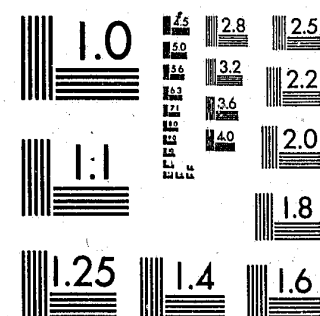


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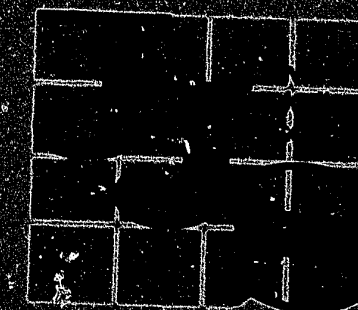
## Reports of the National Juvenile Justice Assessment Centers

### A Comparative Analysis of Juvenile Justice Standards and the JJDP Act

#### Volume III

- Reducing Detention and Commitments
- Community-Based Alternatives to Incarceration

76583





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*Publications in the Juvenile Justice Standards  
Series*

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Standards for the Administration of Juvenile Justice  
Report of the National Advisory Committee for  
Juvenile Justice and Delinquency Prevention

Juvenile Justice Standards Symposium: A Summary

A Comparative Analysis of Juvenile Justice Standards  
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- Delinquency Prevention
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- Deinstitutionalization of Status Offenders and  
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- Separation of Juveniles From Incarcerated Adults

*Volume III*

- Reducing Detention and Commitments
- Community-Based Alternatives to Incarceration

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U.S. Department of Justice  
Office of Juvenile Justice and Delinquency Prevention  
*National Institute for Juvenile Justice and Delinquency Prevention*

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## **A Comparative Analysis of Juvenile Justice Standards and the JJDP Act**

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### *Volume III*

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- Reducing Detention and Commitments
  - Community-Based Alternatives to Incarceration
- 

Robert W. McCulloh

November 1981

U.S. Department of Justice  
National Institute of Justice

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## Preface

The National Institute for Juvenile Justice and Delinquency Prevention set up an Assessment Center Program in 1976 in partial fulfillment of its mandate, under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (JJDP Act) to collect and synthesize information from available literature on all aspects of juvenile delinquency. Topical Assessment Centers were established on delinquent behavior and its prevention (University of Washington), the juvenile justice system (American Justice Institute), and alternatives to the juvenile justice system (University of Chicago). A fourth center (at the National Council on Crime and Delinquency) was created for integrated data analysis of the work of the other centers.

The present report is one of a four-volume series titled A Comparative Analysis of Juvenile Justice Standards and the JJDP Act, which was developed by the American Justice Institute. Each volume in this series examines two separate issues important to the juvenile justice system. (A listing of the subjects discussed is found on the inside front cover of each report.) Individual issues are analyzed by identifying pertinent provisions of the JJDP Act and then comparing relevant standards adopted by four nationally prominent organizations: The National Advisory Committee for Juvenile Justice and Delinquency Prevention, the Task Force on Juvenile Justice and Delinquency Prevention of the National Advisory Committee on Criminal Justice Standards and Goals, the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project, and the American Correctional Association's Commission on Accreditation for Corrections.

Like other papers in the series of Reports of the National Juvenile Justice Assessment Centers, these analyses are intended to facilitate better understanding and action by policymakers, operational personnel, researchers, and the public on how the juvenile justice system can contribute to enhanced and enlightened child development and control.

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## Foreword

Consistent with the purposes of the Juvenile Justice and Delinquency Prevention Act (P.L. 93-415, as amended), Section 102(a)(5), this Office has supported the development of national standards for the administration of juvenile justice which address virtually every facet of the juvenile justice system. Included are standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention, the National Advisory Committee on Criminal Justice Standards and Goals Task Force on Juvenile Justice and Delinquency Prevention, and the Institute of Judicial Administration/American Bar Association Joint Commission on Juvenile Justice Standards. In addition, national professional organizations, such as the American Correctional Association's Commission on Accreditation for Corrections, the National Council of Juvenile and Family Court Judges, the American Medical Association, and others have recently promulgated standards related to their specific disciplines.

With the existence of these various sets of standards representing diverse interests and experience, the National Institute for Juvenile Justice and Delinquency Prevention recognizes the enormous task it is for a State or local jurisdiction, agency, or program to review each of these comprehensive works, to sort out what each group recommends, and to decide where to begin in terms of implementation. Therefore, NIJJDP commissioned this Comparative Analysis to assist in the review of national standards, using the JJDP Act as a framework for structuring the review.

One of the major purposes of this Comparative Analysis is to identify the various recommendations adopted by national standards-setting groups which present options for implementing the major policy thrusts of the JJDP Act. While the Act clearly provides specific direction for improvements in the juvenile justice system, it does not spell out how such goals are to be achieved. Although none of the standards development efforts was undertaken, nor purports, to serve this specific purpose, most of the standards do reflect a substantial agreement with the major policy directions contained in the Act, even though the particular approaches may vary.

It is anticipated that this kind of analysis will be extremely useful to the juvenile justice field, not only because it includes all of the major sets of standards, but also because it provides a focus for standards implementation. It also serves as a means of highlighting major areas of agreement rather than disagreement and controversy. One may hope it will shift the debate from "whose standards get implemented" to "what are the priority areas in which standards can be used as an effective tool for generating and maintaining improvements in the quality of justice for juveniles."

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Office of Juvenile Justice  
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Acting Director  
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Justice and Delinquency Prevention

## Introduction

This third volume of the four-part series A Comparative Analysis of Juvenile Justice Standards and the JJDP Act examines two major issues:

- Reducing Detention and Commitments
- Community-Based Alternatives to Incarceration.<sup>1</sup>

Like its three companion publications, the present review takes as its point of departure the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act).<sup>2</sup> This introduction will briefly outline the structure of that legislation and describe the procedure employed in preparing these reports.

### JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974, AS AMENDED\*

The JJDP Act represented a major Federal initiative in response to the "enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources" caused by juvenile delinquency.<sup>3</sup> The Act culminated a considerable history of Federal assistance in this area with an attempt to provide "for the first time, a unified national program to deal with juvenile delinquency prevention and control within the context of the total law enforcement and criminal justice effort."<sup>4</sup> Following the original passage in 1974, minor amendments were added to the Act in 1976, and more substantial revisions were made in 1977.<sup>5</sup>

As amended, the JJDP Act is broad-scoped, addressing a diverse range of subjects affecting various levels of government. For example, at the Federal level, it creates, within the U.S. Department of Justice, the Office of Juvenile Justice and Delinquency Prevention along with other, related organizations. In addition to delineating the powers and responsibilities of these agencies, the Act also sets forth several directives intended to achieve greater coordination in Federal efforts to improve juvenile justice.

Of particular importance in the present context, the JJDP Act establishes two different types of Federal grant programs. These are designed "to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs."<sup>6</sup> The first grant mechanism, the "formula grant program" described in Sec. 223 of the Act,<sup>7</sup> accounts for the major portion of Federal financial

\*After these volumes were completed and while they were undergoing final editorial review, the 1980 Amendments to the JJDP Act were approved. The text in the individual analyses (as well as the text above) discusses the Act, as amended through 1977--the date of the last amendments prior to those of 1980. An Appendix A has been inserted at the end of each volume, identifying those portions of the 1980 Amendments pertinent to the issues discussed in each analysis.



assistance. Sec. 223 outlines certain requirements for the State planning process and directs that the lion's share of formula grant funding be devoted to specified "advanced techniques." The "advanced techniques" contemplated are described in rather general, flexible terms, amenable to adaptation by individual jurisdictions. This is in keeping with the JJDP Act's overall philosophy of providing States and localities considerable latitude in designing their own programs. In two areas, however, Sec. 223 is a good deal more specific: The deinstitutionalization of status offenders and nonoffenders and the separation of confined juveniles from "regular contact" with adults accused or convicted of crimes are identified as objectives of particularly high priority involving special monitoring and reporting requirements.\*

The other major grant program is outlined in Sec. 224 of the Act.<sup>8</sup> It authorizes Federal funding of "special emphasis prevention and treatment programs." While the grants under the two sections differ in several respects, there is a similar delineation of the types of projects eligible for support--here designated "special emphasis programs," rather than "advanced techniques." These, too, are described in flexible terms, affording grant recipients substantial leeway in tailoring programs to local conditions.

In preparing these analyses, the first task was to survey the JJDP Act, as amended--paying particular attention to the grant programs--and identify its major policy thrusts. A comprehensive listing would have been quite lengthy, since the Act alludes to myriad important subjects at least once, while dwelling on others in several different sections. Therefore, the decision was made to sketch only the major contours of the Act. A selective list of eight issues was formulated:

- Delinquency Prevention
- Diversion
- Deinstitutionalization of Status Offenders and Nonoffenders
- Separation of Juveniles From Incarcerated Adults
- Reducing Detention and Commitments
- Community-Based Alternatives to Incarceration
- Advocacy for Services
- Due Process/Procedural Safeguards.

The Act was thoroughly reviewed, and its positions in each of these areas were recorded.

#### STANDARDS GROUPS

The next task was to examine the work of several nationally prominent organizations that have issued standards for juvenile justice. The reports of the following four groups were reviewed:

- The National Advisory Committee for Juvenile Justice and Delinquency Prevention (itself established by the JJDP Act)

\*As is noted in Appendix A in Volume II, the 1980 Amendments to the JJDP Act added a third item to this list: the removal, within specified parameters, of juveniles from adult jails and lockups. The Amendments also modified somewhat the requirements applicable to deinstitutionalization and separation from adults.

- The Task Force on Juvenile Justice and Delinquency Prevention of the National Advisory Committee on Criminal Justice Standards and Goals
- The Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project
- The American Correctional Association's Commission on Accreditation for Corrections.

The first three groups addressed, with varying degrees of detail, the full spectrum of juvenile justice issues. The Commission on Accreditation for Corrections, on the other hand, confined its recommendations almost exclusively to juvenile correctional programs. All relevant reports of the 4 groups--a total of 31 publications--were examined in some detail.<sup>9</sup>

#### PURPOSE OF THE COMPARATIVE ANALYSIS

This four-part series attempts to identify linkages between the usually very general directions of the JJDP Act and the often rather detailed recommendations of the standards groups. The volumes do not attempt to champion the positions of any one group, to label one set of policy judgments "right" and another "wrong." Certainly the differences, as well as the similarities, in the four groups' positions on key issues are pointed out. But the purpose here is simply to outline options for implementing programs and policies that comply with the JJDP Act.

Indeed, choosing among the recommendations of these four groups need not be considered the only way of fulfilling the Act's directives. It is likely, though, that the publications of the four collectively represent the most thorough and professional examination of these issues to date. Thus, analyzing them comparatively should assist Federal, State, and local policymakers and operational personnel who undertake statutory revision, policy formulation, and program development.

#### FORMAT OF THE INDIVIDUAL ANALYSES

Each analysis consists of six principal parts:

- Description of the Issue
- Pertinent Provisions of the Act
- Summary of Positions Recommended by Standards Groups (Table 1)
- Analysis of the Standards
- Matrix of Interrelated Standards (Table 2)
- Appendix A, Relevant Provisions of the 1980 Amendments to the JJDP Act.

In addition, notes at the end of each paper provide extensive references to primary sources and occasional explanations of minor issues. An Appendix B in each volume sets forth a key to abbreviations, outlining the short-form titles used in the citations of the standards publications.

This format should enable different categories of readers to use these materials as they wish. For example, although the sometimes fairly lengthy Analysis of the Standards section is in many ways the heart of each analysis, the general reader can get a good overview of the discussion merely by reading the first three, usually brief, sections--particularly the summary in Table 1. Readers desiring a more

thorough treatment of the issues can review these analyses in detail. Finally, those who wish to explore individual subjects in depth will, of course, want to consult the original sources themselves. Even these readers, though, may be able to shorten a sometimes rather formidable research task by using the extensive annotations provided here and the reasonably detailed Matrix of Interrelated Standards.

#### NOTE TO THE READER

Since this Comparative Analysis examines the IJA/ABA Joint Commission's standards as they appeared in the 1977 Tentative Drafts, the reader is advised to consult the final volumes subsequently revised and/or approved by the ABA House of Delegates for changes in the standards reviewed here. In some instances this will result in modifications of the analysis conducted herein. The specific changes in the standards are noted in the "Addendum of Revisions in the 1977 Tentative Draft," which can easily be found in the section preceding the Table of Contents in the final IJA/ABA publications.

#### NOTES TO INTRODUCTION

1. For a definition of terms and a clarification of the scope of the subjects discussed, see the brief Description of the Issue sections at the beginning of the individual analyses.
2. 42 U.S. Code Sec. 5601 et seq. (1979 Supp.).
3. Id., Sec. 5601(b).
4. Office of General Counsel, Law Enforcement Assistance Administration, U.S. Department of Justice, Indexed Legislative History of the Juvenile Justice and Delinquency Prevention Act of 1974, p. 2 (1974). For a thorough review of the legislative history of the Act, see generally id. For brief discussions of prior Federal efforts in this area, see, e.g., id., pp. 1-2; IJA/ABA Youth Service Agencies, pp. 14-18.
5. For the legislative history of the amendments, see Committee on the Judiciary, U.S. House of Representatives, House Report No. 94-1155 Accompanying H.R. 13636 (1976); Committee of Conference, U.S. House of Representatives, House Report No. 94-1723 (1976); Committee on the Judiciary, U.S. Senate, Senate Report No. 94-847 (1976); Committee on Education and Labor, U.S. House of Representatives, House Report No. 95-313 (1977); Committee of Conference, U.S. House of Representatives, House Report No. 95-542 (1977); Committee on the Judiciary, U.S. Senate, Senate Report No. 95-165 Accompanying S. 1021 (1977); Committee of Conference, U.S. Senate, Senate Report No. 95-368 (1977).
6. 42 U.S. Code Sec. 5602(b)(4) (1979 Supp.).
7. See id., Sec. 5633.
8. See id., Sec. 5634.
9. For a full listing of the literature surveyed, see Appendix B.

## Reducing Detention and Commitments

#### DESCRIPTION OF THE ISSUE

This Comparative Analysis is, in some respects, an analog to that on deinstitutionalization in Volume II. The subject here, however, is delinquent juveniles rather than status offenders or nonoffenders. The present concern is principally with mechanisms designed to avert the out-of-home placement of delinquent youth altogether.<sup>1</sup> One other issue--that these juveniles, if placed, be housed in nonsecure facilities--is also discussed here briefly. The nature of such nonsecure facilities is further explored in the other Comparative Analysis in this volume, that on Community-Based Alternatives to Incarceration.

As in the field of adult corrections, a considerable body of literature has emerged questioning practices which, it is argued, result in too extensive commitments of juveniles to correctional institutions and other residential facilities, both prior to and following trial.<sup>2</sup> While the substantial expense of out-of-home placements in comparison with other dispositional options is frequently mentioned as a collateral rationale for reducing commitments,<sup>3</sup> the principal justification is generally presented in terms similar to those found in the following excerpt from the Institute of Judicial Administration/American Bar Association's (IJA/ABA's) Tentative Draft on Dispositions:

The criminalizing effect of juvenile institutions has received considerable attention....Identification with the nondelinquent element is made less likely when identification with fellow offenders is developed....The social structure and peer group influences in prison tend to reinforce negative and illegal behavior patterns.<sup>4</sup>

Moreover, it is usually emphasized that:

There is substantial evidence that institutionalization does not reduce the criminality of those imprisoned; individuals committed to institutions generally recidivate at rates equal to or greater than offenders not so incarcerated.<sup>5</sup>

Although these latter arguments find their counterparts in the literature on adult corrections, an additional line of analysis is often introduced which is unique to the juvenile justice system: that removal from the home disrupts the continuity of the juvenile's relationships with parents or parental surrogates--a disruption that can generate considerable emotional trauma, especially for younger juveniles.<sup>6</sup>

On the basis of the contentions summarized here and other, related arguments, numerous commentators have urged that the permissible bases for detaining or committing juveniles be circumscribed. To be sure, none seriously proposes that the detention and commitment options be foreclosed entirely, but a variety of suggestions have been presented which are designed to limit their use to the most serious cases.



#### PERTINENT PROVISIONS OF THE ACT\*

The Juvenile Justice and Delinquency Prevention Act itself evidences repeated concern for seeking alternatives to detention or commitment.<sup>7</sup> For example, among the "advanced techniques" to which the bulk of the States' formula grant funding is to be devoted is:

[P]rovid[ing]...a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means,...designed to--

(i) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population...<sup>8</sup>

Another portion of the "advanced techniques" section urges States to initiate the following:

[E]xpanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth.<sup>9</sup>

Moreover, the section on "special emphasis prevention and treatment programs" authorizes additional grant funding to, among other things:

[D]evelop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.<sup>10</sup>

Other sections of the Act could be cited as well,<sup>11</sup> but the key point should be apparent: Consistent with its overall philosophy of seeking to encourage a diversity of innovative alternatives to the traditional approaches of the juvenile justice system,<sup>12</sup> the JJDP Act manifests a clear intention to support programs designed to reduce out-of-home placements of juveniles.

#### SUMMARY OF POSITIONS RECOMMENDED BY STANDARDS GROUPS

Table 1 on the following page summarizes, in an abbreviated fashion, the recommendations of the four standards groups surveyed here which are pertinent to reducing preadjudicatory detention and postadjudicatory commitments. The subsequent discussion in the Analysis of the Standards section elaborates the positions identified summarily in Table 1 and pays particular attention to the points of agreement and divergence in the proposals presented by the four groups.

\*After this Comparative Analysis was completed and while it was undergoing final editorial review, the 1980 Amendments to the JJDP Act were approved. The text above discusses the Act, as amended through 1977. Appendix A beginning on p. 91 of the present volume identifies those portions of the 1980 Amendments relevant here.

Table 1  
Summary of Positions Recommended by Standards Groups<sup>13</sup>

|                                 | NAC  | Task Force   | IJA/ABA<br>(Tentative Draft, 1977)  | CAC  |
|---------------------------------|--|--|---|--|
| Preadjudicatory<br>Detention    | Recommends that juveniles be given citations, rather than taken into custody, whenever feasible. Specifies criteria to govern: (a) the detention decision and (b) the determination of whether placement in a secure facility is warranted. Requires a judicial hearing within 24 hours, and an additional hearing every seven days that detention is continued. Also calls for expedited appeals. | Urges police to make "maximum effective use" of citations. Outlines five bases for detention. Mandates a hearing on detention within 48 hours, with further judicial review every 10 days thereafter. Recommends that appeals of detention decisions be processed expeditiously.                           | Strongly urges expanded use of citations. Proposes detailed criteria for detention decisions and directives on secure placements. Provides for a judicial hearing within 48 hours, and an additional hearing every seven days thereafter. Appeals to be heard within 24 hours.                                    | Recommends that the intake unit develop written policies to limit detention to "cases involving protection of the public, prevention of self-injury, and the need to ensure the presence of the juvenile at subsequent court hearings." Calls for a judicial hearing within 48 hours, with a further hearing following every 10 days of continued detention. |
| Postadjudicatory<br>Commitments | Recommends legislatively determined maximum sanctions for different categories of offenses, but does not endorse a particular sentencing structure. Requires the court to select the disposition that is the "least restrictive alternative" appropriate.<br><br>Provides judicial hearings when dispositional orders are violated.  | Endorses a sentencing scheme with specified statutory maximums for different categories of delinquent acts. Stipulates that the court should select the "least restrictive alternative" disposition appropriate.<br><br>Authorizes court hearings when juveniles fail to comply with dispositional orders. | Proposes a sentencing structure with statutory maximum dispositions for different categories of offenses. Requires "least restrictive alternative" disposition appropriate. Urges that there be a presumption against commitments.<br><br>Proposes judicial hearings when juveniles violate dispositional orders. | Because of the correctional focus of the project, does not address judicial dispositions directly.<br><br>Requires a hearing by either the court or the releasing authority when juveniles violate major conditions of probation or aftercare.   |

Summary of Positions: I. Preadjudicatory Detention

Three groups urge expanded use of citations.

All four groups propose criteria for detention decisions--though the criteria differ; two groups address secure detention specifically.

All four groups call for a judicial hearing on detention; one specifies a 24-hour timeframe; the other three recommend a 48-hour deadline. All groups recommend further judicial review--two groups, every 7 days; the other two, every 10 days. Three groups authorize expedited appeals.

II. Postadjudicatory Commitments

Three groups propose legislatively determined maximum dispositions for different categories of offenses; two endorse particular systems.

Three groups require the court to select the "least restrictive alternative" disposition appropriate.

Three groups require judicial hearings on violations of dispositional orders; one requires hearings by the court or the releasing authority.

## ANALYSIS OF THE STANDARDS

Three of the four sets of standards reviewed here--those proposed by the National Advisory Committee, the IJA/ABA, and the Task Force--are quite explicit in adopting the position that detention and commitments have been widely overutilized in the juvenile justice system. Given the correctional focus of the fourth set of proposals--those tendered by the Commission on Accreditation for Corrections--these standards are less precise in matters pertaining to the police and the judiciary, but they, too, seem to express essential agreement with this same basic premise. Moreover, there is substantial similarity--at a general level--in the mechanisms that the groups propose to achieve the overall objective of reducing detention and commitments. For example, all four groups urge that preadjudicatory detention be authorized only pursuant to formally issued, specifically defined criteria, and that detention decisions be subject to prompt judicial review. Moving to specifics, though, the groups differ both as to the proper substantive criteria for detention and the timeframe for hearings by the court. These and other variations in the groups' views will now be examined in some detail.

### Preadjudicatory Detention

The IJA/ABA's Tentative Draft on Interim Status notes that:

The detention of juveniles prior to adjudication or disposition of their cases represents one of the most serious problems in the administration of juvenile justice. The problem is characterized by the very large number of juveniles incarcerated during this stage annually, the harsh conditions under which they are held, the high costs of such detention, and the harmful after-effects detention produces.<sup>14</sup>

In fact, the same volume observes that:

In contrast to the pretrial stage, much greater care and sensitivity is usually devoted to the postadjudicative disposition, its facilities, and its alternatives to incarceration. The result, paradoxically, is considerably less detention under better conditions once the juvenile justice system ceases to presume that the juvenile is innocent.<sup>15</sup>

The other standards groups reach similar conclusions.<sup>16</sup>

As a consequence, a variety of proposals are targeted to limiting the range of circumstances in which preadjudicatory detention is to be seen as warranted. For example, Task Force Standard 5.5 stipulates that:

Police departments should make maximum effective use of State statutes permitting police agencies to issue a written citation and summons to appear at intake in lieu of taking a juvenile into custody. A copy of each citation and summons should also be forwarded to the juvenile's parents or guardians.<sup>17</sup>

Similarly, Standard 2.5 in the IJA/ABA's Police volume states, in part, that:

[E]mphasis should be given to the use of summons in lieu of arrest.<sup>18</sup>

In like fashion, the National Advisory Committee's Standard 2.231 specifies that law enforcement officers or the court should take a juvenile into custody only following a determination that, among other things:

[I]ssuance of a summons or citation would not adequately protect the jurisdiction or process of the family court; would not adequately protect the juvenile from an imminent threat of serious bodily harm; or would not adequately reduce the risk of the juvenile inflicting serious bodily harm on others or committing serious property offenses prior to adjudication.<sup>19</sup>

The accompanying commentary elaborates upon Standard 2.231 as follows:

The determinations recommended...are intended to induce judges and law enforcement officers to make a conscious choice between custody and use of a summons or citation....Hence, the provision specifies that a juvenile alleged to have engaged in delinquent conduct should only be taken into custody if no less restrictive means--i.e., citations or summons--would be sufficient to prevent the juvenile from fleeing or being taken from the jurisdiction; to safeguard a juvenile who is in circumstances which present an immediate danger of serious physical injury; or to prevent juveniles alleged to be delinquent from seriously harming others or committing serious property offenses such as arson or burglary in the first degree.<sup>20</sup>

Thus, three of the four standards groups urge that, rather than routinely "taking into custody"--that is, arresting the juvenile--a less coercive procedure be employed at the outset whenever feasible.<sup>21</sup>

As to cases where it is deemed proper to take the juvenile into custody, these same three groups also address actual, physical detention by law enforcement officers, prior to the delivery of the juvenile to the intake unit. Task Force Standard 5.9 on Guidelines for Temporary Police Detention Practices states, in part, that:

The temporary detention of juveniles by the police should be protective in nature, not punitive. A juvenile should be held in police detention facilities no longer than is necessary for referral to juvenile intake or return to the parents. Juveniles being held in temporary detention should be under observation at all times.<sup>22</sup>

The accompanying commentary emphasizes that:

The standard's intent is that detention in a police facility should be used only for those juveniles who have allegedly committed serious delinquent acts and pose a threat to themselves or others.

...[T]emporary police detention should be employed only rarely and then on a very short-term basis. Primary responsibility for the initial decision to detain a juvenile prior to the adjudicatory hearing should rest with intake personnel, not the police.<sup>23</sup>



The National Advisory Committee and the IJA/ABA agree that principal decisionmaking authority regarding preadjudicatory detention should be vested in the intake unit, rather than the police. In fact, both of these groups go farther than the Task Force in restricting police detention, even for the briefest, interim period. The National Advisory Committee's Standard 2.242 specifies, in part:

A juvenile taken to a law enforcement agency's juvenile unit should be brought to the intake unit without delay and in any case within four hours of being taken into custody unless released earlier.<sup>24</sup>

The attendant commentary states:

It is unrealistic to recommend against taking a juvenile to the police station house at all, given the widespread use of police juvenile bureaus. However, the time in police custody should be held to a minimum.<sup>25</sup>

Hence the 4-hour limitation established in the standard itself. Moreover, the commentary makes clear that the Advisory Committee contemplates that time spent at the station house should be devoted principally to interrogation. That the committee did not wish, though, to foreclose altogether the option of actual detention at the station house--so long as it is subject to the specified 4-hour maximum--seems apparent from this excerpt from the same commentary:

Juveniles should not be held for any length of time in a secure juvenile detention facility pending transport to the intake unit unless the factors set forth in Standard 3.152 [which governs decisions regarding secure detention by the intake unit, as will be noted below] apply.<sup>26</sup>

In this respect, the proposals presented by the IJA/ABA differ from those endorsed by the National Advisory Committee, since Standard 5.4 in the IJA/ABA's volume on Interim Status directs that:

The holding of an arrested juvenile in any police detention facility prior to release or transportation to a juvenile facility should be prohibited.<sup>27</sup>

Standard 5.3 in the same volume likewise imposes a more stringent limitation than the parallel recommendation of the National Advisory Committee, inasmuch as it posits a 2-hour limitation on police custody prior to release or delivery to the intake unit, in contrast to the NAC's 4-hour timeframe.<sup>28</sup>

Once the juvenile is delivered to intake, the Task Force, the National Advisory Committee, and the IJA/ABA are agreed that intake personnel are to execute the decision regarding preadjudicatory detention<sup>29</sup> and that this decision is to be promptly reviewed by the court. The Task Force outlines its views on the appropriate criteria for the detention decision in its Standard 12.7, which states that:

A juvenile should not be detained in any residential facility, whether secure or open, prior to a delinquency adjudication unless detention is necessary for the following reasons:

1. To insure the presence of the juvenile at subsequent court proceedings;

2. To provide physical care for a juvenile who cannot return home because there is no parent or other suitable person able and willing to supervise and care for him or her adequately;
3. To prevent the juvenile from harming or intimidating any witness, or otherwise threatening the orderly progress of the court proceedings;
4. To prevent the juvenile from inflicting bodily harm on others; or
5. To protect the juvenile from bodily harm.

A detained juvenile should be placed in the least restrictive residential setting that will adequately serve the purposes of detention.<sup>30</sup>

The commentary accompanying Standard 12.7 indicates that:

Detention for any purpose [specified in the standard] must be found to be necessary. This implies consideration of alternative arrangements that might be devised to serve the same goals. For example, detention for the purpose of insuring the youth's presence in court might be avoided if an arrangement for increased supervision by family or community resources could be substituted.<sup>31</sup>

A somewhat different, more expansive set of detention criteria is proposed by the Commission on Accreditation for Corrections. Standard 8397 in the CAC's volume on Juvenile Detention Facilities and Services urges that:

Written policy and procedure limit the use of detention to cases involving protection of the public, prevention of self-injury, and ensuring the presence of the juvenile at subsequent court hearings.<sup>32</sup>

The "protection of the public" terminology seems broader than the wording in Task Force Standard 12.7, and it is clearly a good deal more broad-scooped than the phrasing in the standards endorsed by the National Advisory Committee and the IJA/ABA--these latter being appreciably more narrowly drawn than the proposals of the Task Force.

The National Advisory Committee's Standard 3.151 states, in part:

A juvenile accused of a delinquent offense should be unconditionally released unless detention in a secure or nonsecure facility or imposition of conditions on release is necessary to protect the jurisdiction or process of the family court; to prevent the juvenile from inflicting serious bodily harm on others or committing a serious property offense prior to adjudication, disposition, or appeal; or to protect the juvenile from imminent bodily harm.<sup>33</sup>

Not only are these criteria more rigorous than those suggested by the Task Force, the National Advisory Committee also addresses the decisionmaking process in this area with greater particularity. Thus, the same standard continues as follows:

In determining whether detention or conditioned release is required, an intake officer should consider:

- a. The nature and seriousness of the alleged offense;
- b. The juvenile's record of delinquent offenses, including whether the juvenile is currently subject to the dispositional authority of the family court or released pending adjudication, disposition, or appeal;
- c. The juvenile's record of willful failures to appear at family court proceedings; and
- d. The availability of noncustodial alternatives, including the presence of a parent, guardian, or other suitable person able and willing to provide supervision and care for the juvenile and to assure his/her presence at subsequent proceedings.<sup>34</sup>

The standard further stipulates that:

If unconditional release is not determined to be appropriate, the least restrictive alternative should be selected.<sup>35</sup>

It provides that detention in a secure facility is authorized only pursuant to the criteria in the subsequent Standard 3.152, which will be discussed below.

As previously noted, the bases for detention in the NAC's Standard 3.151 are more restrictive of detention practices than the proposals tendered by the Task Force and the CAC. But the detention criteria recommended in the IJA/ABA's Interim Status volume are still more circumscribed, and it is to these latter criteria that the National Advisory Committee's Standard 3.151 can most profitably be compared and contrasted.

The IJA/ABA proposals in this area are rather intricate. Standard 3.2 in the Interim Status volume establishes the basic parameters. It states that:

The imposition of interim control or detention on an accused juvenile may be considered for the purposes of:

- a. protecting the jurisdiction and process of the court;
- b. reducing the likelihood that the juvenile may inflict serious bodily harm on others during the interim period; or
- c. protecting the accused juvenile from imminent bodily harm upon his or her request.

However, these purposes should be exercised only under the circumstances and to the extent authorized by the procedures, requirements, and limitations detailed in Parts IV through X of these standards.<sup>36</sup>

Standard 3.3--described in its commentary as "the converse of 3.2"--provides that:

Interim control or detention should not be imposed on an accused juvenile:

- a. to punish, treat, or rehabilitate the juvenile;
- b. to allow parents to avoid their legal responsibilities;
- c. to satisfy demands by a victim, the police, or the community;
- d. to permit more convenient administrative access to the juvenile; or
- e. due to a lack of a more appropriate facility or status alternative.<sup>37</sup>

These two standards are in keeping with the Interim Status volume's overall philosophical posture, which the Introduction characterizes as follows:

This volume proceeds on the premise that the danger of too much detention before trial or disposition currently outweighs the danger--both for juveniles and society--of too much release. As a result, the standards here seek to curtail severely--but not eliminate--the discretion to detain that presently characterizes the system.<sup>38</sup>

Subsequent standards in the same volume endeavor to make these general premises operational by targeting specific directives to the individual participants in the detention process: the police, the intake officials, the court, attorneys for the defense and the prosecution, and those who administer the detention facilities.<sup>39</sup>

Most pertinent to the present context is the rather lengthy and detailed Standard 6.6, which governs detention decisions by the intake official.<sup>40</sup> This standard consists of three major subsections. Subsection A. provides:

A. Mandatory release. The intake official should release the accused juvenile unless the juvenile:

1. is charged with a crime of violence which in the case of an adult would be punishable by a sentence of one year or more, and which if proven is likely to result in commitment to a security institution, and one or more of the following additional factors is present:

- a. the crime charged is one of first or second degree murder;
- b. the juvenile is currently in an interim status under the jurisdiction of the court in a criminal case, or is on probation or parole under a prior adjudication, so that detention by revocation of interim release, probation, or parole may be appropriate;
- c. the juvenile is an escapee from an institution or other placement facility to which he or she was sentenced under a previous adjudication of criminal conduct;
- d. the juvenile has a demonstrable recent record of willful failure to appear at juvenile proceedings, on the basis of which the official finds that no measure short of detention can be imposed to reasonably ensure appearance; or

2. has been verified to be a fugitive from another jurisdiction, an official of which has formally requested that the juvenile be placed in detention.<sup>41</sup>

The commentary emphasizes that:

In none of these categories is detention automatic; the rule instead is that persons not in these categories are automatically to be released.<sup>42</sup>

Subsection B. of Standard 6.6 reinforces this point. It states:

B. Mandatory detention. A juvenile who is excluded from mandatory release under subsection A. is not, pro tanto, to be automatically

detained. No category of alleged conduct in and of itself may justify a failure to exercise discretion to release.<sup>43</sup>

Hence the existence of subsection C., which reads, in part, as follows:

C. Discretionary situations.

1. Release vs. detention. In every situation in which the release of an arrested juvenile is not mandatory, the intake official should first consider and determine whether the juvenile qualifies for an available diversion program, or whether any form of control short of detention is available to reasonably reduce the risk of flight or misconduct. If no such measure will suffice, the official should explicitly state in writing the reasons for rejecting each of these forms of release.<sup>44</sup>

The subsequent Standard 6.7 authorizes protective detention "in circumstances that present an immediate threat of serious bodily harm to the juvenile if released."<sup>45</sup> But such detention is sanctioned only in nonsecure facilities and only pursuant to the "voluntary written request of the juvenile."<sup>46</sup>

A careful comparison of the just-cited IJA/ABA Standards 6.6 and 6.7 with the previously quoted NAC Standard 3.151 reveals a number of points of variation, with the IJA/ABA standards being appreciably more restrictive of detention.<sup>47</sup> For example, while NAC Standard 3.151 requires consideration of the factors set forth in subparagraphs (a) through (e) quoted above to determine whether detention is warranted "to prevent the juvenile from inflicting serious bodily harm on others or committing a serious property offense," it seems quite clear that such a review could lead to detention--though perhaps not to placement in a secure facility--in cases where the IJA/ABA's Standard 6.6 A. would mandate release. Similarly, NAC Standard 3.151 might well authorize nonsecure detention "to protect the juvenile from imminent bodily harm" in circumstances where it would be disallowed under the IJA/ABA's Standard 6.7.<sup>48</sup>

An adequate comparison of the National Advisory Committee's recommendations regarding the proper bases for detention and the IJA/ABA's stance on this same subject also requires scrutiny of these two groups' standards on detention in secure facilities. Under the NAC proposals, while nonsecure detention may be warranted if the above-cited requirements of Standard 3.151 are met, detention in a secure facility is authorized only pursuant to the criteria in Standard 3.152. This standard states:

Juveniles subject to the jurisdiction of the family court over delinquency should not be detained in a secure facility unless:

- a. They are fugitives from another jurisdiction;
- b. They request protection in writing in circumstances that present an immediate threat of serious physical injury;
- c. They are charged with murder in the first or second degree;
- d. They are charged with a serious property crime or a crime of violence other than first or second degree murder which if committed by an adult would be a felony, and

- i) They are already detained or on conditioned release in connection with another delinquency proceeding;
- ii) They have a demonstrable recent record of willful failures to appear at family court proceedings;
- iii) They have a demonstrable recent record of violent conduct resulting in physical injury to others; or
- iv) They have a demonstrable recent record of adjudications for serious property offenses; and

e. There is no less restrictive alternative that will reduce the risk of flight, or of serious harm to property or to the physical safety of the juvenile or others.<sup>49</sup>

The IJA/ABA addresses secure detention in Standard 6.6 C. in the Interim Status volume, which provides, in part:

3. Secure vs. nonsecure detention. Whenever an intake official determines that detention is the appropriate interim status, secure detention may be selected only if clear and convincing evidence indicates the probability of serious physical injury to others, or serious probability of flight to avoid appearance in court. Absent such evidence, the accused should be placed in an appropriate form of nonsecure detention, with a foster home to be preferred over other alternatives.<sup>50</sup>

It will be noted that the National Advisory Committee's Standard 3.152 is based upon --though it incorporates significant modifications of--the IJA/ABA's Standards 6.6 A. (regarding mandatory release) and 6.7 (relating to protective custody). In the accompanying commentary, the National Advisory Committee identifies four key differences between its own Standard 3.152 and the IJA/ABA's Interim Status standards.

First, it urges that the proposed strict criteria be limited to detention in secure facilities. Second, in view of the large number of burglaries and other serious property offenses committed by some juveniles, it does not restrict detention to juveniles accused of committing violent crimes. Third, [the IJA/ABA standard]...would limit the violent felonies other than murder, which would warrant secure detention, to those for which commitment to a secure correctional institution is likely. This added factor is omitted...[in NAC Standard 3.152]. Fourth, the standard does not restrict the violent or serious property offenses, which would make a juvenile eligible for secure detention, to those occurring while the juvenile is subject to the jurisdiction or dispositional authority of the family court.<sup>51</sup>

To sum up: All four standards groups propose that detention be authorized only pursuant to officially issued, written criteria. The Commission on Accreditation for Corrections suggests the most expansive bases, concluding that detention is justified for, among other things, "protection of the public"--without further definition or elaboration of that terminology. Next on the continuum are the recommendations found in the Task Force's Standard 12.7. While the criteria set forth in the latter standard would likely avert detention in some cases where the CAC proposals would allow it, it is clear that the Task Force formulations are more permissive of detention than those of the remaining two groups. NAC Standards 3.151 and



3.152 interpose significantly greater strictures on detention practices--particularly regarding placements in secure facilities. Rounding out the continuum are the proposals drafted under the aegis of the IJA/ABA, which would authorize detention only in a very narrow range of cases.

In addition to their recommendations to circumscribe the grounds for the initial detention decision, the groups reviewed here endeavor to provide a vehicle for prompt judicial review. They also suggest other mechanisms designed to limit the duration of detention in those cases where it is held to be warranted at the outset of the proceedings. For example, Task Force Standard 12.11 specifies, in part:

Unless a juvenile who has been taken into custody has been released, a judicial hearing to review the necessity for continued detention should be held within 48 hours from the time he or she was taken into custody.<sup>52</sup>

The standard further stipulates that the detention hearing should conform to due process requirements; that the State should be required to demonstrate probable cause to believe that the juvenile committed the offense and to show by clear and convincing evidence the need for continued detention; and that a court order continuing detention should be supported by written reasons and findings of fact.<sup>53</sup> Moreover, the standard directs that:

If the juvenile's detention continues, a new detention hearing should be held promptly upon motion by the respondent asserting the existence of new or additional evidence. Absent such motions, the court should review the case of each juvenile held in secure detention no less frequently than every 10 court days. Each jurisdiction should provide for an expedited appellate procedure to permit speedy review of allegedly wrongful detention orders.<sup>54</sup>

Regarding appeals, the commentary provides:

In urban court systems, detention appeals should be heard within 24 hours of the time an appeal is claimed. In rural areas, every effort should be made to treat such proceedings with urgency.<sup>55</sup>

Although they are less specific on the subject of procedural matters--and while they make no mention of appeals--the proposals endorsed by the Commission on Accreditation for Corrections are in basic agreement with the Task Force's recommendations regarding timeframes. Thus, Standard 8393 in the CAC's volume on Juvenile Detention suggests that:

Written policy and procedures ensure that any juvenile placed in detention or shelter care be brought before the juvenile court within 48 hours of admission.<sup>56</sup>

In addition, Standard 8398 in the same volume urges that:

Written policy and procedure require a review detention hearing every 10 court days.<sup>57</sup>

In contrast to the CAC's formulations, the IJA/ABA's Interim Status standards cover procedural matters in some detail. In their essential features, these

directives are in accord with the previously cited Task Force Standard 12.11. For example, they require that the hearing conform to the requisites of due process; that the State be obliged to establish probable cause; and that the standard of proof regarding the need for continued detention be clear and convincing evidence.<sup>58</sup> As to the timing of the hearing, two standards in the Interim Status volume are pertinent. Standard 6.5 directs, in part, that:

If the juvenile is not released, the intake official should prepare a petition for a release hearing before a judge or referee, which should be filed with the court no later than the next court session, or within twenty-four hours after the juvenile's arrival at the intake facility, whichever is sooner.<sup>59</sup>

Standard 7.6, in turn, provides:

An accused juvenile taken into custody should, unless sooner released, be accorded a hearing in court within twenty-four hours of the filing of the petition...<sup>60</sup>

Thus, 24 hours from custody to petition, plus 24 hours from petition to judicial hearing establish a maximum timeframe of 48 hours--the same figure endorsed by the Task Force.<sup>61</sup>

But some cross-volume inconsistency is evident in the IJA/ABA proposals, since Standard 3.3 in this group's volume on Court Organization and Administration states, in part:

Those standards for judicial hearing of juvenile cases should be promulgated and monitored. These should include:

A. Detention and shelter hearings; not more than twenty-four hours following admission to any detention or shelter facility.<sup>62</sup>

The IJA/ABA's final position on this matter does not seem to be entirely clear.<sup>63</sup> Perhaps the recommendations in the Interim Status volume should be given priority, since they address this stage of processing in greater detail.

In any event, the National Advisory Committee's posture in this area is apparent. And--while its directives on procedural matters are in basic agreement with those of the Task Force and the IJA/ABA<sup>64</sup>--it suggests a shorter processing time than that endorsed by the Task Force, the CAC, and the IJA/ABA's Interim Status volume. NAC Standard 3.155 specifies, in part:

Unless the juvenile is released earlier, a detention hearing should be held before a family court judge no more than twenty-four hours after the juvenile has been taken into custody.<sup>65</sup>

The commentary recognizes that most other standards groups have selected a 48-hour limit, but it defends the shorter period as follows:

Although it is recognized that the 24-hour period (including holidays and weekends) proposed in this standard will cause some difficulty in those few cases in which it is necessary to detain a juvenile, especially in

rural areas, the cost of detention both to the juvenile and the taxpayer warrants such a stringent prescription.<sup>66</sup>

With regard to the timeframe for review hearings in cases of continuing detention, the IJA/ABA and the National Advisory Committee are in agreement; both endorse a shorter period than that suggested by the Task Force and the CAC. Thus, Standard 7.9 in the IJA/ABA's Interim Status volume recommends, in part, that:

The court should hold a detention review hearing at or before the end of each seven-day period in which a juvenile remains in interim detention.<sup>67</sup>

Similarly, NAC Standard 3.158 directs that:

A review hearing should be held at or before the end of each seven-day period in which a person subject to the jurisdiction of the family court over delinquency...remains in secure or nonsecure detention, or whenever new circumstances warrant an earlier review.<sup>68</sup>

Both the NAC and the IJA/ABA support a right to speedy appeal of the detention decision. But whereas the National Advisory Committee's standard simply urges that appeals in such cases "should be heard and decided as expeditiously as possible,"<sup>69</sup> the IJA/ABA's directives call for an "immediate hearing within twenty-four hours on notice or motion" and specify that "decisions on appeal should be filed at the conclusion of the hearing."<sup>70</sup>

Moreover, it should also be noted that the Task Force, the National Advisory Committee, and the IJA/ABA each proposes case processing timeframes for the juvenile justice system as a whole, running the gamut from the detention hearing through the adjudicatory hearing and on to dispositional proceedings and possible appeals.<sup>71</sup> Adherence to the recommended timeframes would facilitate more rapid resolution of cases and thus reduce the duration of detention where it is deemed appropriate.

Finally, one additional mechanism--unique to the IJA/ABA proposals--might also be mentioned. Standard 10.5 in the Interim Status volume suggests that, following an appropriate assessment procedure, each State should establish a quota specifying a maximum number of juveniles that may be held in detention statewide. The standard further states that:

The quota should be reduced annually thereafter, as alternative forms of control are developed. The quota should be binding on the statewide agency as a mandatory ceiling on the number of accused juveniles who may be held in detention at any one time; provided that it may be exceeded temporarily for a period not to exceed sixty days if the agency certifies to the governor of the state and to the legislature, and makes available to the public, in a written report, that unusual emergency circumstances exist that require a specific new quota to be set for a limited period. The certification should state the cause of the temporary increase in the quota and the steps to be taken to reduce the population to the original quota.<sup>72</sup>

### Postadjudicatory Commitments

While the standards groups reviewed here appear to concur in the view that the most flagrant abuses in the present system have occurred in the area of pretrial detention, they are also strongly supportive of the position that the postadjudicatory commitment option has been widely overutilized. Thus, the National Advisory Committee, for example, argues for constraints on the "excessive use of incarceration" which it believes has traditionally characterized the juvenile justice system.<sup>73</sup> In a similar fashion, the IJA/ABA's Corrections Administration volume endorses the following "general principle":

The administration of juvenile corrections should aim to provide services and programs that will allow the court to reduce the number of juveniles placed in restrictive settings.<sup>74</sup>

To facilitate the attainment of this overall objective, the standards groups present several distinctly different types of recommendations. One approach involves the establishment of legislatively determined maximum dispositions for different categories of offenses. Three groups speak to this issue. The National Advisory Committee treats the subject in a rather general fashion. Its Standard 3.181 specifies that:

All conduct subject to the jurisdiction of the family court over delinquency should be classified for the purpose of disposition into categories that reflect substantial differences in the seriousness of the offense. Such categories should be few in number. The maximum term that may be imposed for conduct falling within each category should be specified.

The types of sanctions that may be imposed for conduct subject to the jurisdiction of the family court over delinquency should be grouped into categories that are few in number and reflect differences in the degree of restraint on personal liberty.<sup>75</sup>

The commentary notes that:

The degree of dispositional discretion that should be accorded family court judges is one of the major debates in juvenile justice today. Approximately 80 percent of the states permit the juvenile or family court to exercise jurisdiction over a juvenile found delinquent until he/she reaches twenty-one, regardless of the offense....Most of these states leave the decision of when juveniles should be released from custody or supervision to the public or private agency to which they have been committed.

A number of other states provide that the court may commit a juvenile for an indeterminate period up to a statutory maximum, which is the same for most offenses. Many of these also provide for extensions of the dispositional period....

This standard, together with Standard 3.182, follows the lead of...[among others, the IJA/ABA and the Task Force] by taking a middle course between these conflicting views.<sup>76</sup>

Under this approach, the State Legislature is to set maximum durational limits for dispositions, tailored to different types of offenses, and, further, to categorize different levels of sanctions. But it is argued that:

The responsibility for determining the length of the disposition within the statutory maximum, the degree of restraint that should be imposed, and the type of program to which the juvenile should be assigned should be retained by the family court judge. In this way, increased equity and consistency in the disposition of delinquency cases can be achieved without sacrificing the family court's ability to fashion a dispositional plan on the basis of the mitigating and aggravating factors of the particular case and the juvenile's needs and interests.<sup>77</sup>

It should be noted, though, that, while the National Advisory Committee supported this conceptual framework in principle, it opted to stop short of endorsing a particular sentencing structure.

Both the IJA/ABA and the Task Force, on the other hand, set forth rather detailed proposals in this area. Standard 5.2 in the IJA/ABA's Juvenile Delinquency and Sanctions volume governs classes of juvenile offenses. It specifies, in part:

A. Offenses within the criminal jurisdiction of the juvenile court should be classified as class one through class five juvenile offenses.

B. Where, under a criminal statute or ordinance...applicable to juveniles..., the maximum sentence authorized upon conviction for such offense is

1. death or imprisonment for life or for a term in excess of twenty years, it is a class one juvenile offense;
2. imprisonment for a term in excess of five but not more than twenty years, it is a class two juvenile offense;
3. imprisonment for a term in excess of one year but not more than five years, it is a class three juvenile offense;
4. imprisonment for a term in excess of six months but not more than one year, it is a class four juvenile offense;
5. imprisonment for a term of six months or less, it is a class five juvenile offense;
6. not prescribed, it is a class five juvenile offense.<sup>78</sup>

As the commentary explains:

Adult felony offenses are classified as class one, two, or three juvenile offenses, according to the maximum term prescribed by law for adult offenders. Misdemeanors are ranked as class four or five juvenile offenses by reference to the statutory maxima prescribed by an incorporated criminal prohibition.<sup>79</sup>

Standard 5.1 delineates the other important set of terms in the equation. It identifies three general types of sanctions available to the court as dispositional options: nominal, conditional, and custodial. Nominal sanctions are defined as those "where the juvenile is reprimanded, warned, or otherwise reprovved and unconditionally released."<sup>80</sup> Conditional sanctions include probation, restitution, and similar measures not involving out-of-home placement. And custodial sanctions are

defined as those involving residential placement, whether in a secure or nonsecure facility.<sup>81</sup>

The key standard in this series is Standard 6.2, which specifies limitations on the type and duration of sanction authorized for each class of juvenile offenses. This rather intricate standard may be summarized as follows:<sup>82</sup>

| Class<br>of Offense | Maximum Duration if<br>Custodial Sanction<br>Is Imposed | Maximum Duration if<br>Conditional Sanction<br>Is Imposed |
|---------------------|---|---|
| 1                   | 24 months   | 36 months   |
| 2                   | 12 months   | 24 months   |
| 3                   | 6 months  | 18 months   |
| 4                   | 3 months*   | 12 months   |
| 5                   | 2 months**  | 6 months  |

\*Placement in a secure facility is authorized only if the juvenile has a prior record.

\*\*Placement is authorized only in a nonsecure facility, and only if the juvenile has a prior record.

The standard defines "prior record" as an adjudication of

1. an offense that would amount to a class one, two, or three juvenile offense, as defined in Standard 5.2, within the twenty-four months preceding the commission of the offense subject to sanctioning; or
2. three offenses that would amount to class four or five juvenile offenses, as defined in Standard 5.2, at least one of which was committed within the twelve months preceding the commission of the offense subject to sanctioning.<sup>83</sup>

The principal effect of these proposed limitations on the court's dispositional powers would likely be a decrease in the duration, rather than the incidence, of commitments.<sup>84</sup> As will be noted below, however, when the suggested sentencing structure is read in conjunction with the related standards in the IJA/ABA's volume on Dispositions, the overall result would probably be a reduction in both the number and the length of commitments.

The Task Force adopted standards which follow the same general approach as the IJA/ABA proposals. It, too, categorized sanctions as nominal, conditional, and custodial.<sup>85</sup> But, instead of five classes of juvenile offenses, it proposed four. Its Standard 14.13 provides, in pertinent part:

Acts within the juvenile delinquency jurisdiction of the family court should be classified as Class I through Class IV delinquent acts.



1. Class I Delinquent Acts--Delinquent acts that would be misdemeanors if committed by an adult;
2. Class II Delinquent Acts--Delinquent acts that would be property felonies if committed by an adult;
3. Class III Delinquent Acts--Delinquent acts against persons that would be crimes if committed by an adult or a Class II Delinquent Act with a prior adjudication of a Class II Delinquent Act; and
4. Class IV Delinquent Acts--Delinquent acts that if committed by an adult would under criminal statute authorize death or imprisonment for life or for a term in excess of 20 years.<sup>86</sup>

Task Force Standard 14.14, titled Limitations on Type and Duration of Dispositions, covers roughly the same ground as the somewhat complex IJA/ABA Standard 6.2 noted above. This likewise rather detailed standard may be summarized as follows:<sup>87</sup>

| Class of Offense | Normal Maximum Duration      | Maximum Possible Extension*                                       |
|------------------|------------------------------|---|
| I                | 8 months                     | 4 months  |
| II               | 24 months                    | 6 months  |
| III              | 36 months                    | 12 months or the juvenile's 21st birthday, whichever occurs first |
| IV               | The juvenile's 21st birthday |   |

\*Extensions are authorized only upon a demonstration by clear and convincing evidence that additional community supervision is required for the protection of the public. Extensions to prolong commitments are not allowed.

Thus, the maximum lengths of commitments for the various classes of offenses are the figures specified here in the column captioned "Normal Maximum Duration." And the total possible dispositional period--including (subsequent) community supervision--for each class of offense is the sum of the two columns on the right--i.e., for Class I offenses, 12 months; for Class II offenses, 30 months; for Class III offenses, 48 months or until the juvenile's 21st birthday; and for Class IV offenses, until the juvenile's 21st birthday.

In addition to the strictures on sentencing in the proposed statutory frameworks just reviewed, the standards groups present a number of other recommendations regarding dispositions that would likely reduce commitments. For example, Standard 2.1 in the IJA/ABA's volume on Dispositions urges that:

In choosing among statutorily permissible dispositions, the court should employ the least restrictive category and duration of disposition that is appropriate to the seriousness of the offense, as modified by the degree

of culpability indicated by the circumstances of the particular case, and by the age and prior record of the juvenile. The imposition of a particular disposition should be accompanied by a statement of the facts relied on in support of the disposition and the reasons for selecting the disposition and rejecting less restrictive alternatives.<sup>88</sup>

Similarly, the National Advisory Committee's Standard 3.182 states, in part:

In determining the type of sanction to be imposed following adjudication of a delinquency petition and the duration of that sanction within the statutorily prescribed maximum, the family court should select the least restrictive category and time period consistent with the seriousness of the offense, the juvenile's role in that offense, and the juvenile's age and prior record.<sup>89</sup>

Task Force Standard 14.4, titled Selection of Least Restrictive Alternative, contains nearly identical language.<sup>90</sup>

In their respective reviews of dispositional options, both the IJA/ABA and the Task Force also dwell at some length on a wide array of conditional dispositions, outlining a variety of different measures not involving out-of-home placement. For example, they discuss restitution, fines, community service, day custody, and required attendance at educational, vocational, and counseling programs--as well, of course, as community supervision or probation.<sup>91</sup> The IJA/ABA explains its rationale for emphasizing these noncustodial programs as follows:

Evidence suggests that when judges have a variety of sentencing alternatives available to them, they reduce their use of incarceration.<sup>92</sup>

All four of the standards groups discuss juvenile probation programs.<sup>93</sup> In general, the groups are quite supportive of these community supervision efforts, viewing them as a viable alternative to commitments and urging their expanded use wherever appropriate.<sup>94</sup> Moreover, while they discuss the matter in varying degrees of detail, the four groups all endorse in principle a formalized classification system whereby some juveniles would be subject to intensive supervision and others to only minimal constraints.<sup>95</sup>

It should also be noted that two groups support standards proposing that there be a presumption against the use of custodial dispositions. Standard 3.3 in the IJA/ABA's Dispositions volume stipulates, in part:

There should be a presumption against coercively removing a juvenile from his or her home, and this category of sanction should be reserved for the most serious or repetitive offenses.<sup>96</sup>

The commentary stresses that:

Removal from home is the most severe disposition authorized for adjudicated juveniles. As such, it should be reserved for the most serious or repetitive offenses, and rarely, if ever, used for younger juveniles. Removal from the home is most likely to be damaging for younger juveniles; for these youths the presumption against custodial dispositions is even stronger than for older juveniles.<sup>97</sup>

Task Force Standard 14.12 contains language virtually identical to the above-cited IJA/ABA directive.<sup>98</sup> And, while it does not address the issue in a standard as such, the National Advisory Committee's commentary to Standard 3.182 supports basically the same position.<sup>99</sup>

Consistent with their previously noted concerns regarding the negative, criminalizing effects of commitments, the Task Force, the National Advisory Committee, and the IJA/ABA also advocate that, when custodial dispositions are deemed appropriate, the possibilities of intermittent confinement (for example, at nights and/or on weekends) should also be explored.<sup>100</sup> Moreover, these same three groups, predictably, express serious reservations about extensive commitments to secure correctional institutions. The IJA/ABA's Dispositions standards are the most specific in this area, proposing limitations on residential placements in both nonsecure and secure settings. Standard 3.3 E.1. in the Dispositions volume states that:

No court should sentence a juvenile to reside in a nonsecure residence unless the juvenile is at least ten years old and unless the court finds that any less severe disposition would be grossly inadequate to the needs of the juvenile and that such needs can be met by placing the juvenile in a particular nonsecure residence.<sup>101</sup>

Regarding secure placements, Standard 3.3 E.2. in the same volume specifies, in part, that:

- a. A juvenile may be sentenced to a period of confinement in a secure facility; such a disposition, however, should be a last resort, reserved only for the most serious or repetitive offenses.
- b. No court should sentence a juvenile to confinement in a secure facility unless the juvenile is at least twelve years old and unless the court finds that such confinement is necessary to prevent the juvenile from causing injury to the personal or substantial property interests of another.<sup>102</sup>

Neither the National Advisory Committee nor the Task Force treats these issues with quite this same level of detail. While, as noted above, both of these groups urge, in general terms, selection of the "least restrictive alternative" disposition appropriate, neither group offers standards precisely comparable to the IJA/ABA directives cited here. It should be mentioned, though, that both groups, in commentary, quote with approval the IJA/ABA's language to the effect that secure placements should be used only as a "last resort" and reserved for the most serious or repetitive offenses.<sup>103</sup> Moreover, all three of these groups are strongly agreed on the proposition that:

[A]cknowledgement of the possible need for secure placements does not mean condoning the use of traditional juvenile institutions.<sup>104</sup>

For this reason, the groups focus at length on community-based alternatives to incarceration, the issue explored in the second Comparative Analysis in the present volume.

Finally, the circumstances in which commitment may be authorized by virtue of the juvenile's willful violation of the court's noncustodial dispositional order should also be examined briefly. The National Advisory Committee, the Task Force, and the

IJA/ABA all authorize a court hearing in cases of this nature;<sup>105</sup> and the CAC calls for a hearing by either the court or the statutorily prescribed releasing authority in cases involving serious violations of the conditions of probation or aftercare.<sup>106</sup>

Prior to the occurrence of such a hearing, though, there arises the preliminary question of what criteria should govern the decision on whether to place the juvenile in detention pending the hearing. Or, to put the matter more specifically: whether detention criteria for juveniles involved in cases of this nature should differ from those applicable to nonadjudicated juveniles and, if so, how. All four of the groups do address this matter, in one fashion or another, but none is particularly lucid on the issue.

The previously quoted Standard 6.6 in the IJA/ABA's Interim Status volume<sup>107</sup> does mention detention--or, more accurately, an exception to the general policy of mandatory release--in cases involving juveniles already on probation under a prior adjudication who commit new delinquent acts of the requisite severity. But none of the standards in that volume or in those on Dispositions and Corrections Administration specifically address detention pending a hearing on alleged violations of the conditions of the dispositional order.

The position of the Task Force in this area is equally imprecise. Its Standard 23.7 governs procedures to be followed in cases of violations of court-ordered community supervision. This standard states, in part:

[T]he petition should not request that the juvenile be taken into custody prior to a hearing unless there are reasonable grounds for believing that:

1. The juvenile poses an imminent threat of physical harm to another person;
2. The juvenile is in danger of physical harm from another and requests protection; or
3. The juvenile is in imminent danger of causing physical harm to himself.<sup>108</sup>

Elsewhere in the Report of the Task Force the phrase "take into custody" is used consistently in its accepted sense as denoting an arrest of a juvenile. But the commentary to Standard 23.7 seems to suggest--or, at least, can be read as suggesting--that these criteria for "taking into custody" are intended to govern detention decisions, in which case the bases for detention at this stage are somewhat different from those in the previously noted Task Force Standard 12.7 governing preadjudicatory detention.<sup>109</sup> In any event, the commentary is ambiguous in this area.<sup>110</sup>

The National Advisory Committee is not fully explicit on this matter either. The commentary to its Standards 3.151 and 4.33 probably implies that the same criteria are to govern detention both prior to adjudication and in these cases, as well, but the issue is not addressed directly.<sup>111</sup> The CAC, on the other hand, does speak to this subject with particularity. But, in different standards, it proposes seemingly inconsistent criteria. Apparently, its final position here is that the same bases for detention apply as are applicable prior to trial.<sup>112</sup>

The groups are more precise regarding the conduct of the hearing and its potential consequences. Standard 5.4 in the IJA/ABA's Dispositions volume states, in part:

The correctional agency with responsibility for a juvenile may petition the sentencing court if it appears that the juvenile has willfully failed to comply with any part of the dispositional order. In the case of a remedial sanction, compliance is defined in terms of attendance at the specified program, and not in terms of performance.<sup>113</sup>

The standard further directs that if, following a hearing conforming to due process requirements, the court finds that the juvenile "in fact has not complied with the order and that there is no excuse for the noncompliance," it may: (1) warn the juvenile and order him or her to comply with the order; (2) modify the conditions of the order or impose additional conditions; or--most pertinent here--(3) impose a more severe disposition.<sup>114</sup> As to the latter, the standard provides:

If it appears that there are no permissible conditions reasonably calculated to induce compliance, the court may sentence the juvenile to the next most severe category of sanctions for the remaining duration of the disposition. The duration of the disposition should remain the same, except that the court may add some or all of the missed time to the remainder of the disposition.<sup>115</sup>

Under this latter provision, an adjudicated juvenile who was originally placed on probation may, by willful violation of the conditions of the court order, be committed to a correctional facility. But the commentary stresses that the requirements of selecting the "least restrictive alternative" disposition appropriate and respecting the presumption against commitments are also applicable at this stage of proceedings.

The National Advisory Committee's Standard 3.1810 and the Task Force's Standard 14.22 are both patterned after the just-cited IJA/ABA standard, and both follow its recommendations in all essential respects.<sup>116</sup> The Commission on Accreditation for Corrections sets forth a number of standards in this area.<sup>117</sup> Consistent with its general policy of not recommending a particular organizational structure, it urges that a review hearing be conducted either by the court or by the "statutorily defined releasing authority" when there are major or deliberate violations of the conditions of probation or aftercare.<sup>118</sup> While it is less specific regarding procedures for conducting the review, it is clear that the Commission intends that the hearings conform to due process requirements.<sup>119</sup> Given the correctional focus of its project, the CAC offers no standards precisely analogous to the other groups' directives that the court should select the "least restrictive alternative" disposition appropriate. But the group does offer a similar recommendation, directed to probation and parole officers. Standard 7188 in its Juvenile Probation volume urges that:

Written policy and procedure require the consideration of a variety of intervention measures prior to, or as an alternative to, recommending institutionalization to the court or releasing authority.<sup>120</sup>

#### MATRIX OF INTERRELATED STANDARDS

For readers interested in exploring individual issues in greater detail, Table 2 on pages 28 and 29 consists of a matrix, which uses the National Advisory Committee's recommendations as bases for identifying the interrelationships of all of the major standards on reducing detention and commitments that were surveyed in this analysis.

Immediately following the matrix are index pages, together with instructions for their use. These will permit ready identification of the subject-matter being compared. Titles which appear in parentheses on the index pages are not included in the original volume being cited, but have been supplied to facilitate identification of the content of the standards.



TABLE 2

Matrix of Interrelated Standards on  
Reducing Detention and Commitments

[illegible]

TABLE 2

Matrix of Interrelated Standards on  
Reducing Detention and Commitments  
(Continued)

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TO USE THIS INDEX: Photocopy this page or clip it out as indicated. Lay it alongside the left edge of the matrix on page 28 or 29, lining up the corresponding numbers. Similarly copy or clip the index on page 33 or 35. Lay it along the top of the matrix.

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NOTES

For a complete listing of the abbreviations used in these notes,  
see Appendix B on pages 95-97.

1. In this respect, the present paper has an obvious relationship to the Comparative Analysis on Diversion in Volume I, as well. But, whereas the latter addressed avenues of "early exit" from formal processing in the juvenile or family court system, here such formal processing is presupposed. Thus, while the Comparative Analysis on Diversion surveyed the bases proposed by the standards-issuing groups for determining whether a case is properly cognizable by the courts, this Comparative Analysis focuses on the groups' recommendations regarding the criteria to be used--in cases appropriately before the courts (or the intake unit)--to decide whether a juvenile accused of delinquent conduct or adjudicated delinquent should be removed from the home and placed in a detention or shelter care facility (pending trial) or in a correctional institution or community-based residential facility (after judgment).
2. See, e.g., Report of the Task Force, pp. 8-13, 373-75, 390-92, 453-58, 669-71; IJA/ABA Corrections, pp. 46-49; IJA/ABA Dispositions, pp. 61-80.
3. See, e.g., Report of the Task Force, pp. 391, 669; IJA/ABA Dispositions, p. 73.
4. Id., p. 72. See also id., p. 16.
5. Id., p. 72.
6. See, e.g., id., pp. 61-63; Report of the Task Force, pp. 391, 456-57.
7. As will be apparent from the Comparative Analysis which follows this one, the JJDP Act is also quite explicit in its support of the position that, when detention or commitment is required, it should be in a community-based facility whenever possible.
8. 42 U.S. Code Sec. 5633(a)(10)(H) (1979 Supp.). The remainder of this subsection --more pertinent to the next Comparative Analysis than to this one--reads as follows:
  - (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;
9. Id., Sec. 5633(a)(10)(F).
10. Id., Sec. 5634(a)(3).
11. See, e.g., id., Sec. 5602(b)(2) through (b)(4), 5633(a)(10), 5633(a)(10)(A) through (a)(10)(C), 5634(a)(1) and (a)(2). See also id., Sec. 5603(1) and (12), 5637.
12. See, e.g., id., Sec. 5602(b)(2) and (b)(3), 5633(a)(10), 5634(a)(1).
13. Sources: NAC Final Report, Standards 2.221, 2.231, 2.234, 2.242, 3.151, 3.152, 3.155, 3.158, 3.161, 3.162, 3.181, 3.182, 3.188, 3.1810, 4.33, and 4.71.

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Report of the Task Force, Standards 4.3 (pp. 186-87), 5.5 (p. 205), 5.6 (pp. 206-08), 5.9 (pp. 214-15), 5.11 (pp. 219-20), 12.1 (pp. 376-77), 12.7 (pp. 390-92), 12.11 (pp. 401-03), 14.3 (pp. 437-39), 14.4 (pp. 440-41), 14.8 (pp. 449-50), 14.9 (p. 451), 14.11 (pp. 453-55), 14.12 (pp. 456-58), 14.13 (pp. 459-60), 14.14 (pp. 461-62), 14.15 (pp. 463-64), 14.22 (pp. 478-79), 22.4 (pp. 669-71), and 23.7 (pp. 688-89).

IJA/ABA Police, Standards 2.3 through 2.5 (pp. 31-51); IJA/ABA Interim Status, Standards 1.1 (p. 41), 2.13 (p. 47), 3.1 through 3.5 (pp. 50-57), 4.6 (p. 63), 5.1 (p. 66), 5.3 (pp. 67-70), 5.4 (p. 70), 5.6 (pp. 71-73), 5.7 (p. 73), 6.4 through 6.7 (pp. 75-83), 7.1 (p. 84), 7.2 (p. 84), 7.6 (pp. 86-88), 7.7 (pp. 88-89), 7.9 through 7.14 (pp. 89-94), and 10.3 (p. 98); IJA/ABA Pretrial, Standard 1.5 (pp. 36-42); IJA/ABA Court Organization, Standard 3.3 (p. 31); IJA/ABA Juvenile Delinquency, Standards 5.1 (pp. 41-42), 5.2 (pp. 42-43), and 6.2 (pp. 44-47); IJA/ABA Dispositions, Standards 1.2 (pp. 20-34), 2.1 (pp. 34-38), 3.2 (pp. 41-60), 3.3 (pp. 61-80), and 5.4 (pp. 129-31); IJA/ABA Dispositional Procedures, Standard 7.1 (pp. 51-54); IJA/ABA Corrections, Standards 1.2 (pp. 46-49), 4.5 (pp. 79-80), 4.11 (pp. 94-98), 5.2 (pp. 105-07), and 6.1 through 6.3 (pp. 107-18).

CAC Juvenile Detention, p. xx and Standards 8388 (p. 78), 8393 (p. 79), 8395 (p. 80), 8397 (p. 80), and 8398 (p. 80); CAC Juvenile Probation, Standards 7115 (p. 23), 7120 (p. 24), 7122 (p. 24), 7124 (p. 25), 7125 (p. 25), 7141 (p. 28), 7142 (p. 28), 7185 through 7197 (pp. 37-39), and 7257 through 7259 (p. 52); CAC Juvenile Community Residential Services, Standard 6180 (p. 35); CAC Administration, Standards 8 and 9 (p. 2); CAC Juvenile Training Schools, Standards 9476 through 9478 (p. 97).

14. IJA/ABA Interim Status, p. 1 (footnotes omitted). And see generally id., pp. 1-15.
15. Id., p. 2 (footnote omitted).
16. See, e.g., NAC Final Report, Commentary to Standards 2.231 and 3.151; Report of the Task Force, pp. 374-75, 390-92, 661-62.
17. Id., p. 205.
18. IJA/ABA Police, p. 45. See also id., pp. 33-51, 92-104; IJA/ABA Interim Status, Standards 2.13 (p. 47), 5.1 (p. 66), 5.6 (pp. 71-73), 7.1 (p. 84), and 7.2 (p. 84); IJA/ABA Pretrial, Standard 1.5 (pp. 36-42).
19. NAC Final Report, Standard 2.231.
20. Id., Commentary to Standard 2.231. See also id., Standard 2.234; IJA/ABA Interim Status, Standard 2.13 (p. 47) (regarding the appropriate content and form of citations).
21. Note also that adherence to the proposed criteria for the initial custody (arrest) decision and the recommendations regarding referral to intake would decrease the penetration of a number of juveniles into the system, and therefore reduce preadjudicatory detention. See, e.g., NAC Final Report, Standards 2.221 and 2.231; Report of the Task Force, Standards 5.6 (pp. 206-07), 5.7 (pp. 209-11), 5.10 (pp. 216-18), and 5.11 (pp. 219-20). But since

this issue was considered in the earlier Comparative Analysis on Diversion, it need not be explored further here.

22. Id., p. 214. This same standard proscribes commingling detained juveniles with adult offenders--an issue explored in Volume II of this Comparative Analysis.
23. Id., pp. 214-15 (emphasis original).
24. NAC Final Report, Standard 2.242. See also id., Commentary to Standard 2.231.
25. Id., Commentary to Standard 2.242.
26. Id.
27. IJA/ABA Interim Status, p. 70.
28. Compare id., p. 68 with NAC Final Report, Standard 2.242 and Commentary. The NAC addresses the IJA/ABA's 2-hour proposal, and defends its choice of 4 hours, in id.
29. The Commission on Accreditation for Corrections also proposes standards regarding detention decisions by the intake unit. But these are applicable "only where statutes require that [correctional] agency personnel are responsible for the juvenile intake function." CAC Juvenile Probation, p. 22. See also CAC Juvenile Detention, p. 78. Thus, the CAC does not endorse any particular organizational model or decisionmaking structure.
30. Report of the Task Force, p. 390. In Standard 22.4, the Task Force reiterates essentially the same criteria. See id., pp. 669-71. See also id., pp. 374-75.
31. Id., p. 391. See also id., pp. 374, 670. For further discussion of conditions of release, see id., Standard 12.12 (pp. 404-05). In this connection, it might also be noted that three groups prohibit the use of bail in the juvenile justice system. See id.; NAC Final Report, Standard 3.151; IJA/ABA Interim Status, Standard 4.7 (pp. 63-66).
32. CAC Juvenile Detention, p. 80. See also CAC Juvenile Probation, Standard 7124 (p. 25).
33. NAC Final Report, Standard 3.151.
34. Id.
35. Id. See also IJA/ABA Interim Status, Standard 3.4 (pp. 56-57) (accord).
36. Id., p. 51. See also id., Standards 1.1 (p. 41), 3.1 (p. 50), 3.4 (pp. 56-57), 3.5 (p. 57), 4.2 (pp. 59-60), 4.6 (p. 63), and 5.1 (p. 66).
37. Id., p. 51 (emphasis added). See also id., pp. 52-56.
38. Id., p. 3.

39. The standards pertinent to individual components of the system are: id., Standards 5.1 through 5.7 (pp. 66-73) (police), Standards 6.1 through 6.7 (pp. 73-83) (intake), Standards 7.1 through 7.14 (pp. 84-94) (the court), Standards 8.1 through 8.3 (pp. 94-95) (defense attorney), Standards 9.1 through 9.3 (pp. 95-96) (prosecutor), and Standards 10.1 through 10.8 (pp. 97-102) (detention facilities). See also id., Standards 11.1 through 11.4 (regarding administration generally).

Incidentally, the IJA/ABA proposes that responsibility for executing detention decisions and for administering detention facilities be centralized in a state-wide agency, and that this agency be distinct from that which is responsible for programs for adjudicated juveniles. See id., Standard 11.1 (pp. 102-04); IJA/ABA Corrections, Standard 2.1 (pp. 49-52). See also IJA/ABA Juvenile Probation, Standards 4.1 through 4.4 (pp. 123-36). The National Advisory Committee and the Task Force, on the other hand, recommend a single agency, with responsibility for programs both prior to and following adjudication. See NAC Final Report, Standard 4.11 and Commentary; Report of the Task Force, Standards 19.2 and 19.3 (pp. 613-16).

40. See also IJA/ABA Interim Status, Standards 5.5 through 5.7 (pp. 70-73) (regarding decisions by the police). And compare id. with NAC Final Report, Standards 2.231 and 2.242 and Commentary.
41. IJA/ABA Interim Status, pp. 77-78 (emphasis original). The accompanying commentary notes that: "There is, of course, one additional ground for detention, not stated in the standard, upon which courts possess inherent power to deny bail: 'a substantial probability of danger to witnesses should the applicant be granted bail.' [citation omitted]." Id., p. 79. Obviously, the comments regarding bail are by analogy. See note 31.
42. Id., p. 79 (emphasis original).
43. Id., p. 78.
44. Id. The IJA/ABA standards call for a written statement of the reasons for rejecting release at each phase of the process--a procedure intended to ensure accountability and facilitate review. See id., Standards 4.3 (p. 60), 5.3 D. (p. 68), and 7.7 D. (p. 88). See also NAC Final Report, Standards 2.242 and 3.155 (accord).
45. IJA/ABA Interim Status, pp. 82-83. See also id., Standard 5.7 (p. 73). And compare id. with NAC Final Report, Standards 2.231, 2.233, 3.151, and 3.152 and Commentary.
46. IJA/ABA Interim Status, pp. 82-83.
47. It is also useful to compare the respective standards regarding preliminary decisions by police in this area. See id., Standards 5.6 and 5.7 (pp. 71-73); NAC Final Report, Standards 2.231, 2.233, and 2.242 and Commentary.
48. While it is true that the NAC standard is (probably) more permissive of "protective detention" than the parallel IJA/ABA recommendations, it should be noted that the National Advisory Committee emphasizes--quite correctly--that its formulations in this area are a good deal more restrictive than those found in

most current State laws. See id., Commentary to Standards 3.151 and 3.152. The NAC's further restrictions on secure placement in these circumstances will be quoted in the text which follows.

49. Id., Standard 3.152.
50. IJA/ABA Interim Status, p. 78. See also id., Standard 10.3 (p. 98).
51. NAC Final Report, Commentary to Standard 3.152.
52. Report of the Task Force, p. 401. See also id., Standards 12.1 (pp. 376-77), 21.2 (pp. 655-57), and 22.4 (pp. 669-71).
53. See id., p. 401.
54. Id. As to regularized reviews for juveniles in nonsecure facilities, where there is no new or additional evidence, both the standard and the commentary are silent. See id., pp. 401-03.
- Incidentally, while not directly pertinent to the issues discussed in the text, the last sentence in the standard states: "The same judge who sits at a detention hearing should not sit at the adjudicatory hearing without the respondent's consent." Id., p. 401.
55. Id., p. 403.
56. CAC Juvenile Detention, p. 79. See also CAC Juvenile Probation, Standard 7120 (p. 24) (accord).
57. CAC Juvenile Detention, p. 80. See also CAC Juvenile Probation, Standard 7125 (p. 25) (accord).
58. See IJA/ABA Interim Status, Standards 4.2 (pp. 59-60), 4.3 (p. 60), 6.5 (pp. 75-77), and 7.6 through 7.8 (pp. 86-89).
59. Id., p. 76. See also id., p. 77.
60. Id., p. 86.
61. It might be noted that the Task Force standards are actually somewhat ambiguous in this area, seemingly establishing the same deadline for filing the petition and convening the detention hearing. See Report of the Task Force, Standards 12.1 (pp. 376-77), 12.11 (pp. 401-03), 21.2 (pp. 655-57), and 22.4 (pp. 669-71).
62. IJA/ABA Court Organization, p. 31.
63. The Tentative Draft of the summary volume does not appear to clarify the matter. See IJA/ABA Summary and Analysis, pp. 136, 184, 186.
64. See NAC Final Report, Standards 3.155 and 3.158.
65. Id., Standard 3.155.
66. Id., Commentary to Standard 3.155.

67. IJA/ABA Interim Status, p. 89.
68. NAC Final Report, Standard 3.158. As to the related issue of the authority of the intake official to terminate detention (or relax the conditions of release) pursuant to court order (or court rule), see id. and Commentary; IJA/ABA Interim Status, Standard 7.11 (p. 92).
69. NAC Final Report, Standard 3.158. The accompanying commentary does, however, allude to the IJA/ABA's 24-hour recommendation.
70. IJA/ABA Interim Status, Standard 7.12 (pp. 92-93). See also id., Standard 7.13 (pp. 93-94); IJA/ABA Appeals, Standards 2.3 (p. 29), 4.1 (pp. 35-36), 5.2 (pp. 39-40), 5.5 (pp. 41-42), and 5.6 (p. 42).
71. See Report of the Task Force, Standard 12.1 (pp. 376-77); NAC Final Report, Standards 3.161 and 3.162; IJA/ABA Interim Status, Standards 6.5 D. 2. (p. 76), 7.6 A. (p. 86), 7.10 (pp. 90-92), 7.12 (pp. 92-93), and 7.14 (p. 94); IJA/ABA Court Organization, Standard 3.3 (pp. 31-32). See also IJA/ABA Pretrial, Standards 7.1 through 7.4 (pp. 124-35).
72. IJA/ABA Interim Status, p. 99. See also id., pp. 7, 14, 100, 117-19.
73. NAC Final Report, Commentary to Standard 4.21. See also id., Commentary to Standards 3.182 and 4.32.
74. IJA/ABA Corrections, p. 46. See also id., pp. 47-49, 119-26; IJA/ABA Dispositions, pp. 61-80.
75. NAC Final Report, Standard 3.181.
76. Id., Commentary to Standard 3.181. Actually, there are some differences between the NAC's approach and those of the Task Force and the IJA/ABA, as will be noted below.
77. Id.
78. IJA/ABA Juvenile Delinquency, p. 42.
79. Id., p. 43.
80. Id., p. 41.
81. See id., p. 41-42. See also IJA/ABA Dispositions, Standards 3.1 through 3.3 (pp. 39-80).
82. See IJA/ABA Juvenile Delinquency, pp. 44-47. Incidentally, Standard 6.3 discusses cases involving multiple offenses. See id., pp. 47-48.
83. Id., pp. 44-45. See also IJA/ABA Youth Service Agencies, Standards 4.5 (pp. 43-45) and 4.8 (p. 46).

84. One additional limitation on dispositions is imposed by Standard 6.4, which specifies that:
- A juvenile court order imposing sanctions should terminate no later than the twenty-first birthday of the juvenile subject to such order. IJA/ABA Juvenile Delinquency, p. 48.
- See also NAC Final Report, Standard 3.115; Report of the Task Force, Standards 14.2 (pp. 435-36) and 14.14 (pp. 461-62) (accord). But cf. IJA/ABA Transfer Between Courts, Standard 1.3 (pp. 22-24). See also id., Standards 1.1 and 1.2 (pp. 13-22).
85. See Report of the Task Force, Standards 14.9 through 14.12 (pp. 451-58).
86. Id., p. 459.
87. See id., pp. 461-62. Multiple offenses are discussed in Standard 14.17. See id., p. 467.
88. IJA/ABA Dispositions, p. 34. See also IJA/ABA Dispositional Procedures, Standard 7.1 (pp. 51-54).
89. NAC Final Report, Standard 3.182. See also id., Standard 3.188.
90. See Report of the Task Force, pp. 440-41. See also id., Standard 14.8 (pp. 449-50).
91. See id., Standards 14.9 (p. 451), 14.11 (pp. 453-55), and 23.2 (pp. 677-78); IJA/ABA Dispositions, Standard 3.2 (pp. 41-60). See also NAC Final Report, Commentary to Standard 3.181.
92. IJA/ABA Dispositions, p. 59.
93. See generally NAC Final Report, Standards 4.31 through 4.33; Report of the Task Force, Standards 23.1 through 23.10 (pp. 675-94); IJA/ABA Corrections, Standards 6.1 through 6.3 (pp. 107-18); CAC Juvenile Probation, Standards 7149 through 7213 (pp. 30-43) and 7257 through 7259 (p. 52); and the sources cited in note 91. See also IJA/ABA Dispositions, pp. 60-62, 78 (regarding probation subsidies). And see NAC Final Report, Standard 4.11; Report of the Task Force, Standard 19.3 (pp. 615-16) (regarding State subsidies generally).
94. See, e.g., NAC Final Report, Standard 4.32 and Commentary.
95. See id., Commentary to Standard 4.31; IJA/ABA Corrections, Standard 6.2 (pp. 109-15); Report of the Task Force, Commentary to Standard 23.5 (pp. 684-85); CAC Juvenile Probation, Standards 7157, 7163, and 7165 (pp. 31-33).
96. IJA/ABA Dispositions, p. 61. The standard also stresses that a custodial disposition in a delinquency case "should not be used as a substitute for a judicial finding of neglect." It urges that neglect proceedings be governed by the standards in the IJA/ABA's volume on that subject. See id.
97. Id., p. 62.

98. See Report of the Task Force, p. 456.
99. See NAC Final Report, Commentary to Standard 3.182.
100. See Report of the Task Force, Standard 14.12 (pp. 456-58); NAC Final Report, Commentary to Standards 3.181 and 3.182; IJA/ABA Dispositions, Standard 3.3 D. (pp. 64-66); IJA/ABA Corrections, Standard 7.10 A. (pp. 147-49).
101. IJA/ABA Dispositions, p. 69. Incidentally, the IJA/ABA proposals require the court to specify the place of residence in the dispositional order. See id., pp. 69-70; IJA/ABA Juvenile Delinquency, Standard 6.1 (pp. 43-44). The Task Force and NAC standards, on the other hand, require the court to specify the level of security of a placement, as well as the conditions and duration of the dispositional order; but they delegate authority to select the particular placement within the specified category to the State Correctional Agency. See Report of the Task Force, Standards 14.8 (pp. 449-50), 14.19 (pp. 470-72), 19.5 (pp. 619-21), and 21.1 (pp. 653-54); NAC Final Report, Commentary to Standard 3.182. The CAC proposals, which are not entirely clear on this matter, apparently contemplate even more expansive powers for the correctional agency. See CAC Administration, Standards 8 and 9 (p. 2).
102. IJA/ABA Dispositions, p. 70.
103. See NAC Final Report, Commentary to Standard 3.182; Report of the Task Force, Commentary to Standard 14.12 (pp. 457-58). See also id., Standard 14.16 (pp. 465-66). Both groups also implicitly endorse the minimum age of 10 for placement in a nonsecure facility, since they each propose this as the minimum age for delinquency jurisdiction. But neither suggests an age limitation of 12 for secure placement. See id., Standard 9.2 (pp. 297-98); NAC Final Report, Standard 3.115.
104. Report of the Task Force, p. 458.
105. See NAC Final Report, Standards 3.1810 and 4.33; Report of the Task Force, Standards 14.22 (pp. 478-79), 23.7 (pp. 688-89), and 23.8 (pp. 690-91); IJA/ABA Dispositions, Standard 5.4 (pp. 129-31); IJA/ABA Corrections, Standard 5.2 (pp. 105-07).
106. See CAC Juvenile Probation, Standards 7185 through 7197 (pp. 37-39) and 7257 through 7259 (p. 52). See also CAC Juvenile Training Schools, Standards 9476 through 9478 (p. 97).
107. See the text accompanying note 41.
108. Report of the Task Force, p. 688.
109. Compare id., pp. 688-89 with the text accompanying note 30.
110. Alternatively, and perhaps more plausibly, the commentary may be read as saying, in effect: Generally, but not always, the criteria in Standard 12.7 control this decision. Still, a clarification regarding the exceptions is lacking. See id.

111. See NAC Final Report, Commentary to Standards 3.151 and 4.33. See also id., Commentary to Standards 3.152 and 3.1810.
112. See CAC Juvenile Training Schools, Standard 9477 (p. 97); CAC Juvenile Probation, Standards 7124 (p. 25) and 7258 (p. 52). But cf. id., Standard 7194 (p. 39).
113. IJA/ABA Dispositions, p. 129.
114. Id. See also id., pp. 130-31; IJA/ABA Dispositional Procedures, pp. 47-51. The related Standard 5.2 in the Corrections Administration volume requires proof by clear and convincing evidence. See IJA/ABA Corrections, pp. 105-07. Cf. NAC Final Report, Standard 3.1810 (endorsing a preponderance of the evidence standard).
115. IJA/ABA Dispositions, p. 130. The standard also specifies that:
- Where conduct is alleged that constitutes a willful failure to comply with the dispositional order and also constitutes a separate offense, prosecution for the new offense is preferable to modification of the original order. The preference for separate prosecution in no way precludes the imposition of concurrent dispositions. Id.
- See also NAC Final Report, Standard 3.1810; Report of the Task Force, Standard 14.22 (pp. 478-79); CAC Juvenile Probation, Standard 7259 (p. 52); CAC Juvenile Training Schools, Standard 9478 (p. 97) (accord).
116. See NAC Final Report, Standard 3.1810 and Commentary; Report of the Task Force, pp. 478-79. See also id., Standards 23.6 through 23.8 (pp. 686-91); NAC Final Report, Standard 4.33.
117. See note 106.
118. See CAC Juvenile Probation, Standards 7192 (p. 38) and 7197 (p. 39).
119. See the discussion accompanying Standard 7197, id., p. 39.
120. Id., p. 37.



## Community-Based Alternatives to Incarceration

### DESCRIPTION OF THE ISSUE

Traditionally, juveniles committed to institutional settings have been housed in large, prison-like training schools, frequently located in isolated, rural areas. Populations in these facilities have often ranged to 300, 400, or more.<sup>1</sup> Such institutions--long viewed as the mainstay of juvenile corrections--have been the target of increasing criticism in recent years. It is frequently argued that:

[Placement in training schools]...inflicts numerous deprivations: it isolates and alienates offenders from society; it debases and brutalizes both offenders and staff members; it schools offenders in ways of crime and fosters relationships that may increase future criminology; and it is extremely costly.<sup>2</sup>

Recognizing these difficulties, a number of States have endeavored to decrease their utilization of traditional training schools, and--in those cases where commitment is deemed essential--placed increasing reliance on community-based facilities with limited populations.<sup>3</sup>

Small community-based residential facilities...were originally created for prerelease or postrelease juvenile care--as a bridge between custodial confinement in an institution and complete release to the community--but they have proved their utility in providing an alternative to secure confinement.<sup>4</sup>

Nevertheless, while the generic concept of "community-based" facilities has received considerable support in the literature on juvenile corrections, cautious commentators have emphasized that:

Usage of the term "community-based" has, however, often obscured rather than clarified the issues involved....[C]ommunity treatment can become semantic trivia for traditional programs, whose physical location in an urban community is the sole basis for identifying the program as community-based.<sup>5</sup>

It is, therefore, important to identify intelligible criteria for characterizing a program or facility as "community-based." In the present context, this can be accomplished by examining the JJDP Act, together with the Guidelines issued pursuant to this Act by the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

#### PERTINENT PROVISIONS OF THE ACT\*

The Act itself is strongly supportive of the overall concept of increased reliance on community-based alternatives to incarceration. For example, Sec. 223(a)(10)(A) specifies that among the "advanced techniques" are:

[C]ommunity-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, twenty-four hour intake screening, volunteer and crisis home programs, day treatment, and home probation, and any other designated community-based diagnostic, treatment, or rehabilitative service.<sup>6</sup>

Moreover, Sec. 223(a)(10)(H)--a portion of which was cited in the preceding Comparative Analysis on Reducing Detention and Commitments--identifies the following as another "advanced technique":

[P]rovid[ing]...a statewide program through the use of probation subsidies, other subsidies, other financial incentives or disincentives to units of local government, or other effective means,...designed to--

- ...
  - (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.<sup>7</sup>

The Act's "special emphasis" section--Sec. 224(a)--also emphasizes community-based programs. "Special emphasis" grant funding is authorized under Sec. 224(a)(2) to

develop and maintain community-based alternatives to traditional forms of institutionalization.<sup>8</sup>

Guidance as to the meaning of "community-based" is supplied by Sec. 103(1), which states that:

[T]he term "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.<sup>9</sup>

Further clarification of the concept is to be found in pertinent OJJDP Guidelines. These Guidelines reference Sec. 103(1) and supply the following definitions and elaborations of the terms used in that section:

\*After this Comparative Analysis was completed and while it was undergoing final editorial review, the 1980 Amendments to the JJDP Act were approved. The text above discusses the Act, as amended through 1977. Appendix A on pages 93 and 94 of the present volume identifies those portions of the 1980 Amendments relevant here.

- (1) Small: Bed capacity of 40 or less.
- (2) Near: In reasonable proximity of the juvenile's family and home community which allows a child to maintain family and community contact.
- (3) Consumer participation: Facility policy and practice facilitates the involvement of program participants in planning, problem solving, and decision making relating to the program as it affects them.
- (4) Community participation: Facility policy and practice facilitates the involvement of citizens as volunteers, advisors, or direct service providers; and provide for opportunities for communication with neighborhood and other community groups.<sup>10</sup>

It should also be noted that, while the JJDP Act does not attempt to require that traditional juvenile training schools be closed, it does endeavor to avert further construction of such facilities by precluding the use of Federal funding for this purpose. The Act's Sec. 227 specifies that:

- (a) Funds paid pursuant to this title to any public or private agency, organization, institution, or individual (whether directly or through a State planning agency) may be used for--
  - (1) planning, developing, or operating the program designed to carry out the purposes of this part; and
  - (2) not more than 50 per centum of the cost of the construction of innovative community-based facilities for less than twenty persons which, in the judgment of the Administrator [of the Law Enforcement Assistance Administration], are necessary for carrying out the purposes of this part.
- (b) Except as provided by subsection (a), no funds paid to any public or private agency, institution, or individual under this part (whether directly or through a State agency or local agency) may be used for construction.<sup>11</sup>

#### SUMMARY OF POSITIONS RECOMMENDED BY STANDARDS GROUPS

Table 1 on the following page briefly summarizes the positions of the four standards groups regarding community-based programs and facilities. The Analysis of the Standards section will discuss the individual recommendations in some detail.

Table 1  
Summary of Positions Recommended by Standards Groups<sup>12</sup>

|  | NAC  | Task Force   | IJA/ABA<br>(Tentative Draft, 1977)   | CAC  |
|--|--|--|--|--|
| Location   | Secure facilities to be located near the home community "to the greatest extent possible." Nonsecure facilities to be located near the juvenile's family and community, and to conform to OJJDP Guidelines. State agency to administer community supervision on a decentralized basis. | Secure facilities to be "in or near" the juvenile population's home community, if possible. Nonsecure facilities to be "in or immediately adjacent to" the home community. State-administered community supervision to be as decentralized as feasible.                              | Secure facilities to be located "to facilitate the use of community based services and continued contact between juvenile, family, and friends." Nonsecure facilities to be located in and to maintain "close ties" to the home community. "The [State] department should normally perform community supervision functions through its local offices." | Training schools to utilize community resources to extent feasible. Nonsecure facilities to make extensive use of community services. Probation and aftercare to maintain "maximum interaction with the community."  |
| Limitations on Size and Construction of Facilities | Detention facilities to house not more than 20. Training school population not to exceed 100, with living units limited to 20. A maximum of 12 beds for group homes.<br><br>Construction of new training schools is strongly discouraged.  | Secure facilities to house a maximum of 100 juveniles, in living units of 20 or less. Nonsecure, community-based programs to house 12 to 20; group homes, 4 to 12.<br><br>Secure facilities to be kept to an "absolute minimum," with new construction only if the need is "urgent." | Detention facilities to be limited to populations of 12 (or 12 to 20). Living units in secure correctional facilities to be limited to 20; group homes, 4 to 12.<br><br>Urges an "indefinite moratorium" on construction of new detention facilities. Large training schools to be phased out by 1980.   | Living units in detention facilities to house not more than 20. Maximum population of training schools to be 100, with living units of not more than 20. Nonsecure facilities limited to 20 to 40; group homes to 8 to 12.<br><br>New detention facilities or training schools to be constructed only after a thorough needs assessment. |
| Consumer/Community Participation                   | Juvenile (and parents) to participate in formulation of individual service plan. Local planning and coordinating authority to have substantial role, especially in planning and evaluation. Supports utilization of citizen volunteers in juvenile corrections.                        | Juvenile (and parents) to assist in formulating individual service plan. Requires community input to decision-making bodies concerned with planning and evaluation. Recommends use of citizen volunteers in juvenile correctional programs.  | The juvenile "should play a major role in the determination of services to be provided." Juvenile corrections agencies to establish community advisory boards with responsibilities in planning, monitoring, and evaluation. Endorses the use of citizen volunteers in juvenile corrections.   | Juvenile (and parents) to (ordinarily) play a role in developing the individual service plan. Juvenile corrections agencies to develop community involvement committees and other liaison mechanisms with the community. Use of citizen volunteers throughout juvenile corrections is encouraged.  |

Summary of Positions: I. Location

All four groups, in general, urge that secure facilities be located in or near the home community, and all four make similar, more emphatic recommendations regarding nonsecure facilities. Three groups endorse State administration of probation and aftercare; all four agree on decentralized service delivery for these programs.

II. Limitations on Size and Construction

All four groups call for a 20-bed maximum in living units in training schools. Three groups approve maximum populations of 12 to 20 for nonsecure facilities; one endorses a limit of 40. All four groups discourage construction of large-scale, secure facilities; one group calls for a phaseout of such facilities.

III. Consumer/Community Participation

All four groups suggest consumer participation in developing individual service plans, and all four endorse (varying types of) community involvement committees. Four groups endorse the use of citizen volunteers.

#### ANALYSIS OF THE STANDARDS

While there are myriad variations in wording and emphasis, as well as a number of (mostly minor) differences pertaining to the substance of the recommendations, the four standards groups are generally agreed both as to the desirability of community-based alternatives to incarceration and the fundamental features which should characterize such programs. As noted in the preceding Comparative Analysis on Reducing Detention and Commitments, recognition of the fact that in some instances out-of-home placement is required "does not mean condonation of the use of traditional juvenile institutions."<sup>13</sup> Hence the four groups have devoted considerable attention to what they view as desirable alternatives. As to the rationale for such programs, one of the more succinct statements is to be found in the IJA/ABA's Architecture of Facilities volume, which emphasizes that:

Small community-based facilities should more effectively achieve the following goals:

- A. facilitate utilization of community services by easing problems associated with location;
- B. enable a greater number of specialized programs to be provided by associating facilities for juvenile detention and corrections with community institutions;
- C. recognize the expression of diverse attitudes among different cultures and individuals by locating nonsecure settings in youths' neighborhoods or communities;
- D. protect and promote the emotional and social well-being of youths and their families by minimizing the amount of time spent in custodial facilities and by using community services whenever possible;
- E. provide a diverse range of nonsecure and secure placement options for detention and corrections using facilities whose appearance is typical of the neighborhood in which they are located;
- F. promote community awareness and involvement in juvenile justice; and
- G. reduce capital costs of construction.<sup>14</sup>

#### Location; Links With the Family and the Home Community

In comments that typify the overall postures of all four groups, the National Advisory Committee remarks that, notwithstanding "society's desire to keep the offender 'out of sight and out of mind,'" candor requires recognition of the fact that "isolation and banishment simply have not worked."<sup>15</sup> Moreover, the Advisory Committee states:

What opponents of community-based correctional facilities frequently forget is that juveniles placed in correctional institutions eventually return home. To sever or reduce a delinquent youth's ties with family members, peers, and other support systems in the community can only increase the chance of recidivism when the youth returns to the community.<sup>16</sup>

Therefore, the NAC offers its Standard 4.24, which proposes as across-the-board policy that:



The development of community correctional facilities should be preferred to the construction of noncommunity-based correctional facilities.<sup>17</sup>

While the term "community-based" is frequently used to denote only nonsecure facilities, the accompanying commentary states:

This standard applies to foster homes, group homes, and shelter care facilities, as well as to detention facilities and training schools.... Thus it covers both "secure" and "nonsecure" correctional facilities.<sup>18</sup>

Moreover, in keeping with the previously cited OJJDP Guidelines, the commentary also stresses that, while geographic location of a facility in or near the home community of its population is important, such geographic location alone does not suffice to characterize it as "community-based": the facility should also--consistent with the security requirements of its residents--endeavor to facilitate ties between the juvenile, the family, and the community.

On this latter point, the IJA/ABA is even more explicit. Standard 7.3 in its volume on Corrections Administration directs that:

In the determination of program placement, there should be a strong presumption in favor of retaining the juvenile within his or her own home community and against disrupting the juvenile's cultural and geographical roots. The department should ensure that links between the juvenile and his or her home and community are facilitated and preserved.<sup>19</sup>

This standard, too, is applicable to placements in secure as well as nonsecure facilities--again, with some qualifications as to the security requirements of facility residents.<sup>20</sup>

In fact, all four groups appear to agree on the proposition that even secure institutions should be located in or near the home community.<sup>21</sup> For example, Task Force Standard 24.2 specifies, in part:

Secure residential facilities should comply with the following guidelines:

...  
2. They should be located in or near the community from which they draw their population insofar as geography and demographic constraints permit.<sup>22</sup>

Similarly, the National Advisory Committee's Standard 4.2111 states, in pertinent part:

Training schools, to the greatest extent possible, should be located in or near the communities from which they draw their population.<sup>23</sup>

So, too, Standard 5.4 in the IJA/ABA's Architecture of Facilities volume specifies that:

Secure corrections facilities should be located to facilitate the use of community based services and continued contact between juvenile, family, and friends.<sup>24</sup>

And Standard 9198 in the Commission on Accreditation for Corrections' Manual of Standards for Juvenile Training Schools and Services proposes that it is "essential" that:

The training school is located to facilitate use of community-based services and continued contact between youth, family and friends.<sup>25</sup>

To be sure, the sort of "permeable boundaries" between the facility and the community that are contemplated for nonsecure settings are not (fully) appropriate in the context of training schools and other secure residential facilities. Still, all four groups endeavor to encourage as much contact between the juvenile and the family, as well as the community at large, as is consistent with reasonable security requirements. For example, all of the groups address the issue of allowing outside visitors, recognizing what the NAC characterizes as "the paramount importance of observing the right of juveniles to maintain links with significant persons in the community."<sup>26</sup> Though there are minor variations in the groups' approaches to this subject, the National Advisory Committee's Standard 4.44 is, in general, illustrative. It provides:

A juvenile should have the right to receive any and all visitors at the times fixed for visits. However, a facility may deny access by a visitor if the visit would present a substantial danger to the health of the juvenile or the safety of the facility. Whenever a visitor is denied access, a written report should be prepared describing the dangers which the visit would pose and the basis for believing that the danger exists. The report should be kept on file, a copy should be given to the juvenile, and a copy should be sent to the ombudsman.<sup>27</sup>

The IJA/ABA's approach in this area is found in Standard 7.6 D. in the Corrections Administration volume. This standard states:

Visits by the juvenile's family and friends should be liberally permitted, subject to the juvenile's schedule of activities and reasonable time limitations.

Searches of visitors should not be regularly undertaken. If the program director has probable cause to believe that a visitor may possess contraband, then the director may delay the visit until a search warrant can be applied for or the visitor may sign a written consent to search. At a minimum, visits should be allowed twice weekly.<sup>28</sup>

Although neither the Task Force<sup>29</sup> nor the Commission on Accreditation for Corrections<sup>30</sup> follows the IJA/ABA's approach of specifying a minimum number of visiting opportunities--and, while these two groups are, respectively, less explicit and less rigorous regarding requirements for searching visitors for contraband<sup>31</sup>--their standards in this area are generally analogous to those just cited from the NAC and the IJA/ABA.

Moreover, as was noted briefly above, the four groups are also basically in accord that, insofar as security requirements permit, even juveniles housed in secure facilities should be permitted and encouraged to interact with the community at large. For example, Standard 7.11 in the IJA/ABA's Corrections Administration volume--a standard which is directed to secure residential programs--specifies in subsection D. that:

There should be a presumption in favor of juveniles within the lower security category taking full part in educational, work release, and recreational activities in the local community.<sup>32</sup>

Subsection G. of the same standard states:

Juveniles in the lower security category should be permitted a weekend furlough at least every [two] months. All juveniles, regardless of security category, should be permitted a furlough of at least five days duration during the month prior to discharge.<sup>33</sup>

The accompanying commentary elaborates as follows:

[T]he standard favors the use of community resources and services for some residents of the secure facility. The standard proposes a classification scheme, the purpose of which is to provide residents in the low security category with opportunities to take advantage of such resources. There is no reason to suppose that all juveniles sentenced to security facilities by the courts require close scrutiny for the full duration of the disposition.<sup>34</sup>

The commentary further states:

Community resources should be used whenever feasible. At the discretion of the program director, juveniles in the high security category may be permitted to use local swimming pools and other resources with staff supervision.<sup>35</sup>

The position of the National Advisory Committee--outlined in its Standards 4.21, 4.213, 4.216 and 4.2162, and attendant commentary--is essentially the same. The commentary to NAC Standard 4.21, which addresses training schools generally, notes that:

Because of security requirements, it is generally not feasible to rely on community resources to provide...[academic, vocational, and other treatment] services. However, community services should be used whenever adequate supervision can be provided or whenever staff determine that a youth has demonstrated sufficient responsibility to participate in selected community activities.<sup>36</sup>

Thus, Standard 4.213, which is also directed to training schools, specifies, in pertinent part:

When location and security permit, arrangements should be made for appropriate residents to receive...[educational, counseling, and other] services in the community.<sup>37</sup>

The accompanying commentary stresses that, while some residents of secure training schools should indeed be barred from participation in community services, administrators should develop a security classification system and "a process for screening candidates for particular furlough programs, as well as procedures for carefully monitoring program participation"<sup>38</sup> to ensure maximum feasible participation in services provided in the community. Subsequent standards discuss study release<sup>39</sup>

and work release programs<sup>40</sup> specifically. In addition, the National Advisory Committee recommends that:

Whenever appropriate, other public and private agencies should be utilized to provide in-house services.<sup>41</sup>

These same two basic strategies--utilization of release programs for participation in services provided in the community in appropriate cases, together with purchase of services from local agencies for in-house delivery--are also endorsed in an array of standards proposed in the Report of the Task Force.<sup>42</sup> Rather than belabor the discussion with a full recitation of specifics, the following excerpt from the commentary to Task Force Standard 24.5 on Educational and Vocational Training may be cited as typical:

Resources available in the community should be used to the greatest extent possible and not duplicated in residential settings.

Opportunities for educational and work program involvement in the community should be maximized. Early emphasis should be placed upon participation in programs that will initiate the reintegration of the youth into the community in constructive ways that are both personally and materially rewarding.<sup>43</sup>

Numerous standards in the Commission on Accreditation for Corrections' Training Schools volume support these same positions.<sup>44</sup> For example, Standard 9408 urges institutions to make effective use of community resources in vocational training programs. The discussion of the standard states:

Community resources can enhance the institution's vocational training programs considerably. Resources such as trade councils, employer and employee associations, federally funded projects, e.g., Job Corps, and private community action groups can help plan, fund and coordinate the institution's vocational training programs. They also may provide referrals for on-the-job training and community release, and may assist in the facility's job placement program for soon-to-be released residents.<sup>45</sup>

Similarly, Standard 9443 urges that:

Where statutes permit, written policy and procedure allow for resident participation in employment, restitution or school release programs.<sup>46</sup>

The accompanying discussion attaches a qualification:

However, if a resident successfully participates in such a program his or her status should be reviewed by the juvenile court and unless justification can be shown, he or she should be transferred to a nonsecure community program or released to the care and custody of his or her family.<sup>47</sup>

Predictably, all four of the standards groups reviewed here devote substantial attention to nonsecure, community-based facilities. As noted in the preceding Comparative Analysis, the groups express the view that not only should commitments, in general, be substantially reduced, but when they are required, placement in nonsecure settings is to be employed, if this is at all feasible. In this regard, it should be noted that the IJA/ABA's Corrections Administration volume emphasizes

an important caveat regarding use of nonsecure, community-based facilities. It states:

A number of studies have drawn attention to the danger that new programs intended as alternatives to more restrictive settings result in supplementation and not replacement....[The National Assessment of Juvenile Corrections...has reported that "relatively greater reliance on community-based services is not usually accompanied by a commensurate lowering of the rate of institutionalization--many states appear to be supplementing rather than supplanting corrections for juveniles..."<sup>48</sup>

The IJA/ABA, which calls for an absolute decrease in commitments, of course, expresses strong disapproval of such practices. And the National Advisory Committee, in the commentary to its Standard 4.24, likewise emphasizes that:

Community-based correctional facilities should be substitutes for, not supplements to, juvenile "prisons" and other large, remote youth correctional facilities.<sup>49</sup>

The postures of the other two standards groups on this subject are not made explicit, but given their general preference, noted earlier in this volume, for the "least restrictive alternative" disposition appropriate,<sup>50</sup> it seems virtually certain that they concur fully.

It being clearly understood, then, that none of the groups intends its support for nonsecure, community-based facilities as an endorsement of increased commitments, it is worthwhile to examine some of the particulars of the recommendations. Obviously, all four groups urge that such facilities be located "in or near" or "in or immediately adjacent to" the home community of the juveniles placed therein.<sup>51</sup> Indeed, the IJA/ABA's Architecture of Facilities volume even defines the term "non-secure setting" as follows:

A nonsecure setting is characterized by close ties to the community and its resources, and a location in a community setting. It is intended to:

- A. create permeable boundaries between facility and community;
- B. provide an open setting with very limited controls, usually self-imposed, on residents' movements; and
- C. promote normalization.<sup>52</sup>

These basic concepts--of striving to foster "normalization" and of endeavoring to do so in open settings, having "permeable boundaries" with the community at large--recur as fundamental themes throughout the IJA/ABA standards. And with only slight variations in terminology--generally involving usage of "integration into" or "reintegration into" the community instead of "normalization"--the same intentions and strategies are reiterated in the other three sets of standards, as well.<sup>53</sup>

For example, the Commission on Accreditation for Corrections comments that:

The ultimate objective of the community residential program should be resident reintegration into community life, including the strengthening of relationships with relatives, friends and employers. This process should commence immediately after admission to the program, and be maintained until the time of release. Graduated release, emphasizing decreasing

levels of supervision and increasing levels of individual responsibility on the part of the resident, is an essential element of the residential program.<sup>54</sup>

In their discussions of nonsecure facilities, the four groups focus mainly (albeit not quite exclusively) on group homes and foster homes--also making brief mention of larger halfway houses, boarding schools, camps, ranches, and the like.<sup>55</sup>

Clearly, placements in community-based group homes or foster homes are viewed as the preferred options. In fact, the commentary to NAC Standard 4.24 states:

The National Advisory Committee strongly recommends that foster homes should be preferred over all other types of nonsecure residential facilities.<sup>56</sup>

Similarly, the Task Force to Develop Standards and Goals on Juvenile Justice and Delinquency Prevention remarks that:

Of the nonsecure residences, foster home placement is preferred because it offers the juvenile a family living experience.<sup>57</sup>

And the IJA/ABA seems basically in accord.<sup>58</sup>

As one would expect, since the argument as to security requirements necessitating restrictions on the use of community services is not generally applicable to group homes, foster homes, and other nonsecure facilities, the standards groups place even greater emphasis on juveniles' interaction with the community in this context than they did with regard to training schools. For example, the commentary to Standard 7.10 in the IJA/ABA's Corrections Administration volume--the standard addressing nonsecure residential programs--states:

The standard's purpose is to maximize links with the community and to make as normal as is possible the daily lives of the residents....

This standard's position favoring maximum use of existing community resources has crucial implications for program approach and staffing arrangements. The standard does not support the all-inclusive type of group home, which provides many needs and services within the facility.<sup>59</sup>

In like fashion, the National Advisory Committee stipulates in the commentary to its Standard 4.24 that:

[S]ervices and resources from the community should be fully utilized and should not be duplicated by the corrections facility.<sup>60</sup>

The Task Force agrees<sup>61</sup> and so, too, does the CAC. Emphasizing that the correctional employee "should function more in the roles of change agent and broker" in securing services from other community agencies,<sup>62</sup> the CAC specifies that:

The community residential program cannot and should not provide all services in-house, not only because the costs would be prohibitive, but also the basic philosophy of community involvement and participation would be destroyed. If additional services are not available without charge, the program should provide funds for them. Involvement of other support

services for the residents is an essential element of community residential programs, and referrals to community agencies should be given preference whenever possible.<sup>63</sup>

In situations where needed services are not currently available, the Commission urges the juvenile correctional agency to "foster the development of community resources."

The development of community resources includes: getting an established agency to extend its eligibility to participants; educating service agencies and their publics to the needs of participants; assisting indigenous and self-help groups to become organized and effective; and serving on community service agency advisory committees and boards of directors.<sup>64</sup>

Thus, all four standards groups direct the staff of nonsecure, community-based facilities to encourage juvenile residents to make maximum effective use of educational, vocational, medical, counseling, and other services available in the community at large.<sup>65</sup>

The four groups also urge that agencies executing probation and parole programs draw heavily on services provided by other community agencies. For example, NAC Standard 4.32 specifies that:

A broad range of services should be available to persons subject to community supervision. Ordinarily such services should be provided by the community rather than directly by the supervision agency.<sup>66</sup>

The commentary explains the rationale for this approach as follows:

By specifying that such services should ordinarily be provided by and from the community, rather than directly by the supervision agency, the National Advisory Committee seeks to further many objectives. It is expected that provisions of supporting services from within the community will best maintain the youth's involvement with his/her community...will promote the youth's self-sufficiency and self-reliance, will enhance community involvement with the particular youth and with youth services generally, will reduce unnecessary duplication of services, and will increase the flexibility with which services plans can be tailored to the individual needs of particular juveniles.<sup>67</sup>

Similarly, the CAC's Manual of Standards for Juvenile Probation and Aftercare Services emphasizes that:

Field services are community-oriented and community-centered. The agency should be a catalyst, mobilizer, and developer of community resources so that youth can benefit from a wide variety of these resources.<sup>68</sup>

The IJA/ABA also focuses on the community supervision worker's "brokerage role" in securing services from other agencies;<sup>69</sup> and so does the Task Force.<sup>70</sup>

Three of the groups--the National Advisory Committee, the IJA/ABA, and the Task Force--recommend that community supervision programs should generally be administered by a statewide juvenile corrections agency.<sup>71</sup> The CAC, consistent with

its long-standing policy of not endorsing particular organizational structures, takes no position on this issue. Nevertheless, in Standard 7026 in its volume on Juvenile Probation and Aftercare Services, the CAC does urge adoption of a stipulation that:

Field offices and other facilities are [to be] located in areas conveniently accessible to youth, their places of residence and employment, and to transportation networks and other community agencies.<sup>72</sup>

The accompanying discussion states:

Maximum interaction with the community is vital to the success of field service programs. The strategic location and appropriate design of facilities maximize staff performance and service delivery.<sup>73</sup>

The positions of the other three groups are very similar. NAC Standard 4.31 is illustrative. It calls for administration of the State agency's community supervision programs on a "decentralized" basis. The commentary indicates:

The National Advisory Committee believes that centralized, statewide controlled and coordinated supervision services can best assure adequate personnel training, statewide consistency in procedures and treatment, efficient distribution of services, and comprehensive planning....To ensure this centralized control over community supervisory services, this standard would provide that each community supervisor must be a state employee. To guarantee flexibility among localities, this standard also provides that each community supervisor should be directly assigned to serve the jurisdiction of a particular family court. Responsiveness to local needs can be achieved by decentralization within the total statewide system.<sup>74</sup>

#### Limitations on Size and Construction of Facilities

As noted in the preceding discussion of the JJDP Act and the accompanying OJJDP Guidelines, location of a facility in or near the juvenile population's home community and the maintenance of close ties between the juvenile, the family, and the community are not the only factors to be considered in determining whether a facility or program may properly be characterized as "community-based." Among other things, the Act further specifies that community-based facilities should be "small"; and OJJDP's Guidelines establish a maximum bed capacity of 40.<sup>75</sup> As a corollary, the Act itself also interposes a bar on the use of Federal money to construct any facilities other than those which are community-based and house 20 or fewer persons.<sup>76</sup>

Before examining the individual standards groups' recommendations regarding size of facilities, it should be noted that all four groups express disapproval of new construction of large, secure institutions. For example, in its Standard 24.2 the Task Force directs that:

The precise number of secure facilities should be based on need and should be kept to an absolute minimum.<sup>77</sup>



The accompanying commentary states:

No new facilities should be constructed unless the need is clearly demonstrated through an indepth analysis of all pertinent factors.<sup>78</sup>

The CAC follows the same approach, employing virtually the same phrasing. The discussion of Standard 9196 in its volume on Juvenile Training Schools and Services provides that:

Before any new training school or special purpose institution is constructed or an existing facility is expanded, an evaluation should be made by the parent agency to determine whether the need is clearly demonstrated, through an in-depth analysis of all pertinent factors. It may be that community-based residential facilities and non-residential programs are more appropriate to meet the needs of the population to be served.<sup>79</sup>

Similarly, the commentary to NAC Standard 4.21 stipulates:

The standards in this series are not intended as an endorsement of construction of additional training schools, but rather as a guide for renovation and improvement of existing facilities. To the greatest extent possible, new construction should be limited to the type of community correctional facility described in Standard 4.24.<sup>80</sup>

The commentary to Standard 4.24, in turn, states:

[T]he National Advisory Committee joins...in endorsing the placement of corrections facilities within the community--coupled with a gradual abandonment or conversion of the large-scale prison-like facilities which are now commonplace.<sup>81</sup>

The IJA/ABA adopts even stronger recommendations in this area. As an interim measure, it urges that populations in existing large institutions be reduced to conform to specified size limitations (which will be noted below). Moreover:

It is further recommended that these facilities be phased out by 1980 and replaced by a network of smaller community-based facilities with a population of approximately twenty residents. In this time frame, no new large institutions should be built and existing institutions should be reduced in size to meet the maximum population...recommended for this interim period. In the intervening years before final implementation of the standard of twenty, evaluation studies should be carried out concerning the size of juvenile facilities.<sup>82</sup>

It should also be recalled that all four groups apparently subscribe to--and the NAC, together with the IJA/ABA, make explicit--reservations that expansion of community-based facilities can contribute to overinstitutionalization, in which these smaller facilities merely supplement, rather than supplant, large juvenile "prisons."<sup>83</sup> Consistent with these reservations, all four groups recommend that a careful needs assessment procedure be completed before any new construction is commenced--even if it involves small, nonsecure, community-based facilities.<sup>84</sup> Indeed, the IJA/ABA even calls for the development of an "architectural program," which it characterizes as "an environmental impact statement in the fullest sense of the phrase."<sup>85</sup>

As to the appropriate size of residential facilities, two of the standards groups candidly note that it is difficult to speak to this issue with real exactitude. The IJA/ABA's Architecture of Facilities volume states:

It is virtually impossible to "prove" that a corrections institution of one size or another will lead to a more favorable post-disposition outcome on the part of the youths placed there.<sup>86</sup>

Nevertheless, on the basis of a variety of factors--including its perception of the requisites of a "safe, human, caring environment," its views on the importance of utilizing community resources, its examination of existing research studies on the impact of size on the juvenile's correctional experience, its assessment of the literature on management factors, and its review of the recommendations of past standards groups--the IJA/ABA does formulate particularized directives in this area.<sup>87</sup> Similarly, the National Advisory Committee considers the recommendations of past standards groups on the subject, together with some of the research studies, and observes that:

Although there is little agreement among juvenile justice authorities, and even less scientific evidence to support one particular figure as the optimum population of a training school, the...recommendations indicate that there is a general consensus that training school population be substantially reduced.<sup>88</sup>

Be that as it may, there is remarkable agreement among the four groups surveyed here--both as to the general efficacy of reducing facility size and regarding the desirability of specific figures.

Moving to specifics, all four standards groups address secure, as well as nonsecure, settings.<sup>89</sup> The National Advisory Committee's Standard 4.2112 states, in pertinent part:

Training schools should house no more than 100 juveniles.

Each living unit within the training school should not exceed a bed capacity of 20.<sup>90</sup>

The accompanying commentary indicates that:

Limiting the number of beds in the living unit is not to be interpreted as simple [sic] allowing a maximum of 20 juveniles in a large barracks-type dormitory. The purpose of the living units is to establish a cohesive living area which serves as a focal point of the juvenile's daily activities rather than just sleeping quarters. The standard recommends that the living unit contain both private and semi-private rooms....The use of the semi-private rooms provides a setting in which youths can learn to cope with others, develop friendships, and improve their social skills. It also offers a practical means of conserving scarce space, without reverting to a barracks-type atmosphere.<sup>91</sup>

The approach of the Task Force is very similar. Its Standard 24.2 stipulates, in part:

Secure residential facilities should comply with the following guidelines:

1. They should not exceed a bed capacity of 100. The State agency should develop a plan with specific time limits to remodel existing facilities to meet this requirement or to discontinue the use of present facilities that have a population in excess of 100....

3. The living units' capacity in secure facilities should not exceed 20 beds and should provide an individual room for each delinquent.<sup>92</sup>

These same numerical maximums are endorsed in the CAC's Juvenile Training Schools and Services volume. Standard 9201 sets a bed capacity of 100 for the institution as a whole, while Standard 9159 establishes a living unit capacity of 20.<sup>93</sup> And Standard 9166 prohibits dormitories housing more than 5 juveniles.<sup>94</sup>

As noted above, the IJA/ABA's recommendations in this area are somewhat more rigorous, calling for a complete phaseout of large training schools. Standard 7.2 in the Corrections Administration volume states:

No residential facility should house more than twenty adjudicated juveniles. The department should discontinue the use of any residential setting that contains more than twenty adjudicated juveniles.<sup>95</sup>

The commentary, after emphasizing the objective of eliminating large secure facilities altogether, continues as follows:

For the immediate future, it is probably safe to assume that the training school or large institution will continue to be part of the juvenile corrections system in some form or another. During this period, it remains a high priority policy matter to influence the size and nature of the institutions in which juveniles will be held. It is proposed, therefore, as a part of this standard that the population of existing large facilities be reduced to a maximum of 100 residents and that each living unit house no more than twenty youths.<sup>96</sup>

The same commentary also sets the previously noted deadline of 1980 for closure of institutions housing more than 20 juveniles.<sup>97</sup>

The standards groups all tender essentially the same rationale for their proposed size limitations for secure facilities. IJA/ABA's Architecture of Facilities volume, for example, indicates that:

Scheduling, controlling, feeding, moving, supplying, equipping, and meeting timetables for large groups imposes depersonalization on staff and resident alike, and negatively influences the relationship of staff to resident, resident to staff, staff to staff, and resident to resident.<sup>98</sup>

Similarly, the Report of the Task Force observes that:

Large institutions tend to be dehumanizing and may submerge inmates in a variety of subcultures, many of which are socially and emotionally destructive. It becomes virtually impossible to provide the environment of safety, normalcy, and fairness that is basic to effective treatment. Maintaining day-to-day control becomes the emphasis and program services deteriorate.<sup>99</sup>

The same Report comments on living unit size as follows:

The capacity of individual living units should not exceed 20 residents to permit emphasis upon reeducation rather than just custodial operations. Living units should be small enough to afford a maximum amount of interaction between staff and residents.<sup>100</sup>

Notwithstanding the previously noted difficulties of attempting to arrive at a "correct" number in this area, the IJA/ABA volume survey the extant research literature on management of living units and find considerable agreement among the authorities. The Architecture of Facilities volume states:

The literature is unanimously supportive of a figure ranging from eighteen to twenty-five as the size beyond which the simple logistics of moving people about defeats the intent of the program to normalize rather than regiment.<sup>101</sup>

To which, of course, can now be added that in the best judgment of all four of the prestigious standards groups surveyed here the optimal capacity for living units in secure facilities is 20.

As to nonsecure residential facilities, two of the four groups address, not only foster homes and group homes, but larger facilities as well--though neither does so in a standard as such. In its commentary to Standard 24.4, the Task Force specifies 12 to 20 as the maximum bed capacity for "community-based residential programs" other than foster or group homes.<sup>102</sup> And, in the Introduction to its Manual of Standards for Juvenile Community Residential Services, the Commission on Accreditation for Corrections makes the following comment regarding "large community residential programs":

The typical halfway house serves from 12 to 20 residents, while a larger program may serve from 20 to 40 youth.<sup>103</sup>

Regarding group homes, Standard 7.10 in the IJA/ABA's Corrections Administration volume specifies that:

Group homes may have a capacity of between four and twelve juveniles depending on program requirements.<sup>104</sup>

The commentary states:

The standard recommends a lower maximum size for group homes than for other residential facilities. A maximum size of twelve rather than twenty lessens differences between the group home and other residences in the neighborhood. Small size also makes it less difficult for it to achieve other home-like qualities.<sup>105</sup>

The National Advisory Committee addresses this issue in its Standard 4.231, which provides that:

No more than twelve juveniles should be placed in a group home.<sup>106</sup>

The attendant commentary outlines the rationale for this figure in the following fashion:

By keeping the numbers low in a group home, the ratio of staff to juvenile will remain high, fostering the development of a close and personal relationship between them. The high ratio allows for greater supervision, greater interaction, and greater trust and respect....Placing no more than twelve juveniles in a group home also eliminates an institutional atmosphere and permits better relationships to develop between the residents. Consequently, the day-to-day functioning of the group home will be smoother.<sup>107</sup>

Although it does not specifically address the issue in a standard, the Task Force endorses a maximum bed capacity of 4 to 12 for group homes in the commentary to its Standard 24.4.<sup>108</sup> And, while it does not direct a standard to this subject either, the CAC characterizes "small group homes" as serving 4 to 8 juveniles and "large group homes" as having populations of 8 to 12.<sup>109</sup>

Obviously, foster homes involve placement in an actual home setting; and, since it can, as a general rule, be presumed that these will not be large, it is probably for this reason that neither the IJA/ABA nor the CAC proposes population limits for these facilities. Nonetheless, both the NAC and the Task Force do speak to this issue. The National Advisory Committee's Standard 4.25 states, in part:

Foster homes are substitute family settings in which foster parents care for juveniles who can adapt to an open, nonsecure, home environment. No more than six (6) juveniles...should be placed in a foster home.<sup>110</sup>

The Task Force opts for a smaller number, recommending a maximum bed capacity of 1 to 4 for foster homes in the commentary to its Standard 24.4.<sup>111</sup> While both groups discuss the merits of foster homes generally and make passing allusions in the commentary to the proposed size limitations, neither offers any extensive defense of the figure selected.<sup>112</sup>

#### Consumer/Community Participation

Regarding consumer participation, all four groups seem agreed that the juvenile (and, where appropriate, his or her family) should be given a voice in formulating an individualized treatment plan--though the groups address this matter with varying degrees of particularity. Standards 4.10 and 4.11 in the IJA/ABA's Corrections Administration volume discuss the initial assessment and program selection process generally, in the context of both nonresidential and residential programs, secure and nonsecure placements. These two standards place repeated emphasis on securing the juvenile's informed consent, and the commentary to 4.11 emphasizes that it is one of the "central presumptions" of this standard that:

[T]he juvenile should play a major role in the determination of services to be provided.<sup>113</sup>

The National Advisory Committee presents a variety of standards which speak to this issue in the context of different programs. For example, Standard 4.214 refers to the formulation of individual program plans for juveniles committed to training schools. It specifies, in part:

After all assessment team members have completed their respective tasks, they should meet together to discuss the findings and finalize their recommendation for the juvenile's program plan. At such meetings, and

throughout the assessment process, the juvenile should be given full opportunity to participate in the formulation of the program plan and to have a voice in determining his/her program goals.<sup>114</sup>

The commentary to NAC Standard 4.24, which discusses community-based residential programs generally, takes a similar approach. It states:

The National Advisory Committee endorses models for such facilities which propose an "active" role for the client in treatment.<sup>115</sup>

The Advisory Committee also addresses consumer participation in developing treatment plans when community supervision is ordered. NAC Standard 4.32 provides, in part:

Upon placement under community supervision, the person supervised and, whenever possible, his/her family, should assist in the preparation of an assessment of needs and the development of a plan establishing the goals to be achieved during the supervision period.<sup>116</sup>

The Task Force makes very similar recommendations regarding client participation in formulating community supervision plans. Its Standard 23.3 specifies, in pertinent part:

The adjudicated juvenile referred for services should be given full opportunity to participate in creating the services plan and have a voice in setting his own goals. He should be present when possible at case staffings and should participate as a member of the staffing team. Significant others, including parents, spouse, or others, also should be included in these staffings whenever possible.<sup>117</sup>

While the concept of consumer participation also seems implicit in a number of the Task Force's standards on residential programs, the issue is not explicitly discussed in that context.<sup>118</sup>

The CAC also addresses the client's role in developing community supervision plans. Standard 7165 in its volume on Juvenile Probation and Aftercare Services urges that:

The field staff member, the juvenile, and, when appropriate, his/her family jointly develop a supervision plan, including its stated objectives and a projected date of termination.<sup>119</sup>

The CAC's Administration of Correctional Agencies volume considers consumer participation generally, but it does so with some qualifications. Its Standard 32 recommends that:

Written policy and procedure require the presence and participation of the individual involved during initial staff deliberations which could adversely affect his or her freedom or well-being, unless precluded for reasons of security and/or other substantial reasons.<sup>120</sup>

The standards in the CAC's individual volumes on residential facilities are also somewhat less emphatic regarding juveniles' participation in formulating service plans than the parallel standards proposed by the IJA/ABA and the National Advisory Committee. Standard 9400 in the volume on training schools, for example, urges

facility staff formulating an assessment of the juvenile to solicit information from either the juvenile or "parents and significant persons in the life of the juvenile," suggesting that the juvenile need not in all cases be consulted directly.<sup>121</sup> And Standard 9401 in the training schools volume requires the juvenile to sign the "personalized program," but it does not delineate any particular role for the juvenile in preparing this plan.<sup>122</sup> Standard 6114 in the volume on community residential facilities is precisely parallel to Standard 9401.<sup>123</sup> Probably active consumer participation is assumed in these standards, but this assumption is not made explicit.

It should also be noted that Standard 2.6 in the IJA/ABA's Monitoring volume addresses consumer participation, not in the context of developing individual service plans, but in a more general, very interesting fashion. This standard, titled User Participation, states:

Monitoring mechanisms should determine the nature and extent, and evaluate the impact of, the participation of the receivers of services and programs and the users of facilities for juveniles and their families, both in the determination of the types, objectives, and priorities for development of, and in the evaluation of, such services, programs, and facilities.<sup>124</sup>

The commentary elaborates as follows:

This standard reflects a somewhat novel focus for the monitoring process, i.e., user participation in an advisory capacity for both policy-making and monitoring activities. There has recently been some limited experimentation in this area. The purpose of this standard is simply to acknowledge these efforts and to encourage additional efforts at carefully planned experimentation. These types of efforts are still largely untested and their ultimate value and contribution remains to be determined. Monitoring mechanisms should be aware of, and identify, where such experiments are being tried or planned and become involved in their evaluation.<sup>125</sup>

It will be recalled that the final criterion established by the JJDP Act and the OJJDP Guidelines for determining whether a program or facility is "community-based" relates to community participation. The four standards groups propose a variety of different mechanisms for community liaison and involving the community in the decisionmaking processes. For example, Task Force Standard 25.3 stipulates that:

A fair sample of the community and its juvenile-related agencies must participate in the decisions of the governmental body that plans and evaluates juvenile justice and delinquency prevention activities.<sup>126</sup>

The National Advisory Committee also urges that community representatives be given an important role. Its Standard 1.111 calls for the development of a "local juvenile justice and delinquency prevention planning and coordinating authority." The standard requires that:

The composition of the local authority should consist of youth, the policy-making officials of the major juvenile service agencies including schools, local executive management and budget agencies, other governmental entities, citizen groups, businesses, and private nonprofit organizations providing services for juveniles. (emphasis added)<sup>127</sup>

Subsequent standards make it clear that, while the local authority is not to be involved in the actual delivery of services, it is to play a substantial role, particularly with regard to planning and evaluation.<sup>128</sup> The Advisory Committee's commentary to Standard 1.427, governing training of planning personnel, also emphasizes that "planners must keep in constant touch with all segments of the community."<sup>129</sup>

The IJA/ABA's volumes on Planning and Monitoring call for an active community role in the performance of these two functions through the vehicles of local juvenile justice boards<sup>130</sup> and community advisory councils.<sup>131</sup> Moreover, Standard 4.2 B. in the IJA/ABA's Corrections Administration volume recommends that:

The department should encourage program directors to set up advisory committees of local persons to advise on aspects of program management and to facilitate the development of links with the community.<sup>132</sup>

The commentary notes:

Although responsibility for administration of each program should reside with its director, advisory committees composed of persons from the community within which the program is located may provide considerable benefits. Such committees serve to encourage the program to take into account local viewpoints and in other ways provide an important link between the program and community.<sup>133</sup>

Standards 9.1, 9.3, and 9.4 in the same volume call for the planning process to be open to public scrutiny, for the public to have access to planning documents, and for independent monitoring and evaluation to be conducted by persons not affiliated with the department.<sup>134</sup>

The CAC proposes an elaborate array of standards regarding community liaison mechanisms which generally comport with those of the other groups, although since its focus is exclusively on corrections it does not propose citizen involvement in systemwide planning and evaluation efforts. Standard 6018 in its Juvenile Community Residential Services volume requires public agencies administering such facilities to have "a local governing authority or advisory board which is representative of the community in which the agency is located."<sup>135</sup> Standard 6026 in the same volume establishes a parallel requirement for private agencies, mandating the formation of a "citizen involvement committee."<sup>136</sup> Standards 9039 and 9047 in the volume on training schools outline identical requirements.<sup>137</sup> Standard 143 in the Administration volume also establishes as general policy that:

The agency administrator consults with other agencies within the criminal and juvenile justice system, as well as community groups and community service agencies, in the formulation of agency policies and procedures.<sup>138</sup>

In fact, the CAC offers a number of standards to the same general effect, but the particulars of all of these need not be explored here.<sup>139</sup>



Finally, it should be noted that as an additional mechanism for securing community involvement in correctional programs and maintaining links between resident juveniles and the community each of the standards groups endorses use of citizen volunteers in juvenile corrections programs. Three of the groups--the IJA/ABA, the Task Force, and the CAC--present actual standards on this subject. While they differ slightly as to details, Standard 3.6 in the IJA/ABA's Corrections Administration volume may be cited as reasonably typical. It provides:

- A. Purposes  
The department should actively involve volunteers in programs, not to replace regular staff, but to enrich and supplement on-going programs.
- B. Selection and recruitment of volunteers.  
The department should recruit volunteers whose interests and capabilities are related to the identified needs of the juvenile.
- C. Training and supervision of volunteers.  
Volunteers should be provided with preservice orientation training and be supervised in their work by an experienced employee of the department or the private agency with which the department has contracted.
- D. Use of volunteers in advocacy, program-planning, and monitoring activities.  
Volunteers should be provided opportunities to participate in the planning and monitoring of juvenile corrections programs. They should also be involved in organizations that advocate change and reform in the area of juvenile corrections. Additionally, volunteers should play a critical role in the independent monitoring of juvenile corrections programs by private groups....<sup>140</sup>

While the National Advisory Committee does not offer a specific standard on this subject, it endorses, in commentary, the use of volunteers in both secure<sup>141</sup> and nonsecure residential facilities.<sup>142</sup>

#### MATRIX OF INTERRELATED STANDARDS

For readers wishing to explore individual issues in greater detail, Table 2 on the following pages uses the National Advisory Committee's standards as bases for comparison and identifies the interrelationships of all of the major standards on community-based alternatives to incarceration that were surveyed in this analysis.

Immediately following the matrix are index pages, together with instructions for their use. These will permit ready identification of the subject-matter being compared. Titles which appear in parentheses on the index pages are not included in the original volume being cited, but have been supplied to facilitate identification of the content of the standards.



TABLE 2  
Matrix of Interrelated Standards on  
Community-Based Alternatives to Incarceration  
(Continued)

| NAC Final<br>Report | LJA/ABA<br>Monitoring |     | CAC<br>Juvenile<br>Detention |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | CAC<br>Juvenile<br>Probation |      |      |      |      |      |      |      | CAC<br>Juvenile<br>Training<br>Schools |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
|---------------------|-----------------------|-----|------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------------------------------|------|------|------|------|------|------|------|--|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|---|--|--|
|                     | 2.6                   | 5.1 | 8009                         | 8037 | 8043 | 8050 | 8105 | 8106 | 8151 | 8185 | 8186 | 8187 | 8188 | 8349 | 8362 | 8378 | 8404 | 8405 | 7026                         | 7029 | 7030 | 7034 | 7093 | 7105 | 7165 | 7166 | 7175                                   | 9005 | 9027 | 9029 | 9031 | 9032 | 9039 | 9047 | 9125 | 9159 | 9162 | 9196 | 9197 | 9198 | 9199 | 9201 | 9348 | 9390 | 9442 |   |  |  |
| 1.111               | ●                     | ●   | ●                            | ●    | ●    | ●    |      |      |      |      | ●    |      |      |      |      |      |      | ●    | ●                            | ●    | ●    | ●    | ●    |      |      |      | ●                                      |      | ●    | ●    | ●    | ●    | ●    |      |      |      | ●    |      |      |      |      |      |      |      |      |   |  |  |
| 1.427               |                       | ●   | ●                            |      |      |      |      |      |      |      |      |      |      |      |      |      |      | ●    | ●                            | ●    | ●    | ●    | ●    |      |      |      |  | ●    |      | ●    | ●    | ●    | ●    |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 1.429               |                       | ●   | ●                            | ●    | ●    | ●    | ●    | ●    |      |      | ●    |      |      |      |      |      |      | ●    | ●                            | ●    | ●    | ●    | ●    | ●    |      |      | ●                                      |      | ●    |      | ●    | ●    | ●    | ●    |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.21                |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  | ●    | ●    | ●    | ●    | ●    | ●    | ●    |      |      | ●    | ●    | ●    | ●    |      |      |      |      |      | ● |  |  |
| 4.2111              |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  | ●    | ●    |      |      |      |      |      |      |      | ●    | ●    | ●    | ●    |      |      |      |      |      | ● |  |  |
| 4.2112              |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  | ●    |      |      |      |      |      |      |      | ●    | ●    | ●    | ●    |      |      | ●    | ●    |      |      |   |  |  |
| 4.213               |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      | ●                                      |      |      |      |      |      |      |      |      |      | ●    | ●    | ●    | ●    |      |      |      |      | ●    |   |  |  |
| 4.214               |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      | ●                                      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | ● |  |  |
| 4.23                |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.231               |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.233               |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.24                |                       |     |                              | ●    | ●    | ●    | ●    | ●    |      | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●                            |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      | ●    |      |      |      |      |      |      |      |      |   |  |  |
| 4.25                |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.252               |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.26                |                       |     | ●                            | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●    | ●                            |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.261               |                       |     |                              |      |      |      |      |      | ●    |      |      | ●    | ●    | ●    | ●    | ●    | ●    | ●    |                              |      |      |      |      |      |      |      |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.27                |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              | ●    | ●    | ●    | ●    | ●    |      | ●    | ●                                      | ●    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.31                |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              | ●    | ●    | ●    | ●    | ●    |      | ●    | ●                                      | ●    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.32                |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              | ●    |      |      |      |      | ●    | ●    | ●                                      | ●    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |  |  |
| 4.44                |                       |     |                              |      |      |      |      |      |      |      |      |      |      | ●    |      | ●    |      |      |                              |      |      |      |      |      |      |      |  | ●    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | ●    | ● |  |  |
| 4.410               |                       |     |                              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                              |      |      |      |      |      |      |      |  | ●    |      |      | ●    |      |      |      |      |      |      |      |      | ●    |      |      |      | ●    | ●    |   |  |  |

TABLE 2  
Matrix of Interrelated Standards on  
Community-Based Alternatives to Incarceration  
(Continued)

| MAC Final<br>Report | CAC<br>Juvenile<br>Training<br>Schools<br>(Cont'd) |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | CAC<br>Juvenile Community<br>Residential Services |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  | CAC<br>Administration |  |  |  |  |  |  |  |  |  |
|---------------------|--|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|---|------|------|------|----|----|----|----|----|----|----|-----|-----|-----|-----|-----|--|-----------------------|--|--|--|--|--|--|--|--|--|
| MAC Final<br>Report | 9443   | 9479 | 9483 | 6018 | 6026 | 6071 | 6100 | 6102 | 6104 | 6105 | 6106 | 6114 | 6115 | 6120 | 6125 | 6128 | 6187 | 6207  | 6208 | 6211 | 6217 | 10 | 19 | 22 | 32 | 47 | 51 | 52 | 143 | 150 | 151 | 152 | 155 |  |                       |  |  |  |  |  |  |  |  |  |
| 1.111               |  |      |      | •    | •    |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 1.427               |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 1.429               |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.21                | •  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.211               | •  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.2112              |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.213               | •  | •    | •    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.214               |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.23                |  |      |      |      |      | •    |      |      | •    | •    | •    |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.231               |  |      |      |      |      |      |      |      | •    | •    | •    |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.233               |  |      |      |      |      |      |      |      | •    | •    | •    |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.24                |  |      |      | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •   | •    | •    | •    | •  | •  | •  | •  | •  | •  | •  | •   | •   | •   | •   | •   |  |                       |  |  |  |  |  |  |  |  |  |
| 4.25                |  |      |      |      | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •    | •   | •    | •    | •    | •  | •  | •  | •  | •  | •  | •  | •   | •   | •   | •   | •   |  |                       |  |  |  |  |  |  |  |  |  |
| 4.252               |  |      |      |      |      |      |      |      | •    | •    | •    |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.26                |  |      |      |      |      |      |      |      |      |      | •    |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.261               |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.27                |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.31                |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.32                |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.44                |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      | •    |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |
| 4.410               |  |      |      |      |      |      |      |      |      |      |      |      |      |      |      | •    |      |   |      |      |      |    |    |    |    |    |    |    |     |     |     |     |     |  |                       |  |  |  |  |  |  |  |  |  |



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| 6104 | (Use of Community Resources)  |   |
| 6105 | (Securing Employment for Residents)   |   |
| 6106 | (Complying With Laws and Regulations Regarding Employment)                    | CAC<br>JUVENILE<br>COMMUNITY<br>RESIDENTIAL<br>SERVICES |
| 6114 | (Designing Personalized Programs for Juveniles)                               |   |
| 6115 | (Review of Changes in Personalized Programs)                                  |   |
| 6120 | (Input by Program Participants in Planning and Decisionmaking)                |   |
| 6125 | (Seeking the Cooperation of Community Groups)                                 |   |
| 6128 | (Visitors; Limitations)   |   |
| 6187 | (Securing Citizen Involvement in Programs)                                    |   |
| 6207 | (Public Information and Education Program)                                    |   |
| 6208 | (Relationships With Non-Criminal-Justice Agencies)                            |   |
| 6211 | (Cooperation With Federal, State, and Local Legislative and Executive Bodies) |   |
| 6217 | (Collaboration With Other Agencies in Gathering Information)                  |   |
| 10   | (Statutory Authorization for Release Programs)                                |   |
| 19   | (Advocacy for Legislation Regarding Employment of Program Participants)       |   |
| 22   | (Development and Use of Community Resources)                                  |   |
| 32   | (Participant Involvement in Staff Deliberations)                              |   |
| 47   | (Cooperation With Non-Criminal-Justice Planning Efforts)                      |   |
| 51   | (Needs Evaluation Study Prior to Construction or Expansion of Facility)       | CAC<br>ADMINISTRATION                                   |
| 52   | (Community Participation in Determining Facility Site)                        |   |
| 143  | (Consultation With Other Agencies and Community Groups)                       |   |
| 150  | (Responding to Citizen Inquiries)   |   |
| 151  | (Public Report)   |   |
| 152  | (Securing Citizen Involvement in Programs)                                    |   |
| 155  | (Orientation and Training of Volunteers)                                      |   |

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## NOTES

For a complete listing of the abbreviations used in these notes,  
see Appendix B on pages 95-97.

1. See, e.g., NAC Final Report, Commentary to Standard 4.2112; IJA/ABA Architecture, p. 53.
2. IJA/ABA Dispositions, p. 71.
3. See, e.g., id., pp. 69-80; IJA/ABA Corrections, pp. 119-28.
4. Report of the Task Force, p. 678.
5. IJA/ABA Corrections, p. 127 (quotation marks deleted). The sentence following the ellipsis is quoted from R. Sarri, R. Vinter, and R. Kish, Juvenile Injustice: Failure of a Nation, p. 37 (1974).
6. 42 U.S. Code Sec. 5633(a)(10)(A) (1979 Supp.). The introductory language in the "advanced techniques" section also urges the development of "community-based alternatives to juvenile detention and correctional facilities." Id., Sec. 5633(a)(10). See also id., Sec. 5633(a)(10)(B) and (F). Cf. id., Sec. 5633(a)(10)(C). The Act further stipulates that the advisory group called for in the State plan should include representatives from community-based programs. See id., Sec. 5633(a)(3)(C).
7. Id., Sec. 5633(a)(10)(H). To reiterate, subdivision (i), which was quoted in the earlier paper, reads as follows:

(i) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population;
8. Id., Sec. 5634(a)(2). See also id., Sec. 5634(a)(1).
9. Id., Sec. 5603(1). Cf. id., Sec. 5603(12). See also id., Sec. 5603(13).
10. Department of Justice, Law Enforcement Assistance Administration, "Formula Grant Provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, As Amended: Final Guideline Revision for Implementation," 43 Federal Register, p. 36407 (Aug. 16, 1978) (emphasis deleted).
11. 42 U.S. Code Sec. 5637 (1979 Supp.).

[T]he term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings). Id., Sec. 5603(10).
12. Sources: NAC Final Report, Standards 1.111, 1.427, 1.429, 4.21, 4.2111, 4.2112, 4.213, 4.214, 4.23, 4.231, 4.233, 4.24, 4.25, 4.252, 4.26, 4.261, 4.27, 4.31, 4.32, 4.44, and 4.410.

Report of the Task Force, Standards 19.3 (pp. 615-16), 19.8 (pp. 627-29), 19.11 (pp. 634-35), 22.2 (pp. 665-66), 23.1 (pp. 675-76), 23.2 (pp. 677-79), 23.3 (pp. 680-81), 24.1 (pp. 699-700), 24.2 (pp. 701-03), 24.4 (pp. 706-08), and 25.3 (pp. 733-34).

IJA/ABA Interim Status, Standards 10.5 (pp. 99-100), 10.8 (pp. 101-02), and 11.3 (pp. 105-06); IJA/ABA Juvenile Probation, Standard 5.6 (pp. 143-45); IJA/ABA Dispositions, Standard 3.2 E. (pp. 66-80); IJA/ABA Corrections, Standards 1.2 (pp. 46-49), 3.1 (pp. 62-63), 3.6 (pp. 73-75), 4.2 (p. 76), 4.9 (pp. 83-85), 4.11 (pp. 94-98), 6.1 (pp. 108-09), 6.2 (pp. 109-12), 7.2 (pp. 119-26), 7.3 (pp. 126-28), 7.6 (pp. 130-35), 7.10 (pp. 147-55), 7.11 (pp. 155-64), 9.1 (p. 177), and 9.3 (pp. 184-89); IJA/ABA Architecture, Standards 1.9 (p. 20), 1.13 (pp. 21-22), 2.2 (pp. 23-24), 2.5 (p. 26), 4.1 (pp. 37-38), 4.2 (pp. 38-39), 4.6 (p. 42), 4.7 (pp. 43-44), 5.3 (pp. 52-57), 5.4 (p. 58), 6.3 (pp. 72-73), and 6.4 (pp. 73-74); IJA/ABA Planning, Standards 2.1 (pp. 50-52), 2.2 (pp. 52-58), and 2.4 (pp. 70-74); IJA/ABA Monitoring, Standards 2.6 (p. 60) and 5.1 (pp. 74-77). See also IJA/ABA Summary and Analysis, pp. 216, 270.

CAC Juvenile Detention, Standards 8009 (p. 2), 8037 (p. 8), 8043 (p. 9), 8050 (p. 10), 8105 (p. 21), 8106 (p. 21), 8151 (p. 31), 8185 (p. 37), 8186 (p. 37), 8187 (p. 37), 8188 (pp. 37-38), 8349 (p. 71), 8362 (p. 73), 8378 (p. 76), 8404 (p. 82), and 8405 (p. 82); CAC Juvenile Probation, Standards 7026 (p. 5), 7029 (p. 6), 7030 (p. 6), 7034 (p. 7), 7093 (p. 19), 7105 (p. 21), 7165 (p. 33), 7166 (p. 33), and 7175 (p. 35); CAC Juvenile Training Schools, p. xxi and Standards 9005 (p. 2), 9027 (p. 6), 9029 (p. 7), 9031 (p. 7), 9032 (p. 7), 9039 (p. 9), 9047 (p. 10), 9125 (p. 25), 9159 (p. 33), 9162 (pp. 33-34), 9196 through 9199 (pp. 39-40), 9201 (p. 61), 9348 (p. 70), 9390 (p. 79), 9442 (pp. 88-89), 9443 (p. 89), 9479 (p. 97), and 9483 (p. 98); CAC Juvenile Community Residential Services, pp. xxi-xxii and Standards 6018 (p. 4), 6026 (p. 6), 6071 (p. 14), 6100 (pp. 19-20), 6102 (p. 20), 6104 (p. 21), 6105 (p. 21), 6106 (p. 21), 6114 (p. 23), 6115 (p. 23), 6120 (p. 24), 6125 (p. 25), 6128 (p. 26), 6187 (p. 37), 6207 (p. 41), 6208 (p. 41), 6211 (p. 42), and 6217 (p. 43); CAC Administration, pp. ix, xxvi-xxvii and Standards 10 (p. 3), 19 (p. 4), 22 (p. 5), 32 (p. 7), 47 (p. 10), 51 (p. 11), 52 (p. 11), 143 (p. 30), 150 (pp. 31-32), 151 (p. 32), 152 (p. 32), and 155 (pp. 32-33).

13. IJA/ABA Dispositions, p. 79.

14. IJA/ABA Architecture, p. 24. See also, e.g., NAC Final Report, Commentary to Standard 4.24; Report of the Task Force, pp. 8-11, 706-08; IJA/ABA Dispositions, pp. 66-80; IJA/ABA Corrections, pp. 119-28; CAC Juvenile Community Residential Services, pp. 20-21.

15. NAC Final Report, Commentary to Standard 4.24.

16. Id.

17. Id., Standard 4.24. See also Report of the Task Force, pp. 606, 697, 701-03, 706-08; IJA/ABA Architecture, pp. 23-24; IJA/ABA Dispositions, pp. 79-80; CAC Administration, pp. 5-6 (accord).

18. NAC Final Report, Commentary to Standard 4.24.

19. IJA/ABA Corrections, p. 126. See also id., Standard 3.1 C. (p. 62).

20. See id., pp. 118-28, 130, 132-35.

21. While the text will focus on institutions executing postadjudicatory placements, it should be noted that three of the four groups also explicitly recommend locating preadjudicatory detention facilities in the community from which they draw their population. See NAC Final Report, Standard 4.26; IJA/ABA Architecture, Standard 6.4 (pp. 73-74); Report of the Task Force, Standards 21.1 (pp. 663-64) and 24.2 (p. 701-03). The fourth group is less explicit, but probably in agreement. See CAC Juvenile Probation, Standard 7208 (pp. 41-42); CAC Administration, Standards 12 and 13 (p. 3); CAC Juvenile Detention, Standard 8187 (p. 37). See also NAC Final Report, Standard 4.27; Report of the Task Force, Standards 21.1 (pp. 663-64) and 24.4 (pp. 706-08); IJA/ABA Interim Status, Standards 2.9 (p. 45) and 2.11 (pp. 46-47); IJA/ABA Architecture, Standards 1.11 (p. 21) and 1.13 (pp. 21-22) (accord re: nonsecure shelter care facilities).

22. Report of the Task Force, p. 701.

23. NAC Final Report, Standard 4.2111.

24. IJA/ABA Architecture, p. 58. See also IJA/ABA Corrections, pp. 125-28.

25. CAC Juvenile Training Schools, p. 40. See also id., Standards 9005 (p. 2) and 9032 (p. 7).

26. NAC Final Report, Commentary to Standard 4.44.

27. Id., Standard 4.44.

28. IJA/ABA Corrections, p. 130. See also id., pp. 134-35.

29. See Report of the Task Force, Standard 24.13 (p. 722).

30. See CAC Juvenile Training Schools, Standards 9348 through 9349 (pp. 70-71) and 9389 through 9393 (p. 79).

31. Compare IJA/ABA Corrections, p. 130 with Report of the Task Force, p. 722; CAC Juvenile Training Schools, Discussion of Standard 9392 (p. 79).

32. IJA/ABA Corrections, p. 156.

33. Id., p. 157.

34. Id., p. 160. As to the proposed security classification system, see id., pp. 155-56, 160.

35. Id., p. 161.

36. NAC Final Report, Commentary to Standard 4.21.

37. Id., Standard 4.213.



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38. Id., Commentary to Standard 4.213.
39. See id., Standard 4.216.
40. See id., Standard 4.2162.
41. Id., Commentary to Standard 4.213. See also IJA/ABA Corrections, Standard 2.5 (pp. 58-62) (accord).
42. See, e.g., Report of the Task Force, Standards 24.2 (pp. 701-03), 24.5 through 24.11 (pp. 709-20), and 24.14 (p. 723).
43. Id., p. 709.
44. See, e.g., CAC Juvenile Training Schools, Standards 9005 (p. 2), 9032 (p. 7), 9198 (p. 40), 9408 (pp. 82-83), 9410 (p. 83), 9422 (p. 85), 9431 (pp. 86-87), 9433 (p. 87), 9442 (pp. 88-89), 9443 (p. 89), 9444 (p. 89), and 9446 (p. 89). See also CAC Administration, Standards 10 (p. 3), 14 (p. 3), 19 (p. 4), and 22 (p. 5).
45. CAC Juvenile Training Schools, p. 83.
46. Id., p. 89.
47. Id.
48. IJA/ABA Corrections, pp. 48-49, citing R. Vinter, G. Downs, and J. Hall, Juvenile Corrections in the States: Residential Programs and Deinstitutionalization, p. 59 (1975).
49. NAC Final Report, Commentary to Standard 4.24.
50. See generally the Comparative Analysis on Reducing Detention and Commitments.
51. See NAC Final Report, Commentary to Standard 4.24, and Standards 4.23 and 4.252; Report of the Task Force, Standard 24.4 (pp. 706-08); IJA/ABA Corrections, Standards 7.3 (pp. 126-28) and 7.10 (pp. 147-55); IJA/ABA Architecture, Standards 1.3 (p. 17), 1.13 (pp. 21-22), 2.2 (pp. 23-24), 4.1 (pp. 37-38), and 4.7 (pp. 43-44); CAC Juvenile Community Residential Services, Standards 6071 (p. 14), 6102 (p. 20), and 6213 (p. 42). See also id., pp. xxi-xxii; IJA/ABA Dispositions, Standard 3.3 E. (pp. 66-69).
52. IJA/ABA Architecture, Standard 1.13 (pp. 21-22). It is also emphasized that the community in question should be the home community of the facility's juvenile population. See id., p. 24. See also IJA/ABA Corrections, pp. 126-28.
53. See, e.g., Report of the Task Force, Commentary to Standard 24.4 (pp. 706-08); NAC Final Report, Commentary to Standard 4.24; CAC Juvenile Community Residential Services, Discussion of Standard 6124 (p. 25).
54. Id.

55. See, e.g., Report of the Task Force, Commentary to Standard 24.4 (pp. 706-08); CAC Juvenile Community Residential Services, pp. xx-xxi; IJA/ABA Corrections, Standard 7.10 (pp. 147-55); NAC Final Report, Standards 4.22, 4.23, 4.24, and 4.25.
56. Id., Commentary to Standard 4.24. See also id., Standard 4.25 and Commentary.
57. Report of the Task Force, p. 678.
58. See IJA/ABA Corrections, pp. 147-55.
59. Id., pp. 151-52.
60. NAC Final Report, Commentary to Standard 4.24. See also id., Commentary to Standards 4.23 and 4.233.
61. See Report of the Task Force, pp. 706-10, 714, 719-21.
62. CAC Juvenile Community Residential Services, Discussion of Standard 6102 (p. 20).
63. Id., Discussion of Standard 6100.
64. Id., Discussion of Standard 6102.
65. See, e.g., NAC Final Report, Commentary to Standards 4.23, 4.24, 4.25, and 4.410; Report of the Task Force, pp. 706-21; CAC Juvenile Community Residential Services, Standards 6071 (p. 14), 6100 (pp. 19-20), 6102 (p. 20), 6104 (pp. 20-21), 6105 (p. 21), 6109 (p. 22), 6124 (p. 25), 6127 (p. 25), and 6157 (p. 31); IJA/ABA Corrections, pp. 83, 85, 126-28, 130, 134-35, 147-55; IJA/ABA Architecture, pp. 17, 41-44.
66. NAC Final Report, Standard 4.32.
67. Id., Commentary to Standard 4.32.
68. CAC Juvenile Probation, Discussion of Standard 7175 (p. 35).
69. See IJA/ABA Corrections, p. 111.
70. See Report of the Task Force, pp. 682-83.
71. In general, it is argued that centralized authority and responsibility will help ensure accountability and facilitate the enforcement of statewide minimum program standards. See NAC Final Report, Standards 4.11 and 4.31; Report of the Task Force, Standards 19.3 (pp. 615-16) and 23.1 (pp. 675-76); IJA/ABA Corrections, Standards 2.1 (pp. 49-52) and 6.1 (pp. 107-09).
72. CAC Juvenile Probation, Standard 7206 (p. 5).
73. Id., Discussion of Standard 7206.

74. NAC Final Report, Commentary to Standard 4.31. See also Report of the Task Force, Standard 23.1 (pp. 675-76); IJA/ABA Corrections, Standard 6.2 (pp. 109-15) (accord).
75. See the text accompanying notes 9 and 10.
76. See the text accompanying note 11.
77. Report of the Task Force, p. 701. See also id., Standard 22.2 (pp. 665-66) (regarding detention facilities).
78. Id., p. 701.
79. CAC Juvenile Training Schools, pp. 39-40. By "special purpose institution," the CAC is referring to a camp or a ranch. See id., p. xxi. See also id., Standards 9197 (p. 40) and 9199 (p. 40). And see CAC Juvenile Detention, Standards 8185 (p. 37), 8186 (p. 37), and 8188 (pp. 37-38) (applying the same requirements to construction or expansion of detention facilities); CAC Administration, Standards 51 (p. 11) and 52 (p. 11) (regarding construction or expansion of facilities generally).
80. NAC Final Report, Commentary to Standard 4.21. See also id., Commentary to Standard 4.2112.
81. Id., Commentary to Standard 4.24.
82. IJA/ABA Corrections, pp. 125-26. See also IJA/ABA Interim Status, Standard 11.3 (pp. 105-06) (calling for an "indefinite moratorium" on the construction or expansion of detention facilities); IJA/ABA Architecture, Standard 2.2 (pp. 23-24) (urging a phaseout of large detention and correctional facilities).
83. See the text accompanying notes 48 and 49.
84. See Report of the Task Force, Commentary to Standard 24.1 (pp. 699-700); IJA/ABA Architecture, Standards 3.1 (pp. 28-31) and 3.2 (pp. 31-32); IJA/ABA Corrections, Standard 1.2 (pp. 46-49); NAC Final Report, Commentary to Standard 4.24; CAC Administration, Standards 51 (p. 11) and 52 (p. 11).
85. IJA/ABA Architecture, p. 29.
86. Id., p. 52. See also IJA/ABA Corrections, p. 20.
87. See generally id., pp. 119-26; IJA/ABA Architecture, pp. 52-57; IJA/ABA Dispositions, pp. 79-80.
88. NAC Final Report, Commentary to Standard 4.2112.
89. Again, the text will focus on facilities for postadjudicatory placements. Regarding preadjudicatory detention facilities, see the following: NAC Final Report, Standard 4.261 (maximum population of 20); CAC Juvenile Detention, Standards 8149 and 8151 (p. 31) (maximum living unit population of 20); Report of the Task Force, Standards 22.2 (pp. 665-66) and 24.2 (pp. 701-03) (maximum living unit population of 20); IJA/ABA Interim Status, Standard 10.5 (pp. 99-

100) (maximum population of 12); IJA/ABA Architecture, Standard 6.3 (pp. 72-73) (population of 12 to 20).

Addressing the differences in the two IJA/ABA recommendations just cited, the Commentary to Standard 6.3 in the Architecture of Facilities volume states:

The Interim Status volume, Standard 10.5, limits capacity of a secure detention facility to twelve residents. This standard allows a capacity of up to twenty in recognition of economic factors in the operation of a secure facility, since it appears that a population of twenty is the smallest practical economic unit. The operating cost remains more or less constant even if the population is decreased. Id., p. 72. See also IJA/ABA Summary and Analysis, pp. 216, 270.

Regarding nonsecure shelter care facilities, see NAC Final Report, Standard 4.27 (maximum population of 20); Report of the Task Force, Standards 22.2 (pp. 665-66) and 24.4 (pp. 706-08) (population of 12 to 20); IJA/ABA Interim Status, Standards 2.11 (pp. 46-47) and 10.5 (pp. 99-100) (maximum population of 12--apparently).

90. NAC Final Report, Standard 4.2112.
91. Id., Commentary to Standard 4.2112.
92. Report of the Task Force, p. 701.
93. See CAC Juvenile Training Schools, Standards 9159 (p. 33) and 9201 (p. 41). See also id., Standard 9160 (p. 33).
94. See id., Standard 9166 (p. 34). See also id., Standards 9168 and 9169 (p. 35).
95. IJA/ABA Corrections, p. 119. See also IJA/ABA Architecture, Standard 5.3 (pp. 52-57) (accord).
96. IJA/ABA Corrections, p. 125. See also IJA/ABA Architecture, p. 57 (accord). Standard 7.6 J. in IJA/ABA Corrections prohibits "the predominate use of dormitory arrangements" in residential facilities. See id., pp. 131, 140. See also IJA/ABA Architecture, Standard 5.11 (pp. 61-62) (accord).
97. See the text accompanying note 82.
98. IJA/ABA Architecture, pp. 54-55.
99. Report of the Task Force, p. 702.
100. Id. See also NAC Final Report, Commentary to Standard 4.2112 (accord).
101. IJA/ABA Architecture, p. 54. See also IJA/ABA Corrections, p. 122.
102. See Report of the Task Force, p. 706. The same commentary specifies a maximum of 40 to 60 beds for camps and ranches. See id. The National Advisory Committee endorses a 20-bed maximum for camps and ranches. See NAC Final Report, Standard 4.221. The Commission on Accreditation for Corrections recommends a 50-bed maximum for these "special purpose institutions." See CAC

Juvenile Training Schools, p. xxi and Standards 9162 (pp. 33-34) and 9167 (pp. 34-35). The IJA/ABA would limit camps and ranches to 20 residents. See IJA/ABA Corrections, Standards 7.2 (pp. 119-26) and 7.10 D. (pp. 148, 154-55).

103. CAC Juvenile Community Residential Services, p. xxi.
104. IJA/ABA Corrections, p. 148. See also IJA/ABA Architecture, Standard 4.2 (pp. 38-39) (accord).
105. IJA/ABA Corrections, p. 151.
106. NAC Final Report, Standard 4.231.
107. Id., Commentary to Standard 4.231.
108. See Report of the Task Force, pp. 706-07.
109. See CAC Juvenile Community Residential Services, p. xxi.
110. NAC Final Report, Standard 4.25.
111. See Report of the Task Force, pp. 706-07.
112. Compare id. with NAC Final Report, Commentary to Standard 4.25.
113. IJA/ABA Corrections, p. 95.
114. NAC Final Report, Standard 4.214.
115. Id., Commentary to Standard 4.24.
116. Id., Standard 4.32.
117. Report of the Task Force, p. 680.
118. See generally id., pp. 709-23. See also id., Standard 14.15 (pp. 463-64) (directing the court to base its disposition on, among other things, the "needs, interests, and motivations of the juvenile"). And see NAC Final Report, Standard 3.182; IJA/ABA Dispositions, Standard 2.2 (pp. 38-39) (accord).
119. CAC Juvenile Probation, Standard 7165 (p. 33). See also id., Standard 7166 (p.33).
120. CAC Administration, Standard 32 (p. 7).
121. See CAC Juvenile Training Schools, Standard 9400 (p. 81).
122. See id., Standard 9401 (p. 81).
123. See CAC Juvenile Community Residential Services, Standard 6114 (p. 23). See also id., Standard 6120 (p. 24).
124. IJA/ABA Monitoring, p. 60.

125. Id. (footnote omitted). See also CAC Juvenile Community Residential Services, Standard 6120 (p. 24).
126. Report of the Task Force, p. 733.
127. NAC Final Report, Standard 1.111.
128. See id., Standards 1.112 through 1.114, 1.21 through 1.29, 1.31, and 1.32.
129. Id., Commentary to Standard 1.427. See also id., Commentary to Standard 1.429.
130. See IJA/ABA Planning, Standard 2.4 (pp. 70-74). See also id., Standards 3.2 (pp. 76-82) and 3.3 (pp. 82-85).
131. See IJA/ABA Monitoring, Standard 5.1 (pp. 74-77).
132. IJA/ABA Corrections, p. 76.
133. Id.
134. See id., pp. 177, 184-89, 189-92.
135. CAC Juvenile Community Residential Services, Standard 6018 (p. 4).
136. See id., Standard 6026 (p. 6).
137. See CAC Juvenile Training Schools, Standards 9039 (p. 9) and 9047 (p. 10).
138. CAC Administration, Standard 143 (p. 30).
139. For specifics, see, e.g., CAC Juvenile Training Schools, Standards 9027 (p. 6), 9029 (p. 7), 9031 (p. 7), 9125 (p. 25), 9197 (p. 40), and 9479 through 9487 (pp. 97-99); CAC Juvenile Community Residential Services, Standards 6015 (p. 4), 6125 (p. 25), 6187 (p. 37), 6207 (p. 41), 6208 (p. 41), 6210 (p. 42), and 6211 (p. 42); CAC Juvenile Probation, Standards 7029 (p. 6), 7030 (p. 6), 7034 (p. 7), 7093 (p. 19), and 7105 through 7112 (pp. 21-22); CAC Administration, Standards 47 (p. 10), 52 (p. 11), and 143 through 159 (pp. 30-33).
140. IJA/ABA Corrections, pp. 73-74. See also Report of the Task Force, Standard 19.11 (p. 634); CAC Juvenile Training Schools, Standards 9479 through 9487 (pp. 97-99); CAC Juvenile Community Residential Services, Standards 6187 through 6194 (pp. 37-38); CAC Juvenile Probation, Standards 7105 through 7122 (pp. 21-22); CAC Administration, Standards 152 through 159 (pp. 32-33).
141. See NAC Final Report, Commentary to Standard 4.213.
142. See id., Commentary to Standard 4.24.



## Appendix A

### RELEVANT PROVISIONS OF THE 1980 AMENDMENTS

#### Reducing Detention and Commitments

Although the JJDP Act's overall emphasis on seeking viable alternatives to detention and commitments seems to remain intact,<sup>1</sup> the language in the "advanced techniques" section urging the use of probation subsidies or other financial mechanisms to "reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the State juvenile population" was deleted by the 1980 Amendments. As amended, this section now states in pertinent part that among the "advanced techniques" contemplated by the Act are the following:

[S]tatewide programs through the use of subsidies or other financial incentives to units of local government designed to--

(i) remove juveniles from jails and lockups for adults;<sup>2</sup>

Thus, whereas formerly the focus in this particular section was on a reduction in all types of commitments, now the attention is narrowed more specifically to reducing--indeed, ultimately eliminating--commitments to adult jails and lockups.<sup>3</sup>

Still, the emphasis in the other sections of the Act cited in the Comparative Analysis--on expanded use of probation, arbitration models, restitution projects, and so forth--is retained without alteration.<sup>4</sup> So, the overall support for seeking a diversity of alternatives to traditional out-of-home placements seems to remain.<sup>5</sup>

#### Notes

1. See, e.g., 42 U.S. Code Sec. 5602(b)(1) (1979 Supp.), as amended by the Juvenile Justice Amendments of 1980 (Public Law 96-509).
2. Id., Sec. 5633(a)(10)(H)(i), as amended. Compare id. with the text accompanying note 8 in the Comparative Analysis on Reducing Detention and Commitments. The remainder of this subsection, which was cited in note 8 in the Comparative Analysis, has also been altered somewhat. As amended, it now reads as follows:

(ii) replicate juvenile programs designated as exemplary by the National Institute of Justice;

(iii) establish and adopt, based upon the recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State; or

(iv) increase the use of nonsecure community-based facilities and discourage the use of secure incarceration and detention.

It should also be noted that subsections (i) through (iii) are now paralleled in the "special emphasis" section by the amended Sec. 5634(a)(5)(A) through (C).

3. The provision cited here in the text is now supplemented by other sections, which also address removal of juveniles from adult jails and lockups, and which make provision for monitoring this removal. The pertinent Amendments on this issue are fully explored in the Appendix to the Comparative Analysis on Separation of Juveniles From Incarcerated Adults.
4. Of the numerous sections cited in notes 9 through 12 in the Comparative Analysis on Reducing Detention and Commitments, Sec. 5603(1) and 5633(a)(10)(A) underwent only very slight alterations not pertinent here, and all of the other sections cited there were unaffected by the Amendments--save for Sec. 5603(12). This formerly defined "correctional institution or facility," but now, together with Sec. 5603(13), defines "secure detention facility" and "secure correctional facility." The specifics of the changes in the latter are explored in the following Appendix to the Comparative Analysis on Community-Based Alternatives to Incarceration.
5. In addition to the provisions cited in the earlier Comparative Analysis on Reducing Detention and Commitments, see also the citation in note 1 on page 91.

#### Community-Based Alternatives to Incarceration

The JJDP Act's strong support for community-based alternatives to incarceration is essentially unaffected by the 1980 Amendments. The sections of the Act defining "community-based" programs and endorsing these as "advanced techniques" underwent no material alterations at all, and the focus on "community-based alternatives to traditional forms of institutionalization" in the "special emphasis" section also remains intact.<sup>2</sup> There is a change in Sec. 223(a)(10)(H), which pertains to probation subsidies and the like, and which was cited in the Comparative Analysis on Community-Based Alternatives; but the amendment, in effect, merely consolidates the former subsections (ii) and (iii) into a single subsection--the new subsection (iv).<sup>3</sup> As amended, Sec. 223(a)(10)(H)(iv) now identifies as "advanced techniques" the following:

[S]tatewide programs through the use of subsidies or other financial incentives to units of local government designed to--

...

(iv) increase the use of nonsecure community-based facilities and discourage the use of secure incarceration and detention.<sup>4</sup>

Furthermore, the Amendments replace Sec. 103(12), which formerly defined "correctional institution or facility," with definitions of "secure detention facility" and "secure correctional facility."<sup>5</sup> The amended Sec. 103(12) states:

[T]he term 'secure detention facility' means any public or private residential facility which--

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, of any nonoffender, or of any other individual accused of having committed a criminal offense.<sup>6</sup>

And the amended Sec. 103(13) states:

[T]he term 'secure correctional facility' means any public or private residential facility which--

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.<sup>7</sup>

#### Notes

1. There are very minor amendments in the two sections. In Sec. 223(a)(10)(A), which was cited in the text accompanying note 6 in the Comparative Analysis on Community-Based Alternatives, the language "education, special education" is inserted between "crisis home programs" and "day treatment." Also, the phrase "special education" is inserted between "training" and "counseling" in the definitional section, Sec. 103(1), which was cited in the text accompanying note

9 in the Comparative Analysis. See 42 U.S. Code Sec. 5603(1) and 5633(a)(10)(A) (1979 Supp.), as amended by the Juvenile Justice Amendments of 1980 (Public Law 96-509).

Since the definition in Sec. 103(1) remained unchanged, presumably the Guidelines cited in the text accompanying note 10 in the Comparative Analysis also retain full validity.

2. See the text accompanying note 8 in the Comparative Analysis on Community-Based Alternatives.
3. The earlier reference to community-based commitments as a percentage of total commitments is deleted, though. Compare the text which follows with the text accompanying note 7 in the Comparative Analysis on Community-Based Alternatives.
4. Id., Sec. 5633(a)(10)(H)(iv). The three subsections omitted in the text of this Appendix read as follows:

(i) remove juveniles from jails and lockups for adults;  
(ii) replicate juvenile programs designated as exemplary by the National Institute of Justice;  
(iii) establish and adopt, based upon the recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State; or

5. In addition, whereas the introductory language to the "advanced techniques" section, which was cited in note 6 in the Comparative Analysis on Community-Based Alternatives, formerly referred to "community-based alternatives to juvenile detention and correctional facilities," it now refers to "community-based alternatives to confinement in secure detention facilities and secure correctional facilities." See id., Sec. 5633(a)(10), as amended.

6. Id., Sec. 5603(12), as amended.

7. Id., Sec. 5603(13), as amended.

Finally, just one point of detail: After the Amendments, the reference to the Administrator in the text accompanying note 11 in the Comparative Analysis on Community-Based Alternatives no longer refers to the head of LEAA, but instead to the head of the Office of Juvenile Justice and Delinquency Prevention. See Sec. 5603(5) and 5611(c), as amended.

## Appendix B

### KEY TO ABBREVIATIONS

Since the notes in these reports include extensive citations to a small number of volumes, the following standardized abbreviations have been adopted:

#### Title

#### Abbreviation

Publications by the American Correctional Association's Commission on Accreditation for Corrections:

Manual of Standards for the Administration of Correctional Agencies (June 1979).

CAC Administration

Manual of Standards for Juvenile Community Residential Services (April 1978).

CAC Juvenile Community Residential Services

Manual of Standards for Juvenile Detention Facilities and Services (February 1979).

CAC Juvenile Detention

Manual of Standards for Juvenile Probation and Aftercare Services (July 1978).

CAC Juvenile Probation

Manual of Standards for Juvenile Training Schools and Services (March 1979).

CAC Juvenile Training Schools

Publications by the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project (Tentative Draft, 1977):

Standards Relating to Abuse and Neglect (R. Burt and M. Wald, Reporters).

IJA/ABA Abuse and Neglect

Standards Relating to Adjudication (R. Dawson, Reporter).

IJA/ABA Adjudication

Standards Relating to Appeals and Collateral Review (M. Moran, Reporter).

IJA/ABA Appeals

Standards Relating to Architecture of Facilities (A. Greenberg, Reporter).

IJA/ABA Architecture

Standards Relating to Corrections Administration (A. Rutherford and F. Cohen, Reporters).

IJA/ABA Corrections

Standards Relating to Counsel for Private Parties (L. Teitelbaum, Reporter).

Standards Relating to Court Organization and Administration (T. Rubin, Reporter).

Standards Relating to Dispositional Procedures (F. Cohen, Reporter).

Standards Relating to Dispositions (L. Singer, Reporter).

Standards Relating to Interim Status: The Release, Control, and Detention of Accused Juvenile Offenders Between Arrest and Disposition (D. Freed, J.L. Schultz, and T. Terrell, Reporters).

Standards Relating to Juvenile Delinquency and Sanctions (J. Junker, Reporter).

Standards Relating to the Juvenile Probation Function: Intake and Predisposition Investigative Services (J. Gittler, Reporter).

Standards Relating to Juvenile Records and Information Systems (M. Altman, Reporter).

Standards Relating to Monitoring (S. Bing and L. Brown, Reporters).

Standards Relating to Noncriminal Misbehavior (A. Gough, Reporter).

Standards Relating to Planning for Juvenile Justice (L. Buckle and S. Buckle, Reporters).

Standards Relating to Police Handling of Juvenile Problems (E. Bittner and S. Krantz, Reporters).

Standards Relating to Pretrial Court Proceedings (S. Fisher, Reporter).

Standards Relating to Prosecution (J. Manak, Reporter).

Standards Relating to Rights of Minors (B. Feld and R. Levy, Reporters).

Standards Relating to Schools and Education (W. Buss and S. Goldstein, Reporters).

#### IJA/ABA Counsel

#### IJA/ABA Court Organization

#### IJA/ABA Dispositional Procedures

#### IJA/ABA Dispositions

#### IJA/ABA Interim Status

#### IJA/ABA Juvenile Delinquency

#### IJA/ABA Juvenile Probation

#### IJA/ABA Juvenile Records

#### IJA/ABA Monitoring

#### IJA/ABA Noncriminal Misbehavior

#### IJA/ABA Planning

#### IJA/ABA Police

#### IJA/ABA Pretrial

#### IJA/ABA Prosecution

#### IJA/ABA Rights of Minors

#### IJA/ABA Schools

Standards for Juvenile Justice: A Summary and Analysis (B. Flicker, Project Director 1975-76).

Standards Relating to Transfer Between Courts (C. Whitebread, Reporter).

Standards Relating to Youth Service Agencies (J. Areson, Reporter).

Publication by the National Advisory Committee for Juvenile Justice and Delinquency Prevention:

Standards for the Administration of Juvenile Justice (1980).

Publication by the National Advisory Committee on Criminal Justice Standards and Goals' Task Force on Juvenile Justice and Delinquency Prevention:

Juvenile Justice and Delinquency Prevention: Report of the Task Force on Juvenile Justice and Delinquency Prevention (1976).

#### IJA/ABA Summary and Analysis\*

#### IJA/ABA Transfer Between Courts

#### IJA/ABA Youth Service Agencies

#### NAC Final Report

#### Report of the Task Force

\*While the other Tentative Drafts in this series were prepared by Reporters, reviewed by Drafting Committees, and thereafter examined and officially approved by the IJA/ABA Joint Commission, this exceptionally useful summary volume was individually authored by Barbara Flicker, who served as Project Director in 1975-76. Thus, in Tentative Draft form, it was not formally reviewed or approved by the Joint Commission. A revised Final Draft of the summary volume is forthcoming.

**END**