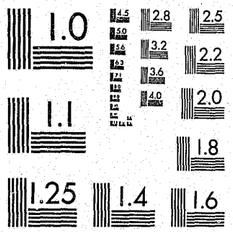

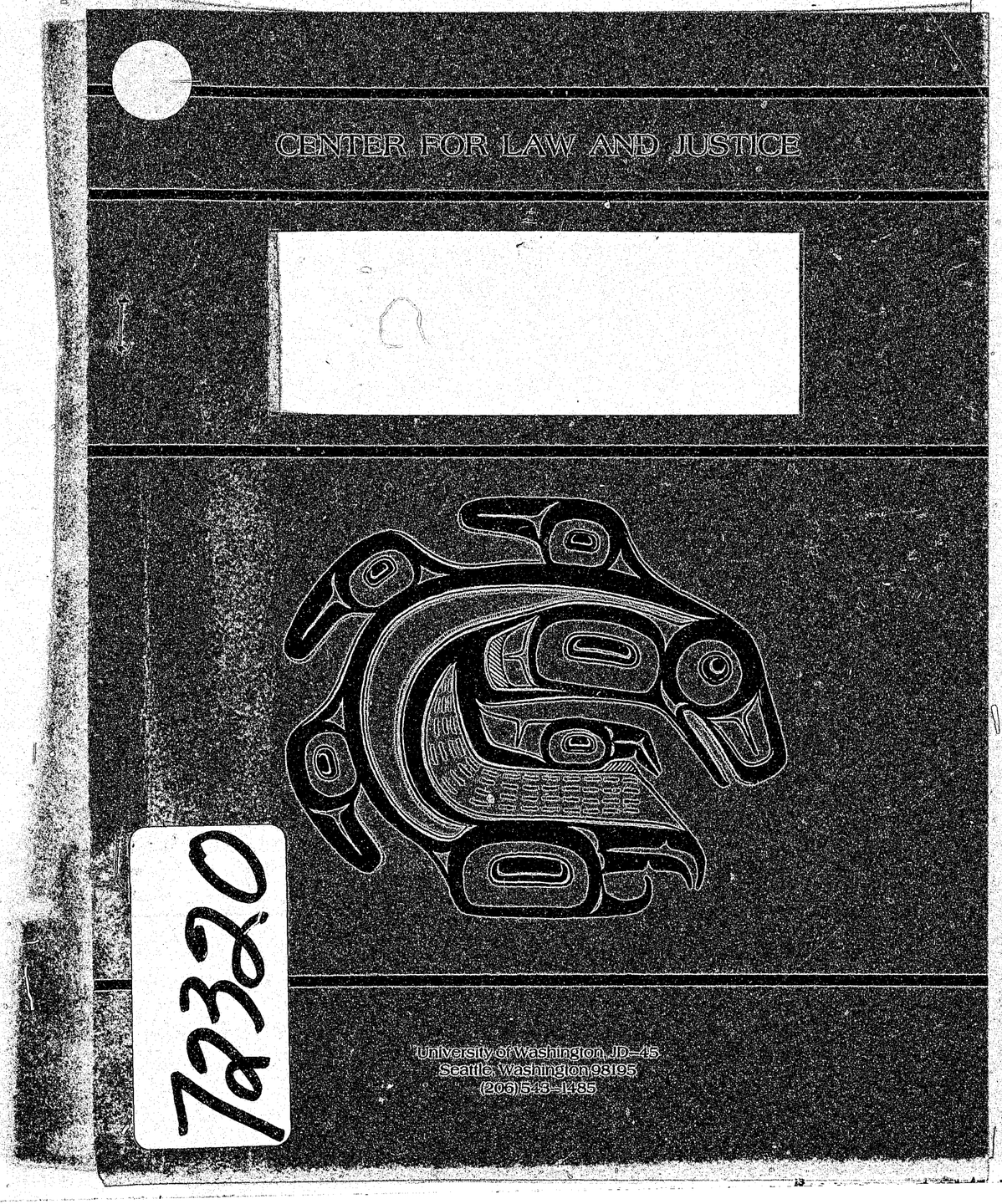

WASHINGTON STATE'S NEW JUVENILE CODE, II:
AN ANALYSIS OF PUBLIC DOCUMENTS--
THE PRE-LEGISLATIVE AND LEGISLATIVE PERIODS

Submitted to:

National Institute for Juvenile Justice and
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Prevention

By:

Laura W. Kennedy

National Center for the Assessment of Delinquent
Behavior and Its Prevention

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Joseph G. Weis, Director
Richard L. Janvier, Assistant Director

Center for Law and Justice
University of Washington, JD-45
Seattle, Washington 98195
(206) 543-1485

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OUTLINE OF CONTENTS

OUTLINE OF CONTENTS (Continued)

Introduction

This paper draws on a number of public documents to provide background information on the period leading up to the legislative session in which HB 371 passed and on that session itself. The paper is concerned with implementation issues presented by HB 371. It is intended for people who desire detailed knowledge about: 1) the historical developments in the area of juvenile and delinquency prevention in the United States that are specifically relevant to HB 371; 2) particular historical developments in the State of Washington prior to the legislative session; and 3) legislative development and passage of HB 371.

Note: Washington State's new juvenile code was enacted as Third Substitute House Bill (TSHB) 371. The reader may also find it referred to as Substitute House Bill (SHB) 371. In documents used for this paper it is called simply HB 371.

I. A Summary of the Juvenile Justice and Delinquency Prevention Act of 1974

Title I--Findings and Declaration of Purpose

...The Congress hereby finds that--

(1) juveniles account for almost half the arrests for serious crimes in the United States today;

(2) understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3) present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of the countless, abandoned, and dependent children, who, because of this failure to provide effective services, may become delinquents;

...(6) States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency....

It is therefore the further declared policy of Congress to provide the necessary resources, leadership and coordination (1) to develop and implement effective methods of prevention and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide

critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States....

In the Definitions section, for purposes of the act, "community-based" facility, program, or service means:

...a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services....

Title III--Juvenile Justice and Delinquency Prevention

Part A--The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is created. The administrator with the assistance of the advisory committee shall make an annual report to Congress with an analysis and evaluation of federal juvenile delinquency programs and recommendations for change. Within ninety days the President is to submit a report to Congress containing a statement of action taken or anticipated on the recommendations. A Coordinating Council on Juvenile Justice and Delinquency Prevention is established, made up of representatives of four federal agencies, Labor, HEW, HUD, and Justice. A National Advisory Committee for Juvenile Justice and Delinquency Prevention is established, consisting of twenty-one members appointed by the President. At

least seven members must be under age 26 at the time of the appointment. Members serve four-year terms. The Advisory Committee is to meet at least four times a year.

Part B--Federal Assistance for State and Local Programs

Subpart I--Formula Grants

Funds are to be allocated to states on the basis of "relative population of people under 18." Federal assistance is not to exceed 90% of approved costs of any program. Administrative costs are not to exceed 15%. No state is to receive less than $200,000. State plans: each state is to have an advisory group of 21 to 33 persons, at least one-third under age 26 at time of appointment. The advisory group is to include representatives of private organizations concerned with delinquency prevention or treatment and representatives of local government, law enforcement and juvenile justice agencies. Active participation by local governments and private agencies is called for in development and execution of state plan. At least 2/3 of funds received under the act are to be expended through programs of local government. Not less than 75% of funds are to be used for "advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to juvenile detention and correctional facilities."

"Advanced techniques" are defined as including:

(A) 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;

(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent...;

(H) provides for a statewide program through the use of probation subsidies, other financial incentives or disincentives to units of local government, or other effective means, that may include but are not limited to programs designed to--

(I) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;

(II) increase the use of nonsecure community-based facilities as a percentage of total commitments to juvenile facilities; and

(III) discourage the use of secure incarceration and detention.

State plans must provide that within two years of the date plan is submitted:

...juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities.

Subpart II--Special Emphasis Prevention and Treatment Programs

The administrator is authorized to make grants to and enter into contracts with private and public agencies to--

(1) develop and implement new approaches, techniques, and methods with respect to juvenile delinquency programs;

(2) develop and maintain community-based alternatives to traditional forms of institutionalization;

(3) develop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system;

(4) improve the capability of public and private agencies and organizations to provide services for delinquents and youths in danger of becoming delinquents....

Not less than 25% nor more than 50% of funds appropriated for each fiscal year shall be available for special emphasis prevention and treatment grants. At least 20% of funds available under this section shall be available for grants and contracts to private non-profit agencies.

Part C--National Institute for Juvenile Justice and Delinquency Prevention

This part establishes the National Institute within OJJDP. It is to coordinate its activities with the National Institute of Law Enforcement and Criminal Justice. The purpose of the Institute is to serve as a coordinating center for collection, preparation, and dissemination of useful data regarding the treatment and control of juvenile offenders. Its functions are information; research, demonstration, and evaluation; and training. An annual report is required. The Institute under the supervision of the Advisory Committee on Standards for Juvenile Justice (a subcommittee of the National Advisory Committee) develops standards for administration of juvenile justice at the federal, state, and local level (report to be submitted within one year).

Part D--Authorization of Appropriations

$75 million in the FY ending June 30, 1975

$125 million in the FY ending June 30, 1976

$150 million in the FY ending June 30, 1977

Title III--Runaway Youth Act

The Congress hereby finds that--

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

Rules: the Secretary of HEW is authorized to prescribe rules to carry out this act.

Part A--Grants Program

Purpose: "...developing local facilities to deal primarily with the immediate needs of runaway youth in a manner which is outside the law enforcement structure and juvenile justice structure."

Grants can be made to localities and nonprofit private agencies. To be eligible, "an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services."

Each house is to have a maximum capacity of no more than twenty children and a staff ratio sufficient for adequate supervision and treatment. Each house is responsible for developing an adequate plan for contacting the child's parents (if such action is required by state law) and assuring the safe return of the child "according to the best interests of the child." There must also be a plan for contacting local government officials along the lines of informal arrangements established with them and providing other appropriate alternative living arrangements. Statistical summaries must be kept and reported to the Secretary of HEW annually. The Secretary is to report annually to Congress on the accomplishments of the runaway houses with attention to--

(1) their effectiveness in alleviating the problems of runaway youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

(3) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and

(4) their effectiveness in helping youth decide upon a future course of action.

Federal share of funding is 90% for "acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operation." Non-federal share may be cash or in-kind.

Part B--Statistical Survey

Secretary of HEW is to conduct a statistical survey defining

the major characteristics of the runaway youth population and report the results to Congress not later than June 30, 1975.

Part C--Authorization of Appropriations

$10 million is allocated for each of the fiscal years ending June 30, 1975, 1976, and 1977.

Title IV--Extension and Amendment of the Juvenile Delinquency Prevention Act

Title I of the Juvenile Delinquency Prevention Act is amended to allow the Secretary of HEW to make grants to States, localities, or nonprofit agencies for demonstration of "innovative approaches to youth development and the prevention and treatment of delinquent behavior." Demonstration projects may be assisted by a grant for no more than one year.

The Secretary of HEW is instructed to consult with the Attorney-General to coordinate the development and implementation of programs funded under this act with those funded under the Omnibus Crime Control and Safe Streets Act of 1968.

Title V--Miscellaneous and Conforming Amendments

This title spells out delinquency proceedings in District Courts relative to due process requirements. Included are procedures for criminal prosecution, custody prior to appearance before magistrate, detention prior to disposition, speedy trial, dispositional hearing, use of juvenile records, etc.

II. Bob Naon's Paper: "Responding to the Youthful Offender: An Overview and Critique of the Juvenile Justice and Correction System," June 11, 1976.

Bob Naon, legal counsel for the House Judiciary Committee, transmitted a working paper to Ron Hanna, Chairman, House Corrections Subcommittee, on June 11, 1976. This paper led to the first draft of HB 371.

Bob Naon's paper takes the viewpoint that not only status offenders but most juvenile offenders should be removed from the formal court system. He argues that delinquency is a community problem and must be removed from the traditional juvenile justice system.

The main points of his critique of the existing system are:

1. The system is not accountable to citizens.

Little is known regarding effectiveness, duplication or gaps in the system. There is no single centralized agency to coordinate the system.

2. The system does not hold youthful offenders accountable.

The traditional juvenile justice system has an ambiguous mandate: to serve both legal and social welfare functions. Courts are overworked, understaffed, and underbudgeted. Therefore they "informally adjust" cases for their own convenience.

3. The system is unable to help offenders.

National statistics show juvenile court referral rates on the increase:

1957 19.8 per thousand juvenile ages 10-17 referred to court

1972 33.6 per thousand juvenile ages 10-17 referred to court

There is a national debate over whether or not any treatment is effective. Probation is likely to be ineffective because of the dual role of the probation officer: control and social welfare. More resources are unlikely to help. Naon cites one study in

California which showed youth in reduced probation caseloads performed no better than those in regular caseloads. Commitment to secure institutions is likely to have negative consequences because of dual function of custody and rehabilitation.

Naon quotes Professor Hubert Locke, testifying before a Senate Subcommittee, saying that once a child gets into the criminal justice process, "at least as it works today, we can all but write him off." Naon states that involvement with the juvenile justice system frequently worsens conduct. He supports this assertion with a reference to the labeling hypothesis, i.e., if a kid is labeled "bad" he will respond accordingly; and to the impact of arbitrary selection in the system, i.e. extra-legal bases for selection used by police, intake worker and judge.

Much of what is now in the juvenile justice system should be made the direct responsibility of local communities, Naon argues. Courts are now ineffective because of their dual role. Youth are denied socially accepted roles and legitimate achievements in our society, he states. Delinquency is caused by factors over which the juvenile justice system has no control. Positive change can be brought about by restructuring community institutions and involving youth in them.

Alternatives to the formal justice system include diversion, on the model of the King County Youth Service Bureaus and the City of Seattle Youth Service Bureaus and the Community Accountability Boards.

In redefining the jurisdiction of the juvenile court, there should be a reallocation of duties: the community should attempt

to alleviate causes of delinquency and the court should protect the public. The juvenile court should concentrate on serious offenders, pursuing policies advocated by Marvin Wolfgang, following his research on delinquency in a youth cohort in Philadelphia. The court's involvement with status offenders should be restricted.

Naon states that our agenda should be to prevent as many cases as possible from entering the courts and divert as many as possible after adjudication. Community alternatives to incarceration are appropriate for most serious juvenile offenders. Evaluation of community-based programs shows they are at least as effective as incarceration and result in cost-savings. Naon cites figures showing costs of providing specific services are lower for private agencies than for Washington State's Department of Social and Health Services (DSHS).[1]

The model for change which Naon proposes has the following features: 1) Planning on a county or regional basis including a citizens' advisory group; 2) Community as the receiving center for all but violent offenders [he assumes that the community will not accept youthful offenders unless community members are involved in the planning process]; 3) Restitution is required for property offenses; 4) Status offenders are removed from jurisdiction of the court (except truants); commitments to the state are made only in case of a violent felony or after two previous placements on the community have failed; commitment length is based on a point system; 5) A state board receives funding proposals from counties or regions; and 6) Competition from

agencies wishing to provide services. (He says purchase of services is likely to predominate over county itself providing services.)

III. Providence Heights Conference, December 16-17, 1976

A conference on "Status Offenders and the Juvenile Justice System in Washington State" was held in Issaquah, Washington, and attended by about 150 people. Sponsors were: Washington State Legislature, the Public Defender Association of Seattle/King County, the Washington Association of Superior Court Judges, Washington Department of Social and Health Services, and Washington State Law and Justice Planning Office. The conference was funded in part by a grant from LEAA under authority of provisions in the 1974 Juvenile Justice and Delinquency Prevention Act.

Plans to hold the conference originated at a juvenile justice workshop in June 1976 at Albuquerque sponsored by Legis 50: The Center for Legislative Improvement. This workshop was attended by a task force from Washington State including representatives from all the sponsoring organizations of the Providence Heights Conference with the exception of the Superior Court Judges and with the addition of the Washington Council on Crime and Delinquency.

The Washington State Legislature contracted with Battelle Memorial Institute to assist in preparation of a background paper for conference participants. Authors were Jenny Van Ravenhorst, research analyst for the Senate Judiciary Committee; Philip Cole, director, Skagit County Juvenile Court Services; Charles Pepper, employed by Battelle as a research editor; and Daniel Harris, Juvenile specialist for the Law and Planning office.

IV. Background Paper for Providence Heights Conference

A background paper outlined current controversies surrounding status offenders.[2] The two major issues of deinstitutionalization and removal of juvenile court jurisdiction are examined. The report also provides a history of the juvenile justice system in the United States and in Washington State, an overview of the structure of the juvenile justice system in the state and in six individual counties: Benton/Franklin, Island, Pierce, San Juan, Skagit, and Spokane.

A. Brief Chronology of Reform Efforts

Two issues appear to have dominated debate both nationally and in this state regarding the treatment of status offenders prior to passage of SHB 371. The two issues were: 1) Deinstitutionalization of status offenders, and 2) Elimination of juvenile court jurisdiction over status offenders.

A brief chronology of reform efforts on the national scene follows:[3]

1. Deinstitutionalization of status offenders

1959--Standard Juvenile Court Act, a model prepared by the National Probation and Parole Association (now the National Council on Crime and Delinquency) with the National Council of Juvenile Court Judges and the U.S. Children's Bureau, prohibited institutionalization of status offenders with delinquents.

1968--Uniform Juvenile Court Act, a model prepared by the National Conference of Commissioners on Uniform State Laws and the American Bar Association permitted commitment of incorrigibles only as a last

resort after evidence that it would enhance treatment.

1969--Legislative Guide for Drafting Family and Juvenile Court Acts prepared by the Children's Bureau U.S. Department of Health, Education, and Welfare (HEW) specified incorrigibles could be committed only after a second adjudication.

1974--Juvenile Justice and Delinquency Prevention Act of 1974 gave strong support to removal of status offenders from institutions and discouraged practice of detaining status offenders in county detention halls by requiring some funds be used for community-based alternatives. Two years after requesting funds under provisions of this act, state had to provide that status offenders are not placed in detention but in shelter facilities.

1976--Advisory Committee on Standards for Juvenile Justice (Standards and Goals Task Force) recommended no confinement of status offenders to institutions with delinquents.

Commission on Juvenile Justice Standards, Institute for Judicial Administration (IJA) and the American Bar Association (ABA) recommended that juvenile court jurisdiction over status offenses be generally eliminated. However, standards do provide for very carefully limited intervention in status offender cases: those involving runaways, children in "circumstances

of immediate jeopardy," or in need of alternative living arrangements or emergency medical services. (Washington State residents involved included:
Charles Z. Smith, Professor, U.W. Law School--member of a drafting committee as were
George Revelle, Judge King County Superior Court and
Tsuguo Ikeda, Executive Director, Atlantic Street Center;
Lindbergh S. Sata, psychiatrist, Harborview Medical Center--member of the joint commission;
John Junker, Professor U.W. Law School, reporter for one of the drafting committees.)

2. Elimination of juvenile court jurisdiction over status offenders

1967--President's Task Force on Juvenile Delinquency and Youth Crime (part of the President's Commission on Administration of Justice) pointed to the stigma and uncertain gain of retaining court jurisdiction over status offenders.

1970--White House Conference on Youth supported change, with referral of children to community agencies.

1973--National Advisory Commission on Criminal Justice Standards and Goals said delinquent should be focus of court system.

1974--National Council on Crime and Delinquency said neither treatment nor punishment rationale can justify court jurisdiction over status offenders.

- Support for removal of juvenile court jurisdiction over status offenders also came from the following organizations:

1975--National Council of Jewish Women

1976--Juvenile Justice Division of International Association of Chiefs of Police (IACP)

--National Association of Counties

--American Civil Liberties Union (ACLU)

The Juvenile Justice and Delinquency Prevention Act of 1974 did not require complete removal of status offenders from juvenile court, but it did require that some funds be used to divert juveniles from the juvenile justice system. The Advisory Committee on Standards for Juvenile Justice (Standards and Goals Task Force) in 1976 recommended narrowing juvenile court jurisdiction over status offenders, creation of a new category of jurisdiction "Families with Service Needs" and the use of judicial power of the court only where "real need exists." Nonjudicial and voluntary resources should be used first.

Groups which have taken a position in opposition to removal of juvenile court jurisdiction over status offenders include the National Council of Juvenile Court Judges, who in 1976 stated their belief that "the Standards Commission may be destroying the system and replacing it with a junior crime system." The National Advisory Committee for Juvenile Justice and Delinquency Prevention, which serves in an advisory capacity to the U.S. Department of Justice, has also taken a position opposed to removal of court jurisdiction over status offenders.[4]

B. The Pre-371 System

From the background papers we gain a perspective of the pre-371 system.

1. Characteristics of Juvenile Justice in Washington and Other States (as of December 1976)[5]
   a. Separate structure (from adult courts)
   b. Informal proceedings
   c. A readiness to remove child from his/her home if it appeared unsuitable
   d. A declared interest in showing fatherly concern by both the judge and the court-employed probation officers
   e. Confinement away from adults
2. Solidification of Juvenile Court Philosophy (1902 to 1940)
   a. Court is geared to the philosophy of "protecting a child's right to full physical, mental, and moral development." It looks on each child "as a distinct individual entitled to help and treatment from the community, not retribution."
   b. Court recognizes that "all behavior is symptomatic of underlying causes, and that only an examination of the causes of a delinquent act, or the breakdown of a home in a neglected situation, will point the way to a sound readjustment."
   c. Disposition should be geared to the "total problem" of which a particular offense may be only a symptom.
   d. Detention is a way of dealing with "the immediate

pressures created by the child's behavior,"

e. If probation fails, "treatment in a group situation or an institution may be called for...for therapeutic (not punitive) reasons."[6]

Other sources stress the importance of informality:

> Lawyers were unnecessary--adversary tactics were out of place, for the mutual aim of all was not to contest or object but to determine the treatment plan best for the child. That plan was to be devised by...psychologists and psychiatrists; delinquency was thought of almost as a disease, to be diagnosed by specialists and the patient kindly but firmly dosed.

The results have been described:

> In the vast majority of cases, parents and child would be notified of the basis of the proceeding in vague and general terms, the child would appear without counsel, the probation office would report to the court what his inquiries disclosed,[7] the judge would ask the child such questions as he thought necessary, witnesses would be brought in where the judge thought it would be useful to do so, and the judge would make his findings.[8]

3. Legal rights of Juveniles (1940 to 1976)

During the 1940's and 1950's there was a shift toward formalism in juvenile courts. Courts 1) required parents and child to be notified of allegations in the petition; 2) looked critically at use of hearsay evidence; and 3) tightened interpretation of statutes defining delinquent behavior.

In 1959 the Standard Juvenile Court Act (see p. 15 of this paper) served as a model of fair procedure for many states. Several states revised their juvenile codes. In the late 1950's Wisconsin and Minnesota revised their juvenile code to provide for elaborate notice requirements, control over admission of hearsay testimony. Oregon and California rewrote their juvenile codes[5] to provide a full code of juvenile practice governing intake, detention, social reports, and the hearing itself.

This tightening up process was related to a broad movement extending due process in the criminal field. In the federal court system, since the early decades of the century, such rights were recognized as the privilege against self-incrimination, the right to jury trial and the right to assigned counsel in major cases. The state court systems were relatively free to operate as they wished, bound by their own constitutions and state court interpretations.

U.S. Supreme Court Decisions

Kent v. United States (1966) involved a waiver of jurisdiction from juvenile court to adult court. In reversing a lower court decision, the Supreme Court ruled:

1) In a waiver of jurisdiction, a hearing must be granted.
2) Assistance of counsel at such hearings must be granted.
3) Plaintiff's counsel must have access to social service records.
4) Statement of the facts of the "full investigation" and statement of judge's reason for waiver must accompany the waiver.

However, the court emphasized that juvenile procedures are

still civil in nature. Juveniles are not entitled to all protections afforded adult criminals (e.g., trial by jury, bail, etc.). However, a waiver hearing must provide all protections implied in the Due Process Clause of the Fourteenth Amendment. Justice Abe Fortas, speaking of the majority, said:

> ...There is evidence that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded adults nor the solicitous care and regenerative treatment postulated for children.[9]

In re Gault reversed the decision of an Arizona juvenile court as denial of due process. In cases which might result in denial of liberty for a period of years, the court said, a juvenile is entitled to:

1) Notice of charges sufficiently in advance to allow preparation of defense.
2) Right of counsel, whether of his own choosing or appointed by court if unable to afford one.
3) Right of confrontation and cross-examination of hostile witnesses.
4) Right to remain silent--the Fifth Amendment privilege against self-incrimination.

In a lone dissent Justice Stewart took a position which was echoed by judges and juvenile court specialists. He said:

> ...Juvenile proceedings are not criminal trials. They are not civil trials. They are simply not adversary proceedings...a juvenile proceeding's whole purpose and mission is the very opposite of the mission and purpose of a prosecution in a criminal court. The object of one is correction of a condition. The object of the other is conviction and punishment for a criminal act.... The inflexible restrictions that the Constitution so wisely made applicable to adversary criminal trials have no place in the proceedings of those public agencies known as the juvenile or family courts.[10]

In re Winship (1970) applied the standards of proof required for adult criminal proceedings (proof "beyond a reasonable doubt") to juvenile cases rather than "preponderance of evidence" used in civil and juvenile proceedings.

McKeiver v. Pennsylvania (1971). The court declined to rule that right to trial by jury followed from the "fundamental fairness" standard employed in Gault and expressed its reluctance to give up the informal protective aspects or rehabilitative purpose of the juvenile court. The majority concluded: "If the formalities of the criminal adjudicative process are to be superimposed upon the juvenile court system, there is little need for its separate existence."[11] Justices Douglas, Black and Marshall dissented.

According to the Providence Heights Background paper,

opinion was sharply divided on the issue: should juveniles be accorded the same procedural rights as adults? The differences stemmed from different viewpoints regarding the purposes of the juvenile court. Some saw it as a benevolent institution to help children in trouble. Others saw it as an institution which employs procedures which are frequently punitive.

These Supreme Court decisions "added fuel to the fire of those who would totally remove status offenders from the institutions...or from the juvenile court system altogether. Status offenders, in the opinion of these commentators, were being subjected to dispositions that even the Supreme Court now recognized as punishment, not treatment.[12]

Note: On September 8, 1978, King County Superior Court Judge Robert E. Dixon ruled that juvenile offenders are entitled to jury trials just as adults charged with crimes. His ruling stated, in effect, that a section of the new juvenile code was unconstitutional since it provided only that juveniles be tried by a judge. The case was brought by the Public Defender's Office. Dixon's ruling is subject to direct review by the state Supreme Court. The State Supreme Court heard arguments in the case on November 21. [Source: Seattle Post Intelligencer, September 9 and November 22, 1978.]

4. Recent Changes Concerning Status Offenders (Pre-December 1976)

In 1969 the State Supreme Court adopted a new set of rules for juvenile court procedure, incorporating the major provisions of Gault and related decisions. The most notable changes were: extension of due process to all juveniles, requirement for detention hearings and provision for informal adjustment of cases.

Two recent State Supreme Court decisions have had an effect on the treatment of status offenders:

In re Carson (1975). The Supreme Court ruled that the age limit of twenty-one for commitment of juveniles to institutions merely reflected the intention that a juvenile not be committed after the age of majority. Since the age of majority was now 18, this ruling resulted in the release of all incorrigibles over age 18 in state institutions.

Blondheim v. State (1975). The statutory definition of incorrigibility was challenged as being unconstitutionally vague and broad. The punishment for incorrigibility was also challenged as a violation of the Eighth Amendment prohibition of cruel and unusual punishment. The court upheld the constitutionality of both juvenile court jurisdiction over incorrigibles and commitment to state insitution of incorrigibles. However, in the majority opinion, the court observed that incorrigibles should not be committed with delinquents and, when they are to be deprived of liberty, they should be given the same due process rights as delinquents.

Action by the Governor

Washington State's initial response to the 1974 Juvenile Justice and Delinquency Prevention Act came when the Governor, then Daniel Evans, designated the state Law and Justice Planning Office as the agency to administer the state's program under the act. The Governor's Committee on Law and Justice voted to seek full compliance witht the act. A preliminary state plan was submitted August 1, 1975, making the state's deadline for full compliance August 1, 1977. A Governor's Advisory Committee on Juvenile Justice was appointed on the same day the state plan was submitted.

The Governor's Advisory Committee on Juvenile Justice recommended the legislature take steps to bring the state into compliance with the federal act. It adopted goals including: 1) to prevent and reduce delinquency and status offenses; 2) to divert juveniles from the criminal justice system; and 3) to provide community-based alternatives to institutionalization. The Committee gave status offenders its highest priority and listed the following goals for that category:

--Develop and implement alternatives to detention at both the preadjudication and postadjudication stages.

--Remove status offenders from correctional institutions.

--Identify and develop community-based services that provide effective alternatives to detention and placement in institutions.

--Develop mechanisms for referral that hold service providers accountable on a per-child basis.

--Evaluate the effectiveness of the various models that can be used in developing programs.

The 1976 plan calls for improvement of data collection (which had not been centralized due to the decentralized nature of the juvenile court), assessment of existing alternative facilities (for status offenders? incorrigibles?) and, through demonstration projects, assignment of priorities to methods of diversion.

The 1977 plan, submitted shortly before the background paper was written, focused on five areas in response to the federal act's emphasis on "advanced techniques." The areas are: research, crisis intervention and family counseling, training, educational programs and shelter care. Priorities for funding of pilot programs were: a cross-reference or tracking system for shelter care, reduction of juvenile shoplifting, youth employment, and research on status offenders and juvenile delinquents. A special provision of the 1977 plan is to complete, by December 22, 1976, a monitoring report on the state's juvenile detention facilities. This report, begun under the 1976 plan, is required by the 1974 federal act.

According to the background paper, the advisory committee's plan had provided for programs "that would divert status offenders from the juvenile courts, as required" (see also p. 18 of this paper).[13] But questions were raised at this time about the state's ability to comply with the federal requirement for removal of status offenders from institutions and detention facilities. SB 3116, passed by the legislature in 1976,

permitted institutionalization of incorrigibles for periods of up to thirty days and status offenders were routinely being held in detention throughout the state (county juvenile facilities?).

However, a decision of Congress that states with 75% compliance would be ruled in "substantial" compliance for purposes of funding, appeared to assure the state would receive federal money.

Action by the Legislature

In 1979 the Uniform Juvenile Court Act (see p. 15 of this paper) was introduced as Senate Bill (SB) 145. The Senate responded by passing a resoultion requesting the Judicial Council and the Washington Uniform Law Commissioner study both the existing code and the model act. Four years later, in 1973, a proposed code drafted by the Judicial Council and endorsed by the governor was introduced into the House of Representatives. This bill recommended the complete elimination of juvenile court jurisdiction over status offenders. However, at the same time, a rival bill, SB 2689, drafted by the Washington Association of Superior Court Judges, was introduced in both houses. SB 2689 retained court jurisdiction over status offenders and permitted confinement of incorrigibles (renamed "unmanageables"). After hearings, the Senate Judiciary Committee appointed a subcommittee to draw up a compromise bill. Amendments to SB 2689 resulted and were submitted to the Senate Judiciary Committee in April 1973.

However, in November 1973, Northwest Washington Legal Services offered a new bill to the Senate Judiciary Committee. This bill was passed out of committee in January 1974 as Substitute Senate Bill (SSB) 2689. It included amendments suggested by DSHS and amendments added at two committee hearings. With minor modifications, SSB 2689 passed the Senate 33-10 (five absent). The bill set up a new category of court jurisdiction--Children in Need of Supervision (CHINS)--but prohibited their institutionalization.

In the House of Representatives, however, the bill failed to pass out of the Judiciary Committee. In April 1974, the House Judiciary Committee circulated the bill with amendments added by the committee and changes proposed by the Washington Association of Court Directors. An ad hoc committee made up of members of the House Judiciary and Ways and Means Committees studied the bill's fiscal impact through the summer, but reached no conclusive results.

In the 1975 session, the bill was again revised to incorporate provisions required by the 1974 federal act. It was introduced in the House as HB 496, supported by the governor. In the Senate the older version, without the changes required by federal law, was introduced again. However, once again a competing bill was proposed and introduced in both Houses (HB 257 and SB 2232). Drafted by Ronald H. Clark, the senior deputy prosecutor for juvenile cases in King County, it was supported by the Prosecuting Attorney's

Association. In late April the House Judiciary Committee voted out SHB 496. It passed the House 77 to 20 (1 absent) on May 16. Various aspects of both bills were combined in SHB 257. The bill retained juvenile court jurisdiction over runaways, truants, incorrigibles and children who commit juvenile offenses. All categories could be detained. Only the latter two categories could be institutionalized, incorrigibles for a maximum of 90 days.

The Senate Judiciary Committee conducted hearings on SHB 496 in January and February of 1976. They decided there was an urgent need to act on the issue of status offenders and reported out a much simpler bill, SB 3116, sponsored by Senators Francis, Van Hollebeke and Jones. It was lobbied by Legal Services and the ACLU. In February SB 3116 passed both Senate and House. The provisions of SB 3116 included:

1. Incorrigibles can't be sent to state institutions after July 1, 1977. Children are to be provided instead a "program of protective supervision, care and rehabilitation in the community." Primary emphasis was on achieving this purpose in a family environment whenever possible.
2. One exception: under certain conditions, incorrigibles can be sent to state diagnostic and treatment facility for up to 30 days. Treatment and housing must be separate from delinquents. (This exception was a compromise struck to secure passage of bill.)

Mary Kay Becker, in her legislative history of HB 371, states that a significant point of SB 3116 was that, for the first time, responsibility for providing services to "incorrigible" children was placed in an agency other than the courts and correctional institutions. DSHS was directed to develop a plan for providing alternatives for incorrigible children along the lines of services it provided already, through its child welfare programs, to homeless, neglected, and dependent children. By December 1, 1976, DSHS was to report to the legislature on what it had been doing to prepare alternatives to the commitment of incorrigibles.

The most direct effect of SB 3117 was a reduction in population at the state's juvenile institutions. BJR identified 205 children in institutions who had been sent there as incorrigibles. By July 1, 1977, all of these children were released and moved back into their own communities.

Two areas of potential incarceration of status offenders remained: the provision of SB 3116 allowing thirty days of diagnostic treatment in a state facility and the routine detention of juveniles in county facilities. Compliance with federal standards was still incomplete. "This added to the pressure for further change."[14]

5. Washington's Present Juvenile Justice System (December 1976)

   a. Structure of the Juvenile Court System

      The Juvenile Court is a division of Superior Court. A Superior Court judge or, in some counties, a court commissioner presides. (Both must be attorneys.) Most counties have a court director, responsible for court

administration. The system is described as a pipeline with a series of valves (see Figure 1 on next page).

Discretion is the most prominent characteristic of this system. However, there is less discretion now (December 1976) than formerly due to federal and state court decisions, the fact that more decisions must be reviewed by other members of the system and changing concepts of good performance. "...Compared with many other people-processing systems, however, the degree of discretion is still quite high."[15]

The valves are operated by:

1) Referral source--police, family, DSHS, school, etc.
2) Probation officers who:
   a) function as an intake screening officer. The probation officer must, by statute, decide whether or not a particular referral is "justified." If the officer feels the referral is unjustified, he/she can decline to handle the matter at all (unless a complaintant formally files a petition). Probation officers may "informally adjust," i.e. release to custody of parent or guardian, refer to accountability board, or place child in receiving home. Probation officers may, on their own judgment, place child in detention.
   b) Investigate case. This investigation is called the "social study."

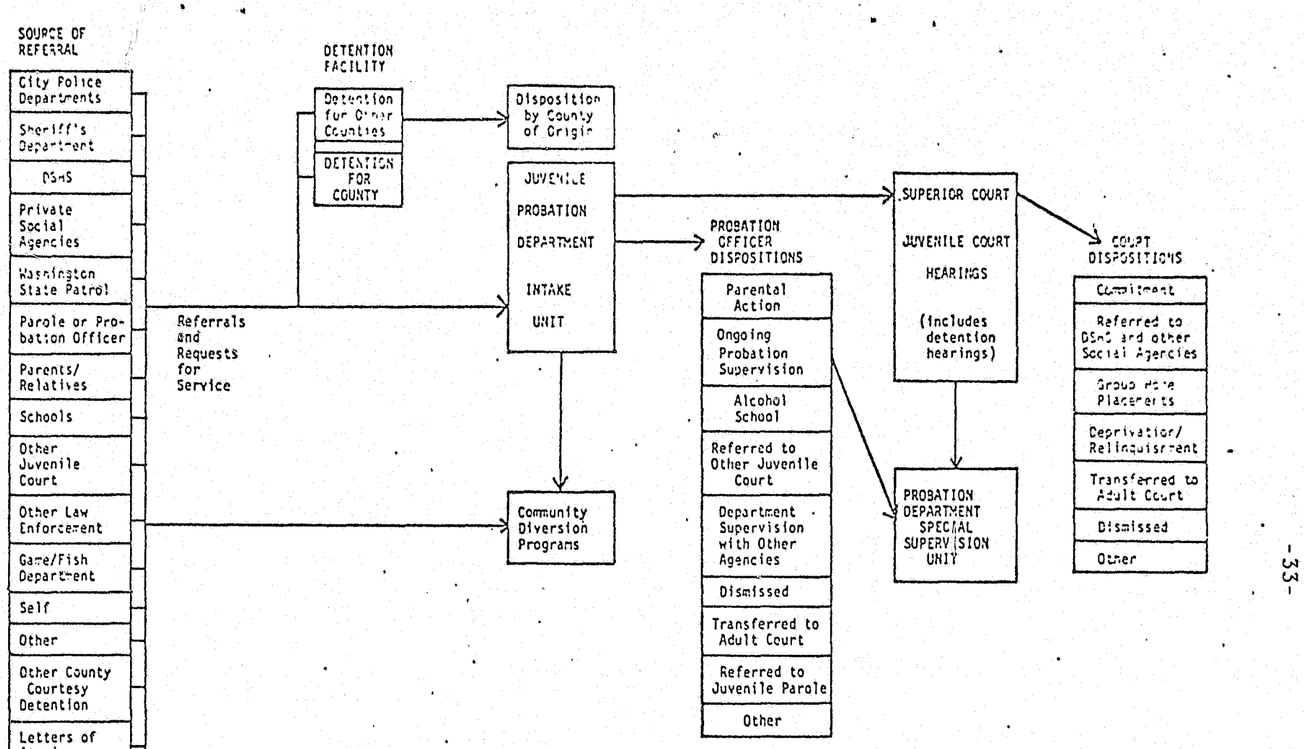

Fig. 1. Flowchart for referrals to the juvenile court. (This flowchart is modeled after that used by the Skagit County Juvenile Court.)

Source: Providence Heights Background Paper, p. 57.

3) Judges who preside over a series of hearings:

a) "Decline hearing" for delinquents only, if prosecutor and/or probation officer believe child should be tried as adult.

b) Fact-finding hearing. This is the equivalent of a trial in adult court. When the facts are in dispute, the prosecuting attorney is required to present evidence supporting the petition. At this stage, the young person and his/her parent are entitled to an attorney, or, in some cases, separate attorneys. At hearings for delinquency or incorrigibility, the allegations must be proved "beyond a reasonable doubt"; at those for dependency, the required degree of proof is "preponderance of the evidence."[16]

Outcomes for delinquent or dependent child:

1. Dismissal of case.
2. Finding that child is delinquent, dependent, or dependent/incorrigible.
3. Deferred findings (similar to a suspended sentence for adults).

c) Disposition hearing

Judge considers "social file." Outcomes for delinquent or dependent child: release to parents, to social agency or BSS. Delinquents may be referred to BJR. If the child remains under supervision of a probation officer, the court may permit him/her to be held in detention for up to 72 hours for infractions of

probation rules. Serious infractions may, at the discretion of the probation officer, result in filing of new petition or a hearing on revocation of probation.

b. Auxiliary Services[17]

1) State Programs

a) BSS licenses three types of facilities:

1) Receiving homes--private families, short periods;
2) Foster homes--private families, longer term;
3) Group homes--salaried staff, run by state or volteer agencies. (Those with population over 11 youths are classified as institutions).

Use of these facilities requires:

1) Voluntary placement agreement signed by child and parent, or
2) Allegation or finding that child is dependent.

b) BJR operates state's juvenile correction program:

1) Probation Subsidy Program. Authorized by the legislature in 1969, aim is to keep youth in local communities;
2) Several learning centers in cooperation with SPI's office;
3) Delinquency prevention services in 13 counties;
4) Major program--four juvenile institutions, three forest camps, six group homes.

Admission is by court order. A child is first sent to Cascadia Diagnostic Center for diagnosis and placement. Then BJE has option to:

1) Parole child or
2) Place him/her in state facility.

In some cases, court orders "diagnostic commitment," temporary placement in Cascadia, usually for thirty days.

2) LEAA Projects

a) Youth Service Bureaus

In King County and several other counties. Some provide only information and referral. Others provide services such as counseling, educational and recreational programs, and employment opportunities.

b) Accountability Boards

Panels of neighborhood citizens convened by juvenile court. They hear cases, prescribe restitution and community service work. In some cases (e.g., City of Seattle) operate as part of Youth Service Bureaus.

c) Runaway houses, authorized under the federal Runaway Youth Act (see pp. 7-10 of this memo).

d) County-run diagnostic programs in Benton/Franklin, Kitsap and Clark.

e) Status offender pilot programs in Spokane and Vancouver.

There are only five of these programs in the nation. The aim is to develop and strengthen community-based services for status offenders as alternatives to detention and institutionalization. Services include: recreational programs, vocational training, family support services, foster care services,

character-building programs.

3) Joint local/State Programs--County Mental Health Centers

Funding is joint state/local. State sets operational guidelines. Local government provides administration, staffing, and either provides services or contracts them out. Services can include: individual, family, and group counseling; crisis intervention services; parent training.

4) Community programs--YMCA, Big Brothers, etc.

Services include: drop-in centers, recreation programs, individual and family counseling, alternative education, crisis line. Funding primarily through charitable contributions.

c. Programs for status offenders in individual counties

This is a diversified system. The framework is a broad set of juvenile rules established by the State Supreme Court, but much is left to local interpretation. The strengths of the system are that planning, organization, communication and control of juvenile probation departments are carried on locally. The organization of each court's delivery arm is matched to the judge of that jurisdiction and to the local community. This permits innovative and unique approaches. The weaknesses of the system are the fragmentation of services and information (procedures and forms differ, the meaning of "justice" may differ also); and the fact that a statewide

data and information system does not exist.[18]

Funding sources for operation of Superior Courts is provided by counties, except that the state pays one-half of the salaries of Superior Court judges.[19]

6. Problems in the Old System

Several problems are identified by the authors of the background paper. A list of some problems includes:

1. RCW 13.04.120 permitted police or probation officers to immediately take "into custody, without process, any child who is found violating any law or ordinance, or who is reasonably believed to be a fugitive from his parents or from justice, or whose surroundings are such as to endanger his health, morals, or welfare...."[20]

2. The definition of dependency is vague. RCW 13.04.010 lists twelve definitions of dependency. The one most often cited by reformers is one which defines as dependent any child under the age of eighteen years "who is in danger of being brought up to lead an idle, dissolute, or immoral life."[21]

3. Parents can file a petition alleging child is incorrigible.

4. There is no provision for emancipation.

5. Violation of probation can be the cause for filing of petition alleging delinquency, even if the original finding was for status offense.

C. Pro's and Con's of Removing Juvenile Court Jurisdiction over Status Offenders

Appendix A of the background paper contains two viewpoints of the issue of juvenile court jurisdiction over status offenders.

The first is an article by Ted Rubin, Director for Juvenile Justice of the Institute for Court Management, and former judge, Denver Juvenile Court, which appeared in the July/August 1974 issue of Soundings on Youth, a publication of the National Center for Youth Development of the National Council on Crime and Delinquency. The second article by Phillip Cole, Director of the Skagit County Juvenile Probation Department, Mount Vernon, Washington, is a rebuttal of Rubin's argument and appeared in the January/February 1975 issue of the same publication.

Arguments for removal of Juvenile Court Jurisdiction over status offenders. Rubin begins by observing that courts are overburdened with heavy judicial and probation case loads. We should, he says, eliminate status offenders from their workload.

1. Constitutional question
   a. Void for vagueness--definitions of "dependents," "incorrigibles" are particularly suspect.
   b. Unequal protection of the law--juveniles experience longer periods of detention than adults for similar offenses.
   c. Punishment of a status--U.S. Supreme Court ruled status of drug addict is unconstitutional.
2. Failure to deter--runaways, truants, beer drinkers continue to do what they've been doing.
3. Status offenders divert court's attention from more serious offenses.
4. Violation of basic fairness principle--adults who commit similar offenses face no court sanction.

5. Labeling and stigma. Entry into the Juvenile Court causes negative self-image problems.
6. Juvenile's right to counsel is often waived by judge.
7. Weakens parental responsibility. Provisions of attorneys for children results in adversary relationship.
8. Open door jurisdiction of court weakens responsibilities of school and community agencies. The court's attitude has been "If we don't act, no one else will." In fact, the opposite is true: "Because you act, nobody else does."[22]
9. Discrimination--racial, economic, sexual. Poor are referred to court, rich to private psychiatric and educational resources. Girls are more often detained as runaways than boys and are detained for a longer time.
10. Total burden falls on the child. He/she can lose liberty. The problem is usually one of interactions, between parents and child or child and siblings.
11. Restrictions on court's options are being made by law and court decisions.
    Examples: in 1973, Maine and Maryland barred commitment of status offenders to state institutions. The New York Supreme Court ruled such commitment illegal. Maryland and Maine prohibilt pre-trial detention.

Cole's rebuttal

1. Constitutional questions
   a. Void for vagueness--then we need only to re-write statutes.
   b. Unequal protection
      What guarantee of equal protection outside court system?

Leave children without adequate parenting where they are? If so, this requires change in age of adulthood for juveniles.
Include emancipation provision in law.

   c. Punishment (of a status)
      Punishment is not treatment of choice for either delinquents or incorrigibles and dependents.
      Attitudes, problems of incorrigibles not different from delinquents.
      Need for new treatment does not require removal from juvenile court jurisdiction.

2. Failure to deter
   Not true in all cases. The juvenile court does more than just place kids on probation. Skagit County Juvenile Court offers 1) Services to runaways as part of a treatment plan, including individual and family counseling, tutoring, psychiatric treatment, employment assistance, financial aid, revised educational program, vocational training, etc.; and 2) Foster or group home treatment programs when parents are unable to provide adequate parenting. "Initial cost-effectiveness data in our department shows high rate of 'success.'"[23]
3. Draining of resources
   Money must be found to provide substitute services--from where to whom? It would be better to fund the existing system which employs people with expertise rather than establish a new bureaucracy (italics mine). We are aware of problems in the present system...why not correct them? "It might be another generation before we are even able to define problems and abuses of a new bureaucratic system."[24] Diversion is

legitimate and beneficial. Cole suspects it functions well when the juvenile court is there as a back-up, for referrals to and from.

Voluntary services have long been available in communities--private practitioners, community mental health agencies, low-fee counseling centers, family and child welfare agencies. The need for juvenile court jurisdiction has not been removed by voluntary services in the past. It will not be negated unless the authority of juvenile court is transferred to YSB's which would then act without constitutional checks and balances. We cannot treat families on entirely "voluntary" basis, without court requiring parties to participate.

4. Basic fairness principle--adults vs. children. It is true that adults who run away, drop out of college, refuse to follow parents' suggestions are not punished. But should a child of three be allowed to run in the street? The real issue is when should children become adults? Emancipation provisions in the law can provide options.
5. Labeling and stigma. This problem will not go away. People avoid psychiatric treatment because they don't want the label "mentally ill."
6. Provision of counsel. Statutory changes can be made providing that counsel may not be waived in cases where the interests of the child conflict with those of the parents. The rights of the child and the parents may be violated in "subtle and ambiguous ways by the pressure of a bureaucratic agency or by the presence of an expert without the presence or even mention of counsel."

7. Weakening the parental responsibility. Responsibility cannot be carried out without authority. A probation officer can strengthen family and help the family define the right and authority of all members. Eliminating status offenders from court will remove a variety of services to family.
8. Open door jurisdiction. Will YSB's be any less open door? Will they insist families and schools carry out their responsibility? By statute you could eliminate direct referrals to court from families.
9. Discrimination. The same problems exist in many public agencies. Changing the jurisdiction of the court doesn't solve the problem.
10. Loss of liberty: children vs. adults. Statutes can prohibit detention of non-delinquent juveniles in other than shelter care. The Children's Home Society of Northern California contracts with the juvenile court to work with juveniles in a home-like setting.
11. Restrictions on courts. Some restrictions will be placed on other agencies should they assume the court's responsibilities.

Philip Cole concludes by saying it is time to act to provide adequate funding for the whole juvenile justice system, correct statutory and other problems where they exist and insist on program accountability in terms of cost-effectiveness measures.

D. Recommendations from IJA/ABA Standards Project

The background paper includes a number of recommendations from the Institute of Judicial Administration/American Bar Association Standards Project, then in draft form. These recommendations resemble

so closely provisions of SHB 371 regarding treatment of status offenders that I include them.

1. Complete elimination of status offenders from juvenile court jurisdiction. Earlier in the report the standards project is characterized as allowing very carefully limited intervention in certain cases. (See p. 16 of this memo.)

   Instead, handle status offenders through a system of voluntary services entirely outside of juvenile justice system.

2. Strong endorsement of community YSB's. The report urges states to adopt legislation requiring development of community-based youth service agencies, entirely independent of juvenile justice system housed separately from the court or police. Staffing would be by community residents, former juvenile participants and community volunteers. Monitoring and evaluation mechanisms should be established. Guidelines for protection of juvenile's rights should be developed in event of subsequent referral to the court.

Program Recommendations:

a. Limited custody of juveniles in circumstances endangering society, not to exceed six hours. A law enforcement officer may take a juvenile into limited physical custody if he determines the juvenile is in circumstances which constitute a substantial and immediate danger to the juvenile's physical safety.

b. Runaways. Provisions should be made for temporary non-secure residence. If juvenile refuses to return home, he should be sent to temporary non-secure facility. If parent refuses to allow child to return and no alternative living arrangements can be made, counsel should be appointed for the child and a neglect petition filed.

c. Services relating to families in conflict. A broad spectrum of voluntary services should be provided to aid in resolution of conflict between juveniles and their families. Crisis intervention and continuing service components should be available.

d. Alternative residential placement for juveniles in family conflict. The child may be voluntarily placed with a relative, or in a foster or group home. No placement should occur in a secure facility. If parent and child disagree about placement, juvenile court should hold a hearing with counsel appointed for the juvenile and parents notified of the right to counsel. The court should approve placement of juvenile's choice unless preponderance of evidence indicates placement imperils juvenile. ("Imperils" is defined.) A review hearing should be held on the approved placement every six months.

e. Emergency services to juveniles in crisis. Provision should be made for emergency custody for evaluation and treatemnt when the juvenile is suicidal, seriously assaultive, or destructive towards others, Evaluation and treatmcnt should be provided with juvenile's informed consent if possible. Time limits are recommended.

E. "Choices for Washington"

The background paper concludes with a chapter entitled "Choices for Washington" which presents opposing viewpoints on the two main issues and proposals for change. In addition, an approach for discussion of the issues is presented. The authors suggest that status offenders be divided into seven categories: alcohol violations, curfew violations, other law violations that apply only to juveniles, incorrigibility, running away, inability to adjust and truancy. For each category, they suggest the following questions be considered: What kind of behavior does this offense involve? Does a child who commits this type of offense need outside help? What kind of outside help does the child need?[25] Should this help be mandatory or voluntary? What is the justification for mandatory intervention? Who should provide this help? [A list of organizations is provided including police, community service organizations, local government-sponsored programs, youth service bureaus, juvenile court, Bureau of Social Services (BSS) of DSHS, Bureau of Rehabilitation (BJR) of DSHS.][26] After specific points have been discussed, the background paper suggests a number of general policy questions be considered. These are divided into seven general categories: services for status offenders, detention of status offenders, filing of status offense petitions, handling of status offenses by the juvenile court, and the impact of SB 2116.

V. Report on Proceedings from Providence Heights Conference

In addition to the background paper, a second report summarized the proceedings at the Providence Heights Conference on "Status Offenders and the Juvenile Justice System in Washington State."[27]

A. Issues Raised by Guest Speakers

On the two issues of deinstitutionalization of status offenders and elimination of juvenile court jurisdiction over status offenders, there was disagreement at the conference. However, there was more disagreement over the latter issue than the former. Two nationally-known speakers--Hunter Hurst, Director, National Center for Juvenile Justice and Milton Luger, Assistant Administrator of the Office of Juvenile Justice and Delinquency Prevention, LEAA--questioned some of the arguments for removing status offenders from juvenile court jurisdiction. Both indicated research findings show little difference behaviorally between status offenders and delinquents. Hurst said there was no evidence to prove the labeling theory. Luger pointed out that referral of status offenders to private agencies raises problems of accountability and racial discrimination, since private agencies tend to screen out minority status offenders and those with severe problems.

B. Differing Perspectives

1. American Civil Liberties Union (ACLU)--Michelle Pailthorpe, Legislative Director of Washington State chapter.

The statute should not interfere in a person's life unless it will not infringe on individual rights and unless it can be proved intervention will do some good. The present juvenile justice system abuses the rights of both parents and children. For children--a lower standard of proof is required for a status offense than for delinquency. For parents--the state may take child out of home against parents' wishes. This results in ethnic discrimination--

thirteen times as many Native American children are currently removed from their homes compared to children from other ethnic groups. Resources should be available outside the juvenile justice system. The best test of whether resources are doing a good job is whether people continue to voluntarily make use of them. Her recommendations: 1) decriminalize petty offenses; 2) courts should stay out of the picture entirely; 3) status offenders should be referred on a volunatry basis to comminity resources.

2. Juvenile Court Services--Leland Fish, Director, Spokane County Juvenile Court Services.

Historical view: handling of status offenders has been compatible with parens patriae purpose of the juvenile court; i.e., look after child's best interests. Until recently, status offenders were not a serious problem in terms of numbers. Previously, one judicial district might have 100 youths per year, now they may have over 1000 status offenders. Outside of the court system, no other defined and accepted resource was available to deal with these youths. Many held assumption that a few days in detention will "straighten him out." (Many still hold this view.)

Situation today: court intervention is seen by many as only partially successful, in some cases as actually harmful. Yet there is a reluctance to remove status offenders from the court because: it's hard to sit back and do nothing to stop children acting in ways perceived as self-destructive; the state's approach has been institutionalization and this

is hard to break now; no one can agree on alternative. There are conflicting pressures on the system: parents ask courts to help them straighten out "unruly children"; youth demand more freedom in making decisions affecting their lives; many experts are telling the court to get out of the business of dealing with status offenders; agencies are asking courts for help with status offenders who refuse help on voluntary basis or are too unruly; juvenile offenses, both status offenses and delinquency, are steadily increasing and courts and private agencies are having a hard time keeping pace; budgets and services are being cut back.

His suggested approach for dealing with the issues is not to ask "Should the court system be involved with status offenders?" but to focus on questions such as: In what areas are the courts doing a good job? In what sorts of cases does diversion work? How can results of intervention be evaluated? How can the right choices be made for particular cases?

3. Judges--Paul Hansen, Snohomish County Superior Court Judge

Changes are inevitable but we should avoid being too hard on the juvenile court system in the process. Use of discretion by the court has been in the child's best interest. Status offenses were created by the legislature, they gave the juvenile court jurisdiciton but have failed to provide funding. The real reason for existence of status offenses lies in our society--parents and schools with problems,

societal problems such as poverty and unemployment. It is doubtful the problems will ever be solved. Changes will not solve the problems but will pass buck to a different group or institution.

4. Educators--Adele Durkin, Superintendent of Public Instruction's Office

Task Force on Student Discipline. School absenteeism is a growing problem both nationally and within the state. She attacked the present practice of suspending children from school for non-attendance. She said a new WAC (Washington Administrative Code) now in draft form may make keeping kids in school more difficult--it appears it will prohibit school districts (on district-wide basis not by individual teachers) from establishing the number of absences that will lead to loss of academic credit. She supports the compulsory attendance law. Alternative programs are good but they will not solve the problem of school absenteeism. What is needed is a better means of enforcement.

5. Police--Sergeant Colleen McKay, Yakima Police Department

Size of problem: police statistics both nationally and in the state show 60 to 65% of all reported incidents involve juveniles. In Yakima only 6 - 8% of those are status offenders, indicating that at least in some parts of state status offenders are not a major problem. Police are more concerned about some types of status offenses than others; for example, runaways lack survival skills and turn to illegal activities, are subject to exploitation by criminals. Habitual runaways are

a particular frustration. They are clearly not receiving the help they need. If the juvenile court can't do the job, someone else should. Curfew violators: enforcement is highly selective, but this helps in locating runaways. Truants: usually dealt with first by parents and schools. If their efforts fail, police become involved. This is time-consuming process. Police concern is with truant's becoming involved in criminal activity when not in school. Incorrigibles: this is an area of uncertainty for police, who are uncertain how best to handle these juveniles. In general they are treated as a family disupte. Unfairness is evident here since parents can ask police to lock up kid, and police often comply. (In other domestic disputes, such as between husband and wife, parties are treated on a basis of equality.)

With all type of status offenders, the police aim is delinquency prevention. Police hope by becoming involved when minor offenses are committed that they can prevent the child from becoming a delinquent or adult criminal.

6. Bureau of Juvenile Rehabilitation (BJR), DSHS, Doug Vinzant, Director.

American society tends to deal with symptoms rather than primary problems. (Example: concern is to keep drunken drivers off the road, rather than what alcohol does to people.) The basic question is: to what extent should children be allowed to make their own choices? He believes a person can learn to deal with reality by making choices and experiencing consequences. He believes there is a need to

reassess current models of education and treatment which are based on force and carried out in artificial settings. Status offense laws were originally intended to help children, like child labor laws. The informal procedure of juvenile courts, it was assumed, would give courts freedom to act in the best interests of the child. However, you can't assume that informality equals freedom and good. "In fact, the whole system of formal law was set up to override the abuses that were taking place under the informal system."[28]

C. What are We Doing Now? (December 1976)

At the Providence Heights Conference, a six-member panel discussed changes currently being implemented in the handling of status offenders.

1. Department of Social and Health Services (DSHS)--Milton Burdman, Secretary
   a. Need for more data. One reason for current controversies re: status offenders is lack of data. Advocates of various viewpoints are talking in generalities without knowing enough about: 1) numbers of status offenders; 2) different types of youth in this category; 3) specific actions that can be taken to help them; 4) what cannot be done to help them.
   b. Actions that have been taken
      1. Submittal of report, as required by SB 3116, on alternatives to commitment of dependents and incorrigibles.
      2. Removal of status offenders from institutions. SB 3116 gives DSHS until July 1977 to remove status offenders from institutions. However, DSHS has already taken steps to move status offenders into the community. "Two million dollars in resources has been transferred to its Community Services Division and will be made available to community agencies."[29]
      3. Probation subsidy program. DSHS has provided additional funds to locate juvenile probation departments for delinquents and status offenders. (See p. 35 of this paper.)
      4. Pilot programs. "In several counties DSHS is subsidizing pilot programs to move the diagnostic process into the communities. These programs are going well, and DSHS expects to add more under its next budget."[30]
      5. Coordination. The Conference Report summarizes as follows:

         DSHS has the capability of interlocking within one department all the services provided to and affecting status offenders. Even before SB 3116, DSHS funded some receiving homes, foster care arrangements, and child care programs. Thus, it had already established a good basis for carrying out the mandate of SB 3116 to move the status offender programs into the community.[31]

   c. Goals for the Immediate Future
      1. To provide alternative care for the few hundred status offenders still in juvenile institutions and for all

new referrals that come in.

2. To develop more support for community-based alternatives for care of status offenders. These would include:
   a. Receiving homes--both secure and non-secure--as alternative to detention facilities.
   b. Placement-related services, including:
      1) Support of placement of youth in his/her own home.
      2) Increase in number of caseworkers (Note: I believe the number of caseworkers statewide was cut by the legislature from 1200 to 900 in the 1975-6 period.)
      3) Specialized group care arrangements.
      4) Foster care, including care for specialized cases.
      5) Specialized child care placement.
   c. Mental health services for seriously disturbed children.
3. Better data base: to assess the status offender problem as it currently exists and the effectiveness of various treatment alternatives.

2. Juvenile Court Services--Stephen Carmichael, President of the Washington Association of Juvenile Court Services
   a. Data problems--courts have difficulty obtaining good data on status offenders--i.e., number of referrals, care youth receive, rate of recidivism, etc.--because of lack of uniformity among counties in way data are collected and interpreted. He hopes DSHS can take lead in developing a uniform system for data collection and interpretation.
   b. Transition Problems--DSHS is causing problems for local communities in its attempt to beat July 1977 deadline for removal of status offenders from state institutions. There is still an insufficient number of receiving homes and placement alternatives to handle the volume of children needing such services. The courts, in their attempt to comply with SB 3116, are avoiding placement of status offenders in institutions, causing more strain on existing community programs.
   c. Successful Community Projects
      Three programs outside juvenile court system have a 90% or better rate of success:
      1) Spokane Youth Alternatives Project--provides youth with shelter care and crisis intervention services.
      2) Clark County Discretionary Project--provides multiple-impact family therapy for court-referred cases.
      3) Pierce County Home Builders Project--upon referral, sends a team of therapists to a home to work intensively with the entire family over a six-week period; very successful at keeping the child in the home.[32]
   d. Diversity in county responses to recent pressures to eliminate or restrict juvenile court intervention in status offender cases:
      1) No change. Some courts feel obligated to continue to

deal with status offenders until the new law takes effect.

2) Elimination of services. Some courts have totally closed off services to status offenders: they no longer allow either the filing of petitions or the placement of status offenders in detention facilities. However, the break is rarely clean: frequently a status offender who is felt to need such services is simply redefined as a dependent.

3) Use of courts as a last resort. In some counties, obstacles have been set up to make it more difficult to involve the courts. Requirements for court intervention may include:

a) A clear pattern of status offense behavior (e.g., three instances of running away within the last year).

b) Demonstration by the family or child that voluntary resources have been tried and have failed to help.

c) The signing of a petition by the family or child requesting that the court take action.

With respect to detention, county responses have included:

a) Elimination of detention for all status offenders.

b) Reduction of the period of time for which a status offender may be detained to three days as an absolute maximum, but preferably to no more than 24 hours. The object of detention in such cases is

to have a place to keep the child until crisis intervention team or other resource can intervene.

e. Two major needs

1) More data. Need for evaluation and experimental programs currently going on. Important to know which are working. Such evaluation should be top priority for use of funds from LJPO, DSHS, and juvenile courts.

2) Emancipation legislation. Important that option of emancipation be available.[33]

3. Juvenile Court Judges--The Honorable Jay Hamilton, Chairman of the Juvenile Court Committee of the Washington Association of Superior Court Judges

a. Importance of diversity. Diversity in programs and by regions is good. Child should be dealt with as individual.

b. Importance of discretion. Police, probation officers, judges must have discretion if child is to be treated as an individual and if the courts are to be used only as a last resort (a goal that is important both for dealing more effectively with status offenders and for reducing court case loads.)

c. Some Notes of Caution. Changes should be made only after careful consideration. The following questions should be carefully considered:

--Who else can protect the rights of the child?

--Who else is set up to adjudicate problems while protecting the rights of all parties?

--Who else can protect the rights of society and of the individuals comprising it?

Because of these concerns, Judge Hamilton feels that the best course of action would be to make the courts available as a last resort, for handling problems that cannot be solved in other ways.

4. State Law and Justice Planning Office (LJPO)--Daniel Harris, Juvenile Specialist

a. The Juvenile Justice and Delinquency Prevention Act of 1974--goals:

--Reduce Placement of juveniles in detention facilities and institutions; and

--Increase the use of nonsecure community-based facilities and resources.

While there is general agreement with these goals, the difficulty is developing resources necessary to accomplish the goals within the time frame set by the act.

b. Advisory Committee. As required by the federal law, an advisory committee has been established to represent different sectors of the community as well as different geographical regions. Of 21 members, fewer than half are from governmental agencies. Community input seen as vital.

c. Requirements concerning status offenders. Within two years of submitting plan, state must have:

1) Removed all status offenders from secure facilities (detention centers and correctional institutions) and placed them in shelter care facilities instead.

2) Separated status offenders from delinquent children in such facilities.

3) Established monitoring procedures to assure community compliance.

Washington State has until August 1, 1977, to comply. Originally, 100% compliance was intended but Congress has modified this stand. At present, only 75% compliance is required.

The act also requires that the state Juvenile Justice Advisory Committee must develop a plan each year for implementing the act's goals. This plan is to include progress made to date and an assignment of priorities for tasks yet to be accomplished. In Washington State planning process is carried out first at the local level. LJPO takes local plans and combines them with recommendations from DSHS to come up with single statewide plan.

d. Use of federal funds. These funds have been used for work on those aspects of the status offender issue that are of greatest concern, as identified in planning documents. Some of these uses are:

1) Increasing the availability, uniformity, and validity of data, both on status offenders and on services available to them.

2) Demonstrating innovative programs and evaluating their effectiveness, in terms of both cost and results.

3) Assessing the current allocation of resources and determining if reallocation is necessary.

e. New federal legislation. The process for reauthorizing the federal legislation has already begun and is being carried out unde the leadership of Senator Birch Bayh (D., Ind.). Some of the new provisions likely to be included are:

1) The establishment of a Bureau of the Rights of Children, which would take an ombudsman role in legal actions involving children.
2) A combination of the Runaway Youth Act and the JJDP Act for purposes of funding and coordination.
3) A modification of the interstate compact concerning runaway children,
4) A requirement that states establish probation subsidy programs.
5) An accountability model for the use of citizens' boards,
6) An authorization of $150 million in funds per year for next five years, as opposed to $40 million for 1976 and $75 million for 1977. (Note: these figures are different from authorization figures in act. See this paper, p. 7.)
7) An extension of the compliance requirements, providing more alternatives for meeting these requirements.

5. State Legislature--Bill Hagens, staff of the Honorable Ron Hanna, Washington State House of Representatives.

Hagens described the proposed Youth Services Act, sponsored by Hanna. The bill deals with delinquents as well as status offenders. Provisions include:

a. Funding procedures. Sets up process whereby counties will submit plans indicating how they would like to allocate funds they receive.

b. Guidelines for addressing offenses. Offender can addressed only on basis of offense for which he was taken into custody.
c. Index of serious offenses. A youth who commits an offense classified as serious will be referred to the courts. A youth who commits a lesser offense and who has no prior history of conviction will be referred to a diversion program. Strict policies, including due process guidelines, will be established for diversion and court referral procedures.
d. Disposition options. Disposition standards will be established with a range of disposition options provided for each category of offense.
e. Role of discretion. Discretion on part of both judge and youth:

--The judge, in sentencing, will be able to go above the range of suggested options if there are aggravating circumstances, or below that range if there are mitigating circumstances. Either the prosecutor or defense attorney will be able to appeal such decisions.

f. Detention policy. With respect to status offenders, intent of bill is to provide services, not to punish; consequently, it limits detention to 20 days.

6. Educators--Mona Bailey, Superintendent of Public Instruction's Office (SPI)

Educators are not currently doing enough for the status offender. Because of lack of evaluative data, no one knows

whether what they are doing is having a significant impact. What is clear is that number of suspensions, expulsions and dropouts are increasing each year and something must be done about the problem.

a. Educational programs available for status offenders:

1) State institutions. Educational programs are provided for over 600 young people in the six state institutions (total population?). Programs are remedial and prevocational in nature--many of the youths have learning disabilities.

2) Parole learning centers. Programs are sponsored jointly by the local school system and DSHS. Purpose: social and educational rehabilitation for youth returning from institutions to their communities.

3) Group homes. Programs funded by federal and local monies. Some provided in group homes themselves, some in local schools. Essentially remedial and tutorial in nature.

4) Detention centers. Some educational programs provided but resources "highly inadequate."

b. Directions for future action by public schools:

1) Earlier intervention. Comprehensive early childhood development program might prevent the problems from occurring.

2) Coordination of services. Educators need to work more closely with community and state agencies in development of services and programs.

3) Increase in educational options available. More choices and alternatives should be made available within the educational system to meet individual needs of children. Current policies are too restrictive re number of hours per day a child must spend in school, number of days per week, number of years, types of learning opportunities.

4) Evaluation of alternative education.

5) Support services. More counselors (particularly in elementary schools), social workers, nurses, and psychologists.

6) Educational programs in detention facilities. Provide more adequate educational resources for children in detention facilities.

Most important factor: cooperation among various groups involved in providing services to status offenders.

D. Small Group Discussions

In small group discussions, participants at the conference considered status offenses one by one. There were considerable areas of agreement:

1. Alcohol violations are the most serious status offense. Mandatory intervention is justified in cases of chronic violations. Institutionalization should be a last resort and only in institutions specializing in alcohol treatment.

2. "Incorrigibility" should be eliminated as a category. Response to this behavior should be voluntary services to strengthen the family, but strong pressure should be exerted

so that families use the services.

3. "Running away" should not be a law violation.
4. Truancy should not be a violation of state law.
5. Response to status offenses in general should be: voluntary, community-based services; coercion in serious cases; juvenile court as last resort; emancipation should be legally available as a potential alternative. DSHS role should be: refer juvenile to community organization; provide funding; establish guidelines and standards; provide record-keeping services; and support and evaluate innovative programs.

E. Plenary Discussion

Following small group discussion, a plenary session was held. Again, areas of agreement and disagreement were noted.

1. Provision of services for status offenders. Services should be planned and carried out at the community level. Funding should come from state and federal sources. Emphasis should be on voluntary services. Participants agreed there was a need for more coordination. Disagreement centered on whether services should be provided only on a voluntary basis.
2. Legislative changes. A range of opinions was expressed regarding jurisdiction of juvenile courts: last resort, most serious cases only, or restricted to criminal offenses only, not in status offenses.[34]

   To the question "If not the courts then who?" a problem becomes evident in the discussion. If jurisdiction over status offenders was removed from the courts, the responsibility would go to DSHS, more specifically to BSS. Opinion

in small groups indicated dissatisfaction with DSHS, BSS programs. This finding was "to a large extent" responsible for consensus in small groups on need for local control of programs.[35]

There was agreement on the need to redefine offenses. Vague definitions of dependency and delinquency create data collection problems. Particular phrases need to be changed, e.g., incorrigibility.

Agreement was expressed on the need for legislation to spell out guidelines and procedures for emancipation as an alternative to incarceration.

On funding, participants agreed there should be local control and state funding. (Note: would legislators buy this?)

3. Arrest and detention of status offenders. There was disagreement. Some felt arrest should not take place under any circumstances; others believed it should occur only when the child was in substantial danger. None favored long-term detention of status offenders. Some favored no detention at all. Others believed it might be necessary for short periods of time until more community services were available. They noted the lack of short-term shelter facilities.
4. Where do we go from here? There was a general consensus on the need for more studies and better data. However, the majority said they were tired of studies and ready for action.

What type of action did participants want? Some pointed to the need for additional programs. They said we should look at pilot programs that have been most successful. (See this paper, p. 55.) Others pointed to the need for legislation. Suggestions included: remove status offenders from juvenile court jurisdiction, establish a structure for delivery of services through community programs, provide for reallocation of resources to the community.

VI. "House Bill 371: An Introduction" by Mary Kay Becker, State Representative (June 1978)

A. Impetus to Reform

Mary Kay Becker, the prime sponsor of HB 371, mentions several factors which provided an impetus to reform of the juvenile code. The Supreme Court decisions, in re Gault and in re Winship, were motivating factors. The federal Juvenile Justice and Delinquency Prevention Act of 1974 was an important influence, placing emphasis on diversion from the traditional juvenile justice system and provided funding incentives for states to get status offenders out of detention.

Rising institutional costs were another factor. Washington State ran four main juvenile institutions: Cascadia in Tacoma, Green Hill in Chehalis, Maple Lane in Centralia, and Echo Glen near Snoqualmie. There were also three forest camps and six state group homes. Admissions to state juvenile institutions rose from 873 in 1960 to 1539 in 1967. Since pre-disposition costs are paid by the county and post-disposition costs are paid by the state, a fiscal incentive existed for local governments to send juveniles to state institutions. In 1969 the

legislature passed the Juvenile Probation Subsidy Act which provided state funds to counties to keep adjudicated youth in the community rather than commit them to institutions. However, the Juvenile Probation Subsidy Act did little to stimulate development of community resources. According to Becker, 85% of the funds were spent internally by juvenile courts to fund probation workers. Admissions dropped to 1249 in 1970 and to 750 in 1973, but by 1976 admissions were at 1280, above the 1970 level. The reformers, led by Becker, wanted a more predictable method of controlling access to state institutions. Determinate sentencing was part of the answer. (Note: determinate sentencing develops ranges of punishemnt within which judges can operate.)

A final motivating influence was consideration for public safety. Juveniles who committed misdemeanors were in state institutions, many with no prior convictions. Serious offenders were placed on probation or no action was taken on their case.

B. Legislative History

1. House Activity--Focus: Juvenile Delinquent

1976

Summer-fall: Corrections Subcommittee of Social and Health Services Committee visited state correctional institutions and took testimony from administrators, staff, inmates, agencies and the general public. Chairman, Ron Hanna. Members: Becker, Deccio, Fischer, Peterson. Task: developing policy. Outcome: House Concurrent Resolution (HCR) 46.

1976

January: HCR 46 introduced and passed during session which

ended in March. Resolution criticized "the constant increase in appropriations for treatment without a significant increase in the rate of effectiveness." It called for a greater emphasis on work as opposed to treatment. It stated that "maintaining the family unit should be the first consideration in all cases of state intervention into children's lives." It proposed a pilot project in the juvenile court system based on the determinate sentencing model of Professor Marvin Wolfgang, with sentences related to severity and frequency of child's criminal behavior. It placed a high priority on development of crisis intervention programs to work directly with families, "keeping children out of the court and institutional systems."

June: At direction of committee, Bob Naon's paper was prepared. Purpose: turn policy statement into legislation. Naon's paper was presented to a meeting of Corrections Subcommittee at Cascadia.

July: First draft of bill--based on model in Naon's paper.

August: Draft presented to joint meeting of Senate and House Judiciary Committees.

November: Reworked draft, prepared by Bill Hagens and Bob Naon, is ready for the legislature.

1977

January: House added new committee, Institutions, an outgrowth of the old Corrections Subcommittee. Ron Hanna is chairman. Walt Knowles, Chairman of House Judiciary Committee, agreed to transfer responsibility for a juvenile

code to Institutions. House Bill 371 was introduced and sent to Institutions committee. Sponsors: Becker, Hanna, Deccio, Knowles, Fischer, Salatino, D. Nelson, Maxie.

January-April: Three reprintings of substitute drafts.

Major changes:

1. First ten sections of original bill dropped. These sections provided a two-tier system of county and state Youth Service Bureaus for planning, administration, and evaluation. Doug Vinzant, Director of BJR, opposed to decentralization in principle, applied pressure to get these sections dropped.
2. Loosening of dispositions. These were drawn quite tightly at first. Vinzant insisted on this, to give BJR more flexibility in fixing terms. The Seattle Public Defender's Office also supported loosening of standards, expanding range of middle offenders where judge has greater discretion.
3. Appropriation attached to bill of $983,600. Staff of House, BJR and Office of Community Development estimated this to be cost of first year of diversion program. Bud Shinpoch, Chairman, Appropriations Committee, insisted the House policy be strictly enforced which required any new program to be analyzed by his committee.

Added factors in bill's passage:

1. House Speaker John Bagnariol set nine priority areas for passing bills, one of which was criminal justice and sentencing reform. HB 371 fits under this

priority.

2. Deccio helped to get Republic caucus support.

April: Second reading in House. Trend of floor amendments: dissatisfaction with tradition policy of confidentiality to protect juvenile offender. Otto Amen's amendment removed a clause which inhibited a crime victim from providing information about a juvenile offender. (The Senate Judiciary Committee also added provisions for opening hearings, making records available to the public.)

April 21: passed House by 83 to 8 vote.

2. Senate Activity--Focus: Juvenile Dependent

1976

All during the year, Jenny Van Ravenhorst, staff for the Senate Judiciary Committee, worked on draft of comprehensive bill on dependent juveniles.

January through March--Legislative session: SB 3116 passed.

June: National Workshop on Juvenile Justice held in Albuquerque.

December: Providence Heights Conference

1977

January-May: Senate Judiciary Subcommittee, chaired by Senator Frank Woody, worked on issues relating to dependent juveniles. Second issue: termination of parental rights. Child-care agencies, adoptive and foster parents wanted the legislature to spell out consistent policy. No guidelines existed and judges varied greatly in their decisions. Advocates of poor and minorities resisted making it easier

to terminate parental rights. "Social-work-oriented groups" advocated the earliest possible intervention in the lives of neglected and abused children.

The subcommittee experienced delays due to Senator Woody's illness and press of other legislative business. May deadline was reached for each House to act on its own bills, with the dependency and termination bills still in subcommittee.

May: Creation of Third Substitute House Bill 371. The House bill became a vehicle for the Senate subcommittee bills. Senator Pete Francis, Chairman, Senate Judiciary Committee, read the House Bill and gave it top priority in his committee. A "marathon effort" began to meet the deadline for bills to be reported out of committees. The staff worked all night combining the language of both bills. The Senate Judiciary Committee met for "long mornings in May" to go through sheets of amendments from Senators Dan Marsh, Jeanette Hayner, George Clark, House sponsors, and others. The termination bill was included at this point, along lines suggested by a Legal Services attorney.

(Final version of SHB 371 was a four-part structure, with Part D essentially the House bill.)

Late May: Bill is voted out of Rules, bypassed "almost certain graveyard of Ways and Means."

June 3: Called up for second reading in Senate, while budget leaders of both houses were in conference rooms working out final details of school funding bills. For three days the

Senate considered amendments. It was the "longest second reading of any non-budget bill within memory." Floor amendments included attempts to gut the bill as well as less serious changes which represented the price of a vote from a wavering Senator. Each day an amendment-by-amendment analysis was prepared by a "hard core group of lobbyists and staff."

June 8: Last amendment approved. It read: "The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact in the absence of compelling evidence to the contrary." Senate vote on the bill was 27 to 13 with 8 absent.

June 10: House "swiftly concurred" in Senate amendments.

June 18: Governor Ray signed bill into law.[36]

When DSHS staff showed signs of recommending a veto, "legislative pressure was applied and the Department withdrew its opposition."

3. Lobbying

a. Support Coalition

Ron Clark, King County Prosecutor's Office, in charge of juvenile division, sent "two capable attorneys" to Olympia to help lobby the bill. (Reich and Showalter?) Clark spend "endless hours" calling people to get them to contact their Senators. Legal Services, Seattle Public Defender, and the ACLU supported the due process

guarantees and provisions for record expungement. The Association of Police Chiefs and Sheriffs and Friends and Families of Victims of Crime supported tougher sentencing, in the hope of stopping the "revolving door" syndrome for serious offenders. Community youth-serving agencies (AWCYS and others) supported the emphasis on diversions and other community-based services and hoped to get a larger share of state funding. The fact that that both ACLU and police were supporting the bill provided "instant creditability in political circles."

b. Opposition. Juvenile court directors, probation officers and judges opposed the bill. According to Becker, they found themselves in a "somewhat isolated position but they launched a strong counter-attack." County officials were "recruited" to testify that the bill would be costly to county government. Pierce County Prosecutor Don Herren suggested that the purposes of the bill could be achieved simply by lowering the age of adult prosecution from 18 to 16. A King County Superior Court Judge said he would resign if the bill passed in order to devote his time to tasks "where there would still be an opportunity to perform some useful function." Other opposition, on a hit-or-miss basis, was from individuals who didn't understand the bill and from those who opposed any legislation concerning children as communistic.

c. Strategy of supporters. A traditional one-on-one strategy was used, with frequent nose counts. Each Senator was contacted. Pierce County Senators were sent a letter rebutting Herron's charges. Supporters of the bill met with a Tacoma newspaperman and got an editorial favorable to the bill. During the Senate floor debate, as mentioned, a group of lobbyists and staff prepared analysis each day of every amendment.

C. Legislative Intent

1. Broad purposes
   a. Limit courts to judicial function
   b. Require courts to deal more consistently with youth who commit offenses
   c. Identify social resources outside the court for non-criminal behavior
   d. Philosophical position: "moves away from the parens patriae doctrine of benevolent coercion, and closer to a more classic emphasis on justice."
2. Offenders
   a. Make youth more accountable--presumptive sentencing
   b. Public safety--serious offenders to be incarcerated
   c. Concern for crime victim--requirements for restitution and for release of information about the crime and alleged offenders to the victim
   d. Make courts accountable to community--requirement for specific written finding of "manifest injustice" when serious offender sentenced out of range

   e. New terminology reflects movement away from the medical model. Youth who are sentenced are being punished, not "treated"
   "Delinquent" replaced by "offender"
3. Diversion
   a. Preserve a "species of informal adjustment for those youngsters whose offenses have been so few and so minor that involvement with a court would be counter-productive"
   b. Foster community accountability boards for "straightening youthful offenders"
4. Dependents, runaways, families in conflict
   a. Legislative intent stated in final Senate amendment (see p. 72 of this paper)
   --Intent carried out in new mandate for crisis intervention program, and in requirement that rehabilitative services be offered to parents before legal termination of parental rights
   --When family conflicts cannot be resolved, procedures for placing child out of home, resolving conflicts about where child is to live
   b. Decrease foster care drift--provision for court review hearing every six months when dependent children placed in foster or group care (provision "almost everyone seems to like")

VII. Joseph Weis's Paper, "The Elusive Status Offender"

The charge that HB 371 is "probably premature" came from Assistant Professor Joseph Weis in a presentation based on findings of a research

paper (U.W. Center for Law and Justice, July 7, 1978.) Professor Weis pointed out that the original juvenile court statutes embodied two major approaches: 1) the legalist perspective, emphasizing control, and 2) the welfare perspective, stressing prevention, with status offenders viewed as pre-delinquents. These two approaches represent conflicting goals. HB 371 "comes down on the legalist's side" and assumes the welfare perspective is not applicable. This state is probably ahead of its time. The issue is not resolved whether the court should follow the legalistic or the welfare model. This is still a subject of national debate.

Professor Weis cited national statistics showing referrals to courts for status offenses have increased dramatically. Before 1960 status offenders accounted for 30% of juvenile court referrals. By 1970 over 50% were status offenders (In Washington State 39% in 1975.)

According to Professor Weis, two issues are currently debated by social scientists: 1) behavior of status offenders: is it any different from that of delinquents? and 2) career pattern: do status offenders become delinquents at a later stage of life?

FOOTNOTES

[Refer to: page no.]

[13] 1. See footnote p. 34 in Naon's paper.

[15] 2. Status Offenders in Washington's Juvenile Courts: Choices for the Child and the System, A Background Paper for the Washington Conference on Status Offenders and the Juvenile Justice System, December 16 and 17, 1976, Issaquah, Washington. Authors: Jenny Van Ravenhorst, Phillip Cole, Charles Pepper and Danile Harris.

[15] 3. Ibid., pp. 3-9.

[18] 4. Mentioned by Professor Joseph Weis at presentation of his paper, "The Elusive Status Offender," Center for Law and Justice, University of Washington, July 7, 1978.

[19] 5. Providence Heights Background Paper, p. 20.

[20] 6. The above quotations are taken from Guide for Juvenile Court Judges, published by the National Probation and Parole Association, New York, 1957. Cited in Providence Heights Background Paper, pp. 21-22.

[20] 7. Marilyn Showalter, King County Prosecutor's Office, testifying before the Senate Education Commiteee on August 9, 1978, gave two examples of a pre-sentence report under the pre-371 system. Example One: "Joe is one of five children. His father left home when he was two. Has had no job prospects." Example Two: "Paul's parents are concerned. They have talked to their pastor. It appears that Paul got in with bad kids." She characterized this as a "predictive approach."

[20] 8. The two quotations above are from the President's Commission on Law Enforcement and Administration of Justice, Task Force on

[Page #] Footnotes (Continued)

Juvenile Delinquency, Task Force Report: Juvenile Delinquency and Youth Crime, published by the U.S. Government Printing Office, Washington, D.C., in 1976, pp. 3 and 28. Cited in Providence Heights Background Paper, pp. 22-23.

[22] 9. Quoted in "Juvenile Justice in Washington State," League of Women Voters of Washington, October, 1975, p. 3.

[23] 10. Quoted in Providence Heights Background Paper, p. 25, and in "Overview of House Bill 371" by Jenny Van Ravenhorst, p. 7.

[23] 11. Providence Heights Background Paper, p. 26.

[24] 12. Ibid., p. 27.

[27] 13. Ibid., p. 51.

[31] 14. Mary Kay Becker, "House Bill 371: An Introduction," June, 1978, p. 12.

[32] 15. Providence Heights Background Paper, p. 56.

[34] 16. Ibid., p. 60.

[35] 17. Ibid., pp. 62-65.

[38] 18. Ibid., pp. 79-80.

[38] 19. "Washington Courts: Judicial Reform," League of Women Voters of Washington, September, 1976, p. 15.

[38] 20. Providence Heights Background Paper, p. 129.

[38] 21. Ibid., p. 127.

[40] 22. Quoted from U.S. Circuit Judge David Bazelon, Providence Heights Background Report, p. 139.

[41] 23. Providence Heights Background Report, p. 142.

[41] 24. Ibid., p. 143.

[46] 25. Ibid., p. 125.

[46] 26. Ibid., p. 126.

[46] 27. Status Offenders and the Juvenile Justice System in Washington

[Page #] Footnotes (Continued)

State, A Report on a Conference Held on December 16-17, 1976, in Issaquah, Washington. Prepared by Denis J. Prager and Carol G. Watts, Battelle Memorial Institute, Seattle, Washington.

[52] 28. Ibid., p. 21.

[53] 29. Ibid., p. 34.

[53] 30. Ibid.

[53] 31. Ibid.

[55] 32. Ibid., pp. 36-37.

[57] 33. Ibid., p. 39.

[64] 34. In "House Bill 371: An Introduction," Mary Kay Becker states that "strong support was shown at the conference for removing status offenders from the juvenile court" (p. 19). The Conference Report indicates a range of opinions was expressed on the issue of juvenile court jurisdiction over status offenders.

[65] 35. Conference Report, p. 64.

[72] 36. This date conflicts with July 1st date cited in "Overview of House Bill 371" prepared by the Division of Community Services, Department of Social and Health Services, October 7, 1977. However, Legislative Digest, No. 6 for the 45 session confirms June 18th date for Governor Ray's signature, p. 554.

Appendix--Agencies of Court Support in Washington State

1. Court Administration--Administrator for the Courts

The goal of court administration is to improve procedures and business practices of the courts and to support the judges. The office of Administrator for the Courts, created by the legislature in 1957, has responsibility, under the supervision and direction of the Chief Justice to:

--continuously study the operations of the judicial system
--examine the administrative methods and systems employed within the judicial system and make recommendations for their improvement
--act as an information clearing house
--prepare and submit budget estimates of state appropriations necessary for the operations of the judicial system
--prepare an annual report
--develop meaningful statistics relating to the business of the courts.

To carry out these and other responsibilities, the administrator has a staff of functional specialists.

Another major responsibility is coordinating and facilitating education and training. As a result of the passage of SSB 2132 (1976?) which created a Criminal Justice Training Commission, the Chief Justice appointed a Judicial Standards Training Board with a charge of advising the training commission relating to the educational goals and needs of the judiciary.

2. Washington Judicial Council

Created by the 1925 state legislature, the Washington Judicial

Appendix (Continued)

Council includes representatives of all three branches of state government, the deans of the recognized law schools, and a member of the Washington State Association of County Clerks.

Tasks of the Judicial Council include:

--continuously to survey and study judicial operations of the state--volume of business, methods of procedure, work accomplished, and character of results
--receive and consider suggestions for remedies of faults in administration
--devise ways to simplify procedures
--submit suggestions for changes in rules, procedures
--report biennially to the governor and legislature on the condition of business in the courts, with recommendations for needed changes in organization or procedure.

The Judicial Council reviews statutory law relating to the judicial process. It also examines the operation of rules of practice and procedure and recommends improved rules and procedures to the Supreme Court.

The Supreme Court has the responsibility for adoption and promulgation of procedural rules for all levels of court in the state. "These rules, properly enacted, supercede and override any statutes which may be in conflict."[1]

3. Washington Judicial Conference

Created by the legislature in 1957, the Washington Judicial Conference is composed of all Superior Court judges, judges of the

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[1]"Washington Courts Judicial Reform," League of Women Voters of Washington, September, 1976, p. 7.

Appendix (Continued)

Court of Appeals, and justices of the Supreme Court. Members meet annually, called by the Supreme Court. Through a system of committees they work for more efficient judicial operation and unity of purpose.

4. Superior Court Judges Association

This association is established by statute. It meets annually, assigning various committees to work in special areas. The association establishes uniform rules for the operation of Superior Courts.

END