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THE JUVENILE JUSTICE SYSTEM AND THE NEW DELINQUENT

REPORT OF THE
NEW YORK STATE SENATE COMMITTEE ON CRIME AND CORRECTION
AND
NEW YORK STATE SELECT COMMITTEE ON CRIME

SENATOR RALPH J. MARINO, CHAIRMAN

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Preface

The following report on the juvenile justice system in New York City is the result of a year-long research project conducted by volunteer law students under the direction of Judith E. Engel, Esq. As the report itself notes, the research effort encountered formidable obstacles created by the Family Court's record keeping practices and general fragmentation. The fact that the research was completed and a report produced is a tribute to the persistence and skill of Elise Lehman, James D'Allesandro, Lawrence Levy, Mark Shames, Howard Simon and especially Judith E. Engel.

Part I: An Overview

It borders on the banal to say that the special qualities that make New York City living attractive are being destroyed by the tide of crime engulfing the city. It seems that every day the newspapers report another elderly citizen murdered during a mugging or an unresisting store owner shot down during a stickup. Practically everyone, except the criminals, has made some adjustments in their daily routine for the sake of personal safety. The fastest growing industry in the city is the private security business. Crime has made New York City's citizens recluses and concomitantly New York City the greatest television advertising market in the world.

The victimization surveys conducted by the National Criminal Justice and Statistics Service of the U.S. Department of Justice confirm that our fear of crime is justified. During 1972, better than one in ten of the city's small retail stores, the "Momma and Poppa" stores, was robbed. More than three out of ten were burgled. The 1972 robbery victimization rates for men in New York City are 32 per thousand and for women are 18 per thousand. If you were over fifty years of age, your victimization potential for being robbed in 1972 was twenty chances in a thousand. Neither is it particularly consoling to know that the rates for Chicago, Detroit, and Philadelphia are

worse. A portentous statistic on homicide was recently uncovered in a study done at the Massachusetts Institute of Technology. Their analysis of homicides led them to conclude that the urban American male born in 1974 had more chance of being murdered than an American serviceman in World War II had of being killed in combat.

The Federal Bureau of Investigation reported an 18 percent jump in serious crime nationwide for 1974, the highest annual increase since the FBI begin keeping juvenile crime statistics fourteen years ago. Teenagers comprised 17 percent of those charged with assault, almost 20 percent of those charged with rape, nearly one-third of those charged with robbery, 53 percent of those charged with burglary, 49 percent of those charged with larceny, and 55 percent of those charged with vehicle theft. For these offenses and several others, ranging from arson to vandalism, police arrested a total of 1.6 million teenagers in the United States in 1974.

The surge in juvenile arrests in New York State has paralleled the national picture. In 1966, there were 14,391 juvenile arrests in this state. By 1974, the number had climbed above 23,000. The New York City figures were even more frightening. In 1966, 8,177 juveniles were arrested in New York City with the number doubling to 16,764 in 1974. And the New York arrests were not mainly for joyriding or auto theft. Serious crimes of violence form the basis

for the increase in juvenile arrests.

In the five years preceding 1974, from 1969 through 1973, juveniles arrested in New York State for homicide went from 49 to 115. Juvenile robbery arrests went from 3,129 in 1969 to 4,878 in 1973. Serious assault arrests of juveniles moved from 901 to 1,503 in those same five years.

The Committee has been attempting to find out where the criminals committing these crimes are coming from. The Committee began by analyzing the records of persons arrested for crimes of violence in New York City to determine the age when their criminal career began, whether they are native to the state and whether unemployment and lack of opportunity could be isolated as factors explaining the acceleration of the crime rate. A survey was made of defendants arrested for the crime of robbery by the New York City Police Department's elite city-wide anti-crime squad, affectionately referred to within the department as CWACS.

The Committee's expectation was that the robbery arrests made by these unobtrusive, plainclothes patrols would be solid since the defendant would most likely have been caught in the act of robbery or at least right at the scene with the so-called smoking gun in his hand. The rationale was that the defendants arrested by these units were most likely to be convicted of a felony, sentenced to state prison and thereby undergo the background investigation that precedes sentencing

on a felony. The survey proved to be a shock for an unanticipated reason. Only ten percent of the robbers arrested by the anti-crime units received a state prison sentence. This was not because the arrests were faulty but because the charges were reduced to misdemeanors such as petty larceny or jostling at the court arraignment that occurs immediately after the arrest. The apparent reason: Swift intervention by plainclothes patrols prevented serious injury to the victim. Therefore, the crime was not treated as serious and so the plea bargaining process so prevalent in the courts took place at the arraignment.

Two factors stood out in the study:

1. Ninety-eight children under sixteen years of age were arrested for robbery by the Manhattan anti-crime units. Tracking these cases revealed that ninety-six of the juveniles were eventually released by the Family Court.

2. Most of the males arrested for robbery had previous contact with the police before the age of sixteen.

The Committee then followed these tracks into the juvenile justice system which has been the great unexplored region of our state's crime control system. But first some background on the state's juvenile justice system should be given.

It was not until the beginning of the twentieth century that this country began separating children from adults in the

processing of criminal cases. The first juvenile court in America was established by Illinois in 1899. New York, meanwhile, created separate parts within the adult criminal court system specialized to juveniles but New York did not set up a separate Children's Court until 1922. Eventually, the Children's Court was merged into the Family Court and, since the last major reform of the juvenile justice system in 1962, crimes committed by children under sixteen years of age are processed exclusively by the state's Family Court system.

Children arrested for crimes are treated very differently from persons sixteen and over arrested for identical crimes. Ordinarily, juveniles do not have their fingerprints or pictures taken by the police. They cannot be brought to the detention facilities maintained for the sixteen and over age group. They may be detained between arrest and court appearance only at specially designated detention facilities. Spofford is the most notorious of the City's children's detention facilities. If the facilities are full, which often happens, the juvenile must be released to his parents or other responsible person until he can be brought to the Family Court. When the juvenile is transferred from the jurisdiction of the police to that of the Family Court an interesting nominalistic exercise occurs. The original crime is reclassified as an act of juvenile delinquency. And what is juvenile delinquency? It is simply an act which if committed by an adult would be a crime.

The reclassification symbolizes the Family Court philosophy, which is to avoid labeling juveniles as criminals and thereby further the primary goals of treatment and rehabilitation rather than deterrence, punishment, and public safety.

The juvenile, unlike his adult counterpart, is not immediately arraigned before a judge but rather is interviewed by a probation officer assigned to the Family Court. The probation officer is authorized to "adjust" the charge if the juvenile admits he committed the crime and if the complainant is agreeable to letting the matter drop at the adjustment stage. Adjustment means the juvenile is released without having to appear before a judge. No further proceedings are held and a loose form of supervision over the juvenile is supposed to be maintained by the probation office of the Family Court. The power to adjust was originally intended to handle minor offenses such as petty theft and simple assaults. Under the pressure of numbers, the adjustment process is used to keep all but the most serious crimes off the overloaded Family Court calendars.

The sheer volume of juvenile arrests explains why the adjustment process has become the equivalent of the adult system's much abused plea bargaining process. In 1974, New York City police brought 16,764 juveniles arrested for felonies to the Family Court, up from 14,837 the year before. Included in that total were 77 arrests for murder, 261 for rape, 4,765 for robbery, 1,312 for serious assaults, 6,038 for burglary,

181 for arson, 150 for forcible sodomy, and 242 for possession of a gun. The Family Court is, as a result, forced to adjust charges that could bring fifteen and twenty-five year prison sentences in the adult system. Adjustment, in fact, means no treatment and rehabilitation for the large majority of juveniles brought to the court. The policy of the probation office is to adjust the first several arrests if the crime is not too serious. It is a reverse triage policy by which only the most serious cases or worst recidivists are passed through to a judge. There is no alternative when 16,764 felony cases are brought to a court whose thirty-nine judges are also expected to handle support and divorce proceedings, family disputes, paternity suits, adoptions, foster care and the myriad or other family centered proceedings assigned to that court.

The Select Committee asked for and received the cooperation of the Family Court in examining selected groups of juveniles brought to the court on serious charges. The first survey examined 79 juveniles arrested on a charge of murder between October 1, 1972, and September 30, 1973. Of that group, all under the age of sixteen, only twenty-eight had no previous felony arrest. Fifteen had at least one previous felony arrest, twelve had two previous felony arrests, seven had three and so on up the ladder to the one boy who had been arrested seventeen times on felony charges before his arrest for murder.

In the adult system, an arrest for murder usually involves

detention without bail or very high bail until disposition of the murder charge. That is not the case for juveniles charged with murder. They must be released or tried within twenty days which is practically impossible, given the realities of preparing a case of murder for trial. The survey discovered that of the 79 arrested for murder, 10 were arrested at least once on a felony charge subsequent to their arrest for murder. Four had two subsequent felony arrests. Three had three subsequent felony arrests and one youth had five felony arrests subsequent to his arrest for murder and he still had not passed sixteen. Five of the original group were subsequently arrested on misdemeanor charges. A situation such as this in the adult system would have provoked a public uproar.

This narrative of aggregate statistics does not convey the appalling reality of what's happening in the juvenile justice system. The individual case histories come closer to the truth. What follows is a digest of some individual histories in which names have been changed or omitted.

Robert was first arrested at the age of six for burglary. By the age of nine, he was recognized as a mentally ill child and a psychiatrist recommended placement in a closed treatment facility. "Closed" means secure or a hospital with locked doors and unbreakable windows. Unfortunately for Robert, there is no such facility in the entire state so he went untreated. Within an eight-month period, at the age of fourteen, Robert exploded

and was arrested for two homicides, three larcenies, two assaults and a dangerous weapons charge. He still had not been treated at the time his case was surveyed.

Two brothers, ten and twelve years old, had been placed in a children's shelter maintained by the city for problem children or children from problem families. Both had been previously arrested and had numerous other contacts with the police where no arrests were made primarily because of the age of the boys even though a crime had been committed. One evening, the two boys left the children's shelter and encountered two girls, ages seven and nine, who were on their way to the store for their mother. The boys took the girls to a roof top, raped one of them, attempted to rape the other, and then threw the seven year old off the roof to her death. The two boys were the fifth and sixth in a line of seven brothers and the fifth and sixth to have juvenile records. The criminal histories of their older brothers included rapes, robberies, drug charges, and placement in New York State Training Schools. Although these two younger siblings gave clear signals they were about to repeat the pattern of criminal conduct shown by their older brothers, no treatment occurred until after the murder of the girl.

Two twins were charged with murdering a ninety-two year old man in the course of a robbery. Before their arrest on the murder charge, each had been previously arrested more than

fifteen times. By the age of fifteen, they each had a $60 per day heroin habit and admitted to committing one to three robberies per week to support that habit. Both had been previously placed in a New York State Training School as a result of robbery charges. After little more than ninety days at the school, they were given leave to visit a relative. Both failed to return and within six days of failing to return from their leave were arrested on the murder charge.

Several other case histories were equally shocking. The issue posed by this first slice into the criminal background of juveniles arrested for murder was just how representative were they of the sixteen thousand or more arrests processed through the Family Court in a year. The Committee next took a random sample of juveniles arrested for robbery during 1973. The sample selected was designed to be representative of the background of 97 percent of the juveniles processed by the Family Court on robbery charges. This second, more scientific survey revealed that the juvenile arrested in New York City during 1973 on a robbery charge had been previously arrested an average of ten times and had amassed an average of fifty court appearances in the processing of his various arrests. The low was five arrests and ten appearances and the high was nineteen arrests and one hundred and twenty-three court appearances--all before the age of sixteen.

Several clear patterns emerged from the case histories of

the juveniles arrested for robbery. Their first arrests occurred before the age of ten and involved petty crimes and infractions. After the age of ten, crimes escalated to burglary, larceny (mainly purse snatching), assault and then robbery. Most of the juveniles had behavior problems in their schools and along the way had been diagnosed by a psychologist or psychiatrist as needing treatment in a setting other than their home.

The nearly universal background characteristic of these juveniles was a fatherless, disorganized family, usually receiving public assistance. This was no surprise. What was surprising was the early age at which the pattern of criminality emerged. By the age of fourteen or fifteen, the criminal proclivity was fixed. These juveniles graduate into the adult criminal justice system without a criminal record, only to repeat the process of accumulating arrests until their recidivism can no longer be ignored and they finally receive a prison sentence.

The survey turned up one group of juveniles whose specialty was armed robberies of supermarkets. Several persons had been shot during their string of robberies which was netting them several thousands of dollars per week. One of their favorite supermarkets in the Bronx was robbed an average of twice a month by them and others. They were placed in training schools but quickly absconded. In the beginning the police were surprised

to be getting their descriptions from victimized supermarket managers after they were supposed to be away at a training school. But the police learned it was as easy to walk out of a training school as it was to walk into a supermarket with a gun.

If the survey results are representative of the history of serious criminality among juveniles arrested for major crimes, what is the total context or aggregate of violent crime among juveniles in New York City? The annual arrest statistics of the New York City Police Department indicate the trend:

NEW YORK CITY POLICE DEPARTMENT JUVENILE ARREST STATISTICS

	1970	1971	1972	1973	1974
Murder	19	42	73	94	77
Rape	99	117	152	181	261
Robbery	3,013	3,421	4,386	4,459	4,765
Assault	789	692	957	1,154	1,312

One further point should be mentioned. The clearance rate for robbery averages about 20 percent. This means five robberies are reported for every robbery arrest made. On top of this, victimization surveys conducted by the U.S. Department of Justice indicate there are two to three actual robberies occurring for every one reported to the police. The police,

therefore, make one robbery arrest for every ten or fifteen robberies that occur. Intensive interviews of arrested robbers confirm the reliability of this crude yardstick of crime.

The conditions giving rise to this appalling trend in juvenile crime can be gleaned from the statistics on the number of families in the "aid to dependent children" category on the public assistance rolls of the city. This is the primary indicator of the number of single parent, disorganized families. The group of problem families from which the juvenile delinquents are coming constitute a fraction of the total number but they are a fraction of a steadily increasing number. In 1965, New York City listed 87,266 families and 370,869 persons in this aid category. By 1970, the numbers had risen to 216,486 families and 813,161 persons. In 1973, the U.S. Department of Health, Education and Welfare sampled the families in the "aid to dependent children" category and found that 72 percent of the mothers of the New York City family sample had been born outside the state. When the year of migration was known to the case worker, almost half had moved here during the sixties.

What these reports indicate is that the juvenile crime problem may be largely a demographic phenomenon. During the latter half of the nineteen-sixties, there apparently was an enormous migration into New York City of single parent families requiring public assistance. In this group were a number of families with severe problems. From these problem families have come a steadily increasing number of juveniles emotionally disturbed and lacking

the internal controls of the vast majority of their law abiding peers. Their numbers impact upon a juvenile justice system designed for an earlier age and a much different type of juvenile offender.

The projection for the future is bleak. The numbers of seriously delinquent juveniles are increasing each year while the Family Court System is forced by these numbers to ignore the early patterns of criminality in order to concentrate on trying and disposing of the most serious cases. There were seventy-seven juvenile murder arrests in 1974. The entire adult system in New York City did not try seventy-seven adult murderers in 1974. The adult system can plea bargain its murder cases because to go to trial and be convicted of murder means a mandatory sentence of fifteen years to life. The maximum period of placement in the juvenile system is eighteen months, but in reality release comes after eight months. This alternative does not induce an admission of guilt, so the Family Court is forced to provide a trial for most of the serious offenders who require treatment in a facility away from their home environment. For that same reason, only a small fraction of the 4,765 robbery arrests can possibly be tried preliminary to a disposition that involves treatment in a closed setting.

One other factor stood out in the survey of robbery and homicide arrests. A significant percentage of juveniles

arrested had at some point in their criminal careers been diagnosed as mentally ill and in need of therapy in a mental hospital. Many showed a syndrome of brutalization by the serial lovers taken in by their mothers. Their violent behavior was both learned and a product of their own internal rage. Invariably, these children went untreated because of the refusal of the state's mental hospitals to accept them for treatment. The state hospital system had few facilities designed for the treatment of violent, mentally disturbed juveniles. These children could not be placed with private agencies as none of these had programs suitable for this type of child. The only other agency, the State Division For Youth, was not suited either for handling mentally ill, violent children since it lacked hospital facilities, physicians, and support staff and equipment needed by a modern mental health facility. Thus, the most dangerous of the violent juvenile offenders went untreated. It was both striking and dismaying to see how many of these violent juveniles were diagnosed early in their criminal career as disturbed and in need of hospitalization only to be returned to the environment that was crippling them emotionally.

Projecting this depressing chronicle beyond the juvenile justice system, we get an indication of where our adult criminals are coming from. Their cohorts were formed at a surprisingly earlier age than suspected. The juvenile justice system, due to conditions beyond its control, has been graduating

each year larger and larger classes of young criminals into the adult system. These juveniles advance into adolescence with contempt for a criminal justice process that neither helped them nor punished them.

The alternatives to this situation require radical shifts in policy. For the time being, the juvenile justice system must switch to early intervention with the very young offender. Juveniles with a significant history of violent crime will have to be waived into the adult system for treatment in the secure correctional facilities available there. This does not mean juveniles should be mixed with adults. It does mean they can be detained in a closed setting while treatment modalities are developed for them. The mental hospital system of the state must be made to accept its responsibility for the violent but emotionally disturbed child. The resources of the Family Court system, which are considerable, can then be focused on identifying and working with the problems of the nine, ten, and eleven year olds being arrested and brought to the court. In addition, the untapped resources of the private welfare community must be marshaled in this battle. Otherwise, their own financial base will wither away as crime drives their constituency from the City.

The myths upon which the juvenile justice system has been functioning, like the Book of Genesis, require considerable redefinition. The system was constructed at a time when everyone

believed juvenile delinquents were few and easily diverted back to law-abiding society. The new reality of profoundly disturbed, violent children in hitherto unimagined numbers emerging from the cauldron or critical mass of sick families now fixed in our inner city areas challenges the juvenile justice system to shed old beliefs for new policies.

Part II: The Family Court System

Information about juvenile offenders in New York and the activities of the Family Court, which is responsible for the processing and disposition of these children, is not readily available. The doctrine of "confidentiality," as applied by the courts, is the fundamental reason for this unavailability of information and consequent lack of knowledge by governmental agencies and the general public. From the moment of arrest, the name, identity and appearance of the juvenile are kept secret and the same shroud of secrecy surrounds the proceedings which follow.

The Committee, aware of police statistics indicating that the number of juveniles involved in serious criminal acts had steadily increased in the last four years, in 1974 began an investigation into the legal processes of the juvenile justice system. The Committee study included an investigation of police records, Family Court records, and Probation Department records.

Fifty-one children who had been arrested for at least one

robbery or homicide during the period October 1972, through October 1973, were randomly selected by the Committee for study. Some of the children, although arrested for acts which would constitute felonies if committed by adults, had never been adjudicated juvenile delinquents. All of them had been picked up frequently by the police and either given youth division cards or arrested and brought to the Family Court.

The purpose of tracing the histories of the delinquent children was to gain some understanding and insight into the legal processes supposedly designed to rehabilitate these children.

The study pinpointed many of the problems inherent in the present system. However, the most significant and overriding problem is the prevailing dogma of confidentiality. Except in rare instances, such as this limited study by a legislative committee, information about the legal processes applied to juvenile offenders is unavailable to other agencies of government and the public. Thus, there is simply no public evaluation of the courts, the Probation Department, or the placement facilities. Even after specific problems are discovered from extrinsic evidence of the ineffectiveness of the system and reforms proposed, there is seldom any public appraisal of the implementation of these reforms.

Ironically, the secrecy and confidentiality provisions

designed to protect the juveniles from any publicity have injured the cause of juvenile justice by isolating the system from the public pressure which led to the infusion of public funds and resources into the adult criminal justice system.

The public agencies involved in the juvenile justice system have become hidden bureaucracies whose problems are beyond public mobilization for reform. Typically, the broad scope accorded to the doctrine of confidentiality has been applied and controlled by the very individuals and agencies which benefit directly from this secrecy.

While it is desirable to provide anonymity for juvenile offenders, the benefits of total secrecy do not justify the immunization of the system from those forces which could lead to beneficial reforms and improvements. A reevaluation of the doctrine of confidentiality is in order. Certainly, there are various accommodations which could protect the identity of the children yet permit the public and other government agencies to secure information about this important area.

The Police and the Juvenile Offender

The Police Department in New York plays an important role in determining which juveniles will go through the Family Court system.

Youth Division Cards appear to be issued to juveniles

by the Police Department for the following reasons:

1. Truancy;
2. Cases where an arrest could have been made for a felony or a misdemeanor but the complainant refused to press charges;
3. Violation of law. (Since the Family Court Act defines juvenile delinquents as persons over seven and under sixteen who commit acts which if committed by an adult would constitute a misdemeanor or felony, the courts do not have jurisdiction over juveniles who commit violations. Typically, YD cards are issued for acts of harassment, disorderly conduct, etc).

The YD card, which gives a description of the incident, the child's name, address, and school, as well as the follow-up work done by the police, is logged in a central juvenile file at police headquarters. It is destroyed when the child reaches seventeen years of age.

In the past, when a Youth Division Card was issued, great efforts were made by the Youth Aid Division of the Police Department to speak with the child, the parent, the school and any other agency reportedly involved with the child. A referral might be made to an appropriate agency if the parent was interested. The Police Department did an excellent job in attempting to help the child and his family so as to avoid a repeat of the incident that initially brought the child to

their attention. The YD cards of a few years ago reflect hard work by police officers as well as an interesting picture of what the child's problems were in the community and at home. Unfortunately, today the Youth Aid Division is quite limited in size and if there is any follow-up at all it is generally limited to a letter to the parent describing the incident.

Most of the children studied had many YD cards--one as many as thirty-three. Most of the children had YD cards issued to them before any arrests.

Anthony, ten years old, received ten YD cards before a larceny arrest. This was followed twelve days later by an arrest for homicide and rape. He was diagnosed as a brain-damaged child. A summary of Anthony's record follows:

4/8/72 -- a YD card was issued for sniffing glue.

8/6/72 -- a YD card was issued for riding on the outside of a subway car.

8/30/72 - a YD card was issued for running down a subway platform.

9/4/72 -- a YD card was issued for sniffing glue.

9/5/72 -- a YD card was issued for attempting to remove the contents of a purse.

9/6/72 -- a YD card was issued for sniffing glue.

9/6/72 -- a YD card was issued for putting paper in a turnstile.

9/7/72 -- a YD card was issued for sniffing glue.

9/12/72 - a YD card was issued for sniffing glue.

11/6/72 - arrested for larceny (adjusted at intake).

11/18/72 arrested for homicide, rape, and robbery.

Lowell received thirteen YD cards, the first when he was ten years old.

1/21/67 -- a YD card was issued for malicious mischief.

7/14/67 -- a YD card was issued for trespassing.

4/12/68 -- arrested for robbery.

4/28/69 -- a YD card was issued for sniffing glue.

6/18/69 -- a YD card was issued for calling in a false fire alarm.

9/1/69 -- a YD card was issued for loitering for the purpose of using narcotics.

4/14/70 -- a YD card was issued for sniffing glue and trespassing.

5/23/70 -- a YD card was issued for sniffing glue.

6/2/70 -- a YD card was issued for sniffing glue.

6/3/70 -- a YD card was issued for breaking a window.

6/27/70 -- a YD card was issued for sniffing glue.

7/15/70 -- a YD card was issued for sniffing glue.

7/30/70 -- a YD card was issued for sniffing glue.

9/26/71 -- arrested for assault.

11/9/71 -- arrested for assault.

4/10/72 -- arrested for homicide.

Over 16 in Criminal Court:

8/30/73 -- arrested for assault with a deadly weapon.

11/26/73 - arrested for possession of stolen property.

The file of YD cards could provide an invaluable indicator and in some cases predict the likelihood that a child may commit criminal acts in the future. There is obviously something

wrong with a system which makes such a device available but fails to utilize it. If these YD cards are merely filed and buried, they might as well not be issued in the first place. Clearly, a community agency or individual social workers active at the precinct level could play a significant role working with children who receive YD cards, particularly the "multiple offenders."

A juvenile over seven and under sixteen can be arrested in New York for a crime which if committed by an adult would be a misdemeanor or a felony. After an arrest is made, the parents are contacted by the arresting officer and asked to come to the precinct. If the arrest occurs when court is in session, the parents are asked to go with the arresting officer and their child to the Family Court in the borough of the arrest. If the arrest occurs after court hours, the parents, if willing to do so, are usually permitted to take the child home with them under their personal recognizance. A child whose parents cannot be found or are unwilling to come to the precinct or refuse to take the child home, will be taken to a locked juvenile detention facility. In New York City this is the Spofford Juvenile Center in the Bronx.

In practice, what often happens is that only the neglected child whose parents have no interest in helping him will be sent to the locked facility even for minor criminal acts or first

offenses. Police regulations do not specify the types of criminal acts for which a child should be held or released but, instead, permit all children with interested parents to take them home, (including those with outstanding warrants). So long as there is a person willing to take the child home, there is no consideration given to the type of crime the child was arrested for or the number of prior arrests. The police have a central juvenile arrest and YD file manned twenty-four hours a day and can secure this information.

A child who has been arrested for a fairly minor crime and has no previous record of serious crimes, but has no parent interested in taking him home, should be transported to a neglect or non-secure facility rather than a locked facility. The child who has interested parents, but has been arrested for a serious felony and has a prior history of arrests (and, possible findings of guilt) for serious offenses should be detained in a locked facility. Many of the cases studied showed that children who committed serious offenses failed to appear on the first court date whereupon warrants were issued. Apparently, these warrants simply sit in the files and are executed only when the child is arrested again. And, the cases studied indicate that they often are arrested again for serious offenses. Had discretion been exercised in the first place, the child could have been kept in custody and would have appeared in court the next day.

At that point, the child is entitled to counsel and the judge could determine that there is a likelihood that another crime would be committed before the trial and could take appropriate action.

Raymond, for example, who had been arrested for felonies on nine previous occasions (eight were adjusted), was arrested for robbery on June 9, 1972, and was not detained. He was told to appear in court on June 15. He did not appear and a warrant was issued. Between the date of arrest and the court date, Raymond was arrested for assault (on June 12) and again was not detained. Another warrant was issued because he again failed to appear. On July 18, Raymond was arrested for robbery and detained. Court records state that he was remanded to the Spofford Juvenile Center on July 19 but on July 26 and again the next day he was arrested for robbery. On July 28 he was arrested for attempted robbery. On August 1 the court remanded Raymond to Spofford. He escaped on August 18. Between September 26 and October 26 he was arrested four times for robbery. He was not detained by police for any of these four arrests. On October 25, a homicide occurred. (Raymond would be arrested for this homicide in February of 1973.) On October 29 he was arrested for criminal possession of stolen property and detained. The stolen property were the keys from Spofford. He was placed at the Division for Youth on October 31, 1972. On October 29, 1973, Raymond was arrested for robbery. He was now over

sixteen and in Criminal Court where, as a matter of practice, his prior record is not taken into account.

One of the difficulties encountered by the individual precincts in detaining children is that each child must be transported to the Bronx with a police escort in an individual patrol car. If the police determine that the expenditure of valuable manpower is warranted for this purpose they may still face the problem of lack of space at Spofford, the only available locked detention facility.

In attempting to determine which juveniles should be detained and where, it is questionable whether anyone should ever be detained at Spofford. Public officials and journalists have been aware for years that Spofford is an unfit facility for juveniles. Instead of being a place where children can be safely and properly segregated and detained for their own and society's benefit, Spofford in reality may itself be a punitive and degrading experience. Thus, when the police opt to return children to their home environment, they are actually trying to be humane in dealing with these children. At the precinct level, police operate under severe restrictions in handling juveniles (as opposed to adult offenders). Juveniles cannot be detained there, the theory being that a child might be damanged by being placed in a local lockup. However, the police are fully aware that a night at Spofford is a more damaging experience.

Probation Intake

Initially, after an arrest, the juvenile, his parents, the complainant and the arresting officer go to intake at the Family Court in the borough of arrest. A probation officer interviews all parties involved in the arrest and determines whether the arrest should be withdrawn, adjusted, or sent to court for trial.

The intake worker speaks with the parent and the child in an effort to get an overall picture of the child's behavior in the community and at home. Questions are asked about the child's parents, his siblings; any other contacts with the police or the courts; his school attendance; any agencies or organizations that are working or have worked with the child; and any other matter the parent or probation officer may feel is essential. The child is asked about the circumstances leading to the arrest and whether he was involved or not. The complainant is also interviewed about the incident.

The intake worker obtains all available probation records if the child or his family have previously been through the court system in the same borough. All of this information is gathered for the purpose of evaluating the child's and his family's needs and to determine if the child, with some help from the intake worker, can work out his problems in the community rather than going through the court system.

The Probation Department defines intake as "...the preliminary procedure for Family Court cases designed to divert cases from the court to other appropriate services. Intake is a process of examining the circumstances of any case which a complainant desires to bring to the attention of the court, and ascertaining which cases require no further action, which require referral to other agencies, which can be benefited and adjusted by short-term treatment without judicial action, and which require judicial action and providing services appropriate to these determinations."

If the intake worker believes the child does not need court supervision he may immediately adjust the arrest and not send the case to court, thereby, in effect, dismissing the case; or he may keep the case "open" for further service at intake directed toward adjustment and treatment within 60 to 120 days.

The Family Court Act permits the adjustment of all arrests except where a complainant insists on going to court. Certain guidelines have been set down by the Probation Department to be followed in determining whether an adjustment should take place. The needs of the child, his prior record and the interests of the community are all to be taken into account. Also, the Probation Department's rules specifically require that a child charged with a serious felony must admit his guilt if the case is to be adjusted. If he says he was not involved or there is

some dispute as to the facts, the case must be sent to court unless the charge was minor.

The purpose of the adjustment process is to give children a second chance and in some cases a third chance. It is common for adolescents to get into minor difficulties during their childhood. There appears to be no reason why they should have court records that would continue with them throughout their lives nor should they have to suffer the trauma of being treated as "criminals" brought before a judge for trial and sentencing. It was believed that, if they were experiencing difficulty in school, at home, or with their peers, the intake worker would be able to analyze the problems and work out solutions by making appropriate referrals or working with the children themselves.

The alternatives to adjustment or treatment at intake are withdrawal of the complaint at intake, usually because the complainant fails to appear or states to the intake worker that he does not wish to proceed further, or referral to the court for petition.

In its study, the Committee found the entire adjustment process to be a failure. There appeared to be no discernible criteria for determining whether or not a case should be adjusted and no uniformity or logical pattern emerged from the Committee's study of the intake adjustment decisions. No consideration appears to have been given by intake workers to

whether or not adjustment will benefit the child or society nor do the intake workers appear to be taking any significant action to "treat" children or make effective referrals. In some cases there were adjustments followed by more and more arrests.

Kendall was first arrested when he was fourteen, for burglary. This arrest was adjusted as were eight other arrests. The record:

3/16/72 -- arrested for burglary, case adjusted.

5/25/72 -- arrested for possession of a dangerous weapon, case adjusted.

12/29/72 -- arrested for robbery.

1/14/73 -- arrested for robbery, case adjusted.

1/23/73 -- arrested for petit larceny, case adjusted.

1/30/73 -- arrested for robbery and possession of dangerous weapon, case adjusted.

2/23/73 -- arrested for robbery and assault, case adjusted.

3/31/73 -- arrested for robbery.

4/12/73 -- arrested for burglary, case adjusted.

5/12/73 -- arrested for robbery, case adjusted.

7/3/73 -- arrested for attempted burglary, case adjusted.

10/2/73 -- arrested for robbery and assault.

10/16/73 -- arrested for robbery and possession of a dangerous weapon.

12/19/73 -- arrested for burglary and criminal possession of stolen property.

<u>Over 16, Criminal Court</u>

3/19/74 -- arrested for possession of dangerous drugs, indicted by grand jury.

In conversations with probation officers, it became apparent that they had completely lost sight of the purposes behind the intake process. The Probation Department's rules and guidelines were not being applied uniformly, indeed, they appeared not to be applied at all. There was no evidence of any attempt to work with any child. Every adjusted arrest studied showed that they were adjusted on the day the child arrived at intake. No arrest studied was kept open. Few referrals were suggested. None were checked to see if there was any follow-through.

A suggestion frequently made by the intake worker was that the parent should file a petition against the child stating that the child was a person in need of supervision (PINS). A person in need of supervision is defined by the Family Court Act as a child under eighteen years of age "who is an habitual truant or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority." It would seem that a suggestion by an intake worker that a child is in need of supervision also suggests that this probation officer could do some of that supervising or make a referral to another agency.

It was also found that the representation that a PINS petition "would be filed" appears to have been used as a device to induce a stubborn complainant to relinquish his right to have the case referred to the court for disposition. Some files which indicated that the complainant agreed to adjustment upon such a

representation were checked. The PINS petition was never filed.

The Committee's investigation uncovered the information that, upon the representation that an adjustment is equivalent to a finding of guilt, the Police Department agreed informally with the Probation Department that it would defer to the judgment of the intake officer in all cases. Actually, the Family Court does not, and cannot, consider a series of prior adjustments as findings of guilt to justify a placement of the child even though the child may have admitted guilt (attorneys are not present at intake). Only rarely does a police officer who knows the juvenile's prior history insist on going to court. Today the Police Department believes that a greater police presence in the streets will deter crime and, therefore, police officers are happy to have as many cases adjusted as quickly as possible. Many police officers have expressed the feeling that the Family Courts do nothing to help the community or the child so why waste days in court to no avail.

Serious felonies were adjusted regularly despite the Probation Department rules which state that "situations that have a profound impact on the community, such as serious, deliberate, anti-social behavior, offenses against the person and actions which would be felonies if committed by adults" are to be referred to court. Exceptions are to be made "only after discussion with and approval by the supervisor."

The Probation Department guidelines do contemplate the routine adjustment of all arrests of juveniles who had been

adjudicated juvenile delinquents or PINS and were already placed by the courts in private or state facilities. When the juvenile is brought to intake the arrest is called to the attention of those agencies and, after discussion between the intake worker and the agency, the juvenile may be sent directly back to the facility or to the aftercare worker. Thus, such juveniles, when arrested, are rarely sent before the court. Usually, the probation files contained no explanation for the adjustments in other types of cases.

The lack of a central filing system for the probation records of all the boroughs could hamper the intake workers' efforts to obtain all relevant records to assist in making appropriate determinations. Presently, each borough operates as an individual entity. Each keeps all of its own records. Therefore, if a juvenile is brought to intake in one borough after an arrest, there is no way for the intake worker to know if there were any prior arrests in any other borough unless the child or parent discloses that information. If a child lives in a borough other than the one of arrest, the intake worker may call the borough of residence to check for any prior record. (But no other boroughs are called. It can take hours to reach another borough by telephone because the switchboard is continuously busy). If the child is arrested in any borough other than the one where he has a record, it will probably not be discovered.

When the Committee subpoenaed the files from all boroughs,

it found that there had been much unnecessary duplication of effort. Of the fifty-one children studied, nineteen were arrested in two boroughs and six children were arrested in three boroughs. In many cases, intake workers were spending a great deal of time to secure and write up the same information that already appeared in the child's file in another borough. Many of the intake adjustment sheets studied showed no knowledge of any other pending proceeding although many of these children had open cases in other boroughs. The same lack of knowledge was also found in cases where probation files with past arrests were available in the same borough. The intake worker's files often showed no indication that prior or pending proceedings were taken into account at all (and some intake workers had adjusted other serious arrests for the same child before in the same borough).

The fact that the intake workers, even in boroughs with complete records of a child, showed no knowledge of the child's background was not surprising. Probation folders studied were in an incredible state of disarray. For example, none of the sheets within each file folder were attached to the folders. Notes on each child had been haphazardly inserted into the folder. Ongoing cases were missing from the files. Nothing within the folders was arranged in chronological order. Information on all members of a family including delinquency, PINS, and neglect petitions were within one folder. Reports on one child were mixed in with reports on other children in the family. In many cases it took hours to organize a folder

on one juvenile to get a good picture of the child's background. (In fact, the Committee's conclusions must also be considered tentative because there is no way of knowing whether the probation files were complete or whether they accurately reflect the actions taken.) There was a great difficulty in reading many of the reports because some of the information was handwritten. Intake reports were always handwritten. The reasons for adjusting an arrest were frequently impossible to discern. Since these are the files received by the intake workers, inappropriate judgments could easily have been made because of the virtual impossibility (within the time available) to decipher the contents of the probation files.

The probation intake worker has not been trained to perform the functions which are required of him to make the system work. There is no requirement that the intake worker have psychiatric training or background to enable him to evaluate the children who appear before him. Moreover, there does not seem to be any attempt to evaluate the child in totality, taking into account his personality, background, and record, prior to determining whether or not to adjust the particular matter and what can be done to help those children whose cases are adjusted. Nor does the intake worker have the legal background which would be helpful in performing the secondary function of determining which cases need not be brought to the court's attention.

Thus, the intake process fails on two counts: When

cases are adjusted there is no real attempt made to help the child and the indiscriminate adjustment of cases deprives the court of an opportunity to evaluate the child and prescribe treatment.

The basic purpose of the intake procedure was to permit the Probation Department to exercise sound discretion to remove from the judicial process certain juvenile offenders and to assist these juveniles in working out any problems they may be having at home or in the community. Since the Committee's study indicates that little is being done by the intake worker, this basic purpose is not being met. All arrests are adjusted immediately without any procedures being applied to assist the child. There may be some justification for the intake procedure as a screening process to reduce the workload of the court. However, this was not the intent of the legislature. But even accepting this new rationale for adjustment, the probation office appears to be making inappropriate judgments in this respect also.

Family Court

If the intake probation officer determines that the arrested juvenile must go to court, a petition is drawn and signed by the complainant. The petition describes the incident in general terms and specifies the section of the Penal Law that defines the crime (if committed by an adult). The petitioner (complainant), the respondent (juvenile), and the child's

guardian are sent into the intake courtroom with the newly drawn petition.

Initially, the intake judge speaks with all of the parties about legal representation. The petitioner and the state are represented by an assistant corporation counsel during the trial (fact finding hearing). If the incident occurred in the subways or in the city schools, an attorney from the Transit Authority or from the Board of Education will represent the complainant. The juvenile is represented by an attorney (law guardian) throughout the proceedings (fact finding and disposition) in the Family Court. The law guardian will either be a Legal Aid attorney, an attorney appointed by the Appellate Division (18B), or a private attorney retained by the family of the juvenile when a family's income is above the amount required for the child to be eligible for representation by the Legal Aid Society. If there is more than one respondent who comes within the Legal Aid income level and there is a possibility of conflicting testimony by the respondents, one of the respondents will be represented by a Legal Aid Attorney, the others will be referred to a court appointed attorney from the Appellate Division Panel of lawyers (18B).

Then the intake judge will determine whether there is a need for an adjournment. If for example, private counsel must be retained, or the court must request an assignment of an attorney by the Appellate Division, or the Legal Aid attorney

needs time to prepare the case, an adjournment will be necessary.

Finally, the intake judge must make a determination as to whether the respondent should be detained or sent home with his parents. The judge will ask the probation officer in the courtroom to read the report on the respondent made by the intake probation officer. This report will be based on what the intake worker knows of the child's prior record as well as the seriousness of the incident alleged in the petition and will recommend remand or parole. The intake judge in his discretion will either remand the respondent to Spofford Juvenile Center, or send him home. Generally, the respondent can be detained only for three days before trial (fact finding) on one petition even if there are other petitions pending. However, if the respondent has been adjudicated a person in need of supervision or a juvenile delinquent on a prior petition, detention can be for a longer period of time.

The intake judge is supposed to keep the case in the intake part until all parties are ready for trial and then send it to a trial part to be heard. In practice, the case is adjourned and sent to a trial part on the next court date after the issue of legal representation is resolved. If the respondent or parent are not present when the petition is initially brought into the intake part, it may be necessary for the judge to issue a warrant stayed to the next court date or a straight warrant arrest. When this occurs, the case will be kept in the intake part until the respondent and his guardian or parent appear. When they appear, the intake judge will then go through the

same procedure described above determining the appropriate legal representation as well as the need for a remand or parole. Then the judge will adjourn the case or send it to a trial part to be heard.

Since a case can, and frequently is, adjourned even after representation of the juvenile has been determined, the intake judges can clog the trial parts by sending cases to those parts when they may be adjourned on the next court date.

In studying the court records, so many reasons were found for adjourning cases that it was more unusual for a case to be heard than to be dismissed. The following are examples of the reasons found for adjournments before trial and after the initial day in the intake courtroom:

1. Private counsel and court appointed attorneys asked for adjournments on the second court date to prepare their cases;
2. Attorneys asked for an adjournment to get witnesses;
3. Assistant corporation counsels asked for adjournments when the Police Department's laboratory report on the type and amount of drugs confiscated was not ready;
4. When the lab report was ready, respondent's attorney asked for an adjournment to have the lab technician brought in to testify;
5. Adjournment granted because respondent, respondent's guardian, a witness or complainant did not appear;

6. Adjournment granted when one co-respondent's guardian or attorney did not appear. This occurs where more than one juvenile was allegedly involved in the incident. If there are many co-respondents, there must be a guardian and an attorney for each. Judges can sever the case against the non-appearing respondent but they usually adjourn instead. It was rare to find a case involving many co-respondents that ever went to trial. Often a warrant is issued for the missing party, which means that all respondents must be notified if and when the party appears;
7. Two Manhattan cases were adjourned for a long hearing date by the same judge when he had all parties in an attempted robbery case present and ready for trial. He stated on November 20, 1973,"as the case may take several hours with five parties and four lawyers this is the earliest hearing date available - February 22, 1974." (!!) He put the case on for trial on a day when another judge was sitting in that part;
8. Many cases are adjourned without comment. Probation records did not help in providing the reason for the adjournments;
9. Cases were adjourned and some dismissed because the Board of Education attorney who was to prosecute failed to appear (the Board of Education has two attorneys who handle all school cases in all five boroughs);

10. Cases were adjourned because the clerk in the intake part did not notify the Appellate Division of the need for counsel for a respondent;
11. Cases were adjourned because necessary parties were either not subpoenaed or not notified of the next court date;
12. Cases were adjourned for six months in contemplation of dismissal. (This is usually done when a judge feels the respondent should be given the chance to show the court that he will not be back again - for at least six months.)

The most frequent reason given for dismissing a case was failure of the complainant to appear after numerous adjournments. It should be noted that before the complainant ever appeared in the intake part of the court, he or she had already spent a great deal of time at the police station, at probation intake, and with a petition clerk writing up the complaint.

With all the possible reasons for continuing adjournments in a case, it is not surprising that judges in what are supposed to be trial parts spend the better part of each day adjourning cases rather than having trials. The number of cases on a calendar in each trial part every day gives an appearance of overburdened judges. In fact, the greater part of those cases are adjourned and few are actually heard.

When the Family Court's administrators realized that the precious time of the trial parts was mainly spent hearing requests for adjournments, a new system was devised. One day in every two weeks was designated as a "long hearing day." The

judges were to use that day to schedule one or two cases expected to take many hours to try. Too often, however, these cases are also adjourned leaving the judge with little to do that day. Their "long hearing days" are usually booked far in advance.

Today, the Family Courts handle many different types of matters in one courthouse. A calendar can include support matters, family offenses, neglect petitions, child abuse cases, delinquencies, PINS, adoption and custody, etc. Each judge in each trial part is expected each day to handle many of these types of matters. Before the Family Court reorganization in 1971, all juvenile matters were handled in one courthouse and the only cases on the calendars in each courtroom involved juveniles. The reorganized court has now "all purpose parts" which can hear all the problems that one family might have. The "allpurpose parts"were considered necessary for families with many problems who had previously had to go to many different courtrooms depending on the variety of their problems. In the process, however, many new problems were created for the juvenile section of the Family Court.

For example, a judge with a choice of hearing a robbery or homicide as opposed to a support proceeding which takes less skill and expertise and involves private attorneys demanding that their cases be heard, will often opt to hear the support case. Committee staff was told of an example of a support case heard in Manhattan where twenty court days were

consumed in a trial part on a case involving an ex-wife demanding a supplement to the $20,000 a year in alimony and child support she was already receiving. This preemption of the trial part meant that serious juvenile delinquency cases had to be adjourned until the disposition of the support case. Some probation officers interviewed felt that the juvenile courts operated more efficiently when the judge had no control over the cases on his calendars and was forced to dispose of the serious delinquency cases before him. Another purpose of the court reorganization was to permit a judge to sit in the same part all year. A case was supposed to stay in the part designated by the intake judge until its disposition. In that way a judge could get to know the child before him and develop a better understanding of the child's needs. But judicial schedules do not permit a judge to sit in the same part all year. Family Court judges are rotated into the intake part and around to the different boroughs. Some judges do sit in one part for longer periods of time than others but they are at some point rotated. It was not uncommon in the Committee's sampling of the court records to find a different judge sitting each time the case was on the calendar.

Fact Finding to Disposition

If, after the fact finding hearing (trial), the child is adjudicated a juvenile delinquent, the judge will ask the Probation Department to do a thorough investigation into the child's background and report to the court its recommendations of an

approximate disposition. At this point, the complainant is no longer a party to the proceedings and will never learn how the court finally disposes of the case.

The juvenile may or may not be detained, depending on his prior history of arrests and court appearances. The length of time that it will take a probation officer to make the final report to the court varies with the type of child involved. It may be necessary for a child to have a psychiatric examination, a psychological evaluation, neurological examination, etc. If an examination or evaluation is necessary, the probation officer will be unable to make any determination of an approximate disposition until the necessary reports are received. The judge may ask the probation officer to make a progress report to the court every ten days to two weeks especially when a child is being detained at Spofford Juvenile Center. Each time the case is back in court, the judge must determine again whether the child should be detained or should be placed in or remain in the community with his family.

It can take a great deal of time just to secure appointments for examinations of the child. There are few psychiatrists, psychologists, etc. available and waiting lists are long. Sometimes when the child misses an appointment, another appointment entails another long wait. If, when the examination and evaluation are completed, the recommendation of the doctor is placement, the probation officer must then determine which facility would be appropriate. The preference is always for

a private facility, which is considered the best available place for a child to be rehabilitated. The state facilities as of 1974 offer little more than temporary isolation from the home community. The probation officer also has the responsibility of finding a facility willing to take a child of a specific age, religion, race, and sex. These are important considerations because most private agencies are operated by Catholic, Protestant, and Jewish religious organizations.

In studying the probation records, it was found that probation officers invariably made referrals to only one agency at a time. Only after receiving a letter of rejection, which often took six to eight weeks, would another referral be made. When asked why many referrals are not made at one time in order to shorten the length of time required for a disposition of a case, probation officers indicated that Department rules previously permitted only one referral at a time, apparently two referrals at a time are now permitted in some cases. The private agencies have informed the Probation Department that because they spend a great deal of time determining whether they should take each child referred to their facility, it would be burdensome if they received too many referrals at one time.

It can take many months and even years after a finding before a child is placed in a treatment program. Even if the child is not placed, the case may remain open for extended periods.

This often means another long series of adjournments before final disposition. The trial judge keeps the case in the part in which the trial was held and, although these cases may only be on the calendar for a report which can take but a few minutes of the court's time, the practice contributes to the appearance of a busy court and an overburdened judge.

There are many possible dispositions of a case: Placement away from the home is just one. However, since placement is usually considered for children who have several arrests for serious offenses, and since the determination of whether and where placement should occur occupies much of the time of the Probation Department, the Committee looked at this phase of the disposition process. Many of the delinquency cases studied in the Committee's investigation did not result in a placement. However, some observations could be made from the study of the individual cases with respect to the activities of the Family Court and the Probation Department between the fact finding stage of the proceedings and the dispositional stage:

1. Too often the court had to order the probation officer to get the psychiatric or other necessary examination for a child each time the case was before the judge for a decision as to disposition.
2. Many referrals were needlessly made to private facilities which the probation officer should have known were inappropriate for the particular child. Letters

of rejection in the children's folders explained that the facility did not house children of that age, sex, etc.

3. There appeared to be an excessive turnover in probation officers. Although one probation officer is assigned to do the investigation and final report to the court, in some cases more than one probation officer's name appeared on the juvenile's records at different times. Because collation and integration of an individual's probation files is time consuming, it was not surprising to find long delays between fact finding and disposition when more than one probation officer is responsible for the case.

4. The case of Orlando is an example of a probation investigation that suffered from too many probation officers. The court in its turn failed to pick up the probation officers' obvious errors. Orlando had been arrested on eight occasions, all of which occurred in the Bronx. Two of those arrests were for homicides. Orlando's record:

4/19/70 -- arrested for burglary, case adjusted.

5/10/71 -- arrested for homicide, case dismissed after six adjournments because no petitioner was present.

9/20/71 -- arrested for robbery, case adjusted.

10/7/72 -- arrested for homicide. Orlando admitted to criminally negligent homicide. Case was discharged to parole officer in Allentown, Pennsylvania, where respondent allegedly lived with mother and was working full-time. He was fifteen years old at this time.

2/20/73 -- arrested for possession of a dangerous weapon. On July 1, 1974,this case was dismissed because "the respondent had been in the Marines since June 27, 1974." The Bronx office of the Marines was called by Committee staff because this youth was sixteen years old at the time of his enrollment. The Marines stated that he had applied but was rejected because of his age.

2/22/73 -- arrested for obstructing a police officer. On September 5, 1973, the respondent was placed on probation.

3/31/73 -- arrested for possession of a dangerous weapon, case adjusted.

6/30/73 -- arrested for rape. Case was dismissed because respondent was on probation in Pennsylvania.

5. Most of the IQ's of the children who were given psychological examinations were very low - bordering on

retardation level - yet no special programs or services were sought by the probation officers for these children.

6. The psychiatric evaluations written by the Family Court clinic doctors never explained the required treatment for the children examined. In some case, they might suggest a type of facility - the favorite seemed to be "a residential treatment center in a closed setting." In 1974 there is no facility of this type in New York State. The private facilities do not have locked doors and, therefore, are not considered "closed." The state facilities have no psychiatric treatment centers, although they do have locked cottages.

7. Some cases, after the juvenile had been adjudicated a delinquent, went on for months and even years before disposition occurred while the child's criminal activity continued to accelerate. There appeared to be little effort by the judges to force the Probation Department to expedite their investigation.

8. Some juveniles had different cases being heard before different judges in different trial parts. Often, the judge who had to determine whether detention was necessary or what the disposition should be were not informed of these other cases that were in progress. The family courts have no central file. If the child has not

been adjudicated a juvenile delinquent, the Probation Department is not involved and the judges have no other way of receiving information on each child. If cases were in progress in other boroughs, there seemed to be no way that the judges could receive this information.

9. Again, as was seen in the court records before trial, adjournments occurred over and over again without comment by the judge as to the reason why final disposition was not ready to be heard.

Finally, when the investigation and report have been completed, a hearing is held to determine if the disposition suggested by the probation officer is appropriate in this child's case. The child, his parent, and his attorney are present at his hearing. Some of the possible dispositions available to the court are:

1. To send the child home with his parents because he has been doing very well in the community since the arrest.
2. To place the child on probation for a period of one to two years. Should the child violate the specific rules set for his probation, another hearing will be held and the disposition can be changed.
3. To place the child on probation in cooperation with a drug program.
4. To place the child in a Youth Corps Camp.
5. To place a child in a Division for Youth Camp.

6. To place a child in a state training school (operated by the Division for Youth) for a maximum of eighteen months.
7. To commit a child to the Commissioner of Mental Hygiene.
8. To commit a child to Elmira Reformatory.

Conclusion

The conditions prevailing in the juvenile justice system in New York City are a scandal. And it happens to be the longest running scandal in New York State. As far back as 1951, the New York State Association of Judges of Children's Courts pointed to several of the problems mentioned in this report and declared "we trust the period of kicking this problem around may be drawing to a close."

There is much that must be done and undone before the juvenile justice system in New York City can be brought to the level where it is merely functional. Unfortunately, the trend of accelerating numbers of juveniles arrested for serious crimes and processed through the Family Court will not permit the necessary changes to be made incrementally. The reforms will have to be sweeping and swift to be effective. Unfortunately, such a projection is not one of the probable futures of the juvenile justice system.

The more likely future is that the costs inherent in the conditions prevailing in today's juvenile justice system will continue to be borne by the citizens of New York City in the form of violence against their persons and the theft or

destruction of their property. That will be a double tragedy, not only for the juvenile who passes through the system unredeemed but also for the victims who must continue to pay for a system that does little to prevent their continuing victimization. In summary, the trends of juvenile crime are ominous, the condition of the juvenile justice system is scandalous and the projections for the future are bleak. And the fact that there is a juvenile justice system in place, albeit non-functional, discourages reflection on the kinds of alternative systems and institutions required for a problem of the magnitude of juvenile crime.

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