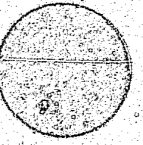


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**JUVENILE
DIVERSION
IN
NEW HAMPSHIRE
A HANDBOOK FOR COMMUNITIES**

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JUVENILE DIVERSION IN NEW HAMPSHIRE: A HANDBOOK FOR COMMUNITIES

U.S. Department of Justice
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September, 1981

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HUGH J. GALLEN
GOVERNOR

STATE OF NEW HAMPSHIRE
CONCORD 03301

Dear Reader:

I am pleased to be able to introduce this handbook on juvenile court diversion programs. My administration has made a major commitment to improving services for young people in trouble, and this handbook will support our efforts to assist communities to deal effectively with local problems.

The Comprehensive Children and Youth Project, which began as a special program in my office, has published this handbook as a guide for local officials and private citizens who are concerned about youth problems, and who want to do something about them. The information in the handbook has been drawn from the work of dedicated volunteers and professionals in New Hampshire cities and towns who want to share their experience and expertise with others.

I am proud that this administration has played a role in supporting this important exchange.

Sincerely,

A handwritten signature in cursive script that reads "Hugh J. Gallen".

Hugh J. Gallen
Governor

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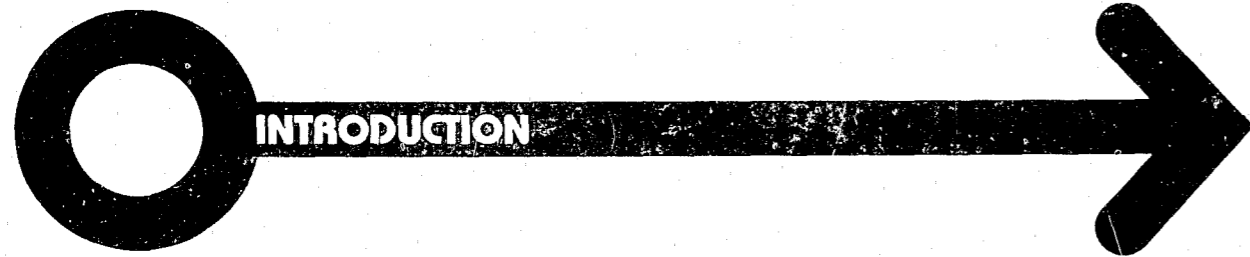
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SUMMARY:

The purpose of this handbook is to assist New Hampshire communities in the development of effective diversion programs to serve as alternatives to juvenile court processing for youth in trouble with the law.

The handbook is intended to provide the reader with practical information which can be used as a guide for program design and implementation. The handbook is only a tool; it does not provide definitive answers to the numerous questions that may arise in approaching the design of a diversion program nor does it present a single "model" program to be duplicated.

We hope that this handbook will provide the reader with the framework needed to achieve a successful diversion program.



COMPREHENSIVE CHILDREN AND YOUTH PROJECT BACKGROUND

New Hampshire's Comprehensive Children and Youth Project was established to review state policies and programs affecting children and youth in New Hampshire and to make recommendations for improving the way the state provides services to this population. Part of its review process involved an inventory of state services to children and youth. As a result of this effort, and in combination with a series of community sounding board meetings, the Comprehensive Children and Youth Project has identified several priority areas with accompanying recommendations for change at both the state and local level. Among these is the need to develop a statewide service system for dealing with children and youth at risk of becoming involved with the court system.

The Project is committed to developing cost-effective, community-based services aimed at providing both prevention and intervention services to children, youth, and families at risk that would reduce the need for more costly state intervention and possible institutional placement later on. One such service is juvenile court diversion programs.

The inventory process has identified a number of juvenile diversion programs operating throughout the state. These programs have made creative use of available community resources, and most have a strong volunteer emphasis. This approach has dual benefits: 1) Direct involvement of the community in the development and implementation of the program; and 2) Keeping program costs to a minimum.

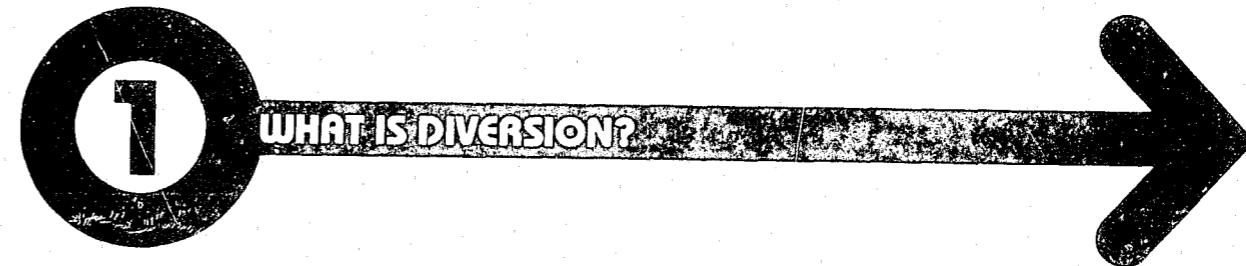
DIVERSION NETWORK

The Comprehensive Children and Youth Project has initiated the development of a statewide Diversion Network as a major capacity building project. The purpose of this effort is to promote the development of juvenile diversion programs in communities throughout New Hampshire. This network will represent a first step in the development of a statewide youth service system for the state that will have the capacity to effectively divert appropriate youths, as well as to provide a mechanism for responding to the needs of those youth who do require the Courts' attention. As part of this effort, the Comprehensive Children and Youth Project will provide direct assistance to targeted communities in designing a program which meets the needs of their community.

PURPOSE OF HANDBOOK

The Diversion Handbook represents one of the Project's efforts to develop and improve New Hampshire's services to youth. This handbook is specifically designed to be used as a tool by both volunteers and professionals in developing diversion programs for New Hampshire communities. We hope that this effort will result in increased availability of local resources for troubled youth.

It is also hoped that this project will lay a foundation for increased communication and sharing of experiences among those concerned with improving services to New Hampshire's youth.



Definition	1
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SUMMARY:

Diversion is discussed within the context of the juvenile justice system. Diversion is defined generally as an alternative to traditional court processing. The advantages and disadvantages of diversion programming are outlined.

This chapter discusses some of the issues that have arisen in defining diversion and also summarizes current research findings.

1 WHAT IS DIVERSION?

DEFINITION

As most simply defined, diversion is an alternative to traditional court processing. It is a procedure that refers youthful offenders, who might otherwise be dealt with in juvenile court, to an alternative community program. Diversion programs deal primarily with the non-serious or first-time offender and are based on the assumption that some behaviors which attract the attention of the law are more effectively dealt with by sanctions other than prosecution.

The concept of diversion is not new. Police have always used their discretionary powers to divert offenders from the formal criminal justice system.

National enthusiasm for diversion was stimulated by a 1967 report of the President's Commission on Law Enforcement and Administration of Justice. This report stated bluntly that the juvenile court system "...has not succeeded significantly in rehabilitating delinquent youth, in reducing or even stemming the tide of juvenile criminality or in bringing justice to the child offender." [1] These kinds of commentaries contributed to increased emphasis on the development of alternative approaches to dealing with juvenile offenders. As a result, the Federal Law Enforcement Assistance Administration made funds available for experimental programs. The **Juvenile Justice and Delinquency Prevention Act of 1974** increased the incentive by providing substantial funds for innovative programs in local communities.

Since that time, a wide variety of "diversion" programs have been initiated throughout the country. The approaches, methods, and services of these programs are as varied as the needs of the communities, the juveniles and the problems which they serve. Despite the differences in interpretation, the programs are united in their common purpose of giving youth in trouble a second chance.

DIVERSION DECISION: PROS AND CONS

Diversion is based on the belief that unnecessary processing through our criminal justice system is more detrimental than helpful or rehabilitative. Programs designed with this concept have had some positive useful results and merit consideration. Following is a list of some potential pros and cons to be weighed when considering diversion for your community:

PROS

AVOIDS LABELING. Labeling theory maintains that juveniles who are processed through the court system are labeled as "delinquent" and thus are perceived by the community as such. This stigma may force the youth into a cycle of further delinquent behavior.

Diversion programs, by limiting the youth's contact with the formal criminal justice system, are intended to minimize the possibility of negative labeling.

APPROPRIATE RESPONSE. Diversion

CONS

COERCION. The use of diversion may increase the potential for coercion if it is used as a bargaining tool by the police. There is more opportunity for voluntary cooperation to turn into coercion in diversion programs.

WIDENING THE NET. There is a concern that the impact of many diversion programs has been to "widen the net," that is, to bring more children into the system than would have otherwise been involved, had the diversion option not

programs are able to respond more appropriately to the youth's needs and behavior. Court processing is often lengthy and confusing, with the end result having no readily apparent connection with the initial reason for court referral.

The response in diversion is generally much more immediate with an emphasis on making sure the youth understands the consequences, and is accountable for, his/her actions.

COST EFFECTIVENESS. The savings of keeping a youth out of the formal juvenile justice system are substantial. Diversion programs reduce the administrative costs of court processing as well as alleviate pressure placed on police, judges, probation and other court personnel in the handling of juvenile cases. In addition, the potential expense of more costly interventions such as detention or institutionalization are reduced by utilizing home based or community-based programs.

A secondary cost saving is achieved when diversion succeeds in preventing repeated offenses.

COMMUNITY INVOLVEMENT. The community emphasis in implementing diversion provides a healthy basis for creating alternatives for youth in trouble. Diversion programs with strong community support reflect the needs and resources of the entire community, and as a result, have more potential to benefit their troubled youth.

Community members gain a better understanding of the problems of delinquency and assume some shared responsibility for these problems, rather than leaving an already overburdened criminal justice system responsible for all the answers.

CLEAR DECISION-MAKING. The creation of diversion programs with specific intent and well-defined criteria for acceptance lessens the potential for abuse inherent in the informal discretionary powers of the police. Diversion is not intended to infringe on these powers, rather to provide law enforcement officials with more and clearer choices in making decisions about juvenile cases.

been available. Diversion has provided "help" to those who would otherwise have been counseled and released. It has been argued that diversion should be limited to only those who would have been referred to court.

ABUSE OF THE YOUTH'S CONSTITUTIONAL RIGHTS. One of the major issues confronting diversion programs is the need to protect due process rights.

The diversity and informality in the methods of operating diversion programs has led to the need for specific, written criteria in order to insure protection of the child's due process rights. (See Chapter 5 for a more thorough discussion of these issues.)

STIGMA. There are those who argue that the proposed benefit of reduced stigma is a false issue. The stigma will be attached one way or the other, and to the extent that diversion programs are associated with mental health, the stigma of being labeled a "sick kid" may be more harmful than a label of "delinquent" or "bad kid."

Most of the available research findings are conflicting and inconclusive. Studies can be selected to support almost any viewpoint that one may choose. Proponents and detractors of the diversion concept can find equal ammunition to substantiate their positions. This handbook represents a commitment to further experimentation and study of the diversion concept.

OVERVIEW OF DIVERSION RESEARCH

The preceding section outlined some of the major arguments used to support or refute the benefits of diversion programming. A good deal more research will have to be completed before we have any definitive answers as to the true value or effectiveness of the various diversion programs in operation.

Recent attempts to evaluate these programs have proven to be difficult. While some very good research has been done on individual programs and approaches to diversion, reliable comparative data has been harder to come by. The specific objectives of individual programs vary tremendously, as do the formats and procedures used to achieve these objectives.

A major difficulty in evaluating diversion programs is in agreeing on a definition of diversion. Diversion has come to have a variety of interpretations to a variety of audiences. The broader definition used in this handbook, which defines diversion generally as an alternative to court processing, is widely accepted. Upon closer examination, however, the problem becomes increasingly complex. The questions:

At what point to divert?

What type of offender to divert? and

How to divert?

all raise issues and opinions that are open to debate.

The State of Michigan conducted a survey of existing research in juvenile diversion as part of the process of formulating a State Plan for Juvenile Diversion. [2] Some of the data compiled in this survey is useful as a starting point in helping communities decide how to approach diversion to best meet their particular needs. The following outline highlights key issues:

I. BACKGROUND

A. Characteristics of Clients Least Likely to be Re-Arrested

1. Female
2. Caucasian
3. No prior arrest
4. Diverted for a criminal offense rather than a status offense

B. Most Successful Approaches

1. Informality
2. Personal concern and acceptance of youth
3. Frequency of contact
4. Availability during crisis
5. Recreation
6. Socializing

C. Least Successful Approaches

1. Involving youth in the community, i.e. if the youth is going to be involved in the community, he/she should be participating in positive activities such as recreation, job skill training, etc. rather than simply picking up trash
2. Familiarizing youth with authority figures
3. Using power and authority

II. ELEMENTS OF PROGRAM DEVELOPMENT

A. Legal Issues

1. Voluntary participation
2. Equal protection
3. Right to counsel
4. Double jeopardy
5. Review of termination decisions
6. Discretion

7. Time limits for decisions
8. The rights of youth vis-a-vis his/her parents
9. The rights of the complainant

B. Operational Needs

1. Information gathering
2. Centralized resources
3. Guidelines for implementation
4. Technical assistance
5. Overview and evaluation of program

C. Program Components

1. Viable legal base
2. Defined goals and objectives
3. Due process
4. Written policy
5. Criteria
6. Program content
7. Confidentiality
8. Referral and feedback
9. Coordination
10. Evaluation (Did we do what we said we would do?)

D. Characteristics of Services to be Provided

1. Maximum use of non-professionals in juvenile justice
2. Goal oriented in approach
3. Relatively small in size
4. Relatively brief in duration
5. Non-residential

GOALS

The goals of diversion may be defined both in terms of the individuals involved and the juvenile justice system. Diversion programs should be designed to achieve the following for the participants involved:

Protect the rights and preserve the freedom of the youths and their parents.

Insure that the youth has a clear understanding of the consequences of his/her behavior, and that such consequences are appropriately determined.

Deter future misbehavior by the youth.

Provide better care, education and guidance for the youths and their families.

Minimize future prejudice which may occur as a result of the youth's involvement with the law.

Encourage community involvement for all youth, particularly those who find themselves in trouble.

The system goals are directed at relieving some of the burden felt by those involved in the present juvenile justice system and seek to:

Distribute the burden of effort and expense of handling juvenile offenders equitably across individuals and agencies in the community.

Reduce log jams that frequently occur in court processing.

Maintain accountability and quality control of the various aspects of the diversion process.

Provide speedy resolution and disposition of cases.

IS DIVERSION A WORTHWHILE UNDERTAKING FOR NEW HAMPSHIRE COMMUNITIES?

Detailed evaluation of New Hampshire programs has been limited. While many programs have been evaluated individually by funding sources, there has been no attempt to do an

overall comparison. Substantial improvements are needed in data collection and program review in order for information to be collected systematically and usefully for evaluation purposes.

From the information that exists, diversion in New Hampshire appears to have substantial merit, and further study and experimentation is clearly warranted. Many programs have been successful in reducing the recidivism rate of their participants. Others have been able to demonstrate that they provide a worthwhile service for their clients.

Many questions remain to be posed and answered about the value of these programs in ways that can be quantified and documented. The purpose of this handbook is to present a framework for further application and study of juvenile diversion programs. The remaining chapters explore in greater depth the concept of diversion and seek to provide some clear direction for choosing, implementing and evaluating a program.

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SUMMARY:

This chapter presents some background information on the historical development of the juvenile court system. It describes the recent changes in New Hampshire's Juvenile Code RSA 169. The statutory authority for diversion of youth in New Hampshire is also outlined.

Later chapters will describe some of the programs and services that are used in diverting youth from the court system.

NEW HAMPSHIRE'S
JUVENILE JUSTICE
SYSTEM

2 NEW HAMPSHIRE'S JUVENILE JUSTICE SYSTEM

HISTORICAL NOTES

Since the end of the nineteenth century, the primary response to juvenile delinquency has been action through the juvenile court. The first juvenile court was established in Illinois in 1899. Today, every state in the nation has established some form of juvenile court designed to deal with the specific needs and problems of youth in trouble. The states all operate their courts under some form of juvenile code legislation. These juvenile codes have been the subject of much attention in recent years and have undergone much revision. Between 1978 and 1980, no fewer than 33 states have made significant changes in their juvenile laws, and several states have repealed existing legislation and enacted totally new juvenile codes. [3]

Justification for the court system's involvement in juvenile socialization and control was based upon the doctrine of "parens patriae." This doctrine holds that in order to protect the State's interests, the juvenile court has the right to intervene benevolently in the care and custody of the state's youth.

The court was seen as a center for a variety of clinical and social reform activities, with broad power for disposition and an emphasis on prevention, diagnosis, and treatment.

This philosophy justified the use of informal procedures aimed at discovering the true situation surrounding problems of the youngster and his or her family. This was preferred to the formal legal procedures and rules of evidence designed to protect the freedom and privacy of adults. The court had great power to remove children from families, to place them in foster or group homes, schools, and institutions. In addition, the court had a continuing responsibility to oversee the effectiveness of the treatment and provide additional disposition as necessary.

Over the past 20 years, there has been increasing concern that this philosophy has provided too much judicial discretion and infringed on the constitutional rights of children and their families. There has also been growing disillusionment with the effectiveness of rehabilitation attempts.

A series of Supreme Court decisions, the most famous being *In re Gault*, [4] have resulted in the strengthening of constitutional procedures in state statutes regarding juvenile justice. The result is a system in transition which faces a host of practical and philosophical issues.

Today, the juvenile court system along with the institutions and agencies which serve the juvenile court are being criticized. This criticism is aimed at both the ineffectiveness of the system in reducing juvenile crime and the ever increasing cost.

As a result, the concept of diversion has grown in popularity. Diversion is one approach that may help to reduce the burden on the juvenile court system, provide an effective means to solve individual problems, and provide a cost effective method to deal with a community's troubled youth.

NEW HAMPSHIRE'S JUVENILE JUSTICE SYSTEM

New Hampshire's juvenile law was originally enacted in 1937 and resembled the 1899 Illinois law, which established the first juvenile court.

This law was revised in 1955 and became **RSA 169**. This statute endured many amend-

ments over the years which led to language inconsistencies and a general lack of clarity. In August, 1975, Senate Bill 18 revised the law to eliminate these inconsistencies, and defined three categories of juveniles under the juvenile code: delinquents, neglected, and persons in need of supervision. The new law didn't yet conform with federal standards, however. [5]

In 1978, efforts began to overhaul the statute. In August of 1979, a new juvenile code was enacted. House Bill 831 established three statutes to replace RSA 169:

169-B - Delinquent Children

169-C - Child Protection Act (Neglected and Abused)

169-D - Children in Need of Services

The major changes incorporated in this new law brought the code into conformity with federal standards and established greater specificity in protecting the due process rights of juveniles. The new code moves away from the concept of "parens patriae" to a model more closely resembling the adult court system.

This effort parallels similar trends nationwide and represents the overall shift in the juvenile justice system towards greater adherence to due process issues. The impact of these changes in New Hampshire remains unclear. RSA 169 is a relatively new statute (effective date August 22, 1979). The major concern of those working with the law is the need for more community-based programs and alternatives to be at the disposal of the courts. These are needed if the law is ever to fulfill its intent.

In any event, the Juvenile Code has provided a structure for dealing with the troubled youth in New Hampshire. Just how many youth are subject to this juvenile code is not completely clear. The available statistics indicate that in 1978, there were 34,533 reported arrests, 30 percent of which were juvenile arrests. In 1979, there were 37,697 reported arrests, 38 percent of which were juvenile arrests. [6]

Approximately 7,000 juvenile cases were heard by District and Municipal Courts in 1979. Delinquency cases in New Hampshire Courts have increased 160 percent in the ten years from 1969-1979. [7]

It is clear from this data that the delinquency problem in New Hampshire is on the rise and that further efforts will be required to assist the courts in addressing the needs of troubled youth.

Diversion programs have been developed as one alternative to help alleviate the burden on the courts and the juvenile justice system.

PROCEDURES UNDER NEW HAMPSHIRE'S JUVENILE CODE (RSA 169)

a.) RSA 169-B DELINQUENT CHILDREN

For the most part, a juvenile's first contact with the formal legal process is through a police officer. After receiving a complaint or observing an offense, an officer must review the available evidence and decide whether a petition should be prepared and served on the child and his or her family, or if a more informal procedure would be more appropriate and beneficial to those concerned. (At this point, the police officer considers the options shown in the first box in Figure 1.)

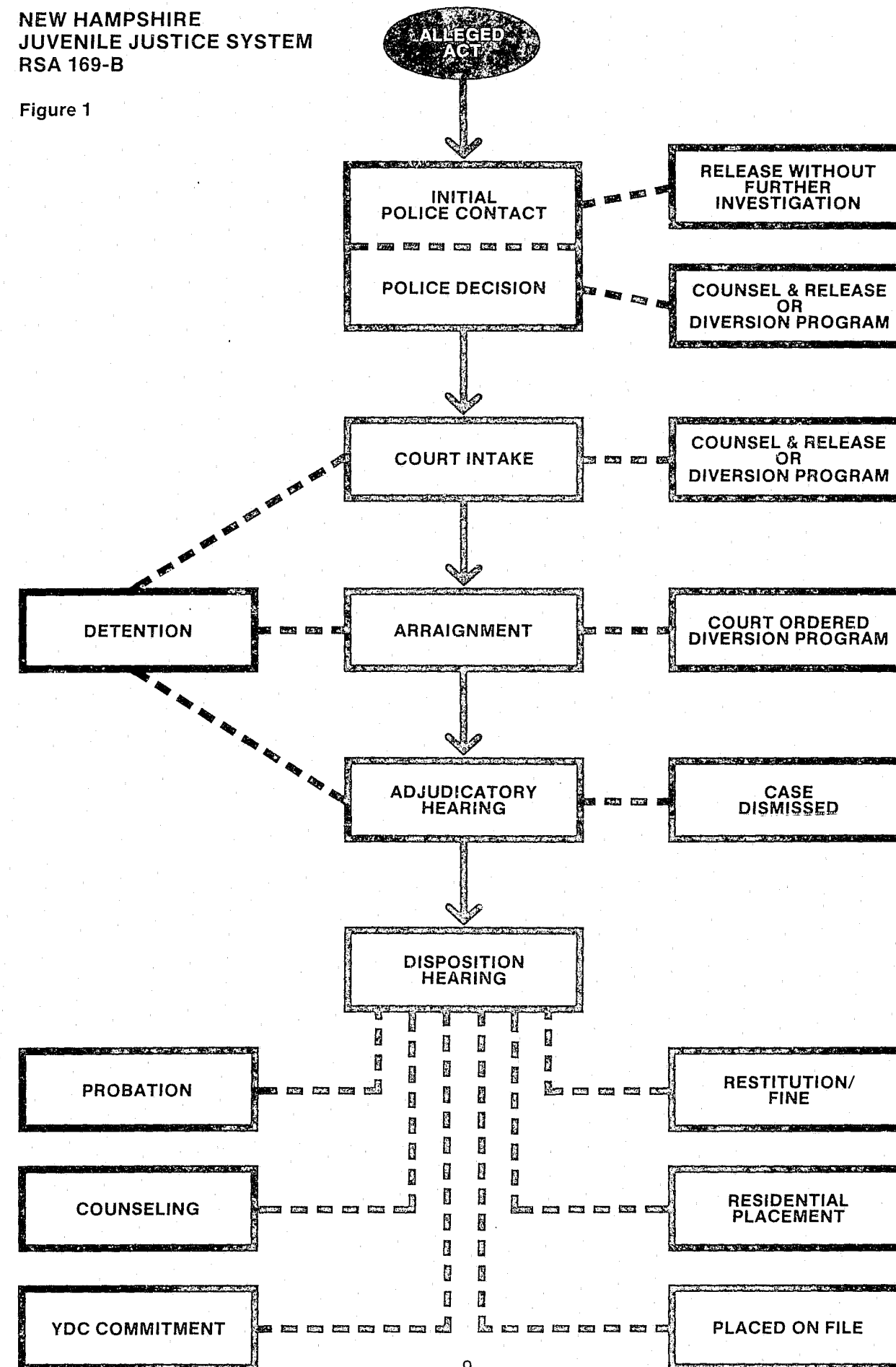
The officer may counsel the youngster, and release the youngster to his/her parents. Afterwards the officer must file a report with the department identifying the child, stating the reason for taking the child into custody and stating the basis for the decision to release the child to the parents.

As another option, RSA 169-B:10 makes specific provisions for the police officer to refer the youngster or family to a "court approved diversion program." If such a program exists, and the officer makes the referral, then the officer files a report explaining that decision.

If the police officer feels there is sufficient evidence and a more serious disposition is necessary, the police officer may file a petition and bring the youngster to court. The youngster may be released into the custody of parents; or, if necessary, detained (but not

NEW HAMPSHIRE JUVENILE JUSTICE SYSTEM RSA 169-B

Figure 1



for more than four hours without notifying the court.) Upon notification that the child is detained, the court may approve a detention placement until arraignment.

Within 24 hours of being detained, the youngster must attend an arraignment hearing where the youngster and parents are advised of charges, informed of constitutional rights and are advised of the right to counsel. At this point, the youngster may be released to parents, placed with a relative or friend, placed in a group home, crisis home, or shelter care facility or sent to the Youth Development Center to "await the disposition of the court."

For those youngsters who are served with a petition, an arraignment hearing must be held within seven days. **RSA 169-B:13** specifically allows for referral to a diversion program at this point also.

If diversion is not the chosen alternative, and the petition is substantiated to the court's satisfaction at the arraignment hearing, the prosecution and defense are prepared for the adjudication hearing. This must be held within 21 days of arraignment, if the youngster is detained, and within 30 days if not. The adjudicatory hearing must be held in a place separate from the trial of regular criminal cases, and juvenile court is closed to the public. The prosecution presents witnesses and evidence to support the petition; and the minor has the right to present witnesses and evidence on his/her behalf, as well as to cross examine adverse witnesses. The prosecution has the burden to prove allegations beyond a reasonable doubt. Many of the due process protections afforded to adults in criminal cases are afforded to juveniles at this hearing.

If the outcome of the adjudicatory hearing is a judgment that the truth of the petition cannot be proved beyond a reasonable doubt, the case must be dismissed and the youngster released. The file is sealed and confidentiality preserved. If the petition is judged to be true, the next step may be an investigation of the circumstances surrounding the youngster's misbehavior. This may include a physical and mental health examination, and generally includes a social investigation of the youngster and the conditions that affect his/her behavior at home, at school, and in the community. These home studies are usually done by the local probation officer, and are done before the judge makes a disposition decision. The reports must be made available to all parties. These reports form the basis for a disposition hearing, which is held within 21 days of the adjudicatory hearing when the youngster is detained, and within 30 days if not.

RSA 169-B:19 details possible dispositions which provide that the least restrictive alternative should be taken and that the disposition should be appropriate to the circumstances of the case. The judge has wide latitude to create a combination of orders which may include nominal dispositions, such as an official warning or reprimand from the court, and conditional dispositions, such as placing the youngster on probation and requiring that the youngster and his/her family meet certain commitments as a condition of probation. Conditional dispositions may involve restitution, payment of a fine (not to exceed \$250), performance of some community service or attendance in a school program. **RSA 169-B:19(c)** specifically allows the court to order the family and/or the youngster to participate in treatment for psychological or physical difficulties. The expenses for this treatment are to be borne by the town where the juvenile lives, which then has a right to collect reimbursement from the parents.

Beyond conditional dispositions, a range of custodial dispositions are available. The statute specifically refers to a group home, crisis home or shelter care facility. It is unclear whether schools, camps and treatment centers are also included. The most restrictive placement is to the Youth Development Center. Placement here is made "for the duration of minority (age 18.)"

All records involving a youngster under these proceedings are strictly confidential. When a youngster reaches age 19, the records must be sealed and made inactive. Any person who discloses information in these records unlawfully may be held in contempt of court. The law also prohibits publication of the identity of juveniles involved in juvenile court

proceedings, with the exception of those children committing acts of vandalism. (**RSA 169-B:46**).

b.) RSA 169-D CHILDREN IN NEED OF SERVICES

The intervention of the juvenile court system is not limited to those youth charged with delinquent acts. Another group of youth becomes subject to this system as a result of being found "in need of services." Often, these youth have committed a status offense. A status offense is an act which is unique to youth, that is, if the act were committed by an adult there would be no formal charges brought. Examples of status offenses include truancy, incorrigibility and habitually running away from home.

RSA 169-D provides the legal basis for the juvenile court to handle youth who fall into this category. This chapter is entitled **Children In Need Of Services (CHINS.)**

An article in the **New Hampshire Bar Journal** [8] described the purposes and philosophy of **RSA 169-B, C, and D**. According to this article, the major thrust of Section D is to afford due process rights to juveniles charged with "status offenses." The provision of due process rights requires a more formal juvenile justice process, as opposed to the informal, benevolent court of the earlier "parens patriae" doctrine. However, it is still intended to address the needs of the child and the child's family. The major changes in **RSA 169-D** require greater family participation in all phases of the proceedings.

The purpose of **RSA 169-D**, as set forth in section 1, is to preserve the family unit. This philosophy assumes that family involvement in all stages of the proceeding is essential for the effective resolution of cases brought before the court.

RSA 169-D defines "services" as "guidance, counseling, discipline, treatment, and supervision." Children in need of services is a new term which emphasizes the obligation of the community to provide services to children.

The processing of a child in need of services through the juvenile court system is substantially the same as processing a youth charged with a delinquent act. One difference is that a CHINS' first appearance before the juvenile court is defined as an initial appearance rather than an arraignment. The language used is intended to represent the process in less restrictive terms. Dispositional alternatives are also substantially the same for CHINS as for delinquent youth. Two major differences are: 1) the Court has no authority to fine a CHINS offender, and 2) the Court may not commit a CHINS to the Youth Development Center. (However, **RSA 169-D:17 V. (c)** provides that any child found guilty of contempt may be remanded to the Youth Development Center provided: "such child shall be placed in a facility certified by the Board of Trustees of the Youth Development Center as one in which the child shall not come in contact with minors charged or adjudicated as delinquent." (Practically, such separation is not possible at the Youth Development Center and CHINS have, therefore, not been committed to the Youth Development Center under the new statute.)

c.) RSA 169-C CHILD PROTECTION ACT

Briefly, this section of the Juvenile Code was enacted to make mandatory the reporting of child neglect or abuse to protect all children whose life, health or welfare is endangered. The responsibility of serving this group of youth lies with the New Hampshire Division of Welfare through its state and local field offices. This part of the code also provides that a neglected or abused child may not be sent to the Youth Development Center or to any place where an adult is confined.

These background notes on the history and procedures mandated by **RSA 169-B and D**, provide the context for considering some of the problems faced in administering juvenile justice and determining how community diversion programs might provide some solutions.

PROBLEMS IN THE ADMINISTRATION OF JUVENILE JUSTICE

The juvenile justice system is trapped between conflicting problems and pressures.

A shortage of programs and personnel has sometimes indirectly led to increased police

power. Judges may condone or encourage informal settlement of certain complaints for lack of resources or a better way to deal with some violations. In New Hampshire, the most common method of handling juvenile offenses by police was found to be counsel and release to parents. [9]

There has been an increased emphasis on informing juveniles of their rights and insuring that they take advantage of them. Yet, the role to be played by attorneys in juvenile cases is not at all clear. Some issues are: Can the attorney serve the juvenile client in the same way as the attorney serves an adult client? What are the attorney's obligations, if any, to the child's parents? How does the attorney participate in the informal process of planning a supportive and helpful program for the youngster? Thinking through such problems takes time and energy. Participation of lawyers adds additional time and expense to the administration of justice.

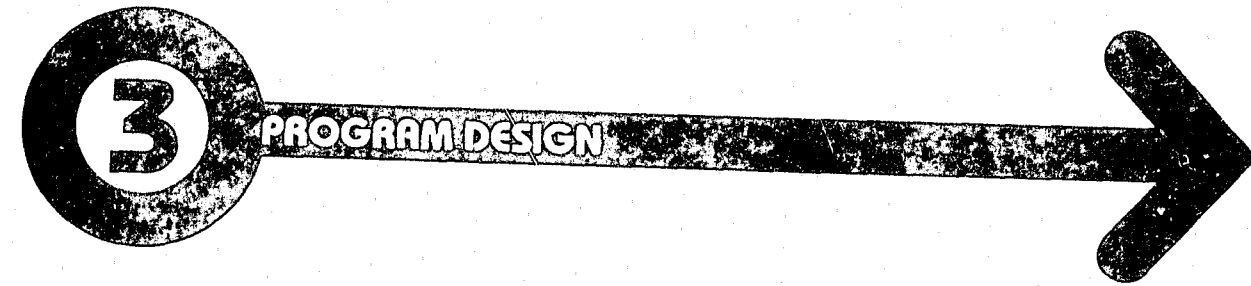
The District Court judges who try juvenile cases in New Hampshire generally do so on a part-time basis. The issues raised are complicated, and the pressure on the judges is great. Probation and support staff feel the same pressure.

Another pressure comes from statistics that show steady increases in violent crimes committed by juveniles. The reaction to those statistics has been a feeling that the consequences for serious juvenile crime should be more severe.

At the same time, there has recently been a great deal of public attention to the negative effects of incarceration on juveniles and to findings which indicate that the more often a youngster is arrested and sent to court, the greater the chance that the youngster will commit another offense. These observations suggest that even severe detention does not decrease the likelihood of future misbehavior. This, together with the concern that youngsters who become deeply involved with the courts become "labeled" and perceived by themselves and others as beyond help has led many authorities to believe that sending youngsters to jail should be reserved only for the most serious cases.

Diversion is a concept that has developed in response to some of these pressures. It represents only one option and certainly does not answer all of the complex issues that need to be addressed within the system as a whole.

Ultimately, a wide range of community services and options must be developed to support and strengthen the existing system faced with the tremendous responsibility of rehabilitating our troubled youth.

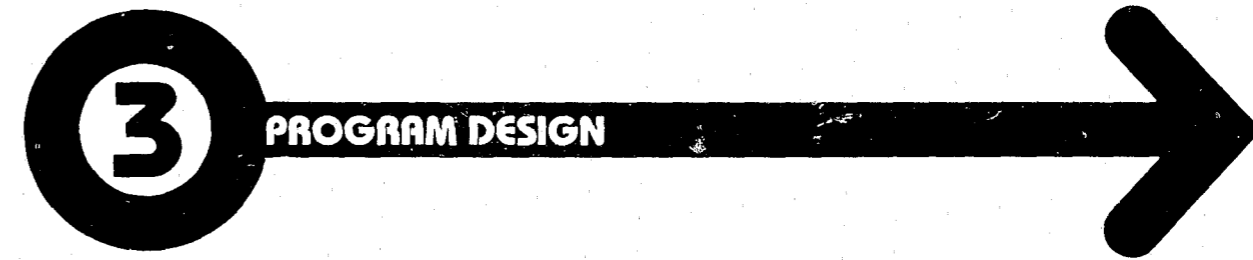


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SUMMARY:

This chapter outlines program options available among New Hampshire diversion programs and presents general information on administrative structures used to set up diversion programs. Various service options are also described. Advantages and disadvantages in using these approaches are also presented.

See Chapter VI, "New Hampshire Programs," for a listing and description of individual diversion programs currently operating in New Hampshire.



To create community-based court diversion programs, there must be sufficient community resources capable of meeting the needs of youth in trouble. These resources arise from services and facilities in local communities and individual citizens. The desired community action does not necessarily involve the creation of new organizations, services or programs. Rather, by focusing community awareness on the problems of youth involved in the juvenile justice system and redirecting services already in place, effective diversion can be accomplished.

THE RELATIONSHIP BETWEEN DIVERSION AND YOUTH SERVICES

There is often a hazy area between programs that support, counsel, educate, and employ any or all of the young people in a community, and programs that supply those services specifically to youngsters in trouble. The more disorganized a community and the more disinterested it is in young people, the greater the burden that is likely to fall on the justice system. Conversely, the more attention the community gives to the organization of services for young people in general, the more alternatives that will automatically be available to the justice system for use as diversion or dispositional alternatives. It may be helpful to think in terms of a continuum of service options, ranging from prevention to rehabilitation. Diversion programs as one service option would generally be found midway in this continuum.

DISTINCTION BETWEEN RESOURCE DEVELOPMENT AND ADMINISTRATIVE REORGANIZATION

A community which is considering the development of a diversion program faces two major organizing issues. The first is creating the best possible resources for educating, counseling, and guiding youngsters, both before and after they get in trouble with the law. The second is improving the abilities of the juvenile justice system to respond quickly and effectively to youngsters and families in trouble in as manageable and cost-efficient a means as possible.

These two issues are consistently confused in the literature on diversion. The first is mainly a problem for community awareness and community action. It is relatively easy to approach, and a community may proceed as rapidly as it wishes. The second issue has to do with the administration of justice. The issues are complex and will continue to require hard thinking from the courts and others involved in the juvenile justice system.

There is no one "model" diversion program to follow that will lead to the ideal diversion project. The available research literature does not provide clear information on which programs or components work best, because an ingredient that works well in one setting, may not work successfully in another. The components must be tailored to a community's needs and must work in harmony with other parts of the program to get successful results.

Diversion programs in New Hampshire take many shapes and forms. Some are limited to a single function such as restitution, while others provide diversion as one component in a wide range of services. Still others rely on a network of community volunteers to make decisions and recommendations about individual cases. By far, the most simple and widely used form of diversion is that of counsel and release, which is routinely used by

local police officers. All of these approaches are intended to provide individual attention to youthful offenders with the hope of keeping them from further involvement with the law. How, where, and by whom this is accomplished are questions that warrant thoughtful consideration in setting up a program.

This section will outline the various categories and administrative formats found among diversion programs operating in New Hampshire. This information should be used as a guide in structuring a program to suit the particular needs of your community.

ADMINISTRATIVE AUTHORITY

There is great variety in the administration of diversion programs and considerable confusion exists about the implications of the various types of organizations. New Hampshire **RSA 169-B:10, 13** permits the referral of youngsters to "court approved diversion programs," but does not offer any guidelines for these programs. This is left to the discretion of local communities. Consequently, some programs seem to have developed independently of the courts, while others seem to be the result of more integrated planning.

Approaches to financing diversion programs are as varied as the approaches to organizing them. The question of who pays is closely linked to the question of who administers and controls. One needs to keep in mind the individuality of New Hampshire communities. Administrative organizations that work well in Nashua may not work in Conway. Some programs operate effectively with minimal administrative support, others require organizational support. Regional and geographical differences are important considerations here.

TYPES OF ORGANIZATION

The following is a description of four general types of administrative organizations for diversion programs, with notes on the strong and weak points of each.

1) Administration by a Private Agency or Community Board

In this model, a board of community volunteers provides direction and structure for the program. The Board may raise money from participating towns, federal aid and other sources to employ a program director who will work with individuals and agencies to set up and operate a program. The Board generally approves the policies and programs. These organizations may have a single programmatic focus, or they may provide diversion services as one component in a whole range of services.

Referrals may come from a variety of sources: schools, parents, and self-referrals, as well as the police. The exact procedure for referral and follow-up of a youngster by the police may vary. The police officer may simply lecture a youngster, and send him/her to the Diversion Program, file a report and that's the end of the matter; or, the officer may prepare a petition, require the youngster to attend the program and require a report of the youngster's progress. Then, if the youngster does not follow through, the petition may be filed with the Juvenile Court.

The program director prepares reports on services provided and the progress of youngsters served for the Board of Directors, and may also forward these to the police, the court, or other authorities.

Strengths of this type of organization include:

- Strong involvement of lay members of the community;
- Freedom to present a positive, caring and supportive approach to youth in trouble (without having to overcome the authoritarian image of direct connection with police and probation);
- Ability to develop new programs rapidly, with a minimum of bureaucratic red tape;
- and
- Ability to serve both youngsters officially diverted from the court and youngsters who are recognized by themselves, their families, or others as needing some help.

A weakness of the organization may be its legal status. The citizen-governed agency may not be officially a part of any of the local governments that furnish funding for it nor a part

of the district court system. It may be difficult to incorporate as a non-profit agency. If agents of the organization do something irresponsible, it's questionable who is legally accountable.

The emphasis in this administrative model is on provision of services and not on formal procedures. From the viewpoint of the juvenile justice system, a serious weakness may be informality and lack of accountability. Several judges may be involved (part-time) with juveniles in the districts served by such a program, none of whom feel a clear responsibility to monitor the diversion system.

2) Administration by the Court

In this model, a special diversion officer may be employed by the court or a probation officer may serve the diversion intake role. In either case, the officers work closely under the supervision of the juvenile court judge. The court officer receives referrals from the police and possibly from other individuals and agencies. The officer conducts the diversion interviews and seeks out community programs and alternatives to which youngsters may be referred. An advisory board of professional and lay persons may help to decide alternatives and find resources.

Advantages include maximum supervision and accountability of the system by the court. The court can often provide staff support and allow for smooth integration of the program with the court process. The judge can monitor all aspects of the diversion program to insure the protection of the youngster's rights and the effectiveness of referrals. Such a program may serve several towns, so it may be more viable than police administered programs in rural areas. With a little imagination, it might be possible to combine districts through cooperation among judges and perhaps provide rotating supervision.

Perhaps the primary disadvantage of the court administered model is that the authoritarian relationship may adversely affect progress, and may tend to stigmatize the child. Additionally, the benefits of diversion may be lost through ongoing involvement and identification with the court.

3) Administration By Other Governmental Agencies

In this model, the diversion program may be set up through a local town or municipality with sanctioned authority through the court. These programs tend to be youth service bureaus, providing diversion as one of several program components. The staff are employees of the city and ultimate accountability lies with the town government.

Depending on the composition of the program and the personnel involved, this model may have the same strengths and weaknesses as court-administered programs.

If the program receives strong support from the court while operating distinctly separate from the court, its ability to deal with youth in a non-authoritarian manner may be enhanced. This type of program is also able to draw in a variety of youth with differing needs, so that the program is not associated solely with kids in trouble and can, therefore, be less stigmatizing.

Association with an established town government can also lend stability and support to a new program.

Problems can arise if the program lacks communication and continuity with the court. Efforts should be maintained to balance the relationship with the court.

Another difficulty may be the jurisdictional problems encountered when a program is attached to one particular town or city. Problems in ownership and accountability may develop if a program tries to cover a larger jurisdiction by incorporating its efforts with neighboring communities.

4) Administration by the Police Department

In this model, a juvenile officer usually handles diversion intake. The officer works with community members to develop programs, and may organize an advisory board of service providers and lay members. The officer conducts diversion interviews with children

and parents and makes service referrals to agencies or individuals. These may be volunteer or contract services.

Sometimes the police department may directly hire people to do counseling, run a restitution program and so on. Under this organization, referrals tend to come primarily from the police. Participation may be "voluntary" or petitions may be "held" to insure participation. Advantages of this organization include legal clarity and accountability. The juvenile officer has responsibility for reporting his or her decision and for following up cases and monitoring the results. This official system is perhaps more susceptible to the exertion of undue pressure, but at the same time, it is more open to evaluation by advocates of the rights of children and families. Funding and supervision of the program are clearly the responsibility of the police department. Police administered programs may also receive somewhat better supervision and monitoring from the courts because of the familiar lines of communication.

Disadvantages include the lessened likelihood that the services provided by the diversion program will be available to youngsters in trouble who might otherwise refer themselves but avoid the authoritarian image of the police department. And perhaps there is a somewhat greater chance that a stigma may be attached to participating in a program run by the police rather than by a citizen agency.

A program run by the police must be organizationally attached to one particular town or city. This restricts its ability to serve a region, unless the towns in the region might be willing to share in the funding of a juvenile officer. Otherwise, police administered programs will probably be limited to larger towns and cities.

The Diversion Committee

All of the foregoing models may include a diversion committee. Some committees, such as the Hanover Diversion Committee, (*See Chapter 6*), operate solely with volunteers. Other committees are coordinated by a paid diversion staff person. The committee is generally a group of between 6 and 12 members, usually appointed and approved by the judge. It includes in various mixtures, police officers, probation officers, school representatives, community mental health representatives, clergy, members of other professions serving children and lay citizens.

The committee meets regularly, or at the call of a Diversion Coordinator, to review individual cases and make recommendations as to the substance of diversion contracts. Some committees operate in a formal manner - interviewing the youngster and the parents, withdrawing to deliberate, and returning to present decisions which the youngsters and parents must then accept or reject (the consequence of rejection usually being the filing of the petition.) Other committees appear to operate more informally, offering suggestions to assist the diversion officer in working out contracts and serving as consultants to help locate needed resources. Sometimes members of the committee are given the responsibility of supervising the completion of the contracts and reporting the outcomes to the court.

The Diversion Committee is a powerful vehicle through which members of the community may learn about the problems of youngsters and come to their support. Members of the Committee can also serve as effective youth advocates within the community as a whole. The committee approach also conveys a message of community authority to youngsters and their parents. The process of being called in and interviewed by a group can be a harrowing one.

Whether the Diversion Committee turns out to be beneficial or harmful to the participants and to the social fabric of the community, probably depends on how it is run and the individuals involved. Whatever their form, diversion committees represent a very popular approach to Diversion in New Hampshire (*see Chapter 6*).

The Problems of Court Approval

RSA 169 requires that diversion programs be court approved. Exactly what that implies is

not yet clear. Does it mean approval of administrative procedures or approval of the substance of the diversion alternatives, or both? Can the court delegate the authority to approve programs to a court diversion officer? To a police diversion officer? To a citizen committee? What should be the criteria for approval of procedures and substance? Answers to these questions will have to be worked out as new diversion programs are developed and older ones face the tests of use.

It is important to note that upon closer examination of individual programs, these classifications are not always clear cut. Services, staff, purposes and decision making processes overlap as programs are administered.

The following section will present some of the service options to be considered in designing your program. The decisions about the level of service to be provided may be dictated by funding constraints or other factors. It is important to consider the services you want to emphasize in the context of a workable administrative framework.

SERVICE COMPONENTS

As highlighted previously, the issue of whether or not to provide services in diversion is muddled. There are purists in the field who maintain that diversion should mean only - steering a youth away from involvement with the court with no further action.

Practically speaking, diversion beyond counsel and release by the police usually involves some type of referral for service.

The following is a brief list of possible service options to consider in the design of a diversion project. It is important to keep in mind that the more restrictive a service is in terms of limiting a person's freedom, the greater the need for truly voluntary involvement.

1) Counseling

A. Individual Counseling. This may be provided by several kinds of helpers: By psychologists, guidance counselors, social workers, members of the clergy, etc. (If the community includes a university, students in appropriate human services courses may be utilized. As is the case in Durham District Court.)

Counseling may be combined with activities on the counselors' part that may be described as ombudsmanship or advocacy -helping the youngster to find a job, join clubs, or change his or her school program. Counselors may serve either for pay or as volunteers. The literature seems to suggest that individual counseling can be effective as an element in a diversion program, but that it needs to be relatively extensive in duration, not limited to a single session. [10]

B. Family Counseling. Some diversion programs have made the assumption that a youngster's problems may be related to problems in the family, and are not simply the youngster's responsibility alone. A logical intervention is to attempt to involve the entire family in counseling. The literature seems to show that this may be a useful diversion component if it is done intensively and by well trained counselors. [11]

C. Group Counseling. Group counseling or peer group counseling can be effective for particular types of youth if well structured and controlled.

2) Direct Consequences

A. Restitution. Restitution programs, which require youngsters to pay back the victim with money or services are well-established and popular. Some involve direct contact between the offender and the victim in the form of a personal apology. More commonly, the court or the diversion program specifies the restitution to be performed, the youngster performs it and the payment is transferred to the victim. Since many offenses may be thought of as crimes against the "community," restitution often takes the form of some well-defined community work or service.

B. Exposure to possible "ultimate consequences." On the theory that youngsters who engage in delinquent behavior may have no understanding of the severity of the ultimate consequence of being sent to an institution like the Youth Development Center,

some diversion programs have involved educational experiences such as the famous "Scared Straight" approaches, in which youngsters visit prisons and detention centers and talk with inmates about how it feels to be incarcerated. The literature suggests that such programs have few long-term effects and may possibly backfire by mixing fear of authority with emotional involvement where the youngsters may come to identify themselves with the inmates. [12]

3) Personal Support

Long-term involvement is represented by such programs as the Friends Program and Big Brother/Big Sister Programs. These programs match youngsters with adult members of the community who can serve as appropriate role models, friends and companions over long periods of time, to share activities and interests and take part together in community activities. These have achieved a great deal of popularity and probably rank next to restitution as frequent components of diversion programs. Successful programs create a focus for general community interest in young people, since businesses of all kinds can contribute to the activities in which youngsters and their adult friends can take part. Other, less structured, long-term sources of friendship and caring may be found in church groups or among concerned local business owners.

4) Activities

These serve the same purpose essentially as friendship organizations, but lack the central continuity of an individual attachment. Therefore, it may be more difficult for a youngster referred from a diversion program to catch on, become accepted and use the activity group as a source of personal support. These programs include young people's clubs, camps, the YMCA and YWCA, Boy Scouts, Outward Bound, and so forth. They may serve as important elements in diversion programs if their leaders devote some serious thought to ways in which the programs can be adapted to the needs and problems of youngsters who have recently been in trouble.

5) Special Educational Programs

Typically, youngsters in trouble with the law are also in trouble in school. Diversion programs which help to reanalyze and restructure a youngster's school program may be very useful. A very large proportion of youngsters at the Youth Development Center and inmates in the State Prison are victims of serious learning disabilities. Such disabilities, of course, do not account for delinquency, but appropriate and early educational help for them certainly would have made the lives of these people easier. Close cooperation between diversion workers and the schools can be a very important component of a community program. Similarly, vocational rehabilitation programs may offer useful diversion alternatives.

6) Family Social Services

Many young children in trouble come from disorganized and overstressed homes for whom community services are needed.

Beyond aiding families with the necessities of housing and food, communities might consider supplying such things as homemaker programs, respite care for small children and so on. Church groups are often a source of such support.

7) Medical Services

Alcohol, drug abuse and sexual counseling are important medical components that work most effectively in response to an individually identified problem.

8) Employment

A major problem for young people is lack of employment. For young people who have been in trouble with the law, the problems are often insurmountable. Some good training and counseling programs exist which are designed to help youngsters learn to get and hold jobs. If these are combined with community programs which encourage individuals and businesses to make jobs available on a trial basis, the combination may be an effec-

tive diversion component. Job seeking may grow in a natural way out of restitution programs.

9) Alternative Living

1. Short-term - low intensity. Some youngsters just need a place to live for a little while, while some aspect of their lives settles down.
2. Long-term - low intensity. Some youngsters need a place to live for an extended period. They, themselves, offer few problems, but for a period of time they have no family with whom to live.
3. Short-term - high intensity. Some youngsters need crisis placement in a setting with high structure, but not a locked setting. They may be passing through an acute emotional phase or awaiting the disposition of the court.
4. Long-term - high intensity. Some youngsters may need to be placed in highly structured, but non-secure, settings for long periods of time while they go through educational and treatment programs designed to help them deal with their problems and return to the community.

Low intensity alternative living situations such as host homes or group homes are much needed in a comprehensive community program. High intensity programs that require considerable funding probably need to be developed (or contracted) at the regional and state level. High intensity alternative living situations should probably be reserved as official dispositions of the court rather than diversion placements, since they seriously restrict freedom.

Many of these services, if established in a comprehensive manner, would go well beyond the concept of simple diversion. Some of these components may be well suited to your notion of diversion while others may not.

Care should be taken to clearly determine your population in need and their characteristics before deciding on the services you select to meet those needs. Your program should be tailored practically to the available resources in your community rather than solely to popular trends in programming.

Allow for flexibility in your program design so that changes can be made as the project evolves.

CHAPTER SUMMARY

Each community or region needs a wide range of alternatives from which a special mix can be provided for each youngster, ranging from the first offender, who most likely will never get into trouble with the law again, to the most sophisticated juvenile offender. According to the prevailing philosophy in diversion, the following are important factors in designing a program:

- To keep rehabilitation close to home;
- To try to avoid institutionalization and allow youth to maintain close contact with family, friends, and community;
- To involve juveniles in the development of their own consequences, giving them a sense that by participating in a diversion program they are repaying the community and earning reacceptance to it; and
- To encourage the involvement of volunteers to maximize community awareness of the problems of young people and to minimize the direct costs of dealing with youth in trouble.

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SUMMARY:

This chapter outlines the steps necessary to develop community involvement and support in the design and implementation of juvenile diversion programs.

The information presented here is a guide for program planners to identify an appropriate starting place, and to focus efforts aimed at establishing an effective diversion program. A quick reference checklist is also offered to help structure specific tasks and responsibilities.

4 HOW TO TAKE ACTION

The importance of taking adequate time to plan and develop your diversion program cannot be over-emphasized. Commitment of time and effort at the planning stage will pay off once your project gets off the ground.

Think carefully about how to approach the community. For example, how much publicity do you want your program to have? Most individuals involved with programs currently in operation indicate that high visibility in the community enhances support for their program. However, there are also a number of programs that rely on a low-key approach, with limited visibility in the community. The philosophy here is that the less public attention drawn to a population of kids in trouble, the better.

Choose your own strategic approach first. This will help dictate the level of community involvement and publicity you want to achieve.

Whatever your approach, it is important to gather the information necessary to support your efforts, and to develop a clear sense of what you want a diversion project to accomplish in your community.

The following outline of nine action steps is taken in part or in whole from the **Community Kit for the Development of a Juvenile Diversion Project**, compiled by the Office of the Solicitor General, Ottawa, Canada [13]. This section pulls together, from various sources handy tips, samples, and suggestions for the development of diversion in the local community.

Step 1. KNOW YOUR COMMUNITY

Becoming familiar with the criminal justice and social service operations in your community is the first step. The approach to juveniles in trouble in New Hampshire is not standardized. Each community may deal with its youth in different ways, reflecting the attitudes and personalities of the people involved, as well as the availability of community resources in the area.

The best starting point is to meet with those in law enforcement working with juveniles and the personnel serving youth in the social service agencies. Discuss the concept of diversion with them, see if diversion is an idea they have already explored. If your project is ever to get off the ground, you will need the assistance and cooperation of the people and resources already in place. They will be helpful in directing you to additional information sources about how to set up juvenile diversion programs and can direct you to the people who control decision-making processes in your community. Insuring the early involvement of these people and agencies in the start-up phase will help greatly in promoting community and individual citizen participation in your diversion project.

Attempt to determine the following pieces of information:

1. Historical data about police-juvenile contacts.

- How many youngsters per month/per year are arrested in the community?
- How many are referred to Court?
- How are they distributed by age and sex?
- What are the frequencies of different kinds of offenses?
- How many are counseled and released by the police?

- What are the characteristics of those who are typically counseled and released?
- What are the characteristics of youngsters who are petitioned to court?
- How many offenders return to court as recidivists?
- Is information available from which trends can be determined?
- How are juvenile cases being disposed of by the Court?
- What are the most frequent dispositional options used?
- How great is the need? i.e. How many youth do you expect your program to serve?

The purpose of this information is to provide a base from which to estimate the number of youngsters who would profit from new or improved diversion programs. Supporting information for this estimate may be obtained from court and police records. Interviews with police, probation officers and judges from throughout the County may help to provide a comprehensive base of information and ideas. School personnel are also excellent sources of information and ideas. All this, of course, needs to be done within the boundaries of confidentiality.

2. An inventory of existing, or potential providers of service.

- What community agencies already exist and what substantive services do they provide?
- Where are there gaps in services to youth?
- What individuals and agencies in the community could turn their talents to diversion programs if called upon to do so?
- How well do these resources already serve the needs of the community's youth?

3. What is the administrative organization of juvenile justice procedures currently in operation?

It would be instructive to try to conceptualize the workings of the existing system, showing how decisions are typically made and listing the criteria and considerations that enter into them. This can be done by interviewing the police, local lawyers, judges and probation officers. Where do log jams, pressure and frustrations typically arise?

It is also important to talk with youth who are involved with the juvenile justice system. Their perceptions of the system that they come in contact with are extremely important. What do they see as problems in that system? What do they see as the services that are being made available to them? How do they think their particular situation could have been handled better? From this information one can begin to get a picture of the juvenile justice operations in your area. Contact other agencies that might have information about juvenile delinquency.

Step 2. EVALUATING THE NEED

Based on the information collected, the next step is to identify the specific problem areas or types of offenses that youth are involved in that would lend themselves to being dealt with in a constructive manner outside the formal court process. If the evidence you have compiled suggests that there is a large segment of juveniles who do fall into a common group, whereby a specific type of alternative program may prove feasible and valuable to the court, then the need for a diversion project would appear likely. Specific questions to answer at this point are:

- What kinds of offenses could be dealt with in a less formalized manner?
- What type of youth can be dealt with in this manner?
- Does it appear likely that your community already offers the resources that can address this need? If not, what resources could be readily tapped?

After the need is clear, you are ready to develop specific goals and objectives of the diversion program model. A clear picture must be developed of the existing system, the alternative proposed, the differences between that which exists and the alternative, and the rationale for developing the alternative.

From here a diversion project model can be developed which highlights:

- The need for a juvenile project in the community;
- The rationale or philosophy upon which the project can be based;
- The present operation of the juvenile justice system;
- The alternative proposed, including the process from referral of the youth to completion of individually designed projects, components, and procedures necessary at each step of the diversion process;
- The difference between the proposed alternative and the present system;
- The relationship between the proposed project operation and the philosophy of the proposed project; and
- The benefits to be derived from an effective juvenile diversion program.

Step 3. COMMUNITY FEEDBACK

Now you are ready to take the diversion project model back to the community. Re-contact those people and organizations who you met with in your beginning step. Start with those personnel involved in the juvenile court process. Their support is crucial for this project to be a success. Next, contact the alternative and supportive agencies that deal with youth. The objective is to obtain feedback from these people in the following areas:

- Are the problems you identified significant to those concerned?
- Have you pinpointed a common concern?
- Are your expected results realistically tied to the solution proposed?
- Can these results be monitored?

With the information received from this feedback, take a look at your project outline. This is the time when you want to enlist some support from the people you have contacted in reworking this outline, tightening it up, and insuring that the project you propose will address what is identified by the people at large as the main concerns in the juvenile justice system. At this point, you should insure the support of individuals in the juvenile justice system, or other strong opinion makers in your community. Try to keep in mind that the diversion project is not your idea, but is your community's idea. Begin now to make sure that you have a wide base of support.

Step 4. FORMATION OF A STEERING COMMITTEE

The next step is the formation of a steering committee or similar organization. It is desirable to keep the number small. On the other hand, you want to make sure that you have representation from a diverse group within your community. It is best to have at least one representative from the juvenile justice system, but do not exclude schools, the Chamber of Commerce, business, civic groups, church groups, etc.

The committee should be a small working group with functions of:

- Keeping the criminal justice agencies in touch with the ongoing development of the diversion project.
- Re-examining the project outline, problem area, the problem source, and the proposed solution with specific attention to the potential difficulties that will be faced in implementing the diversion project.
- Defining the specific objectives of the program and identifying the target population to be served by the program.
- Estimating the number of juveniles who will go through the diversion process.
- Identifying possible sources of staff and needs. This may be volunteer or professional staff, either in administrative or service delivery roles, and will vary depending on what the ultimate design of your project is.
- Identifying sources of technical assistance. There are numerous other programs already in existence in the state, as well as other agencies or people who can provide support and information. (See Appendix 3)

- Locating potential funding sources and making initial contact to determine requirements, deadlines and scope of funding operation.
- Drafting the budget. Attempt to have someone on the steering committee who is familiar with budgeting and staffing requirements.
- Establishing guidelines for program monitoring. There has to be an effective means of measuring program performance in relation to objectives for any project to continue.
- Examining the possible forms the directing body for the project should take. For example, is the diversion project going to be aligned with the court as perhaps an operating unit within the court staff? Is the project going to be an off-shoot of an existing social service agency? Is the project going to be a non-profit corporation with its own charter and board of directors? Can the project be run entirely by volunteers, with an advisory board that determines policy?
- Writing a draft proposal. Whether you are seeking funding or not, there should be some written statement as to what your project is, how the project will perform, and what the goals and objectives of your project will be. This written statement is important for a clear identification of what you are about. It will aid in the dissemination of information regarding your efforts to the community and will be available to submit to agencies if potential funding sources can be identified.
- Calling a general meeting to introduce your program to the community.

Step 5. GENERAL MEETING

This provides a forum for an open discussion of the draft proposal. It is very important to do this exercise thoroughly, and provide adequate time to answer any questions from the community at large. This is important in insuring the favorable acceptance of your program by the community.

Remember, first impressions can be lasting impressions. In the initial presentation to the community, you want to be well prepared with a clear idea of what you are doing and why you are doing it. Active community involvement in the diversion process will directly relate to the community's understanding of the project.

Before the general meeting is held, it is important to thoroughly discuss the manner in which you want this meeting to be presented. A helpful idea is to have this meeting convened by the justice of your local court. Further, important decision-makers within your community should be enlisted for their support in making this general meeting a success. Adequate coverage by the press, the radio, or positive discussion within any other governing body of your community (the city council, board of selectmen, civic groups) is essential. This meeting should be convened in a location that is large enough to accommodate the people involved, but not so large as to dwarf the number attending and make the meeting seem smaller or less successful than it is. For example, if the local court can be used, it would serve as a reminder of what the meeting is all about and why people have been asked to attend.

A short, concise, yet thorough description of your proposed project should be available in a form that anyone could take with them. Displays or statistics that are available for a general lead-in discussion should be highly visible and easily understood.

Step 6. GOVERNING BOARD

Formation of a directing body can be an immediate result of the general meeting. After the issues and concerns surrounding the draft proposal have been discussed, decide on the role and structure of the directing body for the project. Then ask for nominations and elect members to this group. This might be an advisory committee to a court program, a board of directors of a non-profit organization or members of a volunteer diversion committee. The selection of this body should be made with an eye to the implementation and operation of the project and as such should have representation from juvenile justice agencies, social service agencies, and the general public.

Although the eventual role and form this group takes will depend upon the resources of the people within the individual communities, coupled with program and funding requirements, the following general functions can be outlined:

- Prepare the final proposal or program outline.
- Prepare the diversion project for implementation:
 - a. Identify specific tasks for the board;
 - b. Agree on individual responsibilities;
 - c. Maintain contact with funding sources;
 - d. Establish guidelines for program components;
 - e. Approve expenditure of funds; and
 - f. Maintain public relations with the juvenile justice system members and community at large.
- Selection of the program coordinator or director. Development of a job description, selection, recruitment, and discharge of employees are the board's responsibility. It is helpful to set up a system of reporting between the board and the director.

The directing board can include people who have access to resources needed for the project. The key is the early identification and involvement of these resources by project organizers, followed by their continued assistance on either a voluntary, part-time, or permanent basis to meet project needs. Community involvement will be enhanced if the community's resources are actively sought out during the project's developmental stage. The effective use of what already exists will also save the project money. Even more important than the saving of time and money are the benefits derived from active community participation. With community involvement through existing community resources, there will develop an increased public understanding of the diversion concept. This will help prevent duplication of services due to lack of interagency communication. It will further promote future project evolution.

Step 7. STAFFING

Staff design and requirements must be addressed in the planning stages of program development. The overall design is dependent on the program objectives, the method used to meet those objectives, and the available resources of the community.

First, look at the program objectives in terms of the quantity of services you are going to deliver over a given period of time. You will need a larger staff to work with 100 youth than if you only have to work with 50. Therefore, knowing the projected program service area as accurately as possible will allow you to project your staff needs. The second factor to take into consideration is how to work with these youth. If you are talking about a diversion program that offers the intense involvement of a professional counselor with the youth, you will have to either keep the number of clients on each caseload small or hire additional counselors, and watch the cost of service delivery.

The **Community Kit** from Canada suggests the following calculations for staff whose functions are: mediation, assessment of social situation, coordination, case supervision and follow-up.

Assumptions:

1. A full-time staff works 40 hours per week for 48 weeks of the year.
2. Average time spent by offender in project is 90 days.
3. Follow-up period after leaving the project is 6 months.
4. The activity is covered by at least one staff person, eight hours a day, five days a week.
5. Average time required for a mediation session is one hour.
6. Average time required for social assessment is three hours.
7. Average time to make a referral to another resource is 3/4 of an hour.

8. Estimated number of cases which will require referral is one-third of the cases processed.
9. Average time required for supervision of the diversion agreement is 1 1/2 hours.
10. Average time required for follow-up after an offender has left the project is two hours.
11. Average administrative and travel time for each case is 14 hours.
12. Project intake is estimated to be 100 clients per year.

Planning Calculations:

Time required to process one case is:

mediation	= 1 hr.
social assessment	= 3 hrs.
referral	= 0.25 hrs.
supervision of agreement	= 1.50 hrs.
follow-up	= 2 hrs.
administration and travel	= 14 hrs.
TOTAL	21.75 hrs.

Projected time required for 100 cases:
 $100 \times 21.75 = 2,175$ hrs.

Time available from one full-time staff:
 $8 \text{ hrs.} \times 5 \text{ days} \times 48 \text{ wks.} = 1,920$ hrs.

Staff required to process projected intake:
 $2,175 \text{ hrs.} / 1,920 \text{ hrs.} = 1.1$ staff persons
 = 1 full time staff
 = 1 part-time staff working 1/2 day a week.

This project as outlined will estimate the need for one full-time person and one part-time person working a total of two days per month.

The next factor is to determine how best to deliver these services with available resources. This can include borrowing personnel from cooperating community or juvenile justice agencies, student placements from colleges or universities, community volunteers, or staffing with funds raised by board members within the community.

Many communities at this point choose to maintain a small program, utilizing already existing resources. This is certainly a most cost-effective approach, and also the most beneficial in fulfilling your long-term goal of community involvement.

Step 8. FUNDING

After a project design has been completed, the question of funding may be the one that needs the most attention. Numerous programs exist in New Hampshire that utilize volunteers to a large degree. This offsets direct costs. Other programs are financed as part of existing court budgets and have proven their value to the judicial system.

The first place to look for funding of a new diversion project is within the community itself. With New Hampshire's long tradition of local rule, the best way to solve a community problem is within that community. A strong steering committee that represents many aspects of the community will have contacts with different local funding sources. Churches, civic groups, United Way, private and local foundations and/or interested patrons can form the nucleus of a strong community based financial support group. Some financial support may be gained through the court and business channels if there is evidence to support the need for your program.

When approaching funding sources, government or private, outside the community, it is important to remember that these agencies generally define their area of interest very specifically. The first task is to identify those agencies which appear to be consistent with the project objectives. If an effective program plan has been written, this can serve as the

basis for your funding proposal to state or private officials. As mentioned previously, this document would have clearly stated objectives and expected results, as well as a clear manner for measuring what has been accomplished. Do not fall into the trap of developing objectives based on a possible source of funds. This practice inevitably leads to future problems in the evaluation of your project.

Funding agencies not only differ in areas of interest, but they also differ in the types of funding they provide. If the project is in the developmental stage, organizers will generally be looking towards seed or demonstration funding. This could come from one agency or be shared by a number of agencies. Keep in mind that this type of funding is usually for a prescribed period of time, and other sources will eventually be needed. These sources of funding may be adequate for starting up your program, but you should be prepared to seek future funding from the local community. Municipal governments may give ongoing funding to projects which have demonstrated strong community support and effective services. In-kind support may also be available in the form of office space, office equipment, counseling services, recreational facilities, transportation, etc.

Step 9. PROJECT MONITORING AND EVALUATION

A final and very important step in the overall program development is the inclusion of a monitoring and evaluation component. One of the major criticisms of social services in the past has been the lack of internal monitoring and evaluation which results in an inability to evaluate what you have done. In fact, diversion programs in operation in the United States for approximately the last ten years have yielded very little data from which an accurate description can be made of what diversion is doing. A survey of all literature available that attempts to evaluate diversion programs has conflicting and often hard to understand results.

In order to know what it is that your program has accomplished, both for your own information and for your funding sources, a strong evaluation component is mandatory. For an information gathering and a monitoring process to be effective, they must be directly tied to your program objectives. There is very little point in gathering information and monitoring project activities if the "end product" of the process is not of benefit to your project operation.

During the program planning stage when concise and attainable objectives should be written, a method for evaluating progress in achieving those objectives should be implemented. This data will help you make future decisions about redesigning or modifying your program to attain improved results. The information can also be used to promote a broader understanding of the benefits that are derived from your diversion project.

The initial resistance to project monitoring and evaluation by some people in the social service field is a response to increased paperwork. Developing a clear system for data collection in the beginning will minimize paperwork later on. Project monitoring should be implemented at the beginning of your project, and its value should be clearly understood by all staff members.

Remember: Confidentiality is of major concern when working with youth in the juvenile justice system. Record keeping procedures should insure that confidentiality is maintained both in terms of information collected and its availability. (See *Legal Issues - Chapter 5.*)

Most information which is needed for record keeping purposes can be retained in a statistical format rather than by name, address and telephone number format. The benefits of an effective monitoring process are listed below.

1. Documentation of project operations, the number of clients, source of referrals, decisions made and the outcome of those decisions.
2. Maintain the consistency between project operations and objectives. Is what you are doing what you intended to do?
3. Future planning and program improvement. With an accurate record of its opera-

tions, it is much easier to recognize shifts in client flow or decision making and effectively adapt to it.

4. Consistent record keeping practices which can validate the methods by which you provide services to youth. Keeping records of whether a youth is placed in a restitution component rather than a counseling component allows measurement of effectiveness with certain types of youth and program components.
5. As a measure of cost effectiveness, your records can be used to compare your average cost with costs that might have been spent in providing services in the traditional juvenile justice model.
6. Follow-up on what happens to the youth you serve. Does the diversion project help them in their future dealings with the community at large?

Recommendations: Following are some specific suggestions to aid in the design of an evaluation component.

A. Keep good records. Over and above collecting evaluation information with respect to the goals of the project, the person in charge of organizing the evaluation should require all participants to maintain consistent records of their activities. A program policy concerning record keeping would be wise. Often one runs into interesting questions that could be answered by going through old records. Having good systematic information to go back to may be very useful later on.

B. Make use of generally-accepted measures where possible. Over the years, the reports of the New Hampshire Judicial Council have provided information about trends in various aspects of court operations. (See *Resource Listing in Appendix 3.*) A local program would be wise to make use of the same categories of information and build on them. Similarly, arrest information should build on the categories established by the **Uniform Crime Reports**. [14]

C. Start the evaluation from the initial information gathering. It would be very helpful to have some indicators of the operation such as frequencies of different kinds of juvenile petitions to court, which can be traced back over preceding years. Then it would be possible, as the new programs are started, to follow the trends in these indicators to assess the impact of the new programs.

D. Collect the opinions of the participants. A systematic calendar of interviews with a sample of all the participants provides useful information. Participants can also keep diaries and other records to support the interviews. Rating forms (in your opinion on a scale from 1-10) may be useful in systematizing and summarizing information from those interviewed. Before this kind of information is collected, there should be agreements and guidelines for confidentiality. This type of subjective data collection can be used in conjunction with some of the harder, more objective statistics.

E. Start the collection of some evaluative information immediately during the early stages of planning. This may make it possible to see needed changes as the program begins. Formulating evaluation questions in the initial planning stage will also help you to clarify program objectives.

F. Develop a regular procedure of monthly summaries. This will make the job of collecting yearly totals a manageable task. Develop ways to get the people involved in each component of the program together to discuss and generate ideas from the information collected each month. This will keep the program growing and make it easier to develop overall summaries for annual reports.

G. Review the information with a variety of audiences. Semi-annual or annual reports to the same groups of people who helped to design and support the project are important ways to maintain interest and collect reactions and new ideas.

H. Concentrate evaluation attention on critical points in the process. So much information can be collected that it may be necessary to choose just a few important points to examine. These may be identified in the flow chart for the program's administration.

Evaluative activities might be focused, for example, on the police officer's report, the end of the diversion interview, the termination of the diversion contract.

Depending on the type of diversion program you design, the information you might want to monitor will vary. A restitution program would be interested in knowing the types of offenses; the degree of client interaction with the victims of crimes; the "success" rate, perhaps as measured by victim satisfaction; the number of successful restitution projects completed by youth; the total number of dollars restored to victims of juvenile crime.

A counseling program, on the other hand, might want to monitor information based more on the progress of the youth and his or her social interaction with the community, i.e. progress at school, progress in interacting with his or her family, continued contacts with the law (recidivism), etc.

Following are some examples of the types of data you may want to collect as part of an evaluation component:

Purpose:

- To evaluate the effectiveness of the diversion program

Measurement:

- offense
- referral source
- prior police or court contacts
- age, sex, race of client
- school status: enrolled, drop-out, suspension, graduate, current grade level
- residence: county, town, city, village, unincorporated area
- type of service provided: restitution, counseling, volunteer friend, etc.
- subsequent contact with court*
- successful completion of diversion program (defining success and non-success in program development allows a yes/no answer)

*This can be an important measure in determining if diverted youth are or are not processed further through the juvenile justice process.

Purpose:

- To evaluate the behavioral change in individual youth

Measurement:

- police or court contacts before, during, and after participation in diversion program
- school attendance before, during, and after participation in diversion program
- school behavior: fights, suspensions, etc.
- work attendance if applicable
- family relationships (parental, sibling)

Measurement:

- To determine if the expectations of the youth, parents, and referral source were met?

- time lapse between referral and initial contact with youth by diversion staff
- self-report by youth and/or parents
- was youth advised of rights
- were youth and parents clearly told of program's purpose
- were responsibilities of youth, parent, and program clearly explained
- feedback from referral source
- victim feedback

Purpose:

- To determine cost effectiveness of diversion program

Measurement:

- number of youth served
- amount of time with individual youth
- other costs
- cost per youth

Care should be taken not to limit your data collection to any single piece of information. All too often evaluative information on diversion has relied solely on rearrest rates to determine the success of a program. Rearrest rates should be a component part of an evaluation, but should not serve as the only criterion by which success is measured. The reason for this is that a diversion program may be selecting only low-risk candidates, without considering less sure candidates who may need the program's services more than those who may have succeeded without the diversion alternative.

Consideration should be given to collecting additional subjective data such as attitude or behavior change on the part of the program's participants. Assessment of behavioral change might include follow-up interviews with the program's participants and parents.

CHECKLIST FOR PROGRAM DEVELOPMENT

This checklist is intended to provide a brief list of activities to be completed in planning for a diversion project.

DIVERSION PROGRAM DEVELOPMENT

PLANNING STEP 1: Know Your Community

Contact: Criminal justice system
Social service agencies
Youth

Collect: Data on youth in system

PLANNING STEP 2: Evaluating the Need

Identify: Types of offenses
Resources in your community
Goals you should address
Program design
Rationale and philosophy
Differences from existing system
Relationship with existing system

PLANNING STEP 3: Community Feedback

Check back with: Judge
Probation personnel
Police personnel
Social services
Key civic leaders
Youth

PLANNING STEP 4: Formation of a Steering Committee

Members: Juvenile justice
Chamber of Commerce
Business
Civic groups
Church groups
Women's groups
Social services

Other Functions: Define objectives
Identify staff needs
Locate technical assistance resources
Locate funding sources
Draft budget
Draft proposal
Program monitoring

PLANNING STEP 5: General Meeting

Preparation: Mailing list
Location
Handouts
Agenda
Visual props
Invite key people
Media coverage

PLANNING STEP 6: Governing Board

Functions: Structure (as above)
Final proposal
Identify tasks
Assign individual responsibilities
Contact funding sources
Staff guidelines
Program monitoring forms
Public relations

PLANNING STEP 7: Staffing

Start-up: Identify needs
Volunteer requirements
Job descriptions
Staff training
Hiring

PLANNING STEP 8: Funding

Sources: Community
State
Federal
Foundation
In-kind contribution

PLANNING STEP 9: Project Monitoring and Evaluation

Information: Quantify your objectives
Forms, i.e. intake, parental consent, case report, Waiver of Right to Counsel
Monthly reports
Year-end report
Cost effectiveness analysis

5 LEGAL CONSIDERATIONS

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SUMMARY:

This chapter presents major legal issues to be considered in the design of juvenile diversion programs. The emphasis is on the need to protect individual due process rights, with specific suggestions on how to avoid difficulties later on by using clear, written guidelines at the outset.

Again, it is not possible to present any single best approach or to answer every legal question. There is little case law to clarify these issues.

However, there is a general trend in juvenile law towards greater adherence to due process rights in juvenile proceedings, as evidenced by recent changes in New Hampshire's juvenile code.

We hope that these concerns can be balanced with the need to encourage and maintain innovative diversion options that are positive alternatives to formal court procedures.

LEGAL CONSIDERATIONS

5 LEGAL CONSIDERATIONS

INTRODUCTION

Diversion programs were developed in part as a way of maintaining the advantages of the "parens patriae" approach towards juveniles without infringing on constitutionally protected rights. (See Chapter 2.) Neither the United States nor the New Hampshire Supreme Court have set parameters for pre-adjudication procedures such as diversion. While we cannot predict with any certainty which practices will ultimately meet with court approval, we can say that courts have encouraged programs which tend to rehabilitate rather than punish. Those programs which are carefully designed to protect juveniles' rights and not unfairly infringe on their liberties will most likely be acceptable to the courts.

Designing a program to maximize the benefits to children, contain costs, and still protect children's rights need not be as difficult as it may sound. Concepts found in the **Fourteenth Amendment** such as "due process" or "equal protection" (See Section E) when applied to diversion programs really mean that children must be treated fairly and in a non-discriminatory manner. Procedures must be established to minimize the potential for abuse. Fortunately, programs that treat children fairly, provide procedures to rectify grievances, and motivate through positive reinforcement rather than coercion, not only meet constitutional mandates but also, we suspect, most effectively serve children.

In this Chapter we will present:

- A) Basic Guiding Principles
- B) Legal Considerations in Program Design
- C) Waiver of Legal Rights
- D) Checklist of Legal Safeguards
- E) Additional Reference Materials

Beyond the specific recommendations and information included, the most important advice may be to seek assistance from professionals familiar with diversion issues. Judges, probation officers, other court personnel, and local attorneys will probably be glad to volunteer their knowledge to help make the program a success. Having such individuals available as members of a board of directors or advisory board, or through less formal arrangements, may avoid problems you are likely to encounter in this area.

BASIC GUIDING PRINCIPLES

The basic principles below should help you to design a program which serves children and also protects their constitutional rights:

1. The child's right and ability to reenter the formal juvenile justice system should be maintained.

Diversion is a method of helping children by maximizing positive intervention and minimizing exposure to the formalized criminal justice system. It is not a method of circumventing procedures designed to protect a child's constitutional rights and should not be confused with the adult concept of "plea bargaining." At any stage in the diversion process, the child has the right to return to court for a formal adjudicatory hearing. The child must be made aware of that right, and to the extent possible, should be able to exercise that option without being disadvantaged for having attempted diversion.

2. Confidentiality should be maintained throughout.

The laws of New Hampshire require that juvenile proceedings remain confidential and private (RSA 169-B:34,35.) Diversion programs may inadvertently jeopardize confidentiality and stigmatize children by involving community volunteers who may be unaware of the privacy requirements. Training for those who participate in diversion programs should emphasize this point.

3. Juveniles should not be required to admit guilt in order to participate in diversion programs.

Most commentators discourage the practice of requiring juveniles to admit guilt to be eligible for diversion programs. To do so probably decreases the effectiveness of the program and may be illegal. If such an admission is required, at the very least counsel should be present and it should be inadmissible in any subsequent proceeding.

4. Diversion options should be non-punitive and should not restrict a child's liberty.

When individuals are subjected to punishment and/or loss of liberty, the Constitution requires strict procedural safeguards. Programs should avoid alternatives such as fines, humiliating experiences, and removal from the home. Restitution is generally acceptable but should be specifically related to the harm alleged to be committed to avoid the appearance of a punitive fine.

LEGAL CONSIDERATIONS IN PROGRAM DESIGN

It may be helpful to think about restrictions of liberty as a continuum, starting with no restrictions and running to mandatory constraints. At the least restrictive end, constitutional safeguards are of lesser concern. As we approach the more restrictive end, the Constitution mandates greater adherence to procedural guarantees until we reach, in effect, the formal juvenile justice system as we know it. Keeping that in mind, we will look at the legal ramifications of program decisions at various stages of intervention.

At What Stage Should Diversion Take Place?

1. *Prior to arrest* - Since juveniles not subject to arrest are similarly not subject to the juvenile justice process, it would be illogical for them to be diverted from it. Programs operating at the pre-arrest stage often consider themselves to be diversionary insofar as the youth may otherwise be more likely to end up in court. Such programs may be more appropriately defined as prevention rather than diversion, with an emphasis on preventing any involvement with the juvenile justice system. These programs may be effective and beneficial but should be careful not to place any restrictions on the child. It should be made clear throughout any discussions with the child that no negative consequences will result should (s)he refuse to participate or drop out.
2. *Post-arrest, prior to filing of delinquency petition* - New Hampshire law specifically allows juveniles who have been arrested to be diverted prior to the filing of a delinquency petition. In those cases where the police officer or probation department would not otherwise file such a petition, the diversion alternative should not be considered.

Most commentators feel that diversion at this stage is most effective and that many of the formal procedural safeguards are not mandated. It is probably not necessary to provide a lawyer for the child and it is probably permissible to file the petition should the diversion program prove unsuccessful. Police and probation officials should be careful to avoid abuses and can maintain the discretion and informality so essential to successful diversion programs by following certain basic principles:

- a. No coercion should be used to get the child to choose this alternative - no threats or scare stories about what may happen should the child refuse.
- b. The parents or guardians should be present and both the child and the parents should be informed that the child has a constitutional right to a fair adjudicatory hearing at any time (s)he so chooses.

- c. A child who requests a lawyer should be allowed to obtain one or have one appointed since such a request usually indicates a feeling of coercion or confusion about the process or the consequences of the decision.

- d. Expectations of the child choosing the diversion alternative should be specific and in writing.

3. *After the petition has been filed, prior to an adjudicatory hearing* - New Hampshire law also allows diversion to take place at this stage. It is somewhat less preferable than the previous alternative since the child has penetrated further into the process with little or no additional benefit. Recommendations for pre-petition diversion also apply here with the following exceptions:

- a. The child now has a constitutional right to counsel although (s)he may waive that right. Any such waiver should be knowing, intelligent, and voluntary.

- b. Should the diversion program fail, there is a difference of opinion as to whether the child may be brought back into court. Many commentators frown on doing so. Should the child be exposed to further court action, you should be particularly sensitive to the recommendations in question #4 below.

4. *Post-adjudicatory hearing* - If diversion occurs subsequent to adjudication, it is essentially a dispositional alternative. Because penetration into the juvenile justice system has occurred to the extent of court disposition, the benefits of diversion have largely been lost. There is now a record of delinquency, extensive involvement with the courts, and no reduction in cost to the system. Nevertheless, the court may still make use of the services and framework available through diversionary programs. Since the child has been afforded all the constitutional rights required, involvement in such programs need not be voluntary at this stage.

Who can be Diverted?

Diversion programs are aimed at those juveniles who would otherwise be subjected to the juvenile court process. The result should be decreased exposure of juveniles to courts and court personnel. Principles to keep in mind to avoid increasing formal contact with juveniles are:

1. Only those who would otherwise enter the formal juvenile justice system should be diverted. Diversion is a method of limiting contact with formal court procedures, not encouraging it. The Constitution requires that no restriction be placed on juveniles unless there is a reasonable belief that it is more likely than not that the youth committed the illegal act or acts.
2. Even when such a belief exists, police officers, probation officers, and judges often feel that a warning and release is most appropriate for a particular child. At any stage in the proceedings, when it is likely such an option would be chosen if no diversion alternatives existed, the child should not be diverted.
3. Participation should be limited to those children who volunteer.

Who is actually offered the diversion alternative?

The needs of your own community and what services you are best able and most willing to provide can best be determined locally. Those determinations will define your target population. Principles which will help you avoid arbitrary, discriminatory, or biased results include:

1. Determination of who shall be offered the opportunity to take part in diversion programs should be based on objective criteria.
2. Criteria should be written and available to juveniles along with their parents and attorneys.
3. Criteria should be limited to factors which relate to the availability of the appropriate resources and the likelihood of success in the diversion program.

Examples:

Unacceptable Criteria - Race, religion, national origin, family income, and sex (along with anything which might incidentally reflect those characteristics such as residential location.)

Acceptable Criteria - Nature and seriousness of offense, previous record, stability of family or home situation, availability of appropriate services, and previous experience with available programs.*

Criteria to Avoid - Subjective factors such as "attitude of the child" or "cooperation with authorities."

4. There should be a formal procedure of appeal and review for youths who are denied the diversion alternative. The appeal should be to an impartial body not directly involved in the original decision.

What are the consequences of completing or dropping out of the diversion program?

Once the child successfully complies with the requirements of the diversion program, (s)he should be subjected to no further court involvement. In those instances where the child fails to do so, matters become rather complex. Most of the court cases involving diversion programs in the future are expected to center around the consequences of such failures. Some programs have avoided potential complications by establishing procedures whereby those who are diverted may not be brought back into the formal juvenile process regardless of the outcome. Since the purpose of the program is to benefit the child, the threat of further court action may well be unnecessary. Other programs choose to maintain the right to pursue the court alternative should the diversion program prove unsuccessful. To the extent the child may be subjected to further court action, greater attention must be paid to the due process rights of the child.

The timing of diversion may be critical. Previous sections spoke of options available to diversion programs, police, and court authorities at various stages of the proceedings. To recap:

1. *Prior to arrest* - There is no right to place restrictions on a child at this point. Therefore, involvement in the program is voluntary and failure to continue may not result in further action.
2. *Between arrest and filing of petition* - It is probably permissible to file a petition following an unsuccessful attempt at diversion if procedures are fairly established and followed.
3. *Between filing and hearing* - Authorities split at this point. Some see the filing as a significant step, contending that since the formal court process has begun, diversion at this point should end that process for the child. Others see the filing as a less significant step and do not differentiate between this point and #2 above.
4. *After hearing* - Diversion at this point is actually a court disposition. As such, a child who fails to comply may be in contempt of court and liable to further court proceedings.

If the child may be returned to court following the failure to complete the diversion program between arrest and hearing, the following should be considered:

- a. *Written contract* - Prior to volunteering for diversion the child should be informed in writing if (s)he may be returned to court and under what conditions.
- b. *Time limitations* - Requirements should be objective, specific, and capable of completion in a relatively short time period. For instance, restitution to the victim or attendance at a specified number of counseling sessions are probably permissible. "Successful completion of a counseling program" is probably not.
- c. *No prejudice* - The child should not be adversely affected at any later stage for

having attempted diversion. It should not be used as an admission of guilt or an indication of bad character.

- d. *Formal review* - There should be a formal grievance procedure so that the child who feels (s)he complied or failed to do so for circumstances beyond his/her control has a chance to be heard. Review should be by an impartial and detached body, possibly the same one which reviews decisions not to offer diversion.
- e. *Right to counsel* - The greater the possibility of restriction of rights, the more important the involvement of counsel. This is particularly important where the petition has been filed.

WAIVER OF LEGAL RIGHTS

Once the juvenile charged with delinquency has been arraigned (**RSA 169-B:13** - See Appendix 5) or the juvenile alleged to be "in need of services" has made an initial appearance (**RSA 169-D:11**) certain legal rights attach. At that point children have the right to counsel and to an adjudicatory hearing within twenty-one or thirty days, depending on the offense alleged, and whether the child is detained in the interim (See **RSA 169-B:12 and 169-D:12** for right to counsel and **RSA 169-B:14 and 169-D:13** for the time limitations on hearings.) These rights may be waived by the juvenile, but any such waiver should follow strict procedural safeguards.

Waiver of Right to Counsel

New Hampshire **RSA's 169-B:12 and 169-D:12** set out conditions for waiver of counsel. They include:

1. For Delinquents - that the child be represented by a non-hostile parent, guardian, or custodian;
2. For Children in Need of Services - that the petition was not filed by the parent, guardian or custodian;
3. Both the child and the parent, guardian or custodian agree to the waiver;
4. In the court's opinion, the waiver is made competently, voluntarily and with a full understanding of the consequences; and
5. Detention does not occur at any point in the proceedings.

In the case of diversion programs where a child may be returned to court for failure to successfully comply with the conditions of diversion, problems may arise. The legal issues are complex and not clearly defined. Even with counsel, the child and parents may have difficulty understanding the consequences of the decision to attempt diversion. Where there is a possibility of a return to court, and where programs allow waiver of counsel, the following suggestions may be of assistance:

1. It may be preferable to have counsel present for the decision to waive counsel;
2. Extra care should be taken to insure that the child and parents understand the issues and possible consequences;
3. The child should be aware of the right to counsel at any point should he/she change his/her mind;
4. Should the child return to court following an unsuccessful attempt at diversion, counsel should be appointed; and
5. The child should not face detention in any subsequent proceeding on the same offense.

Waiver of Right to Speedy Trial

The statutory requirements of a hearing within specified periods of time are equivalent to the right to speedy trial for adults. As such, it may be waived by the juvenile. [15]

In those instances where diversion takes place after arraignment or initial appearance, and the child may be returned to court for failure to comply with the requirements of the diversion program, such a waiver may well be required. Obviously, the problem can be

avoided by diverting earlier in the process or by designing diversion alternatives that can be completed within the prescribed time periods. Where that is not the case, consider the following (some of which were mentioned earlier in the chapter):

1. Since the right to return a child to court should be limited to those diversion alternatives which are objective and of short duration, the waiver should be for a limited time period. Thirty days is often recommended.
2. If additional time is required, an additional waiver should be signed, again of short duration. The child should only be in this position when the additional time is for his/her benefit or is needed because of the child's behavior. Where the diversion option cannot be completed in the prescribed time period because of delays on the part of program personnel or other factors beyond the control of the child, additional waivers may be unfair to the child.
3. Where diversion options do not lend themselves to objective results and/or cannot be completed within relatively short time periods, the contract with the child may include only specific requirements. For instance, where long term counseling is indicated, the specific requirement to be fulfilled within thirty days may be attendance at two counseling sessions. Once completed, there would be no subsequent waivers and no right to return the child to court.

CHECKLIST OF LEGAL SAFEGUARDS

There is no simple categorization of the legal rights of juveniles, particularly in the diversion area. Common sense and attention to fair treatment will often be your best guide. Where decisions are made and steps taken where you may be in doubt, we recommend you ask yourself the following questions. If you can answer yes to all of them, you are probably on firm legal ground.

1. Are all decisions based on objective, written criteria?
2. Is there an impartial review process available to the child for any decision he/she may find unfavorable?
3. Is the decision to attempt diversion voluntary?
4. Is the child aware of the right to return to court for a fair adjudicatory hearing at any time?
5. Is the child aware of the right to counsel?
6. Is there a contract signed by the child and diversion personnel setting forth procedures, requirements, rules, and options?
7. Have all waivers of rights, where applicable, been obtained following proper procedures?

Where the child may be returned to court following failure to meet the requirements of the diversion program:

1. Are the requirements for successful completion:
 - a. clear
 - b. written
 - c. specific and objective, and
 - d. of limited duration?
2. Are the consequences of failure to complete the diversion program clearly written in the contract and understood by the child?
3. Is there a review of the termination decision available prior to further court action?
4. Have procedures been established to ensure that the child returning to court has not had his/her right to a fair adjudicatory hearing jeopardized by the attempt at diversion?

ADDITIONAL REFERENCE MATERIALS

This section is not comprehensive as the state of juvenile law is in flux. Rather this brief outline provides handy reference to some concepts dealt with previously in this chapter.

What Rights Are Guaranteed By The U.S. Constitution?

When we think of legal rights in the criminal context, the phrases that come to mind are "Due Process" and "Equal Protection." They are found in the **Fourteenth Amendment to the U.S. Constitution** which states in part, "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person within its jurisdiction the equal protection of the laws." Neither concept has been specifically defined. The Equal Protection concept is usually applied to prevent discrimination based on legally impermissible criteria such as race, religion or national origin or possibly sex, economic status, or age. Discrimination based on race, religion or national origin will probably not be allowed under any circumstances. In other areas the courts will look for valid reasons for differentiating between individuals. Due process is more difficult to address since it is a flexible and dynamic concept.

Other rights specifically mandated by the **U.S. Constitution** relevant to the design of a diversion program include:

1. Right against double jeopardy (**Fifth Amendment**)
2. Right against self-incrimination (**Fifth Amendment**)
3. Right to speedy trial (**Sixth Amendment**)
4. Right to notice of nature and cause of accusation (**Sixth Amendment**)
5. Right to cross-examine witnesses (**Sixth Amendment**)
6. Right to produce witnesses (**Sixth Amendment**)
7. Right to counsel (**Sixth Amendment**)
8. Right against excessive fines or cruel or unusual punishment (**Eighth Amendment**)

Recommendations from New Hampshire Court System Standards and Goals, New Hampshire Supreme Court, 1977.

Re: Juvenile Court Diversion Programs

The youth does not have to admit guilt in order to qualify for a diversion program.

The youth has the option at any stage to transfer the case to court and is so advised.

A specific time limit has been established after diversion beyond which no further prosecution can occur.

Juveniles have the right to appeal to the court the disposition and/or sanctions imposed by the diversionary committee.

The above are just recommendations and do not carry the weight of the law. Nevertheless, they are good indications of those areas where the New Hampshire Courts will be most sensitive to abuses.

Discussions of Legal Issues in Diversion: Perspective and Recommendations on Due Process in Juvenile Diversion.

(The following selected recommendations are taken from a technical assistance report on legal issues in diversion prepared for the Comprehensive Children and Youth Project under a technical assistance contract with the Office of Juvenile Justice and Delinquency Prevention by Arthur D. Little, Inc., Jack R. Shepherd, Consultant, January, 1981.)

EQUAL PROTECTION

Perspectives:

1. In general, there is a concern that without specific, uniform criteria for determining eligibility for diversion, there will be an excessive amount of discretion exercised in making this decision. Ultimately, this discretion may result in the introduction of "subjective perceptions and values" in making the diversion decision and discrimination.

2. While there is no specific case law in this area, it would appear that the **Fourteenth Amendment's** equal protection clause would apply to the diversion decision.

Recommendations:

1. There is a general consensus that diversion programs should have specific, standardized criteria for determining program eligibility.
2. It has been suggested that while legislatures should not specify eligibility criteria in statute, legislatures should require that agencies conducting diversion must specify eligibility criteria and how they are to be applied.
3. Eligibility criteria should be reviewed by other juvenile justice officials and by community agencies involved in the delivery of services to young people.
4. The youth's race, sex, ethnic background, religion and economic status should not be factors considered in the decision to divert.
5. Factors which can be considered in the decision to divert include:
 - a. seriousness of the offense
 - b. nature and number of prior juvenile justice contacts
 - c. circumstances around the alleged conduct
 - d. the youth's age and maturity
 - e. school attendance and behavior
 - f. family situation
 - g. opposition of the complainant to diversion
 - h. availability of appropriate services
 - i. needs of the child
 - j. the presence of high risk situations.
6. Finally, it has been suggested that all of the above criteria may be impermissible if they are not actually related to the potential for rehabilitation.

SELF-INCRIMINATION

Perspectives:

1. In general, there is concern that statements made by a youth during a diversion conference may be used against him/her in the event that there is a formal court hearing.
2. While the youth may be protected from incriminating statements by having the right to remain silent, this will only serve to inhibit the kind of discussion necessary for the accomplishment of the treatment goals of diversion.
3. Absent state laws to the contrary, statements made during an inquiry or diversion conference may be introduced as evidence in a later court hearing. This is a result of a lack of case law addressing this issue. However, there is precedent in certain lower court decisions to extend *Miranda* to juveniles (it must be remembered that *Gault* only applied to the adjudicatory stage.) There is also a lower court decision stating that a waiver of the *Miranda* rights must be intelligent and voluntary.

Recommendations:

1. Juveniles should be given the privilege against self-incrimination at the intake stage and waiver of this privilege should only be allowed after consultation with counsel and in counsel's presence.
2. Statements made by the youth at the diversion conference should not be allowed as evidence in a later court hearing.
3. Youth should have the right to remain silent during the diversion conference.

DOUBLE JEOPARDY

Perspectives:

1. Double jeopardy becomes an issue primarily when the complaint is dismissed on a

conditional basis (i.e., the complaint is held until the youth meets specific requirements outlined in the diversion agreement. If those requirements are not met, the youth may be referred to court for a formal hearing.) The concern is that holding the complaint may permit excessive coercive influence to be exerted over the youth for the duration of the agreement. Such a situation may amount to little more than probation without an adjudication. It has also been argued that the diversion decision amounts to a disposition and that to re-initiate the complaint amounts to double jeopardy.

2. It appears that the above situation does not constitute a constitutional violation of the protection against double jeopardy since it applies only after the petition has been filed and the adjudicatory hearing has begun.
3. It may be that not permitting conditional dismissals will discourage the use of nonjudicial dispositions.
4. Police do not have the authority to conditionally dismiss a complaint since this would constitute the exercise of informal probation which is beyond the authority of law enforcement officials.
5. There is a danger that when a law enforcement official diverts a youth without a record of the contact and disposition, that the officer may later file a complaint on the original offense. Without the written record, there is no way to show that diversion had actually taken place.

Recommendations:

1. Conditional dismissals should not be permitted.
2. Compliance with the diversion agreement must result in a dismissal of the petition.
3. Compliance with the diversion agreement "should be an affirmative defense" to the charges should the petition be re-initiated.
4. Law enforcement officials should not be permitted to conditionally dismiss complaints.

APPEAL AND REVIEW

Perspectives:

1. Appeal and review refers to the need to have a system of checks and balances on the decisions made in connection with diversion, particularly in relation to the decision to terminate the diversion agreement and re-initiate the complaint. Appeal and review is considered particularly important in diversion since much of the decision making is made by administrative bodies where there is little protection for due process and the decisions are hidden from public view.
2. Courts are increasingly finding that due process requirements must be met in administrative decisions that have a substantial impact on the individual. It seems reasonable that the decision to divert or terminate a diversion agreement are such decisions.
3. Review of the intake disposition by the prosecuting attorney may be necessary to protect the community against unwarranted dismissals and to assure that all petitions are based on legally sufficient complaints.
4. There is precedent for due process in termination of the diversion agreement in the Supreme Court finding of *Gillard v. Cook*. Here the court found that a formal hearing must be held in cases of the revocation of a juvenile's probation or parole status.

Recommendations:

1. All intake dispositions should be reviewed by a prosecuting attorney.
2. All the essential ingredients of due process should be provided in a formal hearing to decide on the termination of a diversion agreement.

RIGHTS OF THE COMPLAINANT

Perspectives:

1. At issue is the right of the complainant to force a judicial disposition where diversion has been recommended.

2. It has been noted that in adult cases the complainant has no such right.
3. Juvenile court does not exist to secure personal vindication but to rehabilitate the young offender.

Recommendations:

1. The complainant does not have the right to force a judicial disposition.
2. The objections of the complainant should be considered by the prosecuting attorney in making his/her decision.

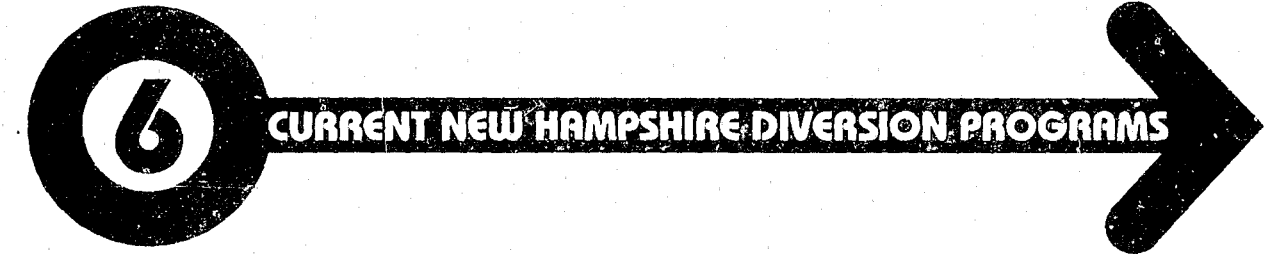
PARENT V. YOUTH

Perspectives:

1. At issue is a conflict between a youth and his/her parent(s) concerning their desires for a formal v. informal disposition. This issue becomes particularly complex when the complaint was filed by the youth's parent(s).
2. There is precedent for the court to act in the best interest of the child even when it conflicts with the desires of the parents. And, in fact, juveniles have individual rights separate from their parents under the **Bill of Rights**.

Recommendations:

- a. The possibility of diversion should not be eliminated simply because of the objections of the youth's parents.



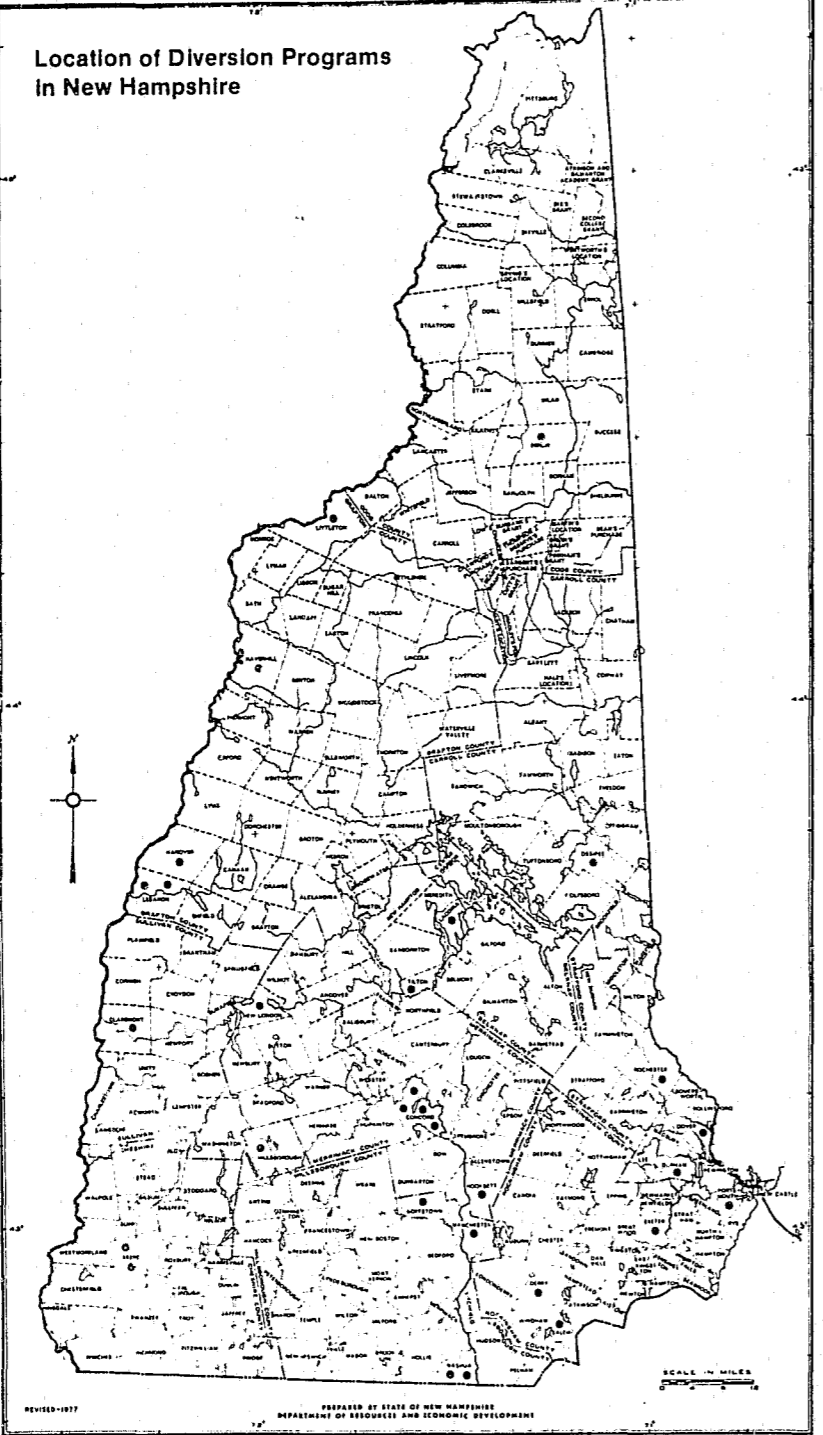
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SUMMARY:

This chapter provides a brief description of diversion programs currently operating in New Hampshire, listed alphabetically by county. A reference map indicates the location of programs statewide. The second chart provides a quick reference to basic program information. The individual program listing provide more detail on their operations, staffing and funding. Contact persons and phone numbers for further information are listed with each.



CURRENT NEW HAMPSHIRE DIVERSION PROGRAMS



NEW HAMPSHIRE DIVERSION PROGRAMS

COUNTY	NAME OF PROGRAM	CONTACT PERSON	ADDRESS	AGENCY AFFILIATION	SERVICES
Belknap	LACONIA YOUTH SERVICES BUREAU	Carolyn Wagner, Diversion Coordinator	306 Union Avenue Laconia, NH 03246 524-9457	Court	Citizen review committee, restitution, behavior contract with youth
Belknap/ Merrimack	YOUTH ASSISTANCE PROGRAM OF NORTH-FIELD, SANBORNTON & TILTON, INC.	Peter Michaud, Director	1 School Street Tilton, NH 03276 286-8577	Private non-profit	Counseling and adult companionship
Carroll	OSSIPEE DIVERSION PROGRAM	Jim Harbison, Chairperson	P.O. Box 103 Center Ossipee, NH 03814 539-6247	Court	All volunteer committee, behavior contract with youth
Cheshire	KEENE BIG BROTHER/ BIG SISTER OF THE MONADNOCK REGION	Larry Levine, Director	82 Main Street Keene, NH 03431 352-9536	Private non-profit	Adult companionship
Cheshire	KEENE DISTRICT COURT JUVENILE CONFERENCE COMMITTEE	Dana Zucker, Coordinator	Box 364 Keene, NH 03431 357-3309	Court	Citizen review committee, behavior contract with youth
44 Coos	BERLIN COURT DIVERSION COMMITTEE	Nan Piccolo, Coordinator	135 Green Street Berlin, NH 03570 752-3133	Court	Citizen review committee, behavior contract with youth
Grafton	HANOVER COURT DIVERSION COMMITTEE	Murray Washburn, Chairperson	39 South Main Street Hanover, NH 03755 643-2345	Court	Citizen review committee, behavior contract with youth
Grafton	HAVERHILL JUVENILE COURT DIVERSION PROGRAM	Chief Stephen Savage	Municipal Building Woodsville, NH 03785 747-2811	Court	Citizen Review Committee, work assignment for youth
Grafton	LEBANON COURT DIVERSION COMMITTEE	Sgt. James Dutile	Lebanon Police Dept. 55 North Park Street Lebanon, NH 03766 448-1212	Police Department	Citizen review committee, behavior contract with youth
Grafton	LITTLETON DISTRICT COURT DIVERSION PROGRAM	Charles Ricardi, Case Manager	Littleton District Court Main Street Littleton, NH 03561 444-7750	Court	Citizen review committee, behavior contract with youth
Grafton	UPPER VALLEY YOUTH SERVICES	Peter Tenenbaum, Executive Director	127 Mascoma Street Lebanon, NH 03766 448-4792	Prive non-profit	Counseling, placement in foster care

Hillsborough	GOFFSTOWN DISTRICT COURT DIVERSION COMMITTEE	Linda King, Diversion Coordinator	16 Main Street Goffstown, NH 03045 497-2597	Court Probation Department	Citizen review committee, behavior contract with youth
Hillsborough	HILLSBOROUGH OFFICE OF YOUTH SERVICES	Gary Wall, Director	School Street Hillsborough, NH 03244 464-5779	Town government	Citizen review committee, behavior contract with youth
Hillsborough	CITY OF MANCHESTER OFFICE OF YOUTH SERVICES	David A. Bundy, Director	24 Pleasant Street Manchester, NH 03101 669-5358	City government	Counseling, restitution, adult companionship
Hillsborough	NASHUA DISTRICT COURT INTAKE PROGRAM	Peter Howatt, Chief Probation Officer	Department of Probation Walnut Street Oval Nashua, NH 03061 880-3330	Court Probation Department	Referral to youth agencies, counseling, restitution
Hillsborough	NASHUA YOUTH COUNCIL, INC.	Bob Maloney, Administrative Director	221 Main Street Nashua, NH 03060 889-1090	Private non-profit	Diagnostic evaluation, counseling, therapy
Merrimack	CENTRAL NEW HAMPSHIRE MENTAL HEALTH SERVICES, INC.	Michael Vanaskie, Consultant	5 Market Lane Concord, NH 03301 228-1551	Private non-profit	Diagnostic evaluation, counseling, crisis intervention
Merrimack	CONCORD DISTRICT COURT DIVERSION PROGRAM	Marcia Flynn, Chief Probation Officer	15 Green Street Concord, NH 03301 225-2061	Court Probation Department	Supervision, restitution
Merrimack	FRIENDS PROGRAM, INC.	Thomas Avallone, Director	P.O. Box.1331 249 Pleasant Street Concord, NH 03301 228-1193	Private non-profit	Counseling, adult companionship, recreation
Merrimack	HOOKSETT YOUTH SERVICE OFFICE	Joan Bishop, Youth Service Officer	Hooksett District Court Hooksett, NH 03106 485-9482	Court	Referral to youth agencies
Merrimack/ Rockingham	MEDIATION PROGRAM	Felicity Lavelle, Director	88 North Main Street Concord, NH 03301 224-8043	Private non-profit	Mediation of family/ neighborhood disputes, restitution
Merrimack	NEW LONDON JUVENILE DIVERSION COMMITTEE	Jon Barselle, Chairperson	c/o Colby Insurance Agency Newport Road New London, NH 03257 526-2451	Court	All volunteer committee, counseling, restitution, agency referral
Rockingham	COURT SERVICES DIVISION	Brad Mulhearn, Court Services Officer	Salem District Court 19 Main Street Salem, NH 03079 898-9401	Court	Counseling, foster placement, referrals

Rockingham	DERRY AREA COURT DIVERSION PROGRAM	Brian Dennis, Probation Officer	Derry Probation Dept. 29 West Broadway Street Derry, NH 03038 432-7780	Court	Counseling, referrals, restitution
Rockingham	JUVENILE COURT DIVERSION CONTRACT	Robert Mello, Youth Services Officer	Youth Services Division Portsmouth Police Dept. 28 Penhallow Street Portsmouth, NH 03801 436-1231	Police department	Supervision, behavior contract with youth
Strafford	DOVER DIVERSION PROGRAM	Keith E. Bates, Coordinator	Dover Youth Resources 90 Washington Street Room 7 Dover, NH 03820 749-2677	Private non-profit	Counseling, job assis- tance, restitution, adult companionship
Strafford	DURHAM DISTRICT COURT DIVERSION PROJECT	Raymond Bilodeau, Probation Officer	Main Street Durham, NH 03824 868-2323	Court	Adult companionship, tutoring
Strafford	ROCHESTER DIVERSION PROGRAM	Anne May, Coordinator	58 Hanson Street Rochester, NH 03867 332-4120	City government	Citizen review committee, behavior contract with youth, restitution
45 Sullivan	COMMUNITY YOUTH ADVOCATES, INC.	Leslie R. Clough, Director	36 Tremont Square Claremont, NH 03743 543-0427	Private non-profit	Citizen review com- mittee, counseling, adult companionship, job assistance, restitution

Belknap County

LACONIA YOUTH SERVICES BUREAU

306 Union Avenue
Laconia, New Hampshire 03246
(603) 524-9457
Contact Person: Carolyn Wagner, Diversion Coordinator

BASIC DESCRIPTION:

The Laconia Youth Services Bureau was originally funded in 1978 under the sponsorship of the City of Laconia. The program is currently funded by the City of Laconia and the surrounding towns of Gilford, Belmont and Meredith. Participation is limited to referrals from the supporting communities. Project objectives emphasize accountability for one's actions. This is accomplished through the development of behavioral contracts for each youth. Program services include diversion, restitution, community work, counseling and referral.

YOUTH POPULATION SERVED:

Since 1978, the Diversion Program has served approximately 140 youths, 11-18 years of age. The program serves primarily non-violent, first-time offenders.

STAFF:

Diversion Coordinator: Responsible for administrative duties, resource development, community relations and caseload responsibilities.
Diversion Caseworker: Responsible for interviewing, securing background information and preparing oral and written reports for the Diversion Committee on juvenile referrals.
Secretary: Responsible for maintaining office records and providing administrative support.

VOLUNTEERS:

The Bureau involves approximately 40 volunteers representing professional and lay people from Laconia, Gilford, Belmont and Meredith for the Diversion Committee and the eight-member Board of Directors. Diversion Committee members meet in groups of three to five, on a rotating basis, two to three times a month. These groups hear juvenile cases presented by program staff, and make their recommendations for diversion. The Board of Directors meet monthly to discuss policy direction and related issues.

FUNDING:

The proposed budget for 1981 is \$40,315. The breakdown of funding sources is as follows: City of Laconia - \$15,000; N.H. Crime Commission - \$7,958; and Belmont, Gilford, Meredith, other sources - \$17,357. Next year, the Bureau is expected to rely on 100 percent funding from the local communities.

STATISTICS:

The recidivism rate for the program thus far is 2.5 percent; that is, 1 out of 140 who have completed contracts has been charged with another offense.

7/1/81

Belknap/Merrimack County

THE YOUTH ASSISTANCE PROGRAM OF NORTHFIELD, SANBORNTON & TILTON

1 School Street
Tilton, New Hampshire 03276
(603) 286-8577
Contact Person: Peter Michaud, Director

BASIC DESCRIPTION:

The Youth Assistance Program of Northfield, Sanbornton and Tilton was established in 1975 under a six-month grant to the Town of Tilton from the Governor's Commission on Crime and Delinquency. The program is currently sponsored by and serves the towns of Northfield, Sanbornton and Tilton. Diversion program objectives include: family involvement in the diversion process, restitution, and prevention. Objectives are met through such means as school improvement contracts, monetary restitution and curfews. Other services available at the Youth Assistance Program which add to the diversion component are a Big Brother/Big Sister type volunteer program, crisis homes, counseling, referrals and life skills assistance for youth and parents.

YOUTH POPULATION SERVED:

Since its inception, the program has served 239 youths (133 males -106 females), 9-17 years of age. The program serves first-time, non-violent, juvenile offenders. Cases are usually referred by the police before reaching the courts, but may also be court-ordered referrals.

STAFF:

Director: Responsible for administration, budgeting, providing programmatic information to the community, and adding new components to the program. Also has direct service caseload and short-term counseling responsibilities.
Assistant Director: Responsible for maintaining office records and a resource library, performing general office duties, short-term counseling, and coordinating a youth group.

VOLUNTEERS:

The 14-member Board of Directors and the 20-member Juvenile Review Board represent professional and lay persons from Tilton, Northfield, and Sanbornton. The Board of Directors meet once a month to discuss legal issues, staff direction, budget concerns, and related issues in its role as general overseer of the program. The Juvenile Review Board meets whenever the need arises. Four members are called on a rotating basis to review each case with the juvenile and his/her parents, draw up the diversion contract, and develop follow-up programs. Cases are presented to the Review Board members by program staff.

FUNDING:

The 1981 budget is \$28,941.53, funded 100 percent by the sponsoring towns. Approximately \$25,000 represents direct service costs and \$3,000 administrative costs.

7/1/81

Carroll County

OSSIPEE DIVERSION PROGRAM

Ossipee District Court
P.O. Box 103
Center Ossipee, New Hampshire 03814
(603) 539-6247
Contact Person: Jim Harbison, Chairperson

BASIC DESCRIPTION:

Started in 1976, the Ossipee Diversion Program is sponsored by and serves youth in the Ossipee District Court jurisdiction: Ossipee, Tamworth, Effingham, Freedom and Wakefield. The object of the program is to develop a disposition of logical consequences which, if successfully completed by the youth, will reduce the likelihood that he/she will be involved in subsequent or more serious offenses. This is accomplished by drawing up "reconstructive prescriptions" for each juvenile's self-image and goals with a treatment plan to fit the youth's particular situation (taking into consideration offense, attitude, family and victim.) The diversion program usually provides community work carefully tailored to the delinquent offense and follow-up.

YOUTH POPULATION SERVED:

The Ossipee Diversion Program has served a total of 50 youths (30 males - 20 females), 11-18 years of age since the program began. Participants' eligibility policy is flexible, but the youth must admit guilt. The program serves primarily first offenders, but takes some subsequent offenders.

STAFF:

No paid staff.

VOLUNTEERS:

The Ossipee Diversion Program operates two Diversion Committees with three or four volunteer members on each. Committee members reside in the Ossipee District Court jurisdiction, and convene when needed to evaluate a juvenile and produce a "reconstructive prescription" for the juvenile. The youth must explain his/her illegal behavior to the Committee. The Committee has the right to question the youth and parents about the offense, involvement in the offense and other aspects of the youth's life that may have had a causal relationship to the offense in question. Once the agreement is prepared, a Committee member from the juvenile's home town performs follow-up duties.

FUNDING:

None. All volunteer program.

ADDITIONAL INFORMATION:

The Diversion Committee actively seeks community work programs for a juvenile which parallel his/her original offense. For example, a juvenile arrested for DWI may be required to work with the rescue squad for a period of time so that the juvenile is made aware of the possible consequences of such behavior.

7/1/81

Cheshire County

KEENE BIG BROTHER/BIG SISTER OF THE MONADNOCK REGION

82 Main Street
Keene, New Hampshire 03431
(603) 352-9536
Contact Person: Larry Levine, Director

BASIC DESCRIPTION:

The Keene Big Brother/Big Sister Program, a private non-profit organization, was incorporated in 1975 to serve Cheshire County and the town of Peterborough. The program's primary objective is prevention. Services offered include diversion, evaluation, one-to-one youth-adult matches, group activities and a summer program.

YOUTH POPULATION SERVED:

The program has served approximately 250 youth, 7-16 years of age, since its inception. To be eligible, there must be some evident need for a positive adult role model. Referrals are made by the Keene District Court Juvenile Conference Committee, schools, welfare, parents and self.

STAFF:

Executive Director
Administrative Assistant
Half-time Outreach Worker

The responsibilities of the program staff are: Evaluation, interviewing, volunteer orientation, adult/youth match monitoring, extra-curricular youth activities, and program operation.

VOLUNTEERS:

The Keene Big Brother/Big Sister Program currently utilizes approximately 56 adult volunteers for youth-adult matches. In addition, the program is governed by a volunteer Board of Directors representing professional and lay people from the service community.

FUNDING:

The Big Brother/Big Sister Program has an operating budget of \$50,000, funded by the United Way, City of Keene, Town of Peterborough, private donations, and miscellaneous fundraising activities.

7/1/81

KEENE DISTRICT COURT JUVENILE CONFERENCE COMMITTEE

Box 364
Keene, New Hampshire 03431
(603) 357-3309
Contact Person: Dana Zucker, Coordinator

BASIC DESCRIPTION:

The Keene District Court Juvenile Conference Committee was established in 1973 under court sponsorship to serve the jurisdiction of the Keene District Court. (Keene, Stoddard, W. Milan, Surrey, Gilsum, Sullivan, Nelson, Roxbury, Marlowe, Swanzey, Marlborough, Winchester, Richmond, Harrisville, Walpole, Alstead, Chesterfield). The object of the program is to provide accountability for actions through such means as restitution, referrals and school behavior contracts. Program services entail counseling, referral and a youth employment program.

YOUTH POPULATION SERVED:

The Juvenile Conference Committee serves approximately 100 youths per year (75% males - 25% females), 9-18 years of age. Non-violent offenders who have not been charged with the use/possession of weapons or with multiple unrelated offenses are eligible. A guilty plea is not required; but the youth must choose to be diverted rather than proceed to Court, and must accept moral responsibility for his/her actions. Receptiveness to help and parental cooperation are important considerations.

STAFF:

Juvenile Coordinator: Responsible for screening, investigating and scheduling all cases, and for preparing oral reports with written documentation to the Committee. The Coordinator is also in charge of counseling, supervision, recruitment and selection of Committee members, record keeping, collection and disbursement of restitution payments, and client follow-up.

VOLUNTEERS:

The 12-member Juvenile Conference Committee consists of professional and lay people - six of whom must reside in Keene and six of whom are selected from the surrounding communities. All members are working in some capacity with other youth service or social service agencies within the community. The Committee convenes once a week to meet with each juvenile referral and his/her parents to develop its recommendations for diversion.

FUNDING:

The Fiscal Year 1980 budget for the Committee totalled \$16,577 of local and New Hampshire Crime Commission funds. Of this, \$15,207 went to direct services and \$1,550 covered administrative costs.

7/1/81

BERLIN COURT DIVERSION COMMITTEE

135 Green Street
Berlin, New Hampshire 03570
(603) 752-3133
Contact Person: Nan Piccolo, Coordinator

BASIC DESCRIPTION:

The Berlin Court Diversion Committee, sponsored by the Berlin District Court, was established in May, 1980 and has been funded with paid staff since March, 1981 to serve the towns under the Court's jurisdiction: Berlin, Milan, Dummer and Colebrook. The program objective is to divert appropriate youths from court involvement and to help the youth re-evaluate his/her social behavior. Program services include counseling, work programs and referrals.

YOUTH POPULATION SERVED:

Since its inception, the Diversion Committee has served 43 youths, 13-16 years of age. The program is geared to first-time, non-violent offenders. Acceptance of diversion by both the juvenile, his/her parent and the Committee assumes guilt, but preserves the juvenile's fifth amendment privilege against self-incrimination. A consent form must be signed by the juvenile and his/her parents(s) or guardian(s) before the Diversion Committee will consider the case.

STAFF:

Program Coordinator: Responsible for screening potential diversion candidates, making formal oral and written presentations to the Diversion Committee, providing follow-up, administering the program, and developing community resources.

VOLUNTEERS:

Two Diversion Committees, of six members each, meet weekly to interview each juvenile and his/her parent(s) in the process of developing written recommendations for each juvenile's diversion agreement. Committee members are approved by the Judge, and must make a commitment to serve one year.

FUNDING:

The Berlin Court Diversion Committee began as a non-funded, volunteer program operated by the Court and the Berlin Police Department. The program received its first nine months' funding for a full-time staff person from the Comprehensive Children and Youth Project in the amount of \$15,000. Of that, \$13,050 has been budgeted for direct services and \$1,950 for administrative costs.

7/1/81

HANOVER COURT DIVERSION COMMITTEE

P.O. Box 622
39 South Main Street
Hanover, New Hampshire 03755
(603) 643-2345
Contact Person: Murray Washburn, Chairperson

BASIC DESCRIPTION:

The Hanover Court Diversion Committee, sponsored jointly by the Hanover District Court and the Hanover Police Department, was established in 1976 to serve the towns of Hanover, Lyme and Norwich. Program objectives include prevention and restitution. An important component is the emphasis made to develop the diversion contract in a way that ties it in with the original offense. Program services include: agency referrals, work programs in cooperation with the school, the Public Works Department, and certain community service programs serving the elderly and the underprivileged.

YOUTH POPULATION SERVED:

Since its inception, the Diversion Committee has served approximately 250 youths, 10-17 years of age. Only first-time, minor offenders are eligible to participate. Generally, the juvenile must commit him/herself to some positive work action. Usually, a supervisor from outside the Committee is assigned to work with the youth during the course of the program, and the supervisor reports back to the Committee on the youth's attitude and performance during the program. In addition, the youth is required to turn in a written account of his/her experience to the Committee.

STAFF:

There is no paid staff.

VOLUNTEERS:

The Hanover Court Diversion Committee, composed of lay people from Norwich, Lyme, and Hanover, convenes every two weeks to meet with each juvenile referred and his/her parents. Committee members discuss alternatives for the youth's program; develop a written contract between the Committee and the youth; determine the youth's discharge status (satisfactory/unsatisfactory) upon completion of the contract; and make reports back to the Police Department.

FUNDING:

The total expense for the Diversion Committee is \$62, paid by the Town of Hanover, for a Workman's Compensation Insurance rider. This rider protects the town from any potential liability should a diversion participant be injured while performing work required under the terms of a diversion contract.

7/1/81

HVERHILL JUVENILE COURT DIVERSION PROGRAM

Municipal Building
Woodsville, New Hampshire 03785
(603) 747-2811
Contact Person: Chief Stephen Savage

BASIC DESCRIPTION:

The Haverhill Juvenile Court Diversion Program is sponsored by the District Court and serves the towns of that jurisdiction: Piermont, Warren, Haverhill, Bath and Benton. This program was established in 1979 with the goal of reducing recidivism of juveniles brought before the court for minor first offenses. Program services include: referrals; work details (i.e. with Town, fire department, library, police department, victim); and follow-up.

YOUTH POPULATION SERVED:

Since it began, the program has served 35-40 youths (75% male-25% female), 9-17 years of age. To be eligible, a youth must admit participation in an offense, must not present a danger or threat to society, and must have a family structure which would support the diversion alternative.

STAFF:

There are no paid direct service staff. (The Court provides secretarial support.)

VOLUNTEERS:

The diversion program operates through a volunteer Committee of six members, with representation from each of the five towns involved. Three of the members are permanent and three are alternate. A Committee of three sits on any one case. The chairperson, who is one of the permanent members, arranges for hearing dates and appoints an alternate to any hearing when one of the permanent members cannot attend. Meetings are scheduled twice monthly to hear cases, formulate recommendations for diversion and to conduct follow-up activities. In addition, one Committee member is assigned to each juvenile to follow-up on the work detail. The youth is given the phone number of the Committee member and can call him/her at any time to discuss the work detail and any problems the youth may be having.

FUNDING:

The Haverhill Diversion Program had no initial funding, but currently receives \$2,500 in federal funds secured through the New Hampshire Crime Commission. Of this \$2,300 is budgeted for personnel services, and \$200 for miscellaneous expenses.

7/1/81

LEBANON COURT DIVERSION COMMITTEE

Lebanon Police Department
55 North Park Street
Lebanon, New Hampshire 03766
(603) 448-1212
Contact Person: Sgt. James Dutile

BASIC DESCRIPTION:

The Lebanon Court Diversion Committee was founded in 1976, under the auspices of the Lebanon Police Department, to serve Lebanon and the neighboring towns of Enfield, Orange, Canaan and Grafton. The goal of the program is to make a youth accountable for his/her illegal actions through punitive/rehabilitative work and restitution programs. Services include community service referrals and work programs.

YOUTH POPULATION SERVED:

Since its inception, the Lebanon Court Diversion Program has served 50-75 youths (approximately 90% males - 10% females), 8-15 years of age. Participation is limited to juveniles who have committed a first time violation or minor misdemeanor.

VOLUNTEERS:

The Diversion Program operates through a committee of 12 professional and lay people from the Lebanon community. Cases are referred directly by the police with no court involvement. The police juvenile officer contacts the committee chairperson who then assembles five members of the committee for a hearing. When appearing before the committee with his/her parents, the youth must explain the illegal behavior that occurred and what his/her involvement was. Members of the committee may question both youth and parents. After discussion, the committee makes its recommendation to the youth and parents and assigns a committee member to follow up with the youth and help him/her complete the program. After completion of the program, the chairperson reports back to the juvenile officer on the outcome of the diversion disposition.

FUNDING:

None. All volunteer program.

ADDITIONAL INFORMATION:

Examples of the punitive/rehabilitative dispositions employed by this program: If it was determined by talking to the youth and the parents that the youth has an alcohol or drug problem which was partly or entirely responsible for his/her involvement in criminal behavior, a referral to an alcohol or drug abuse clinic might be part or all of the disposition. On the other hand, a youth who vandalized a neighbor's property simply because he/she thought it was "OK" to do so on Halloween night, might be required to make a personal apology and restore the neighbor's property to its original state.

7/1/81

LITTLETON DISTRICT COURT DIVERSION PROGRAM

Littleton District Court
Main Street
Littleton, New Hampshire 03561
(603) 444-7750
Contact Person: Charles Ricardi, Case Manager

BASIC DESCRIPTION:

The Littleton Youth Alternatives Project was established in April, 1981 under the sponsorship of the Littleton District Court to develop needed services for those communities within the jurisdiction of the Littleton District Court (Littleton, Monroe, Lyman, Lisbon, Franconia, Bethlehem, Sugar Hill and Easton). The diversion component was initiated in July, 1981 to provide an alternative to the juvenile justice system. Additional services include: host home placements, youth and family counseling and job recruitment and training.

YOUTH POPULATION SERVED:

The diversion component has served six youths since its inception. Referrals to the program are made primarily by local police departments. Criteria for referral to the diversion program are:

- legal arrest, juvenile does not contest facts of the case;
- first offender, misdemeanor or felony that does not represent a direct threat to the safety of others;
- and parents consent to referral.

STAFF:

Case Manager: The case manager is responsible for overall coordination of the Youth Alternatives Project and its various components, as well as direct case management responsibilities for youth referrals.

VOLUNTEERS:

The program utilizes a total of six volunteers (three active, three alternates) from participating communities on the diversion committee. The diversion committee hears individual cases and members take responsibility for case follow-up. Volunteers are also involved in other project components such as the host home program.

FUNDING:

The Youth Alternatives Project received first year funds from the Comprehensive Children and Youth Project. The total budget for nine months of funding is \$26,984.
7/1/81

Grafton County

UPPER VALLEY YOUTH SERVICES

127 Mascoma Street
Lebanon, New Hampshire 03766
(603) 448-4792
Contact Person: Peter Tenenbaum, Executive Director

BASIC DESCRIPTION:

Upper Valley Youth Services is a private, non-profit, social service agency which was established in 1978 to serve Grafton County, New Hampshire, and Windsor County, Vermont. The program was designed as a resource for families and youth, ages 10 to 18, who are experiencing difficulties in family living and community adjustment, and is often used as a resource for diversion referrals. Services include intake and evaluation; individual youth and family counseling; foster care placement; recruitment and training of foster families; information and referral; and promotion of, and involvement in, parenting and family life education.

YOUTH POPULATION SERVED:

Upper Valley Youth Services had 243 requests for services during 1980. Approximately two-thirds of these were from New Hampshire. The youth served ranged from 10-18 years of age; and approximately 60 percent of the referrals made were for females. Upper Valley receives regular referrals from the Lebanon District Court as well as directly from the local juvenile officer. These agencies use Upper Valley for foster home placement, both to avoid further involvement in the juvenile justice system and as an option for those who are already involved with the courts. Referrals are also made by the probation department, social service agencies, mental health centers, the N.H. Division of Welfare, schools, parents and youngsters themselves.

STAFF:

Executive Director: Responsible for overall management and staff supervision.
Associate Director: Responsible for financial administration and grant writing.
Social Workers (2): Responsible for individual and family caseloads.
Foster Care Coordinator: Responsible for development of recruitment and training programs for foster parents and public relations activities.
Office Manager: Responsible for bookkeeping and management of the central office.
Typist: Responsible for clerical and reception duties.

VOLUNTEERS:

Upper Valley is governed by a 17-member, volunteer Board of Directors. The Board's primary responsibilities are to set policy with input from the staff and to raise the necessary funds to carry out the policies. The program also utilizes approximately 25-30 volunteer families in its foster family network.

FUNDING:

The 1980 operating budget totalled \$184,000 (approximately 85% direct service costs and 15% administrative costs). Funding came from the N.H. Crime Commission, United Way, N.H. cities and towns, foster care contracts, private fundraising and donations, N.H. Division of Welfare and fees.

ADDITIONAL INFORMATION:

Staff are available to speak, provide training or consult with people who are interested in establishing similar programs.

7/1/81

Hillsborough County

GOFFSTOWN DISTRICT COURT DIVERSION COMMITTEE

16 Main Street
Goffstown, New Hampshire 03045
(603) 497-2597
Contact Person: Linda King, Probation Officer

BASIC DESCRIPTION:

The Goffstown District Court Diversion Committee was established in 1979 to provide an alternative to juvenile court for the towns of Goffstown, New Boston, Franconia and Weare. Program objectives are: 1) to hold the youth responsible for his/her illegal actions, and 2) to promote community involvement and concern. Diversion options which the Committee utilizes include: restitution; apology to victim(s); voluntary community service work; imposition of a curfew; working with the school to set up an alternative education program; a tour of the Youth Development Center or County House of Correction; etc. Committee recommendations are specific and easily achievable to allow the failing juvenile to appreciate success in achieving them; and they are relevant to the offense so that the youth understands his/her accountability. Referrals may also be made for counseling, a psychological evaluation or to a social service agency, but these are only suggestions and will not be mandatory for the diversion program. It is not a function of this Committee to recommend and require treatment.

YOUTH POPULATION SERVED:

Since its formation, the Diversion Committee has served 56 youths (45 males - 9 females) through age 18. Only first-time, non-violent offenders are eligible. The youth must admit involvement in an offense, voluntarily accept the diversion offer and agree to speak openly with the Committee. Once accepted, participation in the diversion program is required by the court as an alternative to juvenile court. If the youth does not complete his/her consequences in the allotted time period, usually 30 days, court action will follow.

STAFF:

The Probation Officer, as coordinator of the Diversion Committee, is responsible for: interviewing the offender, preparing a report for the Committee, scheduling meetings, chairing the meetings and follow up.

VOLUNTEERS:

Fifteen volunteers from Goffstown and the surrounding communities are available to convene a six-person Diversion Committee meeting. The Diversion Committee must include a school representative, a member of the clergy, a lay person representing the community involved, and a Probation Officer (the Coordinator). Members are appointed and sworn in by the Judge for one year terms. This gives the Committee court powers to share confidential information and to make binding recommendations. Meetings are scheduled when needed.

FUNDING:

No money is specifically budgeted for the diversion program. The Coordinator/Probation Officer's salary and office expenses are under the Court's budget.

7/1/81

Hillsborough County

HILLSBOROUGH OFFICE OF YOUTH SERVICES

School Street
Hillsborough, New Hampshire 03244
(603) 464-5779
Contact Person: Gary Wall, Director

BASIC DESCRIPTION:

The Hillsborough Office of Youth Services was started in January, 1979, under the joint sponsorship of the Hillsborough District Court and the Town of Hillsborough. In July of 1980, a grant from the N.H. Crime Commission enabled the Office to expand its services to include the other towns in the court's jurisdiction: Bennington, Deering, Washington and Windsor. Objectives of the program are to reduce recidivism and to provide consequences which emphasize accountability for one's actions. Diversion options for achieving these objectives include: apologies and restitution to the victim, and work programs tailored to the charge and the abilities of a youth. If a youth has a particular skill or talent that can be used to the advantage of the community, a program may be designed around this, i.e. teaching music lessons. The diversion contract will also include rules or recommendations based on specific needs. (i.e. setting curfews, securing psychiatric treatment, providing jobs, etc.)

YOUTH POPULATION SERVED:

During the past 2 1/2 years, the Office has served 15 youths (10 males - 5 females), 12-14 years of age. All juvenile petitions are screened by the office (delinquent, CHINS and abuse/neglect). Participation is limited to first-time, non-violent offenders under age 18. Cases may be accepted before court action or referred by the court, but all parties must agree.

STAFF:

Director: Responsible for interviewing the youth and his/her parents; completing a needs assessment report; assembling the Diversion Review Board when needed; and overseeing the counseling, placement and referral services.

VOLUNTEERS:

The Board of Directors and the Diversion Review Board involve approximately ten volunteers. The Board of Directors is comprised of professional people from the Town of Hillsborough and meets twice a month to discuss individual cases, current programmatic problems and future activities. The Review Board convenes at the request of the Director to interview youth and develop appropriate recommendations for diversion. The Review Board is not used for every case; sometimes the youth's contract is developed solely by the Director.

FUNDING:

The total budget for 1980-81 is \$13,500. The Town of Hillsborough provides funding for Hillsborough clients, and a small grant from the N.H. Crime Commission enables clients from other towns in the Court's jurisdiction to participate. Approximately 89 percent of the budget is spent for direct service costs and 11 percent for administrative costs.

7/1/81

Hillsborough County

CITY OF MANCHESTER OFFICE OF YOUTH SERVICES

24 Pleasant Street
Manchester, New Hampshire 03101
(603) 669-5358
Contact Person: David A. Bundy, Director

BASIC DESCRIPTION:

The City of Manchester Office of Youth Services was established by the City in 1971 "To administer a program of comprehensive youth services in Manchester." At present, the major program is a court diversion program operated in conjunction with the Manchester Police Department and District Court to serve the City of Manchester and the towns of Auburn, Hooksett and Bedford. Program objectives are: to provide an alternative to the juvenile justice system through intervention and referral services. Services include evaluation, short-term counseling, treatment plans, referrals, a life-skills program, and a restitution program. In addition, the Office helps to support the Youth Recreation Activities Program; the Runaway Youth Program; and the Big Brother/Big Sister Program which is housed on site. The Manchester Office of Youth Services also received a grant at the beginning of this year from the N.H. Crime Commission to operate a Host Home Program for youths awaiting disposition of the court.

YOUTH POPULATION SERVED:

Between January and November, 1980, the Office of Youth Services served 603 youths (374 males - 229 females). The Manchester Police Department's Juvenile Division is the primary source of referrals, and the youths referred are generally those who have been picked up for a first or second offense. Referrals are also accepted from the schools, parents, friends and other social service agencies. The Office is concerned about reaching young people before they get into trouble with the police and encourages drop-ins.

STAFF:

Director: Responsible for overall administration, supervision, and program and policy development.

Community Relations Developer: Responsible for program coordination, special events, interagency newsletter and volunteers.

Social Worker: Responsible for evaluation; developing a treatment plan; counseling; referrals; and follow-up.

Secretary/Bookkeeper: Responsible for office administration.

VOLUNTEERS:

The Board of Directors consists of not more than 18 members who are appointed by the Mayor to provide overall policy and direction for the Office. Membership must include at least five youth representatives and six public representatives, with representation from the following City agencies: District Court and/or Probation; Police Department; Parks and Recreation; School Department; a private social service agency and the Model Cities Agency. The Program also uses volunteers for the Big Brother/Big Sister Program.

FUNDING:

The 1980 budget was \$73,963 funded 100 percent by the City of Manchester. Of that, \$68,336 was allocated for direct service costs and \$5,600 for administrative costs. The Office also received a 1981 grant for \$81,698 from the N.H. Crime Commission to operate the Host Home Program.

7/1/81

NASHUA DISTRICT COURT INTAKE PROGRAM

Department of Probation
Walnut Street Oval
Nashua, New Hampshire 03061
(603) 880-3330
Contact Person: Peter Howatt, Chief Probation Officer

BASIC DESCRIPTION:

The Nashua District Court Intake Program was established by the Court in 1975 with a grant from the Governor's Commission on Crime and Delinquency to serve the area under the Court's jurisdiction: the City of Nashua and the towns of Hudson, Hollis, Litchfield and Pelham. The goals of the program are: to prevent further delinquent actions; to provide restitution to victims; to make clear the connection between action and consequence by quick response; and to provide family involvement. Diversion services include referrals, family and individual counseling, residential placements, medical and dental attention, tutoring, volunteer placements and a follow-up program.

YOUTH POPULATION SERVED:

Between 1975 and October, 1980, the Nashua District Court Intake Program served 1,766 youths (1,183 males - 583 females) ranging from 8-18 years of age. Referrals are made primarily by the police departments served, but may also come from the court, schools, parents, social service agencies and self. Voluntary participation of both parents and juvenile is required and must be in writing. All allegations must be undisputed and participants must make a commitment to cooperate with the Intake Program. Cases appropriate for referral are: CHINS; youths accused of a violation or first delinquent offense; children under age 12; youths with relatively little prior police contact; youths whose needs could best be served outside the court; and walk-ins who request help.

STAFF:

Intake Officers (2): Probation Officers on 24-hour call who are responsible for individual caseload evaluation, treatment plans, short-term counseling, referrals and follow-up.
Resource Coordinator: Responsible for volunteer recruitment and development, public relations, residential placement and coordinating the Intake Committee.
Intake Secretary: Responsible for records, restitution, scheduling all appointments and clerical support.

VOLUNTEERS:

The Program utilizes an Intake Advisory Committee which is a group of local citizens who voluntarily contribute time and expertise to assist the Intake Unit. This Committee is used only for cases in which a multitude of problems exist and priorities must be established.

FUNDING:

Funding is not specifically budgeted for this program. Salaries and related operational costs are part of the City of Nashua Probation Department's budget.

STATISTICS:

Approximately 87 percent of the participants have had no further trouble with the law prior to their eighteenth birthday.

7/1/81

NASHUA YOUTH COUNCIL, INC.

221 Main Street
Nashua, New Hampshire 03060
(603) 889-1090
Contact Person: Bob Maloney, Administrative Director

BASIC DESCRIPTION:

The Nashua Youth Council, Inc. is a private, non-profit organization which was started in 1973 under the auspices of the Nashua Community Council. The program incorporated independently in 1979 to provide community-based psychological treatment services for adolescents and their families. Services are provided to the City of Nashua and the towns of Merrimack, Hudson, Milford, Brookline, Hollis, Wilton, Pelham and Litchfield. Court diversion is one of the programs offered, along with a drug abuse program, an individual and family adjustment program, counseling services, and a drop-in center. Objectives of the diversion component are to provide services at the community level; to maintain a 50 percent recidivism rate for offenders who are committed to the program in lieu of incarceration; to keep youths in school and to provide early intervention and prevention services. Services include diagnostic and psychological testing; psychotherapy; child abuse and neglect counseling; runaway counseling; and aftercare services for hospitalized adolescents.

YOUTH POPULATION SERVED:

Since its inception, the Nashua Youth Council has served approximately 150-200 youths in the diversion program (60% male -40% female), 12-18 years of age. Juveniles are eligible at any stage of delinquency. Referrals may be either voluntary or involuntary and may come from the schools, courts, probation, social service agencies, police and interested citizens. Court-ordered referrals for counseling and therapy are in lieu of sending the youth to a detention center. The Council charges clients for the diversion program on a sliding fee scale of \$3 to \$20.

STAFF:

Administrative Director: Responsible for finances and resource development.
Clinical Supervisor: Responsible for therapeutic services.
Therapists (3): Responsible for a 20-client caseload, interacting with youths at the drop-in center, public relations and coordination with other agencies.
Drop-in Center Coordinator: Responsible for a 10-client caseload, recreational activities and outreach services.
Administrative Assistant: Responsible for daily business routines.

VOLUNTEERS:

The Nashua Youth Council is governed by a 15-member Board of Directors representing both professional and lay people from the communities involved. Volunteers are also utilized for recreational activities.

FUNDING:

The 1980-81 operating budget was \$132,000 with approximately 75 percent representing direct service costs and 25 percent administrative costs. Funding is from a variety of sources including: N.H. Office of Alcohol and Drug Abuse Prevention, United Way, City of Nashua, Title XX, local fundraising and contributions, foundations and limited third party payments.

7/1/81

CENTRAL NEW HAMPSHIRE COMMUNITY MENTAL HEALTH SERVICES, INC.

5 Market Lane
Concord, New Hampshire 03301
(603) 228-1551
Contact Person: Michael Vanaskie, Consultant

BASIC DESCRIPTION:

Central New Hampshire Community Mental Health Services operates a diversion program which was established in 1975 through the Concord District Court. The Court contracts with the Mental Health Center for evaluation and treatment services for juvenile offenders. The program is available to the police and probation prior to court processing or to the Court as a referral option. Program objectives are: to prevent juvenile delinquency, and to provide appropriate, community-based programming for troubled youths in a non-institutional setting. Services offered include: individual and family diagnostic evaluations; diagnostic recommendations; counseling; crisis intervention; and referrals.

YOUTH POPULATION SERVED:

The Diversion Program serves youth 11-17 years of age who have been referred through the Concord District Court system (police, probation, court). Youths referred by the court may be at any stage of delinquency.

STAFF:

The entire staff of Central New Hampshire Community Mental Health Services is available to the referred youths. In addition, a therapist from the mental health center serves on a diversion review panel with the Court Probation Officers, a Concord Police Department Juvenile Officer and a member of a community youth services program to review and make recommendations on juvenile cases pending before the court each week.

VOLUNTEERS:

None. This program provides professional, clinical services.

FUNDING:

The Central New Hampshire Community Mental Health Center diversion program operates on a fee basis. Eighty percent of the clients have some kind of insurance which covers all or part of the services provided by the Center. If no insurance is available, the Court orders the legally liable unit to pay the costs.

STATISTICS:

From January to June, 1981, the Mental Health Center received 38 referrals for screening. Thirty were court-ordered referrals, and eight were referred for screening by the police or probation department. Of the eight police/probation diversion referrals, one youth has had subsequent contact with the Court.

7/1/81

CONCORD DISTRICT COURT DIVERSION PROGRAM

15 Green Street
Concord, New Hampshire 03301
(603) 225-2061
Contact Person: Marcia Flynn, Chief Probation Officer

BASIC DESCRIPTION:

The Concord District Court Diversion Program was established by the Court in 1977 to serve the area within its jurisdiction: the City of Concord and the towns of Bow, Canterbury, Dunbarton, Hopkinton, and Loudon. The program operates informally as one of the services provided by the Court's Probation Department. The purpose of the program is to offer an alternative to the formal juvenile court system with the goal of reducing recidivism. Diversion options which the program utilizes are probation-like alternatives to court, referral and restitution programs.

YOUTH POPULATION SERVED:

The Concord District Court Diversion Program serves approximately six juveniles a month. Those eligible for participation are first-time, non-violent offenders up to 18 years of age who have been referred by the diversion review panel. (All juvenile cases pending before the Concord District Court are reviewed weekly by a professional diversion review panel consisting of two Probation Officers, a therapist from the Central New Hampshire Community Mental Health Center, a Concord Police Department juvenile officer and a representative from a community youth services program. Recommendations for diversion are made by this panel.)

STAFF:

Probation Officers (3): Responsible for interviewing, conducting background investigations, short-term counseling, referrals and follow-up.

VOLUNTEERS:

None.

FUNDING:

No specific money budgeted.

7/1/81

Merrimack County

FRIENDS PROGRAM, INC.

P.O. Box 1331 - 249 Pleasant Street
Concord, New Hampshire 03301
(603) 228-1193

Contact Person: Thomas Avallone, Director

BASIC DESCRIPTION:

The Friends Program, Inc. is a private, non-profit organization which was established in 1975 to provide diversion programming for the Concord District Court. The program has since extended its services to other agencies, but still operates in close cooperation with the Court. The program serves the towns within the jurisdiction of the District Court: the City of Concord and the towns of Bow, Canterbury, Dunbarton, Hopkinton and Loudon. The primary objective of the program is: to prevent juvenile delinquency through a community program that is based on an intensive, one-on-one supportive relationship for young people. Based on the big brother/big sister model, the program matches youth with adult volunteers. Services provided by the program to support each Junior/Senior Friend match include: group recreational activities; outward bound courses; individual, group and family counseling; tutoring; and individual school programs. In addition, the Friends Program recently received a grant from the N.H. Crime Commission to operate a Host Home Program for youths awaiting disposition of the court.

YOUTH POPULATION SERVED:

The program serves youth from 8 - 18 years of age. Approximately half of the referrals come from the Concord District Court's professional diversion review panel. Youths may be referred before or after adjudication. Referrals may also be made directly by the schools, the Division of Welfare, parents and self. About 15-20 youths per year enter the program: the average length of time a youth remains involved is a year and a half.

STAFF:

Director: Responsible for overall administration, fundraising and public relations activities.

Friends Counselors (2): Responsible for providing counseling and support services to junior and senior friends, family counseling and outreach.

Host Home Counselor: Responsible for daily counseling of youths, providing support to Host Home parents and maintaining on-going contact with family, school and other agencies.

Secretary: Responsible for general clerical and office duties.

VOLUNTEERS:

The program currently has approximately 45 active Junior/Senior Friend matches. Senior volunteers must agree to spend at least five hours each week with their Junior Friends for a minimum of one year. The program also utilizes volunteers in its 14-member Board of Directors, which represents professional and lay people from the service area.

FUNDING:

The operating budget for 1981 was approximately \$110,000. This was supported by contracts for services with the Court and School District and by funding from the N.H. Crime Commission, United Way, business and private donations and Friends' fundraising activities.

7/1/81

Merrimack County

HOOKSETT YOUTH SERVICE OFFICE

Hooksett District Court
Hooksett, New Hampshire 03106
(603) 485-9482

Contact Person: Joan Bishop, Youth Service Officer

BASIC DESCRIPTION:

The Hooksett Youth Service Office is a court-sponsored diversion program which was established in 1975 with a grant from the Governor's Commission on Crime and Delinquency to serve the Hooksett District Court jurisdiction: Hooksett, Allenstown and Pembroke. The goal of the Hooksett office is to help prevent delinquency by offering an alternative to juvenile court which might better serve the youth, his/her parents and the community. Services include limited counseling, restitution programs, volunteer work and referrals.

YOUTH POPULATION SERVED:

In its first five years, approximately 150 youths (through age 18) were referred to the Youth Service Office. Of those, 100 have been diverted (approximately 50% male - 50% female), representing an average age of 13-14. The majority of referrals are from the police department and are first-time, non-violent offenders. Other referrals come from schools and parents. All parties involved must agree to the diversion option.

STAFF:

Youth Service Officer: Responsible for interviewing juveniles and parents, doing background investigations, deciding whether the juvenile will be best served by the court or diversion, limited counseling and referrals.

VOLUNTEERS:

None at this time. The program has in the past utilized a six-member volunteer advisory committee comprised solely of police and school personnel, but the committee has been inactive for two years.

FUNDING:

The program has been funded 100 percent by the Hooksett District Court since 1978. The current budget is approximately \$13,600 for salary and benefits of the Youth Service Officer and office supplies. Telephone and overhead expenses are covered by the Court.
7/1/81

Merrimack County/Rockingham County

MEDIATION PROGRAM

88 North Main Street
Concord, New Hampshire 03301
(603) 224-8043
Contact Person: Felicity Lavelle, Director

BASIC DESCRIPTION:

The Mediation Program is a non-profit organization established in 1979 in cooperation with the Concord District Court. The program currently serves the jurisdictions of the Concord District Court (Concord, Bow, Canterbury, Dunbarton, Hopkinton, Loudon) and the Exeter District Court (Exeter, Newmarket, Stratham, Newfields, Fremont, East Kingston, Kensington, Epping, Brentwood). The goal of the program is to provide an effective alternative to the court system for resolving disputes through the mediation process. The philosophy of the program is to go beyond the behavior or incident which brought the parties to court to deal with the underlying causes of the behavior. Project services include: training of volunteers, restitution, victim involvement, referrals, working with families, and follow-up services.

YOUTH POPULATION SERVED:

The Mediation Program provides services to individuals of all ages. Approximately 75 youths (60% male - 40% female) have been served by the program since its inception. Referrals to the program come from the police, the court, or a local service agency. Participation in the program is voluntary and participants must make a commitment to work towards resolution of the problem. Successful completion of the mediation agreement for a period of three months leads to the dropping of the charges.

STAFF:

Director: Responsible for overall administration of the program including public relations activities, volunteer recruitment and training, statistics, case screening and coordination.
Administrative Assistant: Responsible for office operations.
Coordinator (half-time): Responsible for coordination of volunteers, follow-up and referral efforts.

VOLUNTEERS:

The program has approximately thirty volunteers available who participate in 32 hours of training in the mediation process. Volunteers are asked to make an initial commitment to participate in the program for at least six months. The program also has an Advisory Board made up of community representatives who meet every other month to discuss program planning, fundraising, etc.

FUNDING:

The current budget for the program totals \$70,000. Funding sources include: City of Concord, N.H. Crime Commission, contracts, donations, and local fundraising.

7/1/81

Merrimack County

NEW LONDON JUVENILE DIVERSION COMMITTEE

c/o Colby Insurance Agency
Newport Road
New London, New Hampshire 03257
(603) 526-2451
Contact Person: Jon Barselle, Chairperson

BASIC DESCRIPTION:

The Juvenile Diversion Committee was established in 1975 by a group of concerned citizens to serve the area covered by the New London District Court: New London, Newbury, Sutton and Wilmot. (Services have also been provided to Bradford and Springfield.) The Committee acts in cooperation with the New London District Court, as an independent, all-volunteer citizen effort. The program was founded in the belief that interested citizens of a community "can materially assist in dealing with children accused of minor delinquent acts." Program objectives are: to provide an alternative to juvenile court for minor offenders, and to help youths realize the social consequences of illegal behavior. Diversion options utilized by the Committee include: short-term counseling; restitution; referral to a helping agency; requiring the child to write a statement about the consequences of his/her behavior to self, family and community; and recommending medical or psychological services.

YOUTH POPULATION SERVED:

Since its inception, the Juvenile Diversion Committee has served approximately 42 youths (75% male - 25% female), 11-18 years of age. Referrals are made by the police departments with the approval of the Court. Participation is strictly voluntary and is open primarily to first-time, non-violent offenders who have admitted their involvement in an offense.

STAFF:

None. All volunteer program.

VOLUNTEERS:

The Diversion Committee is comprised of 11 professional and lay volunteers. Representatives are appointed from each of the participating communities in the Kearsarge area and are approved by the Judge of the New London District Court for a term of two years. The probation officer responsible for handling juvenile cases in the New London Court is an ex-officio member of the committee. A chairperson and a secretary are elected annually to assume responsibilities for operations. The Chairperson is responsible for conducting meetings; and the secretary is responsible for arranging meetings, recordkeeping and advising the Judge of the Committee's activities. The Committee meets as needed, averaging seven meetings per year. Members interview and have the right to question both juvenile and parents, make recommendations for diversion and perform follow-up.

FUNDING:

None. All volunteer program.

7/1/81

COURT SERVICES DIVISION

Salem District Court
19 Main Street
Salem, New Hampshire 03079
(603) 898-9401
Contact Person: Brad Mulhearn, Court Services Officer

BASIC DESCRIPTION:

The Court Services Division of the Salem District Court began operation in January, 1981 to serve the jurisdiction of the Salem District Court: the towns of Salem and Windham. The current program is a scaled-down version of the Salem Youth Services Bureau, which was originally set up in 1977 with a grant from the N.H. Crime Commission. The Youth Services Bureau was restructured as the Court Services Division when the District Court assumed full financial responsibility for the program in January, 1981. Overall program goals remain the same: to help prevent juvenile delinquency by providing diversion and service alternatives for youths in trouble. Program services include evaluation, short-term counseling, placement services (i.e. foster care), and agency referrals.

YOUTH POPULATION SERVED:

Program referrals previously averaged approximately 100 juveniles (under age 18) per year. Eligible diversion participants are first-time, non-violent offenders. Referrals may be made by the police (either with a juvenile petition pending or as a non-petition referral); school administrative and guidance personnel; the Division of Welfare; parents or self.

STAFF:

Court Services Officer: Responsible for intake and evaluation for the Court; coordination with Court Probation Officer, Police Juvenile Officer and/or welfare administrator; short-term counseling; referrals; placements and follow-up.

VOLUNTEERS:

The program does not currently use volunteers in a formal capacity. (Formerly, as the Youth Services Bureau, the program utilized a 16-member Advisory Board.)

FUNDING:

The 1981 budget totalled \$33,000 and is supported 100 percent by the Town of Salem.

STATISTICS:

Eighty-five percent of the juveniles who have been diverted have not returned to the Court's attention.

7/1/81

DERRY AREA COURT DIVERSION PROGRAM

Derry Probation Department
29 West Broadway Street
Derry, New Hampshire 03038
(603) 432-7780
Contact Person: Brian Dennis, Probation Officer

BASIC DESCRIPTION:

The Derry Area Court Diversion Program was established with court sanction in 1978 as a sub-committee of the volunteer Derry Area Youth Services Board. The Court Diversion Committee is now an independent volunteer Committee which provides an alternative to juvenile court for youths in the towns of Derry, Londonderry, Chester, and Sandown. Diversion options utilized by the Committee include restitution, work programs, counseling and community referrals.

YOUTH POPULATION SERVED:

The Diversion Program has served 54 youths, 10-18 years of age. Referrals are made to the Committee by the juvenile officer or school personnel prior to any court action. Second-time offenders are rarely eligible. Parent(s) and youth must sign a statement releasing the Committee from liability and/or legal action. Failure to successfully complete contract requirements may or may not result in recommended court action by the police. This is determined on a case-by-case basis.

STAFF:

There is no paid staff, but the Court Probation Officer functions as coordinator of the program.

VOLUNTEERS:

The five-member Court Diversion Committee is comprised of a juvenile officer, who is the referral agent; the probation officer, who is the chairperson; a clergy representative; a community representative; and a school representative. Professional personnel involved allocate part of their time to this function with the permission of the agencies they represent. The Committee meets once a week for diversion hearings and related activities. Committee responsibilities include: meeting with the youth, referring agent, and parent(s) and developing a court diversion contract. Often the youth is allowed an advocate to represent him/her at the Committee meeting. Follow-up is completed by a Committee member, and the Committee convenes a review session to ensure that the youth's contract has been met.

FUNDING:

None.

7/1/81

JUVENILE COURT DIVERSION CONTRACT

Youth Services Division
Portsmouth Police Department
28 Penhallow Street
Portsmouth, New Hampshire 03801
(603) 436-1231
Contact Person: Robert Mello, Youth Services Officer

BASIC DESCRIPTION:

The Juvenile Court Diversion Contract, sponsored by the Youth Services Division of the Portsmouth Police Department, was initiated in its present form in 1980 to serve the City of Portsmouth. The program provides a third option to the Youth Services Division once investigation has been completed on a juvenile offense. The program goal is to prevent youths from committing another offense. Requirements which may be imposed in the diversion contract include: making restitution, holding a job, complying with curfews and other rules set by parents, and checking in with the Youth Services Officer on a monthly basis. Referral services are also provided.

YOUTH POPULATION SERVED:

In its first year, the Diversion Contract Program has served 15 youths (10 males - 5 females), 13-17 years of age. Any age youth will be accepted who has the ability to understand the contract. The Program accepts first-time, non-felonious offenders who are willing to meet with the Youth Services Officer once a month. Parents and youth must both agree to participate. If the diversion contract is not fulfilled, the juvenile will be taken to Court.

STAFF:

Youth Services Officers: Responsible for investigations, recommendations, formulation of the diversion contract, referrals, and follow-through.

VOLUNTEERS:

None.

FUNDING:

No funds are specifically budgeted.

ADDITIONAL INFORMATION:

The Court Diversion program is operated independently by the Police Department and is not officially sanctioned by the Portsmouth District Court. Referrals are made prior to any court contact.

The Youth Services Division also operates an "Officer Friendly" Program, which is designed to work with youngsters of elementary school age in order to prevent them from committing crimes in later years.

7/1/81

DOVER DIVERSION PROGRAM

Dover Youth Resources
90 Washington Street, Room 7
Dover, New Hampshire 03820
(603) 749-2677
Contact Person: Keith E. Bates, Coordinator

BASIC DESCRIPTION:

The Dover Diversion Program, administered through the City of Dover Youth Resources Office has been in existence since 1979 serving Dover and the surrounding areas covered by the Dover Police Department. The program was started for the purpose of preventing juvenile delinquency by providing an alternative to juvenile court processing. The goal is to encourage joint participation by the family, the victim and community members in developing appropriate resolutions for juvenile offenses in the form of written diversion agreements. The program diversion worker acts as an advocate for the youth in negotiating logical consequences to his/her actions. Diversion options utilized in the agreement include: victim/offender meetings, tutoring, counseling, drug/alcohol counseling, restitution, referrals, and participation in a life-skills workshop. Additional services provided by Dover Youth Resources include: the Big Buddy Program, which matches youths one-on-one with adult volunteers; a Job Bank; and crisis placement.

YOUTH POPULATION SERVED:

To date, the Diversion Program has served approximately 150 youths (60% male - 40% female), 12-17 years of age. The Program primarily accepts first-time, non-violent offenders. The Program will not accept youths who have been placed on probation by the Court. Youths are generally referred through personal meetings with school administrative and guidance personnel, the Dover Police Department Juvenile Officer or the Dover District Court Juvenile Judge. Referrals from the Juvenile Judge are made as an alternative to probation or no finding. Youth are not referred back to Court for non-completion of the diversion program.

STAFF:

Diversion Worker: Responsible for caseload activities, outreach, recordkeeping, referrals, short-term counseling and follow-up. (The Coordinator of the Youth Resources Office is responsible for overall administration and supervision.)

VOLUNTEERS:

There are 30 Dover volunteers available to convene a six-person Diversion Committee meeting. The Committee has three meetings a month to meet with parents and youth to produce recommendations for diversion.

FUNDING:

The 1980-81 budget for the Diversion Program is \$15,210, supported 50 percent by the N.H. Crime Commission and 50 percent by the City of Dover. Of that, \$12,000 is for salary and \$3,210 for benefits and operating expenses.

STATISTICS:

In the first 14 months, 33 percent of the youths participating in the diversion program have returned to the attention of the Court.

7/1/81

DURHAM DISTRICT COURT DIVERSION PROJECT

Main Street
Durham, New Hampshire 03824
(603) 868-2323
Contact Person: Raymond Bilodeau, Probation Officer

BASIC DESCRIPTION:

The Durham District Court Diversion Project was established in 1974 to serve the towns of Durham, Lee and Madbury. The program is operated by the Court Probation Officer who works with the police to determine appropriate referrals and coordinates all resources used in the diversion process. The program was established to: provide an alternative to juvenile court processing, provide an active prevention component within the court system and to promote resource development. Services utilized by the Diversion Project include a tutoring program, a big brother/big sister type program, behavior contracts, referrals, a wilderness experience program and a crisis home program.

YOUTH POPULATION SERVED:

The Diversion Project has served 135 youth (105 males - 30 females), 12-18 years of age. Participant eligibility is flexible: the project will consider all youthful offenders. Youth may be diverted by the police with a juvenile petition pending; in which case, the Diversion Project offers recommendations and assistance to the police in drawing up a behavior contract. Additional referrals may be made by the police, schools, parents or self for reasons not involving the law, such as a family problem or school problem. In this instance, the Diversion Project would make the appropriate referrals or assign a volunteer as needed.

STAFF:

The District Court Probation staff serve as support staff to coordinate the Diversion Project.

VOLUNTEERS:

The Diversion Project utilizes approximately 80 volunteers (mainly UNH students) to provide counseling and tutoring services to participating youth. Counseling provided by the volunteers parallels that of the big brother/big sister model. Volunteers are expected to work with the juveniles for a period of six months, an average of one or two hours a week.

FUNDING:

No funds are specifically budgeted.

STATISTICS:

Of those youths participating in the Diversion Project to date, 27.5 percent have returned to the Court's attention for some additional involvement with the law.

7/1/81

ROCHESTER DIVERSION PROGRAM

Legion Building
58 Hanson Street
Rochester, New Hampshire 03867
(603) 332-4120
Contact Person: Anne May, Coordinator

BASIC DESCRIPTION:

The Rochester Diversion Program was established by the City of Rochester in February, 1981. The program provides services to those communities that are within the jurisdiction of the Rochester District Court: the City of Rochester and the towns of Milton, New Durham, Farmington, Strafford and Middleton. The Diversion Program was designed to serve as an alternative to court for juvenile offenders, and to provide appropriate treatment alternatives for those participating in the program. Program components include: restitution, community service work, and apologies to the victim.

YOUTH POPULATION SERVED:

The program has served a total of seven youths from June to July, 1981. The program serves primarily first offenders, although exceptions might be made in an instance where there had been a considerable time lapse between offenses. Referrals to the program are made by the local police, the court, and some agency referrals. Eligibility for diversion is determined in part by the following: age of the offender, prior delinquent involvement, nature of present offense, and social and family history. Participation in the program is voluntary.

STAFF:

Coordinator: Responsible for overall operation of the program including recruitment and training of volunteers, case management, resource development, public relations and maintenance of statistics. (In addition, the City contributes secretarial support for the project, and a University of New Hampshire student intern is volunteering time to the program.)

VOLUNTEERS:

The Rochester Diversion Program utilizes two volunteer diversion committees with five to seven members on each committee. Committee members represent professional and lay people from Rochester and the surrounding communities. The respective committees meet once a month to hear diversion cases and to structure recommendations for the individual's contract. Follow-up is provided by the program coordinator.

FUNDING:

First year funding for the program has been provided by the Comprehensive Children and Youth Project. The total budget for the program is \$17,000, representing \$15,000 for direct service costs and \$2,000 for administrative costs.

7/1/81

Sullivan County

COMMUNITY YOUTH ADVOCATES, INC.

36 Tremont Square
Claremont, New Hampshire 03743
(603) 543-0427
Contact Person: Leslie R. Clough, Director

BASIC DESCRIPTION:

Community Youth Advocates, Inc. was started as a CETA project in September, 1977 to provide comprehensive, community based youth services to Sullivan County. The overall goal of the agency is the prevention of juvenile delinquency through intervention and advocacy of youth at risk. The court diversion component seeks to divert youths from the criminal justice system through the use of a Diversion Committee composed of community members. The objectives of the Diversion Committee are: to hold the youth accountable for his/her actions; to provide a plan and an opportunity for the youth to change; to involve the youth's family; and to provide a process through which the police can be assisted by the community. Diversion recommendations include restitution; working for the injured party; encouraging the youth to pursue activities in which he/she has an interest; referrals; and use of other programs offered by the office. Other Community Youth Advocate programs available are: The Street Counseling Program, which provides intervention, counseling and follow-through; Connections, which is a Big Brother/Big Sister type program; and Careers, which provides job-related training, job counseling and placement services.

YOUTH POPULATION SERVED:

Between December 31, 1978, and March, 1981, the combined programs of Community Youth Advocates served 377 youths (218 males - 159 females), 6-18 years of age. Almost 2/3 of these were between ages 16 and 18. The diversion program is geared to first-time offenders, who must admit involvement in an offense and agree to participate. Referrals are made through the police.

STAFF:

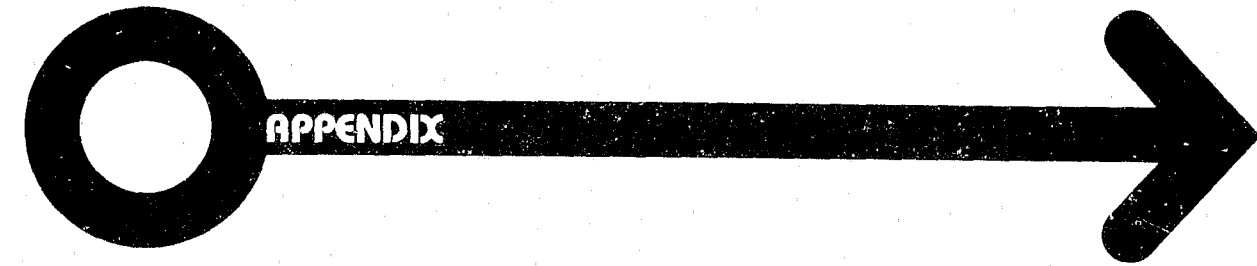
Director: Responsible for administration, public relations and fundraising.
Street Counselors (2): Responsible for intervention, evaluation, counseling and follow-through.
Secretary: Responsible for records and clerical support.

VOLUNTEERS:

Community Youth Advocates is governed by a 12-member Board of Directors and utilizes an additional 75-80 volunteers for all of its programs. The Diversion Committee itself consists of a pool of 26 professional and lay people who meet on a rotating basis in committees of five as needed. The Committee has the responsibility of hearing all relevant information, talking with the youth and parent(s), and making appropriate recommendations. Follow-up is by an assigned Street Counselor.

FUNDING:

The 1981 operating budget is approximately \$30,000. Funding comes from Sullivan County, N.H. Crime Commission, N.H. Charitable Fund, local fundraising, and other public and private funds.
7/1/81



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SUMMARY:

The information included in the Appendix is intended to provide the reader with additional resource information to be used in researching diversion options. The handbook evaluation form will provide the Comprehensive Children and Youth Project with important feedback on the usefulness of this handbook.

CONTINUED

1 OF 2



APPENDIX I

ACKNOWLEDGEMENTS:

The Comprehensive Children and Youth Project would like to thank the following individuals for their generous contribution of time and energy towards the development of this handbook.

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Terry Busick	Jeffrey W. Leidinger	Rick Silverberg
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**All those operating diversion projects who contributed material for the handbook

APPENDIX 2

GLOSSARY OF TERMS

ABANDONED CHILD:

Means the child has been left by his parent, guardian or custodian, without provision for his care, supervision or financial support although financially able to provide such support.

ABUSED CHILD:

Means any child who has:

- Been sexually molested; or
- Been sexually exploited; or
- Been intentionally physically injured, or
- Been psychologically injured so that said child exhibits symptoms of emotional problems generally recognized to result from consistent mistreatment or neglect; or
- Been physically injured by other than accidental means.

ADJUDICATORY HEARING:

Means a hearing to determine the truth of the allegations in the petition.

ARRAIGNMENT:

Is the process by which a juvenile is brought before the court to answer charges. At any arraignment the court shall:

- Advise the minor in writing and orally of any formal charges;
- Inform the minor of the applicable constitutional rights;
- Appoint counsel pursuant to RSA 169-B:12;
- Establish any conditions for release; and
- Set a hearing date.

ARREST:

The process by which a police officer or other officer of the Court takes custody of a juvenile.

CHILD IN NEED OF SERVICES (CHINS):

Means a child who:

- Being subject to compulsory school attendance, is habitually, and without good and sufficient cause, truant from school, or
- Habitually runs away from home, or otherwise repeatedly disregards the reasonable and lawful commands of his parents, guardian or custodian;
- Has committed an offense which, if committed by an adult, would be a violation under the criminal code of the state; or has committed an offense which, if committed by a person 16 years of age or older, would be a violation under the motor vehicle code of this state; or has violated an ordinance or by-law of a city or town; and
- If any one of the foregoing, is also expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment or rehabilitation.

CHILD OR MINOR:

Is any person who has not reached his eighteenth birthday.

CHILD CARE AGENCY :

Is any person, corporation, partnership, voluntary association or other organization either established for profit or otherwise, who regularly received for care one or more children, unrelated to the operator of the agency, in any facility established and maintained for the care of children.

CONSENT ORDER:

is a written agreement entered into among or between the parties regarding the facts and the disposition in a neglect or abuse case, and approved by the court.

CUSTODIAN:

Is an agency or person, other than a parent or guardian to whom legal custody of the child has been given by court order.

DELINQUENT:

Is a person who has committed an offense before reaching the age of 18 years which would be a felony or misdemeanor under the

DETENTION:

criminal code of this state if committed by an adult, and is expressly found to be in need of counseling, supervision, treatment, or rehabilitation as a consequence thereof.

DISPOSITIONAL HEARING:

Is the care of a minor in physically restricted facilities.

DIVERSION:

Is a final hearing held by the court to determine what dispositional order should be made on behalf of the child.

FELONY:

A method by which a juvenile who has come in contact with the juvenile justice system is handled through alternative means rather than being processed through the court system.

FOSTER HOME:

Is any crime which is punishable by sentencing to more than one year in a state prison or more than a \$1,000.00 fine.

GUARDIAN:

Is a licensed facility for child care in which family care and training are provided on a regular basis for no more than six unrelated children, unless all the children are of common parentage.

JUVENILE CODE OR JUVENILE ACT:

Is a parent or person appointed by a court having jurisdiction with the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child, and to be concerned about the general welfare of the child.

JUVENILE COURT:

The body of statutory law enacted by state legislatures to govern and provide the definitions, rules, procedures, and purposes necessary to the Juvenile Court in handling those youth who enter the juvenile justice system.

LEGAL CUSTODY:

The legal body that has jurisdiction over juveniles for the purposes of adjudication and disposition of cases. In New Hampshire, this is a separate and private hearing held in a District Court.

Is a status created by court order embodying the following rights and responsibilities unless otherwise modified by court order:

- The right to determine where and with whom the child shall live.
- Who is without proper prenatal care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, when it is established that his health has suffered or is very likely to suffer serious impairment; and the deprivation is not due primarily to the lack of financial means of the parents, guardian or custodian, or
- Whose parents, guardian or custodian are unable to discharge their responsibilities to

and for the child because of incarceration, hospitalization or other physical or mental incapacity.

NOTICE:

Is communication given in person or in writing to the parent, guardian, custodian or other interested party not having custody or control of the child, of the time and place fixed for hearing; and it shall be given in all cases, unless it appears to the court that such notice will be ineffectual.

PETITION:

A formal document which is used to bring a youth to the attention of the juvenile court. To be legally sufficient, the petition must set forth with particularity, but not be limited to, the date, time, manner and place of the conduct alleged and should state the statutory provision alleged to have been violated.

PROBATION OFFICER:

A person charged with supervising in the community those juveniles (or adults) placed on probation pursuant to a court order.

PROBATION:

Is a legal status created by court order following an adjudication that a child is delinquent whereby the minor is permitted to remain in the community, including his home, subject to:

- a. The conditions and limitations of his conduct prescribed by the court;
- b. Such counseling and treatment as deemed necessary, pursuant to methods and conditions prescribed by the court, for the minor and his family;
- c. The supervision of a probation officer or volunteer counselor, as authorized by RSA 504:19, and
- d. Return to the court for violation of probation and change of disposition at any time during the period of probation.

PROTECTIVE CUSTODY:

"Protective custody" is the status of a child who has been taken into physical custody by a police officer or probation officer because the child was in such circumstances or surroundings which presented an imminent danger to the child's health or life where there was not sufficient time to obtain a court order.

RECIDIVISM:

A term used to describe the rearrest of a juvenile offender (or adult offender.)

SHELTER CARE:

"Shelter care" means the care of a child in physically unrestricted facilities.

STATUS OFFENSE:

An act which when committed by a juvenile can be legally brought to the attention or under the control of the Juvenile Court, but would not be a crime or offense if committed by an adult.

**TRANSFER TO CRIMINAL
OR ADULT COURT:**

The process by which the Juvenile Court transfers its jurisdiction to the criminal court. As the result of such transfer, the youth is now treated and prosecuted as an adult, subject to the penalties imposed by the criminal court.

**APPENDIX 3
RESOURCE LISTING**

LOCAL

Juvenile Court
Juvenile Probation
Police Department
Legal Aid
Bar Association
Community Mental Health Center
Social Services Council
Child and Family Services
Health Care Centers
Employment and Training Services
School Counseling Departments
Community Officials
Church Organizations
Youth Clubs and Groups
Parent/Teacher Associations
Big Brother/Big Sister
Community Service Clubs
Community Action Programs
Women's Organizations
Chamber of Commerce
YMCA/YWCA

STATE

Administrative Committee of District and Municipal Courts
New Hampshire Supreme Court Building
Concord, New Hampshire 03301
271-2521

Bureau of Child and Family Services
New Hampshire Division of Welfare
Hazen Drive
Concord, New Hampshire 03301
271-4326

Comprehensive Children and Youth Project
7 Bicentennial Square
Concord, New Hampshire 03301
271-2737

Developmental Disabilities Advocacy Center
2½ Beacon Street
Concord, New Hampshire 03301
228-0432

Franklin Pierce Law Center
2 White Street
Concord, New Hampshire 03301
228-1541

New Hampshire Association for Children with Learning Disabilities
815 Elm Street
Manchester, New Hampshire 03101
669-8454

New Hampshire Bar Association
77 Market Street
Manchester, New Hampshire 03101
669-4869

New Hampshire Commission on Children and Youth
Bancroft Building - 105 Pleasant Street
Concord, New Hampshire 03301
271-2737

New Hampshire Crime Commission
Pine Inn Plaza
117 Manchester Street
Concord, New Hampshire 03301
271-3601

New Hampshire Department of Education
State House Annex
Capitol Street
Concord, New Hampshire 03301
271-3494

New Hampshire Division of Mental Health
Hazen Drive
Concord, New Hampshire 03301
271-4702

New Hampshire Judicial Council
Room #6, New Hampshire State House
Concord, New Hampshire 03301
271-3592

New Hampshire Legal Assistance
136 North Main Street
Concord, New Hampshire 03301
224-1236

New Hampshire Office of Alcohol and Drug Abuse Prevention
Health and Welfare Building
Hazen Drive
Concord, New Hampshire 03301
271-4633

New Hampshire Police Standards and Training Council
15 Fan Road
Concord, New Hampshire 03301
271-2781

New Hampshire Probation Department - Central Office
11 Depot Street
Concord, New Hampshire 03301
271-2317

New Hampshire Social Welfare Council
15 Green Street
Concord, New Hampshire 03301
228-0571

New Hampshire State Police Headquarters
Hazen Drive

Concord, New Hampshire 03301
271-3636

New Hampshire Task Force on Child Abuse and Neglect
P.O. Box 607
Concord, New Hampshire 03301
225-5441

New Hampshire Youth Development Center
North River Road, P.O. Box 303
Manchester, New Hampshire 03105
625-5471

Parent Information Center
P.O. Box 1422
Concord, New Hampshire 03301
224-7005

NATIONAL

Associates for Youth Development
5423 E. Fairmont Place
Tucson, Arizona 85712
602-325-2649

Big Brothers/Big Sisters of America
36 Berry Street
Framingham, Massachusetts 01701
617-879-7762

Child Welfare League of America
1346 Connecticut Avenue, N.W. - Suite 310
Washington, D.C. 20036
202-833-2850

Children's Defense Fund
1520 New Hampshire Avenue, N.W.
Washington, D.C. 20036
800-424-9602

The John Howard Association
67 East Madison Street
Suite 1216
Chicago, Illinois 60603
312-263-1901

National Association of Volunteers in Criminal Justice
P.O. Box 6365
University of Alabama 35486
205-348-6738

National Center for Voluntary Action
1214 16th Street, N.W.
Washington, D.C. 20036
202-467-5560

National Council on Crime and Delinquency
411 Hackensack Avenue
Hackensack, New Jersey 07601
201-488-0400

National Council of Juvenile and Family Court Judges
Box 8000
University of Nevada
Reno, Nevada 89507
702-784-6012

National Criminal Justice Reference Service
1600 Research Blvd.
P.O. Box 6000
Rockville, Maryland 20850
301-251-5500

National Information Center on Volunteerism
P.O. Box 4179
Boulder, Colorado 80306
303-447-0492

National Institute on Alcohol Abuse and Alcoholism
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857
301-443-3306

National Institute on Drug Abuse
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857
301-443-6500

National Institute of Mental Health
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20857
301-443-4515

National Juvenile Law Center
P.O. Box 14200
St. Louis, Missouri 63178
314-652-5555

National Youth Work Alliance
1346 Connecticut Avenue, N.W.
Washington, D.C. 20036
202-785-0764

U.S. Department of Education
Room 5600
Russell Office Building - 3
Washington, D.C. 20202
202-245-3192

U.S. Department of Health and Human Services
Office of Adolescent Pregnancy Programs
200 Independence Avenue, S.W.
Washington, D.C. 20201
202-472-9093

U.S. Department of Health and Human Services
Youth Development Bureau
North Building
330 Independence Avenue, S.W.
Washington, D.C. 20201
202-755-0593

U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevention
633 Indiana Avenue, N.W.
Washington, D.C. 20531
202-724-7751

U.S. Department of Labor
Office of Youth Programs
601 D. Street, N.W.
Washington, D.C. 20213
202-376-2646

Volunteers in Probation - NCCD
200 Washington Square Plaza
Royal Oak, Michigan 48067
313-398-8550

PUBLICATIONS

Crime and Delinquency

National Council on Crime and Delinquency
422 Hackensack Avenue
Hackensack, New Jersey 07601
201-488-0400

Juvenile and Family Court Journal

National Council of Juvenile and Family Court Judges
University of Nevada
Box 8000
Reno, Nevada 89507
702-784-6012

New Designs for Youth Development

Associates for Youth Development
5423 E. Fairmont Place
Tucson, Arizona 85712
602-325-2649

Youth Alternatives

National Youth Work Alliance
1346 Connecticut Avenue, N.W.
Washington, D.C. 20036
202-785-0764

RESOURCE AND FUNDING INFORMATION

Catalog of Federal Domestic Assistance
Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
Cost: \$17 per year

(Who and how to apply for federal assistance, published at beginning of each fiscal year)

The Foundation Center
888 Seventh Avenue
New York, New York 10106
800-424-9836

The Foundation Directory
Columbia University Press
136 South Broadway
Irvington, New York 10533
Cost: \$30

The Foundation Grants Index
Columbia University Press
136 South Broadway
Irvington, New York 10533
Cost: \$15 per year Annual List

The Foundation News
Box 783
Old Chelsea Station
New York, New York 10011
Cost: \$20 per year
Published bi-monthly
Fund Raiser's Tool Box
Strategists, Inc.
538 Alerego Street
Monterey, California 93940
Guide to Grantsmanship for County Officials
National Association of Counties
1735 New York Avenue, N.W.
Washington, D.C. 20006
Guide to Successful Grantsmanship
Grant Development Institute
2040 South Holly
Denver, Colorado 80222
Grants Administration Manual
Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
Grantsmanship Center News, Inc.
The Grantmanship Center
7815 South Vermont Avenue
P.O. Box 44759
Los Angeles, California 90044
Cost: \$15 per year/eight issues per year
Grantsmanship News
University Resources, Inc.
160 Central Park South
New York, New York 10019
Money Grubber
P.O. Box 81826
Lincoln, Nebraska 68501
(Manual in grant and proposal writing)

TECHNICAL ASSISTANCE

Academy for Contemporary Problems
1501 Neil Avenue
Columbus, Ohio 43201
800-848-6570
Arthur D. Little, Inc.
1735 Eye Street, N.W.
Washington, D.C. 20006
202-223-4400
Community Research Forum
University of Illinois at Urbana-Champaign
505 E. Green Street
Champaign, Illinois 61820
217-333-0443

Comprehensive Children and Youth Project
7 Bicentennial Square
Concord, New Hampshire 03301
603-271-2737
New Hampshire Crime Commission
Pine Inn Plaza
117 Manchester Street
Concord, New Hampshire 03301
603-271-3601
Pretrial Service Resource Center
918 F Street, N.W. Suite 500
Washington, D.C. 20004
202-638-3080
Sgt. Jack Shepherd
Juvenile Unit
Michigan State Police
7145 Harrison Road
East Lansing, Michigan 48823
517-373-2839

Note: Individual programs can be contacted for specific information. See program listings in Chapter 6.

APPENDIX 4
SAMPLE FORMS

SAMPLE
Release of Confidential
Information Form

KEENE DISTRICT COURT
JUVENILE CONFERENCE COMMITTEE
P.O. Box 364, 40 Central Sq.
Keene, N.H. 03431

Tel. 357-3309

RELEASE OF CONFIDENTIAL INFORMATION

RE:

This authorizes any physician, hospital, school, clinic and/or social agency to furnish the Juvenile Coordinator, for use by the Juvenile Conference Committee, any verbal or written information pertaining to present/past physical and mental health and any information concerning the educational and social adjustment of the above.

It is understood that such information will be held in the strictest confidence by the Committee.

PARENT OR GUARDIAN

MINOR

JUVENILE COORDINATOR

DATE

SAMPLE
Acknowledgement of Rights

The State of New Hampshire

Juvenile Case No. _____

_____, SS.

Date _____

HOOKSETT DISTRICT COURT

ACKNOWLEDGEMENT OF RIGHTS

(Juvenile Cases Only)

I, _____, of _____,
_____, my attorney being _____,

do hereby freely and voluntarily make the following statements which I understand shall apply to each and every juvenile petition, if there be more than one, to which I intend to admit.

I have discussed this admission or plea of true to the charge in the juvenile petition(s) with my attorney who has explained the nature of the charge to me. I fully understand the charge of which I stand accused, namely, _____

I understand that I am under no obligation to plead true, and that even after signing this Acknowledgement or Rights, I am still under no obligation to plead true.

I understand that by pleading true to the juvenile petition(s), that I am giving up the following constitutional rights as to that act of delinquency:

MY RIGHT to a speedy trial.

MY RIGHT to see, hear and question all witnesses. This gives me the opportunity and right to confront my accusers and cross-examine them myself or through my attorney.

MY RIGHT to present evidence and call witnesses in my favor and to testify on my own behalf.

MY RIGHT to remain silent if I choose, which is my right against self-incrimination, and the Court can draw no inference of guilt from my silence.

MY RIGHT to have the Judge order into Court all evidence and witnesses in my favor.

I understand that even though I am pleading true and giving up my right to call witnesses, and testifying myself, that this does not apply to the calling of witnesses and testifying on the question of the dispositional order to be imposed.

Hooksett District Court

-2-

SAMPLE
Acknowledgement of Rights

ALL OF THESE STATEMENTS THAT I HAVE GIVEN TODAY IN THIS ACKNOWLEDGEMENT OF RIGHTS ARE TRUTHFUL AND VOLUNTARILY GIVEN.

I do not have any questions at this time of my attorney or of the Prosecutor's Office. If there are any questions of the Court or if there is anything I would like to say prior to sentencing in this case, my attorney will make this known to the Court at the time of my plea to this act of delinquency.

Date Juvenile

As counsel for the juvenile, I have thoroughly explained to the juvenile all of the above, including the nature of the charge, the elements of the offense which the State must prove beyond a reasonable doubt and the maximum and minimum dispositional orders. I believe the juvenile fully understands the meaning of this Acknowledgement of Rights, that he has the mental capacity to evaluate these rights, and having done so, to knowingly and intelligently waive all of his rights as set forth herein.

Counsel for the Juvenile

The undersigned Justice of the said _____ Juvenile Court, having asked the juvenile if he understands the charges against him, possible penalties and the giving up of his constitutional rights, believes that the juvenile has the mental capacity to evaluate this Acknowledgement of Rights, and having done so, to knowingly and intelligently form a reasoned judgment waiving his constitutional rights as set forth herein.

Presiding Justice

KEENE DISTRICT COURT

KEENE, NEW HAMPSHIRE

SAMPLE
Participation
Contract

JAMES S. DAVIS, JUSTICE

RICHARD J. TALBOT, SPECIAL JUSTICE

MERVYN C. FRINK, CLERK

I, _____, having been referred to the Juvenile Conference Committee as an alternative to Court action, do hereby give my consent to be interviewed by the Juvenile Coordinator of the Keene District Court with the understanding that the information obtained will be provided to the Committee in order that they might effectively deal with this case.

I agree to submit this matter to the Juvenile Conference Committee thus waiving a hearing before the Juvenile Judge, with the knowledge that failure to abide by the decision of the Committee could result in additional Court involvement.

This is not an admission of guilt and any information obtained during this interview or in Committee session will be confidential and will not be used as evidence in Court should a formal hearing become necessary. Furthermore, I understand I have the right to transfer this case to Juvenile Court at any time should I so wish.

PARENT OR GUARDIAN

MINOR

JUVENILE COORDINATOR

DATE

SAMPLE
Intake Form

STAFF PERSON _____ CASE # D _____

DATE OF REFERRAL _____ REFERRAL SOURCE _____

OFFENSE _____

NAME _____

ADDRESS _____

TELEPHONE _____ AGE _____ DATE OF BIRTH _____

LIVES WITH _____

PARENTS:

(STEP) MOTHER _____

BUSINESS ADDRESS _____ PHONE _____

(STEP) FATHER _____

BUSINESS ADDRESS _____ PHONE _____

NAMES AND AGES OF SIBLINGS:

Name _____ Age _____ Name _____ Age _____

Name _____ Age _____ Name _____ Age _____

Name _____ Age _____ Name _____ Age _____

SCHOOL ATTENDING _____ GRADE _____

GUIDANCE COUNSELOR _____

DIRECTIONS TO HOME _____

VICTIM'S NAME _____

ADDRESS _____ PHONE _____

RESTITUTION _____

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SAMPLE
Contract

YOUTH SERVICES BUREAU
306 Union Avenue
Laconia, New Hampshire 03246

VOLUNTARY PARTICIPATION CONTRACT

I, _____, have been referred to Youth Services for alleged involvement in the offense of _____. I understand that this offense would normally require disposition in court. A Youth Services representative has approached me and given me the free choice of appearing before the Juvenile Diversion Committee or the court.

By my signature on this agreement I choose to appear before the Juvenile Diversion Committee. I know that several community people will meet with me to discuss the offense and seek an appropriate plan of accountability. If I freely choose after this meeting not to fulfill the recommendations of the Juvenile Diversion Committee, I shall thereby appear in court on the offense stated above.

I clearly understand that the Juvenile Diversion Committee is not a jury, and in no way is meeting to decide on my guilt or innocence. At the same time I acknowledge by my acceptance of this program that I am waiving my right to a speedy trial. I also understand that any information discussed in Committee session will be held in the strictest of confidence.

Realizing that the Committee members are concerned only with my welfare, I agree to make every effort to complete their recommended plan of accountability.

I understand that the "contract" cannot be used in any judicial action as an admission or confession to any offense committed by the participating youth.

Parent or Guardian _____ Minor _____

Youth Services Bureau Representative

Date

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SAMPLE
Home Report

HOME REPORT

STAFF PERSON _____ CASE # D _____
NAME _____ AGE _____
ADDRESS _____
TYPE OF DWELLING _____
DATE OF OFFENSE _____ CONSENT TO GO THROUGH PROGRAM _____
DATE OF REFERRAL _____ HOME VISIT _____
INITIAL CONTACT _____ SCHOOL VISIT _____

OFFENSE _____
DOES YOUTH'S ACCOUNT CONCUR WITH THAT OF POLICE REPORT? _____ YES _____ NO.
IF NO, EXPLAIN: _____
HOME CONSEQUENCES: _____
VICTIM'S NAME _____
VICTIM'S ADDRESS _____
RESTITUTION _____
COMMENTS _____

YOUTH'S PERSPECTIVE ON APPROPRIATE CONTRACT CONDITIONS: _____

YOUTH LIVES WITH _____
PARENTS:
(STEP) MOTHER _____
BUSINESS ADDRESS _____
(STEP) FATHER _____
BUSINESS ADDRESS _____

NAMES AND AGES OF SIBLINGS:
Name _____ Age _____ Name _____ Age _____
Name _____ Age _____ Name _____ Age _____
Name _____ Age _____ Name _____ Age _____

HOME RESPONSIBILITIES: _____

SCHOOL _____ GRADE _____

SUBJECTS: _____ YOUTH'S COMMENTS _____
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

FUTURE PLANS _____

YOUTH'S EMPLOYER _____
INTERESTS/RECREATIONAL ACTIVITIES _____

THREE THINGS YOUTH IS PROUD OF: 1. _____
2. _____ 3. _____

ADDITIONAL COMMENTS: _____

SAMPLE
Juvenile Contract

LACONIA YOUTH SERVICES BUREAU
306 Union Avenue
Laconia, New Hampshire 03246
(603) 524-9457

Carolyn Wagner
Diversion Worker

JUVENILE CONTRACT

NAME: John Doe, age 15

DATE: 8 June 1981

The Juvenile Diversion Committee has formulated the following consequences for your offense of Theft by Unauthorized Taking.

1. John is to set up and attend a meeting between the Principal at the High School and his mother to discuss the possibility of getting into an Auto Mechanics course. It is the Committee's expectation that by making a schedule change John will remain in school.
2. John is to make a written apology to Mr. James Smith, the victim.
3. John is to arrange, through Carolyn Wagner, to meet with a local mechanic to discuss the qualifications and schooling needed to become a mechanic.
4. John is to do thirty-five (35) hours of community work with the Parks and Recreation Department. This will be set up by John through the YSB office. Seventy (70) hours would normally be the number of hours needed to make appropriate restitution for this offense. Since this is your first offense, however, the Committee requests that you work only half this amount.

"I, John Doe, understand and accept the above consequences. I know that failure on my part to fulfill these consequences will result in my appearance in Court for the offense which brought me before the Juvenile Diversion Committee."

YOUTH _____ PARENT _____

YSB REPRESENTATIVE _____ PARENT _____

DATE _____

Members Present: 127

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SCHOOL REPORT
Laconia Youth Services Bureau

SAMPLE
School Report

School _____

Date Report Issued _____

Student's Name _____ Grade _____ D.O.B. _____

SUBJECT AND TEACHER'S NAME	ACADEMIC PERFORMANCE (CONTENT EXPLAINED)	SOCIAL BEHAVIOR (STRENGTHS AND WEAKNESSES)	WHAT DO YOU DO AS A TEACHER THAT WORKS WELL, i.e. TECHNIQUES	WHAT DOESN'T SEEM TO WORK WELL	COURSE LETTER GRADE

Guidance Department Report (please use back if needed)

- Psych. Educational, Vocational tests administered, dates admin. & results _____
 - Is the student a special needs child and/or is there reason to suspect this? _____
 - Do you find the parents cooperative? Explain _____
- General comments and suggestions _____

SAMPLE
Time Log

CASE # _____

TIME LOG

PHONE CALL _____ HOME VISIT _____ CONTRACT ISSUED _____
 LETTER SENT _____ SCHOOL VISIT _____ CONTRACT RECEIVED _____
 INITIAL CONTRACT _____ LETTER SENT _____ CASE CLOSED _____
 HEARING _____ TOTAL TIME SPENT _____

Date	P	V	TIME SPENT	D	I	NARRATIVE

SAMPLE
Intake Form

The FRIENDS Program, Inc.

Restitution Project

INTAKE FORM

I, _____, do hereby request to be considered for The FRIENDS Program Restitution Project. It is the function of my participation in the project to make restitution for an incident I was involved in and to settle this incident to the satisfaction of the victim involved, and the satisfaction of a representative of the Concord Juvenile Justice System.

I agree to take part in the formulation of a contract whereby restitution can be fairly made to the satisfaction of all parties involved.

I agree that to the best of my ability I will fulfill all the terms of the contract within the given amount of time, and that failure to satisfy all the terms of this contract will result in a consequence also stated in the contract which may include my appearance in court.

Youth

Parent and Guardian

Date Time

FRIENDS Counselor

SAMPLE
Victim Contract

The FRIENDS Program, Inc.

Restitution Project

CONTRACT

YOUTH _____ FRIENDS COUNSELOR _____

VICTIM _____ DATE & TIME _____

I, _____, the victim of damage as described,

do agree that the following restitution agreement is fair and adequate compensation for these damages. This agreement has been made between myself and _____, with a representative of The FRIENDS Program present.

Signature _____

I, _____, do agree to _____

If I fail to complete the above terms of restitution, I understand that the consequence will be: _____

I agree that the above restitution agreement is fair and adequate compensation for the damages described above. This agreement has been made between myself and _____, with a representative of The FRIENDS Program present.

I agree to complete the terms of the restitution agreement within the time limit stated, and further understand that failure to complete the terms agreed upon will result in the stated consequence.

Signature _____

Preceding page blank

SAMPLE
Contract

HANOVER DIVERSION COMMITTEE
Municipal Building
Hanover, New Hampshire 03755

CONTRACT

1. On _____ (Date), at _____ (Location), you were apprehended by the Hanover Police Department for having _____ which is a violation of RSA _____ of the laws of the State of New Hampshire.
2. You have voluntarily admitted your involvement in that unlawful act, and have come before the Hanover Diversion Committee today to work out an alternative to a Juvenile Petition. As you know, a Juvenile Petition would require you to appear before the Hanover District Juvenile Court.
3. You and the Committee have agreed that successful completion of the following course of action will discharge your responsibilities for your unlawful act:
 - a. You will report to Mr/Mrs/Ms. _____ at _____ (Location) according to the following schedule: _____
 - b. You will be responsible to _____ or to _____ (Supervisors) during those periods. Your work, under their supervision, will consist of the following: _____
 - c. The manner in which you work, and the cooperative spirit, are vital to successful completion of this contract. _____ (Supervisor) will report to the Committee on your performance, and his/her opinion is most important to us.
 - d. You will meet with the Committee on _____ (Date) at _____ (Time). Prepare and bring to us a brief, thoughtful, written account of your activities.
4. The Diversion Committee will consider successful completion of the above assignments as fulfillment of all your obligations under this contract. Upon successful completion of the contract, the Police Department will be notified, and all Police records of this event will be destroyed.

I agree to the terms of this contract, and will work hard to complete it successfully.

(Offenders's signature)

(Date)

Agreed: _____ (Date)

HANOVER DIVERSION COMMITTEE

Agreed: _____ (Date)

Parents/Guardian

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APPENDIX 5
NEW HAMPSHIRE JUVENILE CODE: RSA 169

CHAPTER 361 (HB 831)

AN ACT CONCERNING DELINQUENCY, CHILD PROTECTION AND
CHILDREN IN NEED OF SERVICES.

Be it Enacted by the Senate and House of Representatives in General Court convened:

361:1 Repeal. RSA 169 relative to neglected and delinquent children and persons in need of supervision is hereby repealed.

361:2 Delinquents and Children Needing Protection and Services. Amend RSA by inserting after chapter 169-A the following new chapters:

CHAPTER 169-B

DELINQUENT CHILDREN

169-B:1 Applicability of Chapter, Purpose. This chapter shall apply to delinquent children as defined in RSA 169-B:2. This chapter shall be liberally interpreted, construed and administered to effectuate the following purposes and policies:

I. To encourage the wholesome moral, mental, emotional, and physical development of each minor coming within the provisions of this chapter, by providing him with the protection, care, treatment, counselling, supervision, and rehabilitative resources which he needs and has a right to receive;

II. Consistent with the protection of the public interest, to remove from a minor committing a delinquency offense the taint of criminality and the penal consequences of criminal behavior, by substituting therefor an individual program of counselling, supervision, treatment, and rehabilitation;

III. To achieve the foregoing purposes and policies, whenever possible, by keeping a minor in contact with his home community and in a family environment by preserving the unity of the family and separating the minor from his parents only when it is clearly necessary for his welfare or the interests of public safety and when it can be clearly shown that a change in custody and control will plainly better the minor; and

IV. To provide effective judicial procedures through which the provisions of this chapter are executed and enforced and which recognize and enforce the constitutional and other rights of the parties and assures them a fair hearing.

169-B:2 Definitions. In this chapter:

I. "Court" means the district court, unless otherwise indicated.

II. "Delinquent" means a person who has committed an offense before reaching the age of 18 years which would be a felony or misdemeanor under the criminal code of this state if committed by an adult, and is expressly found to be in need of counselling, supervision, treatment, or rehabilitation as a consequence thereof.

III. "Detention" means the care of a minor in physically restricted facilities.

IV. "Minor" means a person under the age of 18.

V. "Probation" means a legal status created by court order following an adjudication that a child is delinquent whereby the minor is permitted to remain in the community, including his home, subject to:

(a) The conditions and limitations of his conduct prescribed by the court;
(b) Such counselling and treatment as deemed necessary, pursuant to methods and conditions prescribed by the court, for the minor and his family;

(c) The supervision of a probation officer or volunteer counselor, as authorized by RSA 504:19;
and

(d) Return to the court for violation of probation and change of disposition at any time during the period of probation.

169-B:3 Jurisdiction. The court shall have exclusive original jurisdiction over all proceedings alleging delinquency.

169-B:4 Jurisdiction Over Certain Persons. The court shall have jurisdiction over any person with respect to whom a petition is filed under this chapter after his eighteenth and before his nineteenth birthday for an alleged delinquency offense committed before his eighteenth birthday, provided no person may be detained at or committed to the youth development center after his eighteenth birthday. Jurisdiction obtained by a court over a person under this section and all orders affecting him then in force, unless terminated prior thereto by the court, shall terminate when the person reaches 19 years of age.

169-B:5 Venue.

I. Proceedings under this chapter may be originated in any judicial district in which the minor is found or resides.

II. By the court, upon its own motion, or that of any party, proceedings under this chapter may, upon notice and acceptance, be transferred to another court as the interests of justice or convenience of the parties require.

III. When a minor who is on probation moves from one political subdivision to another, the court may transfer, upon notice and acceptance, to the court with jurisdiction over the political subdivision of the minor's new residence, if such transfer is in the best interest of the minor.

169-B:6 Petition.

I. Any person may file a petition, alleging the delinquency of a minor, with a judge or clerk of the court in the judicial district in which the minor is found or resides. The petition shall be in writing and verified under oath.

II. To be legally sufficient, the petition must set forth with particularity, but not be limited to, the date, time, manner and place of the conduct alleged and should state the statutory provision alleged to have been violated.

169-B:7 Issuance of Summons and Notice.

I. After a legally sufficient petition has been filed, the court shall issue a summons to be served personally or, if personal service is not possible, at the usual place of abode of the person having custody or control of the minor or with whom the minor may be, requiring that person to appear with the minor at a specified place and time, which time shall not be less than 24 hours nor more than 7 days after service. If the person so notified is not the parent or guardian of the minor, then a parent or guardian shall be notified, provided they and their residence are known, or if there is neither parent nor guardian, or their residence is not known, then some relative, if there be one and his residence is known.

II. A copy of the petition shall be attached to each summons or incorporated therein.

III. The summons shall contain a notice of the right to representation by counsel and the available procedures for obtaining counsel.

169-B:8 Failure to Appear; Warrant.

I. Any person summoned who, without reasonable cause, fails to appear with the minor, may be proceeded against as in case of contempt of court.

II. If a summons cannot be served or the party served fails to obey the same, and in any case where it appears to the court that such summons will be ineffectual, a warrant may be issued for the minor's appearance or for the appearance of anyone having custody or control of the minor or for both.

169-B:9 Arrest. Nothing in this chapter shall be construed as forbidding any police officer or probation officer from immediately taking into custody any minor who is found violating any law, or who is reasonably believed to be a fugitive from justice, or whose circumstances are such as to endanger his person or welfare, unless immediate action is taken.

169-B:10 Release Without Court Referral. An officer authorized under RSA 169-B:9 to take a minor into custody may dispose of the case without court referral by releasing the minor to a parent, guardian, or custodian and may, with the consent of the minor and minor's parent, guardian or custodian, refer the minor to a court approved diversion program. The officer shall make a written report to his department identifying the minor, specifying the grounds for taking the minor into custody and indicating the basis for the disposition.

169-B:11 Release Prior to Arraignment. An officer taking a minor into custody pursuant to RSA 169-B:9 may release the minor to a parent, guardian or custodian pending arraignment; however, if the minor is not released within 4 hours of being taken into custody, the court shall be notified, and thereupon, placement, until arraignment, shall be determined by the court.

I. A minor taken into custody pursuant to RSA 169-B:9 shall be released to a parent, guardian, or custodian pending arraignment; or

II. If such a person is not available, the court may release the minor under the supervision of a relative or friend; or place the minor in a crisis home, shelter care facility or group home with expenses charged according to RSA 169-B:40; or

III. If the court determines that continued detention is required, based upon the criteria specified under RSA 169-B:14 I, (d) (2), it may order continued detention at a police station, jail or the youth development center; provided, that any minor so detained shall not be placed in a facility in which the minor can come into contact with an adult charged, convicted or committed for a criminal offense.

169-B:12 Appointment of Counsel; Waiver of Counsel.

I. Absent a valid waiver, the court shall appoint counsel at the time of arraignment, provided that a minor detained pursuant to RSA 169-B:11, III, shall have counsel appointed upon the issuance of the detention order.

II. The court may accept a waiver of counsel in a delinquency proceeding only when:

- (a) The minor is represented by a non-hostile parent, guardian or custodian; and
- (b) Both the minor and parent, guardian or custodian agree to waive counsel; and
- (c) In the court's opinion the waiver is made competently, voluntarily and with full understanding of the consequences; and
- (d) Detention will not occur at any stage of the proceedings.

169-B:13 Arraignment.

I. No minor shall be detained for more than 24 hours, Sundays and holidays excluded, from the time of being taken into custody without being brought before a court. At any arraignment the court shall:

- (a) Advise the minor in writing and orally of any formal charges;
- (b) Inform the minor of the applicable constitutional rights;
- (c) Appoint counsel pursuant to RSA 169-B:12;
- (d) Establish any conditions for release; and
- (e) Set a hearing date. However, no plea shall be taken until the minor has the opportunity to consult with counsel or until a waiver is filed pursuant to RSA 169-B:12.

II. After hearing, the court may, with the consent of the minor, dispose of the petition by ordering the minor to participate in an approved court diversion program.

169-B:14 Release or Detention Pending Adjudicatory Hearing.

I. Following arraignment a minor alleged to be delinquent may be ordered by the court to be:

- (a) Retained in the custody of a parent, guardian, or custodian; or
- (b) Released in the supervision and care of a relative or friend; or
- (c) Placed in a group home, crisis home or shelter care facility, with expenses charged according to RSA 169-B:40; or
- (d) Detained at the youth development center pursuant to the following:

(1) No minor charged with delinquency shall be detained following arraignment unless the prosecution establishes probable cause to believe that the minor committed the alleged delinquent acts and unless the prosecution demonstrates by clear and convincing evidence the need for detention, based upon the detention criteria specified in subparagraph (2);

(2) A minor should not be detained unless detention is necessary:

- (i) To insure the presence of the juvenile at a subsequent hearing; or
- (ii) To provide care and supervision for a minor who is in danger of harming himself when no parent, guardian, custodian or other suitable person or program is available to supervise and provide such care; or
- (iii) To protect the personal safety or property of others from the probability of serious bodily or other harm.

II. The adjudicatory hearing shall be held within 21 days of arraignment for minors detained pending such hearing and within 30 days of arraignment for minors not detained.

III. All orders issued pursuant to this section shall set forth findings in writing and may be subject to such conditions as the court may determine.

169-B:15 No Detention at Jail. Following arraignment no minor shall be detained at a jail or police station or other place where he can come in contact with any adult under arrest, charged with a criminal offense or serving sentence under conviction of crime; provided that a minor whose habits or conduct are found likely to promote serious bodily harm to himself or to other minors may by order of the court, be detained in a jail or other place of detention for adults but in a separate room or ward provided that services afforded adults be available to the minor and provided that the room or ward not be one used for solitary confinement for adults.

169-B:16 Adjudicatory Hearing.

I. An adjudicatory hearing under this chapter shall be conducted by the court, separate from the trial of criminal cases.

II. Following arraignment, the court shall proceed to hear the case in accordance with the due process rights afforded a minor charged with delinquency. The prosecution shall present witnesses to testify in support of the petition and any other evidence necessary to support the petition. The minor shall have the right to present evidence and witnesses on his behalf and to cross-examine adverse witnesses.

III. If the court finds the minor has committed the alleged offense, it shall, unless a report done on the same minor less than 3 months previously is on file, order the probation department or other appropriate agency to make an investigation and written report consisting of, but not limited to, the home conditions, school records and the mental, physical and social history of the minor. When ordered by the court, such investigation shall include a physical and mental examination of the minor conducted pursuant to RSA 169-B:23, RSA 169-B:20 and RSA 169-B:21. No disposition order shall be made by the court without first reviewing the investigation report.

IV. The court shall share the report with the parties. The report shall be used only after a finding of delinquency and only as a guide for the court in determining an appropriate disposition for the minor.

V. The court shall hold a hearing on final disposition within 21 days of the adjudicatory hearing if the minor is detained and within 30 days of the adjudicatory hearing if the minor is released.

169-B:17 Burden of Proof. The petitioner has the burden to prove the allegations in support of the petition beyond a reasonable doubt.

169-B:18 Custody Pending Final Disposition. Following the adjudicatory hearing, release pending the dispositional hearing shall be determined in accordance with RSA 169-B:14.

169-B:19 Dispositional Hearing.

I. If the court finds that a minor is delinquent, the court may order the least restrictive of the following dispositions, which the court finds is the most appropriate:

- (a) Return the minor to a parent, custodian or guardian;
- (b) Fine the minor up to \$250, require restitution or both;
- (c) Order the minor or the family or both to undergo physical treatment or treatment by a mental health center or any other psychiatrist, psychologist, psychiatric social worker or family therapist as determined by the court, with expenses charged according to RSA 169-B:40;
- (d) Place the minor on probation for a term certain;
- (e) Release the minor in the care and supervision of a relative or friend;
- (f) Release the minor in the care and supervision of a group home, crisis home or shelter care facility, which is not used for the placement of children in need of services or a child found to be abused or neglected, with expenses charged according to RSA 169-D:40;
- (g) Any combination of the above; or
- (h) Commit the minor to the youth development center for his minority.

II. If a minor is placed out of state, the provisions of RSA 170-A shall be followed.

III. A minor found to be a delinquent after his seventeenth birthday, in addition to or in place of the dispositions provided for in paragraph I, may be committed to the house of correction or jail for no greater term than an adult could be committed for a like offense; provided, however, that said term may not extend beyond his nineteenth birthday and provided further that during his minority he may not be confined in a house of correction or jail unless he can be separated from adults as provided in RSA 169-B:15.

IV. A summary of the investigative officer's report shall accompany each commitment order.

V. All dispositional orders issued pursuant to this section shall include written findings as to the basis for the disposition, and such conditions as the court may determine.

169-B:20 Determination of Competence. Any minor before the court shall, at the discretion of the court, together with parents, guardian or person with custody or control submit to a mental health evaluation to be completed within 60 days, by an agency other than the New Hampshire hospital, approved by the director of the division of mental health, of the department of health and welfare, a psychologist certified in New Hampshire, or a qualified psychiatrist, provided that the evaluation may be performed by the New Hampshire hospital upon certification to the hospital and the director of the division of mental health by the local community mental health center established pursuant to RSA 126-B that such center cannot provide a completed evaluation within 60 days. A written report of the evaluation shall be given to the court before the hearing on the merits is held. The court shall inform the parents, guardian or counsel of the minor of their right to object to the mental health evaluation. They shall object in writing if they so desire to the court having jurisdiction of the matter within 5 days after notification of the time and place of said evaluation, and the court shall hold a hearing to consider the objection prior to ordering said evaluation or, upon good cause shown, may excuse the minor, parents, guardian, or person in custody or control from the provisions of this section. Whenever such an evaluation has been made for consideration at a previous hearing, it shall be jointly reviewed by the court and the evaluating agency before the case is heard. The evaluating facility, agency or individual shall keep records; but no reports or records of information contained therein shall be made available, other than to the court and parties except upon the written consent of the person examined or treated and except as provided in RSA 169-B:35. The expense of such evaluation is to be borne as provided in RSA 169-B:40.

169-B:21 Mental Health Evaluation. Any court finding that a minor has committed the alleged offense may, before making a final disposition, order the minor, minor's parents, guardian or person with custody or control to submit to a mental health evaluation to be completed within 60 days, by an agency or individual as specified in RSA 169-B:20. A written report of the evaluation shall be given to the court before the dispositional hearing. If the parents, guardian, minor or person having custody and control objects to the mental health evaluation, they shall object in writing to the court having jurisdiction within 5 days after notification of the time and place of said evaluation. The court shall hold a hearing to consider the objection prior to ordering said evaluation. Upon good cause shown, the court may excuse the parents, guardian, minor or person with custody or control from the provisions of this section. Whenever such an evaluation has been made for consideration at a previous hearing, it shall be jointly reviewed by the court and the evaluating agency before the case is heard.

The evaluating facility, agency or individual shall keep records, but no reports or records of information contained therein shall be made available, other than to the court and parties, except upon the written consent of the person examined or treated and except as provided in RSA 169-B:35. The expense of such evaluation is to be borne as provided in RSA 169-B:40.

169-B:22 Disposition of a Mentally Ill or Mentally Retarded Minor. If the evidence received at an adjudicatory or dispositional hearing indicates that a minor is mentally ill or mentally retarded, the court may request the state to initiate proceedings or to assist the minor's parent or guardian to initiate civil commitment proceedings in the probate court pursuant to RSA 135-B or 171-A.

169-B:23 Orders for Physical Examination and Treatment. If it is alleged in any petition, or it appears at any time during the progress of the case, that a delinquent is in need of physical treatment, the failure to receive which is a contributing cause of delinquency, due notice of that fact shall be given as provided in RSA 169-B:7. If the court, upon hearing, finds that such treatment is reasonably required, it shall be ordered and the expense thereof shall be borne as provided in RSA 169-B:40.

169-B:24 Transfer to Superior Court. All cases before the court in which the offense complained of constitutes a felony or would amount to a felony in the case of an adult may be transferred to the superior court prior to hearing under 169-B:16 as provided herein. The court shall conduct a hearing on the question of transfer and shall consider, but not be limited to, the following criteria in determining whether a case should be transferred:

- I. The seriousness of the alleged offense to the community and whether the protection of the community requires transfer;
- II. The aggressive, violent, premeditated or willful nature of the alleged offense;
- III. Whether the alleged offense was committed against persons or property;
- IV. The prosecutive merit of the complaint;
- V. The desirability of trial and disposition of the entire offense in one court if the minor's associates in the alleged offense were adults who will be charged with a crime;
- VI. The sophistication and maturity of the minor;
- VII. The minor's prior record and prior contacts with law enforcement agencies; and
- VIII. The prospects of adequate protection of the public, and the likelihood of reasonable rehabilitation of the minor through the juvenile court system. The minor is entitled to the assistance of counsel, who shall have access to said court records, probation reports or other agency reports. If the court orders transfer to superior court, it shall provide a written statement of findings and reasons for such transfer to the minor. Cases so certified and accepted by the superior court may be disposed of by the superior court according to the laws of this state relating thereto without any limitations as to sentence or orders required by this chapter. All original papers in transferred cases shall remain in the court from which transferred and certified copies of the same shall be filed with and shall constitute the records of the court to which transfer is made. Pending disposition by the superior court, a juvenile whose case is thus transferred and accepted by the superior court may be placed under the supervision of the probation officer or required to recognize with sufficient sureties, or in default thereof, be detained at a county jail, house of correction or state prison to await disposition of the case in said superior court; provided, however, once a minor is certified for trial as an adult and his case is transferred to the superior court, detention at the youth development center is prohibited.

169-B:25 Petition by County Attorney. If facts are presented to the county attorney establishing that a person under the age of 18 has been guilty of conduct which constitutes a felony or would amount to a felony in the case of an adult and if such person is not within the jurisdiction of this state, the county attorney may file a petition with the judge of the municipal or district court which would otherwise have jurisdiction under the provisions of this chapter. The petition shall set forth the nature of the offense with which the person is charged and shall specify his whereabouts if known. On receipt of such petition, the court may summarily authorize the county attorney to proceed against such person under regular criminal procedures, and without regard to the provisions of this chapter. Pending determination by the superior court as herein provided and pending final disposition of the matter, such persons shall be bailable with sufficient sureties as in the case of adults and, in default thereof, may be committed to the custody of the probation officer or detained at the county jail or house of correction unless detention elsewhere is ordered by the superior court. The superior court shall determine, after hearing, whether such person shall be treated as a juvenile under the provisions of this section or whether the case shall be disposed of according to regular criminal procedures.

169-B:26 Petition by Minor. At any time prior to hearing pursuant to RSA 169-B:16, a minor who is charged with an act of delinquency committed after his seventeenth birthday may petition the court to be tried as an adult and to have his case dealt with in the same manner as any other criminal prosecution.

169-B:27 Treatment of Juvenile as Adult. Any minor who has been tried and convicted as an adult shall henceforth be treated as an adult for all purposes in connection with any criminal offense with which said minor may be charged.

169-B:28 Disqualification of Judge. A judge who conducts a hearing pursuant to RSA 169-B:24, RSA 169-B:25 or RSA 169-B:26 shall not participate in any subsequent proceedings relating to the offense or conduct alleged in the delinquency petition if the minor or his counsel object to such participation.

169-B:29 Appeals. An appeal, under this chapter, may be taken to the superior court by the minor within 30 days of the final dispositional order; but an appeal shall not suspend the order or decision of the court unless the court so orders. The superior court shall hear the matter *de novo*, and shall give an appeal under this chapter priority on the court calendar.

169-B:30 Committal of Children Under Eleven. Notwithstanding any other provision of law, minors under the age of 11 years shall not be committed to the youth development center unless and until the court has referred the matter to and received the recommendation of an appropriate public or private agency or of a probation officer that there is no other public or private home or institution suitable for such commitment.

169-B:31 Review of Disposition Required. The court shall review the disposition of each minor under RSA 169-B:19 at least once within 1 year after such disposition and at least annually thereafter so long as the order of disposition is pending.

169-B:32 Limitations of Authority Conferred. This chapter shall not be construed as applying to persons 16 years of age or over who are charged with the violation of a motor vehicle law, an aeronautics law, a law relating to navigation of boats or a fish and game law.

169-B:33 Religious Preference. The court and officials, in placing minors, shall, as far as practicable, place them in the care and custody of some individual holding the same religious belief as the minor or the parents of said minor, or with some association which is controlled by persons of like religious faith. No minor under the supervision of any state institution shall be denied the free exercise of his religion or the religion of his parents, whether living or dead, nor the liberty of worshipping God according thereto.

169-B:34 Court Sessions. All juvenile cases shall be heard separately from the trial of criminal cases, and such hearing shall be held wherever possible in rooms not used for such trials. Only such persons as the parties, their witnesses, their counsel, the county attorney, the attorney general and the representatives of the agencies present to perform their official duties shall be admitted. In those cases where the delinquent act complained of would constitute a felony if the act of an adult, the attorney general and the county attorney of the county in which the offense took place shall receive notice thereof by the court.

169-B:35 Juvenile Records. Except as provided in RSA 169-B:24 and RSA 169-B:39, all records pertaining to cases of delinquency shall be kept at all times so that no one shall have access to the same except officers of the institution where the minor is committed, duly accredited probation officers, parent, guardian, custodian, minor's attorney, and others entrusted with the corrective treatment of said minor. Additional access may be granted by court order or upon the written consent of the minor. Once a delinquent reaches 19 years of age, all court and individual institutional records including police records shall be sealed and placed in an inactive file.

169-B:36 Penalty for Disclosure of Juvenile Records. Any officer or employee of an institution who permits other than authorized persons to have access to such records, or any officer or employee or person entrusted with the use of the same for corrective purposes, or anyone else, who publishes or broadcasts or permits the publication or broadcast of such records or parts of the same, except by court order, shall be in contempt of court. This prohibition shall not be construed to prevent publication as provided in RSA 169-B:37.

169-B:37 Publication of Delinquency Restricted. It shall be unlawful for any newspaper to publish, or any radio or television station to broadcast or make public the name or address or any other particular information serving to identify any juvenile arrested, without the express permission of the court; and it shall be unlawful for any newspaper to publish, or any radio or television station to make public, any of the proceedings of any juvenile court. Nothing in this section or RSA 169-B:35 and RSA 169-B:36 shall be construed to prevent publication without using the name of the delinquent of information which shall be furnished by the court about the disposition of a case when the delinquent act would constitute a felony if it were the act of an adult.

169-B:38 Penalty for Forbidden Publication. The publisher of any newspaper or the manager, owner or person in control of a radio or television station or agent or employee of any of the above who violates any provision of RSA 169-B:37 shall be guilty of a misdemeanor.

169-B:39 Reports to Board of Probation. The court shall forward monthly to the board of probation on forms provided by said board such statistical data concerning minors who have been adjudged delinquent as may be required by said board in making its biennial report relative to number, age, sex,

and types of delinquencies; provided, such data shall not include any reference to the names of such delinquents.

169-B:40 Liability of Expenses and Hearing on Liability.

I. Liability of Expenses. Whenever an order creating liability for expenses is issued by the court under this chapter, any expenses incurred shall be payable by the town in which the minor resides at the time the petition is filed or, if such residence cannot be determined, by the town in which the minor is taken into custody. Either town shall have a right of action over for such expenses against the person chargeable by law for the minor's support and necessities. If a town cannot collect for such payments made in behalf of a minor, such payments shall be considered assistance to a pauper as to the person chargeable by law for the minor's support and necessities and such person shall be subject to a loss of settlement in accordance with the provisions of RSA 164-A:5. A court may make such order as to reimbursement to the town of residence as may be reasonable and just, based on the person's ability to pay.

II. Hearing on Liability. Upon determination of liability at any stage of the proceeding, the court shall send notice to the appropriate legally liable unit. Said legally liable unit may within 30 days from receipt of notice request a hearing on the issue of liability.

169-B:41 Intentional Contribution to Delinquency.

I. Any parent or guardian or person having custody or control of a minor, or anyone else, who shall knowingly encourage, aid, cause, or abet, or connive at, or has knowingly or wilfully done any act to produce, promote, or contribute to the delinquency of such minor, shall be guilty of a misdemeanor. The court may release such person on probation, subject to such orders as it may make concerning future conduct tending to produce or contribute to such delinquency, or it may suspend sentence, or before trial, with his consent, it may allow him to enter into a recognizance, in such penal sum as the court may fix, conditioned for the promotion of the future welfare of the minor, and said case may be placed on file.

II. Notwithstanding the provisions of paragraph I, any parent, guardian or person having custody or control of a minor, or anyone else, who shall knowingly or wilfully, encourage, aid, cause or abet, or connive at, or has knowingly done any act to produce, promote, or contribute to the utilization of a minor in any acts of sexual conduct as defined in RSA 650:1, VI, in order to create obscene material as defined in RSA 650:1, IV, shall be guilty of a class B felony.

169-B:42 Procedure. If any minor is found more than once to be delinquent by the court as provided in RSA 169-B:41, the court may, upon complaint of the county attorney or any other person, or upon its own motion, issue a warrant commanding any parent, guardian or person having custody or control of the minor found to be delinquent to be brought before the same court in which the findings of delinquency was made.

169-B:43 Court Orders. The court, upon a complaint issued under RSA 169-B:42, may proceed under said section and, in addition thereto, if the court finds, after a hearing, that the parent, guardian or person having custody or control of the minor has failed to exercise reasonable diligence in the control of such minor to prevent him from becoming guilty of juvenile delinquency as defined by statute, or from becoming adjudged by the court to be in need of the care and protection of the state as defined by statute, it may make such order specifying future conduct as is designed to reasonably prevent the reoccurrence of delinquency and to promote the future welfare of the minor. Such order shall remain in effect for a period of not more than 1 year to be specified by the court, and said order may be extended or renewed by the court. Before issuing any such order, the court shall advise such parent, guardian or other person of his right to have the reasonableness thereof immediately reviewed; and, in this connection, the superior court is vested with jurisdiction to summarily determine the reasonableness of any question of law or fact relating to such written specifications and to make such further orders upon review thereof as justice may require.

169-B:44 Civil Action for Compensation. Nothing in this chapter shall bar civil action to recover damages for the negligence of a person having custody or control of a minor who causes injury to property or persons.

169-B:45 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

CHAPTER 169-C

CHILD PROTECTION ACT

169-C:1 Short Title. This chapter shall be known as the Child Protection Act.

169-C:2 Purpose.

I. It is the purpose of this chapter, through the mandatory reporting of suspected instances of child abuse or neglect, to provide protection to children whose life, health or welfare is endangered and to

establish a judicial framework to protect the rights of all parties involved in the adjudication of child abuse or neglect cases. Each child coming within the provisions of this chapter shall receive, preferably in his own home, the care, emotional security, guidance and control that will promote the child's best interest; and, if the child should be removed from the control of his parents, guardian or custodian, adequate care shall be secured for the child. This chapter seeks to coordinate efforts by state and local authorities, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to:

- (a) Preserve the unity of the family whenever possible;
- (b) Provide assistance to parents to deal with and correct problems in order to avoid removal of children from the family;
- (c) Take such action as may be necessary to prevent abuse or neglect of children;
- (d) Provide protection, treatment and rehabilitation, as needed, to children placed in alternative care.

II. This chapter shall be liberally construed to the end that its purpose may be carried out, to wit:

(a) To encourage the mental, emotional, and physical development of each child coming within the provisions of this chapter, by providing him with the protection, care, treatment, counselling, supervision, and rehabilitative resources which he needs and has a right to receive.

(b) To achieve the foregoing purposes and policies, whenever possible, by keeping a child in contact with his home community and in a family environment by preserving the unity of the family and separating the child from his parents only when it is clearly necessary for his welfare or the interests of public safety and when it can be clearly shown that a change in custody and control will plainly better the child; and

(c) To provide effective judicial procedures through which the provisions of this chapter are executed and enforced and which recognize and enforce the constitutional and other rights of the parties and assures them a fair hearing.

169-C:3 Definitions. When used in this chapter and unless the specific context indicates otherwise:

I. "Abandoned" means the child has been left by his parent, guardian or custodian, without provision for his care, supervision or financial support although financially able to provide such support.

II. "Abused child" means any child who has:

- (a) Been sexually molested; or
- (b) Been sexually exploited; or
- (c) Been intentionally physically injured; or
- (d) Been psychologically injured so that said child exhibits symptoms of emotional problems generally recognized to result from consistent mistreatment or neglect; or
- (e) Been physically injured by other than accidental means.

III. "Adjudicatory hearing" means a hearing to determine the truth of the allegations in the petition filed under this chapter.

IV. "Bureau" means the bureau of child and family services, division of welfare, department of health and welfare.

V. "Child" means any person who has not reached his eighteenth birthday.

VI. "Child care agency" means any person, corporation, partnership, voluntary association or other organization either established for profit or otherwise, who regularly receives for care one or more children, unrelated to the operator of the agency, in any facility established and maintained for the care of children and licensed pursuant to RSA 170-E.

VII. "Child placing agency" means the division, Catholic charities of New Hampshire or child and family services of New Hampshire or any successor organization.

VIII. "Consent order" means a written agreement entered into among or between the parties regarding the facts and the disposition in a neglect or abuse case, and approved by the court.

IX. "Court" means the district court, unless otherwise indicated.

X. "Custodian" means an agency or person, other than a parent or guardian, licensed pursuant to RSA 170-E to whom legal custody of the child has been given by court order.

XI. "Dispositional hearing" means a hearing held after a finding of abuse or neglect to determine what dispositional order should be made on behalf of the child.

XII. "Division" means the division of welfare, department of health and welfare.

XIII. "Foster home" means a facility licensed pursuant to RSA 170-E for child care in which family care and training are provided on a regular basis for no more than 6 unrelated children, unless all the children are of common parentage.

XIV. "Guardian" means a parent or person appointed by a court having jurisdiction with the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child, and to be concerned about the general welfare of the child. Such duty and authority include but are not necessarily limited either in number or kind to:

- (a) The authority to consent: (1) to marriage, (2) to enlistment in the armed forces of the United States, and (3) to major medical, psychiatric and surgical treatment, (4) to represent the child in legal actions, and (5) to make other decisions of substantial legal significance concerning the child;

(b) The authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order; and

(c) The rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized agency.

XV. "Imminent danger" means circumstances or surroundings causing immediate peril or risk to a child's health or life.

XVI. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect wherein the person responsible for the child's welfare is a foster parent or is an employee of a public or private residential home, institution or agency.

XVII. "Legal custody" means a status created by court order embodying the following rights and responsibilities unless otherwise modified by court order:

- (a) The right to determine where and with whom the child shall live;
- (b) The right to have the physical possession of the child;
- (c) The right and the duty to protect and constructively discipline the child; and
- (d) The responsibility to provide the child with food, clothing, shelter, education, emotional security and ordinary medical care provided that such rights and responsibilities shall be exercised subject to the power, rights, duties and responsibilities of the guardian of the child and subject to residual parental rights and responsibilities if these have not been terminated by judicial decree.

XVIII. "Legal supervision" means a legal status created by court order wherein the child is permitted to remain in his home under the supervision of a child placing agency subject to further court order.

XIX. "Neglected child" means a child:

- (a) Who has been abandoned by his parents, guardian, or custodian; or
- (b) Who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, when it is established that his health has suffered or is very likely to suffer serious impairment; and the deprivation is not due primarily to the lack of financial means of the parents, guardian or custodian; or
- (c) Whose parents, guardian or custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization or other physical or mental incapacity;

Provided, that no child who is, in good faith, under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be a neglected child under this chapter.

XX. "Notice" means communication given in person or in writing to the parent, guardian, custodian or other interested party not having custody or control of the child, of the time and place fixed for hearing; and it shall be given in all cases, unless it appears to the court that such notice will be ineffectual.

XXI. "Parent" means mother, father, adoptive parent, but such term shall not include a parent as to whom the parent-child relationship has been terminated by judicial decree or voluntary relinquishment.

XXII. "A person responsible for a child's welfare" includes the child's parent, guardian or custodian.

XXIII. "Probable cause" means facts and circumstances based upon accurate and reliable information, including hearsay, that would justify a reasonable person to believe that a child subject to a report under this chapter is abused or neglected.

XXIV. "Protective custody" means the status of a child who has been taken into physical custody by a police officer or probation officer because the child was in such circumstances or surroundings which presented an imminent danger to the child's health or life and where there was not sufficient time to obtain a court order.

XXV. "Protective supervision" means the status of a child who has been placed with a child placing agency pending the adjudicatory hearing.

XXVI. "Relative" means parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nieces, nephews or first and second cousins.

XXVII. "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship except guardianship pursuant to termination of parental rights, including, but not limited to, right of visitation, consent to adoption, right to determine religious affiliation and responsibilities for support.

XXVIII. "Unfounded report" means a report made pursuant to this chapter for which the bureau finds that there is no probable cause to believe that the child is abused or neglected.

169-C:4 Jurisdiction, Continued Jurisdiction, Modification.

I. The court shall have exclusive original jurisdiction over all proceedings alleging the abuse or neglect of a child.

II. The court may, with the consent of the child, retain jurisdiction over any child, who, prior to his eighteenth birthday, was found to be neglected or abused and who is attending school until such child completes school or until his twenty-first birthday, whichever occurs first; and the court is authorized to and shall make such orders relative to the support and maintenance of said child during the period after the child's eighteenth birthday as justice may require.

III. When a custody award has been made pursuant to this chapter, said order shall not be modified or changed nor shall another order affecting the status of the child be issued by the superior court except on appeal under RSA 169-C:28.

169-C:5 Venue.

I. Proceedings under this chapter may be originated in the judicial district in which the child is found or resides.

II. By the court, upon its own motion, or that of any party, proceedings under this chapter may, upon notice and acceptance, be transferred to another court as the interests of justice or convenience of the parties require.

169-C:6 Protective Custody.

I. A police or probation officer may take a child into protective custody without the consent of the parents or other person legally responsible for the child's care if the child is in such circumstances or surroundings as would present an imminent danger to the child's health or life unless immediate action is taken and there is not enough time to petition for a court order.

II. If a police or probation officer removes a child under paragraph I above, the officer:

(a) Shall inform the court forthwith whereupon continued protective custody pending a hearing may be ordered by the court;

(b) May take the child to a social worker of the bureau; or

(c) May place the child in a foster home; if a child is placed directly in a foster home, the bureau shall be notified of the incident and where the child is placed within 24 hours, unless there is a physician involved and treating the child and the child is or will be taken to and admitted to a hospital; and

(d) Shall, when the child is removed from an individual other than a parent or a person legally responsible for the child, make every reasonable effort to inform the parent or other person legally responsible for the child's care where the child has been taken.

III. Any police or probation officer or other individual acting in good faith pursuant to this section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such removal or placement.

IV. The court shall hold a hearing on the matter within 24 hours of taking the child into protective custody, Sundays and holidays excluded. Notice shall be given to all parties designated by the petitioner or the court.

V. If a child is found by a social worker of the bureau to be in imminent danger in such circumstances or surroundings and where immediate removal appears necessary to protect the child from such imminent danger, the bureau's social worker shall contact a judge or clerk immediately for an order to remove the child.

VI. Any court having jurisdiction over a child who appears to be neglected or abused and in imminent danger may, upon the request of the bureau or police officer, issue an order, which may include an *ex parte* order, permitting the child to be removed from the home.

169-C:7 Petition.

I. A proceeding under this chapter is originated by any person filing a petition, with a judge or clerk in the judicial district in which the child is found or resides, alleging neglect or abuse of a child.

II. The petition shall be entitled "In the Matter of _____," and shall be verified under oath by the petitioner.

III. To be legally sufficient, the petition shall set forth:

(a) The date, time, manner and place of the conduct alleged to constitute abuse or neglect and the statutory grounds upon which the petition is based;

(b) The name, birth date and address of the child, if known;

(c) The name and address of the parent(s), or custodian, if known;

(d) The name and address of any other individual or agency having custody of the child, if known.

169-C:8 Issuance of Summons and Notice.

I. After a petition has been filed, the court shall issue a summons to be served by a police officer or sheriff personally or, if personal service is not possible, at the usual place of abode of the person or persons having custody or control of the child requiring the person or persons to appear personally and bring the child, unless otherwise ordered, before the court at a time and place set for a preliminary hearing, which shall not be less than 24 hours nor more than 7 days after return of service. If the person so summoned is other than a parent or guardian of the child, the parent or guardian or both shall also be notified of the pendency of the proceeding if their residence is known and of the time and place of hearing. In all cases, both parents of the child shall be notified of the hearing if their residence is known.

II. A copy of the petition shall be attached to each summons or incorporated therein.

III. The summons shall contain a notice that the child shall have an attorney, appointed by the court.

169-C:9 Failure to Appear; Warrant.

I. Any person or persons summoned having custody or control of the child who, without reasonable cause, fails to appear, may be proceeded against for contempt of court.

II. In case the summons cannot be served, or the parties served fail to appear, or in the case when it appears to the court that service will be ineffectual, or that the best interest of the child requires that he be brought forthwith into the custody of the court, a warrant may be issued for the child's appearance against anyone having custody or control of the child.

169-C:10 Attorney. In cases involving a neglected or abused child under this chapter, an attorney for the child shall be provided. In any case of neglect or abuse, the court shall appoint an attorney to represent indigent parents.

169-C:11 Subpoena. A subpoena may be issued pursuant to RSA 516, or upon application of a party to the proceedings, or upon the motion of the court. The court may issue subpoenas requiring the production of papers and the attendance of any person whose presence is required by the child, his parents or guardian or any other person whose presence, in the opinion of the court, is necessary.

169-C:12 Evidence. In any hearing under this chapter, the court shall not be bound by the technical rules of evidence and may admit evidence which it considers relevant and material.

169-C:13 Burden of Proof. The petitioner has the burden to prove the allegations in support of the petition by a preponderance of the evidence.

169-C:14 Hearings Not Open to the Public. The general public shall be excluded from any hearing under this chapter and such hearing shall be held in rooms not used for criminal trials. Only such persons as the parties, their witnesses, counsel and representatives of the agencies present to perform their official duties shall be admitted.

169-C:15 Preliminary Hearing.

I. After a petition is filed, a preliminary hearing shall be conducted by the court:

(a) To protect a child whose circumstances or surroundings present an imminent danger to his health or life; or

(b) To determine whether or not reasonable cause exists to believe that a child is abused or neglected.

II. The court shall, at the preliminary hearing, appoint an attorney to represent the child pursuant to RSA 169-C:10.

III. (a) If the court finds that the child's circumstances or surroundings present an imminent danger to the child's health or life, the court shall immediately issue orders, in writing, pursuant to RSA 169-C:16.

(b) If the court finds reasonable cause to believe that a child is abused or neglected, it may proceed under RSA 169-C:16 to make an appropriate order.

IV. If the court does not find sufficient evidence of abuse or neglect, it shall dismiss the petition.

V. The court, upon an affirmative finding under paragraph III (a) or (b) above, shall set a date for an adjudicatory hearing which shall be held within 30 days of the filing of the petition.

169-C:16 Preliminary Disposition.

I. If the court finds sufficient facts to sustain the petition, the following orders or preliminary dispositions may be made:

(a) Permit the child to remain with the parent, relative, guardian, or other custodian, subject to such conditions and limitations as the court may prescribe.

(b) Transfer legal supervision to a child placing agency.

(c) Transfer protective supervision to a child placing agency.

II. A neglected or abused child shall not be placed in an institution established for the care and rehabilitation of delinquent children, the youth development center or any institution where an adult is confined.

III. The court at any time may order the child, the parents, guardian or custodian to submit to a mental health evaluation or undergo a physical examination or treatment with a written assessment being provided to the court. The court may order that the child, who is the subject of the petition or the family or both be evaluated by a mental health center or any other psychiatrist, psychologist or psychiatric social worker or family therapist or undergo physical examination or treatment with a written assessment provided to the court.

IV. If the child, the parent, guardian or custodian object to the mental health evaluation, he shall object in writing to the court having jurisdiction within 5 days after notification of the time and place of said evaluation. The court shall hold a hearing to consider the objection prior to ordering said evaluation. Upon good cause shown, the court may excuse the child, the parent, guardian or custodian from the provisions of this section.

169-C:17 Consent Order.

I. At any time after the filing of the petition and prior to an order of adjudication pursuant to section RSA 169-C:18, the court may suspend the proceedings upon its own motion or upon the motion of any party, and continue the case under terms and conditions established by the parties and approved by the court.

II. A consent order shall not be approved unless the child and parents, guardian or custodian are informed of the consequences of the order by the court and the court determines that the child and parents voluntarily and intelligently agreed to the terms and conditions of the order.

169-C:18 Adjudicatory Hearing.

I. An adjudicatory hearing under this chapter shall be conducted by the court separate from the trial of criminal cases.

II. If requested by a party or ordered by a court, the proceedings shall be recorded by stenographic notes, or by other appropriate means, the cost to be borne by the party requesting the stenographer.

III. The petitioner shall present witnesses to testify in support of the petition and any other evidence necessary to support the petition. The petitionees shall have the right to present evidence and witnesses on their own behalf and to cross-examine adverse witnesses. The admissibility of all evidence in this hearing shall be determined by RSA 169-C:12.

IV. If the court does not find sufficient evidence of neglect or abuse, it shall dismiss the petition.

V. If the court determines that a child has been abused or neglected, the court shall order a child placing agency to make an investigation and a social study consisting of, but not limited to, the home conditions, family background, and financial assessment, school record, mental, physical and social history of the family and submit it in writing to the court prior to the final disposition of the case. No disposition order shall be made by a court without first reviewing the social study except pursuant to a voluntary consent order or when waived by all the parties.

VI. The social study will be used only after a finding of neglect or abuse and only as a guide for the court in determining an appropriate disposition for a child. The court shall share the report with the parties. Any psychiatric report shall be used by the court only after a finding of neglect or abuse unless such report is submitted for determination of competency.

VII. The court shall hold a hearing on final disposition within 30 days after a finding of neglect or abuse.

169-C:19 Dispositional Hearing.

I. If the court finds that a child is abused or neglected, the court may order the following disposition of a child:

(a) Permit the child to remain with the parents, guardian, relative or other custodian, subject to any or all of the following conditions:

(1) That the parents, guardian, relative or custodian accept legal supervision by a child placing agency; or

(2) That the parents, guardian, relative or custodian and/or the child accept individual or family therapy or medical treatment; or

(3) That the child attend a day care center; or

(4) That a homemaker or parent aide be allowed to visit the home and assist the family; or

(5) An order of protection. An order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent, custodian, relative or guardian or the spouse thereof. Such order may require any such person to:

(i) Stay away from the home, the other spouse or the child;

(ii) Permit a parent, guardian, relative, or custodian to visit the child at stated periods;

(iii) Abstain from harmful or offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded.

(iv) Give proper attention to the care of the home;

(v) Refrain from acts of commission or omission that tend not to make the home a proper place for the child.

(b) Transfer legal custody to a child placing agency or relative provided, however, that no child shall be placed with a relative until a written social study of the relative's home, conducted by a child placing agency, is submitted to the court.

II. If a child is placed out of state, the provisions of RSA 170-A shall be followed.

III. The court may order the child or the family or both to undergo physical treatment or treatment by a mental health center or any other psychiatrist, psychologist, psychiatric social worker or family therapist as determined by the court.

169-C:20 Disposition of a Mentally Ill or Mentally Retarded Child. If the evidence received at an adjudicatory or dispositional hearing indicates that a child is mentally ill or mentally retarded, the court may request the child placing agency to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the probate court pursuant to RSA 135-B or 171-A.

169-C:21 Final Order.

I. If facts sufficient to sustain the petition are established under RSA 169-C:18, the court shall enter a final order in writing finding that the child has been abused or neglected.

II. The order of the court shall include conditions the parents shall meet before the child is returned home. The order shall also include a specific plan which shall include, but not be limited to, the services the child placing agency will provide to the child and family. Prior to the issuance of a final order, the child placing agency shall submit its recommendation for the plan, which the court may use in whole or in part.

169-C:22 Modification of Dispositional Orders. Upon the motion of a child, parent, custodian, guardian or of the child placing agency alleging a change of circumstances requiring a different disposition the court shall conduct a hearing and pursuant to RSA 169-C:19 may modify a dispositional order; provided that the court may dismiss the motion if the allegations are not substantiated in the hearing.

169-C:23 Standard for Return of Child in Placement. Before a child in foster care is returned to the custody of its parents, the parents shall demonstrate to the court that:

I. They are in compliance with the outstanding dispositional court order;

II. The child will not be endangered in the manner adjudicated on the initial petition, if returned home;

III. Return of custody is in the best interests of the child. Upon showing the ability to provide proper parental care, it shall be presumed that a return of custody is in the child's best interests.

169-C:24 Court Review of the Disposition. The status of all consent orders, of all children not under the custody of their parents, or children under legal supervision shall be reviewed by the court at least once every year following the initial approval of the order or initial dispositional hearing. The court may also review a case, upon the request of any party, at any time. At least 14 days prior to the annual review, the child placing agency social workers or child care agency in charge of providing services to the child and parents shall submit or cause to be submitted to the court a supplemental report indicating such services and shall make a dispositional recommendation. The social worker shall send copies of such report to all parties.

169-C:25 Confidentiality.

I. The court records of proceedings under this chapter shall be kept in books and files separate from all other court records. Such records shall be withheld from public inspection but shall be open to inspection by the parties, child, parent, guardian, custodian, attorney or other authorized representative of the child.

II. It shall be unlawful for any party present during a child abuse or neglect hearing to divulge any information concerning the hearing to anyone including a newspaper, radio or television station representative. Similarly, it shall be unlawful for a newspaper to publish or any radio or television station to broadcast or make public any information pertaining to a child abuse or neglect hearing. Anyone who knowingly violates this provision shall be guilty of a misdemeanor.

169-C:26 Continuances. Continuances in proceedings under this chapter may be granted by the court only for good cause shown.

169-C:27 Liability of Expense and Hearing on Liability.

I. LIABILITY OF EXPENSES. Whenever an order creating liability for expenses is issued by the court under this chapter, any expenses incurred shall be payable by the town in which the child resides at the time the petition is filed or, if such residence cannot be determined, by the town in which the child is taken into custody. Either town shall have a right of action over for such expenses against the person chargeable by law for the child's support and necessities. If a town cannot collect for such payments made in behalf of a child, such payments shall be considered assistance to a pauper as to the person chargeable by law for the child's support and necessities and such person shall be subject to a loss of settlement in accordance with the provisions of RSA 164-A:5. A court may make such order as to reimbursement to the town of residence as may be reasonable and just, based on the person's ability to pay.

II. HEARING ON LIABILITY. Upon determination of liability, at any stage of the proceeding, the court shall send notice to the appropriate legally liable unit. Said legally liable unit may within 30 days after receipt of notice request a hearing on the issue of liability.

169-C:28 Appeals. An appeal, under this chapter, may be taken to the superior court by the child or his authorized representative or any party having an interest, including the state, within 30 days of the final dispositional order; but an appeal shall not suspend the order or decision of the court unless the court so orders. The superior court shall hear the matter *de novo*, and shall give an appeal under this chapter priority on the court calendar.

Reporting Law

169-C:29 Persons Required to Report. Any physician, surgeon, county medical referee, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter.

169-C:30 Nature and Content of Report. An oral report shall be made immediately by telephone or otherwise, and followed within 48 hours by a report in writing, if so requested, to the bureau. Such report shall, if known, contain the name and address of the child suspected of being neglected or abused and the parents or persons caring for such child, the specific information indicating neglect or the nature and extent of the child's injuries (including any evidence of previous injuries), the identity of the person or persons suspected of being responsible for such neglect or abuse, and any other information that might be helpful in establishing neglect or abuse or that may be required by the bureau.

169-C:31 Immunity From Liability. Anyone participating in good faith in the making of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant has the same immunity with respect to participation in any investigation by the bureau or judicial proceeding resulting from such report.

169-C:32 Abrogation of Privileged Communication. The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client, shall not apply to proceedings instituted pursuant to this chapter and shall not constitute grounds for failure to report as required by this chapter.

169-C:33 Photographs and X-Rays.

I. Any medical person or the bureau preparing or investigating a report under this chapter, may take, or cause to be taken, photographs of the areas of trauma visible on a child who is the subject of a report and, if medically indicated, cause to be performed a radiological examination of the child without the consent of the child's parents or guardians. All photographs and X-rays taken, or copies of them, shall be sent to the appropriate offices of the bureau as soon as possible.

II. The reasonable cost of photographs or X-rays taken under this section shall be reimbursed by the bureau.

169-C:34 Duties of the Bureau of Child and Family Services.

I. If it appears that the immediate safety or well-being of a child is endangered, the family may flee or the child disappear, or the facts otherwise so warrant, the bureau shall commence an investigation immediately after receipt of a report. In all other cases, a child protective investigation shall be commenced within 72 hours of receipt of the report.

II. For each report it receives, the bureau shall promptly perform a child protective investigation to: (i) determine the composition of the family or household, including the name, address, age, sex and race of each child named in the report, and any siblings or other children in the same household or in the care of the same adults, the parents or other persons responsible for their welfare, and any other adults in the same household; (ii) determine whether there is probable cause to believe that any child in the family or household is abused or neglected, including a determination of harm or threatened harm to each child, the nature and extent of present or prior injuries, abuse or neglect, and any evidence thereof, and a determination of the person or persons apparently responsible for the abuse or neglect; (iii) determine the immediate and long-term risk to each child if the child remains in the existing home environment; and (iv) determine the protective treatment, and ameliorative services that appear necessary to help prevent further child abuse or neglect and to improve the home environment and the parents' ability to adequately care for the children.

III. The bureau may request and shall receive from any agency of the state or any of its political subdivisions or any schools, such assistance and information as will enable it to fulfill its responsibilities under this section.

IV. Upon notification by the bureau that the immediate safety or well-being of a child may be endangered, the court may, in its discretion, order a police officer, probation officer or social worker to enter the place where the child is located, in furtherance of such investigation.

169-C:35 Central Registry.

I. There shall be established a state registry of abuse and neglect in the bureau for the purpose of maintaining a record of information on each case of alleged abuse or neglect reported under this chapter. The registry shall contain such information as shall be prescribed by rules adopted by the bureau pursuant to RSA 541-A.

II. All information identifying the subjects of an unfounded report and any or all case records of the

bureau or division shall be expunged from the register forthwith but not later than 6 months from the determination that the report is unfounded.

III. Upon request, a subject of a report shall be entitled to receive a copy of all information contained in the central registry pertaining to his case. Provided, however, that the bureau is authorized to prohibit the release of data that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation, when it reasonably finds that disclosure of such information would be likely to endanger the life or safety or cause harassment to such person. In addition, the bureau may seek a court order prohibiting the release of any information which the court finds is likely to be harmful to the subject of the report.

IV. At any time subsequent to the completion of the bureau's investigation, a subject of a report may request the bureau to amend, expunge identifying information from, or remove the record of the report from the registry. If the bureau refuses to do so or does not act within 30 days, the subject shall have the right to a hearing pursuant to RSA 126-A:9-a.

V. To the fullest extent possible, written notice of any amendment, expunction, or removal of any record made pursuant to this chapter shall be mailed to each subject of such report by the bureau. Nothing in this section is intended to require the destruction of case records.

169-C:36 Confidentiality. The contents of the registry shall be confidential and subject to the rules as to access adopted by the bureau pursuant to RSA 541-A. Any unfounded report shall be expunged from the registry and applicable section of case records within a period of 6 months from the determination that the report is unfounded. Information contained in the registry shall not be made available to any individual or institution except:

I. Appropriate staff of the bureau and multi-disciplinary evaluation teams empaneled by or working with the bureau on cases of abuse or neglect;

II. Any person who is the subject of a report; however, the subject cannot have access to information concerning the name, address, occupation or any other identifying characteristics of the reporter when disclosure of such data would be likely to endanger the life or safety of or cause harassment to the reporter.

III. Any person engaged in a bona fide research project, upon written consent of the chief of the bureau; however, no information regarding the names, addresses or any other identifying data shall be made available to the researcher.

169-C:37 Institutional Abuse and Neglect. The office of the attorney general shall be empowered to receive and investigate reports of institutional abuse or neglect at the youth development center, Laconia state school, and New Hampshire hospital; and the bureau shall be empowered to receive and investigate reports of all other suspected instances of institutional abuse or neglect. Either the office of the attorney general or the bureau or both may promulgate regulations consistent with this authority to investigate such reports and take appropriate action for the protection of children.

169-C:38 Report to Legal Authority. The bureau shall refer all cases of child abuse or neglect which cause serious bodily injury to a child to the office of the attorney general or to the office of the county attorney for possible criminal prosecution. The bureau may also report other cases of child abuse or neglect as it deems appropriate to the office of the attorney general or to the office of the county attorney for possible criminal prosecution.

169-C:39 Penalty for Violation. Anyone who knowingly violates any provision of this subdivision shall be guilty of a misdemeanor.

Severability

169-C:40 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

CHAPTER 169-D

CHILDREN IN NEED OF SERVICES

169-D:1 Applicability of Chapter; Purpose. This chapter shall apply to children in need of services as hereinafter defined and shall be construed and administered in accordance with the following purposes and policies:

I. To recognize that certain behaviors occurring within a family or school environment indicate that a child is experiencing serious difficulties and is in need of services to provide him with the treatment, care, guidance, counselling, discipline, supervision, and rehabilitation necessary to assist him in becoming a responsible and productive member of society;

II. To recognize that we must no longer bring the weight of family problems down on the child alone but that parents must be made aware of their contribution to the problem and must account for their role in the solution of the problem;

III. To keep a child, whenever possible, in contact with his home community and in a family

environment by preserving and strengthening the unity of the family and separating the child from his parents only when it is clearly necessary for his welfare or the interests of public safety, and when it can be clearly shown that a change in custody and control will benefit the child;

IV. To provide effective judicial procedures through which the provisions of this chapter are executed and enforced, and which assure the parties fair hearings at which their constitutional and other rights as citizens are recognized and protected; and

V. To achieve the foregoing purposes and policies by providing each child coming within the provisions of this chapter with the treatment, care, guidance, counselling, discipline, supervision, and rehabilitation resources which he needs and has a right to receive.

169-D:2 Definitions.

I. "Child" means a person under the age of 18.

II. "Services" means care, guidance, counselling, discipline, supervision, treatment and rehabilitation or any combination thereof.

III. "Court" means the district court, unless otherwise indicated.

IV. "Child in need of services" means a child who:

(a) Being subject to compulsory school attendance, is habitually, and without good and sufficient cause, truant from school; or

(b) Habitually runs away from home, or otherwise repeatedly disregards the reasonable and lawful commands of his parents, guardian or custodian;

(c) Has committed an offense which, if committed by an adult, would be a violation under the criminal code of this state; or has committed an offense which, if committed by a person 16 years of age or older, would be a violation under the motor vehicle code of this state; or has violated an ordinance or by-law of a city or town; and

(d) If any one of the foregoing, is also expressly found to be in need of care, guidance, counselling, discipline, supervision, treatment or rehabilitation.

V. "Shelter care" means the care of a child in physically unrestricted facilities.

VI. "Probation" means a legal status created by court order following an adjudication whereby a child in need of services is permitted to remain in the community subject to such conditions as the court may impose.

169-D:3 Jurisdiction. The court shall have exclusive original jurisdiction over all proceedings charging a child is in need of services.

169-D:4 Venue.

I. Proceedings under this chapter may be originated in any judicial district in which the child is found or resides.

II. By the court, upon its own motion, or that of any party, proceedings under this chapter may, upon notice and acceptance, be transferred to another court as the interests of justice or convenience of the parties require.

III. When a child who is on probation moves from one political subdivision to another, the court may transfer, upon notice and acceptance, to the court with jurisdiction over the political subdivision of the child's new residence, if such transfer is in the best interest of the child.

169-D:5 Petition.

I. Any person may file a petition alleging a child is in need of services with a judge or clerk of the court in the judicial district in which the child is found or resides. The petition shall be in writing and verified under oath.

II. To be legally sufficient, the petition must set forth with particularity, but not be limited to, the date, time, manner and place of the conduct alleged and should state the statutory provision alleged to have been violated.

169-D:6 Issuance of Summons and Notice.

I. After a legally sufficient petition has been filed, the court shall issue a summons to be served personally or if personal service is not possible, at the usual place of abode of the person having custody or control of the child or with whom the child may be, requiring that person to appear with the child at a specified place and time which time shall not be less than 24 hours nor more than 7 days after service. If the person so notified is not the parent or guardian of the child, then a parent or guardian shall be notified, provided they and their residence are known, or if there is neither parent nor guardian, or their residence is not known, then some relative, if there be one and his residence is known.

II. A copy of the petition shall be attached to each summons or incorporated therein.

III. The summons shall contain a notice of the child's right to representation by counsel and the available procedures for obtaining counsel.

169-D:7 Failure to Appear; Warrant.

I. Any person summoned who, without reasonable cause, fails to appear with the child, may be proceeded against as in case of contempt of court.

II. If a summons cannot be served or the party served fails to obey the same, and in any case where it appears to the court that such summons will be ineffectual, a warrant may be issued for the child's appearance or for the appearance of anyone having custody or control of the child or for both.

169-D:8 Temporary Custody. A child may be taken into temporary custody:

I. Pursuant to a court order; or

II. By a police officer or probation officer when there are reasonable grounds to believe that a child has run away from his parents, guardian, or other custodian; or the circumstances are such as to endanger the child's health, or welfare unless immediate action is taken.

169-D:9 Release Without Court Referral. An officer authorized under RSA 169-D:8 to take a child into custody may dispose of the case without court referral by releasing the child to a parent, guardian, or custodian and may, with the consent of the child and child's parent, guardian or custodian, refer the child to a court approved diversion program. The officer shall make a written report to his department identifying the child; specifying the grounds for taking the child into custody and indicating the basis for the disposition.

169-D:10 Release Prior to Initial Appearance.

I. An officer taking a child into custody pursuant to RSA 169-D:8 shall release the child to a parent, guardian or custodian pending initial appearance; however, if a parent, guardian or custodian is not available upon taking the child into custody, the court shall be notified, thereupon the child's release shall be determined by the court.

II. Pending the initial appearance, the court shall release the child to one of the following, which in the court's opinion is the least restrictive and most appropriate:

(a) A parent or guardian;

(b) A relative or friend; or

(c) A group home, crisis home, or shelter care facility with expenses charged according to RSA 169-D:29.

169-D:11 Initial Appearance.

I. An initial appearance shall be held not less than 24 hours nor more than 7 days from the filing of a legally sufficient petition.

II. At the initial appearance, the court shall:

(a) Advise the child in writing and orally of any formal charges;

(b) Appoint counsel pursuant to RSA 169-D:12;

(c) Establish any conditions for release; and

(d) Set a hearing date.

However, no plea shall be taken until the child has had the opportunity to consult with counsel or until a waiver is filed pursuant to RSA 169-D:12.

III. After hearing, the court may, with the consent of the child, dispose of the petition by ordering the child to participate in an approved court diversion program.

169-D:12 Appointment of Counsel; Waiver of Counsel.

I. Absent a valid waiver, the court shall appoint counsel for the child at the time of the initial appearance.

II. The court may accept a waiver of counsel from a child alleged to be in need of services only when:

(a) The parent, guardian or custodian did not file the petition;

(b) Both the child and parent, guardian or custodian agree to waive counsel; and

(c) In the court's opinion, the waiver is made competently, voluntarily and with full understanding of the consequences.

III. Detention will not occur at any stage of the proceedings.

169-D:13 Release Pending Adjudicatory Hearing.

I. Following the initial appearance, a child alleged to be in need of services may be ordered by the court subject to such conditions as the court may order, to be:

(a) Retained in the custody of a parent, guardian, or custodian; or

(b) Released in the supervision and care of a relative; or

(c) Placed with a friend or in a group home, crisis home or shelter care facility licensed pursuant to RSA 170-E, with expenses charged according to RSA 169-D:29.

II. The adjudicatory hearing shall be held within 21 days of the initial appearance.

III. All orders issued pursuant to this section shall set forth the findings as to the form of release or any conditions in writing and shall state any custody provisions under paragraph I.

RSA 169-D:14 Adjudicatory Hearing.

I. An adjudicatory hearing under this chapter shall be conducted by the court, separate from the trial of criminal cases.

II. Following the initial appearance the court shall proceed to hear the case in accordance with the due process rights afforded a child alleged to be in need of services. The prosecution shall present

witnesses to testify in support of the petition and any other evidence necessary to support the petition. The child shall have the right to present evidence and witnesses on his behalf and to cross-examine adverse witnesses.

III. If the court finds the child is in need of services, it shall, unless a report done on the same child less than 3 months previously is on file, order the probation department or other appropriate agency to make an investigation and written report consisting of, but not limited to, the home conditions, school record and the mental, physical and social history of the child. When ordered by the court, such investigation shall include a physical and mental examination of the child, parents, guardian, or person having custody. The court shall inform the parents, guardian or person having custody and child of their right to object to the physical examination or mental health evaluation. Objections shall be submitted in writing to the court having jurisdiction within 5 days after notification of the time and place of the examination or evaluation. The court may excuse the child, parents, guardian, or person having custody upon good cause shown. No disposition order shall be made by the court without first reviewing the investigation report, if ordered.

IV. The court shall share the report with the parties. The report will be used only after a finding that the child is in need of services and will be used only as a guide for the court in determining an appropriate disposition for the child.

V. The court shall hold a final dispositional hearing within 30 days of the adjudicatory hearing.

169-D:15 Burden of Proof. The petitioner has the burden to prove the allegations in support of the petition beyond a reasonable doubt.

169-D:16 Release Pending Final Disposition. Following the adjudicatory hearing, custody pending the dispositional hearing shall be determined in accordance with RSA 169-D:13.

169-D:17 Dispositional Hearing.

I. If the court finds the child is in need of services, it shall order the least restrictive and most appropriate disposition considering the facts in the case, the investigation report, and the dispositional recommendations of the parties and counsel. Such disposition may include:

(a) Permitting the child to remain with a parent, guardian, relative or custodian, subject to such limitations and conditions as the court may prescribe, including:

(1) Ordering the child or parent, guardian, relative or custodian, or both, to accept individual or family counselling or medical treatment;

(2) Requiring supervision of the child, family, or both, by a probation officer or other social service agency approved by the court in accordance with paragraph IV;

(b) Releasing the child in the supervision and care of:

(1) A relative or suitable adult; or

(2) A group home, crisis home, or shelter care facility with expenses charged in accordance with RSA 169-D:29.

II. Any child placed under this section with someone other than a relative shall be placed in a facility licensed pursuant to RSA 170-E. If a child is placed out of state, the provisions of RSA 170-A shall be followed.

III. The court may order the child or the family or both to undergo physical treatment or treatment by a mental health center or any other psychiatrist, psychologist, psychiatric social worker or family therapist as determined by the court.

IV. All dispositional orders issued pursuant to this section shall include written findings as to the basis for the disposition and such conditions as the court imposes, and a specific plan of the services to be provided, including but not limited to those listed in paragraphs I, II and III.

V. (a) The court may punish a child for contempt of court for refusal to participate in the specific dispositional plan as ordered by the court pursuant to paragraph IV.

(b) Any child prosecuted for contempt under this paragraph shall be afforded notice of the essential facts constituting the criminal contempt charged, a hearing, counsel, and shall be adjudged guilty of criminal contempt only upon proof beyond a reasonable doubt.

(c) A child found guilty of contempt may be remanded to the youth development center provided: (1) such child shall be placed in a facility certified by the board of trustees of the youth development center as one in which the child shall not come in contact with minors charged or adjudicated as delinquent; (2) such child shall be afforded the services made available to delinquents; and (3) that the facility not be one used for solitary confinement.

169-D:18 Disposition of a Mentally Ill or Mentally Retarded Child. If the evidence received at an adjudicatory or dispositional hearing indicates that a child is mentally ill or mentally retarded, the court may request the state to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the probate court pursuant to RSA 135-B or 171-A.

169-D:19 Modification of Dispositional Orders. Upon the motion of a child, parent, custodian, guardian or counsel alleging a change of circumstances requiring a different disposition, the court shall conduct a hearing and pursuant to RSA 169-D:17 may modify a dispositional order; provided that the court may dismiss the motion if the allegations are not substantiated in the hearing.

169-D:20 Appeals. An appeal, under this chapter, may be taken to the superior court by the child, parent, guardian or custodian, within 30 days of the final dispositional order, but an appeal shall not suspend the order or decision of the court unless the court so orders. The superior court shall hear the matter *de novo*, and shall give an appeal under this chapter priority on the court calendar.

169-D:21 Review of Disposition Required. The court shall review the disposition of such child under RSA 169-D:17 at least once within one year after such disposition and at least annually thereafter so long as the order of disposition is in effect.

169-D:22 Limitations of Authority Conferred. This chapter shall not be construed as applying to persons 16 years of age or over who are charged with the violation of a motor vehicle law, an aeronautics law, a law relating to navigation of boats or a fish and game law.

169-D:23 Religious Preference. The court and officials in placing children shall, as far as practicable, place them in the care and custody of some individual holding the same religious belief as the child or parents of the said child, or with some association which is controlled by persons of like religious faith. No child under the supervision of any state institution shall be denied the free exercise of his religion or that of his parents, whether living or dead, nor the liberty of worshipping God according thereto.

169-D:24 Court Sessions. All hearings shall be held separate from the trial of criminal cases and such hearing shall be held wherever possible in rooms not used for such trials. Only such persons as the parties, their witnesses, counsel and representatives of the agencies present to perform their official duties shall be admitted.

169-D:25 Records. All records pertaining to cases of children in need of services shall be kept at all times so that no one, except duly accredited probation officers, others entrusted with the supervision of said child, the child, a parent, guardian, custodian, and the child's attorney shall have access to the same. Additional access may be granted by order or written consent of the child. Once a child in need of services reaches 18 years of age, all court and police records shall be destroyed.

169-D:26 Penalty for Disclosure of Records. Any person who permits other than authorized persons to have access to such records, or who publishes or broadcasts or permits the publication or broadcast of such records or parts of the same, except by court order, shall be in contempt of court.

169-D:27 Publication Restricted. It shall be unlawful for any newspaper to publish, or any radio or television station to broadcast or make public the name or address or any other particular information serving to identify any child taken into custody, without the express permission of the court; and it shall be unlawful for any newspaper to publish, or any radio or television station to make public, any of the proceedings of any court hearing.

169-D:28 Penalty for Forbidden Publication. The publisher of any newspaper or the manager, owner or person in control of a radio or television station or agent or employee of any of the above who may violate any provision of RSA 169-D:27 shall be guilty of a misdemeanor.

169-D:29 Liability of Expenses and Hearing on Liability.

I. Liability of Expenses. Whenever an order creating liability for expenses is issued by the court under this chapter, any expenses incurred shall be payable by the town in which the child resides at the time the petition is filed or, if such residence cannot be determined, by the town in which the child is taken into custody. Either town shall have a right of action over for such expenses against the person chargeable by law for the child's support and necessities. If a town cannot collect for such payments made in behalf of a child, such payments shall be considered assistance to a pauper as to the person chargeable by law for the child's support and necessities and such person shall be subject to a loss of settlement in accordance with the provisions of RSA 164-A:5. A court may make such order as to reimbursement to the town of residence as may be reasonable and just, based on the person's ability to pay.

II. Hearing on Liability. Upon determination of liability at any stage of the proceeding, the court shall send notice to the appropriate legally liable unit. Said legally liable unit may within 30 days after receipt of notice request a hearing on the issue of liability.

169-D:30 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

361:3 Correct References. Any cross reference in the RSA to a section of the RSA repealed by this act shall be considered to be a reference to the appropriate section of section 2 of this act.

361:4 Authority to Conform Laws. The director of legislative services is hereby authorized, with the approval of the speaker of the house and the president of the senate, to make changes in the printed version of all laws enacted by the 1979 session of the general court that may be necessary for the purpose of conforming the language of such legislation to the language of this act, providing that no

substantive changes may thereby be made. Such authority shall expire upon the printing of the 1979 session laws.

361:5 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 23, 1979.]

[Effective Date August 22, 1979.]

1981 Legislative Summary

Re: JUVENILE LAW

Chins:

Chapter 401, Senate Bill 211, **Permitting fines and restitution for children in need of services who have committed certain offenses.** - Amends **RSA 169-D:17 I** by authorizing the imposition of a fine, restitution, or both on a child in need of services. However, the fine shall not exceed the fine which may be imposed on an adult charged with the same offense. EFFECTIVE AUGUST 22, 1981.

Liability:

Chapter 555, House Bill 702, **Requiring the submission of a financial statement by the person responsible for a minor's support.** - Amends **RSA 169-B:40, 169-C:27, and 169-D:29** by providing that the court shall require the individual chargeable by law for the minor's support to submit a financial statement to the court upon which the court may make an order for reimbursement to the town of residence. Requires the court at a hearing on the issue of liability requested by the legally liable unit, to provide all financial information, including names and addresses of persons chargeable by law for the minor's support, to the legally liable unit. EFFECTIVE AUGUST 29, 1981.

YDC:

Chapter 539, House Bill 209, **Relative to sunset review of the youth development center.** - Statute renews the youth development center and completely revises **RSA ch. 621** pertaining to the center. EFFECTIVE JUNE 30, 1981.

APPENDIX 6

FOOTNOTES

1. President's Commission on Law Enforcement and Administration of Justice, **The Challenge of Crime in a Free Society**, Government Printing Office, Washington, D.C.
2. University Associates, **Diversion in Michigan**, for Michigan Department of Social Services, May, 1980
3. Community Research Forum, **Comparative Analysis of Juvenile Codes**, University of Illinois at Urbana-Champaign, July, 1980 for the United States Department of Justice, LEAA, OJJDP
4. **In Re Gault** 387, U.S. 1, 18 Led 2nd 527, 87S. Ct. 1429 (1967)
5. **Juvenile Justice and Delinquency Prevention Act of 1974**, (42 USC.5601)
6. Uniform Crime Report Unit, **Crime in New Hampshire (1979)**, New Hampshire Department of Safety, Division of State Police, Concord, New Hampshire
7. Administrative Committee of District and Municipal Courts, "District and Municipal Court Juvenile Caseloads, 1969", New Hampshire Supreme Court, Concord, New Hampshire
8. Harkaway, A., Bianco, J., Leidinger, J., Barry, T., "New Hampshire Juvenile Justice Code of 1969: An Overview" **New Hampshire Bar Journal**, Volume 21, No. 3, March, 1980
9. Governor's Commission on Crime and Delinquency, **Detailed Study of Needs**, February, 1978

10. Palmer, T. Lewis, R., Bohnstedt, M., **The Evaluation of Juvenile Diversion Projects**, State of California, Health and Welfare Agency, Department of Youth Authority, 1978
11. See Footnote 10
12. "Scared Straight: A Look Back", **Institutions: An Investigative Newsletter on Institutions and Alternatives**, January 1980, Volume 3, No. 1
13. Office of the Solicitor General, **Community Kit for the Development of a Juvenile Diversion Project**, Ottawa, Canada (1979)
14. See Footnote 6
15. **In Re Russell C.**, New Hampshire Supreme Court, April 21, 1980

APPENDIX 7

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APPENDIX 8 HANDBOOK EVALUATION

The following questions are designed by the Comprehensive Children and Youth Project to evaluate the effectiveness of the Diversion Handbook. Thank you for taking the time to answer and return this questionnaire.

1. Is the purpose of the handbook made clear?

2. Was the material presented in a format that was clear and easily understood?

3. Did the handbook provide adequate resource information?

4. Did the handbook satisfy your general expectations?

5. Do you feel the handbook is a useful tool for the development of juvenile diversion programs in New Hampshire?

6. What information did you find to be most helpful?

7. What information did you find to be least helpful?

8. General Comments: (i.e. additional information, suggestions for follow-up,(etc.)

9. Is your project or program: (Check one)

a. In the planning stage?

b. Operational.

If so, for how long?

10. Optional

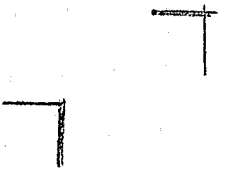
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