide services (essentially emergency placement services) to preadjudicated CHINS youth. Because these contracts cover services provided exclusively to preadjudicated CHINS, a more detailed cost analysis can be performed than was possible on the \$2.3 million Children in Crisis contracts that provide service to a wide range of clients. Before analyzing the cost of the services, a brief description of types of services available and the mechanisms developed to deliver them may be helpful.

The CHINS Organization

The CHINS organization consists of a small central office of three professional staff (a State CHINS Coordinator, an Assistant Coordinator and a part-time Contract Negotiator), six regional supervisors and over forty

workers assigned to the district courts and juvenile courts on a regional basis throughout the Commonwealth.¹ The estimated annual salary for this organization is \$813,530 of which less than 7.5 percent is spent on central office staff.

The projected annual salary of the CHINS field staff is \$752,490. Adding fringe benefits of 17.95 percent and an indirect cost of \$466.35² per person per month, the projected annual personnel cost is \$1,240,148.

The CHINS workers are spread over six DPW regions. Each region has a Social Service Supervisor and a staff of at least five professional social workers. The number of employees by title in each region is shown in Table 6.2.1. Each region is organized somewhat differently; two have a clerk on the staff and one uses CETA aides to supplement its DPW staff. The cost of this staff, of course, varies with their number and skill mix. A regional breakdown of the employee cost is shown in Table 6.2.2. The region with the highest total personnel cost, but with the lowest cost per worker, is the Worcester region. The use of nine CETA employees makes the region's cost per worker \$1,643 less than that of the next lowest region; a reduction of more than 13 percent. The five other regions do not differ greatly in the total number of employees and the average salary per employee. In general, personnel are distributed evenly across regions even though personnel types are mixed differently.

DPW did not provided detention services to preadjudicated youths prior to FY 1978, consequently the Department relied on data supplied by DYS and the office of the Commissioner of Probation in order to estimate service demand. This data served as the basis for DPW's regional allocation of the \$1.3 million from the Children in Crisis Account for these youths. By July 1, 1977 DPW had negotiated contracts with 29 provider agencies. Seven

¹ In addition, there are five part-time "back-up" workers in Springfield (and one CETA worker assigned to Greenfield) and six CETA workers in Worcester (and one volunteer student intern).

² Indirect cost is a monthly average between July 1977 and January 1978 used for federal reimbursement purposes.

Table 6.2.1

REGIONAL ORGANIZATION OF CHINS WORKERS
(NUMBER AND TYPE OF EMPLOYEE)

<u>Employee Title</u>	Boston	Springfield	Worcester	Lawrence	Greater Boston	New Bedford/ Brockton
Social Service Supervisor	1	1	1	1	1	1
Child Welfare Specialist	1	1	1	1	4	7
Head Social Worker	-	2	1	5	-	1
Senior Social Worker	2	-	-	1	2	-
Social Worker	3	6	3	1	2	-
Case Aide	-	1	1	-	-	-
Social Service Technician (CETA)	-	-	9	-	-	-
Principal Clerk	1	-	-	-	-	-
Junior Clerk Steno	-	-	1	-	-	-
TOTAL	8	11	17	9	9	9

Table 6.2.2

COST OF THE CHINS WORKERS¹

<u>Region</u>	<u>Number of Employees</u>	<u>Projected Annual Salary</u>	<u>Proj. Salary Per Employee</u>
I Boston	8	\$ 96,364	\$ 12,046
II Springfield	11	137,135	12,467
III Worcester	17 ²	176,857	10,403
IV Lawrence	9	114,904	12,767
V Greater Boston	9	113,388	12,599
VI New Bedford/Brockton	9	113,842	12,649
		<u>\$ 752,490</u>	

¹Source: DPW personnel records at the end of 2/78

²Includes 9 CETA aides

more became effective November 1, 1977, and two others on January 1, 1978, for a total of 38 contracted programs for preadjudicated CHINS services.¹

Four types of services are provided by these contracts: Family and Individual Life Counselling (FILC), Emergency Shelter through placement in short-term foster care programs (ES/FC), or in a Self Contained Emergency Shelter where the youths are sheltered in a group home (ES/SC), and Individualized Monitoring (IM), which allows a youth to live with one person on a 24-hour basis. Figure 6.2.3 shows that the largest share of funds (36%) was allocated to emergency shelter agencies that place youths in foster homes. The next largest amount (26.2%) is for counselling. These two services were allocated almost two thirds of the total appropriation. A smaller amount went to self-contained emergency shelter programs since there were few such programs in existence prior to DFW's takeover of the detention of pre-adjudicated youths. All individual monitoring monies (16.5% of the allocation) are intended to be shared across regions for children needing closely supervised and structured settings.²

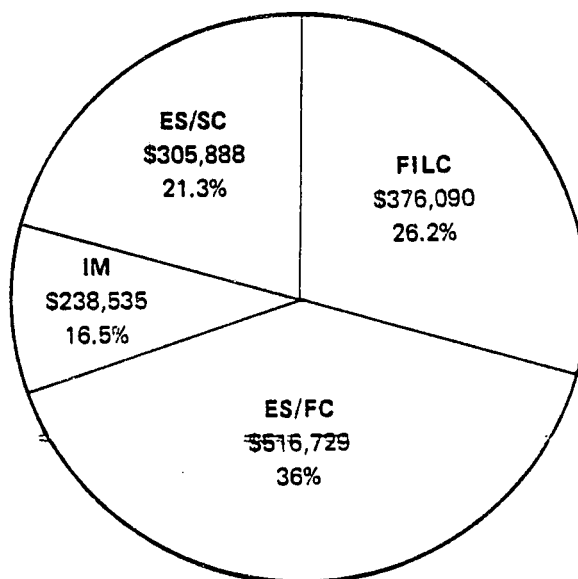
The total dollar amount of these contracts is \$1,437,242.³ Among the six regions in the Commonwealth, New Bedford and Boston account for

¹ A complete listing of CHINS contracts, by DFW Region, is contained at the end of this chapter. The listing also indicates: type of service provided, maximum number of CHINS slots available, whether the program offers 24-hour intake, and the amount of contract award.

² As a practical matter, there is not a significant programmatic difference between ES/SC and ES/FC. The allocations to these two categories are purely an artifact of the type of programs which responded to requests for proposals on contracts; few ES/SC responded. In effect, emergency shelter service of both types constitute a single service type.

³ Prior to the negotiations that resulted in the contracts starting in November 1977, the CHINS Unit was informed by the financial unit in DFW that \$215,407 was available for specific CHINS contracts. \$65,000 of this came from the original \$1.3 million. The remaining \$150,407 was available as a result of cancellations and/or cut-backs of several Children in Crisis "open referral" contracts in the general Children in Crisis Account. Contractors under the open referral contracts are obligated only to serve Title XX eligible children and are not required to reserve any services for DFW referrals. The reallocation of these funds for CHINS contracts guarantees that the funds will be spent on cases referred by DFW rather than initiated by contractor outreach activities. Therefore, the monies in excess of \$1.3 million have been approved and allocated to CHINS from the general Children in Crisis Account in DFW.

Figure 6.2.3
PROFILE OF CONTRACTED CHINS PROVIDERS STATE-WIDE



ES/FC = Emergency Shelter/Foster Care
FILC = Family and Individual Life Counseling
ES/SC = Emergency Shelter/Self-Contained
IM = Individualized Monitoring

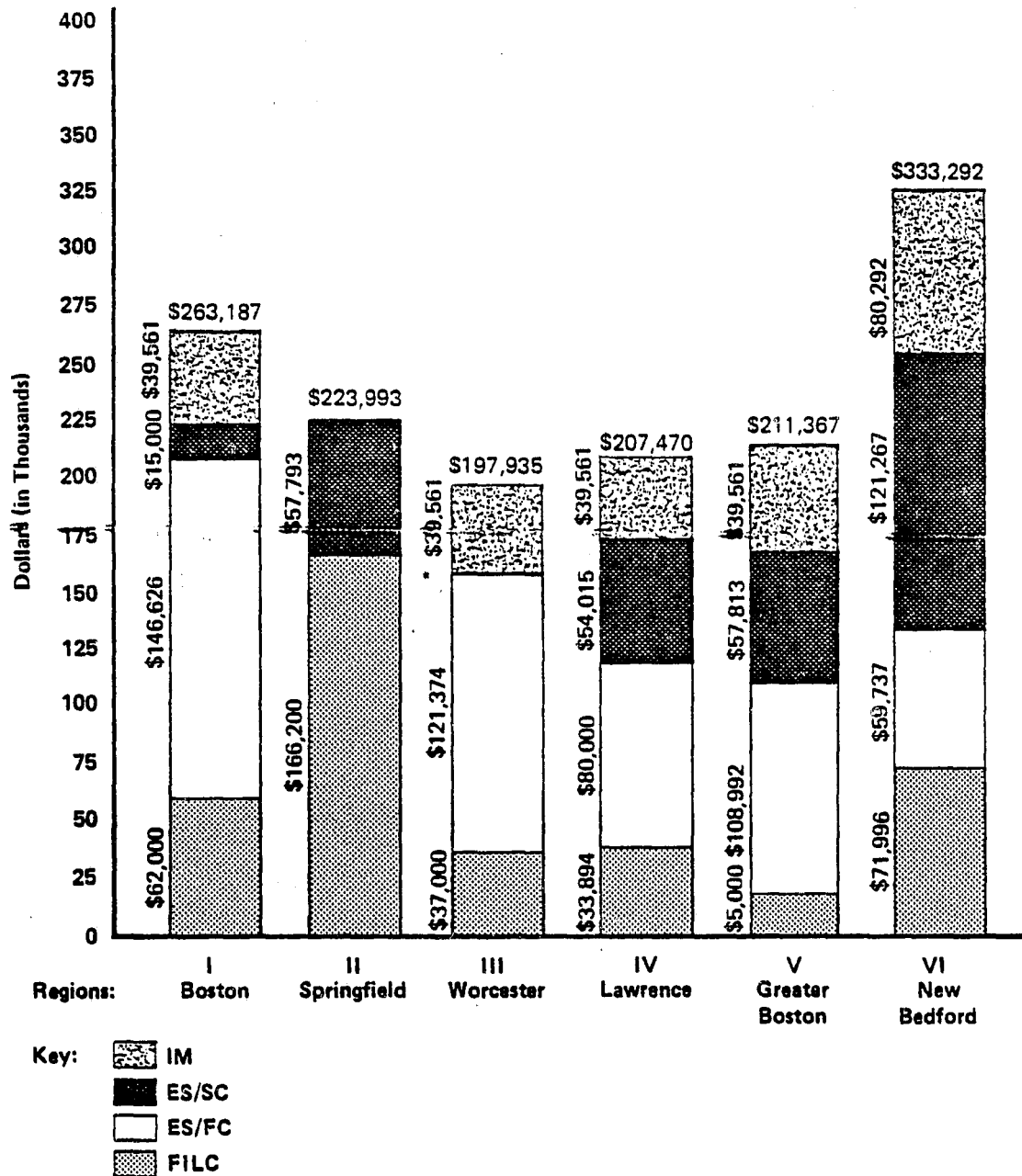
40 percent of the total. A regional breakout of the distribution of contracts is shown in Figure 6.2.4. The distribution of contracts across region by types of service is also summarized. The variability in the number of contracts, dollar allocation, and types of contracted services indicate that DFW originally perceived regional needs quite differently. For purposes of this report we can only assess allocations across regions and by type of services by looking at two variables: actual utilization and regional caseload distribution. Utilization will be measured in terms of incurred costs billed to the contracts by the provider agencies, while caseload will be projected on an annual basis from the six month data collected for this study.

Resource Utilization

From July 1977 through January 1978 total incurred costs, from the \$1.4 million, for all services was \$466,951. Through the first seven months of this fiscal year, DFW has incurred obligations for about 32.4 percent of the value of these contracts. Thus the utilization rate is lower than would occur if the full contract amount were spread evenly throughout the year. (Seven months is 58.3 percent of the year.) There are several possible explanations for this result:

1. True demand may be lower than estimated. The estimates based on DYS experience may have been too high. Many (23 of the 38) provider agencies did not provide service for DYS and therefore DFW could have overestimated service demand.
2. Agencies may have experienced start-up difficulties. Twenty-one agencies are new contractors to DFW or are offering new services. Five agencies (four in the Boston region alone) also started their programs slowly, completing less than 25 percent of their estimated utilization in the first half of the fiscal year.
3. Some agencies are slow to report their contract activities. Eight providers had not turned in bills by March 1 for services rendered in January. Five others had not billed for longer time periods.
4. Agencies may be underreporting services. Nine contracts that began after July 1, 1977 have had little activity and thus tend to distort the results but not change the conclusion. Moreover, it is known that some agencies have incurred costs but have not billed DFW (presumably because they do not have a cash flow problem).
5. The original estimates did not take into account the use of private resources reimbursed by the counties. While we found only a small use of these services statewide, one court, the Boston Juvenile Court, contracted out for \$200,000 in private services.

Figure 6.2.4
**RESOURCE ALLOCATION PER REGION
 FOR NEW CHINS CONTRACTS: \$1,437,242**



NB: Money allocated to IM was intended to be shared across all regions, except Springfield, on an "as needed" basis. In Springfield, a special \$18,000 account was established to provide more closely supervised emergency placements. (This money is technically under an "open referral" contract but is reserved for CHINS by agreement.) Region VI has \$46,429 for IM services of the Proctor Program. The rest of the IM money is allocated as follows: a \$107,738 contract with DARE Mentor and a \$61,578 contract with DARE Briarwood available to Regions I, III, IV, V and VI; a \$22,790 contract with the PROCTOR Program available to Regions I, III, IV, and V. These funds were distributed equally among the eligible regions in the diagram above.

A sixth possible explanation, but one which could not be tested because the program is in its initial year, is that demand may be seasonal or follow some other cyclical pattern.

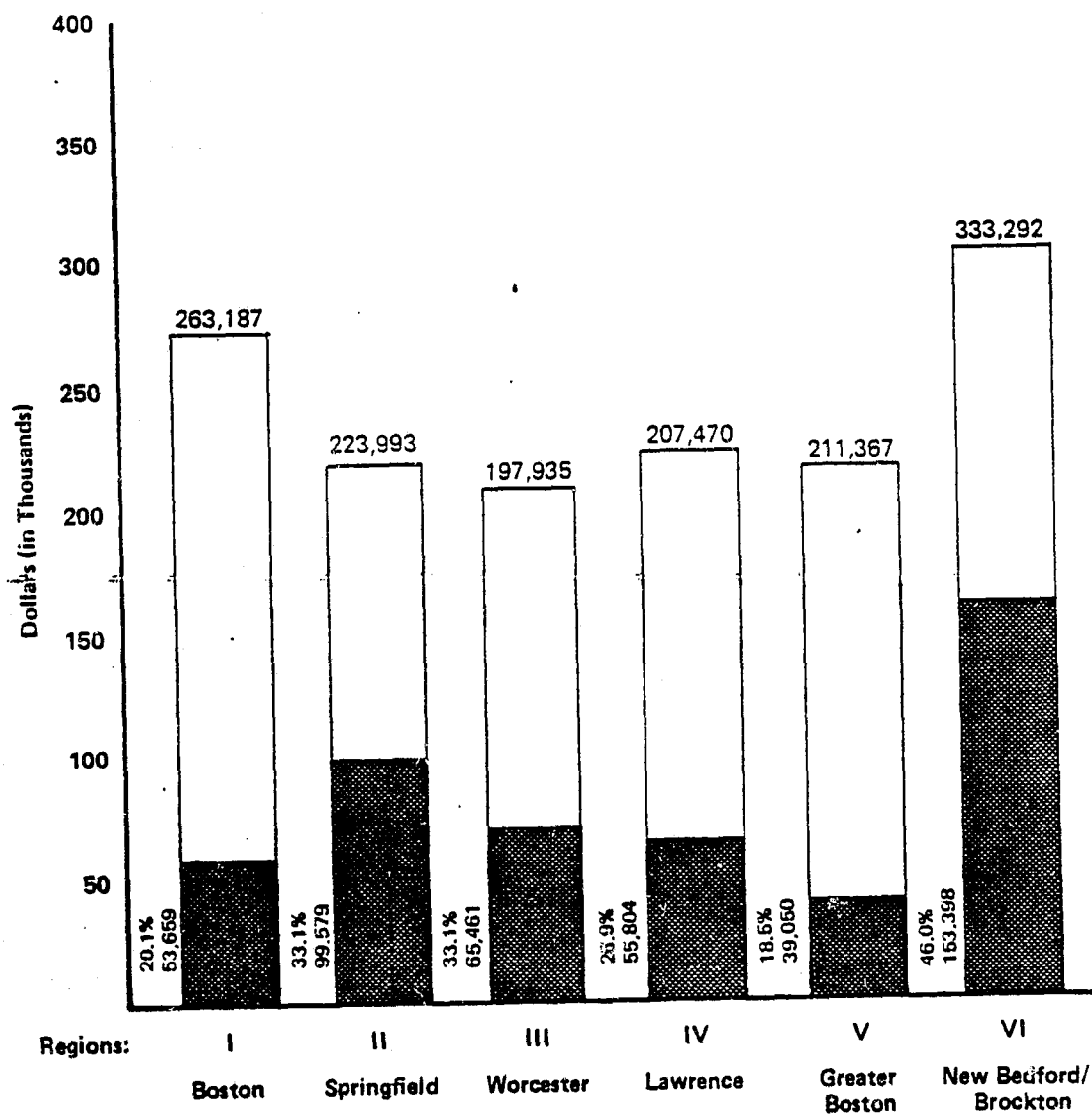
In addition, there is no assurance that the reported utilization data are accurate. Provider records were not audited. There is reason to doubt the overall accuracy of the reported data especially for providers having multiple contracts with the Commonwealth. Provider agencies with Children in Crisis contracts may have other contracts with DPW or other Departments. If these agencies are providing the same services to youths referred by CHINS workers as for other youth, the possibility exists that the interim utilization rate assigned to each contract is inaccurate. Other contracts may be bearing more than their share of provider services. The last half of the year may show a large increase in CHINS' service demand when these agencies shift their billing to the CHINS contracts. The evidence of provider flexibility is that at the end of the first six months of this fiscal year, nine of forty-nine agencies with contracts under the \$2.3 million Children in Crisis account appropriation had billed their contracts for exactly 50 percent of the total contract appropriation. It is unlikely that the actual demand for services halfway through the year was exactly 50 percent of the estimated annual utilization. Figure 6.2.5 graphically displays the comparison of the rate of utilization of all DPW regions through January 1978 to the total resources allocated.

The following analysis is based on the reported utilization rate of each of the providers for the first half of this fiscal year. The important question, which cannot yet be answered, is whether demand during the second half of the fiscal year will increase sufficiently to expend the total contract appropriations. Past contract experience suggests that the answer will be yes.

Utilization Analysis

Under utilization affects costs. As Figure 6.2.5 indicates, the Greater Boston Region and the Boston Region are experiencing a much lower percent of total incurred costs than originally projected. The initial allocation assumed that only the New Bedford/Brockton Region would outspend the Boston Region. Now, Springfield, Worcester and Lawrence regions have all incurred larger costs. The reason for the change in pattern of usage among

Figure 6.2.5
COMPARISON OF COST INCURRED (JULY 1977 THROUGH JANUARY 1978)
TO TOTAL RESOURCES ALLOCATED



the regions is due to the much lower than estimated utilization rate for Boston and Greater Boston compared with experience in the other regions. As Table 6.2.6 indicates, each region has experienced lower weekly costs than originally estimated. The Boston Region is operating 33.3 percent lower than forecasted. The other regions are operating between 9.5 and 15.8 percent lower. Overall, the new CHINS program is incurring costs at a weekly rate 18 percent lower than originally estimated.

Since each region experienced lower than anticipated utilization, the total amount of provided services is obviously less than anticipated. However, the distribution of incurred costs by type of service (shown in Table 6.2.7) is for the most part similar to the original allocation previously shown in Figure 6.2.3. The most significant change is for Individual Monitoring (IM) because two of the four provider agencies did not begin their programs until January 1978. Neither had submitted any bills by March 1. The two other IM providers have been reporting expenditures close to the forecasted rate. All other services, however, have been slightly underspent by about 20 percent (see Table 6.2.8). The pervasiveness of the underspending among the three types of services that account for more than 85 percent of the incurred costs between July 1977 and January 1978 is felt in all regions. Each of these three services (FILC, ES/FC, ES/SC) is experiencing a lower demand than was expected (see Tables 6.2.9, 6.2.10, and 6.2.11). If this demand was principally affected by the slow startup of many programs, it should pick up when utilization is running under more normal conditions.

Another manifestation of low utilization is that unit costs are higher than estimated. Certain services, ES/FC and some IM programs, are given a fixed monthly maintenance regardless of utilization. This maintenance consists of those costs borne by the agency which supports its program; for example, youth recreation expenses, foster care family training, etc. Maintenance does not include salary costs or general overhead items, such as rent. Usually the maintenance cost is a fairly small percentage of the total contract expenditure. If a contract is not fully utilized by the end of the year, the provider is obligated to return a portion of the maintenance received commensurate with the underutilization. ES/SC is paid in a different manner. A "per/child-per/day" cost is established and if in a given month the agency has performed 60 percent of the maximum possible "child-days," it

Table 6.2.6

NEW CHINS \$1.4 MILLION ANTICIPATED
COMPARISON* OF ESTIMATED AND ACTUAL WEEKLY COSTS

<u>Region</u>	<u>Estimated Weekly Cost</u>	<u>Actual Weekly Cost</u>	<u>Percent Variance</u>
I Boston	\$ 5,849	\$ 3,901	33.3%
II Springfield	4,308	3,626	15.8
III Worcester	2,495	2,195	12.0
IV Lawrence	2,458	2,075	15.6
V Greater Boston	1,686	1,502	10.9
VI New Bedford/Brockton	5,561	5,033	9.5
	<u>\$22,357</u>	<u>\$18,332</u>	<u>18.0</u>

* Contracts with no activity prior to February 1978 have been excluded from both the estimated and actual data.

Source: DPW Purchase of Service Unit Contract Summary FY 1978 and summary of contract activity.

Table 6.2.7

NEW CHINS \$1.4 MILLION ANTICIPATED
TOTAL INCURRED COST FOR DIFFERENT TYPES OF SERVICES 7/77 - 1/78

<u>Type of Service</u>	<u>Incurred Costs</u>	<u>Percent of Total</u>
ES/FC	\$ 189,913	40.7
FILC	139,278	29.8
ES/SC	75,151	16.1
IM	62,607	13.4
	<u>\$ 466,949</u>	<u>100.0%</u>

Source: DPW Purchase of Service Unit summary of contract activity.

Table 6.2.8

NEW CHINS \$1.4 MILLION ANTICIPATED
COMPARISON* OF ESTIMATED AND ACTUAL WEEKLY COSTS

<u>Type of Service</u>	<u>Estimated Weekly Cost</u>	<u>Actual Weekly Cost</u>	<u>Percent Variance</u>
ES/FC	\$ 10,257	\$ 8,502	17.1
FILC	6,290	4,810	23.5
ES/SC	3,595	2,841	21.0
IM	2,214	2,176	1.7
	<u>\$ 22,356</u>	<u>\$18,329</u>	<u>18.0</u>

* Contracts with no activity prior to February 1978 have been excluded from both the estimated and actual data.

Source: DPW Purchase of Service Unit Contract Summary FY 78 and summary of contract activity.

Table 6.2.9

NEW CHINS \$1.4 MILLION ANTICIPATED
COMPARISON OF ESTIMATED AND ACTUAL INCURRED COSTS
BILLED TO DATE* FOR FILC SERVICES

<u>Region</u>	<u># of Contracts</u>	<u>Estimate of Incurred Cost**</u>	<u>Actual Incurred Cost</u>
I Boston	2	\$ 22,499	\$ 3,618
II Springfield	5	92,453	85,140
III Worcester	1	21,590	20,580
IV Lawrence	3	9,448	7,272
V Greater Boston	0	-	-
VI New Bedford/Brockton	2	33,739	22,668
	<u>13</u>	<u>\$179,729</u>	<u>\$139,278</u>

* Analysis includes only active contracts and includes costs billed through March 1, 1978. Contracts for which there were no billings are not included in any of the incurred cost analyses.

**Assumes utilization is spread out evenly throughout the year.

Source: DPW Purchase of Service Unit Contract Summary FY 78 and summary of contract activity.

Table 6.2.10

NEW CHINS \$1.4 MILLION ANTICIPATED
COMPARISON OF ESTIMATED AND ACTUAL INCURRED COSTS BILLED TO DATE* FOR
ES/FC SERVICES

<u>Region</u>	<u>Contracts</u>	<u>Estimate of Incurred Costs**</u>	<u>Actual Incurred Cost</u>
I Boston	3	\$ 49,213	\$ 27,920
II Springfield	0	-	-
III Worcester	3	52,761	44,880
IV Lawrence	4	46,659	45,406
V Greater Boston	2	43,824	39,050
VI New Bedford/Brockton	1	34,843	32,675
	<hr/>	<hr/>	<hr/>
	13	\$ 227,300	\$189,913

* March 1, 1978

** Assumes utilization is spread out evenly throughout the year.

Source: DPW Purchase of Service Unit Contract Summary FY 78 and summary of contract activity.

Table 6.2.11

NEW CHINS \$1.4 MILLION ANTICIPATED
COMPARISON OF ESTIMATED AND ACTUAL INCURRED COSTS BILLED
TO DATE* OF ES/SC SERVICES

<u>Region</u>	<u># of Contracts</u>	<u>Estimate of Incurred Cost**</u>	<u>Actual Incurred Cost</u>
I Boston	0	-	-
II Springfield	2	\$ 30,656	\$ 14,438
III Worcester	0	-	-
IV Lawrence	1	7,232	3,126
V Greater Boston	0	-	-
VI New Bedford/Brockton	2	58,461	57,587
	<hr/>	<hr/>	<hr/>
	5	\$ 96,349	\$ 75,151

* March 1, 1978

** Assumes utilization is spread out evenly throughout the year.

Source: DPW Purchase of Service Unit Contract Summary FY 78 and summary of contract activity.

may bill 100 percent. A self-contained shelter must maintain most of its service whether it is empty or filled to capacity. Since the Department of Public Welfare requires intake to be closed to CHINS, this 60 percent utilization figure is necessary. The lower than expected utilization rate increased unit costs for these services more than ten percent (see Table 6.2.12). The smaller variation in unit cost for FILC and ES/FC is due solely to the inactive contracts for each service.

The cost of the CHINS Program in this initial fiscal year may be lower than forecasted. If the utilization rate in the second half of the fiscal year is the same as experienced in the first half, actual costs will be 18 percent lower than the total value of the contracts. Since the total value of the signed contracts is \$1,437,242, the program's cost would be \$1,178,538. This cost estimate, however, is probably too low as it includes the slow start up of many providers. As Figure 6.2.13 illustrates, utilization in the second and third months of the new CHINS contracts was a little more than 50 percent above the first month's utilization; while the fourth, fifth, and sixth month rates fluctuated around 90 percent above the first month's utilization.

Caseload Distribution

Another interesting aspect of analyzing the costs allocated to the CHINS program is to consider the distribution of DPW CHINS contracts statewide, by region, in light of the CHINS caseload in that region. As described in earlier sections of this report, it was possible to compute annualized caseload statistics for each of the DPW regions based on the first six months of DPW experience in servicing CHINS. Figure 6.2.14 displays the relative distribution of the statewide share of CHINS cases handled by DPW and Figure 6.2.15 displays the relative allocation of the \$1,437,242 in CHINS contracts.

As Table 6.2.16 indicates, if the regions were rank ordered in descending order both in terms of caseload and dollar distribution, Region III (Worcester) obviously has the most disproportionate share of the resources given the caseload. Boston, on the other hand, which has the smallest caseload, shows a disproportionately high share of the resources. It was reported by the DPW CHINS Unit that the Worcester region will be receiving \$175,000 in a grant from the Committee on Criminal Justice which will be funneled through

Table 6.2.12

NEW CHINS \$1.4 MILLION ANTICIPATED
ESTIMATED AND ACTUAL UNIT COSTS OF SERVICES

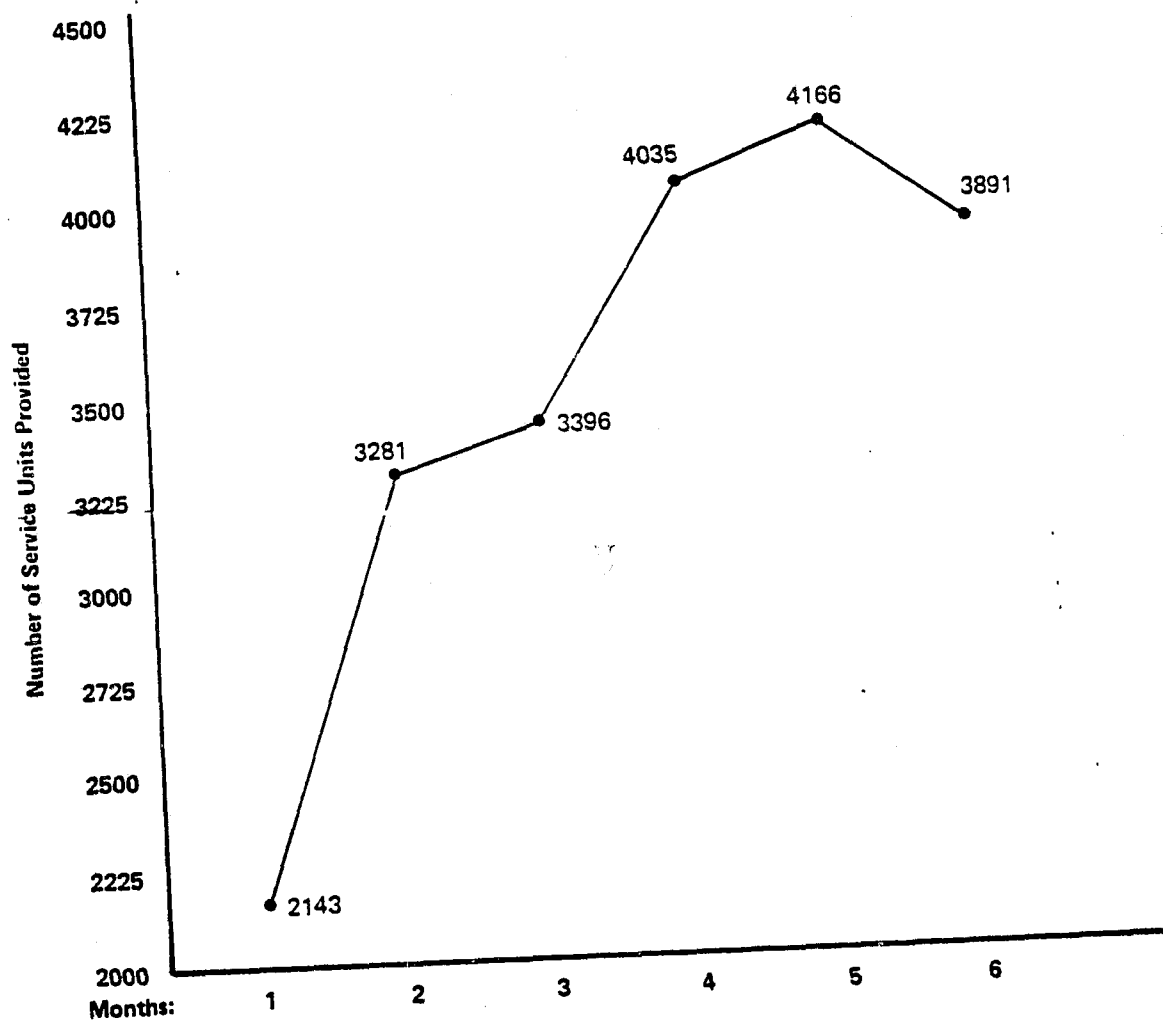
	<u>Unit</u>	<u>Estimated Unit Cost</u>	<u>Actual Unit Cost</u>	<u>% Variance*</u>
FILC	Hours	\$ 12.36	\$ 12.24	+ 1.0
ES/FC	Hours	17.77	19.79	-11.4
ES/SC	Days	22.46	23.76	- 5.8
IM	Hours	72.80	82.81	-13.8

* + indicates a favorable variance

- indicates an unfavorable variance

Source: DPW Purchase of Service Unit Contract Summary FY 78 and
summary of contract activity.

Figure 6.2.13
INDEX OF RESOURCE UTILIZATION FOR THE
FIRST SIX MONTHS OF NEW CHINS CONTRACTS



Source: DPW Purchase of Service Unit Contract Summary FY 78 and Summary of Contract Activity.

Figure 6.2.14

**REGIONAL DISTRIBUTION OF DPW CHINS
ESTIMATED YEARLY CASELOAD**

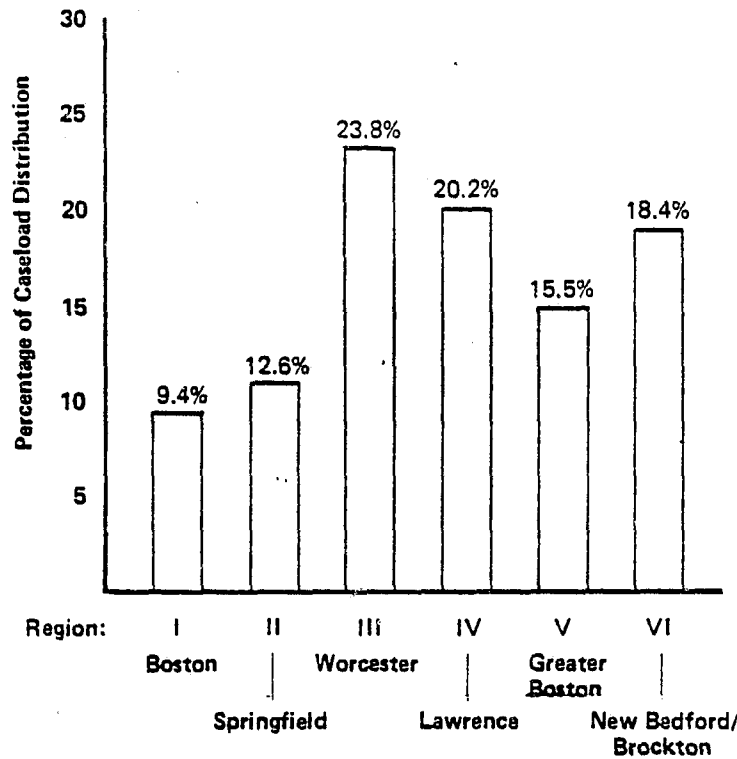


Figure 6.2.15

**ESTIMATED DISTRIBUTION OF \$1,437,242 IN
CHINS CONTRACTS STATE-WIDE**

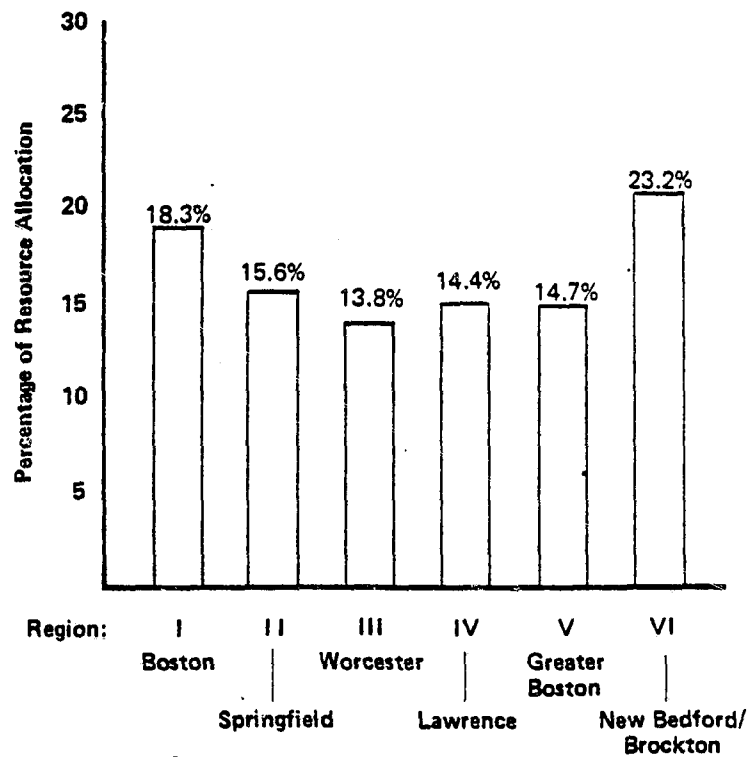


Table 6.2.16

Regional Rank by DPW Caseload

1. Region III (Worcester)
2. Region IV (Lawrence)
3. Region VI (New Bedford)
4. Region V (Greater Boston)
5. Region II (Springfield)
6. Region I (Boston)

Regional Rank by Resources

1. Region VI
2. Region I
3. Region II
4. Region V
5. Region IV
6. Region III

the Worcester CHINS Consortium for additional purchase of services in that region. The new data on actual caseload size may assist DPW in re-allocating ~~resources, if necessary, to provide for a more equitable distribution.~~

During the personal interviews with CHINS supervisors and CHINS workers, considerable concern was expressed about the ability, or desirability, of sharing resources across regions. As a practical issue, regions tend to feel proprietary about their contracts; they resist sharing because otherwise a slot may not be available for them when they need one. In addition, CHINS workers resist sending children too far away from their communities, even on a short-term basis. In fact, each region may be best served if IM contracts could be developed and negotiated for each region while other types of services are earmarked for regional sharing. The current knowledge about the distribution of resources and caseload offers an opportunity to remedy some inequalities and to consider the types of services which should be shared (because of demand) and which should be kept within the region. The CHINS workers would then be able to plan placements with better knowledge of what is available at any given time and limit the degree of separation between the child and the community in circumstances where proximity may be an issue.

6.3 Long-Term Placements

Youths in need of long-term care (out of the home) may receive one of two types of service available through DFW. Youths may either be placed in foster homes or in group care facilities (e.g., boarding schools, small residential treatment centers, or larger treatment-oriented institutions). Youths placed in group care are expected to remain for a maximum of two to three years. Because locating and placing adolescents in long-term foster care is a function of DFW's Regional Home Finding Service, the degree to which CHINS can be placed in foster care varies considerably from region to region across the state. Although long-term placement in group care or a foster home is considered a placement of "last resort" for CHINS youth, these services have the potential for absorbing a disproportionate amount of DFW resources and allocating them to the status offender population.

Data supplied by the DFW Group Care Unit indicated that the weighted average daily cost for CHINS youth in group care is \$31.42, or an annual cost of \$11,440 per year. In addition, they report that during the first nine months of this fiscal year, costs were committed for 271 CHINS (reported as "CHINS Referrals"). Presumably cost commitments assume eventual placement. As the table below suggests, 26.5 percent of all group care placements made during that period were CHINS youth.

Table 6.3.1

		<u>All Group Care Placements</u>	<u>CHINS Referrals</u>
1977	July	171	49
	August	114	43
	September	284	27
	October	96	26
	November	79	19
	December	58	18
1978	January	74	24
	February	45	22
	March	<u>102</u>	<u>43</u>
	Total:	1,023	271

Group Care reports that the total costs for FY 1978 through March is \$13,920,111. The CHINS youth portion of this would be at least 26.5 percent of the cost or \$3,688,829. By annualizing the placement data, it becomes evident that the Group Care Unit places about one CHINS child every day of the year in a group care facility (or about 360 children a year).¹ If this rate does not change from year to year, the estimated yearly cost at current rates would be \$4,118,400 (360 x \$11,440).

The statistics provided by the Group Care Unit, however, are not consistent with the estimates provided by the CHINS Coordinator in DFW.² According to the CHINS Coordinator, the CHINS workers made only 94 referrals to group care during the first six months of the CHINS program--July 1 to December 31, 1977. In addition, only 28 of these referrals were reported as being placed (excluding the Greater Boston region which did not report). The CHINS Unit maintains that only seven percent of CHINS intakes were referred to group care; with an even smaller percentage actually resulting in placement. This compares to a Group Care report that this fiscal year's average rate of CHINS referrals per month is 35 percent.³ Both the CHINS Coordinator and the Group Care Unit may be correct. They simply may be categorizing youths differently. Since in previous years CHINS youth were referred through the court system upon adjudication to Group Care, the Group Care Unit may not have changed their record procedures to include preadjudicated youths referred by the CHINS workers in order to maintain year-to-year comparability. Group Care statistics may also refer to children who were initially referred as CHINS but who have been in the care of DFW for years. The differences in the referral pattern are too large to remain unresolved, but the resolution is far beyond the scope of this research.

¹ Of the 1,750 slots available through Group Care, CHINS children would be expected to occupy about 20 percent by the end of the year.

² Data on Group Care placements and referrals were obtained from secondary data provided by Frank Donlan, Assistant Director of the Group Care Unit in a letter, with attached provider lists, dated 5 May 1978 to Abt Associates, and copies of a series of internal DFW memoranda between the CHINS Unit and the Group Care Unit on the issue of referral and placement rates.

³ Apparently the Group Care Unit has reported two different rates of CHINS referrals. Data supplied to us and displayed in Table 3.6.1 indicate that CHINS referrals during the first nine months account for 26.5 percent, not 35 percent as reported in an internal memo from Ruth McGoff to Chuck Dickinson dated 10 May 1978.

The importance of resolving this issue is to assess whether (1) the number of group care referrals reported on the CHINS logs indicate that early intervention by CHINS workers dramatically reduces the necessity for long-term placements, or (2) whether CHINS require a level and intensity of service that, if the Group Care Unit's data are correct, may drain Group Care resources and exceed budgetary expectations for the delivery of services to this target group or (3) if CHINS youth reach Group Care long after initial referral to DFW, Group Care statistics may refer to children who have been in the care of DFW for years.

On the issue of long-term foster care, several assumptions have to be made to calculate average costs because cost data specifically on CHINS placements is currently not available through DFW. If the assumption is made that the average short term stay is five weeks and that the weekly cost per CHINS youth is \$56.20,¹ the average cost of a short term foster care placement is \$281. If the 189 youths placed between June and November were short term placements, foster care costs incurred under the Care and Maintenance Account would total \$53,109 (189 x \$281).

6.4 Annualized Costs of the Program

Calculating the approximate annual cost of providing services to CHINS involves considerable estimation. Although DFW does have one account--the \$1.4 million Children in Crisis money exclusively for CHINS contracts--it is known that this represents only a small part of the statewide commitment to the CHINS population. Not only does DFW expend money on the CHINS youth, but the Court Clinic contribution of DMH and the 766 involvement of the Department of Education go to servicing the comprehensive needs of the status offender.

Nonetheless, some estimate of the annual cost of CHINS can provide a useful planning tool for the distribution of resources within state agencies serving the CHINS population and may offer the legislature better information regarding the current DFW investment in the status offender population beyond the initial \$1.4 million allocation.

¹ DFW pays \$46.20 per week for foster care to teenagers and an additional \$10 per week for a more difficult youth such as a CHINS youth.

There are basically five categories of costs that can realistically be considered. These include:

1. Children in Crisis Account, CHINS Contracts for Emergency Providers
2. Children in Crisis Account, some portion of the general budget being expended on CHINS youth
3. Care and Maintenance Account
4. Foster Care and Group Care Costs (part of the Care and Maintenance Account)
5. Administrative Accounts

Table 6.4.1 on the following page breaks out the actual or estimated costs associated with each of the major categories of expenditure for CHINS youth by DPW exclusively. These cost estimates, as noted, do not factor in the amount spent by other state agencies on CHINS, or the resources (both in terms of personnel and services) that the district and juvenile courts of the Commonwealth have committed to status offenders.

Considering that DPW handles approximately 43 percent of the CHINS caseload statewide (or 2,770 cases out of every 6,460), some estimate of cost per child can be calculated. The estimated cost of providing long-term foster care and group care (i.e., \$11,440 per year for an estimated 360 CHINS youth) should be excluded from the average cost because of the disproportionate level of intensity of these services as compared to the normal type and range of services delivered to status offenders and the lack of quality data on numbers served. When both the costs and estimated number of group care placements are subtracted, the approximate annual cost of servicing a CHINS child is \$1,279 (i.e., \$3,082,608 ÷ 2410 children).¹

The average cost per child is affected by two important considerations. First, there can be considerable variation in the level of services provided. Some children require limited contact with the DPW CHINS worker, while other children receive emergency placement services as well as considerable social

¹From the total annualized cost of \$7,101,008 (see Table 6.4.1 on the following page), we subtracted \$4,118,400 expended for long-term placements to arrive at the figure of \$3,082,608. The number of children receiving short-term services was computed by subtracting the estimated number of group care placements from the DPW statewide caseload (2,770-360 = 2,410).

Table 6.4.1

COST CATEGORIES: CHINS SERVICES

Children in Crisis Account (\$2.3 million General Budget)	\$ 299,000 (est. 13%) ¹
Children in Crisis Account (\$1.4 million CHINS Emergency Placement Contracts)	\$1,437,242
Care and Maintenance Account (Foster Care)	\$ 106,218 ²
Salary, Fringe, DPW Overhead	\$1,240,148
Foster Care/Group-Care Long- Term Placements (per year)	\$4,118,400
<hr/>	
Total Annualized Cost: \$7,201,008	

¹ It is known that \$150,407 from the general Children in Crisis Account was negotiated for new CHINS contracts in November 1977, along with an additional \$65,000 in contracts taken from the \$1.3 million already available to CHINS in that portion of the Children in Crisis Account budget. The \$150,407 originated from cancellations of several "open referral" Children in Crisis contracts which were readily converted into new CHINS contracts. It is estimated, however, that CHINS cases account for about 13% of all Children in Crisis Account expenditures.

² Calculated by doubling the estimated foster care costs of \$53,109 for CHINS youths in the first half of this fiscal year.

worker follow-up. Second, it is already known that the CHINS program is understaffed given the current level of referrals from the district courts, the job description on which they operate, and the difficulties involved in transfer of their cases to generalists. In essence, the cost estimate may be conservative, but could be expected to constrict any future growth of the program.

APPENDIX A

DPW CHINS SERVICE PROVIDER CONTRACTS

KEY:

IM - Individualized Monitoring
 ES - Emergency Shelter
 ES/SC - Emergency Shelter/Self-Contained
 FC - Foster Care
 FILC - Family and Individual Life Counseling

	<u>Type of Service</u>	<u>Funded Slots</u>	<u>Contract Amount</u>
REGION I: BOSTON			
DARE Programs ¹	IM	7	107,738
- DARE Mentor ²	IM	7	107,738
- DARE Counseling	FILC	11	20,000
Project Place Runaway House	ES/SC*	2	15,000
Justice Resource Institute - Advocacy Center for Family Alternatives ³	ES/FC* FILC	10 5	66,629
New England Home for Little Wanderers	ES/FC	5 (placement) 5 (counseling)	30,000
Tufts - New England Medical Center	FILC	5	25,000
Basics	FILC	6	17,000
The Key Program ^{1,4}	ES/FC*	12	49,997

¹DARE and Key are networks of several different programs controlled through a central administration.

²DARE Mentor provides Individualized Monitoring for Boston, Worcester, Lawrence, Greater Boston, and New Bedford regions.

³Program under contract to DPW as of January 1, 1978. Before that, under contract to DYS. Also serves the Greater Boston region.

⁴This contract available to the Lawrence and Greater Boston regions.

	<u>Type of Service</u>	<u>Funded Slots</u>	<u>Contract Amount</u>
REGION II: SPRINGFIELD ⁴			
Center for Human Development (CHD) ⁵	ES/FC	2	8,993
The Key Program	FILC	32	72,000
Franklin County Dial Self	FILC	7	35,000
Franklin/Hampshire Mental Health Health Center	ESC	8	48,800
Lift	FILC	20	29,000
Berkshire Center for Families and Children	FILC	12	30,200
REGION III: WORCESTER			
The Key Program	ES/FC*	12	57,000
Milford Assistance Program	ES/FC	2	19,830
Tri-Link	ES/FC*	2	15,900
YOU, Inc.	ES/FC*	10	28,644
YWCA-Worcester	FILC	18	37,000
REGION IV: LAWRENCE ⁶			
SHARE - Emergency Shelter ⁷	ES/FC*	3	29,015
Catholic Charities of the North Shore	FILC	2-3	5,000
The Key Program	ES/FC*	4	20,000
	FILC	2	8,894

⁴ Hampden, Hampshire and Franklin Counties have a 24-hour hot line which makes referrals to CHD, YWCA, or Franklin/Hampshire Mental Health Center. Berkshire County 24-hour hot line refers to Rubicon West. The YWCA has 10 slots and Rubicon West has 6 slots reserved by agreement for CHINS, although the contracts are open referral from the general Children in Crisis account.

⁵ CHD has 7 open referral slots reserved for CHINS by agreement. Two of these slots are in a foster home based on the IM model which provides very close supervision.

⁶ 735, Inc. and Turning Point available for 24-hour intake but do not have CHINS contracts.

⁷ SHARE slots used by Boston, Greater Boston and Lawrence regions.

	<u>Type of Service</u>	<u>Funded Slots</u>	<u>Contract Amount</u>
REGION IV (continued)			
Community Teamwork, Inc.	ES/FC*	4	17,000
DARE Foster Home Program	ES/FC*	5	29,000
Listen, Inc. ⁸	ES/SC	3	25,000
Lynn Youth Resource Bureau	FILC	10	10,000
Project RAP	ES/FC*	2.7	14,000
Malden YMCA-Youth Development and Diversion	FILC	10	10,000

REGION V: GREATER BOSTON

The Key Program ⁹	ES/FC*	6	27,918
Concord Family Service	FILC	2-3	5,000
DARE Foster Homes South	ES/FC*	10	59,738
Harbinger House	ES/SC	6	57,813
Middlesex East II	ES/FC	2-3	21,337

⁸ Contract in effect as of 1/1/78.

⁹ This contract available to the Boston and Lawrence regions.

	<u>Type of Service</u>	<u>Funded Slots</u>	<u>Contract Amount</u>
REGION VI: NEW BEDFORD			
Phaneuf Center - Catholic Charitable Bureau	ES	5	36,360
The Key Program - Tracking DARE Programs	FILC	10	44,996
- Dare Briarwood ¹⁰	IM	3	61,578
- Foster Homes South	ES/FC*	10	59,738
- Cape Cod Emergency Services	ES/FC	6	20,907
New Bedford Child and Family-- Proctor Program ¹¹	FILC	5-10	12,000
	ES/IM	3.7	69,219
Project Young Pilgrim	FILC	10	15,000
Frat House - Family Resources, Inc.	ES/SC*	7	64,000

¹⁰ Individualized Monitoring for Boston, Worcester, Lawrence, Greater Boston and New Bedford regions.

¹¹ Individualized Monitoring for girls only for Boston, Worcester, Lawrence, Greater Boston and New Bedford regions. \$46,429 of the contract amount is allocated for the use of the New Bedford region, the rest for the other regions.

Chapter 7

LEGAL ANALYSIS

Introduction

The organization of the CHINS program in Massachusetts, and the ways in which the juvenile and district courts interpret the requirements of Chapter 1073, is grounded in a complex of federal and state law, and state agency policies regarding the treatment of status offenders. Although the district and juvenile courts exercise considerable latitude in determining how CHINS will be processed, it is important to establish an understanding of the parameters of legal requirements and acceptable practices, both federal and state. In this chapter we will review three areas of concern: federal legislation, status offender legislation nationwide, and attempted revisions of Massachusetts' Chapter 1073.¹

In Section 7.1 a brief review is made of the requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 and related amendments of 1977. Of particular interest are the provisions regarding the separation of juvenile offenders and status offenders and the effect of legislative constraints on the development of a community-based service delivery system for youth. Section 7.2 offers an overview of status offender legislation in other states and proposed national standards and helps to place the progress Massachusetts has made in deinstitutionalizing status offenders into a national context. The attempts that have been made in Massachusetts to amend its status offender legislation--Chapter 1073--are examined in Section 7.3. These attempted legislative amendments are an important reflection of growing concerns about the ambiguity of the current statute as well as an illustration of shifting public agency priorities with regard to how to best serve the status offender population.

¹ Chapter 4--Analysis of Screening, Intake, Processing, and Placement--contains a full review of the major provisions of Chapter 1073. As part of an examination of the court process, Chapter 4 offers an analysis of the role of counsel and the degree to which there is sufficient due process protection under the present legislation. In addition, the extent to which the statute serves as a guide to the implementation of the status offender program statewide (including adequate safeguards of due process rights) is also reviewed in Chapter 4 because of its relevance to an analysis of the CHINS process within the courts.

7.1 Juvenile Justice and Delinquency Prevention Act of 1974

The federal government assumed a major role in dealing with the problem of juvenile delinquency with the passage of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP Act).¹ The Act attempts to encourage the development of programs that emphasize prevention of juvenile delinquency and the diversion of juveniles from the traditional juvenile justice system. Under the JJDP Act, the federal government is authorized to implement juvenile delinquency programs and to provide technical assistance to state and local governments in planning, funding, operating, or evaluating state juvenile delinquency programs. Moreover, the Administrator of LEAA is authorized to make grants to states and units of local government to assist them in planning, operating and evaluating juvenile justice and delinquency prevention projects.²

In order to receive grants, a state must submit a plan which meets provisions of Title II of the JJDP Act. Most of these provisions are either procedural or administrative in nature. For example, the plan must provide that not less than 75 percent of the program funds available to the state shall be used to implement advanced techniques addressing delinquency prevention, diversion, institution of alternative treatment programs, and establishment of juvenile justice standards.³

Two of the required provisions (as amended, October 1977) are especially noteworthy. They are substantive in nature and affect current practices and institutions in Massachusetts as well as in other states. First the plan must:

¹ Amended October 3, 1977.

² The Runaway Youth Act, which comprises Title III of the Juvenile Justice and Delinquency Prevention Act of 1974, also authorizes the Secretary of Health, Education and Welfare (Secretary) to make grants and provide technical assistance and training to states and units of local government to enable them to develop local facilities providing services to runaway youth. An applicant for assistance must propose to establish or strengthen a runaway house, a local, temporary shelter care facility or counselling services to runaway juveniles. The applicant must submit a plan to the Secretary which indicates how each runaway house will satisfy the requirements specified in the Act.

³ JJDP Act Sec. 223(a)(10).

- provide within three years after submission of the initial plan that status offenders, or nonoffenders such as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities; and
- provide for submission of annual reports to the Associate Administrator² reviewing the progress made:
 - to achieve deinstitutionalization of juveniles described above; and
 - to provide that such juveniles, if placed in facilities³ are placed in appropriate community-based facilities.

Secondly, it is required that the plan provide that juveniles alleged to be or adjudicated delinquent [and youths within the purview of paragraph (12)(A)] shall not be confined with adult criminals or adults awaiting trial on criminal charges.⁴ Moreover, the plan must provide for a system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to ensure that the requirements of paragraphs 12(A) and (13) are met and for annual reporting of the results of such monitoring to the Associate Administrator.⁵

To assist the states in meeting the requirements of Section 223(a)(12), LEAA announced in March, 1975, that discretionary funds would be made available by the Special Emphasis Program of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to jurisdictions which would remove status offenders from detention and correctional institutions within two years. In achieving the deinstitutionalization of status offenders, the act further calls for the development of "advanced techniques" to include: community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster care and shelter care homes, group homes, halfway houses, homemaker and home health services, and any other designated community-based diagnostic, treatment, or rehabilitative service.

¹ JJDPa Sec. 223(a)(12)(A).

² The Associate Administrator is the head of the Office of Juvenile Justice and Delinquency Prevention. Sec. 201(c).

³ JJDPa Sec. 223(a)(12)(B).

⁴ JJDPa Sec. 223(a)(13).

⁵ JJDPa Sec. 223(a)(14).

In January, 1976, two-year grants totalling \$10 million were awarded to eleven jurisdictions (Massachusetts did not receive such a grant) across the country to develop community-based alternatives for status offenders. The major goals of the OJUDP Deinstitutionalization of Status Offenders Initiative (DSO) are:

- (a) To remove from secure detention and correctional institutions status offenders currently incarcerated and to preclude the further use of detention and commitment in the treatment of status offenders;
- (b) To develop and utilize on a per child accountability basis community-based treatment and rehabilitation services as an alternative to secure detention and institutional commitment;
- (c) To reduce recidivism and improve the social adjustment of status offenders; and
- (d) To encourage the local juvenile justice system permanently to incorporate in their procedures the use of such community-based services in dealing with status offenders.

LEAA has issued guidelines which further define the requirements for placement of status offenders. The guidelines interpret Section 223(a)(12) (as amended) as requiring the state to provide, within three years of initial submission of the plan, that status offenders shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities. A juvenile detention or correctional facility is:

- any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders;
- any public or private facility used primarily (more than 50 percent of the facility's population during any consecutive 30-day period) for the lawful custody of accused or adjudicated criminal-type offenders even if the facility is non-secure;
- any public or private facility that has the bed capacity to house twenty or more accused or adjudicated juvenile offenders or non-offenders, even if the facility is non-secure, unless used exclusively for the lawful custody of status offenders or non-offenders, or is community-based;
- any public or private facility, secure or non-secure, which is also used for the lawful custody of accused or convicted criminal offenders.

¹ M 4100.1F, par. 52k(2).

The guidelines define a shelter facility as any public or private facility, other than a juvenile detention or correctional facility as defined above, that may be used, in accordance with state law, for the purpose of providing either temporary placement for the care of alleged or adjudicated status offenders prior to the issuance of a dispositional order, or for providing longer term care under a juvenile court dispositional order.¹ This requirement must be planned and implemented by the state within the initial three-year period and the plan must describe in detail the state's specific procedures and timetable for assuring that the requirement will be met.

As construed by the guidelines, Section 223(a)(13) requires that the state plan provide that juveniles alleged or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges. This requirement must be implemented immediately--subject to existing physical, judicial, fiscal, and legislative constraints which may have to be altered. A plan must be submitted for removing these constraints, if necessary. The state plan must also detail the state's specific procedures and timetable for removing juveniles from regular contact with incarcerated adults.²

Several concerns have been expressed regarding the present guidelines. It has been suggested that the definition of a juvenile detention or correctional facility is overly stringent and does not conform to any reasonable concept of a juvenile facility. The constraints imposed by this definition will, it is argued, serve to effectively prevent the commingling of status offenders with delinquents which, in turn, will have an adverse effect on the efficacy of juvenile treatment programs. This conclusion proceeds from the view that, while these two groups of juveniles may have different legal statuses, their behavior stems from the same basic causes and they have similar needs. Moreover, the separation of preadjudicated status offenders and preadjudicated delinquents--although not specifically prohibited by the statute--poses the same philosophical dilemma for states that have successfully begun to build a

¹ M 4100.1F, par. 52i(5)(b).

² M 4100.1F, par. 52i

community-based network of services. In Massachusetts, the very nature of the community-based, purchase-of-service system, makes the separation of juveniles by contractors extremely difficult and possibly not desirable.

There is also concern over the provision that allows juveniles and adults to be housed in the same facility provided the "avoidance of regular contacts" test is met. In contrast to the first concern, which would seem to call for a loosening of the guidelines, here, more stringent requirements are generally sought. Achieving minimum contacts between juveniles and adults in the same institution is viewed as unrealistic in practice; only separate facilities, it is argued, will adequately separate youthful offenders from adults.

LEAA has drafted new guidelines and disseminated them to the several states for comment. While further delays in the development of guidelines is expected, the final guidelines may modify the present definition of juvenile detention or correctional facilities, and may require separate facilities for juveniles and adults. The evolution of Massachusetts' community-based system may prove to have some impact on the definitions which are ultimately applied under the JJDPA legislation nationwide.

7.2 Proposed National Standards and Status Offender Legislation in Other States

The Juvenile Justice Standards Project was initiated in 1971 by the Institute of Judicial Administration to address the issues and problems associated with the system of justice established to deal with juveniles. The American Bar Association became co-sponsor of the project in 1973. At this time, a series of Tentative Drafts have been published, including one entitled Standards Relating to Noncriminal Misbehavior. These standards have not been adopted but may serve to indicate some future directions in the way status offenders are handled.

The first proposed standard would remove from the jurisdiction of the court system any behavior of children that was not a violation of the criminal law. School related problems are relegated to the school systems and runaway and stubborn types of behavior would be handled administratively with limited court involvement. Runaways would be subject to a restricted protective custody arrangement and could be placed in non-secure residential facilities.

The standards stress reunification of the child and parents, treatment of the family as a unit, and voluntary participation in services. Alternative residential placements should be made available if reunification is not immediately feasible but should never be of a secure nature. Agreement of the child and parents to a particular placement should be facilitated as often as possible, but if it is not forthcoming the child may petition the court. Counsel would then be appointed for the child. The court should adhere to the child's placement request unless to do so would place the child in danger.

The system envisioned by the proposed standards requires that there be an existing framework of social services available and willing to provide needed services without the necessity of a court order. The need for court involvement is extremely controversial across the country. It is one of the key differences in the mechanisms developed by individual states to handle status offenders.

The issues are clearly joined by those who would tighten the juvenile justice system around status offenders from those who would propose to eliminate status offenders from any court involvement whatsoever. Since the latter approach has yet to be tried in this country, we have no data to analyze in regards to what might happen to these children with no court involvement.

Across the country states have been attempting to deal with the special problems of status offenders in a variety of ways. Obviously, the enactment of the JJDP Act in 1974 gave substantial impetus to the effort. Various strategies aimed at the problem have ranged from legislative to administrative. Not surprisingly, states are at different stages in the process of deinstitutionalization. Major clusters of activity have been aimed at:

- (a) removal or limitation of the court's original jurisdiction over status offenders;
- (b) limitations on possible dispositions for status offenders; and
- (c) development of community-based services.¹

¹ A useful critique of the relative ability of states to respond to the requirements of the JJDP Act of 1974 is contained in "Costs and Service Impacts of Deinstitutionalization of Status Offenders in Ten States: Responses to Angry Youth." Arthur D. Little, Inc., Washington, D.C. for the Office of Juvenile Justice and Delinquency Prevention, LEAA, and the Youth Development Bureau, HEW, October 1977.

A study of strategies used by the states to promote deinstitutionalization indicated that a variety of approaches were used, often in concert with one another. Table 7.2.1 summarizes approaches used in a sample of states.¹

In order to illustrate the variety in the strategies selected by states to address deinstitutionalization of status offenders, we researched the legislative efforts of five key states which have attempted to come into compliance with the requirements of the JJDP Act: Florida, Maine, Illinois, California, and New York. Each is reviewed briefly below.

Florida

Formerly, runaways, truants, and persistently disobedient children were classified as Children in Need of Supervision (CINS) and were subject to the juvenile court's jurisdiction. Though classified separately from the delinquent, they were often held in secure detention pending disposition and subsequently imprisoned for treatment and rehabilitation.

The CINS category was entirely eliminated in 1975 but the juvenile court retains jurisdiction over runaways, truants, and "ungovernable" children (i.e., children who persistently disobey the reasonable and lawful demands of their parents or legal guardians). All such children are now classified as "dependent children."

Aside from the new categorization, the only substantive change in the law is that dependent children may not be placed in secure shelter pending disposition. However, an ungovernable child may be treated as a dependent child the first time he is so adjudicated. For the second and subsequent adjudications for ungovernability, the child may be treated as a delinquent child and may be placed in a secure detention facility pending disposition.

Maine

Under present law, juvenile courts have jurisdiction over all delinquent acts committed by juveniles and the following status offenses:

¹Id., pg. 4.

Table 7.2.1

Strategies Pursued to Promote Deinstitutionalization
of Status Offenders, by State ¹

States Strategies	Arkansas	California	Connecticut	Florida	Iowa	Maryland	New York	Oregon	Utah	Wisconsin
I. Defining Status Offender Differently										
A. Merge with Dependency				X	X				X	
B. Separate from Delinquency	X	X		X	X	X	X		X	X
C. Remove from Court's Original Jurisdiction									X	
II. Restricting Placements										
D. Prohibit Use of Jails and Lockups	X	X	X	X		X	X			
E. Prohibit Use of Detention Facilities	X	X		X		X				
F. Prohibit Use of Adult Correctional Facilities	X	X	X	X	X	X	X	X	X	X
G. Prohibit Use of Juvenile Correctional Facilities	X	X	X	X		X	X	X		X
H. Provide Financial Disincentives							X			
III. Developing Alternatives										
I. Provide Financial Incentives	X	X	X	X	X	X	X	X	X	X
J. Provide Community-Based Alternatives (residential)	X	X	X	X	X	X	X	X	X	X
K. Provide Community-Based Alternatives (non-residential)	X	X	X	X	X	X	X	X	X	X

¹ "Costs and Service Impacts of Deinstitutionalization of Status Offenders in Ten States: Responses to Angry Youth," Arthur D. Little, Inc., Washington, D.C., October 1977, p. 4.

- habitual truancy
- behaving in an incorrigible, indecent, or lascivious manner
- associating with vicious, criminal, or grossly immoral people
- repeatedly running away from home without cause
- living in circumstances of manifest danger of falling into habits of vice or immorality.

(Citation: 15 M.R.S.A. Sec. 2552.)

However, the present law is to be repealed as of July 1, 1978. The new law, Maine Juvenile Code 15 M.R.S.A. Sections 3001-3407 removes status offenses and "catch-all" offenses from definition of "juvenile crime."

Juvenile crime is:

- criminal conduct as defined by Title 17-A, the Maine Criminal Code (adult crimes);
- possession of a usable amount of marijuana; or
- purchase of liquor by a person under 20 or use of false evidence of age in order to effect such purchase (28 M.R.S.A. Sec. 303).

(Citation: 15 M.R.S.A. Sec. 3103.)

~~The juvenile courts have jurisdiction~~ over juvenile crime. The statute provides a special procedure for the trial and disposition of a juvenile alleged to have committed a crime. In the case of certain serious crimes, as categorized by 15 M.R.S.A. Sec. 3101(4)(A) with reference to the Maine Criminal Code, the juvenile court may waive jurisdiction and the juvenile may be tried in Superior Court as an adult.

There is a separate statute dealing with runaways--15 M.R.S.A. Secs. 3501-3508. The statute provides for interim care of the juvenile. Persons and organizations involved are law enforcement officers, intake workers, the parents or guardian, the Department of Mental Health and Corrections and the Department of Human Services. The only involvement of the court is in the case of a petition for protective custody filed by the Department of Human Services, 22 M.R.S.A. c.1055, or a petition filed with the District Court by a juvenile of 16 or older for emancipation.

Illinois

Status offenders are handled within the juvenile justice system, but are defined differently than delinquents. Delinquents are:

- minors under 17 who violate any federal or state law or local ordinance; or
- minors who prior to January 1, 1974, violated a court order made under the Juvenile Court Act.

(Citation: Ill. Stat. Ann. ch. 37, Sec. 702-2)

Status offenders are:

- minors under 18 who are beyond the control of parents or guardians;
- minors subject to compulsory school attendance who are habitual truants;
- minor addicts, as defined in the Drug Addiction Act, C. 91 1/2, Sec. 120.1 et seq.; or
- minors who after January 1, 1974 violate a court order made under the Juvenile Court Act.

(Citation: Ill. Stat. Ann. C. 37, Sec. 702-3 [Minors in Need of Supervision])

A status offender may not be committed to the Department of Corrections (C. 37, Sec. 702-2[b]). Under former law, a Minors in Need of Supervision (MINS) who violated probation could be adjudicated a delinquent (C. 37, Sec. 702-2[b]) and committed to the Juvenile Division of the Department of Corrections (C. 37, Sec. 705-2[1][a][5]). A child could not be committed to the Department of Corrections for such conduct after January 1, 1974 (C. 37, Sec. 702-3), but the juvenile court has the power to enforce its orders until arrangements can be made or assurances given that its orders will be complied with. The minor may be taken into temporary custody without a warrant for escaping from commitment (C. 37, Sec. 703-1[1][b]). Also, upon the filing of a petition and a court finding that the minor's conduct may endanger himself or others, a warrant may be issued to take the minor into custody (C. 37, Sec. 703-1[2]). With a few exceptions, minors under 17 may not be prosecuted under the criminal laws of the state or for violation of an ordinance (C. 37, Sec. 702-7).

California

Status offenders and juvenile delinquents are defined differently. A status offender is any person under age 18 who is:

- a stubborn child;
- in violation of any local ordinance establishing a curfew based solely on age;
- an habitual truant; or
- an habitual school offender.

(Citation: Calif. Wel. & Inst'ns. Code Sec. 601)

A delinquent is any person under age 18 who violates any law of the state, of the United States, or any local ordinance defining crime other than an ordinance establishing a curfew based solely on age (Sec. 602). Formerly, a status offender who violated an order of the juvenile court was also classified as a delinquent (Sec. 602 [1975]); however, the legislature deleted this provision in 1976.

Both status offenders (Sec. 601) and juvenile delinquents (Sec. 602) are within the jurisdiction of the juvenile court, except that an habitual school offender or habitual truant is referred to a school attendance review board before referral is made to the juvenile court (Sec. 601.1). If the board finds that available services are insufficient or inappropriate to correct the problem, or if the minor fails to respond to services provided, the minor then comes within the jurisdiction of the juvenile court (Sec. 601). Juvenile court proceedings (of any type) are not criminal proceedings (Sec. 503).

The court procedure for status offenders and delinquents is largely the same, with some exceptions. For example, proof beyond a reasonable doubt, supported by evidence admissible in criminal cases is required for a finding of delinquency, while finding that a minor is a status offender requires only the preponderance of evidence admissible in civil cases. (See also Sec. 681 [appearance of prosecuting attorney in a delinquency case]; Sec. 707 [fitness hearing in a delinquency case].) Upon finding that a minor in a delinquency case is not a fit and proper subject for the juvenile court, he is tried as an adult in a court of criminal jurisdiction (Secs. 707, 707.1).

Some of the dispositional alternatives are the same for both delinquents and status offenders. Both delinquents and status offenders may be placed in custody of:

- an individual;
- an association or society;
- the probation officer, to be placed in a private family home or private institution; or
- a public agency.

A delinquent minor may be committed to a juvenile home, range, camp or forestry camp (Sec. 730), or to a shelter-care facility or the Youth Authority (Sec. 731).

New York

"Juvenile delinquent" and "person in need of supervision" are defined differently:

- Juvenile delinquent - person between 7 and 16 who does an act which would constitute a crime if done by an adult (N.Y. Fam. Ct. Act Sec. 712[a] [CLS Supp. 1976]).
- Person in need of supervision (PINS) - male less than 16 and female less than 18 who is a truant or who is incorrigible, ungovernable, or habitually disobedient and beyond the control of parent or other lawful authority (Sec. 712[b]).

The family court has exclusive original jurisdiction over persons in need of supervision as well as juvenile delinquents.

Provisions for discharge, release or detention, both before and after filing of a petition but prior to an order of disposition, are similar for ~~persons in need of supervision~~ and delinquents. However, there is a greater likelihood that a person in need of supervision will be released in the custody of his parents (Secs. 728, 739). For both PINS and delinquents, the statute favors release as opposed to detention.

A proceeding to adjudicate a person a juvenile delinquent or a person in need of supervision is originated by the filing of the the appropriate petition. The petition must state facts sufficient to meet the statutory definitions in Sec. 712(a) or 712(b) (Secs. 731, 732).

Upon adjudication, disposition alternatives for delinquents and persons in need of supervision are similar, but not identical. For both categories:

- judgment may be suspended;
- proceedings may be continued and the person placed in accordance with the statute; or
- the youth may be placed on probation.

¹ That portion of the Section dealing with females between 16 and 18 has been held unconstitutional. A.v. New York, 31 N.Y.2d 83, 335 N.Y.S.2d 33, 286 N.E.2d 432 (1972). See also Re B., 68 Misc.2d 95, 326 N.Y.S.2d 702 (1971).

A person in need of supervision may be discharged with a warning. For a juvenile delinquent, restrictive placement may be required or placement made with the Commissioner of Mental Hygiene (Secs. 753, 753-a, 754, 760).

Delinquents or persons in need of supervision may be placed:

- in their own home;
- with a relative
- with another private person;
- with the commissioner of social services; or
- with the division of youth.

(Citation: Sec. 756)

Although states differ in which responses, or mix of approaches, seem appropriate, most states across the nation seem to concur that the current criteria for defining detention and correctional facilities offered by the Office of Juvenile Justice and Delinquency Prevention do not allow for sufficient flexibility across states and the almost certain variation in the organization and delivery of community-based services. Issues of how to define types of facilities, how to determine capacity, the nature of commingling status and criminal-type offenders, allowable detention times, and the role of the private sector (i.e., providers who may be on purchase-of-service contracts with the state) are still open for debate. In many important and unique respects, however, Massachusetts may prove to be a forerunner in establishing acceptable terms for the treatment of status offenders that both satisfies the needs of the clients and the intention of the legislation to "decriminalize" these class offenses.

7.3 Attempts to Revise Chapter 1073 Since 1973

Despite the fact that there was strong opposition to Chapter 1073 prior to its enactment, there were only a few major attempts to amend or revise the statute in 1974, 1975 and 1976. More substantial efforts were not undertaken until 1977. To the best of our knowledge, Chapter 1073 remains precisely in the form signed by the Governor in November of 1973, except for three amendments.

In 1976, two sections of the statute were amended. The first, which amended Section 39E, was of some significance in that it required notice of the hearing on the application to be given to the Department of Public

Welfare as well as the Department of Youth Services.¹ The second inserted a very technical change into Section 39G concerning commitment of children to DPW.² A 1977 amendment, modifying section 39H, specifically authorized DPW to detain CHINS youth.³

The following sections highlight the unsuccessful attempts that have been made to amend, modify or repeal the law since 1974 as well as the bills currently before the legislature.

1974

Four bills affecting the CHINS legislation were offered in the Massachusetts Senate in 1974: S 1019, 1040, 1288 and 1726.

S. 1019 gave the Probate Court authority to grant custody of children to licensed foster care agencies with reimbursement to be made by the Department of Public Welfare.

S. 1288 provided for a technical change in the appeals process of CHINS cases in the Worcester, Springfield and Bristol County Juvenile Courts.

S. 1040 attempted to revise the CHINS law by applying the bail provisions to runaways, as well as stubborn children, and to stay all orders of the court when an appeal de novo was entered in a CHINS case. This bill received an unfavorable report by the Judiciary Committee.

Finally, S. 1726 would have repealed Chapter 1073 and substituted a new procedure for runaways involving the establishment by DPW of temporary shelter facilities to meet the emergency and diagnostic needs of these children.

The bill would allow DPW to file a petition with the court if the Department decided to provide temporary protective care to a child over 13 who voluntarily sought services at the temporary shelter facility and whose parents were unwilling to permit the child to reside and receive services at such a facility. The court could, under this legislation, order DPW to take temporary custody of the child; to provide services and care for the child; and to order the parents to cooperate with DPW.

¹ Acts 1976, c.412, Sec. 1.

² Id., Sec. 2

³ Acts 1977, c.543.

The bill did not make reference to stubborn children, truants, or habitual school offenders. It was referred to the Senate Ways and Means Committee which issued no report.

1975

In 1975, five bills were filed in the legislature relating to CHINS, H. 59, H. 2485 and H. 3133 as well as S. 131 and S. 1939.

H. 59 and H. 3133 provided for the repeal of Chapter 1073, to be replaced by a program of services and temporary shelter for runaways similar to S. 1726, discussed in the previous section.

H. 2485 attempted to amend section 39H of Chapter 1073 by redefining the role of the police officer in taking certain children into custody. The bill would have empowered a police officer to take a child alleged to be a CHINS into protective custody for a period not to exceed four hours. The police officer would have been required to make every effort to locate the parents, guardians, relatives or friends of the child. The act of protective custody was not to be considered as an arrest.

S. 131 and S. 1939 are substantially the same bills with only minor variations. S. 131 redefined "child in need of services" in several different ways. The stubborn child and habitual school offender categories were eliminated. The runaway classification required that a child not be in a temporary shelter facility at the time the CHINS case was initiated. A parent, guardian or police officer could apply for a petition in a runaway case, while a supervisor of attendance could seek a petition in a truancy case. The judge who conducted the hearing on the petition could not preside at any subsequent hearing on the merits only if a motion of the petitioner or child so requested.

The bill also authorized the court to consider petitions alleging that a child in need of services required the assistance of the court in obtaining necessary services. It also authorized the police to take runaway children into protective custody.

S. 1939 is substantially identical to S. 131. However, a child is defined as a CHINS by reason of truancy only if he persistently and willfully fails to attend school and has been provided an evaluation and a special education program in accordance with Chapter 766, but thereafter persistently

refuses to attend such program. Also, while permitting detention in a juvenile facility, S. 1939 would have required alleged CHINS to be separated from juveniles charged with or adjudicated as being delinquent. These two bills were referred to the Senate Ways and Means Committee on Joint Rules and no further action was taken.

1976

Only three bills relating to status offenders were filed in 1976. S.637, which was identical to S. 1939 filed in 1975, died in the Senate Ways and Means Committee.

H. 2297 attempted to amend Chapter 1073 by adding a new category for a child under 17 who offers his or her body to indiscriminate intercourse for hire. This bill received an unfavorable report by the Judiciary Committee.

H. 2296 was a more ambitious bill which attempted to revise the CHINS law in several ways. First, it modified the alternatives available to the court at the hearing on the petition as follows:

- a. It deleted the phrase "informal assistance" and replaced it with "non-resident assistance" and "resident assistance."
- b. It ~~deleted the requirement~~ that the child and parents consent to the referral to the probation officer for assistance.
- c. If the child was not brought in on arrest, and the petition issued, the probation officer would be required to make inquiry and report to the court his recommendation as to the plan of non-resident or resident assistance to best serve the interests of the child. At present, the court must, upon issuance of the petition, schedule a trial on the merits.
- d. If the child was brought in on arrest, the probation officer would have to make like inquiry and report his recommendation as to the plan of non-resident assistance to best serve the interests of the child. At present, the probation officer must make a more fundamental determination as to whether the interests of the child can best be served by informal assistance without a trial on the merits.

In addition, the bill changed the scheme of assistance available to the probation officer by permitting him to refer the child:

- i. to parents or guardian unless the child objected thereto, in which case to the nearest licensed or approved temporary shelter facility in a runaway or stubborn child situation;
- ii. to the department of education in a truancy or habitual school offender situation; or
- iii. to an appropriately licensed public or private organization or person for required services.

The adjudication process would have been changed in two ways. In order for a child to be adjudicated a CHINS, a finding would have to be made that the child had failed to complete a non-resident plan of assistance, in addition to the present requirement that the allegations in the petition be proven beyond a reasonable doubt. Secondly, the dispositions available to the court following adjudication would be expanded to include the placement of a child in the nearest licensed or approved temporary shelter facility and to require that the department of education provide services to those children who the court determined could remain with their parents.

Finally, the provisions relating to arrest and bail would have been changed by permitting law enforcement officers to arrest all potential CHINS children when the officer had probable cause to believe that the child would not respond to a summons. The present law permits an arrest for runaways only. Additionally, the bail process would be available for all types of CHINS who it was felt would not appear at a preliminary hearing. The present legislation restricts this process to stubborn children only. H. 2296 was not reported out favorably by the Judiciary Committee.

1977

Three bills were introduced in 1977 which proposed major changes in the CHINS law: S. 509 and H. 1399, which were identical, and S. 1921, drafted by the Committee on Human Services and Elderly Affairs, as a revision to S. 509 and H. 1399.

Three other bills, H. 1224, H. 5486 and H. 5496, called for the creation of a Department of Family and Children's Services, but proposed only minor technical changes in Chapter 1073.

S. 509 and H. 1399 attempted to revise the CHINS statute in the following areas:

- definition of CHINS;
- recommendation of plan of assistance;
- hearing on the application;
- types of assistance placed at the disposal of the probation officer;
- issuance of summonses;
- participation of counsel;

- findings required to adjudicate a child to be in need of services;
- orders of disposition available to the court;
- arrest, bail, and detention;
- appeals; and
- payment of expenses.

The bills also attempted to add two new sections to the law in the following areas:

- protective custody; and
- provision of shelter facilities by DPW and the Department of Mental Health (DMH).

The general thrust of these bills was to make the role of the court in the CHINS process less immediate. The bills contemplated that various state and local agencies would first make available or provide appropriate services directly to the child. The court would inject itself directly into the process only when such services had been offered and had proven to be unsuccessful.

This philosophy pervades many sections of these bills. Thus, CHINS would be redefined as either a runaway who had previously been referred to DPW and was not presently residing in some facility, or a truant who had received a core evaluation, educational plan, and a special educational program, but persistently refused to attend.¹

When a petition was applied for, the probation officer would be required to recommend a plan of assistance that would best serve the interests of the child. This contrasts with the present statute where the probation officer is to recommend whether or not a petition should issue. At the hearing on the application, the court would issue a petition only as a last resort if the child or parents had failed to complete a plan of assistance; under the present statute, informal assistance need not be attempted before a petition is issued.

To adjudicate a child to be in need of services, not only would a finding be required that the allegations in the petition had been proven beyond a reasonable doubt, but also a finding that there had been a failure to complete a plan of assistance.

¹ The stubborn child and habitual school offender categories are eliminated.

Several sections expressly required agencies or facilities to provide services to children and specified their responsibilities. Thus, during the informal assistance phase, the probation officer might refer the child to the nearest licensed or approved temporary shelter facility if referral to the child's parents or guardian was inappropriate, or to DPW or DMH. If the court issued a petition, and found a child to be in need of services, it could place the child in a temporary shelter facility. As under the present law, the court also could commit the child to DPW. In the event of a referral or commitment to DPW, however, a new provision required DPW to submit to the court a written treatment plan for the child. Furthermore, the department could not require commitment to it as a condition of providing services.

If a police officer believed that a child was a runaway, the officer could take the child into protective custody. If possible, the officer would be required to deliver the child to the parents or guardian, unless the child or parents objected, in which case the officer had to notify the nearest temporary shelter facility that is licensed or approved. If space was available at such a facility, the officer had to arrange for the child to be transported there.

DPW and DMH would be directed to provide temporary shelter facilities for runaways and other juveniles. These facilities would be halfway houses staffed by personnel trained in counseling and family affairs. Such facilities would have to accept referrals from the police, courts, DPW, DMH and other state agencies, when such agencies had determined that the juvenile was unable to reside at home. The duration of residence would be determined by both the forwarding agency and the juvenile. Cities and towns could also provide facilities for juveniles by contracting for local shelter care centers under the auspices of DPW, local mental health departments, and mental retardation area boards.

Like S. 509 and H. 3199, S. 1921 constituted a major revision of the CHINS statute. The bill incorporated many of the provisions of the earlier 1977 bills, but did contain several important changes. The major distinction in S. 1921 was that it shifted attention from the child alone to the entire family. Thus, the term "child in need of services" would be eliminated and the term "family in need of services" (FINS) substituted. A FINS would be a family in need of court assistance because it had:

- a runaway child, substantially as defined in H. 509;
- a stubborn child, as long as there had previously been a referral to DPW for services;
- a truant, as defined in H. 509, except that S. 1921 specified a full or intermediate CORE evaluation; or
- a child who, pursuant to law, should be receiving services from the Commonwealth, but was not.

The latter category attempted to strengthen the arm of the court in dealing with public agencies that have neglected to provide needed services; thus, at the preliminary hearing, upon the failure of a public agency to provide the child services required by law, the court, as a last resort, could issue a petition and schedule a trial on the merits. Correspondingly, the bill enabled public and private agencies to play a more active role by allowing them to file a petition in the runaway and stubborn child situations.

The bill also contained a number of provisions further reflecting the shifting of focus from the child to the family. Thus, whenever a child was brought before the court, the court would be specifically authorized to ~~appoint counsel for the parents if it appeared necessary~~ to separately protect the interests of the parents. At the request of a parent or guardian, the police would be required to immediately attempt to locate runaway children; and the parents, as well as the child, could appeal from an adjudication that the family is in need of services.

Another important feature of the bill was that it prohibited the participation of public agencies in certain respects. For example, no child could be placed with DYS or referred to a temporary shelter facility operated by or under contract with DYS. The provisions in S. 509 authorizing and directing DMH's involvement in the provision of shelter facilities were deleted. Only the involvement of DPW was so authorized and directed. However, during the period of informal assistance, the probation officer could refer the child to DMH. S. 1921 ultimately died in the Senate Ways and Means Committee.

1978

Three bills were introduced in 1978 which related to Chapter 1073, S. 707, S. 3892 and H. 2801. S. 707 and H. 2801 are identical. H. 3892 is identical to S. 1921 filed in 1977.

Fundamentally, S. 707 and H. 2801 are similar in philosophy to S. 1921. The departures from the previous legislation appear to be designed to accomplish three purposes:

- to improve the attendant legal safeguards;
- to strengthen the services available to families in need of services; and
- to increase the opportunity to resolve problems without direct judicial intervention.

The legal safeguards are augmented in several respects. During the period of informal assistance, the child and counsel would be given prior notice and an opportunity to be heard concerning a determination by the probation officer that the purposes of the conferences and referrals have been achieved, and/or that the petition should be dismissed. At the commencement of such conferences and referrals, the child and his family would be notified in writing that statements made during the period of conferences could be received by the court after adjudication for the purposes of disposition. Notification of the right to counsel would have to be given to the child at all hearings. Under S. 1921 (1977), ~~as under existing law~~, such notice is expressly required only at the preliminary hearing.¹

The 1978 bills would make available improved services and a greater number of facilities. The probation officer could refer a child to a family foster home as well as to a temporary shelter facility. Referral to DMH is specified more particularly, viz., to the Regional Children's Coordinator of DMH. When the court refers or commits a child to DFW, DFW would be required to submit a treatment plan for the child and family. The department could not require commitment to it as a condition of providing services to the child and family. Under S. 1921 (1977), DFW's responsibilities extended only to the child. A police officer who takes a runaway child into protective custody would have to notify the nearest temporary shelter facility or an emergency shelter program approved by DFW if delivery of the child to the parents or guardian is inappropriate. If space is not available at such a facility, the bill requires that DFW be so notified.

¹ However, all three versions provide that all rights and procedures of the CHINS statute apply to the trial on appeal. Furthermore, S. 1921 (1977) provided that the child and counsel must be present at all hearings.

S. 707 and H. 2801 contain several provisions whose effect would be to further delay the direct participation of the court and to provide more time and opportunity for use of informal assistance procedures. Thus, only a public or private agency which has had prior social service involvement with a child could apply for a petition alleging that the child's family is in need of services. When any person or agency applies for a petition, the clerk would have to first determine whether or not a prior referral to DPW has been made. If no such referral has been made, the clerk or a probation officer would have to make such a referral for the applicant. The clerk would set a date for the preliminary hearing only if such prior referral has been made or is not required. The parent and child might voluntarily agree in writing to a continuation of conferences and referrals arranged by the probation officer for additional periods not exceeding six months each. S.1921 (1977), like the present statute, provides for only one additional six-month period. At the time of the writing of this report, no final legislative action had been taken on any of these bills.

The significant provisions of all of the bills discussed above are outlined in Figure 7.3.1 which follows. An analysis of this chart shows that the more recent legislation is broader in the scope of recommended changes of Chapter 1073 than earlier attempts at revision.

AREA	CHANGE	YEAR	1974		1975					1976		1977			1978		
		BILL	S. 1049	S. 1726	S. 131	H. 59	H. 3133	H. 2405	S. 1939	S. 637	H. 2296	S. 509	H. 1399	S. 1921	H. 3892	S. 707	H. 2801
<u>Definitions of CHINS</u>	<p>Modified definitions of CHINS:</p> <p>Runaway who is not presently placed in a licensed or approved facility.</p> <p>Runaway who has previously been referred to DPW and is not presently placed in a licensed or approved facility.</p> <p>Truant who has been provided with an evaluation and special education program, but thereafter refuses to attend such program.</p> <p>Truant who has been provided with a core evaluation educational plan, and special educational program, but thereafter refuses to attend such program.</p> <p>Abolishes stubborn child and habitual school offender categories.</p>				X				X	X							
<u>Ancillary Petitions</u>	<p>Authorizes parent, guardian, child over 14, or public or private agency to receive, or provide services to children, to file petition alleging that a CHINS needs the assistance of the court to obtain needed services.</p>				X				X	X							
<u>Family in Need of Services</u>	<p>Establishes concept of Family in Need of Services (FINS) (abolishes CHINS concept); a FINS is a family in need of court assistance because it has:</p> <ul style="list-style-type: none"> a runaway who has previously been referred to DPW; a stubborn child who has previously been referred to DPW; a truant who has been provided a full or intermediate core evaluation educational plan, and a special educational program, but thereafter refuses to attend such program; or a child who, pursuant to law, should be receiving services from the Commonwealth but is not. <p>Authorizes a public or private agency to apply for a petition alleging that a family is in need of services because it has a child in any of the above categories except truancy.</p> <p>Authorizes filing of such petition by public or private agency only if it has had prior social service involvement with the child.</p>													X	X	X	X
														X	X		X

AREA	CHANGE	YEAR	1974		1975				1976		1977			1978			
		STILL	S. 1040	S. 1726	S. 131	H. 59	H. 1133	H. 2405	S. 1939	S. 637	H. 2296	S. 509	H. 1399	S. 1921	H. 1092	S. 707	H. 2001
<u>Preliminary Hearing</u>	<p>Modifies distinction between child brought in on arrest and child not brought in on arrest.</p> <p>Modifies requirement that parents consent to referral of child to probation officer.</p> <p>Requires probation officer, upon issuance of a petition, to recommend plan of assistance, or disposition, that will best serve interests of child.</p> <p>Requires probation officer, upon application for petition, to determine plan of assistance that will best serve interests of child.</p> <p>Provides, upon issuance of petition, for referral of child to probation officer for assistance, pending a trial on the merits.</p> <p>Permits issuance of petition only upon failure of child or parents to complete a plan of assistance.</p> <p>Permits issuance of petition only upon failure of child or parents to complete a plan of assistance or a public agency to provide services required by law.</p> <p>Requires clerk, upon application for a petition, to determine whether prior referral to DFW has been made; if not, clerk or probation officer must make such referral.</p>										X	X	X	X	X	X	
											X	X	X	X	X	X	X
												X	X	X	X	X	X
											X						
												X	X				
														X	X	X	X
																X	X
<u>Informal Assistance</u>	<p>Places additional types of assistance of disposal of probation officer--probation officer may refer child to:</p> <p>parents or guardian; if child objects, to a temporary shelter facility in:</p> <p>runaway or stubborn child situations only</p> <p>runaway situations only</p> <p>parents or guardian; if child or parents object, to a:</p> <p>temporary shelter facility</p> <p>temporary shelter facility or family foster home</p> <p>the Department of Education, in truancy or habitual school offender situations only:</p> <p>DFW or DMH</p> <p>DFW or the regional children's coordinator or DMH</p> <p>Limits referrals to public or private organizations or persons to those that are appropriately licensed.</p>										X	X	X	X	X	X	
											X	X	X				
														X	X	X	X
												X	X	X	X	X	X
											X						

AREA	CHANGE	YEAR	1974		1975				1976		1977			1978		
		BILL	S.1040	S.1726	S.131	H.59	H.3133	H.2485	S.1939	S.637	H.2296	S.509	H.1399	S.1921	H.3892	S.707
<u>Informal Assistance</u> (cont'd)	Prohibits placement in temporary shelter facility operated by or under contract with DYS. Permits additional six-month periods, not limited in number, for conferences and referrals. Requires child and counsel to be given prior notice of intended dismissal of petition and an opportunity to be heard thereon. Requires, at the commencement of the conferences and referrals, child and family to receive written notification concerning use of statements.												X	X	X	X
<u>Summonses</u>	Authorizes issuance of summons upon filing of application. Authorizes child or parents to be summoned. Authorizes issuance of summons for either preliminary hearing or trial on the merits.										X	X	X	X	X	X
<u>Arrest</u>	Authorizes arrest by police officer of any CHINS whom officer has probable cause to believe will not respond to a summons. Abolishes arrest on ground that police officer has probable cause to believe that child is a runaway and will not respond to a summons. Requires court to order runaway who has been arrested to be released into temporary care and custody of adult, a private organization, or DMW, if the court finds such child is not likely to appear at the preliminary inquiry or the trial on the merits. Abolishes arrest; authorizes taking CHINS into protective custody up to 4 hours. Abolishes arrest; authorizes taking child who has failed to obey a summons into custody and immediately bringing child before the court.									X						
<u>Bail</u>	Extends bail provisions to runaways. Limits imposition of bail to runaways. Extends bail provisions to all CHINS categories. Permits bail only if child has run away from court-ordered placement. Abolishes bail.		X											X	X	X

AREA	CHANGE	YEAR	1974		1975				1976		1977			1978			
		BILL	S.1040	S.1726	S.131	H.59	H.3133	H.2485	S.1939	S.637	H.2296	S.509	H.1399	S.1921	H.3892	S.707	H.2801
<u>Detention</u>	Requires CHINS who are detained to be separated from juveniles charged with or adjudicated as being delinquent. Prohibits detention in institution operated for juvenile delinquents or in a police or court call or lock-up. Prohibits detention after adjudication. Provides that the number of detention days are to be computed by adding the number of days served under all applications. Abolishes detention.								X	X		X	X				
<u>Trial on the Merits</u>	Prohibits, upon motion by petitioner or child, the judge who presided at the preliminary hearing from conducting the trial on the merits. Requires, to adjudicate a child to be in need of services, an additional finding that there has been a failure to complete a plan of assistance. Requires, to adjudicate a family to be in need of services, an additional finding that there has been a failure to complete a plan of assistance. Makes additional orders of disposition available to the court--court may: Make provision for services with the Department of Education; Place child in nearest temporary shelter facility that is licensed or approved if space is available; Place child in a temporary shelter facility that is licensed or approved; Place child in group care facility operated under contract with DPW or approved by the Department of Education to provide special education services. Limits placements with private agencies to those that are licensed or approved by law. Prohibits placement with DYS or a temporary shelter facility operated by or under contract with DYS. Prohibits DPW from requiring commitment to it as a condition of providing services to child. Prohibits DPW from requiring commitment to it as a condition of providing services to child and family. Requires DPW to submit a written treatment plan for child. Requires DPW to submit a written treatment plan for child and family.				X				X	X		X	X		X	X	X

AREA	CHANGE	YEAR	1974		1975				1976		1977			1978			
		BILL	S. 1040	S. 1726	S. 131	H. 59	H. 3133	H. 2485	S. 1939	S. 637	H. 2296	S. 509	H. 1399	S. 1921	H. 3092	S. 707	H. 2001
<u>Appeals</u>	Provides that an appeal for a trial de novo stays the order appealed from. Abolishes one-day limit for filing notice of appeal. Requires court to notify child of right to appeal. Requires court to notify child and parents of right to appeal. Authorizes parents, as well as child, to appeal an adjudication that the family is in need of services		X									X	X	X	X	X	X
<u>Counsel</u>	Requires counsel to be present at all hearings. Authorizes court to also appoint counsel for parents. Requires child, whenever he or she is brought before the court, to be notified that he or she has a right to counsel at all hearings.											X	X	X	X	X	X
<u>DPW Notification and Participation</u>	Requires notice of filing of application and of all hearings to be given to DPW, a representative of which must attend all hearings.											X	X	X	X	X	X
<u>Expenses</u>	Makes mandatory the provision of services or release of funds to state treasurer by any state agency which provides services authorized under the state. Requires Commonwealth to pay expenses directly.											X	X	X	X		
<u>Police Assistance</u>	Authorizes police officer who reasonably believes child is a runaway and a danger to himself or others to take child into protective custody. Requires police officers, at request of parent or guardian, to make immediate efforts to locate runaway children.				X				X	X		X	X	X	X	X	X
<u>Shelter Facilities</u>	Authorizes establishment of shelter facilities by: DPW, DMH, and cities and towns DPW, and cities and towns											X	X		X	X	X
<u>Repeal</u>	Provides for repeal of entire CHINS statute. Provides for repeal of sections 39E through 39J of Chapter 119 as of January 1, 1977. Provides for repeal of sections 39E through 39J of Chapter 119 upon effective date of bill (inconsistent with other sections).			X		X	X										

AREA	CHANGE	YEAR	1974		1975				1976		1977			1978			
		BILL	S.1040	S.1726	S.131	H.54	H.3133	H.2405	S.1939	S.637	H.2296	S.509	H.1399	S.1921	H.3892	S.707	H.2001
<u>Diversion</u>	Substitutes a new procedure for runaways (no mention made of stubborn children, truants, or habitual school offenders) in place of CHINS procedure, involving:																
	Establishment of temporary shelter facilities by DPW.			X		X	X										
	Filing of petition by DPW alleging that child should be in a temporary shelter facility.			X													
	Filing of petition by any person alleging that child should be in a temporary shelter facility.					X	X										
	Procedures to be followed by police when assisting runaways.			X													
	Authorization for police assistance to runaways.					X	X										
	Prohibition of delinquency proceedings unless informal adjustment has been unsuccessful or is inappropriate.			X													

CONTINUED

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Chapter 8

RECOMMENDATIONS

Introduction

It is never difficult to postulate on how matters can be handled more effectively or a task performed more efficiently; the difficulty arises in offering suggestions and recommendations which are realistic and sensitive to a complex of issues. The recommendations made in this chapter attempt to be sensitive to two important criteria: first, to concentrate on areas that will have maximum benefit for the children; and second, to make realistic suggestions that can be implemented within a reasonable amount of time, with a reasonable amount of energy, and which call for a reasonable allocation of resources. Although there are obviously two types of changes that can be recommended--those that can and should be accomplished in the short-term and those that should be set as longer-term implementation goals--none of the recommendations made as a result of this research exceed the bounds of the ~~current capabilities within~~ the Commonwealth.

We have divided our recommendations into two categories: agency relevant policy or procedural recommendations that could be implemented by virtue of policy or procedural guidelines within an agency or by administrative agreement across state agencies; and legislative recommendations that will require amendments to Chapter 1073. Section 8.1 presents recommendations to be considered by the Department of Public Welfare, the probation departments throughout the Commonwealth, and other state agencies that could appreciably improve the system for delivering services to status offenders and the quality of the services which are available. Section 8.2 describes our recommendations with regard to the drafting of a new statute to guide the CHINS process. Here we have attempted to retain the best portions of the current law, the recognized revisions of the pending FINS legislation, and the suggestions of clerks, probation officers and judges of the Commonwealth on how the CHINS process would best be organized and statutorily defined.

8.1 Agency Relevant Policy or Procedural Recommendations

Our recommendations have been divided into two categories: placement and services (with some consideration of costs), and organization and administration. These categories correspond to the organization we chose in presenting our major findings in Chapter 2.0. Recommendations concerning the courts and the court process are logically presented in the following chapter which deals with issues relevant to the CHINS statute and revised legislation.

Placement and Services

1. Mental Health

- The Department of Mental Health should be statutorily mandated to provide, on a regional basis throughout the state, adequate diagnostic, short-term and longer-term treatment services to adolescent children. These services should also include adequate provisions for short-term and long-term residential care and outpatient treatment. Moreover, the screening and intake criteria used to place children in these ~~services must accommodate the~~ wide range of emotional needs of adolescents in the CHINS population. Because we believe that the majority of CHINS children have problems which have their roots in the difficulty of being adolescent in our current culture, the DMH services available should concentrate on, but not be exclusively for the severely troubled adolescent, or the extreme child. Although each region of the state needs placements for a small number of these children, there is a greater need for easy access to outpatient diagnostic and counselling services. The Department of Public Welfare is not equipped with the appropriate facilities, staff, or expertise to enter the mental health field. We feel that the primary responsibility should lie with DMH.

2. Emergency Shelters

- The needs of the chronic runaway are uniquely different than those of other CHINS children. It is the chronic runaway who has perpetuated a feeling among clerks, probation officers, judges, and even CHINS workers, that there needs to be a secure setting for

CHINS children. The Department of Public Welfare, under no set of circumstances, should be involved in the detention or confinement of children. It should, however, provide, on a regional basis, 24-hour intake emergency shelters for runaways. These shelters should insure concentrated adult supervision at all times in order to deal with the child who has the impulse to run. Emergency shelter facilities need to be available for the placement of children arrested by the police as "being on the run" and for other children whose compulsive and chronic running prevents adequate diagnosis and treatment plans from being developed and delivered. These shelter facilities should not, however, be designed to house the severely emotionally disturbed child as a substitute for the responsibility of DMH.

3. Special Education

- The State Department of Education, Division of Special Education, and related offices and personnel within the Department of Education should be compelled to notify all school districts in the Commonwealth that no child shall be brought to a juvenile or district court throughout the Commonwealth on a request for an application on grounds of truancy until a core evaluation has been completed on that child and there has been additional evidence that attempts have been made at home visits and parent conferences designed to ameliorate the school problem. The inappropriateness of many truancy complaints is not that there has been no truancy behavior, but the lack of the initiative on the part of the school departments to deal with troubled children. Instead of trying to help these children, the schools sometimes begin a complicated court proceeding which, ultimately, can deal with the problem no more effectively than those trained in special education. Local school departments must accept the responsibilities outlined for them by Chapter 766 and not attempt to shift those responsibilities to the courts.

4. Placements for the Difficult Child

- The purchase-of-service basis on which the service delivery system in the Commonwealth operates needs to be adjusted to prevent service providers from refusing to serve the difficult child. Contracts or agreements with providers need to include provisions for insuring the placement of a small number of children at the option of the contracting agency. Although it is anticipated that this will happen infrequently, it is necessary to minimize the frustration of confronting providers who develop policies and procedures which essentially screen out, or turn away, children who are difficult to service. These children should not be denied services because service providers have chosen simply to take the "easier and more manageable" youth.

5. Foster Care

- Additional attention needs to be given to the training and monitoring of foster parents and foster home environments. We were repeatedly told by probation officers and CHINS workers that there is a critical need for better matching between the capabilities and skills of the foster parents and the needs of the children. Foster parents need to be trained for this highly specialized role, they need to be continually supported in their attempts to provide care for children, and they need to be evaluated and monitored to prevent abuses and to improve foster care services over the long-range. The notion of specialized foster care should permeate the system rather than be considered a unique type of foster care. All foster care should be specialized in the sense that there is information available about the types of children the family is best capable of servicing, the types of skills the family needs, and the level of appropriate support from state agencies that should be provided during the stay of the child in a foster home.

6. Service Gaps

- Massachusetts has developed an impressive network of community-based local social service agencies and providers. There are some gaps in this network of services for CHINS youth, although some believe that the problems in the delivery network are not exclusively "service gap" problems but problems of coordination and even overlap. We believe that both views have merit. For example, in addition to the major gaps in mental health services for adolescents, there are several other gaps that need to be addressed from region to region which in some cases reflect the inadequacy of data during the period DFW was doing its initial planning. We recommend:

- That the individualized monitoring program be expanded to include adequate slots for both boys and girls on a regional basis.
- That the short-term foster care program be expanded in regions such as Region VI where we discovered a lack of sufficient slots within a close geographical proximity to the child's home.
- Other adjustments on a region by region basis that will provide an adequate mix of ~~emergency~~ services designed to encourage appropriate DFW referrals by the courts.

7. Monitoring and Evaluation

- In addition to addressing these service gaps, however, we feel strongly that consideration be given to mechanisms for developing better coordination among agencies and across regions in the state. The social service delivery network is in critical need of monitoring and evaluation to determine which services are effective and efficient. There is currently little information about which type of service, or which mode of service delivery, matches most effectively with a given constellation of characteristics or needs. The matching of needs with services is frequently a process driven by availability and expediency rather than a real understanding of

the etiology of problems and the impacts of treatment. We strongly recommend that Massachusetts begin to take the lead in developing a monitoring and evaluation system to assess the effectiveness of services as the logical extension of the evolution and development of community-based social service delivery.

Organization and Administration

1. Regionalization of Services

- The Department of Public Welfare needs to balance a central management requirement to monitor service delivery statewide with the importance of being sensitive to differences in regional needs and capabilities. The characteristics of the children and the availability of services across regions may vary considerably, and the Department of Public Welfare should consider maximizing the ability of each region to manage its own resources and respond to its own needs. Essentially, this means greater regional control of resources both in developing new resources and in managing those that currently exist. Although the notion of sharing resources across regions and inter-region cooperation serves to minimize duplication and maximize central coordination, it does not recognize the realities of local resource management; CHINS workers and supervisors repeatedly stressed the need to keep children close to their homes and communities and to be able to know on a day-to-day basis whether service "slots" are available for the children of their region. Having services split between regions fosters a sense of competition which is neither healthy nor desirable for the most effective delivery of services.

2. Planning Resource Allocation

- Now that the Department of Public Welfare has information available regarding the number of CHINS statewide, the distribution of CHINS by regions, and the number of CHINS being handled by the workers in each of the juvenile and district courts, better planning and distribution of DFW resources can be made. There needs to be a more effective match between the demands of caseload and case distribution by region and the resources available.

3. Centralization of Management

- The central CHINS coordinator needs to be relocated within the management and organization of the DFW structure so that there is more direct communication with the regional offices, local community service agencies, CHINS supervisors, and CHINS workers. As the CHINS program evolves, the CHINS coordinator should be in a position to analyze caseflow data on a monthly basis, to monitor the use of services on a statewide basis each month, and to consider the best allocation of resources over the course of the fiscal year. The CHINS coordinator, therefore, needs more direct links with the supervisors and workers who deliver services to the children and who work with the juveniles and district court probation offices.

4. Regional Management

- There needs to be better regional organization of the CHINS program. The workers should all have a supervisor to whom they report on a regular basis and who reviews their casework. No worker should go unsupervised and unassisted in the task of dealing with CHINS children. No CHINS supervisor should have any other responsibilities within DFW other than to the CHINS program. Supervisors with multiple responsibilities lack a sense of the problems of the CHINS workers and are not capable of offering supervisory or management support to either the department or to the daily responsibilities of the workers.

5. Caseload Monitoring

- The organization of the program within the region makes individual case monitoring and supervision difficult. The monitoring and evaluation of workers is critical to the success of the program. The distribution of cases to workers needs to be monitored more closely on a regional basis to insure that workers have a manageable caseload and that there is some inherent flexibility in the case assignment process to allow for differences across court and

among the children. There can be no single caseload size which will adequately guide the monitoring of caseload process. Each regional supervisor needs to understand the priorities of the courts to which the workers are assigned, the types of services that are available in those jurisdictions, and the skills and limitations of each worker, and should be able to monitor and assign cases on a logical and rational basis.

6. Transfer of Cases

- Greater attention needs to be given to the coordination between CHINS workers and the DPW generalists assigned to the local community service agencies. In theory, the CHINS worker is to be delivering short-term services to children and, when a more long-term involvement of a social worker would be helpful, the cases are to be transferred to a generalist. Because of the unavailability of generalists, because workers have not completed the necessary "paperwork" for transfer, because of the feeling on the part of the CHINS workers that their cases will not be given the proper attention if they are transferred, and because of the desire of the CHINS workers to do "casework" this transfer process is not working as well as it should. The mechanisms for transfer need to be linked to some clear criteria or standard for determining when cases should be transferred to the local CSA worker; time alone is not an adequate definer of this process because cases and circumstances may differ substantially. The department needs to consider the transfer process, the strengths inherent in this process, and the policy and procedures which would maximize the effectiveness of this type of case transfer and assignment within the regions.

7. Role of the CHINS Worker

- The general role of the CHINS workers needs to be more carefully defined. Although the role needs to have some degree of flexibility to be able to respond to the special rapport each worker establishes with the probation departments, there is too much variation in the type of role that the CHINS workers play in dealing with their cases. Their jobs vary from intense casework to acting as referral agents for probation officers. The workers need to have a better sense of the job they are to perform and the type of services they are to delivery. Ambiguity should be removed from the role of the CHINS worker.

8. Placement Follow-Through

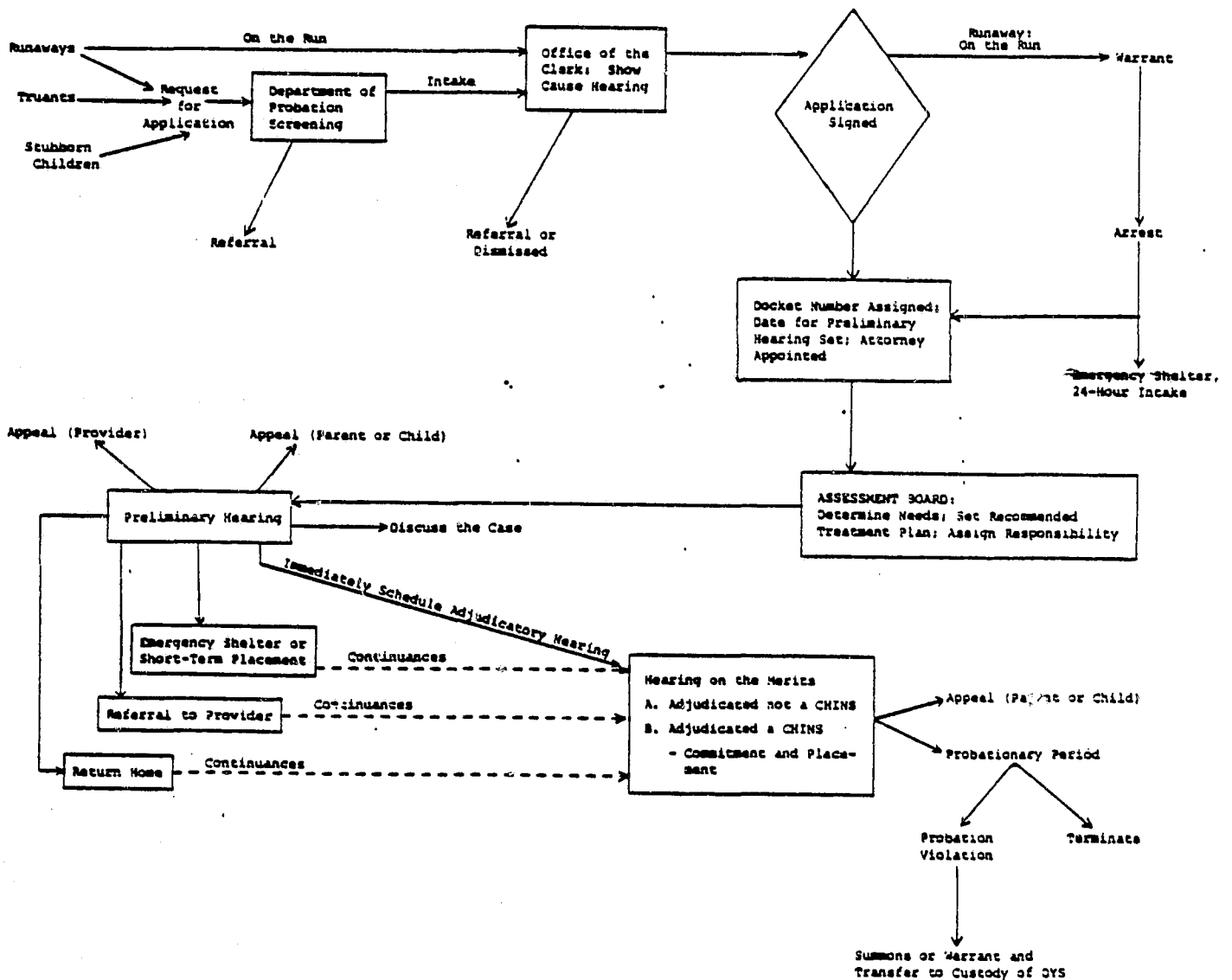
- The use of long-term foster care and group care placements for CHINS children needs to be considered as a management problem within DPW. The definition of what constitutes a "CHINS referral" to group care, and better management data about where these children get placed, how many there are, how long they stay in placements, and the average cost to the Department all need to be considered and clarified for the implications they have on both cost and appropriateness of this type of care for the CHINS youth.

8.2 Statutory Recommendations Relevant to the CHINS Process

Figure 8.2.1 sets out graphically the new recommended CHINS Process that has been developed as a result of this study. The following section describes the important steps in the process that should be changed by introducing new CHINS legislation. A narrative explanation for each change, deletion or addition to the process is offered to highlight the differences between recommended changes in the statute and the existing CHINS legislation.

Before beginning the narrative in this section it is important to note that in arriving at our findings and recommendations it was necessary to review the current debate throughout the county regarding the proper relation-

FIGURE 8.2.1
Recommended CHINS Process



ship between the courts and status offenders.¹ This review must of course be examined in light of the CHINS program in Massachusetts. The time may well come in Massachusetts when status offenders can be completely removed from the court system and their needs met by a network of public and private services. That network does not now exist in Massachusetts, nor for that matter do we have evidence of successful non-court involvement in any other state. We chose, therefore, no serious considerations of a non-court involved status offender program.

¹See Chapter 7 for a discussion of these issues.

Most children can be served without formal entry into the court process, provided that there is a place to go to get help. The formal court process should be reserved only for those children who are unwilling to participate voluntarily and in those cases where court intervention and authority is necessary to achieve the proper placement. It may well be that such a scheme will bring more children into the CHINS system but these will be on an informal basis and will avoid the development of records and other negative by-products of formal interaction between adolescents and the courts.

Children alleged to be status offenders in Massachusetts have been helped immeasurably by the interaction between the courts and DPW, particularly since the creation of the CHINS Unit on July 1, 1978. However, we feel that a number of changes could be made that would improve the program further. Those changes are set out in the balance of this chapter. These changes must be read in terms of an improved program in operation on a statewide basis. No statutory scheme can be developed to deal with the vagaries of a single judge in Court X, a probation officer in Court Y or a CHINS worker in Court Z. Nor can the statutory scheme deal with the complexities of treatment for every child alleged to be a CHINS. Rather, our changes are an attempt to improve the process and services available to over 6,000 youth in 69 Massachusetts courts over the next several years, with the following principles in mind:

- That as many CHINS children as possible be diverted from the formal court process;
- That every effort be made to provide the type and quality of service that will result in as many children as possible remaining within the family unit;
- That the formal court process be used only when all voluntary efforts have failed or when the authority of the court is necessary to secure proper services;
- That it should not be the policy of the Department of Public Welfare to participate in a program which requires their involvement in the bail process or the development of locked, or secure programs;
- And that it be clearly recognized that problems of status offenders are not exclusively the problem of DPW, but the shared responsibility of all state agencies dealing with troubled adolescents including DMH, Office for Children and the Department of Education.

The following sections outline the major components for recommended changes in the current Chapter 1073 legislation. Abt Associates has also drafted portions of a model statute to demonstrate the viability of these recommendations although the statute drafts could not be included in this report until recommendations have been fully considered and debated. It is hoped that they will be of considerable assistance as the three new legislations or legislative amendments to Chapter 1073 are considered.

8.2.1 Definition of CHINS

We are recommending that the basic categories of runaways, stubborn and truancy should be retained with the following changes:

Runaways - The present statute permits a runaway application to be brought by a parent, guardian or police officer. We propose to add as an application source a person who is presently the custodian of the child. This change would respond to a gap pointed out repeatedly in our interviews regarding children who have neither an interested or cooperative parent, nor a legal guardian. The word guardian in Chapter 1073 is usually defined by the courts as a legal guardian.

Stubborn Children - We have found no benefit to be gained by giving a police officer the right to bring an application for a stubborn child. Our data discloses almost no use of this process statewide. We would abolish that right.

We propose the same condition for a custodian as spelled out above for a runaway.

Finally, we would require that all applicants seeking a stubborn child complaint be required to demonstrate that they have made every effort to seek assistance elsewhere. In doing this our goal would be to make parents and guardians more responsible and to keep as many children as possible out of the formal court process.

Truants - Chapter 1073 permits a truancy application to be filed under two circumstances: the first is when it is alleged that a child persistently and willfully fails to attend school; the second is when it is

alleged that the child persistently violates the lawful and reasonable regulations of his school. The use of the latter charge occurs rarely and it is the general belief that this alleged form of conduct should not be classified as a status offense. We feel therefore that this conduct should no longer give rise to a CHINS action.

Many courts are now refusing to accept a truancy application if the local school department has not conducted a core evaluation. Other courts, however, feel that there is no statutory authority to deny an application when properly filed. We feel that the interests of the "truant" are best served by his/her school. We recommend several ways to assure this result. First, that only a special education instructor or designated representative of the Director of Special Education of the local school department be permitted to apply on the basis of truancy. Second, that a core evaluation must be completed prior to any request for a truancy application, and third that the school must have demonstrated attempts at home visits and other means to bring the child to school.

8.2.2 Pre-Application Screening

One of the most positive elements of the CHINS program since it was taken over in July by DPW has been the ability of some courts, CHINS workers and DPW providers to resolve the problems of a number of children without the necessity of formal court intervention which leads to stigmatization and the creation of a juvenile record.

But as our study reveals, there are a number of courts who are reading Chapter 1073 literally and feel that there can be no informal assistance offered until an application is signed and the case referred to the probation department. We strongly encourage maximum use of informal assistance.

We feel that it is necessary to provide statutory authority for this pre-application activity and that the probation department of the local district or juvenile court should be the agency charged with the initial screening and referral responsibility.

At the same time, we are mindful of the possible dangers of abuse that can occur when substantial authority over the lives of children is placed in anyone's control without proper safeguards. We are extremely impressed with the dedication and responsible manner in which the probation

officers we visited assumed charge of their clients. We do however feel that two proposals should be offered which will help to assure that this dedication will be followed in every case.

First, we propose that no long term (over 45 days) involuntary placement be made out of the home if this becomes desirable or necessary, without the full judicial process being invoked, including a hearing on the merits. We further recommend that no voluntary, long-term placement be made out of the home prior to the preliminary hearing. Our concern is the reports about the large number of CHINS children referred to long-term placements with no court involvement. The question is one of "voluntariness," Our proposed change would help to assure that families and children are clearly making a voluntary decision, but not delaying the placement when it is clearly in the interest of the parent and child.

Our second proposal is that the Chief Justice of the District Court and the appropriate justices of the four juvenile courts in conjunction with the Office of the Commissioner of Probation develop a uniform set of standards to be applied by all probation officers involved in this early screening and referral process. In this regard, we would encourage probation staff to examine the educational needs of children brought in as runaways and stubborn children and to make the school referral, where appropriate, even when the original application is not for truancy.

In developing these standards it is our view that the screening process should concentrate on diverting as many youths as possible from the formal court process. Further, that the diversion should involve the least restrictive alternative and the most appropriate person, persons or agency. For example, we would propose that probation consider among its alternatives the following:

- The referral of all truants back to the school department for a full core evaluation and other educational services.
- A referral to the DPW CHINS Unit for emergency placement and/or services.
- A referral to appropriate private agencies in the local community.
- A referral to the appropriate Regional Children's Coordinator of DMH.
- A referral to a social worker who has had prior involvement with the family.
- A referral to the Protective Services Unit of DPW.

We would expect that each referral be based upon sufficient facts to make an intelligent decision. This should mean, at a minimum, an interview with the child, the parents, guardian or custodian and any other preliminary investigation necessary to make the proper referral.

Once the pre-application screening and referral process is underway, we would see it operating in a similar fashion with the process of informal assistance established under Chapter 1073.

Finally, we do feel that it is important to state explicitly that all DPW CHINS emergency services must be fully available for children at the pre-application stage.

8.2.3 Show Cause Hearing: The Court Process

It is our expectation that under this new process, a substantial majority of the children alleged to be CHINS will not need to enter the formal court process.

We are equally aware, however, that there will be some circumstances under which the exercise of the judicial process may be helpful and necessary. We propose that access to the courts be permitted only under the following circumstances:

- When it has been determined that the child is clearly on the run and unwilling to accept informal assistance and the probation officer determines that the child should be taken into custody.
- When the probation officer determines that the needs of the child are not being met through informal referral because the social service providers are either unwilling or unable to provide the appropriate services.
- When the probation officer believes that the problem is persisting because the parent or the child has not chosen to participate in a voluntary manner.

As our proposed amendments indicate, in addition to the role played by the probation officer above, the parent, legal guardian, custodian or the child, may request access to the court system at any point in time during the informal, pre-application stage. We feel that this will build another important safeguard into the pre-screening process. At present, we would recommend against providing the child with direct access to the court system at the outset.

In one final effort to avoid the formal court process, we propose that all attempted entries into the system be screened by the clerk of court through a show cause hearing. This should be a prerequisite to the signing of an application.

Upon the request of the parent, guardian, custodian, child or probation officer, the clerk will be required to give notice of a show cause hearing.

We propose that the probation department be responsible for making a recommendation at this hearing; that the child and parents be summonsed; and that the following individuals be present: the child, the parent, guardian or custodian, the probation officer involved with the case, a CHINS social worker and in the case of an alleged truant, the appropriate special education official from the school.

We would provide several options for the clerk following the hearing:

- He could decline to allow the application to be entered for lack of probable cause.
- He could decline to allow the application to be entered and refer the matter back for additional informal assistance, but only upon the consent of the child and parent, guardian or custodian.
- He could allow the application to be signed, designate a docket number and begin to process the case.

8.2.4 Runaways/Arrest

Because of the special needs of children on the run, we have determined as a result of this study that special attention needs to be given to their problems. We propose to do this in several ways.

First, the probation officer at the pre-application level would be encouraged to expedite the show cause hearing for children obviously on the run. Secondly, in these cases, we would mandate the clerk to hold a speedy hearing to determine whether or not the best interests of the child would be served by the issuance of an arrest warrant immediately following the signing of the application. The warrant, however, would not permit the detention of the child in a police station or any secure locked facility. Rather, the police officer would first attempt to return the child to his/her home. If this were not possible, the police officer would be required to bring the child to a designated Department of Public Welfare emergency

shelter with a 24-hour intake to await further court proceedings. This placement would be reviewed by the court no later than at the preliminary hearing. We are convinced that while this process should be avoided wherever possible, it is needed in a few cases. We also feel that the time delay in processing both a summons and arrest warrant required in Chapter 1073 is not in the best interest of the child.

8.2.5 Preliminary Hearing/Preparation

Following the show cause hearing and the signing of the application the clerk would be required to set up a preliminary hearing, to occur no later than 14 days following the signing of the application. A summons would be required for the child, and the parent, guardian or custodian.

In addition, immediately upon the signing of the application, the parent and child must be notified of their right to counsel at all hearings, and if the child or parent is not able to retain counsel, the court shall appoint counsel for them. It is our clear intent that counsel be required to attend all hearings. Wherever possible, the same counsel should remain with the child throughout the entire court process. It is further our intent that at the option of the parent, separate counsel be appointed for the parent at the time the application is signed. We feel that these requirements are absolutely necessary and will not be overly costly since we expect that a large number of cases will already have been screened out of the system.

8.2.6 Assessment Board

We have been particularly impressed with the recent development of assessment boards in some of the courts we studied. The inter-agency approach to assessment and placement has proven so successful that we propose that it be established on a statewide basis.

An assessment board, under our plan, would be established in each court with the responsibility of assessing and reviewing the placement needs of CHINS and other youth. The board would meet on a regular basis and review the needs of all CHINS children prior to the preliminary hearing. The board would consist of at least the chief juvenile probation officer or his/her designee as chairman, a DFW CHINS worker, a designated DMH representative or

the Regional Children's Specialist of DMH, representatives of the community and local social service agencies (at the discretion of the probation department), and in the case of truants, or other children with special education needs, a member of the Office of Special Education of the school department where the case originated.

The purpose of the meetings would be to discuss the service needs of individual CHINS children, to recommend an appropriate treatment program, to recommend an appropriate provider for the treatment and to agree upon a plan to be presented to the court at the preliminary hearing. The Assessment Board should be required to examine carefully the need for voluntary long-term placement outside the home.

We are convinced by courts that have used this plan that the inter-agency approach not only takes advantage of a number of views regarding assessment, but goes far toward designating responsibility for placement.

8.2.7 The Preliminary Hearing

As previously stated, the preliminary hearing must take place within 14 days of the signing of the application. Under our scheme it will take the place of the hearing on the issuance of the petition established under Chapter 1073. Some courts have found confusion in this hearing and the result is that it is difficult to observe from court to court the difference under the present system between a first hearing, preliminary hearing, probable cause hearing and a hearing on the petition. All of these terms were used by different courts.

The purpose of the preliminary hearing under our proposed plan is to begin to assess the child and/or family problem and to begin to deal with it. Following the preliminary hearing, the judge may make any of the following orders:

- Dismiss the case.
- Schedule a hearing on the merits for adjudication.
- Order placement in a private community service agency.
- Order placement or the delivery of services by DFW.
- Order placement or the delivery of services by DMH including long-term placement out of the home upon the request of the parent and child only.
- Order an investigation by the Protective Services Unit of DFW.
- Order placement or the delivery of services under the provisions of Chapter 766.

We propose that for each disposition other than dismissal or a scheduled hearing on the merits that a continuance date of two weeks be established to review the child's progress. This should provide some assurance that an early placement has been made.

In some courts, we found a pattern of multiple continuances in CHINS cases. We would actively encourage such a policy if the court is convinced that the child is making progress in the placement. We also believe that reports, on a periodical basis, are in the best interest of the child.

We also wish to emphasize that we consider this stage of the legal proceeding to be preliminary. Consequently, we have built into the proposed amendments the requirement that all referrals for placement at this stage except the voluntary long-term placement out of the home be in the nature of short-term placements and that no referral can be made to a public or private agency which will take the child out of the home for more than 45 days. We are certain that the longer the child remains out of the home, the less likely he will return in the immediate future. We further recommend that these short term placements be for a maximum of thirty days, with a court extension of 15 days for a total of 45 days.

In no event, however, do we feel that this preliminary stage should exceed one year. At that point in time we feel strongly that either the CHINS case should be dismissed or a hearing on the merits scheduled.

8.2.8 Payment of Services

One of the most serious problems discovered in our study was the unavailability of specific resources for some children, due to an inability to place the child, either because of a lack of a slot or because of inadequate resources to pay for the child's care. Coupled with this was the unwillingness or inability of certain state agencies such as DMH to take responsibility for children who should be in their care.

The legislature in 1973 attempted to deal with the first of these problems by specifically requiring, under Chapter 1073, that a county pay for services designated by the court. For a variety of reasons, explained in Chapter 4, this form of reimbursement simply does not work.

In an effort to deal with all of these service problems, we propose a new provision in the CHINS law which would require all emergency placements

to be made within 48 hours of the court order. If, however, there is no slot available within the delivery network of the designated agency responsible for placement; or, if there is no appropriate service presently available to meet the child's needs; or, if there is no placement or service available within the immediate service region of the agency which is within the jurisdiction of the court, the judge would be allowed to place the child in a private community program, agency or provider and order the agency originally designated responsible to the child to make payments to the private agency until further order of the court.

This would permit, for example, the referral of a CHINS child to a private psychiatric agency following the refusal of DMH to accept the court placement. DMH would then be responsible for payment of all reasonable fees to the private agency.

While this provision may appear to be harsh, we believe it to be absolutely necessary to assure proper services to youth in CHINS cases. The primary placement agency would have a right to an administrative appeal as set forth in section 8.2.12.

8.2.9 Adjudicatory Hearing/Disposition

Less than 8 percent of all CHINS cases currently reach a hearing on the merits in Massachusetts. With the adoption of our amendments we believe the number will be even smaller. We do feel, however, that it is important to retain the adjudicatory process for long-term involuntary commitments out of the home; for last gap placements; and for children who appear simply unwilling to cooperate, despite all possible efforts.

Under our plan, the adjudicatory hearing would be scheduled either at the time of the preliminary hearing or at a subsequent hearing on a continuance. The hearing on the merits would have to be held no later than 30 days after the decision to hold a hearing was made. We see no useful purpose in requiring that the judge at the adjudicatory hearing be one who has not had prior contact with the case and therefore would eliminate this provision. As previously spelled out, all necessary parties must be present at the hearing on the merits.

Following the hearing on the merits, the judge could make any of the following orders of disposition:

- Adjudicate the child not a CHINS and dismiss the case.

- Adjudicate the child a CHINS, and:

- subject to conditions and limitations - permit the child to remain with his/her parents, guardian or custodian.
- subject to conditions and limitations - place the child in the care of:
 - a. a relative, probation office, or other adult who is found to be qualified to receive and care for the child.
 - b. a private charitable or child care agency or other private organization, licensed or otherwise authorized by law to receive and provide care for children.
 - c. a private organization found to be qualified to receive and care for the child.
- subject to conditions and limitations as the court may prescribe, commit the child to the Department of Public Welfare.

Following disposition, no child should be committed as follows:

- ~~To any county training school;~~

- To any institution designated or operated for adjudicated delinquents;

We have mixed feelings about a total prohibition against referrals to any DYS provider. This might eliminate placements in cases where a provider has contracts both with DYS and DFW. There may also be some excellent DYS slots not available under DFW contract. In any regard, these authorized placements need to be examined in light of the final OJJD guidelines shortly to be adopted.

In addition, no long-term commitment to DMH can be made on a residential basis without a separate hearing on the commitment as required by Chapter 123.

It is further our recommendation that no initial order of the court on disposition may extend beyond six months. Only one subsequent order for an additional six months can be made for a total of one year. This second order can be made only following a full hearing and only if the court finds that the purpose of the original order has not been accomplished, and that one extension would be reasonably likely to further those purposes.

8.2.10 Probation

All too frequently we were told during our interviews that following adjudication and placement, the probation department had a serious problem following the progress of a child and in some cases did not see the child again until he/she committed a subsequent offense. We were also told about the lack of reporting back to probation by some providers.

We feel strongly that once a case has been adjudicated and a placement made, the probation department should remain in contact with the case until dismissal. To assure this result we propose that a formal probationary period be established following adjudication and that where a referral is made to a public or private provider, that provider shall submit a progress report to the probation department at least every six weeks.

If the child successfully completes the probationary period and the agency has provided the designated services to the child to the satisfaction of the court, the case must be closed and the records sealed.

8.2.11 Violation of Probation

During the course of our interviews, court personnel and CHINS workers almost universally expressed concern about their inability to assist a small number of children who repeatedly refused to accept assistance. They were usually described as the "chronic runner." These are the children who are unwilling to remain in even a temporary placement long enough to diagnose their problem and develop an appropriate treatment plan.

It is clear that under Chapter 1073 there is no sanction that the court can impose to assure that children who are brought to court receive services. Some child advocates suggest the simplistic solution that we should leave children alone and that in the final analysis they will be better off than if they had no court contact at all. We believe this approach to be dangerous and tantamount to abandonment of children.

On the other hand, we feel equally as opposed to those few judges we spoke to who demand that the only response for these children is to "lock them up."

We join with the vast majority of concerned individuals looking for a middle ground. After reviewing every type of alternative available in other states, we have arrived at what we feel is the most restrictive alternative for the fewest number of children.

It is our view that the vast majority of children and parents will cooperate with the new system that we have proposed through these amendments and will never reach the formal court process. We are equally convinced that almost all of those who enter the formal court process will be benefited by its assistance. We expect few will reach the adjudicatory process. For those that do, all or most will benefit positively from appropriate placement.

We are, however, aware that there may be a rare case where all else has failed and the child continues to wander and refuse assistance wherever it is offered. We propose, therefore, that during the six-month or twelve-month probationary period, the probation officer may, at his discretion, recommend that a charge of delinquency be brought against the child for repeated violations of the court's order in the CHINS case. When this occurs, the child shall be subject to arrest, bail and detention proceedings in the same regard as any other alleged delinquent. We hope and expect that these cases will occur rarely, if ever.

While we prefer this disposition over all others, we recognize the fact that litigation may well ensue should this referral be made. We are also aware that this procedure might possibly violate guidelines to be developed in the future in response to the OJJDP Act. We do not, however, agree with those few who see this approach as one that would dump thousands of children into detention. We have too much faith in the process as revised and the good faith of the judicial system and its monitoring by DPW and other concerned child welfare groups.

With the exception of this one process, we feel strongly that the Department of Public Welfare should not be involved in programs of locked detention or bail. We would prohibit both from the new CHINS process.

8.2.12 Appeal

Under the new proposed changes, both the parents and the child are given a right of appeal from an order of the court entered at the preliminary hearing, a hearing on a continuance date or the adjudicatory hearing.

The hearing on the question of adjudication should lie in the Superior Court as a de novo hearing on adjudication with the right to a jury trial, and should receive preference on the list of cases pending in that court.

All other orders of the court in CHINS cases should be to the appropriate Appellate Division of the District Courts.

Any public or private agency placed under court order at the preliminary hearing and ordered to make a placement or to deliver services may appeal for an immediate hearing. It is our suggestion that the administrative appeal should be to the Interdepartmental Team chaired by the Office for Children. Such an appeal should be based only on the issue of whether the agency named by the court is the appropriate agency to handle the task. The assessment of the child's needs and the services required to address those needs should not be the grounds for an appeal by an agency.

8.2.13 Record Keeping

The courts should not centrally report the names of children who receive services through the probation department screening process. Aggregate data about such children is the only type of information that may be centrally collected.

Records of children processed under this statute must be sealed when the case is dismissed or after the probationary period is successfully terminated. Such records shall not become part of any delinquency file created for said child.

The purpose of these recommendations should be clear and will eliminate the present situation in some courts where a juvenile record is created upon the signing of a CHINS application.

In conclusion it is our hope that we have combined the best aspects of Chapter 1073 and the proposed amendments including the so-called FINS bill with the recommendations received by numerous court personnel, CHINS workers and others we interviewed during the course of the study. We are certain that these proposals will benefit greatly from public perusal and discussion. They are thoughtfully presented for that very purpose.

END