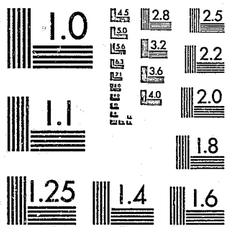

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A STUDY OF JUVENILES IN A SUBURBAN COURT
(SUBURBAN YOUTH PROJECT)

FINAL REPORT

Department of Sociology
School of Education
University of Denver
Denver, Colorado 80208

Anne Rankin Mahoney, Principal Investigator

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PREFACE

This document is the Final Report of "A Study of Juveniles in a Suburban Court" known otherwise as the "Suburban Youth Project", funded under Grant Number 79JN-AX-0034 from the Office of Juvenile Justice Delinquency Prevention, National Institute of Juvenile Justice Delinquency Prevention, U.S. Department of Justice. The grant was awarded September 30, 1979 and the project actually got underway January 1, 1980 and ran through June 30, 1982.

The objectives of the Suburban Youth Project were to (1) determine the incidence and characteristics of gifted and talented youths who came into a juvenile justice system, (2) determine the effect of the family situation of youths upon their court processing, and (3) gain an understanding of the nature of the problems handled by a middle-class suburban juvenile court. (Proposal, 1979:1)

The specific results or benefits expected from the project at the time it was proposed included:

(1) Research reports helpful to both educators and local and national criminal justice planners and decision-makers.

(2) An information base which interrelates giftedness, family background, and delinquency.

(3) A screening instrument for giftedness which could be used in other suburban court systems.

(4) A comprehensive assessment process for the identification of gifted children.

(5) Family and court data on a large number of children who come into contact with a suburban juvenile justice system. (Proposal (1979 8)

This report outlines how the objectives were achieved and summarizes the results from the research. The objectives turned out to be far more ambitious than we realized at the outset of the project. The data yielded by the study are intricate and rich and this report represents only the beginning of a series of products on juvenile court processing and gifted delinquents, which will result from the research.

The Suburban Youth Project could not have been started or completed without the help of numerous individuals at every level and in every agency of "Suburban Court". Project staff members were given help and access whenever they needed it and were able to work throughout the project in a cooperative and open relationship with all participants in the court system. It is hoped that the results of this project will provide information to both local and national planners that will help improve the understanding and treatment of juvenile offenders, particularly gifted juvenile offenders, and thus in a way repay the court participants for the time and energy which they contributed so generously to this research enterprise.

The Project also owes a great debt to the youths who agreed to take the time to go through screening and assessment interviews. This study shows conclusively that there is a considerable number of gifted children in this court system. If they can be identified in this court, there is every reason to believe that they exist in other courts as well. It is hoped that the data presented here will motivate other researchers to attempt to identify, study, and work with gifted youths in juvenile courts and treatment facilities.

Researchers do not usually make value judgements about their research sites, but it seems appropriate to note here that after two and a half years of involvement with this court, project staff members came away from the site with a sense that this is a study of a "good" juvenile court. It is a court in which participants bend over backwards to see that the due process rights of juveniles are protected, a court in which most of the participants are competent and concerned about the needs and rights of their juvenile clients. If the juvenile court concept is workable, it should "work" in the court described here. To the extent that it does work, we need to identify what is workable and what "workable" means. To the extent that it does not work, we need to ask why and whether the malfunctions are the result of characteristics of this particular court or symptomatic of more widely prevailing problems. It is these larger issues that we are trying to articulate and address

in the case study portion of the report.

Certain people on the staff of the Suburban Youth Project have contributed significantly to the research and this final report. Carol Fenster has been involved with the research in all its aspects since even before the project started. She was responsible for the bulk of the field observations, supervision of coders and coordination of staff members in the field as well as portions of the final report. Ken Seeley was in charge of the giftedness portion of the study from early in the proposal stage and was able to identify and recruit outstanding research assistants to conduct the screening and assessment of juveniles in the system. Trudy Riedel, Administrative Assistant for the Project, has been invaluable in keeping it running smoothly and putting together the final report. It is hard to envision a complete final report without her contributions to it.

Jenny Huang, Jessica Kohout, and Steve Harvey have not only contributed substantively to the data analysis, they have put in many hours hunched over the computer terminals to complete analysis and keep track of the several large and complex data files.

In addition, many staff members have had a hand in this report as well as the research that produced it. Whenever an individual's contribution is an identifiable piece, it has been attributed to its author. Some sections, however, are the products of ideas, field notes, reports, or efforts

of several individuals over time. The following individuals, in particular, have made contributions to the project and this final report: Sue Bozinovski, Gary Corbett, Natalie Eilam, Joyce Freeman, Anne Harper, Richard Hughes, Debbie Metcalf, Louis Propp, Diane Sanelli, Susan Stuber and Jana Waters. Others who have contributed significantly to this project include Leland K. Baska, John F. Feldhusen, Raymond Kluever, Toni Linder, Jack McArdle, William Slaichert and Timothy B. Walker.

Two individuals from the Office of Juvenile Justice and Delinquency Prevention have been particularly helpful and supportive throughout this project. One is Peter Freivalds, Director of the National Institute for Juvenile Justice and Delinquency Prevention, who was our first project manager. His guidance smoothed the transition from the proposal stage to the project stage of operation, and he has continued to provide wise counsel and support throughout our funding period. The second person who has been tremendously helpful to the Suburban Youth Project is Adriane Thormahlen in the Research and Development Division of the National Institute of Juvenile Justice and Delinquency Prevention. She has been our project manager since May 1981, and has answered questions and facilitated operations as we have entered the wrap-up phase of our research.

SUBURBAN YOUTH PROJECT
FINAL REPORT

SUMMARY OF FINDINGS

This report includes a presentation of the results of a two and a half year study of a suburban juvenile justice system which explored (1) the operation of a juvenile court in an affluent suburban area, (2) the effect of a youth's family situation upon the depth of his/her involvement with the juvenile justice system, and (3) the incidence and characteristics of gifted and talented youths who came into the court system. This Summary of Findings briefly reviews the methods of study and the main findings in each of the three areas of inquiry. It roughly follows the organization of the report itself. Analysis of data continues on many aspects of the project and hopefully some of the more general findings reported here will be elaborated in more detail in later reports and publications.

OPERATION OF A SUBURBAN JUVENILE COURT

Methods of Study

Information was gathered from court, police, and diversion program records on all youths who had delinquency petitions filed on them in court during 1980 (710) or had DA level referals to the DA's Juvenile Diversion Program (452). Information about the operations of the court was also obtained from observation of court proceedings during 1980 and from observation of court and agency activities and formal and informal interviews with personnel in the court and court agencies during 1980-1982.

Findings

Court Context

1. The court is a due process oriented court in which the district attorney decides which cases to file in court. It operates in a rapid growth area which has put unremitting pressure on the court to expand services. The juvenile court has grown in less than twenty years from a county court which met once a week to a full-time district court with one and a half judges and a part time commissioner.

2. A dominant theme expressed by workers in all court agencies throughout the research period was concern about how the system, with essentially static and in some cases decreasing resources, could continue to meet the demands of a rapidly growing and geographically dispersed population.

3. State and local legislation kept the system in flux and a great deal of the system's energy was absorbed in learning about and adjusting to changes.

In 1979 two state bills were passed. One decriminalized status offenses. The second, which had major reverberations throughout the system, was designed to reduce out-of-home placement of children. It granted greater control and flexibility to local communities in regard to children's services and required court review of all out-of-home placements. In the county, the latter bill spurred the development of a diagnostic team, a day resource center, and a placement alternatives commission--a policy making group composed of the heads of agencies in the county which worked with children. Initially, implementation of the bill was hindered by lack of clarity about the requirements of the legislation, local-state conflicts, lack of community-based treatment facilities in the county, the incompatibility of other statutes and regulations, and the need for adequate accounting systems. After a year of operation, the diagnostic team was reorganized and scaled down in scope, the day resource concept was expanded and a second center was opened on the other side of the county, and the placement alternatives commission continued to meet on a regular basis.

In 1980 several municipalities in the county passed ordinances to expand municipal court jurisdiction to include juveniles accused of some minor offenses that previously had been handled exclusively by the juvenile court. These local ordinances were given support by changes in the state juvenile code in 1981. It was not possible in this research to guage the impact of the municipal court legislation upon

the juvenile court.

4. A federally funded program for detention alternatives in the county substantially reduced the number of youths held in secure detention and solved the overcrowding problem that had led officials to consider building a new juvenile detention facility in the county. Within a year of the start of the detention alternatives program, the state closed the youth detention center in the county and local youths were sent to facilities elsewhere. The closing of the center angered county workers and citizens who felt it was important to house youths close to their own homes and the court. They felt that they had been penalized for their success in reducing the population in secure detention.

Of the 660 youths upon whom detention information was available in 1980, the records of 17% indicated that they had detention hearings. Over half of the youths who had hearings (62) were detained after the hearing. Twenty were released within two days, and twenty-five were out within one week. Eleven of the youths stayed in detention 50 days or longer.

Court Process

5. The district attorney decides which juveniles to divert and which ones to file petitions on in juvenile court, and in 1980 filed petitions on approximately 60%.

6. Over half of the youths (55%) entered pleas at advisement and 16% of all youths were advised and adjudicated

in the same hearing.

7. Of the 650 youths for whom trial information was available, 14% requested a trial, but only 1% actually went to trial. Youths with more serious or complex cases or with more extensive prior records were more likely to set for trial than other youths. Over 70% of the cases set for trial were adjudicated on the day of trial or after. Cases set for trial took almost four months longer to move from filing to adjudication than cases not set for trial (a mean of 232 days compared to 118 days). The outcomes of cases set for trial and those not set for trial did not appear to differ in regard to either adjudicaion or disposition.

8. Slightly over half the youths were represented by attorneys, over a third by private attorneys. A study of legal representation based upon 377 youths accused of theft or burglary suggests that there is little difference between case outcomes of youths represented by attorneys and those not represented by attorneys, even when the effect of prior record, type of delinquent act, and number of petitions are controlled. However, the cases of youths with attorneys take longer to reach an adjudication decision. For youths with one petition, it takes, on the average, three times longer to reach an adjudication when youths have attorneys than when they do not (74 days compared to 24 days). The processing of cases of youths with two or more petitions, takes nearly four times as long in represented cases (82 days compared to 23 days).

Court Population

9. The county imports more delinquents than it exports. Only 40 residents (7%) were referred into the court as a result of change of venue from other counties in which they had committed offenses. Yet the court handled 239 nonresidents who had committed offenses within the county--a third of all the youths in the court.

The most frequent victims of both nonresidents and residents were places, not persons. Less than a third of the offenses--30% of the offenses of nonresidents and 32% of the offenses of residents--involved persons as victims. Nonresidents were more likely than residents to be given change of venue or dismissals as adjudications, and fines, or commitment to the Department of Institutions as dispositions.

10. In most census tracts in the county, between 1% and 3% of the youth population aged 10-17 entered the juvenile justice system during 1980, either through the court or the diversion program. Eight of the 63 tracts had higher percentages of youths entering the system and 4 tracts had lower percentages of youths entering the system. In general, tracts with higher percentages of youths entering the system have lower housing valuations than the others and tracts with lower percentages of youths entering the system have higher housing valuations.

11. Of the 710 youths whose cases were filed in juvenile court, 83% were male and 17% were female. Their ages ranged from 10 to 18 with an average age of 15 years, 4 months.

12. Nearly half (48%) of the 710 youths were in the care of both parents, 32% were in the care of their mothers only, and 12% were in the care of their fathers.

Offenses and Prior Records

13. Delinquent acts charged against the 710 youths upon whom petitions were filed consisted primarily of property offenses (79%).

14. Most youths had only one petition pending against them in the court--85% had one, 12% had two, 2% had three, and 1% had four or more petitions pending at the same time.

15. For the majority of the youths who entered the court there was no official information available on prior record. Of the 180 youths for whom information was available, nearly half (49%) did not have records. Over half of the 92 youths who had records, had felony records--5% with personal felonies and 47% with property felonies.

16. Few youths (81) were charged in Suburban Court with what might be classified as violent offenses, e.g., murder, rape, robbery, assault. The bulk of the violent offenses were assaults that posed no serious threats to life and 60% of the 81 incidents were classified as misdemeanors. It was not possible to find any clear distinctions between

the violent offenders and others, nor at least in the preliminary investigation, to identify any clear indicators in the court records that would help isolate a group of "violent" youths.

Diversion

17. Although differences are not large, it appears that the less threatening youths are more likely to go to diversion--girls, younger boys, and those with less serious offenses and prior records, or more positive family backgrounds.

18. Almost a third (130) of the youths referred to diversion eventually were referred back to the District Attorney for filing in juvenile court. Most returns came early in the process--30% did not even have an initial interview, 21% said they were unwilling to participate, and 12% denied the charges against them.

19. Although not large, a number of differences were found between youths in diversion from the two parts of the county. Youths from the east seemed to have more family and school problems than those in other parts of the county and appeared to be less cooperative with diversion and less willing to participate.

Case Processing Time

20. Most youths were apprehended relatively soon after their offense, 62% were apprehended on the same day that the offense was committed and 75% were apprehended within five days of offense. The range of time from offense to apprehension was from 1 to 350 days.

21. Slightly more than a fifth (22%) of the cases were filed within 30 days of apprehension and 71% were filed within 90 days. The remaining 28% of the cases took from three months to nearly a year to be filed.

22. Twenty-five percent of the youths had their advisement hearing within 41 days of filing. The mean number of days between filing and advisement was 73 days.

23. One-half of the youths were adjudicated within 48 days of advisement. The mean number of days between advisement and adjudication was 76 days.

24. More than half (56%) of the 400 youths who received dispositions received them at the same time they were adjudicated. The mean number of days between adjudication and disposition was 32 days.

25. Perhaps the most important indicator of the amount of time required to process a case in the Juvenile Court is the period from the point of filing through dispostion because it is between these points that the court has a direct influence on the progress of the case. The mean number of days required to process the cases of the 400 youths who received dispositions was 155. Twenty-five percent of the

cases were completed within 93 days; 50% were completed within 137 days, and 75% were completed within 208 days. The total amount of time between filing and disposition ranged from 0 to 488 days.

Adjudication and Disposition

26. The most common adjudications are reserved adjudication (28%) and adjudication as a delinquent (28%). Dismissals comprise 16% of the cases, change of venue 18%, found guilty at trial, less than 1% (4); found not guilty at trial, less than 1% (3); and cases still pending at the end of the study, 8%.

27. The 201 youths who were found to be delinquent children got the following dispositions as their most severe sanction: community service 3%, fine 8%, probation 53%, weekends in the detention center 6%, consecutive days in the detention center 6%, days in county jail 4%, out of home placement 12%, and commitment to the Department of Institutions 6%.

28. The factors that appeared to be most relevant to adjudication and disposition are associated with the severity of the youth's delinquent act and the past delinquent history. The social or background characteristics have some effect, but less than we had expected.

29. The most significant predictors of outcome are not the same for adjudication or disposition. Whether the delinquent act is a felony or a misdemeanor is more closely re-

lated to the adjudication decision, while the youth's prior record is more closely related to the disposition decision.

Co-participants

30. The DA filed 571 (70%) of the 816 delinquent acts as sole perpetrators; the remaining 245 acts (30%) were filed as co-participants. However, police reports filed in the DA's office show that a far larger number of delinquent acts--379 (54%) appeared to the police to make multiple offenders.

31. For both sexes, youths involved in the group acts were approximately the same age; nearly a third (31%) involved youths with the same birth year and the ages of youths in the remaining groups were usually within one to two years of each other. Even the adults who were involved were rarely much more than two years older than their minor co-participants.

32. More than half (54%) of the youths in the 70 groups of delinquent youths filed received the same disposition from the judge; youths in the remaining 31 groups (46%) received unequal dispositions. In most of these 31 groups, one child received a reserved adjudication which carried a six months period of supervision, while the other(s) were adjudicated delinquent and placed on probation for up to two years.

33. Courtroom observations showed three major reasons why juvenile co-defendants did not receive the same disposi-

tions: (1) their degree of participation in the delinquent act was not equal, (2) the degree of remorse shown by the juveniles in a group varied, and (3) the youths in a group had different degrees of prior involvement in delinquent activities.

FAMILY AND COURT PROCESSING

Methods of Study

The majority of the subjects' family background information was obtained from official records, the counselor's files in Diversion and the clerk's records in the court. The family study of court youths draws primarily from the predispositional reports prepared by a probation officer at the request of the judge. There were disposition reports for 197 of the 710 youths who were filed on in court. Additional qualitative material was gathered through court observation and meetings with various court personnel.

Findings

34. Sixty percent of the Diversion population and 48% of the Court population were in the custodial care of both parents. More court youths were in the custodial care of their father than diversion youths (12% compared to 6%). Information on custodial care of a child was readily available to all court personnel. Only 3 court files failed to

provide this information. Other family information, usually considered to be very important in the etiology of delinquencey, e.g., the general stability of the family unit was much less likely to be available. Only 28% of the files, primarily those with predisposition reports, included this information.

35. Of those juveniles with predisposition reports, 42% were from intact families, 13% were from stable stepfamilies, 10% lived in unstable stepfamilies, 31% lived with single parents, and 2% came from essentially non- functioning or non-existent families.

36. There was a mention in the predisposition report of some mental illness or drug or alcohol problem of a family member in 22% of the cases, and a mention of some criminal activity of another family member in 17% of the cases.

37. In 23% of the predisposition reports there was some mention of physical or sexual abuse in the family.

38. Fifteen percent of the predisposition reports note that the child had previously been placed out of the home for some period of time. In 8% of the cases, probation officers reported that either one or both parents seemed unable to handle or control the child.

GIFTED DELINQUENTS

Methods of Study

All youths who resided in the county and entered the juvenile justice system through the diversion program, the probation department, or the youth diagnostic team was contacted and asked if they would be willing to participate in the testing program. If youths and their parents agreed to participate, the child was screened for giftedness by qualified interviewers who administered to them the Similarities and Block Design subtests of the Wechsler Intelligence Scale for Children, a verbal and nonverbal subtest of the Torrance Test of Creative Thinking, a structured interview to identify areas of special interests and abilities, and the Harter Scale of Perceived Competence in Children.

Youths who showed signs of giftedness on any two measures as well as an equal number of youths who did not were asked to participate in a second interview which included a complete WISC, the Wide Range Achievement Test, the full Torrance Test of Creative Thinking; Leadership Ability Evaluation, a biographical questionnaire, and a product review by a panel of experts for artistic performance, if appropriate.

The testing data, along with background information on the tested youths obtained from court and diversion records, were entered into the computer and subjected to a factor

analysis and Reticular Action Moment (RAM) analysis.

Findings

39. The primary question this part of the research set out to answer was whether gifted youths could be identified in a juvenile justice system. The question can be strongly answered in the affirmative in this court. Youths were classified as gifted if they scored in the top 5% of the Wechsler Intelligence Test for Children Revised, the Torrance Test for Creative Thinking, or the Wide Range Achievement Test. Using these criteria, 48 youths were classified as gifted, comprising 18% of the 268 youths screened and 7% of the approximately 700 youths eligible for screening during the interview year in the court and diversion program. Of the 48 youths classified as gifted (40) actually scored in the top 3%.

40. An additional 26 youths achieved scores which would place them in the top 15%, equivalent to I.Q. scores of 115 or above on the WISC-R, the definition of "bright" used by several previous studies of brights delinquents. If these 26 are added to the 48 that scored in the top 5%, the study identified a total of 74 youths out of the 268 screened who have intellectual, creative, or academic abilities that can be considered well above average.

41. The gifted youths identified in this study appeared to be more likely to have high abilities in the area

of fluid intelligence than gifted youths in normal populations.

42. The giftedness of the youths tested in this study was not necessarily associated with high achievement.

43. Because of the unique characteristics of these youths and their tendency to achieve below their abilities, they may be less likely to be identified as gifted.

44. Youths in the diversion and probation programs had similar configurations of giftedness.

45. School and family characteristics did not appear to be related to ability characteristics in this population.

CHAPTER 1

INTRODUCTION

The seemingly disparate nature of the three portions of The Suburban Youth Project was justified because the study attempted (and in fact succeeded) in utilizing one set of data to obtain information on three interrelated aspects of the juvenile justice system: incidence and treatment of gifted delinquents, the interaction between a youth's family background and his/her court experience, and the operation of a middle-class suburban juvenile court.

The research project has been a complex one, more complex in fact than was envisioned when its three interrelated dimensions were first proposed. As a result, this report is long, composed of somewhat autonomous chapters, each dealing with a set of issues and questions. The report is "final" in the sense that it represents the end of the funded phase and a compilation of results. But in a sense, it represents only the beginning of what can be produced from this project. It will take at least as many years to analyze the data in its many facets as it took to design and implement the study.

Several themes run through this report. A major one is the ongoing tension in the juvenile court between the best interests of the child and the interests of the community. This tension is not new, or newly discovered. It is in part what brought a specialized juvenile court into existence in the first place. Children were seen--and still are in many respects--as especially vulnerable, malleable, and in need of special community support and guidance. We felt obligated as a community to handle children in "their best interest", and believed that individualized and altruistic treatment would enable the court to meet the various needs of "children" who ranged in age from infants through physically mature adolescents and came from all ethnic, cultural and class backgrounds. We are realizing now that the concept never worked as envisioned. Judges and agencies were not as benign and altruistic as reformers had hoped, and communities were loath to commit to the courts the substantial resources the child advocates requested. Perhaps even more troublesome, however, was the lack of agreement about what constituted the best interest of either "children" or an individual child.

Another difficulty was the community's fear of delinquency and delinquents which has appeared to grow over time as juvenile delinquency has become perceived as an increasingly serious problem that touches all citizens. The "children" who come into juvenile court on delinquency charges are not, for the most part, vulnerable, cuddly misguided children. They are physically mature, strong, and frequently sullen, disrespectful, and hostile young adults. A high proportion of index crimes are committed by youths under 18. The community is frightened of adolescent crime and demands protection.

On one hand there is the doctrine of "best interest of the child" that is essentially meaningless in its openness to a wide variety of interpretations, and on the other hand, there is the community's demand and need for protection from crime and its need to know that "justice has been done". Both the child's needs and the community's needs are perceived to be legitimate. The tension between the two is expressive of tensions in regard to the treatment of adult offenders, mentally ill persons, and other deviants who are seen as threatening to the community. Our legal and political system includes deep commitment to the protection of individual rights and freedoms as well as to the protection of the public good and public order.

The tension between individualized justice and the public good is particularly acute in the juvenile court because of the special vulnerability and high potential that children have. Other groups are vulnerable, the mentally ill or severely developmentally disabled, for example. They differ in an important way from children, however, in that they usually do not carry the same potential for developing into fully productive members of the community that children carry. Because a child is young and still changing--or at least is believed to be--there is much greater probability that the child may "turn out alright" or even achieve at a high level. For most children the life ahead is long. If the child cannot function productively, the cost of community support of the child throughout its life is high.

Therefore, a fairly high outlay of resources can be justified in an attempt to make the child a "productive citizen" because an even higher cost can be avoided if the effort succeeds. Furthermore, children are believed to be more capable of change than adults and less predictable in outcome. Efforts on their behalf may carry a higher probability of success as well as a greater obligation to err on the side of giving them the benefit of a doubt. For all these reasons the "best interest of the child", even though it is hard to define, is taken seriously by both the community and the court. There is no easy or consistent resolution of the problem.

A second theme that emerges from the research is the importance of resources-- especially local resources--in decision-making. In our emphasis on the "best interests of the child" we sometimes act as if the availability of resources is an irrelevant consideration. In the abstract it may be. In practical day-to-day operation of courts it may be the central factor in regard to what decisions are actually made about youths. Recent funding cuts in social services are bringing home very clearly the fact that resources are limited, and the juvenile court, like other human services agencies, operates within the constraints of resource scarcity.

In short, the juvenile court reflects an inherent tension between the best interest of the child and the best interest of the community, and in resolving this tension the

court must operate within the constraints of limited resources. Because this conflict cannot be resolved in any overreaching, global dimension, it is re-enacted in each individual case that comes before the court. The courts have, in fact, been created to handle on an individual basis some of the unsolvable social and moral dilemmas of our society.

Social scientists, in their efforts to understand the mechanisms of court process, keep searching for a factor or set of factors that can explain substantial amounts of variance in court decisions. Generally, they have not met with much success. The inability to get neat studies that show the dominance of a few variables in courts everywhere may suggest that the courts are indeed doing what they are supposed to do--resolving disputes one by one on an individual basis.

In the court's efforts to resolve the tension between the child's best interest and the community's best interest, what hierarchy of values guide decisions? How do actors in the system go about resolving the conflicts? The resolution is a mix of legislative constraints and discretionary decisions by many individuals in different agencies in the system.

In order to act at all, actors must find some way of routinizing cases. It is not practical to rehash the essential conflict between individual and community rights in every case. The task, though ideally what the court is

supposed to do, is organizationally and probably psychologically impossible. Actors must seek ways of sorting through cases, identifying the routine ones, the potentially problematic ones, and the ones that clearly merit particular attention and thought.

In an organization like the court in which each agency involved has a different set of organizational objectives and a different role to play in the process, the sorting process will not yield the same categorization of cases in each agency. Some will be seen as essentially uncomplicated or routine to all actors; others will be routine to some and either problematic or attention-demanding to others. Other cases may be seen as highly problematic to all actors. The first category of uncomplicated cases can be handled routinely by all actors because there is essential agreement about what to do with them. The second "mixed" category provides the pool of cases in which most negotiation takes place because they are ranked differently by different agencies so some agencies are more willing to compromise on them than others. The final category of cases, those considered very problematic and deserving of attention, may grip the attention of most or all participants in the system because of their defiance of easy resolution. The cases in categories two and three are the ones which require discussion and for which court time should be made available. Yet some courts may not be able to handle the routine cases efficiently enough to allow the necessary time

and resources for the others. Difficulties develop when some actors in the system define all cases as having the same value--they either attempt to routinize them all or treat each one as worthy of full attention (technically and philosophically required, but practically impossible.) Whether this is done or not may vary by size of court and resources and power of an individual agency. If a court has a very high volume of cases, there may be a great deal of pressure upon agencies and individuals to treat a high proportion of cases as "routine". As part of this process, the ability of one agency to impose its view of cases on other agencies may become an important consideration. The fact that so many of the courts that have been studied by social scientists tend to be high volume urban courts--and perhaps inclined to routinize a high percentage of cases--may have relevance in regard to what we know about courts. The two themes--the tension between the child's interests and the community's interests, and the salience of resources to decision-making--are particularly germane to the discussion of the court case study and the interaction between family background and court experience. They are also relevant to a discussion of gifted delinquents to the extent that giftedness is recognized and responded to by the court.

A third theme has to do specifically with the identification and study of gifted delinquents. The study clearly answers one important question. There are gifted

delinquents, and they do find their way into the juvenile justice system. Although we must be cautious in generalizing about what percentage of the delinquent population is gifted because the study only included youths who agreed to be interviewed, the project did identify a substantial number of gifted youths in the research population.

The analysis further indicates that gifted youths who find their way into the juvenile justice system may be especially likely to have a particular kind of giftedness--one that brings them less support from families, schools, and other community institutions than other forms. It perhaps may make them more vulnerable to delinquency than other gifted--and perhaps even nongifted--youths. These findings may begin to give us some better understanding of what leads some children to be more vulnerable to being defined as a delinquent than others. Giftedness, if it is perceived by some court personnel, may also provide the basis of moving cases from the routine category to the mixed or problematic categories.

The Final Report is divided into twelve chapters. This first chapter develops the themes that weave through the report. Chapter 2 describes in detail the methodology that was employed in the data collection for both the case study and study of giftedness. Chapter 3 provides a description of the context within which the court operates. This is an important aspect of the study since the court was selected

because it was a suburban court in a high growth area. The context includes sections on the national juvenile justice movement, the history of the court under study, recent state legislation in regard to the juvenile court, which was just beginning to be implemented when the study began, and the economic and physical environment in which the court operates.

Chapter 4 describes the court process in general and focuses upon three particular aspects of the process: the handling of nonresident cases, the decision to set cases for trial, and the effect of legal representation upon the processing of youths.

Chapter 5 focuses upon the population of the court and includes sections on where youths who enter the court come from, what they do, their personal characteristics, and which ones are diverted away from the court. The final section includes a comparison of the youths who are diverted and those who are filed on in court.

Chapter 6 is a study of time and process in the court and looks specifically at case processing time in the juvenile court. Chapter 7 reports the results of a study of dispositions. Chapter 8 focuses specifically on the handling of juvenile co-participants by the court.

Chapter 9 addresses the family questions which were raised in our proposal and explores the impact which family background has on adjudication and disposition.

Chapters 10 and 11 report on the results of the study of gifted delinquents. Chapter 10 includes an extensive discussion of the literature on gifted delinquency, and raises some questions about the relationship between delinquency and different kinds of giftedness. Chapter 11 presents the results of a factor analysis of the test results on the screened and assessed youths. Chapter 12 provides a conclusion to the study.

CHAPTER 2

METHODOLOGY - DATA COLLECTION

The Suburban Youth Project utilized a variety of methods and relied upon multiple sources of data. As the project developed, it had two fairly distinct data gathering operations--one for the giftedness portion of the study and the other for the court and family portions. In order to carry out the giftedness portion of the research it was necessary to identify a point in the court process where we could contact youths and gain their consent to be tested by project interviewers for the Stage I screening part of the research without in any way jeopardizing their legal status or interfering with the work of juvenile justice system personnel. We also had to develop procedures for follow-up interviews with a portion of the youths whom we identified as eligible for the Stage II or full assessment interview.

The court and family portions of the research also required extensive cooperation of court agencies but in different ways. In order to carry out the court and family studies, it was necessary for researchers to observe all aspects of the juvenile justice system including client-staff interviews, staff meetings, public meetings, and court hearings. It was also necessary to see agency and juvenile files and to be physically present on a daily basis in agency and court offices for weeks at a time.

Before either portion of the project could get underway, however, it was necessary to create working relationships with agencies and personnel in the juvenile justice system. After these were established, the two portions of the project were relatively autonomous.

The first section of this chapter describes the initial process necessary to obtain access to agencies in the field setting for both parts of the study. The second section describes the methodology used for gathering data for the court and family studies, and the third section describes the methodology that is unique to the study of gifted delinquents.

ENTRY INTO THE COUNTY JUVENILE JUSTICE SYSTEM

Even before the project started officially in January, 1980, the Principal Investigators met with key personnel in the juvenile justice system. Early in 1977, Anne Mahoney first met with Judge Foote, then the Juvenile Judge, and Gary Corbett, Juvenile Probation Supervisor. She also met with the person who was then Director of the District Attorney's Juvenile Diversion Project. As plans for the project developed, she gave them early concept papers about the proposed research and elicited their ideas and suggestions. In 1978, when OJJDP requested a full research proposal, Dr. Mahoney and Dr. Seeley again met with key personnel and presented the research idea to a meeting

arranged by Judge Foote that included the Chief Judge of the District Court, the new juvenile judge--Judge Kaylor, the District Attorney, and the Juvenile Probation Supervisor. After that meeting, the participants sent letters of support to the project.

When revisions of the proposal were requested by OJJDP in the summer of 1979, contact was again made with the key personnel in the court to keep them up-to-date and get some additional information. Part of this work was done by Carol Fenster, who later joined the project as Research Associate. Once the grant for the project was awarded, additional contacts were made with agencies and staff members in the court, and project members began to establish a presence in the court system, even though the project had not officially started. The senior staff of the project set up meetings during November and December, 1979, with the Judge of the Juvenile Court, the Chief Probation Officer and the Juvenile Probation Supervisor, the District Attorney and the Director of the DA's Juvenile Diversion Project, the Public Defenders, the Court Administrator, and the Director of Social Services and the Supervisor of the Youth in Conflict Division of the Department of Social Services. The purpose of these meetings was to describe the project and elicit questions, suggestions, and concerns about it. In addition, staff undertook several hours of court observation to familiarize themselves with court procedures and to begin to get acquainted with agency staff members.

One of the first items of business that had to be taken care of when the project actually got underway was to obtain a court order from the Juvenile Judge to give access to juvenile files. Without it there was no legal right to look at any record with a child's name on it. The court order gave full access to all delinquency files to the three senior staff members of SYP and anyone else the Principal Investigator designated. Staff members each had a copy of the court order or letter of authorization and carried it whenever they were in court.

Procedures for Insuring Confidentiality of Data

Because of the need for confidentiality and protection of juvenile subjects, a privacy certification had been drawn up early in the grant application process. This certification provided the framework for our procedures for protecting juvenile subjects throughout the project. It required that youths participate voluntarily, that records with identifying information be kept in locked files, that identifying information be removed from records as soon as possible, and that all results be reported in such a way that individuals could not be identified. A copy of this privacy certification was filed with each of the three host agencies at the beginning of the data collection phase of the project.

Field Office

Early in the project, the Chief Probation Officer made available to the Suburban Youth Project, without cost, an office in the Court Services Building next door to the Juvenile Court. This office served as a field office for the project and provided on-site space for project members. More important, it gave the project a legitimate physical presence in the court. The Department of Sociology agreed to pay the cost of phone service for this office as part of the University of Denver's overhead on the grant. In addition to the phone service, staff members were given access to the Probation Department's xerox machine for which we were billed on a monthly basis.

In the beginning of the project we were unsure as to how the location of our field office within the probation offices would be perceived by the other agencies. We particularly wanted to project an air of neutrality so that we would not be identified as aligned with any one agency. As far as we could tell, the office location did not lead to our being seen as part of Probation. We had graduate research assistants doing testing in three agencies including probation and in each, our GRA had some kind of office space. The probation space seemed to be perceived as no different than space in other agencies. By the end of the project it appeared that all other agencies had accepted the location of the field office as a matter of fact.

Arrangements for Identification of Youths and Mechanics of Interview Process

In order to maximize the delinquent population available for the giftedness portion of the project, the staff secured the cooperation of three agencies. Together these three agencies processed all of the youths who came into the County's juvenile justice system. The first agency was the Youth Diagnostic Team (YDT) which evaluated all youths for whom out-of-home placement is being considered. The second agency was the Juvenile Division of the Probation Department, which was attached to the Court. The third agency was the District Attorney's Juvenile Diversion Program which provided counseling for first-time and/or non-violent offenders who were referred to the Program by the District Attorney in lieu of filing a delinquency petition in juvenile court.

One of the most difficult decisions was the selection of the specific point in each agency's processing of youths that would be most appropriate for the Phase I screening for giftedness. Selection of this point was guided by the project's concern that the testing 1) occur at a point least disruptive to the child's case processing; 2) not interfere with the procedures employed by the agency; and 3) occur at roughly the same point in each child's processing. Because each agency operated under different policies and sought to accomplish somewhat different objectives, three separate

sets of research procedures had to be developed. These testing procedures were developed over a several month period through a series of negotiations and numerous meetings with supervisors and staff members in each agency. By the beginning of the pilot phase (second quarter) the testing point had been selected in each of the three agencies and a memo outlining the testing procedures was issued to each agency. After the procedures were firmly established, they were formalized in each agency in a written Memorandum of Understanding signed by agency heads and SYP Principal Investigators Anne Mahoney and Ken Seeley.

In all three agencies, this memorandum of understanding stated that the host agency would: a) permit a staff member of SYP to work within the host agency to screen and assess for giftedness all agency clients who give written permission; b) make space available for screening and assessment; c) notify SYP staff members about all new clients and facilitate their arrangements to contact youths and their parents in order to obtain permission for the testing; d) permit access to records of clients in the study to SYP staff members with appropriate written permission and/or court orders; e) avoid the use of any verbal or written information obtained from SYP about the youth. In return, the Suburban Youth Project staff agreed to: a) make known to the host agency all of the screening and assessment procedures used in the identification of gifted youths; b) obtain written parent/guardian and child permission for all

screening and assessment procedures; c) protect the confidentiality of information obtained in its research as described in the Privacy Certification filed with each host agency; d) provide supervision of all its staff by qualified/certified professionals regarding screening and assessment of youths; e) gather no information from the youth about the delinquent incident which brought the youth into the juvenile justice system; and f) assure that the person assigned to the agency conforms to office policies and procedures.

In the Probation Department, the youths became eligible for testing after they received a disposition from the judge. They were asked to participate in the testing at the meeting between the youth and a probation officer when the terms and conditions of probation or reserved adjudication were issued. Since parents were usually present at this meeting, it was an appropriate time to secure their permission. At this meeting, the probation counselor presented the youth and his/her parents with a permission slip drawn up by Project staff which outlined the purpose of the proposed testing, its length, and its relationship to the Probation Department's expectations of youth. Participation in the testing was voluntary; therefore, if youths and/or their parents refused to sign the permission slip, they were not persuaded or forced to participate against their will. Because the permission slip was presented to youths <u>after</u> the disposition was granted, the

youths' acceptance or rejection of the screening interview could not be seen as having any effect whatsoever upon the disposition decision.

The procedures developed for the Probation Department provided that the research assistant assigned to probation would be notified by probation counselors as to which youths agreed to be tested. Generally, probation counselors scheduled the youth's screening interview at the same time as the regular counseling appointment with the probation counselor. In this way, youths and their families were allowed to combine the testing interview and the probation counselor's appointment into one visit. The tests were usually administered to youths in the office provided for the project by the probation department.

Youths assigned to a Stage II assessment were asked to participate and were assessed by the research assistant. He generally contacted them by phone or set up the assessment interview with the help of the youth's probation counselor; however, the probation counselor was not responsible for securing the youth's permission to participate in this second interview.

Each month the Chief Probation Officer prepared a list of youths receiving dispositions during the preceding month. This monthly list comprised our master list of eligible youths against which we compared our lists of screened/assessed youths. In addition, the SYP assistant assigned to the probation department daily checked the

dockets to see which youths received dispositions. The assistant then consulted periodically with the youth's probation counselor to see whether the youth had agreed to the screening interview and the date selected for the interview.

In the Juvenile Diversion Program, only youths referred to the program at the mandatory level who remained in the program were eligible for screening. They were asked to participate in the Suburban Youth Project at the intake meeting with the diversion counselor. The intake meeting is designed to acquaint the youth with the purposes of the diversion program and the counselor's expectations for the youth during the supervision period. It provides a natural point to introduce the Stage I interview to the youth because the youth's parents must be present for the intake interview and thus, are available to either accept or reject their child's participation in the Suburban Youth Project testing. Procedures developed for this agency provided that the diversion counselor present the permission slip to the youth and the youth's family at the end of the intake interview, briefly explain the project to them, and ask them whether they were willing to participate or not. Prospective participants were expected to indicate their acceptance or rejection by the end of the intake interview. Youths who agreed to participate in the SYP testing were scheduled for the screening interview during their third visit to the diversion office. The Research Assistant

assigned to Diversion was notified by the diversion counselor when the screening interview was scheduled so that she could be present to administer the tests at the close of the youth's interview with the diversion counselor. As a result of this procedure, each youth was screened at approximately the same point in the supervision period after the diversion counselor had had a chance to establish rapport with the youth.

If a youth was selected for Stage II assessment, the youth's counselor sent the permission slip home with the youth with instructions to mail it back to the diversion office. The SYP research assistant was notified by the counselor when the permission slip was returned and she phoned the family to arrange the appointment for assessment interview. If the slip was not returned, she took the initiative to call the family to talk to them about it.

Each month the Diversion secretary prepared a list of youths who had been referred to the program. This list became the master list of youths against which SYP compared the number of youths screened and assessed.

In the Youth Diagnostic Team, the youth was screened as part of a four part evaluation by a social worker, educational expert, psychologist, and a nurse. The first evaluator to interview the youth (usually the social worker) presented the permission slip to the youth. Since parents were required to be present at this particular interview, it was an ideal point to request the youth's participation in

the screening interview.

Every youth evaluated for out-of-home placement by the Youth Diagnostic Team was eligible for testing unless the child was considered to be too emotionally disturbed or retarded to be able to take the test. The YDT was unique in that it was the only agency in which the Suburban Youth Project assistant functioned as a totally integrated member of the team. The SYP research assistant was one of two psychologists on the team. His assignment to the Diagnostic Team fulfilled the requirements for his "placement" through the Professional Psychology Program at the University of Denver as well as his research assistantship through the Suburban Youth Project. Evaluations were scheduled on a weekly basis and the YDT secretary prepared this weekly list for SYP staff so that SYP could compare screened and assessed youths against this list.

The research assistant was required to perform psychological evaluations on two of the five youths seen each week by the team and, if a youth he was evaluating had consented to the screening interview, he lengthened the psychological interview by 30-45 minutes to include administration of the SYP screening tests. He was able to screen the youths he did not evaluate at other points during the day.

Youths who qualified for Stage II interviews were referred to another SYP assistant for assessment. This assistant was responsible for securing the youth's as well

as the parents' permission for the assessment to take place.

Youths on each of the three eligibility lists (probation, diversion, and YDT) were assigned a suburban youth project identification number. This four digit number was assigned by the SYP secretary who also made a 3 x 5 index card showing the youth's name in the upper left-hand corner, the youth's agency number directly below the name, and the SYP number in the upper right-hand corner. These index cards were filed alphabetically by the youths' last names in a locked cabinet in the SYP offices. Youths who were screened had a fifth digit to show whether the screening occurred in the 1) pilot phase or 2) data collection phase. Youths who were assessed had a sixth digit to show whether the assessment occurred in the 3) pilot or 4) data collection phase.

When the points at which tests were administered are compared across each agency as well as the policies governing the administration of the testing, the similarities across agencies become apparent. For example, in each agency, youths were screened at a point that "meshed" comfortably with the agency's procedures. In addition, agency staff members rather than SYP staff members presented youths with screening permission slips. In this way, participation in the screening phase was presented as a natural, though voluntary component of the youth's processing through the agency. Moreover, each youth was tested in designated offices provided by each of the host

agencies and each youth was tested individually rather than in a group. Finally, permission from youths and parents to participate in the Stage II assessment was secured by a SYP assistant rather than a member of the host agency. Thus, there was a great deal of consistency across agencies and within each agency in terms of the procedures utilized in administration of tests.

The Suburban Youth Project drafted two pieces of information explaining the project's purpose, procedures, and goals. One piece--"What to Tell Parents Who Want More Information About the Suburban Youth Project"--was written in question-answer form and given to probation counselors, diversion counselors, and YDT evaluators so that they would be better prepared to answer queries from youths and their parents. It outlined the project's purpose, the length of the screening and assessment interviews, the source of the funding, the administrators of the project, the purpose of the testing results, and the parents' role in the interview process as well as their access to the testing results.

The second piece of information was a two-page "Information on the Suburban Youth Project" tailored to each of the host agencies. It outlined the project's purpose, the location of the field office, the support of the juvenile judge and other host agencies, the criteria for eligibility, the contents of the screening interview and procedures for selecting experimental and control groups. This piece of information was distributed to the staffs of

all agencies.

Even though agency heads had assured us of their support throughout the research project, line staff members within each agency were not always so easily convinced. During the first few months of the project, research assistants met with subtle resistance and skepticism about the viability of the proposed research. By the end of the second quarter, however, research assistants had been integrated into their respective agencies and their presence was generally viewed by line staff as an interesting addition to their group.

Gaining Acceptance in the Field

With only minor exceptions (e.g. some counselors vocally approved the testing of delinquent youth but failed to refer any youths to the SYP research assistant for testing), our acceptance in the field research site was executed with positive results. In fact, there were times when we thought our acceptance was "too easy." There seemed to be a prevailing trust of us and our research team--we were given access to agency files, budgets, and personal insights volunteered by persons at all levels within the agencies. While this access to important pieces of information aided the project, it also placed a burden on staff members. Particularly in the early stages of the project, we were unsure as to how much of this information we should have and what we could do with it.

Once the project was underway, there were other problems. One of them was the problem of "intermeshing" with each agency's personality. It soon became apparent that each agency had a distinct personality, perhaps because of the professional and philosophical backgrounds of its staff. As a result, each agency had a distinct way of viewing problems and issues generated both from within and from outside its boundaries. For example, the accepted mode of interaction within the probation department was one of joking, bantering, teasing, and a general "roll with the punches" attitude toward their jobs and the clients they served. Intraagency tensions and disagreements were handled in the same manner. As a result, in listening to these exchanges of banter, one was never sure whether the source was an unresolved tension between co-workers or a genuine attempt to demonstrate a warm, cooperative working relationship.

In contrast, the personality of the diversion staff was more solemn. They seemed to approach their jobs with more seriousness. They joked among each other less often and rarely made co-workers the target of their jokes, at least in the presence of the researcher. This was particularly true of the Eastern branch of the agency where staff members usually remained in their offices, except to meet with clients, and were hardly ever seen engaged in casual conversation.

In a system in which loyalties are important, our loyalties were always under scrutiny and up for question. The kind of field involvement we sought is difficult to maintain for many reasons. One of the most difficult, but most important, is the need to remain impartial. There were strong loyalties and points of conflict between groups within the system, and our project activities did not throw us equally into contact with all groups. We found ourselves occasionally beginning to take on the opinions of a group with whom we worked closely. Because these assistants worked in the agencies on a day-to-day basis, it wasn't unusual for them to have more routine contact with agency workers than with members of the Suburban Youth Project. Consequently, their attitudes toward the research project and juvenile delinquents in general were more strongly affected by their host agency than by their supervisors at the Project. Sometimes they would get so caught up in the ethos of their organizations that they would begin to argue in staff meetings about the relative merits of their respective agencies. The very fact that different staff members were working in different agencies and brought their orientations into our meetings and discussions helped us keep a perspective. Also, in the course of our research, some staff members carried on data collection in several agencies and were exposed to differing views of the same people and institutions.

Despite the relative ease with which the project gained access to these agencies and the resulting cooperation from line staff, there was still the feeling of being an "outsider." Perhaps because the Research Associate who carried much of the day-to-day supervision of the project was not integrated into any one agency as the graduate research assistants were, these feelings were particularly acute for her. At times, it was obvious that the topic of discussion would rapidly change when she entered the room. At other times the discussion would continue even though the topic was of a personal nature between two co-workers or a verbal thrashing of another worker from either the same or another agency.

There were many times, especially early in the field work, when the Research Associate wished she had not been present during certain conversations. By being privy to conversations among co-workers, she was sometimes placed in an uncomfortable situation. She had information that could be damaging to another person should it become known, yet was unsure why the workers were so open in front of her. Was it because they trusted her and her sense of loyalty and confidentiality, because they really didn't care if the information were passed on to others, or because they were "staging" a conversation to allow her to gather information on topics too sensitive to be gathered directly?

As the research progressed and the agency staff members became more familiar with us, they also became more open

about interagency conflicts. In our efforts to remain neutral and cooperative with everybody, we often found ourselves having to "straddle the fence" on particular issues. For example, during a morning court session the juvenile probation supervisor and the deputy district attorney clashed bitterly over the recommendation for a youth's final disposition. The SYP court observer was invited to join the probation staff for lunch that day, and the animosity toward the DA dominated the luncheon conversation. Although the court observer felt she projected an air of neutrality and avoided any direct opinion concerning the "rightness" or "wrongness" of the youth's disposition, she was not prepared for the district attorney's scorn when she returned for the court's afternoon session. It was obvious that the DA considered her lunch with members of the probation department as an acceptance of probation's position on the youth's disposition. He was also unhappy because "we" didn't invite him to have lunch with "us." This experience served as a reminder that even though we try to remain neutral in our relationships with several juvenile justice agencies, our actions are always being observed, evaluated, and sometimes misinterpreted.

A related problem was our need to maintain confidences and not pass on information to members of one agency about what was going on in another agency. Often we were gently, or not so gently, encouraged to provide some insight into how another agency was handling a situation, or how the

questioner was doing his or her job. "Well, are we doing a good job?" was a question we fielded on several occasions. We maintained very strong guidelines about not sharing information and often talked openly with workers in the system about our concerns about the importance of our maintaining confidentiality in regard to both children and staff members.

At the beginning and throughout the project, we always openly maintained our role of researcher, and introduced ourselves as being from the Suburban Youth Project, a research project connected with the University of Denver. We made a point of putting all agreements about research procedures in writing, getting them signed by both SYP and the agency heads involved, and checking with agency heads at regular intervals to be sure that we all agreed on what we were doing and how, and to answer their questions.

We feel that our general acceptance by the juvenile justice system in which we worked is an important dimension of our research. Our experience led us early during our contact with this system to adopt the attitude that, in general, workers in the system care about the "kids" and want to do a good job. They know that the system has problems and want to see improvements, but are frustrated in their attempts to work constructively with the juveniles or in efforts to change the system. We carried this attitude throughout our research period and into the analysis phase. Perhaps it builds a bias into our work. If it does, we feel

that it is not a serious one. It has directed our attention to structure and process rather than to personalities and scapegoats. It also has greatly eased our field work. We suspect that our genuine desire to focus on problems in the system rather than to dwell on interpersonal relationships or to fix blame was communicated in a variety of ways to those we worked with and that it contributed, in some measure, to the general acceptance and trust we enjoyed.

COURT AND FAMILY STUDY METHODOLOGY

Data collection for the court and family studies utilized a wide range of sources-- quantitative data from the official records kept by agencies; qualitative data from participant observation in a variety of settings including the juvenile courtroom, agency staff meetings, conferences of child workers from the county and state, observation of interviews between counselors and juvenile clients, formal interviews with agency heads, informal discussions among staff members connected with the juvenile court; and newspaper articles chronicling important developments and issues in the county's juvenile justice system. In pursuing this wide variety of methodologies, we were able to combine the "deepness and richness" of qualitative measures with the "hardness and certainty" of quantitative measures. This multiple method strategy is consistent with the approach

Bernstein and Hagan (1978) and is particularly applicable in a field research setting where a variety of data sources exist. The following section discusses in detail each of the data collection methods employed by the Suburban Youth Project staff, the advantages of these methods, and any particular problems or biases encountered during the utilization of these methods.

Official Records

The types of official records utilized for this study include the files kept by the Clerk of the Court on each youth whose petition was filed in Juvenile Court during 1980; the files kept by the Juvenile Diversion Program on each youth referred to that program during 1980; and annual reports kept by these two agencies of the Juvenile Court as well as those kept by the District Attorney's office, the Department of Social Services, and commissions appointed to monitor the county's juvenile justice system.

The year 1980 was selected as the year for data collection from official records and was selected for several practical reasons. First, we wanted the findings to be timely, based on current events in the juvenile justice system. Second, we needed at least a year to elapse after the end of the study period to enable cases to work their way through the system. (The use of 1981 would not allow enough time before the project ended.) Use of 1979 was not desirable because of a major legislative change that became

effective on July 1, 1979 that removed status offenders from the juvenile court. There were no significant legislative changes during 1980.

Juvenile Court Records

In early 1981, a preliminary version of the court records codebook was devised by Anne Mahoney and Carol Fenster. Several hours were expended in studying the court files, getting a sense of what information they contained, and ascertaining how easily certain kinds of information could be elicited. The 17-page codebook includes 115 variables on the incidence of delinquency across the county by census tracts and municipalities, the family situation of youths, how these youths are processed through the Juvenile Court, characteristics of the delinquent act, and the factors affecting their dispositions. Of particular interest was the length of time that juvenile cases take to process from apprehension through disposition, and whether certain kinds of cases take longer than others, and if so, why.

An early version of the codebook was pre-tested on a random sample of cases in early March, 1981. After further revisions were made, a final version of the codebook was completed. Under the supervision of Research Associate, Carol Fenster, three assistants were trained to begin coding in April. Several of the early coding sessions involved acquainting the coders with the contents of the files. Each

completed codebook was checked by the supervisor for errors, omissions, or inconsistencies. These were discussed with the coders at the beginning of the next coding session. Under this training program, a high degree of reliability was soon established among the coders.

In general, we found the juvenile court records to be very complete, accurate, and easy to understand. The typical juvenile case file contains a copy of the petition(s) filed against the youth, the minute orders of each hearing including the hearing data, persons in attendance, what happened at the hearing, the judge's dispositional decision, and any other relevant documents such as a copy of the dismissal, the pre-dispositional report made by the probation counselor, and the bail release form.

Access to these juvenile court records was made possible by the court order given to project staff members at the beginning of the project by the juvenile judge. Since the police reports for all juvenile cases are stored in the District Attorney's office rather than with juvenile court records, an additional court order from the Juvenile Judge was required to gain access to police records, as well as permission from the District Attorney. Access to the diversion records was gained through special written permission from the Diversion Director and the District Attorney.

Both the development of the codebook and the coding process were enhanced by the intensive field experience and court observations during the first year of the project. To determine which variables to include in the codebook, we drew upon our conversations with juvenile officials in the county, several hundred hours of observations in the juvenile courtroom, direct experiences with youths we encountered during the screening and assessing for giftedness, the literature on delinquency, and the conceptual framework as outlined in the original proposal to OJJDP.

The codebook is divided into several sections. It begins with variables related to various stages of court processing from detention to final disposition. Other categories include variables related to the delinquent's disposition, the child's characteristics and school adjustment, and family background. The final section includes information found in the police report, particularly the circumstances surrounding the delinquent act and whether the youth committed the act alone or with others.

The court files were actually coded in two phases. Phase I involved the coding of files stored in the Clerk of the Court's office. However, as noted earlier, these files do not contain copies of the police report outlining the circumstances of the delinquent act(s). This information was obtained in Phase II during June 1981 from records

stored in District Attorney's juvenile division.

Selection of Population. A list of all youths whose petitions were filed in the Juvenile Court was obtained from the probation department logs. These cases are recorded on the logs by consecutive case number (JV) by year (e.g. 80JV0001, 80JV0002, etc.) and include the youth's name, number, age, petition filing date, residence, referral source (the police department who apprehended the youth), and the allegations. Using this list, the coders were able to locate the youth's file in the office of the Clerk of the Court. Because these logs are very complete and accurate, we are confident that we had access to each available case filed during that year. Delinquency files are stored on the same shelves and use the same numbering system as the dependency/neglect and paternity cases. As a final check to insure that we included every delinquency case, we pulled every file and checked to see whether it involved delinquency charges. Every delinquency case filed in 1980 was coded, regardless of whether or not the youth resided in the court's jurisdiction.

As the coding of the court records progressed, the coders kept track of which cases had already been coded by placing a checkmark beside the youth's name. By early June 1981 the majority of 1980 cases were coded but there remained a small percentage of the cases that either could not be located or had not reached final disposition. A list of these uncoded cases was made and in late August and early

September, the coders resumed their search for these cases. By September 15, a final search had been conducted for every 1980 case. All missing cases * were located and all pending cases (those not having reached final disposition by September 15) were coded with as much information as was available on that date.

Coding Problems and Policies. Despite the relative accuracy and completeness of the juvenile case files, the coders were faced with several minor problems. One of these was the lag time between court hearings and the microfilming of records of the hearings. For example, when a youth's case is transferred to his/her home county (a change of venue), the contents of the file are microfilmed before the file is mailed. The microfilmed version of the file remains in the clerk's office. At the time of coding, the clerks in the microfilm department were approximately four months behind in compiling the microfilm sheets for the files. Consequently, the coding of these files was delayed by several months.

Another troublesome, though infrequent, problem involved those cases transferred from another county into our county, either for disposition or continuation of

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[1] In reality, none of these cases was actually missing; they were often in court on the day we searched for them or on the desk of one of the clerks because the file was being updated. In addition, sometimes a case file was being stored in the Eastern court when the coders were looking for it in the Western court and vice versa. Court personnel were very helpful in enabling the coders to locate these missing files.

supervision or probation. Because the courtroom procedures and record-keeping policies of these counties differed from our county, the coders often had difficulty in understanding what transpired during the processing of this out-of-county court case. Furthermore, these transferred cases rarely contained corresponding police reports in the DA's office. Consequently, the coders were unsure as to the severity of the youth's delinquent act and the circumstances surrounding it. During the coding process, the coders had the opportunity to review files from several surrounding counties in the Denver metro area. They unanimously agreed that the files in our county were superior to the files of other counties in regard to quality, accuracy, and completeness.

A final, though relatively infrequent, problem involved minor inconsistencies, omissions, or errors made in recording the minute orders. When these problems occurred, the coders' familiarity with courtroom procedures enabled them to sort out the facts. Because the staff was so well steeped in the system of this county, coders were able to decipher confusing, inconsistent, or incomplete records.

The speed with which files could be coded varied considerably. Some files were very simple, straightforward, and easy to code. These files, once located, took approximately five minutes to complete. Others required considerably more time. These included files with more than one petition, several hearings, a pre-disposition report,

and other miscellaneous sources of information. It was not unusual to spend 30 minutes on these "fat" files. Extremely complicated ones required an hour or more. This variation among cases made it difficult to estimate how much time was needed to complete the entire coding process. Logs kept by the coders show that the numbers of files coded in any one day varied depending on whether they drew simple or complex cases.

The coders adopted uniform policies to handle some of the variation in practices employed by court personnel in assigning numbers and processing cases. If a youth was charged with several delinquent acts, the most serious charge was used as the indicator of the delinquent act. However, when measuring the amount of time required to process cases, the youth's first delinquent act was used (regardless of whether it was the most serious or not) so as to accurately measure the amount of time transpiring between a child's first apprehension and later decision points in the juvenile justice system.

If a youth's most serious offense was committed in the company of others, that information was recorded in the final four pages of the codebook--the portion called the police report. However, because so many of the delinquent acts involved either juveniles or adults who were not officially processed through the Juvenile Division of the District Attorney's office, the following policy was instituted. Coders were instructed to use the youth's most

serious offense, but also to include in the comparisons of co-participants only those youths whose cases were formally filed with the District Attorney. Variable 115 was used to note the presence of any unfiled co-conspirators, but they were not included in any of the other variables in the police report because there was very little information on them. If we had included these peripherally involved persons, we would have had to frequently use 9 for missing values.

Each group of co-participants was given a unit number to facilitate easy identification of particular groups during the analysis. In addition, each member of each group was given a number in the following fashion. In any group, the youth whose name appeared first on the master list was coded as number 1; the next youth in the same group was coded as number 2, etc. By assigning these numbers, comparisons could be made among co-participants within each group in terms of disposition, age, sex, prior record, etc. The most practical way to make these comparisons was to let youth 1 become the "reference" youth and, by knowing his/her characteristics, the analyst could compare that youth to all others involved in the delinquent act.

Once the coding was completed, the codebooks were entered into a computerized data file and then stored in the Suburban Youth Project office.

Perhaps the most troublesome problem encountered during the coding was the way in which JV numbers were assigned to

youths' cases. Although the assignment of case numbers is outlined in more detail in Chapter 4 on the court process, it merits attention here because of its implications for the mechanics of coding. Each youth whose original petition is filed in Juvenile Court is identified by a JV number. These numbers are assigned consecutively during the calendar year as they are received from the District Attorney's office by the clerk of the court.

It is common for many youths to have more than one petition filed against them during a year. During the time of our data collection, * it was the court's policy to add new petitions to earlier petitions still pending, and to file them all under the youth's original JV number. However, there were cases where this policy was not adhered to and youths were assigned more than one JV number during the year. As a result, they had more than one file folder on file in the 1980 records. Sometimes the clerk flagged the problem by noting on the folder(s) the other numbers assigned to the youth and under which JV number the case was being officially processed. For coding purposes, the coders used this official JV number to identify the child whether it represented the youth's most serious offense or not.

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[2]This policy was changed in 1981. Now a new number is assigned to each new case against a child. The policy change was made to bring the practices of this jurisdiction into conformity with most other jurisdictions in the state. Non-consolidation practices substantially increase the number of juvenile cases a jurisdiction records, and consequently enhances its arguments for the need for more resources to cope with a high volume of cases.

There were several cases, however, where the fact that a youth had more than one case before the court went undetected. As a result, we coded the youth more than once. We discovered the duplication when we assigned research identification numbers (SYP numbers) because our research numbers were assigned by name, not JV number. In these cases where no official consolidation had occurred, the petitions included in the child's most recently filed case were coded. Petitions contained in earlier 1980 cases were coded as part of the youth's prior record.

The distinction between individual youths and cases is important and accounts for the large difference between the number of cases filed in juvenile court during 1980, cases given JV numbers, and the population of our court record study, 710 youths.

Diversion Record Study

The development of the codebook and coding procedures for cases processed by the DA's Juvenile Diversion Program are parallel to those for the coding of court records. In May, 1981, after the bugs had been worked out of the court record coding, the codebook was modified for use with the diversion records. After study of diversion records and pretesting, the codebook was adapted to allow analysts to compare diversion and court populations on as many variables as possible and also utilize information specific to the diversion program.

Selection of population. A list of all youths whose cases were referred by the District Attorney to the Diversion Program was obtained from the Diversion secretary. This list contains the names of the youths and their diversion number (assigned in numerical order during a calendar year as the cases are received from the District Attorney)--(e.g. 001-80, 002-80, etc.). Youths may be referred on a voluntary (police) level or mandatory (district attorney) level. We included in our study only the youths who entered the program on a mandatory basis or "DA level", as they were called, because most of the voluntary referrals declined to participate and there was almost no information in their files.

The population of coded diversion cases includes 452 youths who were referred to Diversion at the DA level. This population includes youths who were nonresidents of the county as well as residents. It also includes youths who were referred to Diversion but were subsequently returned to the District Attorney for court filing. The youths "returned as inappropriate" often never even appeared for their intake interview. A few refused to admit their offense, others rejected diversion and elected court handling, and some entered diversion but either were uncooperative or were charged with additional offenses. These "returned" youths are included in the population of 452 but are separated out for most analyses. Diversion files were stored by numerical order in the branch office

which handled the child's case. In each site, coders inspected each case filed in 1980 to see whether it was police or district attorney level, and coded all district attorney level cases.

Coding Problems and Policies. In mid-June, 1981, coding of the diversion records by two assistants already familiar with the coding of the court records began under the supervision of Carol Fenster. Diversion records include police reports, so both diversion and police information could be gathered on a case at the same time. The coding of diversion records went more slowly than had been anticipated and in July a third research assistant was hired and trained to help complete the diversion coding. The records required more time to code because the most important parts of them, the counselors' summaries of meetings and phone calls with their clients, were all handwritten. It was these notes, written in a variety of styles by several different counselors, that provided the most background information on a youth. Deciphering these notes was difficult and time-consuming and occasionally the coders had to go directly to the counselor involved to seek clarification of material.

The diversion coding was completed in September with no cases still pending. The lack of pending cases was the result of the six-month treatment program adhered to in diversion, and the minimal lag time between the DA's referral to the program and the commencement of treatment.

Once the coding was completed, the codebooks were entered into a data file and then stored in the Suburban Youth Project office.

Fieldwork

Fieldwork was central to the data collection effort for the case and family studies. Data were gathered primarily from participant observation and informal interviews. All observations and interviews were written up, filed in locked files in the main project office at the University of Denver, and eventually compiled into one master set of field notes that includes over one thousand typed pages. Three copies of the complete set of field notes were made at the conclusion of the data collection phase of the project. The original was stored in a locked cabinet away from the project office in the Principal Investigator's office. The three copies were kept in the project office at the University of Denver in locked cabinets. One was used as a working copy, the second was broken up into categories and filed by agency, and the third was used for purposes of cutting and pasting during analysis.

Observation in a multitude of settings was carried on throughout the study and was a particular focus during 1980. It occurred primarily in three kinds of settings. The most extensive was in the juvenile courtroom itself, where the Research Associate observed almost all delinquency appearances during 1980. The second set of observations

occurred in the three agencies--probation, diversion, and the diagnostic team--in which the graduate research assistants screened and assessed juveniles for giftedness from September 1980 to September 1981. A third setting was the weekly and biweekly meetings of the county's Placement Alternatives Commission (PAC), an inter-agency policy-making group. Anne Mahoney attended these meetings, which were open to the public, on a regular basis throughout 1980 and 1981. In addition, staff members also attended meetings of the Juvenile Justice Task Force, which met monthly at 7:00 a.m. until it was disbanded in early 1981, met informally with staff members throughout the system, sat in on interviews between youths, parents, and probation or diversion counselors, and attended state and county conferences for child care workers and juvenile justice personnel. In the following pages, we describe the three main observation settings and some of the problems that we experienced in them.

Court Observations

When we started our research, all juvenile cases were handled by one full-time judge in a courtroom used exclusively for juveniles. In late 1980, a second person, a commissioner with most but not all the powers of a judge, was assigned to handle juvenile cases one day a week. All research observations took place in the primary juvenile courtroom. Most were on Tuesdays and Thursdays, the days on

which most delinquency cases were handled. We observed occasionally on other days to find out what we were missing and to get a better understanding of the full range of the work of the juvenile judge. We also observed on other days if a case of particular interest to us was being heard. In general, we found that the appearances we were interested in were concentrated on the two days in which we were regularly present in the courtroom.

Observations were usually done by one person, Research Associate Carol Fenster. From time to time another staff member would join or replace her. Early in the observation, it became obvious that the continuity in interaction provided by having one person assigned regularly to the court was valuable. We also realized that one person was more approachable and had more interaction with court personnel than a team of observers. We concluded that we gained more from having one well integrated observer regularly in the court than we lost by having only one perspective from one observer. We felt that the potential bias resulting from this single perspective was mitigated sufficiently by the perspectives of observers in other parts of the system, joint interviews with key personnel during the two years of data collection, and the quantitative court record data.

The juvenile courtroom is small with limited seating in an area designed for jurors. The observer sat in this section along with probation officers, social services

workers, and other agency personnel with business in the court. Family members or others who had interest in a particular case also sat in this area during their hearing. Families and lawyers waiting for their appearances usually sat outside in the hall.

At the beginning of each observation session, the bailiff provided the observer with the day's docket which not only helped us keep track of youths but provided an indicator of the size of the docket. Hearings were scheduled to begin at 8:30 a.m. but usually did not actually begin until 9:00 a.m. or later. This half hour before hearings actually began was a particularly "fruitful" time for observation. The observer would usually station herself in the waiting room adjacent to the courtroom and from this vantage point could watch youths and their families check in with the bailiff. Since there was a great deal of interaction between the bailiff and families, she often witnessed their fear, frustration, anxiety, and skepticism towards the juvenile justice system. She also frequently overheard conversations between youths and their parents in the waiting room. These episodes provided some understanding of how families perceived the experience. From this vantage point, she was also able to listen to and participate in conversations between courtroom officials. Sometimes these conversations were frivolous, joke-telling sessions. At other times, they were serious discussions of what to do with a particular youth, the options available to the court,

and the likelihood of the youth successfully accomplishing the court's goals for him/her.

These courtroom observations were utilized for a variety of purposes. First, they acquainted us with the day-to-day operations of a juvenile court and the representatives of the juvenile justice agencies which comprise the courtroom workgroup. Second, observations gave us ideas of what to include during our data collection from the official records on each youth. Third, they provided us with a variety of serendipitous findings that we would not have been aware of by simply studying the youth's official records.

Despite the eclectic nature of this portion of the project, there were several types of information that the observer collected with regularity. These included factors affecting the court's treatment of youths at various stages of processing; the appearance, demeanor, and interactions of youths and their families; persons accompanying the youth to the hearings; the effects of recent legislation upon the juvenile court processing; community attitudes toward juvenile delinquency; and interactions between courtroom officials including the judge, district attorney, legal counsel, and probation counselors.

At the time of these observations, we weren't exactly sure how we would use them in our analysis, and as a result included as much information as possible. For each youth or situation observed in court, the observer also noted the

other persons involved, the youth's delinquent act, the youth's age and sex, and the outcome of the hearing. She tried to chronicle the sequence of events leading up to the recorded situation or episode as well as its outcome.

There was always at least one probation counselor also seated near the observer and this gave her the opportunity to discuss certain cases with them between hearings, note their reactions to the hearings, and witness their interactions with the youths and the other courtroom officials during and between hearings. The observer came to be quite familiar with the probation counselor's routine (that is, recording the hearing's outcome and other important notations on the youth's file).

Over the year, the Research Associate became part of the courtroom scene. The status came slowly. Some of her earlier experiences in gaining acceptances by workers were described in the earlier section in this chapter on entrance of field workers into the system.

The court is the arena in which all actions involving delinquents eventually are legitimated. Over the year, the observer came to know by name and face almost everyone in the county who was directly involved with it. Probation officers came to trust her so much that on several occasions they handed her a stack of files with instructions to "carry on" their responsibilities during the next few hearings so that they could hold an impromptu conference with a youth. She came to be included, as a matter of course, in the

courtroom banter that was carried on during recesses or breaks between cases among judge, bailiff, clerk, stenographer, DA, and probation officers.

The bailiff made a copy of each day's docket for the observer and saved it for her if she missed a day of court. With the judge's permission, the observer took detailed notes during proceedings. She blended in easily with other agency personnel who usually entered court with files and clipboards and also took notes.

She utilized an 8 1/2 x 11 yellow pad notebook during all of the observation sessions. In her notes, she was careful never to use names, recording only the titles of the courtroom actors. Since it was obvious that those seated next to her were curious as to what she put in her notes, she was careful about what she put into writing in the courtroom. She often resorted to short phrases or key words to denote certain episodes rather than writing them out in full during the actual observation period. She often used the docket sheet to cover up her notes when she wasn't writing. This was especially true when she was recording sensitive events or statements that others might have misunderstood or disagreed with. At the end of each observation session, or at least on the same day, the observer transcribed her notes into complete sentences and paragraphs, utilizing topic headings for each episode so we could refer to the event later on. When fully transcribed and typed, the notes were filed in the project office at the

University of Denver. No notes were ever kept in the field office in the Court Services Building. During the year, we amassed several hundred pages of notes about interaction between courtroom participants and the children and families that came before the court. These observations provide rich background data for the quantitative analysis of official records and were helpful in developing the codebooks and coding.

Agency Observations

The graduate research assistants who conducted the screening and assessment for giftedness carried out the interviewing in three different court agencies--Juvenile Probation, the DA's Juvenile Diversion Program, and the Youth Diagnostic Team. All three agencies insisted, at least initially, that the research assistants integrate themselves into their host agencies so that they understood the general philosophy and procedures of the agency and could work well within it. This integration also enabled them to do observation for the case study part of the project for which they were trained early in the project during SYP staff meetings. Their dual role was made clear to agencies from the beginning of their contact with them.

The research assistants attended staff meetings, sometimes participated in treatment or evaluation activities for which they were qualified, and essentially "lived" in their agencies as staff members. Project staff's attendance

in staff meetings on a regular basis provided us with a sense of the day-to-day problems faced by each agency, their manner of coping with them, and their perception of their relationship to other components of the juvenile justice system. Absorption of our research assistants by their host agencies sometimes became a problem for the research project, as was mentioned in the earlier section of this chapter. Integration was so great in the Diagnostic Team that the SYP worker was seriously suggested as a possibility for temporary team leader when the full-time team leader left to take another job.

The maintenance of a neutral stance toward personalities and other agencies was difficult not only for the Research Associate dealing with all the agencies during court observation, but also for the research assistants assigned to just one agency. Probation and diversion each had two offices. One was located in the eastern and less affluent area of the county, about twenty miles from the court. The other was located close to the juvenile court and either close to or within the main agency office. Some competition existed between the two branches in both agencies, but this was particularly acute in Diversion, which held separate staff meetings in the two units. At one point, feelings between the two branches ran high and the SYP research assistant found herself caught in the middle because she was the only person who attended meetings in both places. Staff members from each branch began

questioning her about what went on at the other branch. During this period she had a difficult time retaining her neutrality.

Neutrality was also a problem in dealing with several agencies simultaneously. At any given point in time, there was at least one agency that was "scorned" by the others. The reason for the scorn varied. Sometimes it was because an agency decided to modify its procedures in such a way that it could cause more work for another agency. At other times, the reason was disagreement over what treatment a child needed. One never knew which agency would be on the "scorn" list because it varied from week to week. However, the scorned agency was sure to be discussed in uncomplimentary ways. During these discussions, it was difficult for SYP staff members to avoid being drawn in. In fact, sometimes agency staff members deliberately baited SYP staff members by making comments about other agencies in an effort to elicit an opinion. There were several times when staff members felt that they were being goaded into making a position statement, to take a stand either for or against something.

Another problem that SYP field workers felt acutely was that agency staff members were never quite certain when the SYP workers were "on" and when they were "off," (i.e. when they were collecting data for SYP or when they were just being themselves). For example, as SYP workers became more closely acquainted with agency staff members, conversational

topics would turn to more personal ones like free time activities, vacations, and personal likes and dislikes. One worker commented that even though she considered herself to be "off" during these conversations, there were several times when she was asked whether she was taking notes on the conversation, even though it had nothing to do with the research project.

Interagency Observations

The primary site for observation of interagency action was the Placement Alternatives Commission (PAC). This commission is comprised of representatives of several agencies serving juveniles in the County as well as a representative from the State Division of Youth Services. The setting up of PAC's in each county in the state was mandated by Senate Bill 26, state legislation that went into effect just prior to the beginning of the Suburban Youth Project. The legislation requires children to be placed in the least restrictive setting possible. The PAC in each county is charged with the responsibility of overseeing the implementation of Senate Bill 26 regarding out-of-home placements in its county and is in general involved with all aspects of the local operation of the juvenile justice system. Its role was particularly important during 1980 because the county had been selected as a site for three federal and state-funded special programs regarding placement. One was the Diagnostic Team, one of the SYP

sites for screening and field observation. A second was a detention reduction program, and the third was a Day Resource Treatment Center. All three of these projects got under way either at the same time as our own research project or shortly thereafter.

Anne Mahoney attended PAC meetings regularly during 1980 and most of 1981. She initially made contact with the Commission when she and Ken Seeley appeared before it to describe the SYP research project and seek permission to place a research assistant in the Youth Diagnostic Team, which was under the authority of the PAC. Commission members invited her to return at any time and indicated that the meetings were open to the public. Shortly after SYP got under way in 1980, she began to attend the weekly meetings as a non-participating observer.

Some indication of her integration into the group, in spite of her non-participation, came several months after she had stopped attending meetings. In February 1982, she was invited by the Director of Social Services, who chaired PAC, to become an official member of the Commission. However, she was unable to accept because she was not a resident of the county.

The PAC meetings provided insights into the problems faced by a suburban community as it implements new legislation, inter-organizational relationships among juvenile justice agencies, and the organizational factors which constrain or promote the delivery of services. Often

discussions in PAC made sense of some events in juvenile court that the court observer had reported or of tensions that research assistants had commented upon in their agencies.

PAC meetings also provided insights into the inter-connection between the court and court agencies and other youth-serving units that do not regularly appear in court. The representatives of the two mental health centers in the County attended PAC meetings and played an important, sometimes decisive, role in them and in decisions that directly impacted the juvenile court. We would not have been aware of this if we had not attended these meetings on a regular basis. Social Services also plays a crucial role in the juvenile justice system because it has financial responsibility for all placements except commitments to the State Department of Institutions. Yet its key role is less often visible in the courtroom and would have been underestimated if we had not been present at PAC meetings. Representatives of school systems in the county also participated in PAC and provided insight into their very strong financial and practical concerns.

The PAC was the place where inter-organizational dynamics could be identified and observed. Here, as nowhere else, one could sense the tensions between agencies, the territorial and power struggles, the personality conflicts. We got information and insights in PAC that helped us to understand what had happened in the system and what was

about to happen. We began to realize how much people enmeshed in the system didn't understand or know about legislative and policy changes that affected the system.

In PAC we got a sense of how much went on under the surface that we would never be able to tap as researchers--the phone calls, hallway discussions, unspoken understandings and fundamental disagreements. Observation in PAC meetings provided a framework in which to view much of what we saw in the system. It also made us humble, because it gave us some sense of how much we were missing and would always miss.

PAC meetings yielded two kinds of data. One kind included the handouts in meetings and official minutes when they were kept. The PAC got underway shortly before the Suburban Youth Project did, and minutes were kept somewhat sporadically during early meetings until a regular assistant was hired. In addition to these, the SYP observer kept detailed notes of her own on the meetings. Minutes, relevant handouts, and observation notes are all included in the full set of project field notes.

Interviews

SYP staff members informally interviewed several agency workers (e.g. probation counselors, diversion counselors, supervisory staff of both agencies, court clerks, bailiffs,) on an ongoing basis throughout the project. We often had questions about certain kinds of cases appearing in court,

new procedures instituted by agencies, or decisions handed down by the judge(s). During the final six months of 1981, SYP staff members also assembled a formal set of open-ended questions for each of the following persons: Judge Foote, former juvenile judge; Judge Steinhardt, a District Judge who was appointed to the juvenile bench in 1981; a former probation worker; the Chief Probation Officer; the District Attorney in charge of the juvenile division; and the Juvenile Probation supervisor. In these interviews we attempted to fill in gaps in our knowledge that we had become aware of as we started preliminary analysis. Also, these interviews gave us a perspective on the juvenile justice system from the supervisory or administrative level.

A series of taped interviews was also developed with Gary Corbett, Supervisor of Juvenile Probation, who worked for two quarters as a half-time Graduate Research Assistant on our project. His student status in a master's level program in Public Administration at the University of Denver School of Business enabled us to hire him on the project. Sets of questions were prepared for him on the topics of dispositions and pre-disposition reports, juvenile co-defendants, case processing time, the Diagnostic Team, services and organizations in the court, the Placement Alternatives Commission, the Detention Center, and the financing of juvenile services. He taped answers to these questions at his own convenience. The tapes were then transcribed and added to the project field notes.

Having the supervising juvenile probation officer on the project during the final six months was especially helpful to us. He had been working in the county for about eight years, first as a juvenile detention center worker, then as a line probation officer, and then as supervising juvenile probation officer. He was one of the first two people we talked with about the project when we first initiated the idea in 1977.

In the course of his own graduate work, he too was trying to understand the structure and process of the juvenile justice system in the County. Because he was a project employee, we could take up his time with questions in a way that we could not have done otherwise. His business school perspective provided us with ideas and expertise as we looked at the system that we would not have had without his involvement.

The heavy input into the case study by probation and by one individual in the system may have introduced some bias. We have tried to be cognizant of this possibility and to guard against it and take it into consideration whenever necessary. The issue about how much to use informants in field research is an ongoing one. We have opted to use them in this study and feel that by their use we have gained in depth and understanding far more than we may have lost by building in a potential bias.

Other Methods

Project staff members completed several computerized library searches for research studies relevant to our focus on case processing in suburban juvenile courts and the effect of family factors upon dispositions. The staff also acquired an extensive newspaper clipping file on the county's juvenile justice system (and the state system as well) which provides a range of perspectives on the system over a ten-year period. During the course of the project, this file was supplemented with current newspaper clippings from Denver's two major newspapers plus several local community papers. These articles were filed under several heads, e.g. budget problems, sensational local juvenile offenses, community services to juveniles, population growth, effects of the Reagan administration upon juvenile justice. These newspaper clippings helped the staff to keep abreast of trends and developments in local juvenile justice while monitoring public reaction to them.

METHODS USED TO IDENTIFY GIFTED DELINQUENTS

One of the goals of the testing portion of the study was to learn how many gifted youths came into the juvenile justice system in the County. A second objective was to develop and test screening devices for giftedness that are appropriate for court use. A third objective was to learn more about gifted delinquents. This section describes the process of selection and development of screening and

assessment instruments, the selection and training of interviewers, the criteria for selection of a youth for full-scale assessment, the changes that occurred over the year of testing and the procedures for preparing the data for computer processing. The process of gaining access to court agencies in which testing could occur and the procedures for contacting and testing youths have already been described in detail in the first section of this chapter.

Development of Instruments*

During the first quarter of the project (January 1 through March 31, 1980) the senior research staff developed screening instruments and selected and trained graduate research assistants to do the testing. The selection of the battery of testing instruments was aided by Graduate Research Assistant (GRA) Jana Waters, a doctoral candidate in the School Psychology Program with an M.A. in Gifted and Talented Education and considerable experience in evaluating children for giftedness. She helped locate and evaluate intelligence and creativity tests for possible project use.

Selection of these testing instruments was guided by the overall plan for identifying gifted delinquents. This plan included testing at two stages: Stage I was designed as a short screening of 30-45 minutes. Stage II was a full-scale individual assessment of two to three hours

*This section was prepared by Jana Waters.

administered to youths who were selected for it on the basis of their performance on the Stage I testing. One group of youths, the experimental group (group I), was composed of youths whose Stage I scores indicated potential giftedness. The control group (group 2) was composed of youths randomly selected from the Stage I pool of those who did not appear on the basis of their performance on Stage I scores to be gifted.

It was the intent of the Suburban Youth Project researchers to compile a battery of instruments that would accurately and efficiently identify the percentage of youths within a suburban juvenile justice system who may be gifted and talented. The term "gifted" incorporates a multitude of special abilities and is not merely restricted to superior intelligence. As such, the following five general areas associated with giftedness were selected to be investigated: intelligence, creativity, academic achievement, self-concept and leadership.

Two distinct batteries were devised in order to evaluate and identify these abilities. The screening battery was designed to provide a maximum amount of information about each youth, while requiring a minimum time expenditure. Ideally, any youth who entered DA level Diversion, Probation or the Youth Diagnostic Team would be screened. The assessment battery was designed to provide a more in-depth indication of an individual's abilities.

Youth who showed signs of gifted abilities in the screening phase or who fell into a randomly selected group were eligible for a full scale assessment. Numerous instruments were analyzed and piloted over an 8-month period in order to develop the most comprehensive screening and assessment batteries possible.

Through the process of a thorough literature review and discussions with the project's consultant on gifted education, eight intelligence tests were identified as potential measures to be included in the batteries: The Advanced Progressive Matrices, The Arthur Point Scale of Performing Tests, The California Short-Form Test of Mental Maturity 1963 Revision (CTMM), Koh's Block Design, The Leiter International Performance Scale, The Porteus Maze Test, The Stanford-Binet Intelligence Scale and the Wechsler Intelligence Scale for Children- Revised (WISC-R). After analyzing the advantages and disadvantages of each measure (e.g. ease of administration, length of administration, reliability, validity, age appropriateness, cost effectiveness), the WISC-R was selected as the intelligence test that would be used in both the screening and assessment phases. A brief description of each of the eight measures and the justification for the ultimate decision to utilize the WISC-R follows.

1) The Advanced Progressive Matrices - This test can be used as a test of "intellectual capacity" if it is not timed, or as a test of intellectual efficiency if a time

limit is stipulated (approximately 40 minutes). It is appropriate for use with individuals age 11 and over. The test consists of 60 designs, each of which are missing a part. The subject then chooses the missing insert from 6 or 8 given alternatives. The test is easy to administer. It also requires only minimal verbal instruction and no verbalization on the part of the subject, and thus, it is applicable for use with minority populations. However, the test seems to provide more of an indication of perceptual adequacy than of intellectual capacity, and this limited the measure for our purposes. The lack of data relating to the reliability, validity and norms of the test appeared to further reduce its effectiveness.

2) The Arthur Point Scale of Performance Tests - This test requires 45 to 90 minutes to complete and spans levels from 4.5 years to what is termed Superior Adult. The revised form is divided into 5 subtests: Knox Cube, Sequin Form Board, Arthur Stencil Design I, Porteus Maze Test and Healy Pictorial Completion II. This test is difficult to administer and requires considerable training time. The reliability figures presented in the manual are quite limited. Moreover, the test relies heavily on nonverbal abilities and does not adequately assess verbal skills.

3) The Maturity - 1963 Revision (CTMM) - This is a group intelligence test which provides scores in the areas of logical reasoning, numerical reasoning, verbal concepts, memory, language total and nonlanguage total. The test

requires approximately 45 minutes to administer. Although the manual indicates that the test is appropriate for Kindergarten through adult levels, the test is most useful when administered to individuals who are in Kindergarten through the third grade. The CTMM provides less useful information at the upper grade levels. Again, there is a disproportionate emphasis on nonverbal material in the CTMM. Statistical evidence relating to reliability and validity is lacking.

4) Koh's Block Design Modifications of this test appear in the Arthur Point Scale of Performance. Although this test is brief and easy to administer, it also relies totally on nonverbal skills, and gives no indication of verbal ability.

5) The Leiter International Performance Scale - This is a nonverbal mental age scale for measuring intelligence. There are 68 items on the scale ranging in difficulty from the 2-year level to the 18-year level. The test technique of matching is utilized, and the instructions are given in pantomime. Thus, a major advantage of the test is that it can be used effectively with non-English speaking children. However, the author suggests that the test holds maximum usefulness for children between the ages of 5 and 12. The majority of children in the present study were over 12 years of age. The Leiter has a low ceiling, making it difficult to identify superior abilities. It is also an extremely costly instrument to purchase.

6). The Porteus Maze Test - Quantitative and qualitative scores can be derived from this test which consists of 12 core mazes and two extension forms. It can be used with ages 3 and over. The test is entirely nonverbal. There is no data on reliability or norms in the manual. Moreover, there is only minimal indication of the qualifications necessary to administer and interpret the test. The overall lack of information suggests that there was not sufficient justification to incorporate this test in the batteries.

7) The Stanford-Binet Intelligence Scale - The Stanford-Binet measures abstract verbal reasoning ability. The age range is from two years to adult. The major advantage of the Stanford-Binet is the wealth of interpretive data and clinical experience associated with it. The data indicates that the Stanford-Binet is a highly reliable test, with reliability coefficients for the various age and I.Q. levels being over .90. With a reliability coefficient of .90 and a standard deviation of 16 points, there is an error measurement of approximately 5 I.Q. points (that is, there is a 2:1 chance that a child's true Stanford-Binet I.Q. differs by 5 points or less from the I.Q. that is obtained through a single testing). Data on criterion-related validity (concurrent and predictive) has been obtained primarily in terms of academic achievement. Correlations between Stanford-Binet I.Q.'s and school grades, achievement test scores and teacher's ratings fall

between .40 and .75. Unfortunately, the entire scale is heavily weighted with verbal ability. Even those tests that are not primarily verbal in content require that the respondent be able to comprehend fairly complex verbal instructions. Thus, the test may not be applicable for use with minority cultures. Furthermore, since the test focuses on abstract verbal abilities, only limited information relating to motor/performance type skills can be ascertained.

8) The Wechsler Intelligence Scale for Children-Revised (WISC-R) - Considerable information has also been collected on the WISC-R. The WISC-R consists of 12 subtests, two of which are used only as alternates. For the purposes of the present project, the test was advantageous because unlike previously mentioned measures, it identifies both verbal and performance skills. The WISC-R is also a highly reliable instrument with average split-half reliabilities for verbal, performance and full-scale scores being .94, .90 and .95 respectively. A further advantage of the WISC-R was that its standardization sample utilized 2,200 cases with minorities and bilinguals (if they could speak and understand English) being included. Anastasi (1976) states that, "The WISC-R standardization sample is more nearly representative of the U.S. population within the designated age limits than is any other sample employed in standardizing individual tests". Two subtests of the WISC-R were selected to be used in the screening phase

(Similarities and Block Design). This two-test combination correlates highly with the Full Scale I.Q. score (Similarities 4 = .73 at 13 1/2 years, .79 at 14 1/2 years; Block Design r = .75 at 12 1/2 years, .73 at 13 1/2 years and the remaining eight subtests (Information, Picture Completion, Picture Arrangement, Arithmetic, Vocabulary, Object Assembly, Comprehension and Coding) were then administered to individuals selected to participate in the assessment phase.

The three project Graduate Research Assistants reviewed approximately 20 creativity tests in order to determine an appropriate measure to be included in the batteries. Although it was initially suggested that a totally new creativity test be devised by project members (e.g. having the youth draw a picture and then determine the degree of creativity based on materials chosen, detail, number of colors chosen etc.), it was determined that this would be unfeasible because of time and monetary constraints. Thus, it seemed more reasonable to use a measure that was already in existence.

It was felt that the instrument chosen for inclusion in the batteries should identify several aspects related to creativity, such as divergent thinking, unusual problem-solving skills, products of high creativity, analysis and synthesis skills, abstract reasoning skills, visual and performing arts abilities and nonverbal and motor abilities. Although the possibility of using such tests as the

Rorschach, the Thematic Apperception Test (TAT), the Structure of Intellect Learning Abilities Test (Divergent Production Subtests) or the Draw a Person was discussed briefly, these tests were rejected because they were either too lengthy, too difficult to administer and interpret or provided only minimal information. The tests that were chosen for a more in-depth review were the Barron-Welsh Art Scale, the Southern California Tests of Fluency, Flexibility and Elaboration, and the Torrance Tests of Creative Thinking.

1) The Barron-Welsh Art Scale - A Portion of the Welsh Figure Preference Test - This test has been described as a nonverbal measure of complexity-simplicity which is related to artistic taste and talent. It has been used in a variety of studies of creativity and artistic preference. The test can be given to individuals six and over, and requires approximately 20 minutes to administer. The respondent is instructed to mark whether he/she likes or dislikes 86 black and white figures. In the initial sample, these figures elicited different reactions from artists than from a group who were not engaged in creative pursuits. The major difficulty with the Barron-Welsh is that no interpretation is provided for the scores in the manual. Thus, it is not at all clear what high or low scores are indicative of. Moreover, the validity of the test has yet to be determined since a clear statement regarding what the test is designed to measure is not provided. Although the Barron-Welsh can

be viewed as an assessment of creative potential, the tentativeness in its interpretation appeared to limit its usefulness.

2) The Southern California Tests of Fluency, Flexibility and Elaboration - These tests are based on Guilford's concept of divergent thinking; that is, unrestricted thinking involving the production of a multitude of diverse solutions to problems. There are 14 tests in the battery, and they are applicable for use at the high school level and above. Most of the tests in the battery (10) require verbal responses. As such, it was felt that this battery did not provide a broad enough sampling of divergent thinking to be beneficial.

3) The Torrance Tests of Creative Thinking - These tests were developed within an educational framework to determine the types of classroom experiences which stimulate creative thought and production. In general, the tests tend to be eclectic rather than being based on a systematic theory of creativity. However, they do provide an indication of certain aspects of divergent thought and can be useful as a means to identify creative potential. The test measures four separate factors: fluency (the number of relevant responses given), flexibility (the number of different categories of response), originality (uniqueness of the response) and elaboration (use of additional detail). The Torrance Tests comprise 12 different tests that are grouped into three batteries: Thinking Creatively With

Words, Thinking Creatively with Pictures and Thinking Creatively With Sounds and Words. The tests are timed and speed is an integral aspect of performance. The tests are suitable to be used in Kindergarten through graduate school.

Test-retest reliability ranges from .50 to .93 over one to two-week periods. Although the manual summarizes approximately 50 studies regarding the validity of the test, only one of the studies deals with predictive validity. The studies do suggest that the Torrance tests measure behaviors that are consistent with the literature on creative behavior.

Norms were obtained from 118 fifth graders and 108 seventh graders. Conversion tables can be constructed from the means and standard deviations of the groups presented in the manual.

Since the Torrance tests did have some statistical evidence to support them, and provided both verbal and motor sections, it was determined that they would be incorporated in the project's batteries. Only the Thinking Creatively With Words and Thinking Creatively With Pictures batteries were utilized. One activity from the Thinking Creative With Words (Unusual Uses) and one activity from the Thinking Creatively With Pictures battery (Lines) were selected to be presented during the screening phase. The remaining activities from each of the batteries compiled the creativity portion of the assessment phase.

Although the Torrance Tests provide information related to divergent thinking, they do not adequately address the other aspects of creativity outlined previously (e.g. unusual problem-solving skills, products of high creativity, etc.) In their research, Taylor and Holland (1962) state that biographical information is the most consistent and reliable source for this type of data. As such, various biographical instruments designed to identify creative talent were evaluated. The Khatena-Torrance Creative Perception Inventory was analyzed in depth. The Khatena-Torrance is divided into two separate tests of creative self-perceptions (What Kind of Person Are You - WKOPAY and Something About Myself - SAM). It can be administered to adolescents between the ages of 12 and 20. Following a piloting phase, it was determined that this scale was lengthy to administer, difficult to score, and provided only limited information. Therefore, one of the Project's GRA's devised a focused interview that would not only provide information about creativity, but about other areas of giftedness as well. Questions in the creativity dimension centered around the areas of crafts, music, painting, drama and dance. Questions dealing with mechanical giftedness, psycho-motor giftedness, leadership, communicative styles, academic aptitude and generalized interest comprised the remainder of the interview. Evaluation of potential in these areas was based on the amount of time the individual engaged in a particular activity, the individual's self-

motivation to engage in the activity, an assessment of any product produced and an assessment of the quality of ability in the interest area. The interview was reviewed and revised by all Project members.

Several batteries designed to measure general educational achievement in the areas most commonly covered by academic curricula were investigated (e.g. The California Achievement Tests, the Iowa Tests of Educational Development, the Stanford Tests of Academic Skills). The Wide Range Achievement Test (WRAT) was eventually chosen because it provides general information in the areas of reading (word recognition), written spelling, and arithmetic computation while being a brief and convenient instrument to administer (20 to 30 minutes are required). Three types of scores can be used to report the results on the WRAT: 1) grade ratings, 2) percentiles, 3) standard scores. The test can be used from the primary grades to the adult level. Only the reading and arithmetic subtests of the WRAT were included in the assessment battery. The spelling subtest was not utilized because it is outmoded and is basically no longer a predictor of success in school in this area.

A variety of self-concept tests were investigated as potential measures for determining how the youths in this population perceive themselves. It was hoped that the instrument selected for inclusion in the Project's battery could eventually be utilized by counselors within the juvenile justice system. The Adjective Check List (ACL) was

one of the measures chosen for analysis. The ACL is a list of 300 adjectives that are alphabetically arranged. The respondent is instructed to mark all adjectives which are descriptive of him/herself. Twenty-four different scores can be obtained on the ACL. The scale is fairly lengthy and difficult to administer, and thus did not adequately meet the criteria of future usefulness.

The difficulties inherent in the ACL led to the selection of the Perceived Competence Scale for Children as the self-concept scale to be included in the screening battery. This scale assesses the degree to which children perceive themselves as being competent in three separate skill domains: 1) Cognitive Competence (skills which focus primarily on school performance), 2) Social Competence (skills which involve peer interactions and popularity), 3) Physical Competence (skills in outdoor games and sports). Independent of these three competence subscales is a fourth subscale which measures the child's general feelings of self-worth. There are 28 items on the entire questionnaire with scores for each item ranging from 1 (indicating low perceived competence) to 4 (indicating high perceived competence). Mean scores can be calculated for each of the 4 subscales.

It appeared that the Perceived Competence Scale could be used effectively by counselors in the juvenile justice system because the administration time is brief (approximately 10 minutes), can be accomplished rapidly, and

mean scores are provided which are readily comprehensible. Moreover, only a brief training session is required for an individual to become proficient in its use.

Leadership is frequently overlooked in discussions of giftedness and the number of scales designed to test leadership abilities are quite limited. The Leadership Ability Evaluation Scale was chosen as a means of identifying leadership skills because it was the most widely accepted test currently available. The questionnaire is based on Kurt Lewin's conceptualization of leadership styles (laissez-faire, autocratic, democratic and aggressive) and taps five different areas; home/family, work/vocation, play/avocation, school/education and community life. The entire scale is comprised of 50 items. It was felt that provision of all 50 items would be too time consuming for our purposes. Thus, Project members used a jury validation technique to select the 10 items that would be most appropriate for adolescents. The revised scale was included in the assessment battery.

Instruments for both Stage I and II were pilot-tested in three agencies in the County during the second quarter of the project-- April - June 1980. During this pilot phase, the research assistants experimented with the several different instruments that were being considered for adoption, as well as different methods of administering them, e.g. varying the order in which the tests were administered, administering only certain portions of the

instruments, or varying the directions given to youths before each test was administered.

Selection and Training of Interviewers

During the latter part of the first quarter, the senior research staff interviewed several University of Denver graduate students for Graduate Research Assistant (research assistant) positions. In addition to Jana Waters, mentioned earlier, who worked for the project from its start in January 1980 through December 1981, two additional students were hired early in 1980. Each of the three research assistants had primary responsibility for screening and assessing youths for giftedness in one court agency. Steve Harvey, a doctoral student in the School Psychology Program in the School of Education, has a background in educational and psychological measurement, and had been trained in counseling, dance therapy, and dance choreography and drama. Louis Propp, the third assistant, was a doctoral student in the Professional Psychology Program, and had had extensive experience in psychological and educational assessment as well as experience working with children in a local Head Start Program.

Each of the three research assistants was given a short training program just before the second quarter began. It consisted of a description of the screening instruments to be used for the pilot phase, the rationale for their use, and instructions about how to administer them. In addition,

they were given a review of the history of the juvenile justice system in the County and the United States and information about how youths were processed through the system. They also were oriented to the goals of the Suburban Youth Project and given a brief introduction to field research techniques to help them in the case study aspects of their work. Training for the research assistants continued on a weekly basis throughout the second quarter, was reduced to approximately twice monthly during the third quarter, and administered as the need arose during the remainder of the project. As mentioned in the previous section, all three were involved in the evaluation of tests that were being considered for use by the project and piloting them with youths.

Each research assistant spent approximately 16 hours in the agency in which he or she would be working, attending training seminars, individual conferences with senior research staff, and writing reports. During the pilot phase, part of the agency time involved in-service training from agency supervisors designed to enable the research assistant to understand the operations of their host agency and facilitate their assimilation into the agency work-group.

During the third and fourth quarters of the project, as the interviewing was actually getting under way, two other research assistants were added to the interviewing staff. In September, 1980, Rick Hughes, a doctoral student in the

School Psychology Program in the School of Education and a full-time school psychologist at one of the high schools in the County, joined the project as a half-time research assistant. He worked as a "floater", assessing youths referred to him by the other research assistants. Because he was willing to go directly to youths in their homes for permission and also for the actual assessments, he probably substantially increased the number of assessments we were able to complete. In January, 1981, Natalie Eilam joined the staff, also on a part-time basis. She was also a doctoral student in the School Psychology Program and worked part-time as a consulting school psychologist for one of the public schools in the Denver area.

Procedures for Selecting Control Group

At the end of each screening interview, each youth was informed that a second interview might be required, even though the interviewer could not be certain until the tests were scored. Once the tests were scored, youths who showed evidence of potential giftedness were assigned to the experimental group. For every youth assigned to the experimental group, another was assigned to the control group. Whenever a youth showed signs of potential giftedness, interviewers reviewed the testing scores of previously tested youths and selected the youth 1) whose screening immediately preceded that of the potentially gifted youth, 2) whose scores did not show signs of

potential giftedness; and 3) who had not already been assigned to the control group. The advantage of this system was that at the time of the testing, interviewers were unaware as to which group, if any, the youth would be assigned. This helped minimize bias during the testing session.

When the State II assessment was concluded, the youth's tests were mailed to the Scholastic Testing Service, 62 Weldon Parkway, Maryland Heights, MO 63045, for scoring. Upon receipt of the test results from the testing service, SYP staff entered the youth's testing information into a computerized data file.

Record Keeping

At the conclusion of the screening or assessment interview, the assistant filled out a "face sheet" containing the child's name, agency number, test scores, and characteristics of the testing situation such as the person administering the tests, the location of the testing, and the child's subjective reaction to the testing. This face sheet was turned into the SYP office along with the test protocols, and was kept in a folder labeled with the child's research identification number (SYP number). These files were stored in locked file cabinets in the project's office at the University of Denver.

A 100-variable codebook guided the entry of this testing information into a data file via a Texas Instruments

Silent 700 Terminal which was located in the project offices. This terminal allowed project staff to enter data directly onto a disc, thus bypassing the use of computer cards. Several seminars on terminal use were conducted by Statistical Consultant, Jenny Liu and later by consultants Jessica Edgerton and Jenny Huang. By the time these seminars were completed, staff members had developed considerable proficiency in data entry and use of statistical packages appropriate for the data and the terminal's capacity.

In order to keep track of which youths were screened and assessed on a monthly or quarterly basis, a log form was developed. This form allowed the research assistant to record the names of each eligible youth, the youth's agency number and SYP number, and the youth's testing status (i.e. whether the youth was screened or assessed, the dates of the testing, etc.) These logs provided the basis for statistics cited in quarterly reports. These logs were filed in a ring notebook and kept in a locked cabinet along with the file folders and index cards.

The record keeping for the testing data turned out to be one of the most tedious tasks of the project. Initially each agency had one log, which was kept by one research assistant, but as we added interviewers and reassigned them by geographic area rather than agency, we had logs coming into the office from several interviewers who were interviewing in several locations. Youths who were screened

in one agency might turn up later in another agency where they were picked up for assessment. As a result they had two agency numbers. A youth might refuse screening in one agency and be classified as a refusal, only to be picked up later in another agency and agree to be screened, requiring his or her reclassification into the screened category. In the course of our struggles to keep records, we came to have a better appreciation and sympathy for the problems that the court clerks and other justice system personnel face as they try to keep track of individual youths as they move through the system.

Our problems with record keeping for tested youths was not serious in regard to outcome. In the end we knew how many youths we had screened and assessed and had the necessary records for them. And we have a pretty accurate record of which youths refused to participate so we can compare the participants with the refusals. But the record keeping for the testing and assessment was time consuming and a constant source of frustration. It is, however, a reality of working in juvenile courts. Kids move, change their names, go through every agency in the system, change their minds, and don't bother to let you know they've been interviewed by your project before. And all you can do as a researcher is try to keep up, and make sure that you have an accurate count of the youths that are central to your study.

Changes in Procedures Over the Year of Data Collection

In general, procedures set up at the beginning of the project remained in force throughout the year of data collection. There were two notable exceptions. One change in the County Juvenile Justice System--the decentralization of the Youth Diagnostic Team brought about a corresponding change in Suburban Youth Project procedures. In March, the County made the decision to stop doing complete diagnostic evaluations in a central location. Because the change made it difficult for our project to do research screenings in the Diagnostic Team, we moved our interviewer out of that agency and into the probation department to replace another SYP project interviewer who had left the project in March to write his dissertation. Prior to the decentralization of the team, the team leader and another key staff member on the Diagnostic Team had left the team to take other jobs. When they left, the number of youths our research assistant was able to interview dropped sharply and it became increasingly obvious that the Diagnostic Team was no longer a productive research site.

The loss of the Diagnostic Team research site at that time was viewed by project staff as more of a gain than a loss. When we originally made the decision to include the Team, we anticipated that we might include in our study youths who had been filed on as status offenders or Children in Need of Supervision (CHINS) prior to a 1979 change in the law. Since the Diagnostic Team handled these youths as well

as delinquents, it provided a good point of contact with them. However, as our project developed, the idea of including CHINS was dropped when it became clear that there was no reliable way to routinely pick up all the youths who previously would have been filed on as CHINS. We continued to interview them in the Diagnostic Team because we felt that they would make a small but interesting comparison group to the delinquent youths. We now had that group as a result of seven months of interviews in YDT. Furthermore, since we had been screening for several months by the time the Team changed its format, we could anticipate that an increasing number of youths who came into the Team would already have been interviewed in one of the other research sites.

A second change was the reassignment of graduate research assistants in early 1981 from agencies to locations. Probation and Diversion each have two offices, one in the western part of the County and one in the eastern part. The distance between the two is about twenty miles and the research assistants were spending inordinate amounts of travel and "down time" trying to interview in both locations. They felt that they were missing youths because a child would come into one location and be unexpectedly available for interview and the interviewer would be at the other office, unable to take advantage of the chance to interview the youth. To ease this problem, the research assistants were reassigned so that one interviewer handled

both probation and diversion in the eastern offices. A second interviewer handled the western Diversion office which had a fairly heavy caseload. A third interviewer handled the western Probation office. A fourth interviewer handled primarily assessments and acted as a "floater" picking up assessments from the other three when they were overloaded or were unable to get the child to come into the agency office.

This research assistant, Rick Hughes, was a doctoral student in the School Psychology program in the School of Education and worked full-time as a school psychologist at one of the schools in the County. He had been a professional athlete, had a remarkable ability to establish rapport with kids, stood well over six feet tall, and was willing to go to the homes of youths to get permission to assess them and to do the assessments.

Background Information on Tested Youths

Background information on all probation and diversion youths who were screened for giftedness was obtained from court and diversion records. Many tested youths entered the juvenile justice system during 1980 so that their records were coded in the course of the coding of records for the case study. Records of tested youths who entered the system in 1979 or 1981 were also coded using the same codebooks and procedures that were used for the court and diversion record studies, except that information was not gathered for these

tested youths on case processing time and co-participants. We coded whether a youth had co-participants, but could not include all the items in regard to co-participants because the coding procedures for this set of variables did not apply unless we included all the youths in the co-participant group. With the tested population this was not possible.

Background information on YDT cases is less complete. YDT evaluated youths from social services as well as youths with delinquency charges and some of the screened youths in YDT did not have records on file in the Juvenile Court. We coded background variables for youths who had court records, but were unable to obtain full background information on other youths.

SUMMARY

Overall, the data collection procedures for this project were extremely complex. Both the giftedness and court and family portions of the study depended upon the cooperation and good will of scores of individual staff members in all agencies in the court system. They required the coordination of the research staff with each other, and with court workers and youths who entered the system. Finally they demanded constant vigilence in regard to record keeping and filing. Both portions rest upon the participation of researchers, at some time or another, in almost every facet of the court system.

CHAPTER 2

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CHAPTER 3

CONTEXT IN WHICH THE COURT OPERATES

The juvenile court in Suburban County operates within the context of an historical national juvenile court movement in which Colorado was an early leader, as well as under a set of federal mandates and funding priorities in regard to juvenile offenders. It also functions within a framework of state legislative and budgetary constraints, as well as within the changing complexion of a county pressed by a rapidly expanding population.

In this chapter, we will briefly summarize the history of the national juvenile court movement and will then describe the development of the Juvenile Court we studied within the context of this historical trend, state legislative and financial mandates, the county's physical and population characteristics, and county institutions.

HISTORY OF THE NATIONAL JUVENILE JUSTICE MOVEMENT

It is striking that many of the issues confronted by the suburban court we studied in 1980 derive from problems and concerns articulated almost a century earlier in the earliest juvenile courts. The national juvenile justice or "child-saving" movement as Platt (1969:75) calls it, was mobilized in the mid-1800's, primarily through the efforts of a group of feminist reformers in Chicago. Before that,

there had been several attempts to restructure the way in which children were handled by the courts. The New York Legislature in 1824 established the House of Refuge, a private institution for juveniles, and within a few years similar houses were established in Philadelphia, Boston, and Chicago. The children placed in these houses were often the offspring of immigrants, and although there was general concern about the harmfulness of adult prison systems to children, there was also some question about the motives of institutions which restrained the liberty of poor children and trained them in rigorous and monotonous work habits (Fox, 1970). Concern about differential treatment of juveniles by economic or ethnic status continues to plague citizens and administrators charged with responsibility for troublesome juveniles even today, and much of the judicial and legislative history of the juvenile court revolves around this issue.

In 1899 the campaign for better jail conditions and special institutions for children culminated in the Illinois legislation creating the juvenile court division of the Circuit Court for Cook County (Chicago). This act, "A Law for the Care of Dependent, Neglected and Delinquent Children", provided a specialized court with a specialized law relating to children, a restriction on the jailing of children under a certain age, a statement of legislative purpose to reform rather than punish, and allowed for the appointment of probation officers (Rubin, 1976:78).

Children could not be detained in jail if they were under 12 years of age. The second juvenile court is said to have been created in Denver, Colorado by Judge Ben B. Lindsey, although some historians believe that Lindsey's court was already in operation in 1899 due to an educational rather than a juvenile law (Platt, 1969:9).

The act of 1899 extended a concept from English law under which the King of England protected the property interests of fatherless children. Known as parens patriae ("parent of the nation"), this doctrine was used to authorize the juvenile court judge to sentence children as he saw fit, to supervise them in their own homes or place them in foster or private homes or to institutionalize them in state facilities (Rubin, 1976:78). The power of the judge to do these things remains strong, but over the years competitors for the judicial power have developed and the modern court is very much a story of the struggle between these competitors--lawyers, social service agencies, district attorney, probation officers--for the power to make decisions about what kind of treatment children will receive and who will pay for it. This struggle for the power to make decisions was obvious in the suburban court we studied.

For several years, the juvenile court concept expanded. The felt need for special handling of juveniles is evidenced by the rapid adoption of juvenile court legislation. By 1917 it had been passed in all but three states and by 1932 there were over 600 independent juvenile courts in the

United States (Platt, 1969:10). Separate handling of juveniles was not the panacea that had been hoped for, however. An effective partnership between the court and the developing professions of social work, psychology, psychiatry, sociology, and education did not materialize.

Mr. Justice Douglas observed in 1969 that many things prevented this dream from coming true: (1) municipal budgets restricted the flow of experts into this field in large numbers; (2) experts that were available were more likely to treat the rich than the poor; (3) love and tenderness of the judge alone isn't enough to untangle the web of influences which affected the troubled child; (4) correctional institutions designed for delinquents often became miniature prisons with many of the same problems of adult prisons; (5) the secrecy of the juvenile proceedings led to arbitrary decisions (DeBacker v. Brainard, 396 U.S. 28,90 S.Ct. 163 (1969), (Empey, 1978). The early juvenile court had not resolved the problems inherent in the handling of troubled and troublesome children. In the 1960's the Supreme Court entered the arena of children's rights.

Supreme Court Decisions of Juvenile Justice

One purpose of early courts was to minimize legal procedure and formality. The judge in his parens patriae role tried to act like a good father. As a result there was neither the procedure nor impetus for appellate review of juvenile court decisions. The U.S. Supreme Court handled no

juvenile delinquency case from the beginning of the movement until 1966. Several reasons prompted the Supreme Court to look at juvenile justice at that time. One was the impetus generated by the civil rights movement. Another was the attention being given by the Warren Court to the rights of criminal defendants in adult courts. A third was the growing dissatisfaction with the juvenile court on several fronts. Citizens concerned about the spiraling delinquency rates, the weakening of the American family and traditional American values, and growing violence among juveniles as well as adults, questioned the effectiveness of the court to contain juvenile misbehavior (Rubin, 1976:80). On the other side, lawyers and civil libertarians argued that treatment of juvenile offenders often involved punishment as severe as that meted out to adults and that a child--like an adult--should not have his liberty taken away without due process of law. Labeling theory, momentarily in vogue among academics and eagerly adopted by policymakers, implied that the negative stigma attached to the formal processing of juveniles by the juvenile court could actually promote further delinquent behavior by youths labeled by the juvenile justice system.

Lawyers and advocates for children's rights took an increasing interest in the juvenile court and within a span of ten years the Supreme Court handed down five major decisions that significantly affected the structure of American juvenile justice.

1) Kent v. U.S. 383 U.S. 541, 86 S.Ct. 1045 (1966). This decision ruled that in procedures concerning transfer from juvenile to criminal court due process fairness must attach, a hearing is required, counsel should represent the child at this hearing, and probation officer reports should be made available to the child's lawyer.

2) In re Gault, 387 U.S. 1, 87 S.Ct. 1428 (1967). This decision ruled not only that a child has the right to a lawyer and to a free lawyer if indigent, but also that written notice of the specifics of the offense must be provided to the child and his parents, that the child must be advised by police officers of his right to silence and of his right to counsel during police interrogation, and finally, that hearsay evidence was not admissible in the hearing which adjudicates whether or not an offense was committed.

3) In re Winship, 397 U.S. 358, 90 S.Ct. 1068 (1970). This decision ruled that the measure of proof in a delinquency trial must be beyond a reasonable doubt. The court reasoned that since one's freedom is at stake, due process required that the amount of testimony necessary for conviction be as high as the standard used in adult criminal cases.

4) McKeiver v. Pennsylvania, 402 U.S. 528, 91 S.Ct. 1976 (1971). In this decision the court reverted to an earlier rationale in ruling that the federal constitution did not compel that states provide the right of jury trial

to an accused juvenile. However, a state may legislate this option or a state appellate court might determine that its state constitution compels a jury trial right within the state. According to Levin and Sarri (1974), eleven states allow jury trials for children charged with delinquency, either by statute or by case decision.

5) Breed v. Jones, 95 S.Ct. 1779 (1975). This decision ruled that the double jeopardy clause of the Fifth Amendment applies, through the Fourteenth Amendment, to juveniles. This decision added an additional constitutional protection for juvenile offenders by preventing a juvenile from being adjudicated in the juvenile court and then being transferred to the Adult Court where the sentence imposed may be much harsher.

Taken together, these five decisions assured that the juvenile court must become a real court, and its procedures must be regularized in accordance with constitutional requirements. State appellate courts began to hear an increasing number of cases involving questions of juvenile law and procedure, and legislatures updated juvenile codes in light of the new judicial decision (Rubin, 1976:83).

National Legislation

Trends which were bringing the practices in juvenile court to the attention of Appellate Courts were also focusing executive and legislative attention upon juvenile offenders. Early in his presidency, John Kennedy appointed

the President's Committee on Juvenile Delinquency and Youth Crime, chaired by his brother, Robert. This effort was overshadowed by Kennedy's assassination, the urban riots, civil disobedience, and the Vietnam War, but a few years later, President Lyndon Johnson appointed a new Commission on Law Enforcement and Administration of Justice. The Commission's proceedings and recommendations were published in 1967, the same year that the influential Gault decision was handed down by the U.S. Supreme Court. It recommended a series of reforms for both adult and juvenile courts that laid the groundwork for national priorities in regard to both juvenile and adult crime for the next decade. Among other things, the Commission recommended a series of reforms that fall under four headings: decriminalization, diversion, due process, and deinstitutionalization. Decriminalization centered upon the removal of status offenses, in particular, from the jurisdiction of the juvenile court. Diversion involved the channeling of first-time and petty offenders away from legal processing and into community institutions. Due process, given special support by the Supreme Court's Gault decision which mandated, among other protections, the involvement of attorneys in juvenile court, moved the juvenile court much closer to the model of adult criminal courts. Deinstitutionalization stressed the importance of developing correctional programs which utilized open community settings whenever possible as an alternative to isolated, locked institutions (Empey, 1978:532-533).

Within a year, Congress passed the Juvenile Delinquency Prevention and Control Act of 1968, which was to be administered by the Youth Development and Delinquency Prevention Administration (YDDPA) of the Department of Health, Education, and Welfare. However, by 1970 HEW had not done anything significant in the area and because of Congressional pressure, federal agencies in 1971 agreed that the YDDPA would concentrate all of its efforts on programs outside of the juvenile justice system including Youth Service Bureaus, while the Law Enforcement Assistance Administration, then a new agency within the Department of Justice, would focus on the juvenile justice system itself. This agreement was embodied in more new legislation, The Juvenile Delinquency Prevention Act of 1972. Concern about crime continued to have high political salience and the Nixon administration set up yet another national commission in 1973--the National Advisory Commission on Criminal Justice Standards and Goals. It, too, recommended a policy of what had come to be known as the 4D's--decriminalization, deinstitutionalization, due process, and diversion. These recommendations, in turn, were reflected in additional legislation involving juveniles--the Juvenile Justice and Delinquency Prevention Act of 1974. The 1974 Act phased out the youth services of YDDPA and created a new office, the Office of Juvenile Justice and Delinquency Prevention, located in LEAA--not HEW. Its intent was to promote the 4D's outlined above. The JJDP Act of 1974 stipulates that

eligibility for federal funding for state juvenile delinquency programs under this act requires a state plan within two years providing (1) that status offenders should no longer be held in locked pre-trial detention centers, and (2) that status offenders should no longer be committed to state juvenile delinquency institutions.

The federal 1974 JJDP Act had a substantial impact upon Colorado state legislation regarding juveniles and practices in the juvenile court which were beginning to take effect at the time that the Suburban Youth Project study got underway. At the same time that changes were taking place on the national level, significant developments were also occurring within Suburban County's juvenile justice system. The next section outlines these developments and shows how the county evolved from a small one-day-a-week court to a full-time juvenile court responding to developments on the national and state level.

THE JUVENILE COURT OVER TWENTY YEARS

From County Court to District Court

There is little record of the juvenile court in Suburban County that we have been able to uncover before the early 1960's. In the early 1960's, the county court handled all juvenile cases. One county judge doubled as Juvenile Court judge once a week. Because the juvenile docket was so small, the county had few facilities or staff for juveniles.

In 1961, the judge handled 235 juvenile cases and the county's juvenile probation officer handled additional cases of dependency/neglect, truants, and runaways without legal action being taken. The county did not have its own detention center and transported youths to the Denver County Juvenile Hall when detention was necessary. In addition, the probation officer housed 38 youths with his own family during 1961 (Rocky Mountain News, 5/28/62:10). At that time, the county boasted the lowest juvenile delinquency record in the state.

Until 1965, juvenile matters were heard in the county courts. A 1962 constitutional amendment, followed by implementing legislation in 1964, removed the juvenile court from the county level and placed the juvenile function in the district court throughout the state except in Denver where a separate court has been retained (Rubin, 1976:67-68).

This move brought several advantages. It enabled the juvenile court to make appeals directly to the Court of Appeals instead of to the next higher court, the district court. Furthermore, it reduced the number of judges handling juvenile matters from 62 (one for each county) to 22, one for each judicial district in the state. This decreased the fragmentation of services to juveniles and increased consistency in their treatment. Finally, it increased the juvenile judge's pay from the county level to the district level, thereby enhancing the position of the

juvenile court (Rubin, 1976:67-68), and raising standards for juvenile court judges.

This move from county to district court was initially implemented by having the four district judges hear juvenile cases in rotation. In an effort to increase consistency in juvenile dispositions, the chief judge consolidated all juvenile cases under one judge in 1964 and, until 1975, all juvenile cases were heard by this same judge in his courtroom on the third floor of the courthouse. A series of juvenile judges heard juvenile cases until 1977, when the present judge was appointed. In 1978, the juvenile court moved into its own newly remodeled permanent quarters on the second floor of the Littleton courthouse in the western part of the county (Denver Post, April 26, 1978:31).

Increase in Facilities

During the 1960's the county sought to increase its physical facilities for youth. In mid-1962, it purchased a two-story frame house in the western sector of the county to serve as the first shelter. The facility, which was large enough for six youths, provided a badly-needed alternative to housing youths with the county's probation officer overnight or transporting them to Denver's Juvenile Hall. In 1966, the county acquired a building, part of which was remodeled to serve as the county's first "juvenile evaluation center" (later changed to the Youth Detention Center) The purpose of the center, explained one of the

district judges, would be to provide a home for up to 15 children "where we can isolate children from their environment and where we can test and observe them to determine the best disposition (Littleton Independent, September 23, 1966:1). Detention administration shifted from the courts to the State Judicial Department in 1970. It shifted again in 1973 to the State Division of Youth Services, Department of Institutions, where it remains today (Rubin, 1976:70).

While the 1960's brought expansion of facilities, the 1970's focused on organizational changes which increased personnel and treatment services for youth.

Juvenile probation facilities and the salaries of its three probation officers and chief probation officers were funded by the county during the 1960's. In 1970, however, responsibility for funding these facilities and salaries was shifted to the State's Judicial Department (Minkner, 1981:2). With this change in responsibility came an increase in funding for probation officers. By 1971, the staff had increased to 7 1/2 workers. Despite doubling of the county's population during the 1970's, funding for juvenile probation counselors has remained constant since 1976 (Minker, 1981:Interview).

Juvenile probation was originally a separate

department. However, when Suburban County and two adjacent counties dismantled their Tri-District Adult Probation Department, Suburban County's adult probation department merged with its juvenile probation department, previously administered separately. Both were headed by the adult Chief Probation Officer. A juvenile probation supervisor was appointed in 1976 (Corbett, 1981:6).

During the late 60's and early 70's when changes in the juvenile court structure were taking place, the county was changing from a rural to an urban area. As noted earlier, the county's population nearly doubled in 1970-1980, with much of that growth taking place in specific pockets in the county.

The county's most rapid growth has occurred in its eastern sector, mostly in Aurora which lay partly in the county under study and partly in an adjacent county. This city showed a population gain of 111.1 percent from 1970-1980, the largest increase among the nation's 100 biggest cities (Denver Post, February 17, 1981:30). This overall population increase brought a comparable increase in the adolescent population and some increase in juvenile crime and the need for more juvenile services. Partly because of this, partly because of a report which labeled the County as... "a sopping rich community which doesn't give a damn about its children" (Hufnagel, 1974:102), and partially in response to the availability of federal funds under the JJDP Act of 1974, the District Attorney's office initiated a

Juvenile Diversion Program in 1975. This program was consistent with the national movement toward diversion and provided supervision and counseling for first-time or non-violent offenders as an alternative to filing these cases in juvenile court. The program was financed by LEAA for its first few years, and is now funded by the State through its Division of Youth Services. Four counselors are currently located in the Eastern branch and another four counselors are located in the Western branch.

The county's rapid population growth has brought about changes in the juvenile court itself. It is one of the busiest in the state and efforts are continually being made to increase its organizational efficiency while keeping pace with this growth. When the county's current judge took office in 1977, all juvenile hearings were heard in his courtroom. Juvenile case filings continued to increase and during 1979-80, the juvenile docket carried a total of 4000 cases (Annual Statistical Report of the Colorado Judiciary, 1980:a29). The one juvenile judge carried more cases than any other juvenile judge in the state. This docket included pending cases carried over from the previous fiscal year plus 1429 new filings in 1979-80. About half of these new filings were delinquency petitions (734); the remainder were nearly evenly divided between all other juvenile matters originating from dependency/neglect petitions, adoptions, and paternity/support suits. Relinquishments and other miscellaneous hearings also comprised a small portion of the

filings.

STATE LEGISLATION IN REGARD TO JUVENILES

In addition to improving the physical and professional facilities for its youth, and responding to the press of rapidly expanding population, the juvenile court modified operations in response to legislative changes enacted at the state level. Until 1967, statutes governing the court's handling of children were scattered throughout the state statutes and did not provide for such juvenile rights as expungement, confidentiality of records, right to counsel and appeal, and so on (Minkner, no date:1).

Colorado officials are noticeably proud of their progressive attitude toward juvenile justice. Legislators and jurists anticipated the Supreme Court decisions of the late 1960's (Foote interview, 1981) and early 1970's and implemented the Colorado Children's Code on July 1, 1967, (Title 19, Colorado Revised Statutes) before any of the major Supreme Court decisions had been handed down. The Code represents several years of revising and codifying children's laws and addresses the role of the courts, the child's rights, adoption, foster care, institutional care, and the child in his community (A Citizen's Guide to Children's Laws, September, 1979:2 put out by the League of Women Voters of Colorado). Most of the rights extended to juveniles in the major Supreme Court decisions are embodied in the Code. Since its implementation, it has undergone

continual modification and revision to keep pace with modern changes in juvenile justice.

As noted earlier, the Juvenile Justice and Delinquency Prevention Act of 1974 required that state eligibility for federal funding required the removal of status offenders from locked pre-trial detention centers and treatment facilities that also contained delinquents. The state of Colorado responded to this mandate with two pieces of legislation enacted in July, 1979. Senate Bill 101 prevents status offenders from being processed as delinquency cases, and Senate Bill 26 mandates the search for alternatives to out-of-home placement for all children. The implementation of this legislation resulted in several new programs for the county and potentially significant changes in the way in which the court operated.

Senate Bill 101 created relatively little comment. Status offenders, known in Colorado as Children in Need of Supervision (CHINS) vanished from the courtrooms. One problem the legislation did create was a truancy problem. Before the legislation, truants had been handled as CHINS. Some quirk of the new legislation left them under the jurisdiction of the courts as delinquents. Senate Bill 26, on the other hand, aroused considerable controversy, confusion and discussion at all levels of the juvenile justice system. It went into effect the day our own research project started, so a great deal of our field work chronicles the efforts of the county's juvenile justice

system to implement and adapt to the legislation. Because of its importance to the court during the time of our research, we will discuss S.B. 26 in considerable detail.

S.B. 26: An Attempt to Decrease Out-of-Home Placement of Children

Description of the Legislation

Senate Bill 26 attempts to control the increasing costs of out-of-home placements of children and to limit the number and duration of such placements. Jurisdiction is given to juvenile courts to review any out-of-home placement of a child which exceeds or is expected to exceed 90 days and for regular review of placements every six months thereafter. Placements, if they are made, must be for a determinate period of not more than two years. The court must decide by a preponderance of the evidence whether or not placement or continued placement is necessary and is in the best interest of the child and of the community, and the decision must be based on information obtained from an extensive evaluation of the child (Hufnagel, 1980, p. 3).

The bill establishes procedures which may result in the development of programs by local communities to provide services to children without placing them outside their homes. Formerly, allocations to counties for services could be used only to pay the costs of a child's out-of-home placement. With the advent of SB 26, these allocations can be used for a wide range of services, if they can be shown

to reduce the number, duration, intensity, or distance from home of out-of-home placements. In order to use allocations under the SB 26 provisions, however, counties must annually submit a plan to the Colorado Department of Social Services in which they outline programs for the provision of residential and nonresidential treatment services to adjudicated youths, and those subject to out-of-home placement. The plan is to be prepared by a Placement Alternatives Commission (PAC), appointed by county commissioners. The PAC membership should represent most agencies involved with troubled children and families in a county as well as members of the bar and the lay community.

Counties who submitted plans for the development of new programs to limit or prevent placement could apply for a share of a $500,000 start-up fund set aside by the state to help local communities meet the costs of opening new programs. No other money was appropriated for implementation of the bill.

In summary, the two most important aspects of this bill are (1) the emphasis upon the reduction of out-of-home placement of children through the granting of greater control and flexibility to local communities in regard to children's services, and (2) the requirement of court review of all out-of-home placements.

History of the Legislation

As a result of widespread dissatisfaction with the state's out-of-home placement programs and policies in all three branches of government, the State Legislature in 1978 authorized an Out-of-Home Placement Study by the Office of Planning and Budgeting. The findings of the study provided the basis for the drafting of Senate Bill 26. The breadth of the findings gives some sense of the degree of dissatisfaction with the earlier system and some idea of the burden for major change in widely disparate areas that was placed on the new Bill.

One of the most important findings of the out-of-home placement study was that out-of-home placement costs represent one of the fastest growing components of the State budget. Expenditures were expected to reach $30 million by FY 1979-80, up from $9 million in 1973-74. The increase was due primarily to a 140% increase in the average cost per placement, as well as a 38% increase in placements. Both increases substantially exceed the rate of increase in prices generally or the rate of population growth in Colorado for the same period (Report on a Study of the Prevention of Out-of-Home Placement of Children, 1979, Summary, p. 3). The study also found that the number of children entering placement, particularly the more intensive types of placement, has grown markedly. To some extent, this increase in placements represents a shift as a result of deinstitutionalization from state institutions (where the

cost of placement is paid by the state) and county jails or detention centers to residential child care facilities (where the cost of placements comes out of county foster care budgets). Primarily, however, it indicates a substantial failure to meet the goals of maintaining children in the least restrictive setting. This is supported by what the authors of the study term the "most serious finding of the study," that placement seems to have emerged as a primary response to the problems of a difficult child rather than as a treatment option of last resort (Summary, p. 4). The main reasons for this were identified as (1) over-allocation of resources to placement, (2) lack of stringent requirements for placement, and (3) reliance on placement to shift workload away from agency staff (Summary, pp. 4-5).

Some of the specific reasons for the increase of out-of-home placements were explored by the study. One set of reasons involved organizational arrangements. The study found that there was a lack of coordinated approaches and joint planning for children due, in part, to lack of clear definition of agency roles in treatment planning at both the state and local levels. Some juvenile judges, for example, had recently begun to order that particular children be placed in specific treatment programs located in many cases outside the state. The lack of clear responsibility and criteria for placement resulted in differing placement policies by different agencies and in different geographic

areas. Another organizational factor of concern was resource availability. Too often treatment is available only in a residential setting. Capability to meet the problems of children and adolescents appears to be limited in community agencies such as mental health centers. Furthermore, a significant and growing number of children are in out-of-state placement because it is believed that Colorado resources are not available to meet their needs. In the past, it has been difficult to even assess the treatment needs of the state's youths or evaluate program effectiveness because information systems have been unable to track children over the full course of their placement. Data is not readily available that would permit an evaluation of the effectiveness of current placement practices or current treatment programs.

A second set of reasons for high placement rates that the study identified involved the financial structure for the payment of placement costs. One of the most important findings was that flexibility in the use of funds for either placement or community programs was very limited. Much of the money allocated to counties for children's services could only be used for residential services. Another finding was that the rates of some kinds of service providers were not responsive to changing conditions. Thus, some family foster homes and group homes (representing the least restrictive continuum of residential care), ceased to operate because they were less able to keep up with the

increases in costs than the more restrictive residential child care facilities, the rates of which were cost-based.

In addition, financial considerations often played an inappropriately large role in placements because a placement cost appeared "free" to the responsible agency because it was financed by another agency. For example, the referral of children to hospitals by county social service workers shifts the cost of care from the county social service budget to the state Department of Institutions. On the other hand, placements out of the State Home and Training schools to group homes or residential child care facilities shifts costs from the Department of Institutions to the county Department of Social Services. There appears to be a tendency by some placing agencies to seek out these so-called "free" placements to hold down budget costs, a tendency which may lead to inappropriate placement. Another financial concern which the study identified is that certain costs, such as education, are being inappropriately reflected as placement costs. The report argues that education costs do not result from placement because a child would have been receiving educational services in the community as well as in placement.

Another area of financial concern involves the financial responsibility of parents in meeting the costs of placement. Agencies have not usually imposed fees for community-based service even though they may be as expensive or more expensive than costs of out-of-home placement. The

report suggests that it might be more appropriate to establish a fee for each child, based upon family income, which would be the parents' responsibility regardless of whether the child received treatment at home or in placement.

A final area of concern identified by the study of out-of-home placement involves the lack of procedures for review of placements. Voluntary placement, which constituted 30-40% of all placements in the state, did not go through the courts at all, and were essentially not subject to review either at the time of the initial placement or afterwards. In general, once a child entered a placement, either voluntary or court ordered, there was no clearcut way to reevaluate the need for placement or how well the child responded to it.

The problems identified in the Out-of-Home Placement Study, especially the importance of financial and organizational structures, provided fairly accurate predictions about the areas in which problems developed in regard to implementation of the Bill. The underlying purpose of the Bill was not just to reduce out-of-home placement but to modify the whole fabric of child care services in the state.

One of the main drafters of the Bill sought to eliminate judicial discretion in regard to specific placements for children, but this was resisted by juvenile judges and district attorneys, and the final version of the

Bill which was passed in the last few minutes of the 1979 legislature decreased but did not eliminate judicial discretion in regard to placement.

An unusual alliance of conservative legislators and child advocates joined forces to win passage of the Bill. The conservatives hoped to reduce the alarmingly rapid rise of placement costs. The child advocates sought to protect children from getting "lost" in placement and from being unnecessarily removed from their homes. This alliance between conservatives and child advocates symbolizes much of the tension within the juvenile justice system in general and set the scene for many of the local controversies that accompanied the implementation of S.B. 26.

Mechanisms Through Which Legislation Was to be Implemented

The initial plans for implementation of SB 26 involved the establishment of a Placement Alternatives Commission in each county which then developed a plan for the reduction of out-of-home placement of children. A small amount of start-up money was available for which counties could apply once they developed a plan. The start-up money was an important incentive because without it, counties which already had all their foster care funds committed to existing children and programs, did not have the financial latitude to develop new programs. It was anticipated that once a program which kept children at home got underway, it would be able to pay for itself as a result of the savings

generated through a decrease in out-of-home placement costs. One problem with this approach is that it puts pressure on new programs to show immediate benefits. It also may pose problems to a county which cannot cut placement costs because of continuing rapid population growth.

Another mechanism to help the implementation of the legislation was the development of specific criteria for placement. In addition, the Juvenile Justice Staff Development Project, funded under a one-year federal grant, provided assistance in regard to the implementation of SB 26 by offering services to help communities to develop quality treatment programs in the least restrictive setting. The project had a five-point focus of activities according to material which describes its activities. It provided 1) training of direct service providers and field personnel; 2) technical assistance to help community agencies and placement alternative commissions develop or improve their own service provision efforts; 3) clearinghouse resource service (including a bi-monthly newsletter, Challenge 26) which provides support information for community agencies responsible for directing implementation of the current legislation; 4) planning to assist counties in developing innovative and fresh approaches to out-of-home placement as identified in individual county placement alternative commission plans; and 5) organization and systems development for agencies needing assistance.

Another mechanism involved in the implementation of the Act was the SB 26 Coalition Regarding Child Placement, composed of the League of Women Voters, Metropolitan Child Protection Council, Junior League, and National Council of Jewish Women. The purpose of the coalition was to monitor the implementation of SB 26 and to encourage the most constructive application of its provisions. This coalition saw the intent of the Bill as twofold: 1) to improve placement practices through required procedures and judicial review, and 2) to stimulate local planning for alternative services which could prevent or reduce placement. (League of Women Voters of Denver, 1980, p. 5). A meeting was held on October 27, 1980 to discuss concerns about the Bill, report on a survey of state's juvenile judges about their experience with the legislation, and discuss necessary amendments for consideration by the next legislature.

Issues Raised by the Legislation

One important theme that underlies much of the discussion surrounding the legislation is the tension between the goal of cutting costs and that of providing improved services for children. The original coalition of conservative legislators and liberal child advocates which joined to pass the Bill represented that tension. It continues to be evident today in efforts to implement the legislation. Budget conscious supporters of the Bill are eager to see benefits in terms of reduced foster care

budgets at the local level. To them, the Bill legitimates the reduction of out-of-home placement costs and mandates the use of less expensive services. As one member of a placement alternatives commission asked, "Are we required to select the 'best' treatment for a kid, as we have in the past when we operated on the 'best interests of the child principle,' or are we required to select the "least restrictive" treatment? Least restrictive does not necessarily mean best, and we need to be clear about that." Although the Bill itself specifies that placement should be "in the best interests of the child and the community," there is nevertheless a concern on the part of many advocates for children that SB 26 indeed tips the balance in favor of the "least expensive" treatment rather than the "best" treatment for a given child, and that it legitimates reduction of cost as the first priority in a treatment decision.

Along with this, there is a concern that eagerness to show short-term cost cuts may set programs and kids up for long-term failure. If community programs are filled quickly in order to show that they are needed and to reduce placement costs, there may be insufficient attention to the selection of youths most appropriate for the treatment offered. If the programs build to capacity too quickly or with an incompatible mix of kids, it may be difficult for them to establish a treatment environment that is effective. Youths who fail in a community program because they should

never have been placed there in the first place may face one more series of failures which further undermines the potential for ultimate treatment success. If the measure of program success comes to be primarily dollars saved, promising programs may be abandoned as not cost-effective because they have not had a fair opportunity to prove their worth. Eagerness to cut placement budgets may also put pressure on agencies and diagnostic and evaluation teams to avoid out-of-home placement, even when it may be the most appropriate choice. For example, the desire to cut costs may put so much emphasis on in-home and less expensive treatment that a community may overlook the need for good residential facilities like group homes or foster homes that provide residential treatment with minimal restrictions.

Pressure to "underplace" may result in children remaining in the community who continue to get into trouble. This in turn may result in a community backlash as citizens perceive that "nothing is being done" to reform difficult and troublesome adolescents. Senate Bill 26, because it is new, may come to be used as a scapegoat by community members who are dissatisfied with any part of the juvenile justice system.

A second issue, which has been discussed at length in regard to other deinstitutionalization programs (e.g., Klein, 1979; Vinter, Downs & Hall, 1976) is whether an emphasis on in-home services simply widens the intervention net. If staff members doing the evaluation of youths select

into community programs youths who would not previously have been placed in treatment programs, they may be expanding rather than narrowing the service network with a resulting increase, at least in the short range, in juvenile service budgets. This possibility seems less likely in the implementation of SB 26 than in other deinstitutionalization programs because of the strong emphasis on cost reduction and fairly stringent evaluation requirements.

A third issue raised by Senate Bill 26 is local vs. state control. In some ways, the legislation gives more autonomy to local communities because it enables them to use allocations more flexibly to fund programs designed specifically to meet the needs of the local community. On the other hand, the legislation requires that a county plan be approved by the state before the county can gain this flexibility and be eligible for start-up funds. The wide range of resources in the state makes it much easier for some counties to organize themselves to seek funds than others. It is possible that outlying counties, which are initially less able to respond quickly to the legislation, may find the start-up pot is empty by the time they develop a plan. Another issue in regard to local control is that the legislation limits the placement power of local juvenile judges and has given a veto in regard to out-of-state placements to state-level officials.

A fourth issue is whether court review of placement is an appropriate device for the monitoring of children in

placement, and whether it can be handled by courts without any increase in resources. Since court review of placement has also been built into the Federal Adoption Assistance and Child Welfare Act of 1980, this issue bears careful consideration. Juvenile Justice officials worry that these reviews, which were not previously required, and for which no additional funds were appropriated, will add hundreds of hearings each year to already overcrowded dockets. The resulting court delays may mean that children charged with offenses or awaiting disposition decisions will experience long delays before their treatment can begin.

It is not yet clear what impact these reviews will actually have on court dockets. Court delays, already building because of other factors such as population growth, may be blamed on Senate Bill 26. There has been some initial confusion about the first court review and at what point it should be done. There is also some confusion about whether the 90-day review after placement requires the presence of all interested parties in the courtroom or whether the judge can simply review the record. Furthermore, there is concern that some judges in the state are refusing to do any reviews and that in other courts the reviews are long overdue because of crowded dockets. As the full complement of initial placement reviews, 90-day reviews, and six-month reviews for all children in placement builds up, this issue can be expected to attract even more attention, and the general appropriateness of judicial

review will be opened for further discussion. Initially many judges appeared to view it as more of a nuisance and an interference in their work than as an opportunity to participate in placement decisions. There are some other problems regarding judicial review which bear consideration. One is the matter of venue. There are a group of children that no one will review. They include children whose parents live out of the state, or children who were placed by one county, but whose parents live in another county.

Impact of the Legislation on the County

The impact of Senate Bill 26 was felt in the county almost immediately as three new programs went into effect. Two were projects related to S.B. 26 objectives for which the state had received federal funding and had selected the study County as the implementation site. One was a program to reduce the secure detention of juveniles, and a second was an interdisciplinary youth diagnostic team to evaluate all youths being considered for out-of-home placement. A third program was developed by the Placement Alternative Commission which was organized during 1979 and immediately submitted a County Plan, which requested state start-up funds for two Day Resource Centers in the county. The Plan was one of the first in the state to be written and approved. The Day Resource Centers were designed to provide a non-residential education and treatment program for youths who without the facility would have to be placed outside the

home.

There were several reasons why the county was able to move so quickly on Senate Bill 26 programs. One was that the state's LEAA-funded grant had already been planned and awarded and the state's decision to put the two federal projects in the county facilitated other aspects of SB 26 planning. Second, the county was motivated to take action because it had a large and growing population and rapidly accelerating placement costs. In addition, although the county had a substantial number of service agencies already in place, there was concern both at the county and state levels that the services for adolescents in the county were markedly inadequate. A report a few years earlier, known as the Hufnagel Report, had blasted the county for its lack of facilities and concerns for adolescents. Partly as a result of the furor created by the report, agencies created some loose inter-organizational ties--such as the CHINS Team mentioned earlier-- to discuss and evaluate the needs of local adolescents. Another cooperative effort which had been in operation for several years was the District Attorney's Juvenile Justice Task Force. It was established in January, 1975, by the District Attorney to evaluate the services available to juveniles in the justice system in the county and to formulate ways to fill gaps where services were lacking or non-existent. It remained in existence through most of 1980 when it was discontinued because of lack of interest.

Detention Alternatives and Diagnostic Team

The federally funded Detention Program and Diagnostic Team were administered by the same person, who was on the payroll of the State Department of Institutions, but was selected by the Placement Alternatives Commission and expected by the Commission to be primarily responsible to it. This separation between financial and administrative responsibility caused difficulties which became more acute as the year wore on.

The Detention Program was not technically part of the SB 26 program because it dealt with temporary placement of usually less than 90 days, but it is being considered with the SB 26 programs here because it started at the same time, was funded from the same LEAA grant as the Diagnostic Team, which is a SB 26 program, was administered by the same person, and was in keeping with the spirit of SB 26 in its efforts to minimize out-of-home placement. The object of the Detention Program which got underway in April was to reduce the number of children who are held in secure detention through the development of a set of criteria for detaining children, and by placing youth service workers at the center to screen each youth who is brought to the center to try to find alternatives to secure detention whenever possible. The workers provided immediate crisis intervention for families and children, helped locate nonsecure housing for youths who could not return home, and

when appropriate arranged for behavioral contracts between parents and a child to permit the in-home detention of children. A comparison of April and May population figures for the detention center in 1980 compared to the same period for 1979 showed that the new program was highly successful.

TABLE 3 -1

REDUCTION OF DETENTION REFERRALS

	April	May
Referrals to intake	3.6% reduction	33.3% reduction
Admissions to detention	10.0% reduction	50.7% reduction
Average daily attendance	29.8% reduction	40.6% reduction

A Time Series study for the Detention Center and a nearby Center, which did not have a detention program, shows that the reduction was not simply the result of a general reduction in detention rates and is statistically significant. (From: Evaluation Results for Arapahoe Alternatives to Detention Project by Claus D. Tjaden, Planning & Evaluation, Presented at The National Symposium on Pre-trial services, Denver, CO., June 22-25, 1980.)

The Detention Project was put into this county primarily because of severely overcrowded conditions in the Detention Center. The inadequacy of the Detention Center had caused concern in the county and the state for several years and serious consideration had been given to plans for a larger facility. It was hoped that the plan for the reduction of the detention population might provide a way to

primarily through social service workers and probation officers, were channeled to the Team through Social Services. One other worker, who was located at the Detention Center, did one hour evaluations for families who sought voluntary placement for their child. If, after the short interview, the worker felt that out-of-home placement might be warranted, she referred the family to Social Services so that they could set up a full-scale evaluation by the team. The Team's organizational structure had the potential for causing problems. It had no budget of its own and simply getting supplies and equipment for physical examinations by the nurse was a problem at the beginning. Each team member was on loan from another agency and was paid by and professionally supervised by their "home" agency. Yet the team coordinator had to have enough authority to provide day-to-day administration. The Team also had inherited some potential problems from its predecessor, the CHINS Team, an interdisciplinary team which evaluated status offenders. It operated for several years with strong involvement from the Juvenile Probation Department until the CHINS were decriminalized in July, 1979. The new team filled some of the same functions that the CHINS team filled but had many additional functions. There was a tendency, because of its surface similarity to the CHINS team, for staff workers in the county to assume that it was the same and to expect it to exhibit the same strengths and weaknesses. The Team operated for a year and

avoid the building of a larger center. The program was so successful that it was expanded into other counties.

However, its success worked to the ultimate disadvantage of the county juvenile justice system. In 1981 the Detention Center was closed by the state when the funding for the State Division of Youth Services, which operated the Center, was slashed. The Center was an easy target for closing because its population, though still considerable, dropped low enough to merit its being shut down. The county's triumph in the 1960's in getting its own detention center was undone in the 1980's as county youth in need of secure facilities were once again shuttled to facilities in two other counties.

The Youth Diagnostic Team was supervised by a coordinator, (also the Director of the Detention Project) who was selected and hired by the Placement Alternatives Commission, but technically worked for the State Department of Institutions. It included a social worker from Social Services, a psychologist from one of the two Mental Health Centers in the county, a nurse from the Tri-County Health Center, and an educational diagnostician from SEMBCS, an organization of school districts. During most of its existence, it also included a research assistant from our project who, in addition to his work for us, also worked as a volunteer psychologist as part of his internship in the Professional Psychology Program at the University of Denver. All referrals to the Youth Diagnostic Team, which came

was decentralized and essentially disbanded when federal funding ran out at the end of 1980. Its year of operation was stormy, in part because there was lack of clarity and agreement about its purpose and goals.

Day Resource Centers

The third program was a Day Resource Center, designed to provide a nonresidential educational and treatment program for youths who otherwise would have been placed outside the home. The county developed a plan for two treatment programs as part of their SB 26 plan and applied for and received state start-up funds for this program. Initially only one Center was set up. The PAC decided to hold off opening a second center until it was clear that the first would be able to fill. Furthermore, there was some concern about not having the funds to open the second one right away. During 1981 the second center was in fact opened.

The first center opened in July 1980 and within a short time reached its maximum census of 15 children with several more children on the waiting list. All children referred to the Center were evaluated by the Diagnostic Team and recommended for it by the Team. In the beginning all youths already in residential child care facilities were reviewed to see if any of them would be suitable for the Day Resource Center. Several were felt to be suitable and were transferred from the RCCF to home and into the Day Resource

Center. The Center operates during the time that a school would be in session and provides education for the youths by two special education teachers as well as group treatment and family therapy. The family work is seen by the Center as one of the most important parts of the treatment and center staff provides crisis intervention as well as weekly individual family therapy sessions.

Problems in Implementation of the Legislation

During the period of initial implementation of SB 26, several concerns kept emerging. It is hard to know yet which may be peculiar to the particular county in which we worked, which may have been state-wide, and which may reflect common concerns in the implementation of any legislative change.

Local-state conflicts. County officials frequently expressed annoyance at the lack of clear state directives about evaluation requirements, data requirements and financial arrangements. As one PAC member said, "When they finally make up their mind about what information they want us to collect, we'll make plans to collect it. But it doesn't make any sense to start collecting it now. If we do, they will call and tell us they want one more piece and then we'll have to go back and start all over again." There was also a considerable amount of conflict with the state over financing of programs. "The state program people tell me one thing and then the budget people tell me something

completely different. I don't know where we stand." Discussions of finances and budgets took up a large amount of PAC meeting time, usually with no resolution.

Lack of clarity about the requirements of the legislation. There was, and continued to be throughout the study period 1980-81, considerable disagreement among different agencies and even staff members within agencies about just what SB 26 required. Judges around the state interpreted the statute differently and implemented the law differently in different counties. The Bill is complex and has what appears to be almost limitless implications for almost all agencies which have any involvement in the placing of juveniles. Members of the PAC frequently got into discussions among themselves at meetings about the interpretation of some parts of the legislation. There was confusion about whether it was necessary to put a placement review on the docket and have all participants attend or whether it could be a paper review by the judge. There was also considerable confusion at first about the role of the diagnostic team. The Placement Alternatives Commission members were concerned that the Team did not understand that its function was to recommend the least restrictive treatment possible in every case.

Lack of good facilities. A third concern, which has yet to be satisfactorily resolved in the county, is the lack of facilities like group homes, nonsecure shelter care, and foster homes, which provide residential care in relatively

nonrestrictive settings. The focus has been primarily on getting youths out of residential facilities and back into their own homes. Yet some youths may need some kind of nonrestrictive residential placement.

Incompatibility of other statutes and regulations. A raft of problems developed because of other statutes which hinder the implementation of SB 26. Eventually most will probably be modified but initially they posed problems. They illustrate how often major change legislation is hampered because it is not sufficiently integrated into the larger legal and administrative environment. One example of such a problem was the reimbursement requirements of Medicaid which prohibits payment for expenses of children living at home but permits routine reimbursement of the expenses of a child in a residential facility. As a result, the expenses incurred on behalf of a child in the Day Resource Center, for example, were not Medicaid reimbursable. The Medicaid policy also illustrates a rate schedule which encourages and rewards a governmental agency for placing a child outside his or her own home.

A related problem involves the rate scale for family contribution for a child's treatment. Prior to SB 26, strong efforts were rarely made to collect money from parents for payment of a child's treatment expenses. One of the outcomes of SB 26, however, was an increased emphasis upon the importance of the parental contribution for care. The county is now taking parents to court to collect their

contributions and is making a determination about the family's ability to pay for treatment in every case in which out-of-home placement is being considered. If a parent's ability to pay becomes the key to the parental contribution, rather than the total cost of a child's treatment, parents may feel that they are being unfairly charged. One mother, for example, who had been paying $100.00 a month for her child's placement in a residential facility, was distressed to learn that when the child was returned home and began to attend the Day Resource Center, the fee remained $100.00 even though the parent now had to feed the child and assume other expenses of having the child live at home.

Need for adequate accounting systems. When the legislation went into effect, the state's social services accounting system was not designed to show how long children were in placement and what the total cost of their placement was. In order to evaluate the effectiveness of programs to reduce treatment costs and the intensity and length of placement, the county must be able to track youths through the system as well as to estimate what kind and length of treatment they would have undergone without SB 26. For this they needed base line data from before the legislation as well as data after the change. The only way that this information could be obtained was through hand tabulation of county records on a case-by-case basis.

Senate Bill 26 stirred up the juvenile justice system in the county as well as throughout the state. It threw

into question a set of previously accepted assumptions about how the system worked and how agencies interacted with one another. It held at least the potential for some changes in the structure of power relations between agencies and levels of government. It laid bare, once again, the inherent tensions in the juvenile court movement that go back to its beginnings in the 1800's. What does a community do with troubled or troubling children? When is it appropriate to take them away from home? Who pays the bill for community care? Is it possible to "reform" such children? What is their "best interest"? And what is in the community's best interest"? The issues haven't changed very much and they are not very different in a suburban, affluent community than they were in the "disorganized" city centers of Chicago or New York. And the answers don't seem much clearer.

ECONOMIC AND PHYSICAL ENVIRONMENT OF THE COUNTY

The juvenile court is influenced substantially by the national juvenile court movement and state legislation calling for changes in court operation. It is also very much influenced by the economic and physical environment of the county. The county, like the area around it, is undergoing major change, and is feeling the press of rapid population increase. Its size and shape are not conducive to centralized services and consolidation of resources. It is long and thin and includes areas of large population growth and rural areas dominated by rolling expanses of

prairie and dirt roads. The Denver-Boulder SMSA, which includes the County, is rapidly emerging as the headquarters of the massive energy search taking place in the Rocky Mountain West. While most of the nation suffers from the extremes of economic cycles, the Denver area market remains relatively stable. The SMSA became the nation's sixth leading growth area from among the top 25 largest metropolitan areas, following Houston, Tampa, San Diego, Anaheim, and Riverside with a recorded ten-year population increase of 31%. The 1980 Census count of 1,619,921 persons represents a gain of 380,376 over the decade. The Denver SMSA moved from 27th place in 1970 in ranking by total population to 21st place in 1980 ahead of Seattle, Miami, Milwaukee, Cincinnati, Kansas City and Buffalo. The 1985 outlook shows an expected increase of 13% in population over the five-year period (Colorado National Bankshares, Inc., 1981).

Over the past ten years, the Denver SMSA has experienced a change in the age groupings of its population. The number of the age group 0-14 years in the SMSA, a group of particular relevance to the juvenile court, actually declined 3.6 percent between 1970 and 1980 causing school enrollments to stabilize, or in some districts decline. However this decline did <u>not</u> occur in the county under study. (Colorado National Bankshares, Inc., 1981:1-3).

Suburban County, measuring 12 miles wide by 72 miles long, lies at the southeastern edge of the Denver metro

area--and is one of the highest growth areas of the SMSA. As a whole it had the most dynamic growth of any of the seven counties of the SMSA during the seventies. It is composed of nine municipalities and a large unincorporated and essentially rural area. Close to 70% of the inhabitants live in the six urbanized centers. The county seat is located in the westernmost part of the county and most of the governmental and administrative offices are located there. However, with the population expansion in the eastern sector, several branch offices have been set up in the East to service that portion of the county's residents.

The trade, services, government and manufacturing sectors of the economy had the largest employment gains with over three-fourths of the 66,700 jobs added during the seventies. Mining employment soared 600 percent due primarily to professional and technical employees. Trade and services sectors had the largest number of employees in 1980, respectively employing 30% and 22% of the total working force in the County. The growth in these sectors was largely due to growth in single family households and the resulting demand for consumer goods and services. The county gained over 131,000 new residents and over 3500 new business establishments. It continues to attract new business and light industry in its southeastern section. (Colorado National Bankshares, 1981: 20)

The special problems or strengths of suburban juvenile courts arise to some extent from the characteristics of

suburban communities which set them apart in important ways from urban or inner-city areas. Two distinguishing physical characteristics of suburban areas which are particularly apparent in Suburban County include rapid and sometimes uneven growth and decentralized services.

Rapid Growth

It is the dramatic population growth of Suburban County that appears to necessitate many of the changes in the county's juvenile justice system, particularly during the last two decades. We have noted that the population of the county nearly doubled from 1970 to 1980, but growth was uneven over age groups and parts of the county.

The growth rate of the 0-14 age group--about 32%--was lower than it was for the county in general and considerably lower than it was in the 55-and-over age group, but it resulted in substantial increases in the absolute number of children in the county who need schools, recreational facilities and, at least potentially, social and court services. The 32% increase in this age group is particularly striking when compared to a 3.6% decline in this population in the total Denver SMSA.

In 1970, 52,000 children 14 and under made up about one-third of the total population of the County. In 1980 this age group of 68,500 comprises less than a quarter of the population. (Seven Counties of Denver, Colorado National Bankshares, Inc., 1981:21) In absolute terms, over

the decade 16,500 children moved into the county, which because of its previous rural character and small population had no reserves of facilities or services to meet their needs. Population growth in a new area may have a different meaning than a population surge of the same size in an established area. An established area such as an inner city area may have experienced fluctuations in population so that physical buildings and services may be in place which have been underutilized over a period of time, but can be geared up to meet an increase in demand. A new area does not have these kinds of physical or human reserves nor organizations already in place which continue to seek out new ways to provide services in order to stay in business. In an area of new and rapid growth, services already in place may not only be inadequate, they may be badly located in light of changing population patterns. For example, in Suburban County, despite population expansion in the eastern part of the county, services continue to be concentrated twenty miles away in the western portion of the county where they were originally set up in the county's formative years when population was concentrated there. As the population expands to the east, eastern branches of several county agencies have been opened. Although these branch offices offer increased availability of services to county residents, they present an added administrative and financial burden to the agencies themselves since agency funding has not kept pace with the county's demand for more

services and staff members spend considerable time shuttling back and forth from one part of the county to the other. There is no centralized public transportation and what public transportation there is tends to be oriented toward the downtown Denver area. Interconnection between widespread parts of the county is minimal and access to county services depends very much upon access to a car. Discussion about transportation of clients takes up a considerable amount of meeting time and may have a greater impact on agency programs and client selection than anyone realizes.

Early in the county's history, a single shelter care facility operated in the western portion of the county. Later a second shelter was opened in the easternmost part of the heavily populated portion of the county, more than 25 miles from the Court. Although this new shelter is convenient for eastern residents, the time and distance required to transport a child the 50 miles from shelter to Court and back poses serious problems. There is some concern that the geographic location of the shelter and the detention facilities may motivate some police officers to take a child to detention when shelter would be more appropriate.

Populations in the eastern and western portions of the county differ in important social and economic characteristics. Several miles of the county's 72-mile length in the eastern portion lie adjacent to the highly

urbanized heart of the Denver metropolitan area. Many residents of that area are classified as low-income. In contrast, the western portion of the county has a much higher percentage of affluent residents. As a result, agency staff members often talk of the "two different counties" they serve. Many find that programs that are successful in one office are inappropriate for the clients of the other office.

Decentralized Services

Suburban counties often consist of several communities which vary in size and which grew and developed at different rates. This lack of unity may result in a different pattern of service delivery than is possible in a metropolitan area with centralized police departments, social services, school districts, etc. Decentralization is perhaps one of the more outstanding characteristics of the county under study. It consists of nine municipalities, each with its own independent police department. In addition, the sheriff's department services the unincorporated areas of the county. The nine municipalities differ in size, development, and nature of population. For example, one of the larger western municipalities experienced rapid population growth long before the rest of the county because of the location there of a large company in the early 1950's (Denver Post, March 18, 1981:8). Another municipality is noted for its high number of low-income residents, many of whom are non-

white. Other municipalities are considered to be among the most high income residential areas in the Denver area. Still other municipalities are comprised of heterogeneous populations. The largest municipality in the east has a population which is racially mixed and low income on the north and becomes more homogeneous and affluent as one moves toward the south and southeast.

One County--Seven School Districts

To further complicate this lack of homogeneity, there are seven school districts in the County and one intermediate unit (Board of Cooperative Educational Services). The attendance areas of only four school districts adhere to municipal boundaries. Table 3 - 2 lists the districts and their size.

TABLE 3 - 2

School Districts

District	Type	Pupil Population (1980)
Municipality	Suburban	21,567
Non-municipality	Rural	371
Non-municipality	Suburban	19,742
Non-municipality	Rural	115
Municipality	Suburban	3,639
Municipality	Suburban	17,274
Municipality	Suburban	1,809
SEMBCES	Intermediate Unit	*(Serves 5 districts)
Total School Population		64,517

The schools vary from small rural districts to upper middle class suburban districts. Two districts continue to grow in student population while the other districts are either stable or declining in enrollments.

One of the school districts exemplifies many of the problems resulting from a heterogeneous population. The district covers 110 square miles. It is located in the vortex of the fastest growing part of the Denver metropolitan area. Student enrollment grew from 9,500 students in 1971 to 21,000 in 1980. (Aurora Sentinel, July 15, 1981:32). However, this enrollment is concentrated on the district's east side while enrollment on its older, more stable, west side is declining. Since older, more stable, areas typically have fewer children, these residents are less likely to approve bond issues and tax increases which result from growth on the other side of the district. Consequently, the district's desire to maintain its nationwide reputation as an innovative, high-quality school district becomes increasingly difficult.

Special Education Services. All school districts in the county offer comprehensive services to handicapped learners either directly or through contracts with the intermediate unit, Southeast Metropolitan Board of Cooperative Educational Services (SEMBCES). Special education is discussed here because it is typically in a special education program where delinquent youths are assessed and served. By federal mandate (P.L. 94-142) special education is required to conduct "child find" activities which deal with students who are out of school and are between the ages of 3 and 21. It is the upper age group that often overlaps with the delinquent population who

are out of school due to truancy, placement in detention centers or dropouts. The child-find efforts involve interviewing, screening, and/or assessment of young people who are out of school. There is some disagreement between school districts and agencies who serve delinquents about which agencies should bear the financial cost of the education of delinquent children and who is responsible for ascertaining whether a delinquent child needs "special education" as mandated under P.L. 94-142..

Only two school districts have discernable programs for gifted students and these are serving elementary age pupils. Most secondary schools in the County serve the more able students in traditional ways such as Advanced Placement Classes and honors sections of subject area courses. However, these provisions are only for high achieving students and no effort is made to identify creative or underachieving gifted youths.

SEMBCES. The SEMBCES is an intermediate unit with contracts with five of the seven school districts in the County. These contracts for services between districts and SEMBCES include cooperative purchasing, special education services, adult education media services, and other support services. It is the special education services that most relate to this research project in that they have cooperative planning and services with the juvenile justice system of the County. SEMBCES is the education representative to the Placement Alternatives Commission.

SEMBCES special education services are directed toward low incidence handicapped students. These include (1) deaf-blind, (2) severely emotionally disturbed, (3) severe learning disabled, and (4) severely multiple handicapped. The special education group that overlaps mostly with the delinquent population is the standard level program for emotionally disturbed children (N.E.A.T. Project). As the intermediate unit, SEMBCES was the logical administrative body to serve on the Placement Alternatives Commission in that it represents over half the districts in the County. Its Board is made up of the superintendents of the member districts.

Education and Juvenile Justice. Articulation between schools and the juvenile justice system in planning for students has been problemmatic, largely due to the organizational patterns and the nature of the agencies' services. The juvenile justice system is organized on a county basis and functions as a tool of state and county governments. The schools are operated as seven relatively autonomous units under separate boards of education. There is no county governance of education. Joint activities between education and the county agencies serving juvenile offenders has been sporadic and not at all comprehensive. Typically the interaction has been on a case-by-case basis with individual problem youths, or as a result of legal mandates such as the Placement Alternatives Commission and the Child-Find activities.

There appears to be a general reticence toward comprehensive planning for juvenile offenders between schools and the county agencies. This has grown out of the problems mentioned above and a sense that schools would rather not deal with delinquent youths unless they fall under the perview of special education. This attitude has resulted in territorial imperatives that work against comprehensive dialogue not only between schools and the juvenile justice system, but among the various county agencies respectively planning with the individual school districts and with each other.

The Financing of Services

The political and financial tensions between local and state agencies common to most jurisdictions may have particular impact on suburban areas because of their decentralized power bases, relatively small population, and often explosive growth resulting in an ever increasing demand for services.

In suburban counties there are complex financial and political arrangements between the state and the county which may influence much of what happens in the juvenile justice system. The state controls and finances all of the facilities run by the Department of Institutions (DOI) which included the county's pretrial detention facility until it was closed. The DOI facilities include a variety of group homes and residential facilities around the state and four

secure juvenile institutions, all of which are available only to youths committed by the court to the Department of Institutions. The County Department of Social Services controls and pays for (with 80% State reimbursement) all out-of-home placements of youths who are not committed to the Department of Institutions. The Probation Department, a state agency whose members are state employees, is responsible for youths on probation in the county. The District Attorney's Diversion Program, initially funded with federal LEAA money, is now operating on 75% State and 25% county funds. The Court uses all these agencies, and it appears that decisions are sometimes influenced by who pays the bill for a youth's placement as well as where space is available.

There are numerous examples of the complex interweaving of treatment, pragmatic and financial factors. For example, administrators of county children's shelters are reimbursed on the basis of the number of occupied beds per night. In order to assure enough occupied beds to keep the shelter financially solvent, youths from neighboring Denver County area are also housed there. Because these shelter facilities are often full of Denver County youths, county youths who might be placed in one of them are placed in the detention center instead. When the detention center overflows, many of its youths are transferred to Denver County's detention center.

The political and financial responsibilities and lines of authority are intricately intertwined and have become even more complex with the recent implementation of state legislation (referred to locally as Senate Bill 26) which mandates efforts to seek the least restrictive placement for a youth at both pre-trial and post-trial times. Some of the specifics of the financial situation are outlined in the rest of this chapter.

County Source of Revenue

Revenue from intergovernmental sources represented approximately 41% of total county revenue in 1980. Intergovernmental revenue includes all federal and state grants, including revenue sharing funds. Fees, licenses, permits and charges for services comprise approximately 15% of total revenue. Funds which were carried over from the previous year represent approximately 5% of total county revenue. Property tax revenues comprise about 39% of total county revenue. (Corbett, 1981, Unpublished paper, p. 3)

In 1980 the county mill levy, excluding special districts, was increased approximately .5 mills. This increase is reflected in the welfare fund mill levy which was increased from 1.7 mills to 2.237 mills. In 1980 the county mill levy generated approximately $1.7 million additional revenue.

The Welfare Fund (1980) included $9,131,750 of planned expenditures. The allocations were as follows:

Department of Social Services	$7,692,027
Health Programs	1,188,556
Social Programs	251,173

Aside from the General Fund, the Welfare Fund is the largest single fund in the County and is viewed with trepidation by many county officials in the fiscally conservative County.

The 1980 budget was developed with "the objective of limiting expenditures, while continuing the efficient delivery of county services. In pursuit of this objective, new personnel and/or programs were denied except in special circumstances. The cost of living increase for county employees was limited to 7%, and the budget requests from departments were carefully scrutinized. The result of this austere approach is that the total 1980 county budget only increased 8.7% over the 1979 budget. (Annual Budget, Martin Burkamp, Budget Director)

The 1980 Welfare Fund budget included an 11% increase in expenditures altogether and a 31.5% increase in the mill levy (from 1.7 to 2.237). Total revenue from taxes increased 47.5% to $2,681.570 for the Welfare Fund alone. (Corbett 6) Martin Burkamp, budget director in 1980, explained that "The anticipated recession in the economy during 1980 is a major reason for the increase in the social services budget." However, Brad Robinson, Director of the Department of Social Services, maintains that many, if not most, of the children placed in residential facilities from

the County do not come from poor families. He feels that while the increased demands for foster care may be indirectly related to the economy, many other reasons must be considered.

Although each county is responsible for its own child placements, the funding structure is a cumbersome cooperative among the local, state, and federal levels of government. The state allocation is the maximum amount of net reimbursable expenditures for which counties will be reimbursed 80%. Each county is required to provide its own 20% match. The federal government in turn reimburses some portion of the state's expenditures.

The actual formula used for calculating the state allocation is as follows:

County Gross Expenditure

State Gross Expenditure - % of State x funds available.

Divide gross expenditures for each county by the state gross expenditures for the county. This state percentage is then multiplied by the amount of available funds to determine the allocation for each county. Complicating the allocation mechanism is the fact that funds are reimbursed or advanced on a cash basis, but the county is set up on an accrual system. There is also a difference in fiscal years between county, state, and federal governments.

The County's fiscal year runs January 1 - December 31; the state's runs July 1 - June 30 and the Federal government's runs October 1 - September 30. These

differences create numerous problems. For example, the retroactive payments for children in residential child care facilities authorized by the state to the county in January for prior months impact the county's prior year budget but not the state's fiscal year allotment. Also, the state allotment for the last half of the county's budget year is not available to inform the county's planning when it prepares its budget in September. (Corbett, 1981, p. 10)

Municipal Court Handling of Juveniles

Recently in Colorado there has been a significant movement toward the handling of minor juvenile offenders in municipal courts rather than in juvenile courts, where they previously have been adjudicated. The municipalities which spearheaded this movement are in Suburban County. During 1980 they passed ordinances expanding the jurisdiction of their municipal courts to include juveniles, and in 1981 the state legislature modified the Juvenile Code to allow the incarceration of juveniles for 48 hours for contempt of court. The expansion of municipal court jurisdiction to include juveniles was believed by some workers in the county to have a noticeable and fairly immediate impact on the system, especially upon the DA's juvenile diversion program. Municipal Court handling of minor juvenile offenders may well have major short and long term implications for juvenile courts in Colorado and elsewhere in regard to the kinds of youths who come into juvenile courts, the

decentralization of the handling of minor juvenile offenders and a loss of state control over the processing and punishment of offenders.

A description of the municipal court legislation and the controversy it aroused will be included here because it is part of the changing context in which the juvenile court operates. An effort will be made in the next chapter to try to trace the direct impact of this change upon the population of the diversion program.

Proponents of municipal court jurisdiction argue that these courts can handle cases much more quickly than the juvenile court. In fact, much of the impetus for municipal court processing of juveniles comes from the serious backlog in the juvenile courts that serve the municipality. Opponents of municipal court processing, on the other hand, are concerned that the case processing is too fast--that special needs will not be identified and rights will not be adequately protected. Critics also question whether the municipal court will be able to maintain its time frame as large numbers of juveniles move into the system or whether it, like the juvenile court, will begin to experience backlog and delay.

The movement away from centralized juvenile courts toward local courts of limited jurisdiction has major implications for both lower courts and juvenile justice over the next several years. Juvenile courts nationwide have moved, under the impetus of the Gault decision by the U.S.

Supreme Court in 1967 and the United States Juvenile Justice and Delinquency Prevention Act of 1974, toward the provision of increased legal protections for juveniles and the removal of juveniles from city and county jails. Municipal court jurisdiction over juveniles would appear to reverse these trends, at least for youths accused of minor offenses. A high percentage of municipal court cases are adjudicated quickly, without benefit of counsel, and many carry at least the threat of incarceration in a local jail.

Background of Municipal Court Handling in Colorado

In 1979, the Colorado Court of Appeals held that the juvenile court does not have exclusive jurisdiction over a child aged 10 to 18 unless the child has violated a state law or municipal ordinance which imposes a jail sentence (Wigent v. Shinsato, Colo. App. 601P.2d 653). As a result, several Colorado municipalities have amended their ordinances to eliminate jail sentences as a sanction that can be imposed upon conviction of some offenses, including vandalism, petty theft, shoplifting, harassment, disorderly conduct, trespassing, disturbing the peace, simple assault, loitering, joyriding and "resisting" the duties of public officials.

One of these municipalities is a city situated in two counties, one of which is Suburban County, located along the southeast edge of the Denver metro area. The city has already been described earlier in this chapter as having a

large population increase from 1970-1980. During this same period there was a substantial increase in juvenile crime, and in 1979 almost 50 percent of the city's arrests involved juvenile offenders. Police officers who apprehended juveniles for relatively minor offenses often lectured and released them rather than go through the time-consuming process of filing a delinquency petition in the District Juvenile Court (Denver Post, July 31, 1980:17) where cases often took more than six months from offense to disposition (Juvenile Justice Task Force, October 15, 1980). Police officials argued that the same youths were committing the same minor offenses over and over again knowing that nothing would happen to them. Citizen frustration at the rise in juvenile crime and the juvenile court's inability to deal with juvenile offenders on a timely basis prompted the City Council to launch a major effort to deal with the problem during the summer of 1980.

In August, the city council passed a new city law which permitted the municipal court to prosecute juvenile offenders for municipal offenses such as simple assault, joyriding, or trespassing (Village Squire, September 10, 1980:1). As a result of this change in the city's code, police officers who pick up youths on these charges can give the youth a summons to appear in municipal court instead of referring the youth's case to the prosecutor in the juvenile court or lecturing and releasing the child. Officials estimated in July, 1980, that this move would allow the city

to prosecute 5000 juveniles during the coming year (Denver Post, July 31, 1980:17).

However, at that time the municipal court had no way to enforce juvenile penalties. If a youth refused to obey court orders or pay a fine, the judge could do nothing but fine the youth again. The city council took steps to amend the situation by considering an ordinance that would allow the city to impose a jail sentence of not more than 90 days for juveniles between the ages of 10 and 18 who failed to appear in court, failed to pay the fine levied, or were found in contempt of court. In early September, after months of deliberation and considerable opposition from youth advocates, the council unanimously accepted a watered-down version of the ordinance allowing for jailing of youths over 16, but only for a maximum of five days (Village Squire, September 10, 1980:1). In November, the local newspaper reported that no jail sentence had yet been imposed on a juvenile by a municipal court judge (Denver Post, November 28, 1980:23) and it is our understanding from talking with professionals familiar with the court that this has remained true to date. The legality of the city code remains untested although its legitimacy is enhanced by a bill passed in 1981 in the Colorado State Legislature that will modify the Children's Code to allow a municipal court judge to impose a 48-hour jail sentence for failure to appear in court, failure to pay a fine or contempt of court. The jail sentence must be served in a detention facility

operated by or contracted with the State Department of Institutions if one is available within 40 miles.

Ironically, shortly after this legislation was passed, the juvenile detention facility in Suburban County was closed down because of a decreased population. Youths who are sentenced by local municipal courts will be sent to Detention Centers in Adams County or Denver.

In light of this new state legislation which appears to legitimize the use of municipal courts for juveniles and the imposition of a short jail sentence, it is likely that other municipalities will also move to include juveniles on minor non-traffic offenses in their municipal court jurisdictions.

Overview of Relevant Literature on Municipal Courts.

There is essentially no literature available to provide information about the effects of municipal court processing on juveniles. A library literature search revealed a paucity of research reports on municipal courts or other courts of limited jurisdiction and nothing on the treatment of juveniles in these courts. This is an area that merits more detailed study.

Physical Environment of the Court

The juvenile court is located in the county seat, in a three-story brick courthouse built in 1907 (Arapahoe Regional Library District; 1975:6). Because of the rapid population growth in the county's eastern sector, a branch

courthouse was opened there in 1974 to service those residents. However, during the period of our data collection, all juvenile cases were heard in the county seat.

The juvenile courtroom itself is an attractive room. It is carpeted, wood-panelled, and furnished with contemporary furniture. Decorative drapes and green plants complete the decor. The courtroom measures approximately 18' by 30' with the judge's bench in the front of the room and the jury box at the rear. Situated next to the courtroom are the judge's chambers, the clerk's office and a waiting room with two adjoining smaller rooms where consultations may be held in privacy.

The bailiff's desk sits in this waiting area. When youths and their families arrive for hearings, they notify the bailiff of their presence before sitting in one of the folding chairs in the hallway just outside the courtroom to await their court appearance. After the hearing, they usually leave the courtroom by way of the waiting room where they may consult with the bailiff, an attorney, or some other officer of the Court.

The juvenile court convenes at 8:30 a.m., Monday through Friday, and recesses at noon. Court reconvenes at 1:30 p.m. when detention hearings are scheduled for youths detained during the previous 48 hours. Regularly scheduled hearings resume at 2:00 p.m. and may continue until 5:00 p.m. Mondays are generally reserved for trials, Tuesdays

and Thursdays for delinquency hearings, and Wednesdays for dependency/neglect hearings. Fridays are set aside for more complicated delinquency hearings.

CONCLUSION

When we entered this county as researchers, we were not fully prepared for the complexity of the system we discovered and the deluge of information we encountered. We purposely selected a smaller court system so that we could explore the myriad strands that wove together to enable the system to operate. And the system is comparatively uncomplicated. People in the system know each other and deal with one another on a face-to-face basis. Compared to city courts, the volume of cases is low. But the forces that impinge upon it from the past and the present create an environment in which it sometimes seems as if the court has so little freedom of movement that it will choke to death in some final paroxysm of effort to uphold the "best interest" of a child.

From the national level comes almost a century of juvenile court reform with an attendant ideology, Supreme Court mandates, and recent, fairly specific legislation. From the national level also comes money, some allocated directly to the local community and some allocated through the state. People come from the national level too--coming from all over the country to live in the county, swelling its population, bringing money and problems, children and

needs, and often a desire to escape financially and psychologically from the kinds of problems a juvenile court handles.

From the state level comes legislative directives in the form of a Juvenile Code which is among the most progressive in the country in regard to protecting juvenile rights. Almost every legislative session brings some changes, however, which necessitates changes in procedures and the population which comes before the court. The state also provides a local political context in which there is a great deal of ambivalence about social services and a strong conservative thrust. It also pays for the bulk of the county's social services budget, but with the money comes a set of hassles, formulae, regulations, and problems in planning because of the county's financial dependence.

The county itself is experiencing growth and economic well-being, although the spiraling costs of needed services outstrip its ability (or the citizen's and politicians' willingness) to provide them. An observer of the local juvenile justice system agencies is left with the impression that the workers in the system care about "kids", have good skills, and work hard and conscientiously.

It is difficult, with this set of factors impinging on the court, to understand which ones really have an impact on the court, or whether any of them do.

CHAPTER III

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CHAPTER 4

THE COURT PROCESS

A study of the process of the court is essential to an understanding of case outcomes and what influences them. It is also important in our effort to understand how the court as a social institution attempts to balance the conflicting needs of offenders and wronged citizens within the contraints of limited local resources.

INTRODUCTION

In this chapter on court process, we will describe aspects of the process which influence case outcomes. The introduction includes a discussion of the organizational and philosophical problems of the court. The second section provides a description of the process in this particular court utilizing results from the study of the 710 youths who went through the court in 1980, and setting the background for the two more analytic sections which follow. In the third section, we compare cases set for trial and cases not set for trial, in an effort to understand what influences the decision to set a case for trial and what impact this decision has upon final case outcome. The final section explores the role of legal representation in this court in regard to dispositional outcomes and the time it takes a case to move from advisement through adjudication and final

disposition. Other aspects of court processing will be handled in subsequent chapters. Chapter 6 will report the results of a study of case processing time in the court and Chapter 7 will explore the factors that influence the final dispositions that youths receive.

The juvenile court is legally mandated to act in the "best interests of the child", but it also is expected by the taxpayers who finance it to protect them from victimization by removing dangerous youths from the community or reforming them, compensating citizens for the damages they have suffered. Not only is the court expected to do something about youthful crime, it is also expected to do it within a budget, to keep the expenditure of local resources as low as possible.

Juvenile offenders carry two social statuses, the status of child and the status of offender or criminal. The status of child calls forth from the community responses of protectiveness, the desire to help, guide, nurture. The status of child carries with it the notion of helplessness and harmlessness. The status of offender, or criminal, on the other hand, calls forth the response of punishment, perhaps even retribution. The community fears the offender, both because he symbolizes defiance of community values and because he may be physically dangerous. Rather than feeling a need to protect the offender, the community feels a need to be protected from him. Because of the juvenile's dual status, the response of individuals and community agencies

towards juvenile offenders tends to be ambivalent, even though the juvenile court has attempted to communicate the greater importance of the child status through its terminology which creates a continually changing series of euphemisms to refer to crimes, criminals, guilt and prison.

Although we talk about the court as an organization or a system, it is neither. It is a network of autonomous organizations, the lines of which flow through the courtroom and its environs. The court process is made up of individuals and organizational subgroups, each with its own objectives and interests, which are not necessarily compatible with the objectives of the other organizations or the court. The court is the arena in which individuals and agencies negotiate their own and the communities' conflicts about how to deal with people accused of wrongdoing. In the juvenile court, because of the inherent conflict between the child status and the offender status, the ambivalences are particularly acute and difficult to resolve. In a sense, the resolution of this community tension begins anew in each individual juvenile case.

Jones (1982:7), in a discussion of productivity and the structure of the strategic decision process, observes that multiple objectives need to be hierarchically arranged by assigning weights to each one. When goals are vaguely defined, posed in terms where operational implementation is difficult and multiple goals are unranked, the organizational environment is conducive to creating a

process of strategic decision making where individuals and groups can press their personal and unit goals regardless of the impact on organizational effectiveness. This occurs, claims Jones, because the goal structure does not provide an adequate basis for selecting among strategic alternatives or for evaluating programs. Under these circumstances, organizational sub-units will tend to promote their own self-interest unless constrained or otherwise directed and will propose stragetic decisions and programs that will further their own welfare. To assume to the contrary, argues Jones (1982:8), is to require a view of human nature that is idealistic rather than pragmatic.

Jones' approach may be useful in helping us to understand the history of the juvenile court movement and the operation of today's juvenile courts.

The early court was ostensibly operated with one central goal,"the best interest of the child". One need only address the literature on the meaning of the term, "best interest of the child" to realize that the goal is vaguely defined, at best, and difficult to implement. The difficulty in determining "best interest" and deciding whose understanding of "best interest" should prevail has plagued the court from its beginning. Given these difficulties in definition, ranking of articulated and unarticulated priorities, and implementation, it was perhaps idealistic to set up an informal process which relied upon the good intentions and discretion of a few individuals who made

decisions about juvenile offenders.

The early court suffered under the additional problem that it was charged with only one goal, deciding upon the best interest of the child, when there was at least one other goal always hovering just under the surface as a result of the juvenile offender's dual status of child and offender--the right and duty of the community to sanction offenders. This notion of "justice" is at least as vague and difficult to implement as the "best interest" doctrine. Furthermore, communities in their attempts to meet ever-increasing demands for multiple public services, had limited resources to put into courts and court services.

The vagueness of the goals and the lack of clarity about procedures yielded an environment conducive to a process of decision making in which individual and organizational units could press their own goals rather than organizational goals. In attempting to make the juvenile offender's child status the overriding status for court consideration, the early court did not allow for a systematic discussion of the conflicts and responses engendered by the child's offender status. As a result, there was wide variation in decisions within and between courts, and a growing concern about the juvenile court's ability to respond appropriately to either the child status or the offender status.

The early belief that troubled and troublesome juveniles could be successfully handled in a system based

upon altruism and idealism did not and has not yielded results generally believed to be satisfactory. In light of the decision-making structure laid out by Jones, this is not surprising. The early court did not provide a goal structure that admitted the existence of conflicting goals so no attempt was made to set priorities. The growing concern about due process in juvenile court can be seen as a response to the realization that there are conflicting goals in juvenile court just as there are in adult criminal court, and the child has a right to have his or her goals represented in the resolution of those conflicts. The Gault decision (1967) brought defense attorneys into the court to protect the rights of the child. With one half of the traditional adversarial pair in court, the second half rapidly followed, as both defense attorneys and judges felt the need for adequate representation of the interest of the people, and of witnesses and victims who appeared in the court (Sagatun & Edwards, 1979).

With the advent of both the defense attorney and prosecutor, the essential conflict between the best interest of the child and the best interest of the community was at least articulated and taken into account in the court procedure. But what remained, and still remains, is the ambivalence toward the two statuses of child and offender and a set of unranked goals which remain vaguely defined and posed in terms where operational implementation is difficult--at least from an organizational perspective. The

definition of goals and the operational implementation of them begins anew in each individual case, every day. And herein lies the basic organizational difficulty of the juvenile, as well as the criminal court. The difficulty is in the very nature of the individualized justice to which we are committed in our society, as well as in its conflict with another strongly held goal, that of equal justice.

Because of the juvenile court's commitment since its inception to meeting the best interests of each individual child, the organizational and philosophical tension is more acute in the juvenile system than anywhere else in the system. As we realized that an informal system was inadequate to the demands of these tensions, we moved to a formalization of the system. But in doing so, we failed to realistically address the underlying conflicts inherent in the youthful offender's dual status and the difficulty in operational implementation of goals. We are sensing already an equal or even greater dissatisfaction with the more legalistic system--in part because the results appear to be little better--but also because the cost is much higher. The essential problem of how to cope with troublesome juveniles remains unsolved, and the issues continue to be fought and refought daily, case by case. Perhaps this is the best way and allows the greatest flexibility to meet individual needs. But there is no sense of satisfaction with the process, either in the general literature on juvenile courts or among participants in the court we

studied. In addition, it is expensive in a system experiencing sharp resource cutbacks.

This chapter on court process is descriptive and analytic. It describes the process of adjudication and disposition of juvenile offenders in one court. In its focus on one court, it is limited in its generalizability to other courts, although there is nothing in our experience with this court to lead us to believe that it differs greatly from other juvenile courts. The disadvantage of studying only one court is offset by the richness of context which an intensive study of one court over a two year period can yield. The objective of the research reported here is not so much generalizability to all courts, but hypothesis development. We attempt to raise questions that either limit or help explain other research findings and that can be tested in other courts or organizations. We also hope to raise issues that have implications for policy decisions and planning in this and other juvenile justice systems.

THE COURT PROCESS IN SUBURBAN COURT

Suburban Juvenile Court is a due-process oriented tribunal, adhering to the model of the criminal courts in many ways. Youths are strongly encouraged to seek legal counsel, plea-bargaining is permitted (even encouraged) and youths are permitted to cross-examine witnesses and have trials, either before the bench or before a jury of six.

The county is made up of nine municipalities, each with its own police department. In addition, the sheriff's department has jurisdiction over youths in unincorporated areas of the county. These law enforcement agencies range in size from 17 to 125, depending on the size of the municipality in which they are located. Some of the police departments have special units assigned to juvenile duty. In the remaining departments these responsibilities are shared by all officers.

When a police officer comes into contact with a youth who has allegedly committed a delinquent act, he or she has several response options. The officer can lecture and release the youth, issue a summons to the youth to appear in municipal court, or take the youth to the police station.

If a youth is held at the police station, the parents are notified and asked to appear. At the station, the officer can reprimand the child and send him or her home with the parents, voluntarily settle the damages with the victim, or refer the youth to another service agency. One police department even has its own diversion unit which offers counseling and supervision programs to youths on a voluntary basis.

If a child is taken into custody but the parents are unable or unwilling to take the child home, the child may be placed in a detention center or shelter care facility. A detained child must have a detention hearing within 48 hours and may then be released to the parents who are responsible

for returning the child to court for scheduled appearances. The study of the 710 youths upon whom petitions were filed in court indicates that 115 youths, or 17% of the 660 upon whom information was available, had detention hearings. Presumably the other youths were not detained or were released within 48 hours. Sixty-two youths were detained after the detention hearing. Twenty of them (32%) were released within two days. A little less than half (25) were out within one week, while 18% (11) stayed fifty days or longer.

Shortly after the Suburban Youth Project began, a new LEAA funded project was implemented to reduce the numbers of children held in secure detention at the Arapahoe Youth Center. The project attempted to return more children home in the custody of their parents or place them in non-secure shelter facilities. Specific guidelines and criteria for detention were set up by the Detention Reduction Program and a youth worker was stationed at the Detention Center to interview youths as they were brought to the Center in an effort to find an alternative to their admission to secure detention.

The District Attorney plays a key role in the juvenile court intake process in Colorado and in this particular court which operates under the District Attorney (DA) Intake Model. The Assistant District Attorney in charge of the Juvenile Division reviews all cases referred to him or her by police officers and makes the decision about whether the

case should be filed in court without input from probation or any other agency. The police report filed by the police officer with the DA contains the youth's name, address, a description of the alleged delinquent act, the victims and witnesses, and, in some cases, a recommendation concerning the child's eventual disposition. The District Attorney's office performs a record check to see if the youth has a prior delinquency record in this county or others. Often there is little information available about a youth's activities in other counties. During 1980, the county began to utilize the Prosecutors Information Management System (PROMIS) but it had limited value because Denver was not part of it. The information on prior record plus the police report and the police officer's disposition recommendation (if there is one) are taken into consideration by the District Attorney in making one of four decisions. The DA may decide to:

1) reject the case, and keep the police report on file in what is called an "informational filing," for future use should the youth be referred again.

2) refer the case to the District Attorney's Juvenile Diversion Program at either a voluntary "police level" or as an alternative to court filing, (referred to as "DA level").

3) file a petition in juvenile court.

4) file the case in criminal court either directly, or by means of a transfer hearing in Juvenile Court.

Most cases are filed in juvenile court or referred to diversion. In 1980 there were 710 youths sent to court and 452 youths referred to DA level diversion.

Diversion

The Diversion Program is a supervision and counseling program designed for first-time and/or non-violent juvenile offenders. It was initiated in October, 1975 under a Federal LEAA grant and is now operated completely with state funds. Its purpose is to provide an alternative to filing petitions in juvenile court. It includes a voluntary level to allow youths and their families to obtain counseling and services if they want them and an involuntary level (DA level) which serves as an alternative to court. Youths at the DA level who choose not to participate in diversion are sent by diversion back to the District Attorney as "inappropriate for diversion" and the DA then files a petition on them in court.

As the cases are received from the DA by the Diversion secretary, case numbers are assigned denoting the year of the filing and the youth's identification number. For example, 0001-80 refers to the first case referred to diversion in 1980.

At the time of this study, cases eligible for police level diversion were: possession of alcohol; possession of marijuana less than 1 oz. if it is the first offense; theft of less than $10.00 and no aggravation involved (i.e., no

abusive language to police or to victim); disorderly conduct; curfew violations; or evidence of criminal act but insufficient proof to stand up in Court. If the youth accepts police level supervision, the counselor determines whether individual and/or group counseling best fits the needs of the child, and puts the child under supervision for up to three months. Diversion counselors told us that very few youths were willing to participate in police level diversion. They were not included in the record study because there was too little information available on them.

Cases appropriate for DA level diversion include all those not eligible for police level, those involving restitution over $200, and cases previously referred on a police level for an earlier offense. Cases of youths who successfully complete the diversion program are terminated. However, if the youth refuses to accept DA level diversion, fails to cooperate with the diversion counselor, or commits another delinquent act during the supervision period, the case may be returned to the District Attorney for filing in court. Of the 452 youths referred to diversion in 1980, 130 or 29% were sent back to the DA as inappropriate.

Regardless of whether the youth is referred to diversion on a police or DA level, there are certain steps through which the case moves. The youth must meet with the diversion counselor for an intake interview. Youths who fail to appear for this interview after a pre-determined number of letters and telephone calls from the diversion

counselor may have their cases returned to the District Attorney as inappropriate. At this intake interview, the counselor explains the nature of the allegations, why the referral was made to diversion instead of juvenile court, services provided by diversion program, and the requirements to be made of the youth by the diversion counselor. A social summary outlining the youth and his/her family's background and current status must be completed and the counselor must secure an informal admission of guilt from the youth.

Juvenile Court

When the DA decides to file a petition in juvenile court, the DA's secretary prepares a petition and asks the Clerk of the Court to assign a JV number to the case and set a date for the advisement hearing. The petition includes the child's name, age, address, parent/guardians, allegations, and date for advisement in Court. It is generally mailed to the youth, although it can be hand-delivered by a deputy sheriff.

The JV numbers are assigned consecutively as cases are filed in juvenile court; for example, the JV number--80JV0001--denotes the first case filed in 1980. At the time of this study a youth was assigned a JV number when the first, or original, petition was filed; subsequent petitions against the youth were filed under that same JV number. After our data collection had ended, however, the Court

moved to a policy of assigning JV numbers to each petition. Thus, a youth with multiple petitions could have several JV numbers.

A child's progress through the court involves a series of hearings. Which hearings the child needs and the number of hearings necessary to complete the case varies widely from case to case.

Advisement and Fact Finding

At the advisement hearing, the judge explains the nature of the allegations and the youth's constitutional and legal rights. Some families appear at the advisement hearing with their private attorneys; others choose to forego legal representation. If families desire legal representation, but are financially unable to retain an attorney, a public defender may be appointed by the court. Of the 664 youths in court upon whom information was available, 45% or 301 were not represented by attorneys. Thirty-eight percent (249 youths) had private attorneys. An additional 15% had public defenders and 2% or 15 had court appointed attorneys.

Youths who appear for advisement without attorneys, yet want the opportunity to seek legal counsel, are given a date for a later hearing called Appearance of Counsel (AOC). This hearing gives the family time to consult with an attorney before reappearing in court. It was apparent from our field observations that the judge leaned over backwards

to urge youths to get an attorney. The fact that almost half of them did not may reflect the relatively high income level of many families in the court. They earned too much to qualify for public defenders, but too little to easily afford a lawyer. It may also suggest that they did not take juvenile court very seriously. A more detailed discussion of the representation of juveniles is included in another section of this chapter.

The advisement hearing is the first point in the adjudication process at which a youth may enter a plea. Over half of the youths upon whom information was available (55% or 362 youths) entered a plea at advisement. Sixteen percent (106) were advised and adjudicated in the same hearing. A plea may be entered at any hearing, depending on the course of action taken by the youth. Eleven percent of the youths (75) entered their first plea at the Appearance of Counsel and another 16% (109) entered their first plea at a Pretrial Conference. The rest either did not enter a plea (12%) or entered one at some other time (5%).

Basically, a youth has two choices: admit or deny the allegations. If a youth denies the allegations at the advisement hearing, the matter is set to a Pre-Trial Conference in order to give the youth (and defense counsel, if any) an opportunity for discovery or to negotiate or plea-bargain with the DA to reach a mutually agreeable disposition. The type of plea-bargaining usually seen in this juvenile court is the dismissal of one or more counts

in the petition in exchange for an admission to the remaining counts in the petition. Or, if a youth has more than one petition, the DA may discuss an entire petition in exchange for an admission to all or part of another petition. If efforts to plea-bargain are unsuccessful, the matter is set to a bench trial or a jury of six, depending upon the Youth's preference. Of the 650 upon whom information is available, 14% (94) were set for trial at some point during the proceedings. The decision to set a case for trial will be discussed in greater detail in another section of this chapter. Actual trials were uncommon. Only seven youths were adjudicated at trial. Four were found guilty and three were found not guilty.

If the youth admits the allegations in the petition, the judge accepts the admission subject to a reading of the facts (the police report) by the DA. If the facts support the allegations beyond a reasonable doubt, the judge sustains the facts. Whether the child admits the allegations or is found "guilty" in a bench or jury trial, the judge is confronted with two alternatives: 1) hand down a disposition at this hearing or 2) set a disposition hearing so that a disposition recommendation can be made by a probation counselor.

Disposition

When the judge orders a disposition recommendation, the probation counselor to whom the case was assigned at the

time of filing sets up an interview with the youth and the youth's parents. (This practice of having all probation officers handle both predisposition investigations and supervision changed shortly after our study ended.) Contact for the purpose of preparing a predisposition report is the first time that anyone from probation becomes involved with the child. Both youth and parents are asked to complete a lengthy social summary outlining the child's medical, social, and educational history as well as the family's economic and marital status, and the child's perception of and reaction to the delinquent act. The probation counselor discusses the contents of the social summary with the youth and the parents and the results are condensed into a two-to-five page report with a recommendation to the judge concerning the youth's disposition. It is presented to the judge prior to the disposition hearing with copies given to the district attorney, the youth, and the youth's parents. Of the 710 youths in the study, 197 had predisposition reports.

Regardless of whether the youth admits the allegations or is found "guilty" in a trial, the range of disposition alternatives remains the same. First, the judge may dismiss the petition(s) against the youth. Of the 710 cases, 16% (114) resulted in dismissals. Dismissals are most often granted, not because of weak evidence, but because the youth lives in or has moved to another jurisdiction and cannot be located or because the youth has other, more serious charges

pending in another jurisdiction.

A second disposition alternative is a reserved adjudication (also called court supervision). Twenty-eight percent (201) of all cases were given this disposition. In this disposition, a youth pleads guilty but is not technically adjudicated as a delinquent child. The adjudication is "reserved" pending a child's completion of a period of six months supervision by a probation counselor. At the end of the six-month period, the case is reviewed by the judge and, if the youth has complied with the terms and conditions of the supervision order, the case is dismissed. If the youth's adjustment was not satisfactory after the first six months, the supervision order may be extended for another six months. If, at the end of this second six-month supervision period, the youth's adjustment has still not been satisfactory, the youth may be adjudicated a delinquent child and given a more severe disposition. This alternative has the advantage of providing some formal court supervision without giving a child a court record if he or she satisfactorily completes the supervision period.

A third alternative is to adjudicate the youth a delinquent child. Exactly the same number of juveniles received an adjudication as received a reserved adjudication-- 28% or 201 youths. Once adjudicated, there are a number of provisions a youth's disposition may contain. One provision is to place the youth on probation, usually for two years. Over half of the youths (54%) were

placed on probation as their most severe sanction. A child on probation is reviewed by the judge every six months to see that adjustment is satisfactory. A youth who complies with the probation requirements for the entire period may be released from probation and the jurisdiction of the court is terminated. The youth may also be fined an amount not more than $300. Only 16 youths (8%) were fined as their most severe sanction. The court may also order a youth 14 or older to spend 45 days in the detention center or, if the youth is 18 or over at the time of sentencing, the court may order up to six months in the County Jail. Twenty five youths (12%) were sentenced to either weekends or a period of consecutive days in the Detention Center. An additional eight youths (4%) were sentenced to the County Jail.

Another alternative, and the one usually viewed as the most severe, is the commitment of the youth to the Colorado Department of Institutions ((DOI). The commitment is usually for a period not to exceed two years, although occasionally a one-year commitment is made. It is the responsibility of DOI to evaluate the committed child before placing him/her in one of its state-run and financed facilities. Such a youth may be returned home or placed in a group or foster home, residential child care facility, or a juvenile correctional institution. A total of 12 youths who entered the court in 1980 were committed to DOI.

Placement of a child outside the home is another provision available to the judge. Out-of-home placement

accounted for 12% of the dispositions including 25 children. The cost of out-of-home placement was carried by the county social services budget for foster care, with an 80% reimbursement by the state. Financing of services was discussed in detail in Chapter 3. Out-of-home placement was very much in flux during 1980 as a result of Senate Bill 26 and the programs in the county designed to reduce out-of-home placement. In the Spring of 1980, a federally-funded, multi-disciplinary Diagnostic Team was set up as part of S.B. 26 implementation to evaluate youths for whom out-of-home placement was being considered. This team was composed of representatives from several agencies in the county. Following a thorough medical, psychological, educational, and social evaluation of the child and the child's family, it made a recommendation to the judge concerning the desirability of out-of-home placement. The Team was in operation during approximately the last nine months of our study year. During this period a Day Resource Center was also put into operation to provide an alternative to out-of-home placement.*

When discussing disposition alternatives for juveniles, it is important to note the wide range of terms and conditions that may be attached to these dispositions. For example, the judge may order the youth to refrain from

[1] In January 1981 the Team was decentralized and essentially disbanded, although a group housed in Social Services continued to review placement requests. The Day Resource Center remained in operation and a second one was added in 1981.

associating with co-minors, pay restitution to the victim(s), attend school or work full-time, donate time to a civic or community agency, participate in drug or family therapy, or spend a certain number of days in the youth detention center. To violate these terms and conditions is to risk revocation or supervision of probation and the possibility of even harsher punishment by the Court. A revocation can count toward the three adjudications necessary to be eligible for mandatory sentencing which requires that a child be placed outside the home for not less than one year. In Chapter 7 we will discuss dispositions and the factors influencing them at greater length.

Filing Juvenile Cases In District Court

In certain situations, the DA may seek to file the juvenile's case in District (adult) Court. Cases eligible for direct filing in District Court are those where (1) the charge is a class 1 felony (murder, rape, kidnapping), (2) the charge is a class 2 or 3 felony, the child is over 16, and has been adjudicated delinquent within the past two years for an offense that would be a felony if committed by an adult, (3) the child has been tried in District Court before, and (4) filing in District Court seems in the child's best interests. We are unable to pick up these cases in our study because they were filed directly in criminal court, but there was general agreement in the court

that they were very rare, perhaps two or three a year.

Another means of getting a juvenile case heard in the District Court is by means of a transfer hearing. At this hearing, the judge determines the desirability of a transfer by considering: (1) offense seriousness (would DOI fulfill the child's needs?), (2) what is the maturity of the child and how is his/her home life? (3) previous record, and (4) the likelihood of rehabilitation. Before the transfer hearing, the probation officer does an extensive report and makes a recommendation to the Court. Transfer hearings, like direct filings, were rare in the court we studied and took on the dimensions of a major event when they did occur. Cases can include a specific count in the charges regarding transfer to adult court, but we recorded this in only three of the 1980 cases.

Case Processing Time

The number of hearings and the number of days required to process a youth's case were major topics of concern throughout 1980. The results from the 1980 study suggest that there was cause for concern. A detailed analysis of case processing time is presented in Chapter 6.

SETTING CASES FOR TRIAL*

Decisions about going to trial in juvenile court, as in adult criminal court, involve two separate stages. The first stage is the decision to <u>set</u> a case for trial. The second stage is the decision to <u>go</u> to trial. The two stages serve different functions. Cases <u>go</u> to trial usually because there is an unresolved disagreement about the facts of a case, or the juvenile denies the allegations or believes that the prosecutor cannot prove them. Cases are set for trial for a much wider range of reasons, often when the attorney has little or no intention of actually going to trial. The defense attorney may want to gain time, for example, to give the youth a chance to improve behavior or get a job, or give himself a chance to become familiar with the case. The attorney may also hope that time will calm an irate witness or blur his memory. Often a case is set for trial as a negotiation tactic or as a signal to the prosecution that the defense is serious about the case. The goal of defense attorneys, even in juvenile court, is almost always to get the least severe adjudication and disposition for their clients. Trial setting may be seen as a useful tactic in negotiating a favorable case outcome.

Apart from the individual merits of a particular case, setting cases for trial has considerable harassment value, which public defenders, in particular, understand and use. Setting many cases for trial puts pressure on the system and

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*This section of the report is based upon a paper presented at the 1982 Law and Society Meetings in Toronto, Canada by Anne R. Mahoney entitled "The Trial Decision in Juvenile Court".

the prosecutor and, if actually carried through to the second stage, can bring a court system to a grinding halt.

This study is an exploration of the effects of setting a case for trial upon case processing and case outcomes. Data are drawn from the court records of the 710 youths upon whom petitions were filed in 1980 as well as the observational and interview material. * Using these quantitative and qualitative data, we will describe how trial setting strategy is implemented in the court and will explore the proposition that cases <u>set</u> for trial are more likely to receive favorable outcomes than cases not set for trial, when other relevant variables are controlled.

The first part of this section will include a brief review of the literature on trials in juvenile court. The second part will describe how trials are used in this court. The third part will describe the analysis carried out to test the proposition and give the results of the research.

<u>Literature Review</u>

There is a substantial amount of literature available in legal publications on the juvenile's right to trial by jury. Although the focus here is not primarily on the right to <u>jury</u> trial, it is useful to identify the issues and briefly review the history of jury trials for juveniles.

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*Trial information is available on 650 cases. Sixty cases have missing values on this variable because they were still pending at the conclusion of the data collection phase of the study.

Juveniles had the right to trial by jury early in American history when serious juvenile offenders were prosecuted in adult criminal systems and given the same rights as adults (Fox, 1970: 1187, 1191). In the late 1800's, when a specialized court for children was established based on the principle of <u>parens patriae</u>, reformers believed that society's proper role was not to determine the guilt or innocence of the child, but rather to ascertain how the child came to commit the act and how to halt further moral deterioration. Consequently, the rules of adult criminal procedure were considered inapplicable (McLaughlin & Whisenand, 1979: 5).

This orientation dominated the juvenile court until the 1960's when there began to be increased concern about protection of the rights of juveniles. In 1971, the Court deviated from its general pattern of extending due process rights to juveniles by holding in <u>McKeiver v. Pennsylvania</u> (1971) that there is no constitutional right to a trial by jury in a juvenile court adjudication. Justice Blackmun, writing for a plurality of the court stated in McKeiver:

> [A] jury trial, if required as a matter of constitutional precept, will remake the juvenile proceeding into a fully adversary process and will put an effective end to what has been the idealistic prospect of an intimate, informal, protective proceeding.... Meager as has been the hoped-for advance in the juvenile field, the alternative would be regressive..., and would tend once again to place the juvenile squarely in the routine of the criminal process. (403 U.S. 545-47 (1971)

The continued supremacy of the concept of parens patriae in juvenile court was re-emphasized in the conclusion of the plurality opinion. There, Justice Blackmun stated that equating the adjudicative phase of the juvenile proceeding with a criminal trial ignores the fairness, concern, sympathy and parental attention inherent in the juvenile court system. The McKeiver decision has engendered numerous law review articles arguing the merits of jury trial for juveniles. (See for example: McLaughlin & Whisenand, 1979; Keegan, 1977; Rosenberg, 1980).

As a result of the McKeiver decision, few states give juveniles an absolute right to trial by jury in delinquency proceedings. In 1979, ten states--Alaska, Colorado, Michigan, Montana, New Mexico, Oklahoma, Texas, West Virginia, Wisconsin, and Wyoming--afforded this right. (McLaughlin & Whisenand, 1979:10).

The pressure to allow the right to jury trial for juveniles has been growing, however. Recent Juvenile Justice Standards developed by the Institute of Judicial Administration and the American Bar Association, and approved by the House of Delegates of the American Bar Association in 1979, have come out strongly in favor of the right to jury trial for juveniles (IJA/ABA, 1980).

In the Standards relating to adjudication, the IJA/ABA Standards recommend (IJA/ABA, 1980:51).

4.1 Trial by jury.

A. Each jurisdiction should provide by law that the respondent may demand trial by jury in adjudication proceedings when respondent has denied the allegations of the petition.

B. Each jurisdiction should provide by law that the jury may consist of as few as [six] persons and that the verdict of the jury must be unanimous.

The Standards note that the policy arguments in favor of authorizing jury trials in juvenile cases begin with the same reasons that underlie constitutional provisions authorizing jury trials in criminal cases. The jury trial is seen as important in neutralizing the biased juvenile court judge and because it gives enhanced visibility to the adjudicative process. The jury trial requires the trial court judge to articulate his or her views of the applicable law in the case through jury instructions, thereby facilitating appellate court review of the legal issues involved.

The commentary stresses that this standard recommends that juries be available upon demand of the respondent and not that there be a jury in every case. It notes further that there is every reason to believe that jury trials in juvenile cases would be at least as rare as they are in criminal cases and would probably occur even less frequently. It is anticipated in the Standards that the juvenile court would consult with counsel to make an informed decision in exercising the option to demand or

waive a jury (IJA/ABA, 1980:52-53).

This latter emphasis on the infrequent use of jury trials reflects a concern about the potentially high cost of making jury trials available to juveniles. McLaughlin and Whisenand (1979:33) counter the cost argument by citing a 1969 article about the Denver juvenile court in which one judge is quoted as saying that he had had only two requests for a jury trial in a twenty-five year period. (N.D.L. Rev. 1969). This was perhaps true in 1969. It certainly would not have been an accurate description of the number of cases set for trial or going to trial in 1979 when McLaughlin and Whisenand wrote their article. (Mahoney, 1978)

Although there is a fair amount of rhetoric and legal analysis of the juvenile right to jury trial in the legal literature, I have not yet been able in my preliminary search of the literature to locate any empirical studies of either jury trials or trials to the bench. This study is an attempt to fill that gap, and to raise some questions that may warrant research in the future.

Cases Set for Trial

Before we get into the analysis of the study results in regard to whether the effects of setting a case for trial were positive or not, it may be helpful to briefly describe the use of trial setting in this court.

If a youth denies the allegations at the advisement hearing or the Appearance of Counsel, his or her case is set

to a Pretrial Conference in order to give the youth an opportunity for discovery or to negotiate or plea bargain with the D.A. to reach a mutually agreeable conclusion of the case. If an agreement is not reached, the child can set the case to trial. The State Children's Code (19-1-106, Subs:4) gives juveniles the right to a trial by jury of not more than six, and most youths who request a trial request one to a jury (70%).*

The case can be set for trial at any point in the process. In fact, at one time during 1980, cases with denials were being almost routinely given trial dates because the docket was so full that the speedy trial rule could not be met if cases weren't put on the docket immediately (Field Notes, p. 535, 575, 600). This routine setting for trial may dilute the results reported here and has some other implications discussed later in the paper.

Setting a case for trial is far more common than going to trial. Fourteen percent (94) of the 650 youths for whom trial information was available at the completion of the data collection phase of the study had requested a trial, but only seven (1% of the total 650 and 7% of the 94 who set for trial) were actually adjudicated at trial. The actual percentage of cases set for trial (14%) was somewhat lower than the District Attorney estimated (25-30%) when we talked

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*This is probably an underestimation of the percentage of cases set for jury trial. There were a few cases which did not indicate whether the case was set to a bench or jury trial and all of these were coded as bench trials.

with him early in 1980. His figures for the actual number of trials, however, were close to our research findings (SYP field notes, p. 76)

Some kinds of cases were more likely to be set for trial than others. Boys were twice as likely to have their cases set for trial as girls (16% compared to 8%). There was also a difference by age. Older youths were more likely to request trials than younger youths. Ten percent of the youths under 15 had their cases set for trial, while 16% of the youths 15 and over had their cases set for trial.

There was little association between a child's age and his request for a jury trial, however.

Youths who were not residents of the county were almost as likely as the residents to have trials set in the court (11% compared to 16%), but they were less likely to go to trial. None of the seven cases that went to trial involves nonresidents.

Youths with more serious or complex cases or with more extensive prior records were more likely to set for trial than other youths, i.e. youths with more petitions, more counts against them, personal rather than property offenses, an offense involving a weapon, and a more extensive prior record.

Twenty percent of the youths with two or more petitions in court had their cases set for trial, compared to 13% of youths with only one petition. Two youths whose cases we observed during the year were assigned three separate trial

dates for three separate petitions. (SYP field notes, p. 514-515, 586). Interestingly, although youths with two or more petitions were more likely to set for trial, none of them actually went to trial.

As Table 4-1 shows, the more counts a youth has, the more likely he or she is to set for trial--nine percent of the youths with one count set for trial compared to 24% of youths with six or more counts.

Table 4-1

Youths Who Had Their Cases Set for Trial by Number of Counts in Their Petition(s)

	Number of Counts			
	One	Two	Three to Five	Six or More
Trial Set	9%	13%	17%	24%
	(19)	(26)	(33)	(11)

Cases in which the most serious charge is an offense against the person--i.e. assault, sexual assault, and robbery--also are more likely to be set for trial (29% compared to 13%), although whether the most serious offense charged was a misdemeanor or felony did not make any difference in whether the case was set for trial. The latter also did not make any difference in regard to whether the case actually went to trial. Not many of the cases that came into the court involved weapons, but those that did were somewhat more likely to be set for trial (29% compared

to 14%).

Table 4-2 shows that youths with more extensive records are also more likely to have their cases set for trial.

Table 4-2

Youths Who Had Their Cases Set for Trial
By Number of Prior Offenses

	None	One	Two or More
Set for Trial	12%	17%	27%
	(11)	(5)	(16)

There was missing information on prior record on 62 cases.

There was a considerable difference between types of lawyers in their tendency to set cases for trial. Of the 664 youths upon whom data were available on attorney, 45% had no attorneys, 38% had private attorneys, 15% had public defenders, and 2% had court appointed attorneys. The two kinds of public attorneys were similar in the percentage of cases they set for trial so we combined them. As Table 4-3 shows, they were more likely to set cases for trial than private attorneys or youths acting without attorneys. Although most youths without attorneys chose not to set their case for trial, a handful did. Some of these clearly were confused and not really sure what it meant to set a case for trial. In these cases we observed, the judge urged the youth to enter the denial and come back with an attorney. One youth present with his mother but no

attorney, attracted considerable comment in the courtroom because of his young "Perry Mason" behavior. He denied the allegations, chose the trial to court rather than to a jury, and informed the court that he planned to bring a witness to the trial to corroborate his story. (SYP field notes, p. 430-431)

Table 4-3

Youths Who Had Their Cases Set for Trial
by Kind of Attorney

	Kind of Attorney		
	None	Private	Public
Set for Trial	5%	17%	33%
	(16)	(42)	(34)

One-third of all youths with public attorneys were set for trial compared to 17% of the youths with private attorneys and 5% of the youths with no attorneys. On the other hand, youths with public attorneys were no more likely than the others to go to trial.

Case Processing

Cases set for trial, particularly jury trial, have important implications for the court system. A trial date has to be set and a substantial amount of time must be made available on the docket for the trial. In the court we studied, Monday was set aside for jury trials. One Tuesday,

the entire court docket was delayed because of a jury trial that had carried over from the day before. It was 11:30 before the jury was given instructions and retired to deliberate. While the jury was out, the judge started a group of six advisements, but only got through two before the jury returned and the courtroom had to be cleared so that the jury case could reconvene. Advisements were finally completed at 1:00 after families and others had been waiting since 8:30 a.m. (SYP field notes, p. 622).

One Tuesday a few weeks later when we inquired why the docket was so small, the court clerk explained that there were so many trials being set for Mondays that she had started to set fewer matters on Tuesdays in the event that some of the trials extended into Tuesday (SYP field notes, p. 747). Yet we had trouble seeing delinquency trials because they so seldom occured. Learning late Friday that three trials were "on" for Monday, the SYP observer appeared and spent the morning without seeing one. One youth never appeared, a second case was plea bargained at the last minute, and a third was resolved after a suppression hearing (SYP field notes, p. 305).

If jury trials are scheduled, the jury commissioner must plan ahead to make the jury calls large enough to provide an adequate pool of jurors. This is necessary because most cases set for trial are not resolved until the day of trial. Seventy percent were adjudicated on the day of trial; only 11% were concluded at the pretrial

conference. Three percent were settled prior to the pretrial conference and 16% were resolved at some other point in the process. An unspecified number of these later cases were resolved at continuances after the date set for trial. Thus, in general, once a case is set for trial, it is not resolved until the date of trial.

Jury commissioners dislike calling large numbers of people to appear and then having to send them home without serving almost as much as they dislike being caught without enough jurors to cover scheduled trials which "go". This larger system puts subtle (and not so subtle) pressure on the decision makers in an individual case. This particular pressure was alleviated somewhat in the court during the year of observation when the court instituted a new telephone call-in procedure. Under the new system, jurors call a phone number at 10:00 a.m. for a recorded message. If they are needed, they will be told to report to the courthouse by a certain time. This gives the parties in a case an hour or longer to come to an agreement before the jurors are told to report.

Cases set for trial have a somewhat different pattern of processing than cases not set for trial. An element of especial concern is processing time. Cases set for trial took much longer to move from filing to adjudication than cases not set for trial (a mean of 232 days compared to 118 days). This difference was due primarily to the long time span between advisement and adjudication for cases set for

trial (a mean of 159 days compared to a mean of 52 days). There was little difference between the two kinds of cases in regard to the time from filing to advisement (a mean of 74 days for cases set for trial compared to 72 days for the others).

Cases set for trial took longer to reach adjudication than cases not set for trial, and cases set for jury trial took longer than cases set for trial to bench. One useful indicator of case processing time is the number of days it takes for 75% of the cases to go through a certain stage. This way of looking at cases minimizes the effect of a few very long cases which may exert upward pressure on the mean.

There is not a great deal of difference between no trial, bench trial, and jury trial cases in regard to the amount of time it takes them to move from filing to advisement. Seventy-five percent of the cases completed this stage in 98 days for no trial cases, 99 days for bench trial cases and 112 days for jury cases. The big differences in case processing time occured in the advisement to adjudication period.

Seventy-five percent of the cases in which no trial was set went through this stage in 82 days. However it took 158 days for 75% of the cases sent to bench trial to complete this stage and 209 days for 75% of the cases set to jury trial to complete the stage. As one would expect, the processing time from filing to adjudication is even longer. It took almost a year (299 days) for 75% of the cases set to

jury trial to move from filing to adjudication. Cases set to bench trial took almost as long--250 days for 75% of the cases to go from filing to adjudication. Cases not set to trial took only five months (155 days) for 75% of the cases to move from filing to adjudication. When you add on the time it takes a case to reach final disposition, the time is even longer. *

Did the longer case processing times yield different results? The next part of the research reports the results of analysis of the impact of the decision to set a case for trial upon case outcomes. The two kinds of trial, bench or jury trial, are combined in the analysis.

Impact of Trial Setting Upon Adjudication and Disposition

The thesis of this discussion is that cases are frequently set for trial in juvenile court as a negotiating tactic. In fact, trial setting appears to be an important part of plea bargaining. The disposition of cases by agreement between the prosecutor and the accused, often referred to as "plea bargaining", is an essential component of criminal court administration and since Gault has come to be increasingly recognized as part of juvenile court systems as well. Each party to a plea bargain offers something.

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[5] Cases not set to trial took 182 days for 75% to go from filing to disposition; while cases set to bench trial took over 294 days and cases set to jury trial took 347 days.

The prosecutor offers a lower sentence or a less serious record as a result of his or her control about what charges to drop or lower. The major lever for the accused is "efficiency". By pleading guilty and waiving the right to a jury trial, the accused saves the state the expenditure of time and resources such a trial would entail (Ewing, 1978:170-71). One way for the defense to emphasize this lever in a particular case is to actually put the case on the docket for trial.

If the tactic is effective, it should result in less severe adjudications and dispositions for youths whose cases are set for trial.

To test the hypothesis, a partial correlation analysis was carried out taking into consideration other factors that literature on juvenile court dispositions indicates may be related to case outcome. These factors are age, who has custody of the child, number of petitions the child has before the court, the number of counts in all the petitions, classification of most serious offense, and type of attorney.

Conceptually, a partial correlation is analogous to cross-tabulations with control variables. It provides a single measure of association describing the relationship between the independent variable and each of the two dependent variables, adjudication and disposition, while adjusting for the effects of the additional variables which may be related to both independent and dependent variables.

Zero order partials show the correlations between two variables without any other variables taken into account. These are shown first in Table 4-4. Then partial correlations are computed between the independent variable and each of the two dependent variables holding one other variable constant. Finally the correlation is computed between the independent and each dependent variable, holding all the control variables constant at once.

Results

The hypothesis that cases set for trial receive more positive outcome is not supported by the results of the analysis. The zero order partials show no significant correlation between trial setting and adjudication as can be seen in Table 4-5. Table 4-6 shows the correlation coefficients for trial setting and adjudication and disposition when each of the six control variables is taken into account and then when all six are taken into account at once. It indicates that the number of counts, in particular, has a marked impact on the relationship between trial setting and adjudication reducing the correlation coefficient from -0.0435 to 0.0011.

There is some negative correlation between trial set and disposition without taking into account the other variables. The zero order partial between the two variables is -0.0946, significant at the .01 level. However, as Table 4-6 shows, when the control variables are taken into

account, the correlation coefficient drops to insignificance. As with the correlation between trial setting and adjudication, the variable having the greatest impact in reducing the correlation is the number of counts against the youth when he or she entered the court. Taking into account the number of counts reduces the correlation to -0.0493. When all six variables are taken into account, the correlation drops to -0.0436, which is not significant at the .01 level of significance.

A refined outcome variable was created which included both adjudication and disposition outcomes and a differentiation between the different kinds of dismissals. Analysis using this more refined measure of case outcome did not change the results reported here. Evidence from this 1980 study of court records from one suburban juvenile court does not support the hypothesis that setting a case for trial increases the possibility of a positive case outcome as defined by a less severe adjudication or less severe disposition.

Table 4-4

Zero Order Partials

	Adjudication	Disposition
Trial Set	-0.0435	-0.0946
	(511)	(633)
	P=0.163	P=0.009
Age	-0.0046	-0.0213
	(511)	(633)
	P=0.459	(P=0.296)
Custody of	-0.0783	-0.0022
	(511)	(633)
	P=0.038	P=0.478
Number Petitions	0.2595	0.3407
	(511)	(633)
	P=0.000	P=0.000
Number Counts	0.3454	0.4135
	(511)	(633)
	P=0.000	P-0.000
Classification of Offense	0.2714	0.2653
	(511)	(633)
	P=0.000	P=0.000
Type of Attorney	0.1385	0.1297
	(511)	(633)
(Coefficient/D.F./Significance)	P=0.001	P=0.001

Table 4-5

Partial Correlation Trial Set and
Adjudication and Trial Set and
Disposition Controlling for Each
Variable Separately and All Six Together

Controls	Adjudication and Trial Set	Disposition and Trial Set
None	-0.0435 P=0.163	-0.0946 *(P=0.009)
Age	-0.0440 P=0.160	-0.0965 *(P=0.008)
Custody	-0.0470 P=0.1440	0.0947 *P=0.009
Number Petitions	0.0295 P=0.253	-0.0766 P=0.027
Number Counts	+0.0011 P=0.490	-0.0493 P=0.108
Classification of Offense	-0.0260 P=0.278	-0.0871 P=0.014
Type of Attorney	-0.0190 P=0.334	-0.0710 P=0.037
All Six Control Variables	+0.0095 P=0.415	-0.0463 P=0.123

(Coefficient/Significance)
*P= .01

Discussion and Policy Implications

What implications do these results have? Lawyers set cases for trial for a variety of reasons, but usually one reason is the hope that it will improve the case outcome for their client. Yet, this study suggests that, at least in this court, setting a case for trial is not associated with a more positive case outcome. Furthermore, from the data presented here on case processing time for cases set for trial and those not set for trial, it appears that cases set for trial are associated with considerably longer processing times than other cases. Trial cases took an average of 232 days to move from filing to adjudication compared to 118 days for nontrial cases, a difference of 114 days. Essentially, cases set for trial took twice as long, almost four months longer, to move from filing to adjudication.

In addition to keeping a child unsettled for almost eight months while his or her case moves from filing to adjudication, trial cases pose problems for the court, even if they do not actually go to trial. Since almost all the cases set for trial in this study did not reach agreement until the day of trial, jury calls had to take into account the possibility that the trials might occur. Days which could have been used for other court business had to be reserved for the trials in case they actually happened. In the court under study, the tension created by the

overcrowded docket seemed to create more delay problems. At one point during the year, trial dates were being set so far ahead that the court began to set a trial date for every youth who entered a denial at the Advisement in order to get the trial in within the six month speedy trial rule. This practice further tied up the docket, especially since cases set for trial usually did not reach agreement until the day of trial.

How can these long case processing times be justified? Are there benefits from setting cases to trial that overshadow these seemingly negative aspects of giving the right to jury trial? Are there ways in which unnecessary trial setting can be minimized, thus maintaining the right to jury trial without the negative effect of prolonged processing and crowded court dockets?

The next section of this chapter on court process explores the role of the attorney in case processing, with a particular interest in what impact having an attorney has on case outcome.

THE EFFECT OF COUNSEL*

When the President's Crime Commission published its recommendations in 1967, it believed that juvenile courts should act punitively toward the seriously delinquent child;

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*This section of the report is based upon a paper presented at the Western Social Science Meetings, April, 1982 by Carol L. Fenster entitled "The Effect of Legal Representation Upon the Processing of Juvenile Delinquents".

therefore, it recommended that the adjudicatory hearing be consistent with principles of due process. The Commission, believing that no procedural protection was more important than the right to counsel, emphasized the role of the child's lawyer not only at the adjudicatory hearing, but also in the disposition decision (President's Commission, 1967: 86-87). The 1977 Draft Standards for Juvenile Justice of the Institute of Judicial Administration and the American Bar Association (IJA-ABA) also emphasized the role of counsel in juvenile court (Institute of Judicial Administration, 1977:138,171).

Both the President's Commission and the IJA-ABA Standards emphasized the importance of counsel to make the procedural reforms outlined by In Re Gault (1967) work. It was assumed that the presence of counsel would have a positive effect upon juvenile court proceedings. The purpose of this section of the report is to examine whether the presence of counsel has a positive effect in a suburban juvenile court which serves a county in which a large percentage of the residents are relatively affluent and thus more financially able to retain private counsel.

The Role of Counsel in Juvenile Court Proceedings

When the Supreme Court wrote its opinion for In Re Gault (1967) it cited several advantages of counsel for youths. The Court believed that the assistance of counsel would help the child. . ."cope with problems of law, to make

skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it" (Gault:36). The President's Commission felt that counsel would assist the juvenile court in achieving its "therapeutic aims" by helping to develop "individualized treatment plans" using community resources as alternatives to institutionalization (President's Commission, 1967: 86) although, as Clarke and Koch (1980: 265) point out, the Court cited no evidence to support these beliefs.

Review of Literature

The research findings with respect to the effect of legal representation upon juvenile court proceedings are mixed. Some studies show that having counsel is associated with a more lenient disposition (Horowitz, 1977: 191-194). For example, Stapleton and Teitelbaum (1972), in a project conducted in the juvenile courts of two large midwestern cities, found that youths with attorneys were more likely to avoid commitments to an institution in one of the courts. In addition, this same study found that outright dismissals were more frequent in one of the courts where counsel participated. Platte, Schechter, and Tiffany (1968) found that dismissals in a large, midwestern city were more likely when public defenders were present than when they were not. Lemert (1967) found that dismissals were three times as likely in Sacramento, California, when an attorney was

present. Ferster and Courtless (1972:159) found that there were fewer commitments to institutions and more findings of "not involved" when the child was represented by counsel in an affluent county.

However, there is another body of data which suggests that the presence of defense attorneys may have a detrimental effect upon the youth's disposition. For example, Duffee and Siegel (1971) found that juveniles represented by counsel actually received significantly more severe dispositions (more commitments, fewer dismissals) than those who were unrepresented. Horowitz's (1977: 200-201) study shows that attorneys have not always effectively protected the child against self-incrimination. The lawyer is expected to act as an interpreter between the court and the family with the resulting "thrust toward truth-telling that is quite at odds with the privileges against self-incrimination, strictly construed." In fact, the same author concludes that the presence of a lawyer acting as both social worker and advocate actually facilitates rather than impedes informal dispositions. And Clarke and Koch (1977: 263) found that although the presence of counsel made little difference in the rate of dismissals or the rate at which youths were adjudicated delinquent, youths without counsel were less likely to be committed. In fact, the same authors conclude that the defense lawyer was perceived as superfluous and even hindered rather than helped the granting of leniency to the child.

The relevance of these findings is affected by several contingencies. First, the effectiveness of attorneys depends upon the type of court studied. Stapleton and Teitelbaum (1972) found that defense lawyers were more effective in courts using an adversarial rather than a therapeutic model. This finding suggests that it is the milieux in which attorneys operate that determines the effectiveness of legal representation.

Another factor influencing the effectiveness of legal representation is that there are markedly different rates of representation for different types of offenses (Lemert, 1970). Duffee and Siegel (1971) suggest that the court they studied culled the docket for serious cases likely to receive severe dispositions and then required counsel in those cases but not in others. Clarke and Koch (1977: 298) found that public defenders and assigned counsel generally had cases that were more difficult to defend than those of private counsel. Taken together, these studies suggest that certain cases are more likely to require legal counsel than others and that certain types of legal counsel are more likely to represent certain kinds of cases than others. These complicating factors are bound to affect the perceived effectiveness of legal representation.

Hypothesis

The review of literature suggests that defense attorneys are most effective in courts which use the

adversarial model. Since the juvenile court in this study operates under an adversarial model, we could expect attorneys to have a positive effect upon the juvenile court's treatment of juveniles. Thus, the hypothesis chosen for testing in this study is:

> H = The presence of attorneys tends to increase the likelihood that the youth will receive the more favorable disposition.

Dispositions of Juveniles

As has been mentioned, there are several adjudication options available in the court under study. Even though there seem to be several disposition options available to the judge, in reality the two used most frequently are: (1) adjudication (usually with a probation term of two years) and (2) reserved adjudication with six months supervision.

Sample

The sample consists of 377 youths whose petitions were filed in the Juvenile Court in 1980. These 377 youths include 150 whose most serious delinquent act was a burglary and 227 whose most serious delinquent act was a theft. By restricting the sample to burglaries and thefts, we can reduce the variation of the different crime categories and its effect upon the adjudication decision. All of the burglaries were felonies, while 65% of the thefts were misdemeanors and 35% were felonies (a felony includes thefts over $200).

Representation by an Attorney

More than half (52%) of the 377 youths in this sample were represented by defense attorneys. Of those represented by attorneys (N=196), 72% were represented by private attorneys, 5% by court-appointed attorneys, and 22% by public defenders.

The likelihood of being represented by an attorney increased when the delinquent act was a felony rather than a misdemeanor. For misdemeanor thefts, the percentage of youths represented by attorneys was only 37%. However, for felony thefts and burglaries, the percentage of youths represented by attorneys increased to 61% each. Youths who sought legal representation were also likely to have prior records and to come from families which were not intact. However, the weak correlations (.20) between these variables suggest that these relationships were not very strong.

Findings

The court's treatment of these 377 youths is examined to determine whether they received a reserved adjudication or were adjudicated a delinquent child. However, the cases of approximately one-third of the youths never reached the disposition stage. Forty-five of the 377 youths had their petitions dismissed by the District Attorney; another 69 had their cases transferred (change of venue) to another jurisdiction. In these two groups of dismissed and

transferred youths, a high percentage (88% and 70%, respectively) were not represented by attorneys at the time of this decision. This can be attributed to the fact that the dismissal and change of venue decisions are made by the District Attorney, usually at an early stage of the court process. Since a large proportion of these dismissal and change of venue decisions occur before an attorney has the opportunity to participate in the decision, it is not appropriate to conclude that the presence or absence of attorneys has any effect in regard to these adjudications. Two of the cases were acquitted in a jury trial and ten cases were still pending at the time of data collection.

It is the remaining 239 youths whose treatment at the adjudication stage may be affected by the presence or absence of attorneys. The following table shows the relationship between the adjudication decision and legal representation.

Table 4-6

THE RELATIONSHIP BETWEEN LEGAL REPRESENTATION AND THE ADJUDICATION DECISION

ADJUDICATION DECISION	NONE	ATTORNEY
Reserved Adjudication	38%	62%
Adjudication Delinquent Child	41%	59%

Chi Square = 0.1678 phi=0.0266 df = 1
p=not significant N=239

The table shows that there is not a significant different between youths with and without attorneys in terms of whether they are adjudicated delinquent. In fact, the percentages of youths who receive reserved adjudications versus adjudication as a delinquent differ by only three percentage points whether they have attorneys or not. Although not shown in the table, it is also interesting to note that the allegations against youths who received reserved adjudication were evenly divided between misdemeanors and felonies; therefore, it is not just the less serious offenses that get treated more leniently.

Previous research has shown that a youth's prior record may mediate the relationship between legal representation and the adjudication decision. The proportions of youths who were represented by attorneys was approximately 65% whether youths had a prior record or not. The fact that similar proportions of these youths have prior records and that representation by attorneys is similarly distributed between youths with or without records suggests that a youth's prior record has little effect upon the relationship between legal representation and adjudication decision.

These weak relationships lend support to the perspective articulated earlier in this chapter that juveniles carry the statuses of both child and criminal into juvenile court and that the conflict between the two makes it difficult to resolve each case with the same degree of consistency. In some cases, variables associated with the juveniles' child status may be more important while in other cases the juvenile's child as a criminal is weighed more heavily. The end result of these two conflicting statuses is a great deal of variation from case to case in terms of which independent variables exert the most influence upon the adjudication decision. In turn, this makes it all the more difficult for researchers to isolate the independent variables that contribute most to the adjudication decision.

Although the effect of legal representation upon the adjudication decision is not especially strong in these data, its effect upon the court process itself is more noticeable, particularly in two different aspects: 1) the number of hearings required for the youth's case to reach an adjudication decision, and 2) the average number of days to process the case from advisement through the adjudication decision.

The number of hearings required to reach an adjudication decision was cross-tabulated with attorney representation controlling for the number of petitions in a youth's file since youths with several petitions are not only more likely to need an attorney but more complex cases

may require more hearings to reach an adjudication.

The results show that youths with two or more petitions were more likely to have attorneys (71%) than youths with only one petition (57%). It is useful to examine each category separately.

Nearly half (46%) of the youths with one petition who were not represented by attorneys reached an adjudication at the first hearing compared to only 13% for youths with attorneys. Up to four hearings were required to reach adjudication for 90% of the youths with attorneys compared to three hearings for youths without attorneys.

For youths with two or more petitions, 43% reached an adjudication at the second hearing when they did not have attorneys, compared to 26% for youths with attorneys. Up to five hearings were required for 90% of the youths with attorneys, compared to only three hearings for youths without attorneys.

Perhaps the most dramatic difference between youths with and without attorneys is the number of days required to reach an adjudication. Looking first at youths with one petition, it takes, on the average, three times as many days (74 days) to reach an adjudication when youths have attorneys than when they do not (24 days). For youths with two or more petitions, it takes nearly four times as many days (82 days) to reach an adjudication if the youth has an attorney than when he does not (23 days).

Altogether, the effect of attorney representation remains the same whether the youths have only one petition or two or more petitions. That is, it takes more hearings and thus more days to reach an adjudication with an attorney than without, regardless of the number of petitions against the youth.

Why do cases with legal representation take longer to reach an adjudication decision? Courtroom observations suggest that cases with legal representation progress somewhat differently than cases without legal representation. For example, youths who appear at the advisement hearing without attorneys and do not intend to seek legal counsel usually enter a plea (most often an admission) at that time. In contrast, when a youth appears for advisement without an attorney, yet wishes to seek legal counsel before entering a plea, the case is set to a second hearing called Appearance of Counsel. However, regardless of whether the attorney appears with the youth at the advisement hearing or the Appearance of Counsel hearing, the youth inevitably denies the allegations. This tendency to deny occurs whether the attorney is a public defender or privately retained. To allow for discovery as well as plea negotiations between the defense attorney and the prosecutor, the case is then set to yet another hearing called the Pre-Trial Conference (PTC). By the time this PTC occurs, the prosecutor and defense usually have reached an agreement which allows the youth to enter an admission to

some of the counts within the petition(s) in exchange for dismissal of the remaining allegations. (It is interesting to note that youths often enter admissions to the more serious allegations in exchange for dismissal of the less serious allegations).

At any rate, once an admission is accepted by the judge and sustained by the facts, the disposition may be handed down, either immediately following the admission or, if a pre-disposition recommendation is required from the probation counselor at yet another hearing called a Disposition Hearing. The end result is that cases with attorneys take far longer than those without attorneys; yet, as our earlier analysis shows, the adjudication decisions remained unaffected. We should note that there are exceptions to the generalizations just cited. That is, some youths without attorneys also deny the allegations, thus setting into a motion the same series of hearings experienced by youths with attorneys. In addition, if plea negotiations fail to achieve an agreement, the case is set to trial. Nonetheless, these exceptions occur infrequently.

Conclusion

The findings from this study suggest that attorneys have little effect on whether youths receive reserved adjudication or are adjudicated delinquent. In other words, the adjudication decision is likely to be the same whether the youth has an attorney or not, even when the effects of

prior record, type of delinquent act, and number of petitions are controlled. However, the cases of youths with attorneys take longer to reach an adjudication decision. They require more hearings and, consequently, a longer period of time before the youth knows the outcome of his or her case.

Discussion

It is important to remember that these findings pertain to only one juvenile court, a court that may be similar to only a small number of other juvenile courts across the nation because it processes youth coming from a somewhat more affluent population than most courts studied in the past. In addition, the data are drawn from one specific year in which a specific cast of courtroom officials and delinquent youth interacted to bring about resolution of delinquent acts. The study was not longitudinal nor did it seek to compare this court with others in the Denver metro area. Nonetheless, despite these limitations placed on the generalizability of the data, the findings and their relevance to this particular jurisdiction should be discussed.

The fact that legal representation has little effect on the adjudication outcome but lengthens the process is not meant to imply that attorneys are detrimental or superfluous to the adjudication process. On the contrary, to some of the youths and their families, the attorney served an

important function for them by explaining the court process, providing emotional support, and acting as liaison between them and the courtroom actors. However, it is the milieux in which this interaction takes place that deserves further attention.

In this particular court, there is a certain rapport between judge aqnd prosecutor. They face each other at each and every hearing, over and over again each day until they know which way the other is likely to decide on any particular case. Generally, there was very little disagreement between them on the adjudication decisions accorded to youth. Because of this intimate relationship, court cases without legal representation proceed fairly smoothly and quickly, with only occasional interjections from the probation department. However, when a defense attorney enters into these everyday interactions, the harmony between prosecutor and judge is upset. The degree to which this relationship is unbalanced depends upon how well the defense attorney is acquainted with the operations of the court and on the personalities of the defense attorney and the judge and prosecutor. A defense attorney who is well acquainted with the court operations and whose relationship with the judge and prosecutor is amicable, can capitalize upon the harmony between judge and prosecutor in achieving a resolution of the case for his/her client.

However, some courtroom officials suggested that the same adjudication decision is reached in any particular case

whether there is an attorney or not. For example, one prosecutor openly stated that he was unlikely to dismiss any charges during plea negotiations with a defense attorney that he was unwilling to dismiss without a defense attorney. In other words, it was not the presence of a defense attorney that affected the prosecutor's actions, but rather the circumstances of the case and the background of the youth. Prosecutors and probation counselors alike told us that the main result of a defense attorney in a case was to prolong the courtroom proceedings in that case. The strong control maintained by the prosecutor over cases may also have been partly the result of the DA Intake Model upon which this particular court operated. The DA had an opportunity to screen out weak cases before they were ever filed in court.

In spite of the DA's position that defense attorneys did not modify his handling of cases, the judge openly encouraged youths to seek legal representation and was particularly reluctant to accept an admission to severe allegations unless the youth sought legal advice. In cases in which the youth did not wish to seek legal counsel, the judge was particularly sensitive to and thorough in explaining the allegations to the youth and the consequences of an admission. In addition, it was not unusual for the prosecutor to request a recess so that he could have a private discussion with the youth to explain the allegations and possible consequences. As a result, even youths who did

not wish to seek legal counsel on their own had the benefit of discussing their cases with either the prosecutor, the judge, or both.

CONCLUSION

What does all of this suggest for court processing in this particular juvenile court? From our courtroom observations, interviews with courtroom officials and analysis of court records, it appears that prosecutors and judges are likely to interact and reach the same adjudication decisions regardless of whether there is a defense attorney and regardless of whether a case is set for trial. Neither appeared to have much effect upon the adjudication decision. It simply took longer to reach that decision.

CHAPTER 4

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CHAPTER 5

COURT POPULATION

Who goes to juvenile court in a suburban county? Where do they come from, what do they do, what are their characteristics? In Chapter 3 the context of the court was described, as well as the county and its population. This chapter will include sections describing distinct populations in the court system and explore ways in which the characteristics of these populations may influence their treatment by the court system.

Section one includes a description of the court population in general--where the youths come from, their characteristics, and what kinds of offenses they commit. Section two includes an extensive discussion of nonresident offenders and of the implications of their nonresident status for court handling and sanctioning. Section three includes a description of characteristics and treatment of the violent offenders in the court. Section four focuses upon youths who don't go to court-- those referred to the District Attorney's Diversion Program.

DESCRIPTION OF COURT POPULATION

Petitions Requested

According to records kept by the Juvenile Division of the District Attorney's office, 1586 petitions were

requested of the DA's office in 1980 by the County's police departments, sheriff's department, and other courts. The DA refused to handle 98 of these 1586 requested petitions. Of the 98, 28% were refused because of action by other agencies, 20% because of insufficient evidence, 18% because youths left the jurisdiction, 9% because of plea negotiations, 3% because of insufficient investigations by police, 3% because of requests from the victim to drop charges, 1% because of illegal searches, and 18% because of miscellaneous reasons which were not explained in the DA's files. Of the remaining 1488 requested petitions, the DA actually filed 906* delinquency petitions and referred the rest of the youths to the Juvenile Diversion Program. Of those referred to diversion, 452 were eligible for inclusion in our research. The remaining youths were not eligible because (1) their participation in the diversion program was voluntary and there was not sufficient information on them in the files since most refused to participate; (2) they were referred to other agencies for official action; or (3) they were too old (over 18) or had moved from the

[1]We can account specifically for 835 of these in our research. There are 710 youths in our court record study. Of these, many had additional petitions filed on them before they were adjudicated. Accordingly, 550 had 1 petition 78 had 2 petitions, 15 had 3 petitions, 4 had 4 petitions and 1 had 6 petitions. There were 62 youths for whom we did not have information on number of petitions. In addition to the 835 petitions, some petitions were added to the files of youths after adjudication and were not included in our coding. Other petitions may have been added to the files of youths whose cases had originated in 1979 and therefore would not have been picked up in our review of 1980 files.

jurisdiction after the referral was made.

Number of Petitions Per Youth

A fair number of youths had more than one petition filed against them in the course of the year so the number of youths in the court was less than the number of petitions filed. The usual practice was to file a "supplemental" petition when a petition was requested for a child already in the court, attach it to the youth's earlier case and treat the several petitions as a package. In the course of our record coding and data cleaning, we discovered some additional youths who had more than one petition filed against them during the year and consolidated their cases. We ended up with a population of 710 youths who had had petitions filed against them in 1980. The next several sections of this chapter describe the 710 youths upon whom petitions were filed in juvenile court.

Referrals and Residence

Youths who live in the county come primarily from three municipalities: Aurora, Littleton and Englewood.

Municipalities in which youths reside are not necessarily the same municipalities that refer them to court. There were 603 petitions that indicated the source of a youth's referral. Forty percent (244) of these referrals came from Aurora--about equivalent to the number of youths who were residents of Aurora. Englewood and

Littleton also contributed about equal numbers of referrals and residents--173 referrals or 29% compared to 207 or 29% of the residents. Sheridan referred 14 or 2%. Glendale referred 23 or 4% although none of the youths in the court lived in Glendale. Three affluent residential areas referred ten youths among them, although only three youths in the court lived in those areas. The Sheriff's Department referred 99 or 16% although only seven or 1% of the court population lived in the unincorporated areas. Since Aurora and Englewood have large shopping centers and Glendale has a popular discount store, it is not surprising that these three municipalities contribute more than half (57%) of all thefts (primarily shoplifting) referred to the DA in 1980.

The county imports more delinquents than it exports. Only 40 residents (7%) were referred into the court as a result of change of venue from other counties in which they had committed offenses. Yet the court handled 239 nonresidents who had committed offenses within the county -- a third of all the youths in the court. Nonresidents will be discussed in detail in the next section. The remainder of this first section will be devoted to a description of the general court population.

Incidence by Census Tract

One of the truisms of delinquency research in urban courts is that lower status youths are more likely to turn up in juvenile court than upper status youths. One question

addressed in this study was whether this would also be true in an affluent suburban area. It appears that it is.

Information on housing values and number of youths aged 10-17 was obtained from a 1980 census tape for each of the 63 tracts defined as part of the county. This information enabled us to compute the percentage of youths aged 10-17 from each tract who entered the juvenile justice system in the county in 1980 and to compare percentages of youths going into the system from tracts with different housing values.

Tracts were categorized as High Value, High/Medium Value, Medium Value, Low/Medium Value and Low Value. The tracts were classified as Low, Medium, or High depending upon whether the modal category was Low (valued under $50,000), Medium (valued at $50,000 to $99,999) or High (valued at $100,000 or over). In addition, tracts in the Medium group were categorized as Low/Medium if over 30% of the houses were in the Low category and as High/Medium if over 30% of the houses were in the Low category and as High/Medium if over 30% of the houses were in the high category. The tracts were fairly homogeneous in their valuations. They either ran from middle to high or from middle to low, with a few tracts clustering very close to the middle for almost all housing. Most Low/Medium tracts had only 1 or 2% of the housing in the High category and most High/Medium tracts had only 1 or 2% of the housing in the Low category. Although we are aware of the dangers of

using aggregate census data to generalize to individuals, it seems reasonable, given the general homogeneity of these tracts on housing values, to classify them into the five categories.

In most census tracts in the county, between 1% and 3% of the youth population aged 10-17 entered the juvenile justice system during 1980, either through the court or the diversion program. Eight of the 63 tracts had higher percentages of youths entering the system and 4 tracts had lower percentages of youths entering the system. Table 5-1 shows these twelve tracts and gives information about the housing values in those tracts. In general, tracts with higher percentages of youths entering the system are classified as having low housing valuations and tracts with lower percentages of youths entering the system are classified as having high housing valuations.

Two tracts had 6% of their youth population in the system in 1980. Both of these are classified as Low on housing values and both had over 50% of the housing valued at under $50,000. Three tracts sent 5% of their youths into the juvenile justice system and all three were classified as Low/Medium tracts with over 30% of their housing valued at under $50,000. Three tracts had 4% of their youth population in the court system. These three tracts were less homogeneous. One tract was classified as having a medium valuation with a substantial proportion of housing valued under $50,000. A second was also classified as

TABLE 5-1

CENSUS TRACTS WITH EITHER A HIGH OR LOW PERCENTAGE OF YOUTHS 10-17 ENTERING THE JUVENILE JUSTICE SYSTEM AND HOUSING VALUES OF THE TRACTS

Tract #	% Youths Enter System	Tract Classification on Housing Value	% Residences Valued Over $100,000	% Residences Valued Under $50,000
55.51	6%	L	< 1%	60%
57.00	6%	L	1%	52%
60.00	5%	LM	< 1%	34%
61.00	5%	LM	1%	40%
63.00	5%	LM	< 1%	31%
66.01	4%	M	3%	22%
70.20	4%	HM	47%	4%
70.27	4%	M	1%	2%
67.03	≤ 1%	HM	47%	4%
67.04	< 1%	H	98%	< 1%
68.54	< 1%	H	88%	< 1%
70.28	< 1%	M	3%	< 1%

medium, and had almost no low valued housing or high valued housing. The third was a High Medium tract with almost half of the housing valued at over $100,000.

At the other extreme, four tracts had less than 1% of their youths aged 10-17 in the juvenile justice system. Two of these were High valuation tracts and a third was a High/Medium tract with 47% of the housing valued at over $100,000. The fourth was solidly in the middle, with almost no houses in the low or high category.

These findings suggest that the census tracts with the lower housing values, and presumably residents of lower Socio-economic status, are contributing disproportionately higher percentages of children to the court system while the tracts with higher valuation, and presumably residents of higher social economic status, are contributing a smaller percentage of youths to the court system. Our court observations also provide impressionistic support for this. For the most part, clients of the court did not appear affluent or even middle class in appearance or demeanor.

Here, as in other courts, we need to ask why this unequal distribution occurs. Is it that higher status residents are less likely to get in trouble, or that the system disproportionately pulls into the system the lower status residents? One explanation that has been suggested for this county is that the different police departments have different approaches to handling juvenile offenders. The departments in the more affluent areas are more likely

to take a troublesome child home to try to work out the problem without court involvement. Since our study did not include research on police procedures in the various law enforcement agencies, we cannot verify that hypothesis.

One measure that is available that may tap into differential selection is whether a child is sent to diversion or court. Interestingly, of the three census tracts that contributed 4% of their youths to the system, all were middle or middle high. In two of the three tracts, 3% of the youths went to diversion and only 1% went to court suggesting that the youths from these higher status areas were less likely to be filed on in court when they did enter the system. In the third census tract, the youths were fairly equally divided between court and diversion.

Offenses

The most serious delinquent acts charged against the 710 youths upon whom petitions were filed in juvenile court consisted primarily of property offenses--burglary (35%), theft (22%), assault (7%), criminal mischief (7%), criminal trespass (5%) and drugs (3%). The remainder of the delinquent acts were distributed in proportions of less than 2% among sexual assault, criminal attempt, criminal conspiracy, arson, robbery, joyriding, receiving stolen goods, forgery, fraud, embezzlement, prostitution, resisting arrest, harassment, possession of illegal weapons, and a small number of miscellaneous offenses.

Of the 648 youths whose files contained information on the number of petitions filed between the original (or first) petition and the adjudication point, 85% of the youths had only one petition; another 12% had two petitions and 2% had three petitions. The remaining 1% of the youths had four or more petitions in their files.

Certain offenses were more likely to be committed by boys than girls. For example, boys committed all of the drug violations, joyriding, 93% of the sexual assaults, 91% of the burglaries, 88% of the robberies, 84% of the assaults, 77% of the criminal mischief acts, 75% of the thefts, and 71% of the arsons. There were no offenses that were more likely to be committed by girls than boys although forgery was fairly evenly distributed between the sexes. However, the acts for which the 22 girls were arrested tended to be theft (52%), burglary (12%), assault (7%), and forgery (5%). The remainder of girls' acts were distributed across other categories in numbers too small to make meaningful comparisons.

Only 3% of the 710 youths had a petty offense as their most serious initial charge. An additional 42% had misdemeanors as their most serious initial charge and 55% had felonies. Certain acts were more likely to be classified as felonies, e.g. all robberies and burglaries were felonies and more than three-quarters of the vandalism acts and forgeries were felonies. In contrast, more than three-quarters of the assaults and criminal trespasses were

classified as misdemeanors as were approximately two-thirds of the sexual assaults and thefts.

Prior Records

For the majority of the youths who entered the court there was no official information available on prior record. Of the 180 youths for whom information on prior record was available nearly half (49%) did not have records of any kind. For those youths whose files indicated that they had had official contacts with the law (N=92), the most serious offenses recorded were personal felonies (5%), property felonies (47%), personal misdemeanors (7%) and property misdemeanors (33%). The remaining 8% of the prior records indicated that the most serious offenses were truancies, petty offenses, and drug violations. In addition to official prior records, 68 of the 710 youths committed offenses that were not mentioned in the prior record.

The majority of the 92 youths with prior records had committed one (33%), two (19%), three (19%) or four (11%) past offenses which had been officially handled by juvenile officials. Another 9% of these youths had between four and seven past offenses; 12% of them had eight or more prior offenses.

The age at which the largest percentage of youths with official prior records first came to the attention of the courts was 13, but the range was from 6 to 18 years. Fourteen percent of the youths had some type of court

contact by the time they were 12 years old.

Characteristics of Offenses

Delinquent acts which brought youths into court were most likely to be committed during the afternoon and evening hours. More than half took place between noon and midnight with the highest proportions (52%) occurring between noon and 6:00 p.m. The times in which delinquent acts were least likely to be committed were between the hours of 3:00 and 8:00 a.m.

Of the 629 youths for whom data were available on both the location of the delinquent act and the youth's residence, more than one-quarter (29%) of the delinquent acts were committed in the census tracts in which the youth lived, and another 24% were committed in tracts adjacent to the youth's residence. Nearly half (47%) of all the acts were committed in a non-adjacent census tract. If we look specifically at youths who live in the county we see that they committed slightly more than one-third (37%) of their offenses in their own census tracts, approximately one-third (32%) in adjacent tracts, and the remaining third (31%) in non-adjacent tracts. Non-residents traveled further--93% of their acts were committed in non-adjacent census tracts.

The victims of the offenses tended to be primarily businesses (35%), residences (21%), or schools (6%). Twenty-two percent of the offenses were committed against individual persons, usually male or female adults, or female

juveniles.

The relationship between the victim and the youth varied depending on who the victim was. When the victim was a female juvenile (N=23) the relationship was most likely to be "acquaintance" (70%); if the victim was a male juvenile (N=62) the relationship was nearly equally divided between "stranger" or "acquaintance"; if the victim was a female adult (N=39) or male adult (N=87) the victim was very likely to be a stranger (56% and 79%, respectively). The relationship between the owners of residences (N=146) hit by burglary, thefts, or vandalism and the youths who committed these acts was very likely to be "stranger" (48%), "neighbor (24%), or "acquaintance" (22%). Youths who vandalized schools were fairly equally divided between strangers to the school, acquaintances, or kids who lived within the neighborhood. Businesses (N=247) were most likely to be victimized by youths who were strangers although 23% of the offenses against them were committed by youths who were either currently or formerly employed by the business.

Personal Characteristics

Of the 710 youths whose cases were filed in Juvenile Court, 83% were male and 17% were female. Their ages ranged from 10 to 18 with an average age of 15 years, 4 months. Boys, on the average, were only slightly older (15 years, 4 months) than girls (15 years, 3 months). Although the court has jurisdiction over youths from age 10 to 17, there were

five 18-year-olds in this court population because they were 17 at the time they committed their delinquent acts.

Nearly half (48%) of the 710 youths were in the care of both parents. Thirty-two percent were in the care of their mothers only compared to 12% who were cared for by their fathers. The remaining eight percent of the youths were cared for by other relatives, non-relatives, or legal guardians. Chapter 9 will include a detailed discussion of the family background of youths and the relationship between a youth's family and court experience.

The next section of this chapter describes nonresident clients of the court and compares them with residents.

NONRESIDENT DELINQUENTS *

Juveniles often commit crimes outside the area in which they live. For some jurisdictions, especially those that have major shopping and recreation centers or other attractions for adolescents, nonresident offenders may represent a high proportion of youths who appear in the juvenile court. An individual's nonresident status may pose particular problems to juvenile courts because of their treatment orientation. Often court agencies are mandated to provide supervision or other services which require the development of ongoing relationships between agencies and

[2]This section of the report is based upon a paper presented at the 1982 Western Social Science Meetings, Denver, Colorado, by Anne R. Mahoney entitled "Nonresident Delinquents: Whose Problems Are They?"

youths that may extend over several years. Contact with and control over juveniles by court workers is always problematic. It becomes even more so when the youth does not live within the court's jurisdiction.

A nonresident youth is a youth who lives outside the jurisdiction in which he or she commits an offense. In some areas such as New York City, nonresidence may entail the crossing of state as well as local boundaries. More often, it involves difference only in county or judicial district.

Residence is not always easy to determine. Not infrequently, a county's boundary line runs down the middle of a street and occasionally zigzags back and forth within a neighborhood. A youth can become a nonresident offender by burglarizing his neighbor across the street. Youths with divorced or separated parents sometimes have one parent living in one county and the other living nearby in a different county, and can become a resident or nonresident depending upon which address they give to the police.

Residence is a fluid characteristic. It is possible to move from resident status to nonresident status, or vice versa, during the course of case processing. In fact, changing one's residential status while a case is in process may be seen as a useful tactic in avoiding or minimizing sanction.

Suburban citizens sometimes give the impression that delinquency in suburban areas is largely imported from nearby cities, yet there is little empirical evidence to

show whether this is true. The proportion of nonresidents in a court's caseload has implications for the number of services a community needs for youths and the kind of control it can exercise over offenders.

In this section we will discuss some of the theoretical and practical reasons why the study of nonresident juveniles is important, and review literature on the handling of nonresident juveniles. The main portion of the section will be devoted to the results of the Suburban Youth Project's study of nonresident and resident juveniles and a discussion of the implications of the findings.

Theoretical and Practical Issues

The question of what to do with nonresident offenders raises several theoretical and practical issues. One has to do with the nonresident's organizational status. As an outsider, the nonresident youth may elicit different responses from the system than a resident and may be seen as having a less ligitimate claim on local resources. A second has to do with the extent to which nonresident status increases a youth's likelihood of either avoiding sanctions for deviant behavior or of diluting the value of the sanctions by putting them off for a long period of time. A third issue, a practical one that has considerable implications for the planning of services, involves the extent to which a court handles--or is believed to handle--substantial numbers of nonresident delinquents.

The Nonresident as Outsider

Residence can be viewed as an organizational status to which actors within the system respond when a child enters the juvenile justice system. It is suggested here that nonresidents are perceived by actors in the system as outsiders, and as a consequence as having a less legitimate claim upon local resources than residents. If our hypothesis about nonresident delinquents is correct, we would expect to find at each point in the process that nonresident youths receive the treatment that involves the lowest expenditure of local resources. At the processing stage, they would be less likely to have trials set and less likely to go to trial than residents. At the adjudication stage, they would be less likely to get a reserved adjudication or be adjudicated delinquent. Finally, nonresidents who are given a reserved adjudication or are adjudicated delinquent will be given the least expensive disposition. They will either be sent back to their home jurisdictions for supervision or given some kind of short-term sanction like a find that involves a small expenditure of local service resources. Those who need to be placed outside the home will be more likely to be committed to DOI, which is totally financed by the state, rather than being placed in a residential child care facility for which the cost is charged to the local county budget (with an eventual 80% reimbursement by the state).

Avoidance of Sanctions

Research over the past twenty years suggests that legal sanctions play an important role in preventing criminal behavior (Chambliss, 1966; Gibbs, 1972; Tittle, 1969; Jensen, 1969). The conditions most relevant are the speed and consistency of response.

Gerrkin and Gove (1975) define a system of deterrence as a communication which attempts to inform a potential offender that:

(1) If he commits a criminal act, the probability that the act will be detected by the authorities is high;

(2) Once detected there is a high probability that he will be caught, convicted, and punished; and

(3) The severity of punishment is great enough to more than offset any gain that might be achieved through the criminal act.

In Geerkin and Gove's words, a system of deterrence is "a system of communication that attempts to convey the message that, for persons who have committed a criminal act, "justice" is certain and terrible." (1975) The success of any deterrence process will be determined by the degree to which this message is successfully transmitted to the population of potential offenders. The problem for nonresidents lies with the second item, the communication that once detected, there is a high probability that the

offender will be caught, convicted and punished. To what extent does an individual lower the chances of being convicted and punished by going outside his or her home area to commit a crime?

The nonresident is processed by two courts instead of one and as a result may experience a longer time lag between offense and final disposition than residents and may experience inconsistency in treatment because courts, even within a single state, vary considerably in the handling of juveniles.

The court with the greatest interest in prosecuting the youth is probably the court in whose jurisdiction offenses have occurred. It is there that losses have been incurred and victims and witnesses live. It is there that pressure will be exerted on law enforcement officials for restitution and action. As on Assistant District Attorney said, "We're more concerned because the victim lives here. If they have questions, they will call us." (SYP, 1981:1002) These pressures and motivations are less likely to be present in the youth's county of residence and as a result the case may be prosecuted less vigorously and supervised less closely.

There may be less consistency of treatment when a child moves between two courts. Youths may get different dispositions in their home courts than they would have gotten had they remained in their offense court. Courts differ even when they are close to one another within the same state, in part because the size and nature of their

caseloads differ and in part because they are stamped by the different philosophies and personalities of their judges, lawyers, and probation officers. Cohen in 1978 described the Denver court as one of the most due process oriented juvenile courts in the country. The suburban court we studied also is, and is perceived to be, highly legalistic. Yet there are perceived to be differences. As one D.A. in our study court put it, "Kids are treated easier in Denver, partly because of our philosophical bent and partly because of the numbers game. We have more time here." (SYP, 1981:1002)

A related concern is that nonresidents may be less likely to get <u>any</u> disposition because they are more likely to fall through the cracks of the system as they move from court to court. From a labeling perspective, this may be seen as desirable because youths are less likely to be officially sanctioned and labeled. From the deterrence perspective, however, it may be seen as detrimental because it increases the uncertainty and inconsistency of the sanctioning process. Serious or violent youths may not be identified, or may be identified later than they otherwise would have been, because youths move through several courts without anyone realizing how many offenses a youth is amassing or what kind of pattern they represent.

<u>Practical Problems</u>

In addition to the theoretical issues regarding the organizational status of nonresidents and the extent to which the positive effects of sanctions are diminished for them, nonresident offenders pose several practical or management problems. One is that the number of court services needed by a juvenile justice system is in part related to the percentage of a court case load which is nonresident. Since nonresident youths in many courts are often sent back to the jurisdiction in which they live for final disposition and services, the proportion of a court's cases that are nonresident has a direct bearing on the number of services necessary to serve the court's population.

Services are often justified on the basis of the number of cases a court handles, without consideration of where the youths in the cases come from. Two courts with similar numbers of juvenile court filings could have very different service needs, for example, if one had a case load that included 5% nonresidents and the other had a case load that included 45% nonresidents. If the public perceives of the delinquency population in the jurisdiction as being essentially nonresident--a common belief in some suburban areas--then there may be a reluctance to plan for or fund services for delinquents. To the extent that this perception of imported delinquents is inaccurate, needed services for <u>resident</u> youths may remain unavailable.

In addition to complicating the planning for court services, nonresidents may deflect court time from decision making. Most decisions involving nonresidents do not result in closing a case, but rather in "passing the buck," or moving the case somewhere else. If nonresidents are more likely to fail to appear for hearings, as one might expect given the greater distance most have to travel to court, they may add disportionately to the docket.

A third practical concern is that local citizens usually expect law enforcement agencies to "do something about" local crime. They want some accountability on the part of their officials in regard to what happens to offenders who steal and damage their property. Yet once a case is moved to another jurisdiction, local officials have very little control over what happens to it. The more nonresident offenders a court has, in a sense, the less control it has over offenders and offenses, and the less accountable it can be to community citizens.

Review of Literature

In spite of the importance of the issues surrounding the handling of nonresident juvenile offenders, juvenile court studies have not generally reported on differences in the handling of nonresident and resident offenders. Most do not even mention the percent of nonresidents or give the reader information on how many there are or whether they are included in the research population. Ferster (1971) makes

reference to nonresidents in a table which summarizes the reasons given by probation officers for intake decisions. Of the 83 cases for which reasons were given, 11 or 13% listed nonresidence.

An unpublished study by Forslund (1972) compared resident and nonresident adult offenders processed by courts in Stamford, Connecticut for the years 1959 through 1961. He reported some differences between residents and nonresidents. Nonresident males were more likely than residents to be charged with "drunkenness or disorderly conduct" and "other offenses", than with "violent crimes", "other assaults", or "property crimes". Female nonresidents were more likely than resident females to be charged with "property crimes". Both male and female nonresidents were more likely than residents to be found guilty by the court, primarily because residents were more likely to have charges against them nolled. Forslund also notes the lack of research on resident and nonresident differences.

The extent of the nonresident problem in criminal courts, at least in one court, is indicated by a New York Times article (Shipp, 1981) which reported that about half the defendants indicted are from outside the borough. District Attorney Robert M. Morgenthau reported that this posed "special problems for law enforcement" because the criminal's punishment has less of a deterrent impact.

Even the Juvenile Justice Standards developed by the Institute of Judicial Administration and American Bar

Association remain silent on the topic of nonresident juveniles.

In the study described in this paper, special attention was given to nonresident youths, because of the particular focus on special problems of suburban juvenile courts. The juvenile court under study, like many suburban juvenile courts, was located close to a large metropolitan area. Location close to a city at least raises the possibility that an area will be victimized by urban youths and one of the goals of the research was to learn how much of the court population was composed of local youths and how much of it was composed of "outsiders." The next section of the paper describes the research and the results.

Research Results

In the following pages we will compare nonresidents and residents in the court and diversion program and identify some of the ways in which their processing is different and ways in which the two populations differ in regard to offenses, treatment, and family background.

Residents and Nonresidents in Court

Of the population of 710 youths who went through the juvenile court in 1980, 239 or 34% lived outside the county. The largest percentage of these nonresidents (150 or 63%) lived in Denver. Denver youths, in fact, account for 21% of the entire population of the juvenile court. The next most

populous group of nonresidents (48 or 20%) live in a county which adjoins the research county on the northeast. Eleven percent of the nonresidents (26) come from the county which adjoins the research county on the west. The other nonresidents are distributed among several Colorado counties with two coming from out of state.

Nonresidents and residents differed on several characteristics. There was a disproportionate percentage of girls who were nonresidents, and a disproportionate percentage of youths aged 15 and over.

Eighty percent of the nonresidents were referred to the D.A. from four of the county's eleven police departments. Two of these departments are in municipalities that have large shopping malls which attract adolescents from throughout the Denver metropolitan area. A third is located in a municipality that is completely within the Denver city limits and dominated by entertainment facilities, a large discount department store, and high rise "adult only" apartment complexes. The fourth department, the County Sheriff's Department, polices the large unincorporated areas of the county.

Nonresidents differed from residents on several characteristics, but two--offenses and relationship between youth and victim--are most pronounced and of particular interest here. Even these differences are not large.

Offenses. Nonresidents were more likely to be charged with theft than residents. Almost half of the nonresidents

(45%) were arrested for this offense compared to 30% of the residents. Nonresidents were also slightly more likely than residents to be charged with robbery (5% compared to 1%), joyriding (6% compared to 1%), and forgery (4% compared to 1%).

Residents, on the other hand, were more likely than nonresidents to be charged with burglary (26% compared to 14%), assault (9% compared to 2.5%), criminal mischief (8% compared to 5%), and drug offenses (4% compared to 0.4%).

Of the 676 police reports available to the study, eleven mentioned the youth's use or possession of a gun and 23 mentioned the presence of some other kind of weapon. Overall, the proportion of resident and nonresident youths who had weapons was about the same. This finding of no difference is especially interesting given the perception on the part of some suburban citizens that violent offenders are more likely to come from outside the suburban area.

The pattern of adjudicated offenses is similar to the pattern for charged offenses. On only five offenses was there a difference of 5% or more between residents and nonresidents in regard to the charges upon which they were adjudicated. Residents were 7% more likely than nonresidents to be adjudicated on burglary, and 5% more likely than nonresidents to be adjudicated on assault and criminal mischief. Nonresidents were 9% more likely than residents bo be adjudicated on theft and 6% more likely to be adjudicated on criminal conspiracy. Overall, residents

were slightly more likely to be adjudicated on felonies than nonresidents (53% compared to 46%).

The pattern of both charged and adjudicated offenses suggests that the nonresidents' crime is somewhat more directed toward commercial establishments than the offenses of residents. The time at which they committed their offenses provides further support for this. Almost half (45%) of the nonresidents committed their offenses during after-school hours (4:00 p.m. through 9:00 p.m.) compared to 30% of the residents.

Victims. Nonresidents were much more likely than residents to victimize businesses (55% compared to 26%). Their second and third most common victims were adult males (13%) and residences (11%). Their relationship to their victim was usually that of stranger (86%). Residents, on the other hand, were more likely to victimize someone they knew--an acquaintance (23%), a neighbor (12%), an employer or former employer (6%), or a relative (3%). Only 49% of their victims were strangers. The residents were equally likely to victimize a residence (26%) or a business (26%), and somewhat less likely to victimize an adult male (13%). Thus residents and nonresidents selected the same kinds of victims--businesses, residences, and adult males, but the relative frequency of their victimization differed.

In light of the present concern about and fear of violent delinquency, it is important to note that the most frequent victims of both nonresidents and residents were

places, not persons. Less than a third of the offenses involved persons as victims--32% of the offenses of residents and 30% of the offenses of nonresidents. There is no evidence here to support the belief, occasionally expressed by residents of suburban communities, that violent youths are flowing into their communities from nearby cities. The crime they are importing is more likely to be property crime, shoplifting encouraged by the presence of large retail centers, rather than serious crime against persons.

Case Processing and Case Outcome. Earlier it was hypothesized that at each stage of the process nonresident youths would be more likely than residents to be given the treatment that cost the least local resources. This appeared to be the case. Eleven percent of nonresidents had their cases set for trial compared to 16% of residents and no nonresidents actually went to trial, whereas 7 residents did.

Most nonresidents were carried by the court only through the adjudication stage and were referred back to their home jurisdictions for final disposition and supervision. In fact, for almost half of the nonresidents (46%), their "adjudication" involved a change of venue rather than a resolution of the case. To get a better sense of whether nonresidents were treated differently from residents, we excluded the 15 residents and 110 nonresidents who were granted a change of venue and looked just at the

youths who were adjudicated in the court. Table 5 shows that the nonresidents were considerably more likely to have their case dismissed or have a case still pending than were the residents. This higher dismissal rate supports the thesis that nonresidents are less likely than residents to be adjudicated delinquent or to be given reserved adjudication. The proportion of youths adjudicated delinquent compared to being given a reserved adjudication was the same within both groups--that is, 38% of the residents were adjudicated delinquent and 38% received a reserved adjudication, while 23% of the nonresidents were adjudicated delinquent and 22% received a reserved adjudication. The difference was in the lower frequency with which nonresidents got either adjudication.

TABLE 5-2

TYPE OF ADJUDICATION, EXCLUDING CHANGE OF VENUE FOR RESIDENTS AND NONRESIDENTS

	Resident	Nonresident
Plea	38%	23%
Reserve	38%	22%
Dismiss	16%	34%
Trial	2%	0
Pending	7%	22%
Total	454	128

As Table 5-2 shows, when the change of venue cases were removed from the analysis, nonresidents were more likely to receive dismissals than residents.

We suspected there would be a high dismissal rate among nonresidents because dismissals are sometimes used by the D.A. to clear the docket of cases in which youths have moved away or have cases pending in other jurisdictions, and it seemed likely that a substantial number of nonresidents would fall in those or similar categories. The high percentage of dismissals among nonresidents provides some empirical evidence that this is the case.

Our hypothesis that nonresidents would be more likely to receive the least costly disposition generally was supported when we looked at individual dispositions as Table

5-3 shows.

TABLE 5-3

DISPOSITIONS OF RESIDENT AND NONRESIDENT YOUTHS WHO WERE ADJUDICATED DELINQUENT

Dispositions	Resident	Nonresident
Community Service	3%	4%
Fine	6%	18%
Probation	56%	43%
Detention Center	13%	7%
County Jail	4%	7%
Out-of-Home	13%	7%
Department of Institutions	5%	14%
	(171)	(28)

Nonresidents were more likely than residents to be given fines and commitment to the Department of Institutions, both in keeping with the hypothesis. Fines in particular provide a way for a youth to be dealt with quickly by the court and for the youth to return to the jurisdiction through payment of the fine some portion of the cost that the county expended on his behalf. Nonresidents were less likely to get probation or out-of-home placement,

again in keeping with the hypothesis. Although probation officers are state employees, they work--and see themselves as working--for the jurisdiction in which they are located.

Movers and Nonmovers. We thought perhaps youths might use fluidity of residence to their advantage, moving to the home of the other parent or a relative in order to move a juvenile court case into whichever court they felt would be most advantageous to them.

There was occasional reference to this in our field observations. One boy, for example, said that after he had robbed a restaurant in the county, someone suggested to him that he go live with relatives in an adjoining county so that when his hearing came up he could claim that county as his home and receive his disposition there. One of the court workers told us afterward that the other county is considered to be more lenient than the study county. (SYP, 1980:434) We tried to get empirical evidence on this from court records by including an item in the codebook that asked if there was any indication that a youth moved out of the court's jurisdiction before disposition. Thirty-six, or about 5% of all youths, did move while their cases were pending. For the most part, they did not appear to differ greatly from nonmovers. They had a similar number of petitions in their files and were slightly less likely to be accused of felonies (42% compared to 57%). Movers were less likely to appear with an attorney than nonmovers (49% compared to 61%).

Movers did receive different adjudications than nonmovers, however. Youths who moved away during the time their case was in the court were significantly more likely to receive a dismissal than nonmovers (47% compared to 16%). The use of dismissals to clear the docket of the cases of youths who had moved was noted on several occasions during court observation. The D.A. usually accompanied his request for a dismissal by an explanation that a youth had moved out of the jurisdiction (usually out of state) and that the charges were minor. (SYP, 1980:368, 378) There was a real hesitation to do this if the charges were serious and in several cases involving youths who were going to school out of state or living with an out of state parent, hearings were set for times when the youths would be back in the jurisdiction. Only 11% of the youths who moved were given a change of venue, a lower percentage than among nonmovers (20%). The percentage of movers who were adjudicated as delinquent children did not differ much from the percentage of nonmovers (28% compared to 31%), but the percentage receiving reserved adjudication did (11% compared to 32%). It may be that youths who would have been given a reserved adjudication if they had remained in the jurisdiction were dismissed instead when they moved away.

Residents and Nonresidents in Diversion

A quarter of the 453 youths in the diversion program (101 youths) were not residents of the county. The pattern

of differences between residents and nonresidents is not exactly the same for diversion as it is for court. In both there is a disproportionate percentage of girls among the nonresidents, but diversion, in contrast to court, does not have a disproportionate percentage of older youths among the nonresidents.

The distribution of offenses tend to be similar in both diversion and court populations. Nonresidents are most likely to be charged with theft (65% compared to 41%) while residents are more likely to be charged with drugs (5% compared to 0%) and assault (10% compared to 3%). They are also 4% less likely to use a weapon.

Like the court nonresidents, the diversion nonresidents are more likely than residents to victimize businesses (62% compared to 35%). Residents in contrast are more likely to victimize female juveniles (9% compared to 1%), residences (11% compared to 6%), and schools (8% compared to 1%).

There is less difference between the treatment of nonresidents and residents in diversion than there is in the court. Nonresidents are not routinely referred back to their home county for treatment as the nonresident youths in court are. However, the nonresidents do include a somewhat higher percentage of youths who are returned as inappropriate (37% compared to 26%). Nonresidents are returned for much the same reasons as the residents. Nine percent failed to respond to the request to come into diversion for an intake interview, compared to 5% of the

residents. Eight percent could not be reached compared to 2% of the residents. Only 4% of the nonresidents who were contacted were unwilling to participate compared to 7% of the residents.

Nonresidents who are referred to diversion and agree to participate appear from court records to be handled in much the same way as residents. However, nonresidents are somewhat less likely than residents to be ordered to pay restitution, give time for community service, or participate in therapy. Both are equally likely (98%) to be put on some kind of supervision.

There is some evidence that nonresidents in diversion have less contact with counselors than residents. On a series of background questions on family and school factors which asked whether certain items were mentioned anywhere in the child's file, there was a consistently higher percentage of "yes" responses for residents, regardless of the nature of the item. This suggests that there may have been more contact with them, and generally more information available about them. Overall, nonresidents had fewer meetings with their diversion counselors than the residents. Among youths who had at least one meeting with a counselor, 64% of nonresident and 89% of residents had two or more meetings and 26% of the nonresidents and 39% of the residents had eight or more meetings. Contrary to what we might have expected because of the longer distance traveled, nonresidents and residents were equally likely to appear for

scheduled meetings. Seventy-one percent of the nonresidents and 69% of the residents attended all meetings.

There was no difference between residents and nonresidents in regard to whether they appeared at intake with one or both parents. Nonresidents, however, were less likely to have intact families (37% compared to 53%).

There is an association between moving out of the jurisdiction and being returned as inappropriate. For 44 youths, there was some indication in the file that the youth moved out of the court's jurisdiction while on diversion. Of these 44, 57% were returned compared to 26% of the youths who did not move.

Discussion of Field Observations

A compilation of references to nonresidents in the field notes, primarily during court observation, indicated that there are some additional dimensions of the nonresident status that bear some consideration.

There is no record of ethnic status or race in any of the court records so it was not possible to code these variables for quantitative analysis. During field observation, however, we did record information on ethnicity as well as class and economic status as it was discernable from dress or request for a public defender. In all, we observed 72 incidents in which nonresidents were involved. Seventeen or 24% of these incidents involved a youth who was Black or Hispanic. (SYP, 1980-81) Although we do not yet

have a count of the percentage of all cases we observed that involved minority youths, our impressionistic sense is that it is considerably lower than this. This would suggest that the nonresidents who come into the court are more likely than the residents to be of minority status.

Most of the cases involving nonresidents that we observed involved a plea of guilty and a transfer of the case to a youth's home county for disposition. A few however, raised special issues. One involved a twelve year old with an extensive record of criminal behavior dating back three years in both Denver and the jurisdiction under study. We observed the disposition hearing in which both the District Attorney and the probation officer recommended commitment to the state's Department of Institutions. The father wanted the boy to come with him to live in another state where he said he had work and was living with a woman who was about to have his child, (SYP, 1980:151) In a case like this, court officials must weigh the child's needs for extensive treatment, the probability that the plan to let the child move away with his father might actually yield positive results, and the appeal of being able to transfer a youth with the potential for long-term treatment at the rate of $1400 a month into another jurisdiction. In a time of shrinking budgets, the attraction of the third alternative is not inconsiderable. Some youths, because their residence shifts as they move from relative to relative, may be shuttled between jurisdictions for months or years, like hot

potatoes that no system wants to be responsible for. Likewise, court agencies are not eager to take over responsibility and expenses for treatment of a child who does not live within their jurisdiction. In one case a girl lived only two blocks from the county boundary and her private attorney asked if she could be supervised by the study county rather than Denver because it was much more convenient for her. The court and probation officer took the position that since she was a Denver resident, any services should come from Denver and she was transferred back to the Denver court. (SYP, 1980:308)

Some youths are caught in a web of jurisdictions so complex that it becomes unclear where they do belong. A youth can be sentenced by one court and in the custody of a county social services department, yet be in placement in a group home that is located in another jurisdiction, and commit an offense in a third. A few youths live on their own or have been thrown out by their parents. One boy from another state who was said to be in trouble in several Denver jurisdictions, was picked up shoplifting food. He was on his own in Denver and lived with a woman who had sons his age. When his parents were called, they said they wanted nothing to do with him and didn't care what happened to him. (SYP, 1980:554)

Implications

Analysis of information from the court records suggests that, at least in this court, there are some differences between nonresidents and residents, especially in regard to offenses, processing, and extensiveness of treatment.

In the first part of this paper I discussed several concerns regarding the handling of nonresident youths. One had to do with a court's tendency to take care of its own and resist expanding funds on youths who lived in another jurisdiction. A second involved the importance of providing speedy and consistent punishment or treatment. The results here suggest that for at least a handful of youths, nonresident status decreases the likelihood of quick, consistent response. In part, this occurs because of the practical problems of handling nonresidents. Courts have limited resources and are loath to see them dispensed on youths who are some other court's responsibility. They also create a drain on the system to the extent that they take longer to process and more time to track down than residents. One thing that this paper does show clearly, however, is that overall the offenses of the nonresidents are not markedly different from those of the residents. What differences occur, refute the notion that nonresidents are violent, serious offenders whereas residents are not.

Violent offenders--whether resident or nonresident--are of particular concern to most citizens. The next section is a discussion of their characteristics and how they are

handled in this court.

VIOLENT DELINQUENTS*

Violent crime, especially violent crime by juveniles, has been a growing concern in America for several years (Press, 1981). Concern about the perceived increase in violent juvenile crime has recently led to the designation of violent juvenile crime as a priority for the 1980's by the Office of Juvenile Justice and Delinquency Prevention.

This section on violent delinquents will focus first on a view of violent delinquency from a national perspective, and secondly on the results of a study comparing violent and nonviolent youths utilizing the 1980 court record study of 710 children who were processed through the Juvenile Court in Suburban County.

National Perspective on Violent Delinquency

Incidence

Murder, rape, robbery, and aggravated assault, committed by youths between the ages of 13 and 20, increased approximately 293% from 1960 to 1975 (U.S. Department of Justice, 1980: Vol II:77). Yet in 1977, the Federal Bureau

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[3]Portions of this section of the report are based upon a paper entitled "The Violent Juvenile Offender: A Framework for Sentencing Policy" by Gary Corbett, prepared in partial fulfillment of requirements for a degree in the Master of Public Administration Program at the University of Denver, March 1982.

of Investigation reported that of the total arrests of offenders nationwide (1,826,129) between the ages of 11 and 17, only 4.3% (79,736) were violent representing approximately 1% of all criminals arrested, adult and juvenile (U.S. Department of Justice, 1980: Vol II:77,86). This small percentage of juveniles, however, accounted for a full 50% of the estimated $10 billion annual cost of juvenile crime (U.S. Department of Justice 1980: Vol IV:58). In general, a violent few account for a disproportionate percentage of violent offenses by juveniles.

Definitions

The Uniform Crime Reports, published by the Federal Bureau of Investigation, defines violent crime as homicide, rape, aggravated assault, and robbery. The largest stumbling blocks in any study of violence are twofold: 1) defining the meaning of violence, and, 2) sorting out violent from nonviolent offenders.

Most definitions focus on the use of physical force or threat against persons rather than property, but, because acts of force or threat differ in degree and severity, a clearcut definition is often elusive. For example, a theft at gunpoint from a liquor store is clearly an aggravated robbery. So may be the theft of lunch money on a school playground.

A national definition has not been formulated. Various studies measuring the prevalence of violence have used

different definitions of "violent" or "serious" delinquency. Comparative studies are difficult. A survey of the literature reveals a continuing debate about exactly which juveniles are "violent", which are "serious", and what criteria should be applied to make the distinctions. Juvenile justice definitions of serious offenders differ significantly from jurisdiction to jurisdiction. The following definitions have been adopted for the research and development program by OJJDP in cooperation with the National Council on Crime and Delinquency (Fagan, 1981).

- Violent - the offenses of first and second degree homicide, kidnap, forcible rape, sodomy, aggravated assault (either with a weapon or resulting in serious bodily injury), armed robbery, and arson of an occupied structure.

- Chronic - an adjudicated violent instant offense and at least one prior adjudication or conviction for a violent offense other than first degree murder of a non-family member. (For first degree murder of a non-family member, no prior history is required.)

Policy Implications

Defining precisely which youths are serious offenders and which are not is a long standing problem in the juvenile justice system that has significant policy implications, especially regarding consistency and uniformity issues.

> It...is not that juvenile courts are too lenient, but that they are too lenient

> towards the wrong people...In their desire to "help" troubled youngsters, they spend the bulk of their time on juveniles charged with offenses that would not be crimes at all if committed by adults...As a result little time or energy is left to deal with those juveniles who commit serious crimes (Silberman 1978:312).

Silberman argues further that public policy towards youthful offenders is inherently ambivalent. The expectation to nurture and protect the young often conflicts with the need to protect the community from misbehaving youth.

The tension created by the dual status of the juvenile offender discussed in Chapter 1 of this report is nowhere more acute than in the court's efforts to cope with serious or violent offenders.

Violent Delinquents in Suburban Court

In 1980, the county law enforcement agencies arrested 11,405 persons, adult and juvenile, for index crimes. Arrests for violent crimes totaled 553 or 4.8% of the total arrested for index crimes. (Colorado Bureau of Investigation, 1980:6-7). The breakdown is as follows:

Murder	4
Rape	54
Robbery	193
Agg. Assault	302

Juveniles accounted for approximately 3,450 arrests for index crimes or 30% of the total. (Colorado Bureau of Investigation, 1980:45,46). Well over half of these arrests

were never referred to the District Attorney for filing.

Our description of violent delinquents includes the comparison of the personal + family + school and offense characteristics of violent and nonviolent delinquents, and a discussion of the court's reaction to them.

Personal Characteristics and Family and School Background

The percentage of males is similar for violent and nonviolent offenders. Of the violent offenders in this study, 87% (7) were male, compared to 82% of the nonviolent offenders. Victims of violent offenders also tended to be male--62% (50). Only in the category of sexual assault did female victims outnumber male victims; 80% (12) were female. Males were the victims in 72% (35) of the assaults and in 70% (12) of the robberies.

Family background does not differ significantly between the two groups. Roughly the same percentage of violent and nonviolent offenders live with someone other than a parent (9% of violent offenders and 7% of nonviolent offenders), although the nonviolent offenders are slightly more likely than the others to live with both parents (49% compared to 40%).

Extensive family information was collected from the dispositional reports prepared on 197 youths (28 violent offenders and 169 nonviolent offenders). This information showed some slight but inconsistent differences in regard to family structure among youths upon whom predisposition

reports were prepared. Youths brought into court on nonviolent crimes were more likely than violent offenders to live with both parents (44% compared to 25%), although when families were considered as intact (whether stepfamily or natural family) there was little difference between the two groups. Fifty-five percent of the nonviolent offenders upon whom predisposition reports were prepared lived in either an intact natural family or an intact stepfamily compared to 50% of violent offenders. The violent offenders were somewhat more likely to live in an unstable intact family (4% compared to less than 1%) or have no family (7% compared to 1%), but the absolute numbers are very small.

On some items the predisposition reports mentioned more negative family factors about the nonviolent offenders than the violent offenders. For example, 25% of the reports on nonviolent youths mentioned that parents were unable to control the child, whereas only 14% of the reports on the violent offenders mentioned the inability to control. Twenty-one percent mentioned a history of mental illness among the nonviolent offenders compared to 18% among the violent offenders. Sixteen percent of the reports on nonviolent offenders mentioned previous out-of-home placement but only 7% mentioned that factor in regard to violent offenders. Thirty-seven percent of the reports on the nonviolent mentioned conflict between parents while 32% of the reports on the violent offenders mentioned such conflict. Even in regard to an item regarding physical or

sexual abuse in the family, a factor that might be expected to be more noticeable for violent offenders, there was no difference. Abuse was reported in 25% of the reports on violent offenders and 23% of the reports on nonviolent offenders.

Interviews with probation officers support the notion that, while the more memorable cases involving violent youths are from clearly dysfunctional families, the role of the family is a strong factor in the development of any chronic juvenile offender and does not stand out as especially noticeable in the backgrounds of the youths charged with violent offenses in this court (personal interview, 1981).

School factors also do not seem to differentiate the two groups. Predisposition reports on 71% of the nonviolent offenders and 64% of the violent offenders mentioned a history of school problems. It is interesting in light of the results of this study on gifted delinquents that 18% of the reports on youths accused of violent offenses mentioned that the youth was intelligent, articulate, or creative while reports on the nonviolent youths mentioned these factors in only 11% of the cases. The numbers are too small to be meaningful, but the small difference raises questions about whether youths accused of violent offenses may be expressing frustration that results from unrecognized or unappreciated giftedness. It is certainly a question that merits some attention by researchers interested in gifted

delinquents.

Offense and Prior Record Characteristics

Violent offenses, as defined by the Uniform Crime Reports, range from schoolyard fistfights to armed robbery. The bulk of the violent offenses recorded for the population in this juvenile court were assaults that posed no serious threats to life. Forty-nine (60%) of the 81 violent offenses were misdemeanors. Few of the youths accused of violent offenses for whom prior record was available had any prior record of violence listed. Only a third of the violent offenders had any kind of prior record at all and only 11% had any previous record of an offense against a person. Over a half of the nonviolent offenders upon whom information was available had a previous record but only 5% had any record of previous offenses against the person. It may be that the category of violent offender needs to be defined more specifically than it has been in this analysis. Other criteria may need to be used than simply whether a person has been arrested for rape, robbery, assault, or murder.

Court Response to Violent Offenders

After a petition is sustained, the Juvenile Judge may ask the probation department to prepare a dispositional report. The dispositional report is requested in only those cases which appear to be a particular problem because of the

seriousness of the offense, the child's prior delinquent history, the potential dangerousness of the child, or the likelihood that the child will need services that will require an intensive evaluation.

The frequency of requests for a dispositional report, therefore, serves as a barometer for the number of children considered to be particularly problematic. While not infallible, it gives some indication of the extent of the more seriously troubled or troubling cases.

In 1980, the judge requested dispositional reports for 27% (169) of the 627 nonviolent offenders, and 35% (28) of the 81 violent offenders. The slightly greater frequency suggests that perhaps a higher percentage of the violent offenders were seen as problematic. But perhaps the more important finding is that only a third were seen as sufficiently problematic to warrant a predisposition report. Of all 710 youths who entered the system in 1980, only 4% (28) were accused of a violent offense and also investigated for a disposition report.

Of those investigated, an even smaller percentage were described in the report as dangerous to self or others. Six of the youths arrested for violent offenses (21%) were described as dangerous compared to 11% (18) of the youths arrested for nonviolent offenses. Although more of the violent offenders were described as dangerous, it is interesting that 11% of the youths arrested for nonviolent offenses were also described as dangerous. Clearly arrest

for an offense against the person is not an adequate indicator of dangerousness.

Violent and nonviolent offenders were compared in terms of the kind of adjudication and disposition they received from the court. Their adjudications were very similar except for two categories. The nonviolent offenders were slightly more likely to receive a reserved adjudication than the violent offenders (29% compared to 22%) and the violent offenders were more likely to go to trial. Four of the seven trials during the year involved youths accused of violent offenses. Three of the four resulted in findings of guilty and one resulted in a verdict of not guilty. As a result, 4% of the violent offenders were found guilty at trial and 1% was found not guilty. Two of the nonviolent youths were found not guilty at trial and one was found guilty, but these verdicts made up less than .00% of the adjudications of nonviolent youths.

Dispositions between the two groups were somewhat different, but it was difficult to explain why. The violent offenders were less likely than the others to get probation (38% compared to 58%). They were more likely to be given a short period of incarceration in the youth detention center or the county jail and they were somewhat less likely to be placed outside the home in either out-of-home placement or Department of Institutions (16% compared to 20%). The fact that they were not placed outside the home in substantially larger percentages than violent offenders suggests that they

were not perceived by the court as being more problematic than the others.

It is hard to know what to make of these results regarding the youths we have classified as "violent offenders". It is clear that a better definition is needed than simply offense. In general, we were not able to identify any clear indicators in the court records that would help isolate a group of "violent" youths. More work needs to be done with this data set and with data sets from other courts to try to gain a better understanding of how to identify "violent" offenders.

WHO DOESN´T GO TO COURT?

The juvenile court is at the end of a funnel. Its population is affected not only by the population of youths in the community and the nature of their behavior, but also by the availability and intake policies of other youth-serving agencies. Suburban County has a variety of alternatives to formal processing of juveniles who get in trouble. For the most part they have low visibility to the formal system and the community in general and are utilized before the youth is ever brought to the attention of the District Attorney. A few alternatives to formal court processing remain, however, after a police report on a child reaches the District Attorney´s desk.

The most frequently used alternative is "DA level" diversion. Although the Diversion Program is technically

not part of the formal machinery of the court, it is organizationally a part of the system because of its location within the DA's office. It was included in our study and information is available on all 452 youths who participated in the program at the DA level during 1980.

This section includes (1) a description of the population of juveniles in the diversion program during 1980--where they come from, their offenses, and their characteristics; (2) what distinguishes youths who were originally referred to diversion but then "returned" for court filing from youths who successfully completed the diversion program; (3) a comparison of youths from different parts of the county, and (4) what factors are associated with the DA's decision to send a youth to diversion or court.

Description of Diversion Population

Where they come from.

Over a third (171 or 38%) of the youths who ended up in Diversion were referred by the Aurora police department, which has interesting implications in light of Aurora's movement toward the use of municipal courts to handle minor juvenile offenders. The high number of referrals from this municipality is due in part to the location in the municipality of two of the largest shopping centers in the Denver metropolitan area. Next to Aurora, the most frequent

number of youths in Diversion were referred by the County Sheriff's Department. A fourth (113) of the youths came from the police department in Englewood, which like Aurora, has a major shopping center. Youths often committed their offenses outside the municipalities in which they lived. The largest group of youths, 156 or 35%, lived in Aurora. A substantial number of youths in Diversion (16%) lived in Denver.

What do they do?

Like youths who went to court, youths in the Diversion Program were most likely to have theft (46%) or burglary (13%) as the most serious charge against them, although diversion youths were most likely to have been arrested for theft, whereas court youths were most likely to have been arrested for burglary. Other frequent crimes were criminal mischief (9%) and assault (9%). Their other offenses ranged widely through the criminal code, mostly in the misdemeanor classification, although 27% were arrested for felonies. Several of the youths had more than one charge filed against them. Of the 364 youths who had police reports in their files, 15 or 4% had more than one report. In 97 percent of the cases the district attorney indicated in the youth's record that if the child did not stay in diversion he would file the case in court.

Over half (213) of the 413 youths referred to diversion upon whom information was available committed their offense

with at least one other person, usually a friend of the same sex. In the 383 cases in which information was available on victims, 41% were businesses. The next most frequent victim was an adult male (49 or 13%), followed by residences (38 or 10%), female juveniles (27 or 7%), schools (25 or 7%) and male juveniles (22 or 6%). A few of the offenses involved weapons although the DA usually regarded the use of a weapon as a reason to send a child to court rather than to diversion. In seven cases the youth's co-participant used a weapon. Eleven of the youths themselves used guns, four used rocks, three used knives, two used sticks and nine used a variety of other weapons. Youths who were referred to diversion did not necessarily play a minor role in the offenses they engaged in with others. Of the 200 for whom we could ascertain a role in the offenses, 36 or 18% were classified as playing the dominant role. Most of the others (114 or 57%) were classified as playing equal roles.

Most of the police reports on youths indicated that there was an eyewitness to their offense. Of the 371 upon which information was available, 309 or 83% had at least one eyewitness; 37 or 10% had three or more eyewitnesses. Most of the offenses were perpetrated against strangers (233 or 64%).

Prior Records.

A fair number of the diversion youths had records of other earlier offenses in their files. Of the 369 upon whom

prior record information was available, 63 or 17% had prior records. A handful of the cases (12) had had prior property felonies; but none of the diversion youths had prior records of personal felonies. A few youths had several incidents on their record. Ten had three or more, and one had eight. Several of the youths had come to the attention of the court at an early age. One child was eight years old on his first contact, three were nine, four were ten, four were eleven, and ten were twelve years of age. In addition to the child's formal record, diversion counselors noted additional offenses that the child told them about that had not come to the attention of the courts. Additional offenses were reported by 124 or a third of the youths upon whom information was available.

Characteristics of Diversion Youths.

There were 452 youths who were referred to the DA's Juvenile Diversion Program in 1980 at the DA level. Of these 344 or 76% were male. Almost two-thirds of the youths (64% of the 425 upon whom we have family information) lived with both parents. An additional 24% lived with their mother and 6% lived with their father. Only 25 or 6% of the 425 did not live with at least one parent. The written reports on the youths show a history of family and school difficulties. Over half have evidence of school problems in their files.

Youths could appear at the Diversion Intake meeting with a lawyer, but few did. The records of only six showed that an attorney was present at intake. Most children at intake appeared with one or both parents. Almost half appeared with their mother only, about a quarter appeared with their father only, and another quarter appeared with both parents. Three children appeared at the intake alone.

The programs designed for the youths included a variety of approaches. Of the 341 youths who participated for some period of time in the diversion program, 34% were ordered to pay restitution to the victim; 7% were ordered into some kind of therapy, such as drug or alcohol groups, family outpatient therapy, or private therapy. Ninety-nine percent were placed under some term of supervision, and, in fact, youths who were referred to diversion underwent fairly intensive supervision. Over 68% (310) had three or more meetings with a counselor. Of these, 139 or 45% met with their counselor eight or more times.

The usual period of supervision is six months. In 1982 when the records of youths who entered the program in 1980 were coded, the majority of youths who participated in the program had completed their supervision and had had their case closed.

Comparison of Youths Who Remain in Diversion With Those Who Did Not.

Not everyone wanted to be diverted. Of the 452 cases referred to diversion, 130 or 29% were eventually returned

to the DA as inappropriate for the diversion program. Most of these were returned soon after referral, often without the youth ever having a meeting with a diversion counselor. Nineteen percent (25) refused to come in for an intake interview and an additional 14 or 11% could not be contacted by the diversion counselor. Another 60 youths had only one meeting with the counselor. Most of these youths either refused to participate (27 or 21%) or denied the charges (16 or 12%). Admission of the charges was a requirement of the program and individuals who did not feel comfortable doing this were sent back to the District Attorney. There was very little information in the files of most of the youths who were returned and usually no police reports. Most of the missing values in the diversion study come from the returned cases.

Youths were also returned because they had pending charges against them (17%) and five youths were returned because they turned out to be currently on probation. A handful of the youths who were returned stayed in the diversion program for a considerable period of time before they were returned and had numerous meetings with their counselors. Most of these youths were eventually returned because they got in trouble while in diversion and accumulated other charges against them.

A comparison of youths who remained in diversion with those who did not reveals some similarities and differences.

Boys and girls were about equally likely to remain in diversion. Seventy-two percent of the boys compared to 69% of the girls remained. There was no clear pattern by age in regard to whether a youth remained in diversion or not. A 15-year-old was most likely to stay in the program (83%) whereas a 16-year-old was least likely to stay (61%).

There was considerable variation in return rate by municipality. Only 61% of the Aurora youths and 63% of the nonresidents remained compared to 74% of the youths in Englewood and 89% of the youths in Littleton.

The offense with which a child is charged is not associated with a child's remaining in diversion, nor is the classification of the offense as a misdemeanor or felony, nor the number of counts against the child. The youth's prior record, whether measured by the kind of offense or the number of incidents, also shows little association with his remaining in diversion.

On the other hand, a youth's attitude at arrest seemed to bear some relationship to his ability to stay in diversion. A youth who was reported as being cooperative was more likely to stay in diversion than one for whom this was not mentioned (96% compared to 80%). Also, youths whose parents were perceived as being cooperative at the time of arrest were more likely to stay in the program (97% compared to 80%).

Not surprisingly, the more meetings with the diversion counselor a youth missed, the less likely he or she was to

remain in diversion. Fifty-six percent of the youths who missed three or more meetings were returned compared to 44% of those who missed two, 43% of those who missed one, and 19% of those who missed none. However, it is important to note that even of the youths who missed three or more meetings, 44% remained in the program.

The first intake meeting was important in determining whether the child remained in diversion. The more family members a child had with him at intake, the more likely he or she was to stay. Ninety-eight percent of the youths who appeared at intake with both parents or a combination of relatives and parents remained, while 79% of the youths accompanied by one parent remained, 67% of the youths accompanied by a non-parent such as a relative or legal guardian remained, and 67% of the youths who come with no one remained. Only 4% of the children who were not present themselves stayed in the program.

There is an association between moving out of the jurisdiction and being returned as inappropriate. For 44 youths there was some indication in the file that the youth moved out of the court's jurisdiction while on diversion. Of these 44, 57% were returned compared to 26% of the youths who did not move.

Family Factors

From the frequencies reported here, it appears that family factors are associated with a child's opportunity to

remain in the diversion program. More extensive analysis needs to be done to trace the relationship more precisely.

Youths who lived with both parents were more likely to stay in diversion than those who lived with only one parent (81% compared to 70%). Youths for whom there was some evidence of sexual or physical abuse or a family history of dependency and neglect petitions were somewhat more likely to be returned than youths for whom there was no indication of these problems. Twenty-six percent of the youths with some mention of abuse in their record and 25% of the youths with a delinquency or neglect petitions in their family background were returned compared to 14% of youths with no mention of these problems in their families.

Youths whose families--either one or both parents--were perceived as supportive of the youth were more likely to stay in diversion. The pattern is consistent even though the percentage differences are small. Eighty-eight percent of youths with supportive parents remained compared to 84% of those without supportive parents. Likewise, youths whose parents were perceived as willing to cooperate with the court and agencies to help the child had a better chance of staying in diversion--94% compared to 81%. On the other side, only 75% of the youths whose parents were perceived as being negative about the child remained in diversion compared to 80% of the youths for whom a negative attitude was not mentioned, and only 75% of the youths whose parents were perceived as being unable to handle them stayed in

diversion compared to 86% for whom this was not mentioned.

In summary, 130 of the 452 youths referred to the diversion program did not remain in the program. Nearly a third of them (30%) did not even have an initial interview. An additional 21% said they were unwilling to participate and 12% more denied the charges against them. A few variables appeared through analysis of simple cross tabulations to be associated with staying in diversion. These included (1) residence with both parents and appearance at intake with both parents or parents and relatives, (2) families, especially mothers, perceived as supportive of the child and cooperative with the system and (3) residence in Littleton and Englewood rather than Aurora.

Comparison of Youths from Different Parts of the County

There is a general impression among court professionals that youths from the eastern end of the county have more problems and more difficult family situations than youths from other areas. In an effort to test this thesis, a comparison was made between youths who lived in the east (Aurora) and other youths in the diversion program.

A number of differences were found between the two groups of youths. Although in most cases the differences were not large and were not statistically significant, the consistency of the general pattern supported the impression that youths from different ends of the county differ in

their need for services.

Youths from the east who come into diversion tend to be younger. Forty-nine percent were under 15 years of age compared to 37% of youths from other parts of the county.

Their family situations appear more problematic. They are less likely to be in the care of both parents (61% compared to 71%), and are less likely to come from intact families (47% compared to 57%). They also are more likely to have negative family factors mentioned in their files, and less likely to have positive family factors mentioned. There were 11 family items in the study which could be coded as "mention" or "no mention" in a child's file. Of these 11, all negative items were mentioned more frequently for youths from the eastern part of the county, and all positive items were mentioned more frequently for youths from other parts of the county. Eight of the 11 items showed more than a 5% difference between eastern youths and the others. Table 5-2 shows the items and the difference between the two groups. Conflict with parents, criminal activity of family members, abuse, dependence and neglect petitions, and a family's inability to control the child were mentioned at least 5% more often for eastern cases than others. Positive family factor--good relationships with parents, family supportive of the child, and family willing to cooperate with the court to help the child were mentioned at least 5% less often for eastern youths.

TABLE 5-4

PERCENTAGE DIFFERENCE BETWEEN YOUTHS FROM THE EASTERN SECTION OF THE COUNTY AND OTHER PARTS OF THE COUNTY IN REGARD TO FAMILY FACTORS

Family Factors	%Difference
Previous Out-of-Home Placement	+4.5
Conflict with Parents	+5.9
Mental Illness, Drug or Alcohol Problem of Family Member	+4.6
Criminal Activity or Jail of Family Member	+5.3
Physical or Social Abuse within Family	+10.9
Dependency/Neglect Petitions in Family	+5.4
Family is Negative About Child	+1.2
Family Unable to Control Child	+5.3
Good Relationships with Parents	-8.6
Family Supportive of Child	-5.7
Family Willing to Cooperate with Court to Help Child	-8.5

The situation is similar for school and peers. Three items allow for mention of positive or negative school factors and one for mention of undesirable peers. Again, positive factors tend to be less frequently attributed to eastern youths while negative factors are more frequently attributed to other youths.

TABLE 5-5

PERCENTAGE DIFFERENCE BETWEEN YOUTHS FROM THE EASTERN SECTION OF THE COUNTY AND OTHER PARTS OF THE COUNTY IN REGARD TO SCHOOL AND PEERS

Factors	%Difference
History of School Problems	+11.5
Intelligent/Articulate or Creative	-2.7
Positive School or Employment Record	-4.4
Undesirable Peers	+8.3

In regard to offenses and the processing of youths, the patterns are less clear.

Eastern youths are more likely to be charged with felonies than other youths (38% compared to 23%) and are more likely to commit their offense at night (27% compared to 16%) and less likely to use a weapon (5% compared to 13%). They are less likely than other youths to victimize a stranger (50% compared to 63%) and more likely to victimize a neighbor (13% compared to 3%).

Eastern youths have a higher rate of being returned as inappropriate. Thirty-nine percent of them were returned compared to 16% of the other youths. They were more likely to be returned because they denied charges (7% compared to 0.5%) or because they were unwilling to participate (11.5% compared to 2.6%). Once they did enter the program they were more likely to miss meetings. Nineteen percent missed two or more meetings compared to 8% of the other youths. However, they may have missed more meetings because they had more opportunity to miss them because they had more. Half of the eastern youths (49%) had eight or more meetings with their diversion counselor compared to only a quarter (25%) of the youths from other parts of the county.

Overall, the youths in the eastern sector of the county were perceived as having more family and school problems than those in other parts of the county. They appeared to be less cooperative with diversion--less willing to participate and more likely to miss meetings.

Diversion or Court

The Assistant District Attorneys in the juvenile division make decisions about whether to refer a child to Diversion Program or send them to court based on the information they have from the police report and anything else they might have in the files on the youth, e.g. a case already pending, a record of a referral for police level diversion, or a record of an earlier informational filing.

First offenders, younger children, or children accused of less serious offenses are usually considered good candidates for diversion. In this section, an attempt is made to ascertain which of the several pieces of information available to the DA has the greatest impact on the decision to divert or file a case.

Factors Associated with Diversion

In general, it appears that the less threatening youths go to diversion. Girls, younger youths, and those with less serious offenses and prior records were more likely to go to diversion. Youths with a more positive family background also appear to be more likely to go to diversion.

Sex. A girl has a greater likelihood of being referred to diversion than a boy (47% compared to 37%) and diversion has a significantly higher proportion of girls in its population than the court does (24% compared to 17%).

Age. Younger youths are also more likely to go to diversion. Of the 45 youths aged ten and under, only one was filed on in court. The group aged ten and under constituted 3% of diversion's population but less than 1% of the court's population. Youths age 12 and under constituted 13% of diversion's population but only 6% of the court population. At the other end of the age spectrum, youths aged 16 or 17 made up 40% of the diversion population and 52% of the court population. In addition, there were five youths, age 18, in the study population and all five were

referred to the court rather than diversion.

Offense and prior record. In regard to offenses charged against the youths, there was little difference. The number who were accused of what we called "serious" offenses--crimes against the person, resisting arrest, or an offense involving a weapon--were represented in equal percentages in the two populations. Twelve percent of diversion youths were accused of such offenses compared to 13% of youths in court. However, diversion youths were considerably less likely than court youths to be charged with felonies. Twenty-seven percent of diversion youths and 55% of court youths were charged with felonies.

Diversion youths were more likely than court youths to have either no previous record or a minor previous record, is one that does not include felonies. Eighty-three percent of diversion youths had no record compared to 49% of court youths. Furthermore only 3% of diversion youths had serious offenses in their previous record compared to 27% of court youths. Not only does the court population include a higher proportion of youths with some previous record and more serious previous record, it also includes youths with more incidents in their previous record. Of diversion youths who have a previous record, 68% have only one prior incident in their record compared to 32% of court youths. In keeping with this, only 15% of the diversion youths with records have a record of three or more incidents whereas almost half (49%) of the court youths with records have three or more

incidents. Only one of the court youths has a record of 8 or more prior incidents compared to eleven of the court youths.

There seems to be little difference between diversion and court youths in regard to the circumstances surrounding their offense. Slightly more youths in diversion had co-participants with them (52% compared to 44%). There was no difference in regard to whether they committed their offense in the day or night, little difference in regard to whether the victim was a place or person. There was also no difference in regard to whether a weapon was involved or not. We thought the latter might be an important factor, but on its face, it is not. It is possible that the DA took into consideration circumstances surrounding the use of a weapon that appeared in the police report but were not picked up by our coding scheme.

We thought perhaps that the district attorneys might send cases to diversion that would be difficult to prove in court. We took as a measure of provability the number of eyewitnesses to the offense, and speculated that the cases sent to diversion would have fewer eyewitnesses than cases referred to court. In fact, we found the opposite. Cases with more eyewitnesses were more likely to go to diversion than cases with fewer eyewitnesses. Seventeen percent of diversion cases had no eyewitnesses compared to 32% of court cases. Twenty-eight percent of diversion cases had two or more eyewitnesses compared to 8% of the court cases.

Family. Although the district attorneys do not usually mention family background as a factor in their decisions about referral to diversion or court, we thought that it might have some underlying impact on the decisions. In fact, it does seem to play a role in the decision. Youths with more stable or supportive families are more likely to be in the care of both parents than youths in court.

TABLE 5-6

IN CARE OF BOTH PARENTS

Diversion	64%
Court	48%

Interestingly, although diversion youths were more likely to be in the care of both parents, they were less likely to appear for their first intake interview with both parents than court youths were to appear with both parents for advisement (24% of diversion compared to 31% of court youths). This differential appearance rate may reflect a greater emphasis by court officials upon the appearance of both parents, or it may reflect the greater seriousness with which court is regarded by families.

Court youths not only were less likely to live with both parents, they were also less likely to have contact with their fathers. Fifteen percent had no contact with their fathers and another 12% had only sporadic contact. Of diversion youths, 8% had no contact and 6% had sporadic contact. It is important to note here, however, that even

though a higher percentage of court youths did not live with their fathers or did not have contact with them, the majority did. A full 53% of the court youths did live with their fathers. Structurally broken homes or lack of contact with fathers, at least in regard to living arrangements, cannot be accepted as an explanation for the delinquent behavior of most of these youths.

One interesting aspect of the decision to refer to diversion or court has to do with the cooperativeness of the youth at arrest and the apparent willingness of the youth's parents to cooperate with the court. For most youths there was no information in police reports about cooperation, but for the 165 youths for whom there was information on their cooperation and the 105 youths for whom there was parental information, there were differences. Cooperative youths or youths with cooperative parents were more likely to be referred to diversion.

CONCLUSION

This chapter has included a description of the population of the justice system and of several subpopulations--nonresident offenders, violent offenders, and youths who were diverted from the court. Most of the youths in the system are male and their average age is 15 years 4 months. Most have no official records of prior offenses, a third of the youths are not residents of the county. Those who live in the county are most likely to

come from the three largest municipalities. Some census tracts in the county send a higher percentage of youths into the system than others. The ones that send the highest percentages of their youth population into the system have housing values concentrated in the lowest categories, while those that send the smallest percentage of their youths into the system have housing values concentrated in the highest categories. In general, we found that nonresident offenders are not greatly different in characteristics and offenses from the resident population, but their treatment by this court is somewhat less intensive than the treatment of residents.

In spite of growing fear among suburban residents about the danger of violent delinquency, a relatively small percentage of youths in the court commit seriously violent offenses or are described as dangerous by counselors in predisposition reports. For the most part, the offenses committed by youths are property crimes rather than violent crimes. The discussion about violent offenders highlights the lack of clear definitions about what constitutes violent delinquency and community concern about how to deal with it. The lack of clear guidelines about the identification and treatment of violent delinquency highlights some of the problems discussed in Chapter 1.

Finally, in this chapter an effort was made to describe youths in the diversion program, and compare them with youths sent to court.

Of the youths who entered the system, 710 were filed on in court and another 452 were referred to diversion. Almost a third of the diverted youths eventually were referred back to the District Attorney for filing in juvenile court. In general it appears that the less threatening youths go to Ddiversion--girls, younger youths, and those with less serious offenses and prior records or more positive family background.

Although not large numbers of differences were found between youths in diversion from the two parts of the county, youths from the east seemed to have more family and school problems than those in other parts of the county and appeared to be less cooperative with diversion and less willing to participate.

CHAPTER 5

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CHAPTER 6

TIME AND PROCESS: CASE PROCESSING TIME IN JUVENILE COURT: *

INTRODUCTION

Case processing time has received considerable attention in the past few years in studies of adult criminal courts. Less attention has been given to the use of time in juvenile courts, in part because the juvenile court in most jurisdictions operated on an informal basis until after the Gault decision in 1967. As juvenile courts come to more closely resemble adult criminal courts, we can expect that juvenile court processing time will become an increasing focus of interest.

The time a case takes to move from a juvenile's apprehension through court filing to disposition may be even more crucial to a juvenile than to an adult because of the potentially different meaning that time has for children and adolescents than it has for adults. A year in the life of an adolescent may bridge the span between childhood and adulthood. The meaning of an offense, appropriate treatment modalities, court jurisdiction itself may change in the

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*This chapter is based upon a paper given by Anne R. Mahoney at the Law and Society Annual Meetings, Amherst, Mass. 1981, entitled "Time and Process: An In-Depth Study of One Juvenile Court."

course of three or six months in a youth's life, far more than one would expect in a comparable period in an adult's life. As a result, court delay may have implications for juveniles that are both quantitatively and qualitatively different than its implications for adults. Court processing time, however, is not the only dimension of time that is important in courts, particularly juvenile courts.

This chapter is an effort to begin to explore the meaning of time and process in juvenile court. The first part includes a brief discussion of some of the factors that influence court processing time which may be particularly salient to an exploration of the use of time in the juvenile court. The second part is a discussion of the role time plays in the juvenile justice system. The third part provides research results including the length of time cases take to move through stages of the process and a discussion of what factors influence processing time in this court.

CASE PROCESSING TIME

Although most of the literature on case processing time addresses problems of court delay, the term "case processing time" has come to be preferred to the term "delay" because it is more neutral, is easily quantifiable, and avoids the problems inherent in trying to define delay.

Measurement

Case processing time is measured in days. If court time alone is of interest, the variable is limited to the time that the case is under the control of the court, generally from filing to disposition excluding days during which the defendants are under psychiatric observation or on bench warrants. (Neubauer 1980) If system time is important, one may start counting processing time from the time a person is taken into custody by the police and may include periods when the case is not in control of the court in order to see how much impact external agencies have on actual case time. Since the study described here takes a system perspective, we are particularly interested in charting the extent to which a variety of agencies besides the court itself contribute to case processing time.

Processing time can be measured by a variety of statistics, means, standard duration, medians, quartiles and extreme points. Box and Whisker plots which show the number of days by which a certain percentage of cases have been completed, say 75% or 90%, are especially useful in evaluating changes in court processing time. (Neubauer, 1980)

Factors

Recent summaries of research on court processing times and on evaluations of delay reduction projects (Mahoney, 1981 and Neubauer, 1980) show that court processing time is

influenced by many factors, not the least of which is the general court culture and community environment. Neubauer (1980) notes, for example, that economic characteristics of a community such as sudden unemployment or a geographic location that promotes movement out of one jurisdiction, play a part in structuring a court's work organization.

Court workloads including case volume and procedural requirements are almost always cited as factors leading to case backlogs in courts. Case volume rises not only because the rate of reported crime continues to rise in most areas but also as a result of population growth, especially in suburban areas, or legislative changes which bring new kinds of cases into the court or dictate more elaborate court procedures. The effect of changed procedural requirements on court workload has had a particularly acute impact on American juvenile courts as they have moved from informal hearings to the more legalistic procedures mandated by Gault. Mahoney (1981) notes that procedural complexity almost inevitably requires additional time for out-of-court preparation of materials and in-court consideration of specific problems. It also tends to result in the greater involvement of lawyers and increased availability of government subsidized legal aid for defendants which in turn introduces further complexity into court hearings. The practices of police and prosecutors also influence court time in that the initial decision about whether to charge a defendant, and if so, with what offenses can have a major

impact on court workload. Related to this is the pattern of flow of cases into the court from these "front end" agencies. Sporadic and unpredictable bunching of cases may have different implications for workload than an even and fairly predictable flow.

Resources constraints are also often mentioned as causes for delay. To operate a court requires courtroom space, a judge, a court reporter and a bailiff as well as personnel to file and prepare records, equipment and supplies, and non-court resources essential to court activities such as transportation of defendants and records, professional and clerical personnel in public defenders' offices, probation, and social services. The potential gain yielded by the opening of an additional courtroom may be lost in a jurisdiction in which a substantial number of defendants rely on a public defender for representation if there is only one public defender who is already trying to cover several courts.

Defendants themselves may also influence court time. They may make no effort to contact a lawyer or wait until the last minute, making it necessary for the judge to grant several adjournments in order for the defendant to either establish eligibility for public defendants or find a private attorney. Defendants also often simply fail to appear. Over-extended defense lawyers often are unable to appear when scheduled because they have cases in other courts in other locations or have not conferred with their

client. Adjournment practices in general influence case processing time. Waiting time is a function of the number and length of adjournments once a case gets to court. One major problem reported by Mahoney is the difficulty of imposing fair and effective sanctions upon persons who fail to appear for scheduled court dates, request last-minute adjournments, or in other ways make it impossible for the court to proceed as planned.

The effectiveness of a court's scheduling and listing procedures is closely related to its ability to maintain information on its own operations and also on its ability to facilitate communications between the court and the parties. Communication is especially relevant in juvenile cases because of the large cast which often must be assembled for a juvenile hearing. A child and parents may come from three different locations, the child from placement, and divorced or separated parents from two different homes. In addition, a child in some circumstances may have both a defense attorney and a guardian ad litum. The case may also require the presence in court of a probation officer, a social service worker, a representative of a treatment program, or a school representative.

An additional factor relevant to case processing time is the utilization of available court time. Although research shows that this factor is not as crucial as irate citizens would have it, the number of hours during which a court is actually in session and the court's efficiency in

scheduling and handling cases are important in how well the court can manage and adjust to its workload.

Neubauer (1980) in his evaluation of delay reduction programs in four courts observes that discussions of delay in courts typically view delay as the primary problem when in fact delay is usually a symptom of substantive, equitable and managerial problems that exist within a particular court system. He notes that there is an increasingly widespread understanding that the structural features of a court system are much less decisive than the informal organization of the court house and the informal communication networks that surround it. It is this informal network that is one of the main concerns of the research described here. The use of a case study method to study one court enables the researchers to look at the factors which affect court processing time from both within and without and from several perspectives. It is instructive that in our discussions with numerous agency representatives, not one has owned responsibility for delay. Each agrees that delay is a serious problem, and goes on to explain that their agency processes cases quickly, and that the delay occurs either just prior to or just after their handling of the case.

THE ROLE OF TIME IN THE JUVENILE JUSTICE SYSTEM

Time in juvenile court can be viewed from three perspectives: (1) the amount of time it takes for a case to move from its point of initiation to its final disposition--

the case processing time discussed in the previous section; (2) the speed with which a docket of cases moves through a court on a given day; and (3) the amount and quality of the time that is given to a particular court appearance.

These three perspectives are interrelated, but by separating them we can examine different causes of delay. The first perspective focuses attention on the different stages of the process, the roles of different agencies who are involved in adjudication, and the interrelationships between stages. The second focuses attention upon the use of courtroom time and staff, and may help to identify periods of dead time during the day where nothing happens. The third perspective focuses attention upon how the time devoted to the actual court appearance is utilized. The focus upon the appearance is particularly important, because it is the only point at which the child has contact with the justice system while his case is in process. The actual appearance in court is a critical point in a case, in terms of the child's perception of the system. All of the discussions, reports, and other events that take place after the child comes to the attention of the authorities leads up to the court appearance. It is the culmination of weeks or months of anticipation and anxiety. A child's sense that he has or has not been treated fairly, and the effectiveness of any sanctions imposed on him by the court, may depend in large measure on his perceptions of his court appearances.

In evaluating the court appearance it is useful to think about what the objectives of the court appearance should be, how much of the actual appearance time is taken up by activities that directly meet the objectives of the appearance, and how long a given appearance needs to be in order to meet its objectives. In a given case, for example, what is the ratio of ritual to substance, and is this proportion appropriate to the objectives of this appearance? If the basic objectives of each appearance can be achieved, then there should be fewer adjournments and one source of delay should be minimized.

One other dimension of time in the juvenile court has to do with the point at which a youth who has gotten into trouble is amenable to change or treatment. This is not usually a factor taken into consideration in juvenile court proceedings, but rather is determined by the timing of the court process. Lengthy court cases may seriously impede a child's chance to maximize benefits from court intervention.

CASE PROCESSING TIME IN SUBURBAN COURT

Court delay and case backlog were perceived as serious problems in the county we studied. One entire meeting of the Juvenile Justice Task Force, a monthly 7:00 a.m. meeting of all interested juvenile service workers in the county, was devoted to this problem. During this meeting, it was noted that delinquency filings rose from roughly 528 in 1976 to a projected 1056 in 1980, although there had been no

increase in judicial time devoted to delinquency and no new positions created in juvenile probation since 1972.

Research Results

In presenting the results on case processing time in Suburban Court, we will first present descriptive data about the average number of days it took for cases to move through different stages of the process. Then the relationship between case processing time and other variables will be examined using as a definition of case processing time, the number of days a case takes to move from the date the case is filed in court to the date it was adjudicated. The objective of this second part of the study is to learn what variables have the greatest impact on case processing time.

Movement of Cases Through Different Stages.

Information was available on the number of hearings required to process 645 of the 710 youths between advisement and disposition. The number of hearings ranged from zero (the cases of these youths were dismissed or sent to another county by the district attorney soon after filing) to eight or more. Only two percent of the youths had no hearings; the remaining youths had one hearing (28%), two hearings (29%), three hearings (22%), four hearings (10%), five hearings (4%), six hearings (2%), seven hearings (1%), and eight or more hearings (1%).

Twenty-one percent or 133 of the youths failed to appear for their scheduled court hearings. A total of 91 missed one appearance; 27 missed two appearances; and ten missed three. The remaining five youths missed between four and six hearings. Bench warrants were issued on 73 youths. Five had two or more bench warrants issued against them and three had three or more bench warrants.

The number of days it took to process cases is examined in regard to the stages that each juvenile case passes through.

1) offense to apprehension. Most youths were apprehended relatively soon after the offense. Sixty-two percent were apprehended on the same day that the offense was committed and three- quarters were apprehended within five days of the offense. The range of time from offense to apprehension was from one to 350 days.

2) apprehension to filing. Slightly more than one-fifth (22%) of the cases were filed with the DA within 30 days of apprehension; 54% were filed within 60 days of apprehension; and 71% were filed within 90 days. However, the remaining 28% of the cases took from three months to nearly a year to be filed. The mean number of days from apprehension to filing was 75. The reason for this long time lapse between apprehension and filing merits further study. Part of it is accounted for by police investigation and preparation of the police reports. The DA we talked with in early 1980 estimated that it took two months for a

case to get to him after the offense was committed. He said cases often sat on his desk for days before he could look at them because he was the only juvenile DA and spent most of his time in the court room. (SYP field notes, p.78)

3) filing to advisement. Six percent of the youths appeared for their advisement hearing on the same day that the case was filed. Twenty-five percent of the youths had their advisement hearing within 41 days of filing; 50 percent had advisement hearings within 77 days; and 75 percent had advisement hearings within 99 days. The remaining one-quarter of the cases took from 100 to 267 days between filing and advisement. The mean number of days between filing and the advisement hearing was 73.

4) advisement to adjudication. One-half of the youths were adjudicated within 48 days. Seventy-five percent of the youths were adjudicated within 112 days of advisement. The adjudication of the remaining 25% of the youths occurred within 113 to 619 days after the advisement hearing, but the mean number of days between advisement and adjudication was 76.

5) adjudication to disposition. More than half (56%) of the 400 youths who received dispositions received them at the adjudication hearing. Slightly more than three-quarters (78%) of the youths received their dispositions within 60 days of the point of adjudication. The remaining 25% of the youths received their dispositions within 61 to 198 days of their adjudication. The mean number of days between

adjudication and disposition was 32.

6) filing to disposition. Perhaps the most important indicator of the amount of time required to process a case in the Juvenile Court is from the point of filing through disposition because it is between these points that the court has a direct influence on the progress of the case. The mean number of days required to process the cases of the 400 youths who received dispositions was 155. Twenty-five percent of the cases were completed within 93 days; 50% were completed within 137 days, and 75% were completed within 208 days. The total amount of time between filing and disposition ranged from 0 to 488 days.

The long processing times were a matter of considerable concern and were the subject of much discussion during 1980. This concern was an important part of the court atmosphere.

TABLE 6-1

CASE PROCESSING TIME BY STAGE

Stage of Process	Number of Range	Mean Number of Days	Number Days It Takes 75% of Cases to Complete
Offense to Apprehension	0-350	12	5
Apprehension to Filing	0-346	75	99
Filing to Advisement	0-267	73	99
Advisement to Adjudication	0-617	76	112
Adjudication to Disposition	0-314	32	56
Filing to Adjudication	0-784	158	205
Filing to Adjudication	0-784	158	205
Filing to Disposition	0-488	155	209
Apprehension to Disposition	0-756	218	284

Factors Related to Processing Time

The possible influence of several factors on case processing time was explored in this study. One factor which had a striking impact on case processing time was setting a case for trial. This has already been discussed at length in Chapter 4 in the section on setting cases for trial. The mean number of days for a case to move from

filing to adjudication for cases set for trial was 232 days. For cases not st for trial, it was 118. This difference is significant at the .05 level.

A factor that we had thought might be associated with longer processing time was nonresident status. We reasoned that nonresidents might take longer because they had to travel farther to court and might be more likely to miss appearances, thus prolonging the case. In fact, nonresidents were somewhat more likely to miss their advisements than residents (14% compared to 8%) and were more likely to fail to appear for court hearings than residents. Thirty percent of the nonresidents missed one or more hearings compared to 16% of the residents; 8% missed two hearings compared to 2.5% of the residents; 3% of the nonresidents missed three or more hearings compared to 2% of the residents. But the tendency to miss hearings among nonresidents did not substantially lengthen their average case processing time during 1980.

However, even though the mean number of days for residents and nonresidents does not differ significantly (166 days compared to 154 days) there are some differences in the court process that may relate to case processing time. Nonresidents were slightly more likely to have their "adjudication" at the advisement than were residents (48% compared to 40%), so that some of them would be more likely to drop out of the process at an earlier point. Also, a higher percentage of the nonresidents had their cases

pending at the end of the study and consequently carry at least the potential for substantially increasing the number of case processing days. Also, the high number of change of venue cases for nonresidents meant that the "adjudication" was not really an adjudication, but a referral to another court for the purpose of reaching judgement. It was not possible to follow up on these cases to see what their final outcomes were or how long the process took. In light of this, the average case processing time from filing to adjudication takes on new meaning. It took nonresidents on the average 166 days--almost six months--to move from filing to adjudication. Yet for nearly half of these cases, the "adjudication" was a change of venue rather than a determination of whether the youth committed the offense or not.

The effect of several other factors was examined. We thought perhaps that the status of the victim might influence processing time. Cases which involved a residence rather than a person or a business did go from filing to adjudication in 30 days less than other cases on the average, but the difference was not significant. There was a difference in case processing time associated with the relationship between the youth and the victim if the victim was a relative. Cases involving a relative moved from filing to adjudication in 63 days on the average, compared to cases involving strangers, acquaintances, employers, or no victims which took approximately 150 days.

As one might expect, cases involving more petitions took longer to resolve, 42 days longer on the average. Cases involving youths charged with felonies took on the average 22 days longer. Youths who were detained took a shorter time to move through the period from filing to adjudication, although not a significantly shorter period of time (12 days).

In response to the growing concern about case backlog, one commissioner was made available one day a week starting in September 1980 to handle juvenile cases. Starting January 1, 1981, a judge in the eastern courthouse transferred the civil half of her civil/domestic relations docket to other judges, freeing one-half of her time to hear juvenile cases. One-third of the juvenile docket and one-third of all new cases were transferred to her court with an effort to select cases of youths who lived in the eastern part of the county. The addition of a new juvenile judge without the infusion of other court personnel created some problems, particularly for the prosecutor and the public defender, whose offices were both located in the western part of the county. The two district attorneys and one public defender had to split their time between two geographically separated courts, and probation officers had to cover dispositional hearings in two courts instead of one.

A second change occured during the first year of the project which also may have some impact upon court

processing time. During summer 1980, two municipalities in the county changed their statutes to enable their municipal courts to handle minor juvenile offenders. The implications of this development are not yet clear. In fact we are trying to get a research grant to study the impact. It is possible that the municipal courts will begin to siphon off some of the youths who previously went to the juvenile court or to the DA's diversion program leading to a reduction in the proportion of minor offenders in juvenile court, thus reducing its workload over the short term. If early court contact is effective in reducing delinquency, municipal courts may ultimately keep down or reduce the juvenile court's workload. On the other hand, municipal courts may not appreciably reduce the juvenile court population but may bring into the system youths previously not involved. If it does and these youths return again to the court at a future date, it may eventually increase the work load of the juvenile court.

Time is an important dimension in any justice system. It is particularly important for youths for whom time brings almost daily changes in physical, emotional and mental development. Somehow, it is essential to balance time and process so that enough time is allowed to ensure a fair hearing and reasoned decisions while at the same time yielding case processing times not so long that the process itself becomes the punishment. Because of their particular salience for juveniles, time and process in the juvenile

court require our attention as researchers.

CHAPTER 6

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CHAPTER 7

CASE DISPOSITIONS

The ultimate objective of the juvenile court process is to reach a decision about whether a particular youth committed a specific act and if he or she did, what should be done to minimize the possibility that the youth will commit such an act again.

The process in reaching this decision, as has been outlined in previous chapters, is a long and time-consuming one. What factors along the way influence it and in what ways? The first section of this chapter includes a brief review of recent literature on factors that affect the dispositions of juveniles. The second section includes a description of the dispositional alternatives in Suburban Court, the third section describes the dispositions of residents and nonresidents, and the fourth section reviews the results of an analysis of factors which influence adjudication and disposition for the entire study population.

FACTORS AFFECTING DISPOSITIONS OF JUVENILES

The factors affecting the dispositions of juveniles have been the subject of several previous studies. This section briefly reviews some of these studies and outlines the effect of prior record, severity of the delinquent act,

age, and sex upon the dispositions given to juvenile delinquents.

Prior Record. One of the most important factors affecting the disposition decision is the youth's prior record. Several studies (e.g. Terry, 1967; Hohenstein, 1969; Carter, 1979; Cohen and Kluegel, 1978) report that there is a strong positive relationship between the severity of the youth's prior record and disposition. For example, Clarke and Koch (1980) found that youths with juvenile records not only were more likely to be adjudicated delinquent but they also received more severe dispositions. Cohen and Kluegel (1978:174) concluded that prior record was a major determinant of disposition severity.

Severity of the Delinquent Act. The severity of the youth's delinquent act is another important factor affecting the disposition decision. Several studies (e.g. Terry, 1967; Hohenstein, 1969; Cohen and Kluegel, 1978) show that there is a strong positive relationship between the severity of the youth's delinquent act and disposition. In a recent study of juvenile courts in Charlotte and Winston-Salem, North Carolina, Clarke and Koch (1980) found that juveniles charged with felonies were much more likely to receive a severe disposition than those charged with misdemeanors. Misdemeanors were twice as likely to be dismissed as felonies and the commitment rate was 15% for felonies compared to only 4% for misdemeanors. Cohen and Kluegel (1978:174) concluded that severity of the offense was a

major determinant of the disposition severity.

Carter (1979), in a study of a juvenile court in a metropolitan area in the southeastern United States, found that youths with multiple petitions receive harsher dispositions than youths with single petitions.

Age. Some studies show that older juveniles receive more severe dispositions than younger juveniles. Carter (1979: 351-352) found that older juveniles were more likely to be recommended for institutional placement by their caseworkers. The Institute of Judicial Administration-American Bar Association Standards (1980:35) suggest that age is an important criterion in selecting dispositions for juveniles. The older the juvenile, the greater his or her responsibility for breaking the law.

However, Cohen and Kluegel (1978:166) found that age had no direct or indirect effect upon the severity of disposition given to juveniles in Denver and Memphis courts. Clarke and Koch (1980:290) concluded that a child's age did not prove to be independently related to commitment, particularly when juvenile record and offense seriousness were taken into account.

Sex. Several studies have examined the relationship between sex and disposition. However, the results are not consistent. Some studies suggest that females receive more severe dispositions than males (Chesney-Lind, 1973). For example, Gibbons and Griswold (1957) and Terry (1967) found that girls were more often institutionalized than boys.

However, neither study was able to control adequately for type of offense or prior record. Other studies show that females are treated more leniently than males (Datesman and Scarpitti, 1980).

Finally, several studies show very little difference in the dispositions of males and females (Dungworth, 1977; Carter, 1979). For example, Clark and Koch (1980:290) found that a child's sex proved to have little relationship to court disposition. Although boys' dismissal rate was somewhat lower than girls', and their probation rate somewhat higher, their commitment rate was the same. When prior record and offense were controlled, there were no significant differences between males and females.

DISPOSITIONAL ALTERNATIVES

There are several adjudication options available in Suburban Court. One is dismissal, which is seldom used. A second, also seldom used, is acquittal in either a bench or jury trial. A third and frequently used alternative is a reserved adjudication (also called court supervision). In this alternative, the youth admits the charges and is assigned to a probation counselor for a six-month period of supervision. If the youth behaves satisfactorily during this six-month period; that is, does not have any more petitions brought against him/her and complies with the terms and conditions of the supervision order, the judge may then terminate the supervision period without finding that

the youth is a delinquent child. This enables the youth to avoid acquiring a delinquent record.

A fourth, and frequent option, is adjudication as a delinquent child, either through the child's plea of guilty or the finding after trial by a judge or jury. At the point that a judge finds that a youth is a delinquent child, any number of dispositional options are open. The judge may order that the child be placed on probation for a period of time not to exceed two years, order that the child be placed outside the home, or hand down any combination of these dispositions. The judge may also order the most severe disposition, commitment to the State Department of Institutions, where a child may ultimately be placed in a juvenile correctional institution for up to two years.

Even though there seem to be several disposition options available to the judge, in reality the two used most frequently are: (1) adjudication with probation (usually two years) and (2) reserved adjudication with six months supervision. However, the judge may individualize the youth's disposition by attaching certain terms and conditions.

The most common way to individualize dispositions is to vary the terms and conditions which accompany the disposition. For example, common terms and conditions attached to supervision or probation orders are: (1) refrain from associating with co-minors, (2) attend school or, if over 16, work full-time, (3) pay restitution to the victim,

(4) work a certain number of hours for community service or civic organizations, (5) participate in specific types of counseling sessions such as mental health or drug therapy, or (6) spend some time in the detention center.

Youths who receive reserved adjudications are required to be under the supervision of a probation counselor for six months. If they fulfill the terms and conditions of the supervision order, the case is dismissed.

Analysis of the court records gives some indication of the frequency of various dispositional alternatives in the court under study.

The court files showed disposition outcomes for 641 of the 710 youths; 201 of them were found to be delinquent children. The most severe alternative for each child ranged from community service (3%), fine (8%), probation of one year or less (11%), probation of more than one year (42%), a certain number of weekends spent in the detention center (6%), a certain number of consecutive days spent in the detention center (6%), a certain number of days spent in the county jail (4%), out-of-home placement (12%), and commitment to the Department of Institutions (6%).

Only eight of the youths sentenced to the detention center, the jail, or the Department of Institutions (DOI) had their sentences suspended. Four youths were sentenced under the mandatory sentencing act, which requires the judge to sentence a youth to out-of-home placement on his third adjudication for a delinquent act.

Most (83%) of the 201 youths who were adjudicated delinquent children were required to fulfill a term of probation. The remaining 17% of the youths were either committed to the Department of Institutions, sentenced to the county jail or the detention center, or fined.

A substantial proportion of youths under reserved adjudication or adjudication were required to meet other terms and conditions. For example, thirty-four percent of the 201 youths with reserved adjudications were required to pay restitution to the victim, 9% were required to perform several hours of community services, and 8% were required to participate in a therapy program (the kinds of therapy included here were drug, alcohol, family, etc.)

The 201 delinquent children were also given certain terms and conditions to fulfill. Fifty-three percent of these youths were required to pay restitution to the victim; 24% were required to perform several hours of community service; and 18% were required to participate in some form of therapy.

Ten of the youths had to have their cases transferred to another county because they moved and twenty of the youths had their dispositions changed after the initial disposition was made. Nine of these received harsher dispositions, six received milder dispositions, and the remaining five youths had no change in severity even though their files indicated that some change had been made.

In making his disposition decision, the judge followed the probation counselor's recommendation completely 56% of the time in the 171 cases that contained recommendations. In another 30% of the cases, the judge followed the recommendation but added some terms and conditions (24%) or eliminated some terms and conditions (6%). However, in 15% of the cases the judge did not follow the recommendation and made the disposition more severe (9%) or more lenient (5%).

FACTORS ASSOCIATED WITH ADJUDICATION AND DISPOSITION

Zero Order Relationships

The following section examines the zero order relationships between each of the independent variables and the adjudication decision. The first part of the analysis concentrates on factors associated with two kinds of adjudication--reserved adjudication (considered less severe) and adjudication as a delinquent child. Throughout the research there was some confusion between the terms adjudication and disposition. Reserved adjudication is not really a disposition since if the child completes the supervision period he or she will receive a dismissal of the charges. In this analysis we treat reserved adjudication as an adjudication. As was mentioned earlier, reserved adjudication and adjudication as a delinquent child are the two most common adjudications.

Adjudication

Equal numbers of youths received reserved adjudication (N=201) and adjudications as delinquent children (N=201).

Sex. Girls were three times more likely to receive reserved adjudications than to be adjudicated delinquent (75% compared to 25%). Boys were about evenly divided between the two adjudication decisions.

Prior record. Information on prior record was available for only 171 of the youths, but their prior records were similar whether they were adjudicated delinquent (N=121) or received reserved adjudications (N=50). Approximately half of each group (52% and 48%, respectively had no prior records at all; the remaining youths either had misdemeanor records (19% and 28%, respectively); or felony records (19% and 20%, respectively).

Severity of the delinquent act. Youths who are adjudicated delinquent are three times more likely to have committed felonies than misdemeanors (75% compared to 25%). In contrast, youths who receive reserved adjudications are more likely to have committed misdemeanors (60%) than felonies (40%).

Number of petitions. Youths with only one petition alleged against them (N=319) are about equally divided between being adjudicated delinquent (45%) and receiving a reserved adjudication (55%). However, when youths have two or more petitions alleged against them (N=82), they are far

more likely to be adjudicated (73%) than to receive a reserved adjudication (27%).

Family intactness. Youths who were adjudicated delinquent were more likely to come from families that were not intact (62%) but there were no significant differences in the family structure of youths who received reserved adjudications.

Attorney. There was very little difference between youths who were represented by attorneys (N=243) versus those who were not (N=157) in terms of the adjudication decision. Approximately half of the youths without attorneys received reserved adjudications while half of the youths with attorneys also received reserved adjudication.

Age. There was not a significant difference in the ages of youths who were adjudicated delinquent (mean = 15 years, 3 months) versus those who received reserved adjudications (mean = 15 years).

Dispositions

Once a youth is adjudicated delinquent, there are at least 14 different disposition options available to the judge. For purposes of this analysis, these 14 alternatives have been categorized into:

1) fines. These dispositions are usually granted to youths for whom a relatively quick, short-term punishment is more appropriate. For example, from our courtroom observations it appeared that older youths, particularly

those approaching their 18th birthday, were likely candidates for these types of dispositions because the court would soon lose jurisdiction over them anyway;

2) a probation term not to exceed two years;

3) time spent in the detention center or the county jail;

4) removal from the home either through commitment to the Department of Institutions or placement in a foster or group home through the Department of Social Services.

Sex. Females were underrepresented (8%) among the 201 youths who were adjudicated delinquent. Eighty percent of these 16 females received probation terms. The remaining females were required to pay fines (13%) or be removed from their homes (7%). In contrast, males were less likely to receive probation and more likely to receive harsher treatment. They received probation terms about half the time (53%), detention or county jail (18%), fines or restitution (10%) and 20% were removed from their homes.

Prior record. Information on prior record was available for only 120 of the 201 youths who were adjudicated delinquent. Of these 120 youths, the proportions of youths who committed felonies increased as the severity of the disposition increased. For example, none of the youths who were fined had felony records; 21% of the youths who received probation terms had felony records; 29% of the youths who spent time in the detention center or county jail had felony records; and 55% of the youths who

were removed from the home had felony records.

Severity of the delinquent act. Youths who were fined were least likely to have committed felonies (52%) while youths who were removed from the home were most likely to have committed felonies (83%). Felonies were committed by 79% of the youths who received probation terms and 72% of the youths who spent time in the detention center or the county jail.

Number of petitions. The gap between youths having only one petition compared to two or more petitions narrows as the severity of the dispositions increases. For example, for youths receiving fines the difference is 95% versus 5%; for probation, 72% versus 28%; for detention or jail, 69% versus 31%; and for removal from the home, 50% and 50%.

Family intactness. Information was available on family structure for 128 of the 201 youths who were adjudicated delinquent. Of these 128, 38% of the families were intact; the remaining 62% were not. The proportion of youths whose families were not intact is roughly the same (approximately 58% versus 42%) for youths receiving fines, probation terms, or detention or jail. However, youths removed from the home are three times more likely to come from disrupted families than intact families.

Attorney. Sixty-two percent of the 201 youths who were adjudicated delinquent were represented by attorneys. Attorney representation varied from 62% for youths receiving fines, 58% for youths receiving probation terms, and 66% for

youths sentenced to the detention center or jail. However, nearly three-quarters of the youths removed from their homes were represented by attorneys.

Age. Youths removed from their homes tended to be the youngest (14 years, 8 months) while youths who were fined were oldest (16 years, 6 months). This latter finding is consistent with courtroom observations which show that judges tend to give the older youths dispositions which are more "swift and sure" because these youths will soon be too old to fall under the jurisdiction of the juvenile court. The average age of youths sentenced to the detention center or county jail was 16 years, 2 months, while youths placed on probation were, on the average, 15 years, 2 months.

Regression Analysis

The effect of these independent variables upon the adjudication and disposition decision is tested with a stepwise multiple regression analysis. The purpose of such analysis is to select the number of variables necessary to account for almost as much of the variances as is accounted for by the total set. Basically, a stepwise multiple regression shows how much each additional variable increases (or adds increments to) the explained variance (R^2) while taking into account the variables already in the equation. The variable that explains the greatest amount of variance in the dependent variable will enter first; the variable that explains the greatest amount of variance in conjunction with the first will enter second, and so on.

TABLE 7-1

SUMMARY STATISTICS FOR STEP-WISE MULTIPLE REGRESSION FOR ADJUDICATION DECISION

Variable	Multiple R	R	R change	Simple R	B	Beta
Felony/ misdemeanor	0.225	0.051	0.051	-0.225	-.215	0.214
Total petitions	0.271	0.074	0.023	-0.156	-0.143	-0.142
Family intactness	0.299	0.089	0.016	-0.107	-0.119	-0.130
Sex	0.322	0.103	0.014	0.165	0.189	0.130

Table 7-1 shows the summary statistics for the dependent variable of adjudication decision. The independent variables which have the greatest effect upon this decision (in the order of their importance) are: whether the offense is a felony or a misdemeanor, the number of petitions alleged against the youth, the youth's family structure, and whether the youth is male or female. The effect of these variables is consistent with discussions of their zero-order relationships with adjudication presented earlier in this chapter. Youths most likely to be adjudicated delinquent are those who commit felonies, those with the greatest number of petitions against them, those with families that are not intact, and those who are male. However, taken together, these variables explained only ten

percent of the variance in the adjudication decision which suggests that their effects are minimal. The remaining variables do not add statistically significant increments to the explained variance. This suggests that attorney representation, prior record, and a youth's age have very little effect upon the adjudication decision.

Table 7-2

SUMMARY STATISTICS FOR STEP-WISE MULTIPLE REGRESSION FOR DISPOSITION DECISION

Variable	Multiple R	R	R change	Simple R	B	Beta
Prior record	0.226	0.051	0.051	0.226	0.227	0.182
Attorney	0.280	0.078	0.027	0.186	0.572	0.121
Total petitions	0.311	0.097	0.018	0.173	0.710	0.148

Table 7-2 shows the summary statistics for the disposition variable. The independent variables which have the greatest effect upon this decision (in the order of their importance) are: prior record, attorney representation, and the number of petitions alleged against the youth. The effect of these variables is consistent with the discussions of their zero order relationship with the disposition decision presented earlier in this chapter. The disposition is likely to be more severe if the youth has a prior record, if an attorney represents a youth, and if the

youth has two or more petitions alleged against him/her. However, taken together, these variables account for only 10% of the variance in the disposition decision which suggests that their effect is not extremely large. The youth's family structure, sex, age, and severity of the delinquent act have very little effect upon the youth's disposition.

These findings can be interpreted to mean that a youth's prior record is the most important variable affecting the disposition outcome. However, the effect of attorneys must be interpreted in light of the fact that attorney representation is much more likely in cases involving felonies rather than misdemeanors. Thus, it is much more probable that offense severity is confounded with attorney representation. This makes the results appear as though attorneys have a negative effect upon disposition when, in fact, they are just more likely to be retained in cases of greater severity because of the more punitive disposition alternatives likely to be imposed by the judge. This makes it difficult to sort out the independent effects of attorney representation versus severity of the delinquent act. Some additional analyses will be undertaken at a later date to try to separate some of these effects.

In summary, these findings indicate two important points. First, the most important variable at each stage of the two stages are associated with the severity of the youth's delinquent act and past delinquent history. While

social or background characteristics of the youth such as sex or family structure have some effect on these decisions, it is extremely minimal.

The second major point is that the most significant predictors are not exactly the same for each stage. Whether the delinquent act is a felony or misdemeanor is the most important variable for the adjudication decision but the youth's prior record is the most important variable for the disposition decision. This suggests that the importance of independent variables varies with the decision being made.

CHAPTER 7

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CHAPTER 8

JUVENILE CO-PARTICIPANTS*

INTRODUCTION

Delinquency has long been recognized as a form of group behavior (Jensen and Rojek, 1980:159), and this finding has held true across a number of different subgroups in the United States (Erickson and Jensen, 1977). It has been estimated that somewhere between 60% and 90% of all delinquent acts are committed with companions (Cohen, 1977:416), although the percentage varies by type of delinquent act. Yet, despite wide-spread acceptance of delinquency as a group phenomenon, studies of juvenile court processing tend to ignore this important characteristic of delinquency. These studies tend to assume, either implicitly or explicitly, that youths act alone in the commission of the delinquent act. Consequently, we know very little about how these youthful co-conspirators are handled once they come to the attention of legal officials.

The purpose of this study is to examine how juvenile co-participants are handled by legal officials using a sample of juvenile co-participants whose delinquent acts were referred to a District Attorney's office during 1980. For example, what proportion of total cases involved group

[1]This chapter is based upon a paper by Carol L. Fenster entitled "Juvenile Co-Participants" given at the Annual Meetings of the American Society of Criminology, 1981.

delinquency? How are groups of delinquents handled by the court? Are juvenile co-participants treated the same or differently? What factors contribute to similar or different treatment of juvenile co-participants?

THE GROUP PREMISE OF DELINQUENCY

One of the fundamental notions guiding the sociological development of the study of delinquency was the idea that "delinquency is a group phenomenon." The major theoretical works published through the mid-1960's (e.g. Cloward and Ohlin, 1960; Cohen, 1955) took "gangs" and "delinquent subcultures" as their main unit of analysis (Erickson and Jensen, 1977:262).

However, in the mid-1960's the emphasis shifted away from group delinquency and focused on delinquent "behavior" or "acts" instead, because, as one prominent observer held, the emphasis upon juvenile gangs restricted the study of delinquency to relatively small segments of the population (Hirschi, 1969). In addition, labeling and deterrence theories, which emphasized individualistic rather than group actions, gained in popularity in the late 1960's and early 1970's. As a result, current research and theories focus on delinquent behavior regardless of its group or individual nature.

Although the scope of the phrase "delinquency is a group phenomenon" has never been fully explicated, it is generally taken to mean that the context and major

references of delinquency behavior involve adolescent groups. In other words, delinquent acts are social events involving several individuals. Peer groups are one of the most important sources of motivation and support for engaging in delinquent conduct (Erickson and Jensen, 1977:263).

Perhaps one of the reasons why researchers and theorists became disillusioned with the utility of using gangs as a focus in delinquency research is that the definition given to juvenile gangs was quite restrictive. For example, in their study of youths in Philadelphia, Savitz, Lalli, and Rosen (1977:49) classified gangs as either structural or functional. Structural gangs were those with acknowledged leadership, a common gang meeting place, and a territory or "turf" within which the gang operated and periodically resorted to violent acts in order to protect territorial boundaries. Functional gangs were those in which gang members were expected to fight with other groups. However, this somewhat restrictive definition of group delinquency overlooks the more casual, spontaneous, and loosely organized delinquent behavior found in our data as well as the data of others (e.g. Gold, 1970:118-119). In this study, group delinquency will be defined as those acts committed in the company of others but not necessarily in groups with any of the structural or functional qualities outlined above.

REVIEW OF LITERATURE

Despite the theoretical and empirical lack of attention to the group premise of delinquency, the findings of studies published during the past six decades show some definite patterns with regard to group delinquency. First, nearly all available data suggest that the majority of delinquent acts involve more than one person (Burt, 1925; Armstrong, 1932; Beard, 1934; Glueck, 1934; Fenton, 1935; Kvaraceus, 1945; Garrison, 1951; Bagot and McClintock, 1952; Scott, 1956; Clinard, 1957; Lohman, 1957; Reckless, 1967; Eynon, 1959; Eynon and Reckless, 1961).

Second, the types of delinquent acts which are most likely to be committed by groups rather than individuals remains relatively constant across several different populations. For example, in a study of six high school samples in four southern communities Erickson and Jensen (1977:265-266) found considerable stability in the Group Violation Rates (GVR) * of certain acts, (e.g. drinking, use of marijuana, burglary, and vandalism). These acts were most likely to be committed by groups rather than individuals for all six samples of youths.

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[1]Group violation rates refer to the proportion (%) of violations that are known to or reported to have been committed in the company of others. The formula is: GVR=GV/TV x 100 where GVR = group violation rates; GV = acts committed in the company of others; TV = total violations; and 100 simply removes the decimal point (Erickson and Jensen, 1977:264).

Third, early data showing the group-orientation of delinquency were published in the 1950's and 1960's, a time when the extremely small numbers of female delinquents provided a justification for their exclusion from the research samples. Recent studies, however, show that although females tend to commit fewer delinquent acts, when such acts do occur, females are just as likely as males to commit most offenses in the company of peers. In other words, there is considerable stability between the sexes in terms of group violation rates (Erickson and Jensen, 1977:267-68).

In summary, the findings of prior research indicate that there is considerable similarity in the percentages and types of delinquency most likely to be committed by groups, regardless of sex. These findings provide an important source of knowledge about delinquency. However, the studies upon which they were based deal with only the characteristics of group delinquency, its rates, and the settings in which group delinquency takes place. Few studies address how groups of delinquents are handled by the courts. If juvenile co-participants are mentioned it is only to say that the presence of companions has no effect on dispositions (Clarke and Koch, 1980:285). This paucity of data on how the courts handle group delinquency leaves researchers wondering whether delinquent acts involving groups of juveniles are handled any differently than those involving individual youths, whether group delinquency

presents any special problems to the court, whether youths involved in the same delinquent act are treated alike or differently than their co-conspirators, and which factors most directly affect the court's disposition decisions regarding juvenile co-participants.

Despite the paucity of literature concerning juvenile co-participants, there is some relevant information from studies on adults:

1) Co-participants are more likely to have identical charges brought against them. In a study of robbery and burglary incidents, Williams and Lucianovic (1979:13) found that identical charges were brought against co-participants in a felony court nearly 90% of the time. A similar percentage of identical charges was found among co-participants in the felony court study by Fenster (1979).

2) Co-participants tend to receive the same dispositions. Williams and Lucianovic (1979:13) found that co-participants received the same final dispositions approximately 75% of the time with slight variations between robbery and burglary incidents. However, their study did not distinguish between same-sex and mixed-sex groups. The Fenster (1979) study found that the likelihood of equal dispositions varied by type of co-participant group. The percentage of equal dispositions ranged from 19% for female co-defendants; 35% for male co-participants and 44% for male-female co-participants, despite the fact that identical charges were brought against each pair of co-participants.

In short, what little information exists about adult co-participants shows that they are likely to be charged equally, but the likelihood that these charges will result in identical dispositions varies by type of offense and type of co-participant group. None of the studies focused specifically on factor(s) most likely to result in equal or unequal dispositions, although Fenster and Mahoney (1981) found that co-participants with similar prior records are more likely to receive the same dispositions. Furthermore, these studies were conducted with adults in courts at the district or superior level; consequently, their applicability to juvenile courts remains questionable.

The question of how juvenile co-participants are handled by the courts and whether they are treated alike or differently raises an important issue in juvenile justice. Should juveniles involved in the same delinquent act receive the same dispositions? What factors should be most influential in determining dispositions for these juveniles?

THEORETICAL BACKGROUND

Social equity theory has been primarily concerned with persons directly involved in some type of social exchange relationship (Berkowitz and Walster, 1976; Walster, et al., 1978), be it friendship, marriage, employee-employer relations, etc. Recent work (e.g. Baker, 1974) has extended the equity formulation to include a third-party and that person's perception of relationships in which he himself is

not involved. But regardless of the dimensions of the social exchange relationship, the primary thesis is one of "proportionality"; that is, that like actions should be treated alike, or to the extent that actions differ, their consequences should differ to the same extent (Zelditch, 1981:31).

In the juvenile justice system, this third-party observer is the judge and/or jury whose task is to restore equity to the inequitable relationship caused by the juvenile(s) delinquent act against the victim(s). Restoration of this equity is achieved by "matching" the punishment to certain characteristics of the defendant and the crime. One of the principles guiding the allocation of punishment is "equal penalties for equal crimes." In social equity theory terms, these third party observers follow the tenet that the punishment should fit the crime.

Within the criminal justice system, this tenet has been formulated into what is commonly called the just deserts principle. This principle, which derives its basic assumptions from equity theory, more precisely identifies the conditions under which equality or inequality is most likely to occur in the criminal justice system. The present study is cast within the framework of the just deserts principle as outlined in von Hirsch (1976).

Although sometimes referred to as a theory, just deserts is really a collection of guidelines stated as a principle. This principle has its roots in the works of

Beccaria (1769) which assert that the severity of the punishment should be commensurate with the seriousness of the wrong (von Hirsch, 1976:66). Fundamentally then, just deserts holds that convicted criminals should be punished because they have committed a reprehensible act and, therefore, deserve punishment (Rodino, 1979:12).

Since the just deserts principle emphasizes the seriousness of the offense as the primary determinant of the resulting punishment, it is important to analyze the two major components of that principle: harm and culpability. According to von Hirsch (1976:79) harm is measured by the degree of injury caused or risked. State sentencing statutes typically are based on calculation of the degree of harm inflicted upon society by the alleged criminal. For example, because armed robbery poses greater harm to the victim than burglary, sentencing boundaries are structured so that the penalty is more punitive for armed robbery than burglary.

The second component of offense seriousness is culpability or the degree to which the offender may justly be held to blame for the consequences or risks of his/her act (von Hirsch, 1976:80). When dealing with co-participants, the most critical determinant of culpability is whether the defendant played a central (dominant) role or was only a peripheral (minor) participant in the offense.

In addition to harm and culpability, the just deserts principle embraces the offender's prior criminal record, the

number of previous convictions and seriousness of these past crimes (von Hirsch, 1976:84). The logic behind this reasoning is that a person who is convicted of his/her first offense is made aware of the "wrongness" of that act. Repetition of the criminal act after this point demonstrates increased culpability since the offender persisted in the behavior after having been forcefully censured for it through the prior punishment.

Although the guidelines just outlined generally apply to adults, there are similar guidelines proposed for juveniles. The IJA/ABA Juvenile Justice Standards (1980:35) suggest that judges should consider not only the juvenile's responsibility or culpability in the commission of the delinquent act, but also the juvenile's age. The older the juvenile, the greater his or her responsibility for breaking the law. In addition, the standards require that judges also consider the seriousness of the delinquent act and the youth's prior record. However, these standards also allow the consideration of aggravating or mitigating circumstances that accompany any particular delinquent act. In short, except for age, the just deserts principle for adults and the disposition guidelines set down by IJA-ABA are similar. Both hold that dispositions should be commensurate with the seriousness of the offense, the offender's culpability or responsibility for the act, and his or her prior record. Age should also be a determining factor for juveniles.

This idea of treating offenders on a basis commensurate with their current situation has been reflected in statements such as. . . "equal penalties for equal crimes" or "persons similarly situated should receive similar treatment". But the concept of "equal penalties for equal crimes" takes on particular importance in the juvenile court where the "best interests of the child" principle is a guide. This principle gives the judge a great deal of latitude in determining which factors to use in reaching the disposition decision. For example, juvenile judges may consider the youth's family background, prior criminal record, the severity of the offense, school performance, the youth's attitude, etc. There are few criteria to guide the judge in assigning weight to each of these factors and, as a result, juvenile judges can exercise considerable discretion in handing down a disposition that is in the "best interests of the child". They are not required to mete out "equal penalties for equal crimes". Two youths who were involved in the same delinquent act may receive different dispositions (with different terms and conditions attached) and the major determining factors influencing each youth's disposition may differ significantly.

However, in recent years many juvenile courts (including the juvenile court in this study) have become more due-process oriented and, as a result, judicial discretion has become narrowed by state and federal legislation as well as the U.S. Supreme Court decisions of

the 1960's and 1970's. Whether this increased emphasis upon due process affects the handling of juvenile co-participants remains in question.

One of the formal policies governing the processing of co-participants includes Colorado's complicity theory embodied in section 18-1-603 of the Colorado Revised Statutes (1973:244-246). This section states that a "person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense he aids, abets, or advises the other person in planning or committing the offense." Translated into lay language, Colorado law provides for the filing of identical allegations against youths who committed the same offense together, thereby making all members of a crime partnership eligible for the same range of sentence severity, even if one member plays a more dominant role in the crime than the other(s). In the particular juvenile court under study, juveniles taken into custody for committing the same offense together usually have identical petitions filed against them. Each youth's case is assigned a separate number and their hearings are scheduled separately, although it is not unusual for co-participants to have their advisement hearings scheduled on the same day.

DATA COLLECTION

The data were gathered through both quantitative and qualitative methods. The quantitative data were drawn from records filed on each of the youths in the Clerk of the Court's office. These records contain the youth's petition(s), the summaries from each juvenile court hearing, and documents noting the youth's disposition, family background, etc. In addition, data on the youth's delinquent acts were taken from police reports filed with the District Attorney.

The qualitative data were taken from several hundred hours of court observations conducted by the author during 1980. During the course of these observations, data were recorded on all cases which involved more than one juvenile. Of particular interest were the types of delinquent acts committed by juveniles and their companions, the composition of these juvenile partnerships, and the dispositions accorded to them. Whenever the prosecutor, the judge or the child's attorney elaborated upon their reasons for recommending certain dispositions for co-defendants, these statements were entered into the author's notes at the end of each day's observation. Although these cases do not represent all groups of juvenile co-participants processed during 1980, the regularity and frequency of observations assure that they provide a realistic view of how juvenile co-participants are handled in this juvenile court.

According to records kept by the Juvenile Division of the District Attorney's office, 1586 petitions were requested of the DA's office in 1980 by the county's police departments, sheriff's department, and change of venue cases transferred from surrounding counties in the Denver metro area. The DA elected not to handle 98 of these 1586 requested petitions.

Of the remaining 1488 requested petitions (1586 minus the 98 refused petitions) we coded data on 1162 youths (710 referred to court and 452 referred to Diversion). There is a difference between the number of petitions requested and the number of youths in our study because some youths had more than one petition and some diversion referrals were "police level" referrals which were not included in our study because too little information was available on them.

The analysis of the 1162 youths examined in this study was limited to the youth's most serious delinquent act. This resulted in a total of 816 delinquent acts because many acts involved more than one of the 1162 youths. Since juvenile delinquency has generally been regarded as a group phenomenon, it is interesting to note the manner in which these 816 delinquent acts were committed in relation to the manner in which they were handled by the DA.

RESULTS - CO-PARTICIPANTS

The DA filed 571 (70%) of the 816 delinquent acts as sole perpetrators; the remaining 245 (30%) were filed as

co-participants. However, police reports filed in the DA's office show that a far larger number of delinquent acts--379 (54%)--were actually committed by multiple offenders. In other words, 134 acts (379 minus 245) actually involved co-participants but were not filed that way. Furthermore, within these 379 groups of multiple offenders there were 57 (15%) acts that actually involved additional, yet unindicted accomplices. This means that a total of 191 (134 plus 57) or 23% of the 816 delinquent acts filed with the DA in 1980 involved additional persons upon whom official action was not taken by the DA.

What were some of the reasons for this lack of official action by the DA? The most obvious reason is that the accomplices got away before police could apprehend and identify them. In their reports the police often noted that there were additional persons involved but they could not be identified. And, even if the accomplices were identified by police and referred to the DA, the DA may refuse to process the case because of insufficient evidence, action by other agencies, youths moving from the jurisdiction, illegal searches, and the victim's request to drop the charges. In still other cases, the accomplices may be referred to a municipal court, particularly if the allegations are of a minor nature. Finally, if the accomplices are adults, their cases may be filed in the county court or adult criminal court.

These findings suggest the following conclusions: First, more than half of the delinquent acts were committed by groups, rather than individuals. While this percentage is not as high as the 60-90% estimated by Cohen (1977:416) and others (e.g. Erickson and Jensen, 1977:265) it is consistent with the premise that a large proportion of delinquency is group behavior.

Second, even though more than half of the delinquent acts were committed by more than one person, less than a third of them were actually processed as co-participants. The implication of this finding for group delinquency is that all youths involved in any given delinquent act may not receive official attention, at least from the District Attorney in this county. The large attrition rate from the commission of the delinquent act through filing by the DA is only the beginning of an extensive filtering process that eliminates youths at each successive stage of the adjudication process. Consequently, the numbers of youths known to have been involved in the commission of delinquent acts is considerably larger than the actual numbers processed by the District Attorney.

Sex and Co-Participation in Delinquency

Boys tended to commit 54 percent of their 657 delinquent acts alone; the remaining 302 acts were most likely to be committed in the company of other male juveniles (28%), with much smaller percentages of these acts

committed with unidentified persons (7%); male adults (6%); and groups comprised of both sexes, adult and juvenile (4%). Boys were unlikely to commit offenses with females, either adult or juvenile.

In contrast, girls tended to commit a smaller percentage (48%) of their 159 delinquent acts alone; if they committed the act with someone else it was most likely to be other female juveniles (29%), unidentified persons (9%), male adults (6%) or male juveniles (3%); and groups comprised of both sexes, adult and juvenile (1%). Girls were somewhat more likely than boys to commit their offenses with the opposite sex, particularly adults.

For both sexes, youths involved in the 391 group acts were approximately the same age; nearly a third (31%) of the group acts involved youths with the same birth year and the ages of youths in the remaining groups were usually within one to two years of each other. Even the adults who were involved in these delinquent acts were rarely much more than two years older than their minor co-participants.

On the basis of these findings, one can conclude that when boys and girls commit delinquent acts with others the accomplices are most likely to be of the same age and sex. Groups of mixed sexes and ages were quite rare.

The remaining paragraphs of this chapter describe the group offenses and offenders in greater detail and some of the differences between the group offenders and lone offenders. The sub population of 153 groups is taken from

the total 1980 delinquent population of 710 youths.

Of the five major categories of delinquent acts committed by the 710 youths, certain acts were more likely to be committed by groups. For example, 86 percent of the burglaries and 57 percent of the criminal mischief acts (vandalism) were committed by groups. In contrast, certain acts were much more likely to be commited by youths acting alone. Sixty-seven percent of the assaults, 63 percent of the drug violations, and 54 percent of the thefts were committed by individual youths. All of the remaining categories of delinquent acts contained too few youths to draw meaningful conclusions as to whether they are more likely to be committed by groups or individual youths.

Delinquent acts committed by groups (N=391) included youths who were friends with one another (82%); another 8 percent of the group acts were committed by siblings. The remaining 10 percent of the group acts involved youths who were either strangers (3%) or a combination of friends and siblings (4%).

Dispositions for Juvenile Co-Participants

Range of Dispositions

As was mentioned in the chapter on dispositions, there are several disposional options available to the court: dismissal, acquittal in either a bench or jury trial, reserved adjudication (also called court supervision) in

which a youth is assigned to a probation counselor for a six-month period of supervision and then has his case dismissed if his behavior is satisfactory, and adjudication as a delinquent child. If a child is adjudicated delinquent, the judge has several options open: a fine, commitment for a specific period of time in the juvenile detention center, probation up to two years, placement outside the home, or any combination of these. He may also commit the child to the State Department of Institutions, where a child may ultimately be placed in a juvenile correctional institution for up to two years.

Even though there seem to be several disposition options available to the judge, in reality the two used most frequently are: (1) adjudication with probation (usually two years) and (2) reserved adjudication with six months supervision. However, there are ways to individualize the youth's disposition when the judge feels that differential treatment is merited.

The most common way is to vary the terms and conditions which accompany the disposition. For example, common terms and conditions attached to supervision or probation terms are: (1) refrain from associating with co-minors, (2) attend school or, if over 16, work full-time, (3) pay restitution to the victim, (4) work a certain number of hours for community service or civic organizations, (5) participate in specific types of counseling sessions such as mental health or drug therapy, or (6) spend some time in the detention

center. Therefore, even though a set of co-defendants may receive the same dispositions (i.e. both receive probation terms of two years) these same dispositions can be individualized to meet a particular child's needs. For example, both youths may be asked to refrain from associating with each other throughout the probation period. But one youth may be required to donate 25 hours of community service time while another may be asked to donate twice that amount. Another method is to require youths to pay the restitution in amounts commensurate with their level of participation. For example, a youth who takes $50 from his/her employer will be required to pay back that amount while the co-minor who takes only half as much needs to pay $25.

Dependent Variables

The major dependent variable to be examined is whether the Court gives equal or unequal dispositions to youths who commit the same delinquent act together. Dispositions are coded as 1) equal = all members of the same delinquent group receive the same disposition. For example, all receive probation terms of two years; or 2) unequal = all members of the same delinquent acts do not receive the same dispositions. For example, one youth may receive a reserved adjudication while the other(s) receive a two-year probation term.

The definition of "equal" dispositions merits some explanation. Use of the term "equal" in this paper is literal; that is, all youths in the delinquent group must receive identical dispositions. Some practitioners have argued that youths are not able to distinguish the difference between a reserved adjudication and a probation term because in either decision the youth must be supervised by a probation counselor. However, there are distinct differences between the two. A reserved adjudication does not involve a finding that the child is delinquent; furthermore, the youth is assigned to a six-month supervision period. In contrast, a youth on probation has been found to be a delinquent child and is required to be supervised by a probation counselor for a period of up to two years, although the case can be terminated earlier if the child's performance is exemplary. Since the Court makes this distinction between these two most frequently used treatment disposition decisions, it seems appropriate that we make this distinction in our analysis as well.

Independent Variables

The independent variables are derived from 1) the social equity theory tenet that "proportionality" should guide the way people are treated and 2) the just deserts principle that says "proportionality" in the justice system should be based on whether or not the following variables are equal:

1) age. youths with the same birth year are coded as having equal ages; all others are coded as unequal. The older youth is coded as oldest; the younger youth is coded as the youngest.

2) prior record. youths whose most serious prior delinquent act is the same severity (that is, misdemeanor or felony) and the same type of offense (that is, personal or property) are coded as equals; all others are coded as unequal. A youth with a felony personal offense in his prior record has a more serious record than one with a misdemeanor property offense.

3) severity of allegations. youths whose most serious allegations are the same (that is, the allegation is identical) are coded as equals; all others are coded as unequal. A youth with a felony theft allegation is coded as more serious than a youth with a misdemeanor theft allegation.

4) number of allegations. youths whose total number of allegations filed between the original petition and the date of adjudication are the same (for example, each youth has a total of three allegations) are coded as equals; all others are coded as unequals. A youth with three allegations is coded as having more allegations than a youth with only two allegations.

5) role. youths who demonstrated equal responsibility for the commission of the delinquent act (for example, they all admitted equal responsibility, they participated equally

in the commission of the act, and so on) are coded as equals; all others are coded as unequals. A youth who suggests the offense, takes primary responsibility for planning the offense, utilizes a weapon, and so on is coded as the dominant partner, while the youth who drives the getaway car, stands guard as the "lookout", or participates in the offense against his or her will is coded as the minor partner.

The Co-Participant Sample

The qualitative data are based on a sample of 86 youths who had court appearances in 1980 on allegations stemming from 53 different delinquent acts involving more than one youth. Although these youths were not necessarily the same youths upon whom quantitative data were collected in 1980, their cases do serve to illustrate trends or patterns observed in our analysis of court record data and provide descriptive scenarios of how the Court reacts to group delinquency.

The quantitative data in this sample of co-participants are based on 320 youths whose most serious allegations stemmed from 153 delinquent acts filed with the District Attorney's office in 1980. One hundred twenty-two of these 153 acts involved groups in which petitions were filed in Juvenile Court on all members of the delinquent group; the remaining 31 acts involved groups in which a petition was filed on one youth in Juvenile Court while his or her co-

participants were referred to the Juvenile Diversion Program. All youths in the remaining 138 groups were referred to Diversion.

The composition of these groups falls into six different categories: 1) two boys, 2) two or more boys, 3) two girls, 4) two or more girls, 5) one boy, one girl, or 6) boys and girls in groups of three or more. Table 8-1 shows the types of delinquent acts committed by the 146 groups for whom data were available on each youth in each delinquent group.

TABLE 8-1

DELINQUENT ACTS COMMITTED BY DIFFERENT KINDS OF DELINQUENT GROUPS

	Two boys	Three or more boys	Two girls	Three or more girls	One boy, one girl	Three or more boys and girls
Drugs	4	1			1	
Assault	2	2	2	1		
Sexual Assault	1					
Arson			1			
Burglary	16	16		1	1	1
Robbery	4					
Theft	24	8	15	1	3	
Joyriding	4					1
Receiving	2	1				
Criminal Mischief	13	2	1			
Criminal Trespass	6	2		1		1
Forgery	2					
Resisting Arrest	1					
Disorderly Conduct		1				
Harassment	1		1			
Miscellaneous			1			
TOTALS	N=80	N=33	N=21	N=4	N=5	N=3

N = 146 Delinquent Acts

Twenty-three percent of these 146 delinquent acts involved girls. Girls in groups of two (N=21) were most likely to commit a misdemeanor theft (71%). Girls who committed delinquent acts with two or more boys or two or more girls were distributed in incidents of one each across the categories of drug violations, assault, burglary and joyriding. A girl who committed a delinquent act with a boy was most likely to commit theft (N=3).

Boys committing delinquent acts with one other boy (N=80) were most likely to commit burglaries (20%), thefts (30%), robberies (11%), criminal mischief (16%), or criminal trespass (8%); their remaining delinquent acts were distributed in frequencies of four or less across the categories of drug violations, assault, sexual assault, robbery, joyriding, theft by receiving, criminal trespass, forgery, resisting arrest, and harassment. Boys in groups of two or more (N=33) were charged with burglary (49%) and theft (24%); the remaining delinquent acts were distributed in frequencies of two or less across the categories of drug violations; assault, theft by receiving, criminal mischief, criminal trespass, and disorderly conduct.

ANALYSIS

The quantitative data are analyzed using discriminate function analysis, a technique which allows the researcher to study the differences between two or more groups of subjects with respect to several variables simultaneously

(Klecka, 1980:7). This technique is particularly appropriate for the data on co-participants because the dependent variable is nominal and discrete (equal versus unequal) rather than continuous. The research objective is to obtain the independent variable set (profile) that is most useful in distinguishing between groups of delinquents who receive equal versus unequal dispositions. The independent variables to be entered into the analysis include equal or unequal prior record, equal or unequal age, equal or unequal number and severity of allegations, and equal or unequal role in the delinquent act.

The 153 groups of co-participants include two categories. Category I includes 31 groups in which one youth was petitioned into Juvenile Court while the co-participant(s) was referred to the Diversion Program. Category II includes the remaining 122 groups in which all members had petitions filed in Juvenile Court.

Looking first at Category I, all 31 groups received unequal treatment because each group had some youths filed in court and some referred to the Diversion Program. This treatment decision is made by the District Attorney who uses a set of formalized criteria but youths referred to the Diversion Program are usually first-time, non-violent offenders.

Complete information was available for 26 of the 31 groups in Category I. Their distribution within each of the five independent variables is as follows:

Age: nearly one-third of the groups were the same age and, in more than a quarter of the groups, the youth referred to diversion was younger than the youth filed in Juvenile Court. The remaining 15% of the groups involved Court youths who were younger than their Diversion partners. When youths' ages were not the same, the older youth was more likely to go to court.

Charges: Ninety-two percent of the youths had equally severe allegations brought against them and 89% had the same number of allegations. Consequently, it is apparent that the district attorney follows the complicity theory in filing allegations against juveniles, but doesn't necessarily give these youths the same treatment.

Role: Sixty-two percent of the groups played equal roles in the commission of the delinquent act. When their roles were unequal, it was the youths who played dominant roles (26%) who were filed in Juvenile Court. Only 3% of the groups involved youths who were referred to the Diversion Program despite their dominant roles in the commission of the delinquent act.

Prior record: Seventy-five percent of the groups had similar prior records. Twenty-one percent of the youths filed in Court had the harsher prior record.

The characteristics of the 70 groups in Category II within each of the five independent variables are as follows:

Age: Forty percent of the 70 groups were the same age; 61% of these same-age groups received the same disposition. Twenty-nine percent of the oldest kids in a group received the harsher disposition; less than 20% of the youngest kids received the milder dispositions.

Charges: Ninety percent of the groups had an equal number of allegations of equal severity brought against them. Fifty-five percent of these groups with equal charges received the same dispositions. In only one group did the youth with harsher charges receive the harsher disposition.

Role: Seventy-three percent of the groups played equal roles and 53% of these groups with equal participants received the same disposition. There were only five dominant partners identified within the groups and two of them (40%) received the harsher disposition. Fourteen percent of the youths who played minor roles in the delinquent acts received the milder dispositions.

Prior record: Sixty-six percent of the groups had similar prior records and 61% of the groups with similar records received the same disposition. One-third of the youths with harsher prior records received harsher dispositions while 23% of the 13 youths with milder prior records got milder dispositions.

The fact that complete information was available on all independent variables utilized in the discriminant analysis for only 70 of the 122 groups is due, in part, to the fact that the discriminant analysis program utilized (Nie, et

al., 1975:451) required listwise deletion. This means that cases with missing values are automatically eliminated from all calculations. The advantage of listwise deletion is that all calculations are based on the same universe of data but, unfortunately, listwise deletion also reduces the number of cases much farther than preferred. The problem of missing values is very typical in studies dealing with official records. Researchers have little control over what is contained in these records and must continually cope with the problems of missing data when these records are incomplete.

In addition to the attrition of cases caused by listwise deletion, another major factor is that 50 of the 122 groups had missing data on the dependent variable, disposition (variable 109). There were four main reasons for this missing data.

First, 41 of the 122 groups involved one or more youths who were non-residents. The general policy of this court is to accept the youth's admission (or find him or her guilty in a trial) and then transfer the case to the youth's home county for disposition. Since the court order granting us access to juvenile files was limited to Suburban County, we were unable to find out what disposition the youth eventually received in his or her home county. We could not make comparisons among the youths in any delinquent group when one or more of the dispositions were unknown, therefore, these cases were coded as missing data on variable 109.

A second reason for missing values on the disposition variable was that four of the 122 delinquent groups had at least one member whose case had not yet reached final disposition. Once again, if dispositions were unknown for one or more members of a delinquent group, the researchers were unable to compare the dispositions within the group. These cases were also coded as missing data on variable 109.

Third, five of the 122 groups had at least one member who was a resident of the county at the time of the delinquent act but whose case was transferred to another jurisdiction (usually because the youth moved) before the disposition was reached.

PROCEDURES FOR ANALYZING CO-PARTICIPANT GROUPS

Groups of co-participants were analyzed in the following manner. Each group of youths was given a group number. In addition, each youth in a group was given an identification number. For example, the youth whose name appears first on the master list of juveniles receives the number 1; the next youth in the list who is a member of that same group receives the number 2, etc.

When comparisons were made within each group or when the analyst wished to study delinquent groups rather than individual youths, youth number 1 was used as the "reference" youth. By knowing the characteristics of youth number 1, comparisons can be made within the group or between the groups of delinquents. For example, if we

wanted to know what kind of delinquent acts were committed by groups composed of two boys, we would select boys (value 1 on variable 6) who were number 1 in their group (variable 92) who committed acts with one other boy (value 1 on variable 94). By using the boys who meet these criteria, the analyst could find out what the most serious delinquent act (variable 16) was for each group composed of two boys. The same procedures could be used to find out what delinquent acts were committed by pairs (variable 94=1) of girls (variable 6=2). To find out what kinds of delinquent acts were committed by boys or girls acting alone, the analyst would select those youths whose value was zero on variable 92.

DISPOSITIONS OF JUVENILE CO-PARTICIPANTS

More than half (54%) of the 70 groups of delinquent youths filed received the same disposition from the juvenile judge; the remaining 31 groups (46%) received unequal dispositions. In most of these 31 groups, one youth received a reserved adjudication while the other(s) were adjudicated delinquent and placed on probation for up to two years. The major research question is why were some groups given equal dispositions while other groups were not.

Five discriminating variables were entered into the equation--age, severity of allegations, number of allegations, prior record, and role. Since each of these discriminating variables is theoretically important, all

variables were entered into the analysis concurrently to see which variables discriminate between the two groups of youths who receive equal or unequal dispositions.

The analysis shows that the discriminating variables produce only one discriminating function and that one variable, prior record, is included in this function. The extremely large Wilks' Lambda (.977896) suggests that there is very little information left in the remaining variables. However, the relative importance of the function--the eigen value (.Ø226Ø)--is quite small, suggesting the overall importance of the prior record variable is not significant. The strength of the relationship between the function and the group variables is measured by the canonical correlation coefficient which shows that prior record accounts for only two percent of the function's ability to discriminate between the two groups. Furthermore, its addition to Rao's V was insignificant. This suggests that the prior record variable is not very powerful in its ability to move youths' cases from one group to the other.

These findings indicate that the discriminating variables selected for this analysis are not very powerful in moving cases of youths from one group (equal dispositions) to the other (unequal dispositions). The equality or unequality of the variables outlined in the just deserts principle and the IJA-ABA standards do not explain much of the variance in the court's treatment of delinquent youths.

By looking at each of these independent variables separately, we can see the lack of consistent pattern between the incidence of equal dispositions and equality within the independent variables.

Table 8-2 shows the equality or inequality of dispositions in relation to the severity and number of allegations brought against the youths, their roles in the delinquent act, their ages, and their prior records. According to the table, co-participants with equally severe allegations brought against them are only slightly more likely to receive equal dispositions (54%) than unequal dispositions (46%). In addition, co-participants who played equal roles in the delinquent act are only slightly more likely to receive equal dispositions (53%) than unequal dispositions (47%). However, those co-participants with similar prior records and similar ages do have a greater tendency to receive the same dispositions. Twenty-seven (61%) of the 44 sets of co-participants with similar prior records received equal dispositions while 17 (60%) of the 28 groups with similar ages received equal dispositions.

TABLE 8-2

YOUTHS RECEIVING EQUAL OR UNEQUAL DISPOSITIONS IN RELATION TO EQUALITY OF ALLEGATIONS, ROLE, AND PRIOR RECORD

Disposition	Sets with Equal Number and Severity of Allegations	Sets with Equal Role	Sets with Equal Prior Record	Sets with Equal Age
Equal	54%	53%	61%	60%
Unequal	46%	47%	39%	40%
Total	100%	100%	100%	100%
	N=63 sets	N=51 sets	N=44 sets	N=28 sets

The fact that there does not appear to be any strong, consistent relationship between dispositions and the independent variables studied here may be due, in part, to the large amount of discretion given to juvenile judges. In other words, juvenile judges may be utilizing any of a number of reasons for treating youths alike or differently. The need to individualize the youths' dispositions justifies the inclusion or exclusion of factors selected by the judge. If judges treat each case on an individual basis, it may be difficult for researchers to isolate any one factor or set of factors that explain why certain groups receive equal dispositions while others do not.

The courtroom observations conducted during 1980 would tend to support this statement. Notes taken during these

several hundred hours of observation show that several reasons were invoked by the judge, the district attorney, defense attorney, or the probation counselor when they discussed the disposition given to the youth. There did not appear to be any consistent pattern as to which factors would be mentioned in any particular kind of case but it did appear as though legal officials supported their disposition recommendations on factors that seemed the most obvious or clear-cut and these factors varied from case to case. However, overall, there were three reasons cited most frequently--the youth's role in the delinquent act, the amount of remorse shown by the youth over the incident, and the youth's prior record. The following section discusses these reasons for equal or unequal dispositions and the circumstances of the delinquent acts for which the dispositions were granted.

The first reason revolved around the juvenile's degree of involvement in the offense. As the case below illustrates, one youth in a group of three received the more lenient treatment because he played a minor role in the commission of the delinquent act (shooting out car windows with a gun):

> This child was given a reserved adjudication and much was said about why he didn't get treated as severely as his juvenile co-participant (who was adjudicated and received a two-year probation term)...the youth's attorney reminded the Court that while the other co-minors committed these shootings on two sequential nights, this youth was present at only the first of two shooting incidents. He knew the other two males planned to do some more shooting but he decided not to participate.

As this case and many others illustrated, a youth's level of participation or role in the offense weighed heavily when the district attorney or the child's attorney attempted to explain why one youth deserved more harsh or more lenient treatment than his/her co-participant(s).

Another sample of differential treatment occurred when two boys stole merchandise from their employer. In this case, it was not only the youths' involvement in the offense but also the degree of remorse shown after the incident had occurred:

> They were involved in thefts of money and merchandise from their employer. The first boy. . .took less than $5Ø in merchandise and his attorney explained that the youth was encouraged to do this by some friends. He received a reserved adjudication; in addition, he had to pay restitution to his employer and do 25 hours of volunteer work for a civic organization. The second boy did not fare so well. He took more than $2ØØ of merchandise and even installed the stolen items in his car. The youth's attorney didn't think he should get a harsher disposition than his co-participant. However, the youth's probation officer and the judge disagreed. They based their decision on the youth's lack of remorse over the incident. The youth had told the arresting police officer and the probation counselor that the store was very big and had lots of money and, therefore, wouldn't miss the stolen merchandise. He added that lots of companies, e.g. oil companies, were "ripping off" people all the time, so how could his misdeed be very serious? The judge gave this youth a harsher disposition than his co-participant--the youth was adjudicated a delinquent child and placed on probation.

required to pay restitution, spend one night in the detention center, and donate 48 hours (compared to his partner's 25) to community service.

A third reason upon which court officials base their dispositions is the prior delinquency record of juveniles. Youth with similar prior records or no prior records at all are more likely to receive the same dispositions. However, a youth with a history of delinquency is likely to receive a harsher disposition. The following case illustrates how a district attorney used the youth's prior record to justify a disposition harsher than those normally given to youths appearing in Court for the first time:

> The youth appeared for advisement on charges of theft of bike wheels and another charge involving theft of an entire bike. The police report showed that the youths' garage was full of many more bicycle parts than those reported in the petitions. This was a strong suggestion that the youth had been involved in theft of bike parts for some time. The DA recommended a two-year probation term for the youth and later explained the reason for her recommendation. She said that she couldn't give this youth a reserved adjudication (a six-month supervision period normally given to first-time or misdemeanor type offenders) even though this was the youth's first petition, because the youth's police record showed numerous 'lecture and release' contacts dating back four years. She felt that the youth had gotten off easily in the past and now it was time to crack down on him.

Numerous other examples of the influence of prior record were noted during courtroom observations. For example, a youth with an extensive prior record would be more likely to receive a two-year probation term while

his/her co-minor with no prior record would be more likely to receive a six-month reserved adjudication. Or, if youths received the same disposition, one youth's prior delinquent involvement could be used to justify harsher terms and conditions than the co-minor. Ways in which a disposition could be made harsher included requiring the youth to spend a few nights in the detention center, to participate in therapy, or donate considerable amounts of time to a community organization. The attitude of court officials toward such youths with extensive prior records was to "crack down" on the youths, to treat them more harshly in hopes of "waking them up" to the realities of possible incarceration if the youth's delinquent tendencies were not re-channeled into more constructive behavior.

In summary, courtroom observations showed three major reasons why juvenile co-defendants do not receive the same dispositions: (1) their degree of participation in the delinquent act is not equal, (2) the degree of remorse shown by the juveniles varies, and (3) the youth's prior involvement in delinquent activities. In addition, there are cases where one of these reasons may be invoked by legal officials and other cases where two or more reasons may be invoked. The important point is that legal officials can find reasons to vary the dispositions of youths when they want to. And even though they express vocal approval for treating the delinquents alike, they believe in individualizing the dispositions where needed.

PROBLEMS ASSOCIATED WITH INDIVIDUALIZED DISPOSITIONS OF CO-PARTICIPANTS

The findings show that youths involved in the same delinquent act do not necessarily receive the same disposition, even though they were involved in the same delinquent incident and thus are eligible for the same range of punishment. Advocates of individualized dispositions in the juvenile court would probably hail this finding as encouraging, but the use of differential dispositions for juvenile co-participants is not without problems.

One of the most significant problems is the displeasure of parents when their child is treated more severely than the other juveniles involved in the delinquent act. For example, hearing that her son was going to receive a harsher disposition than his partners, one mother said angrily to the judge, "Why is my son treated more harshly than the other boys who were involved in this (offense)?" The judge's response clearly illustrates his position: "I can't treat all kids alike when they have different backgrounds, different prior records, different scholastic achievements. . ." He summed up his thoughts with this comment: "You can never find two alike."

Closely related to the parents' displeasure over differential dispositions for co-participants is the youth's anger at what is perceived as unfair treatment by the juvenile court. This is particularly true in cases where

the youth accepts only <u>partial</u> responsibility for the delinquent act, but is punished as though he had an <u>equal</u> share of the responsibility. For example, a youth ordered to pay <u>half</u> of the restitution feels that his treatment is unequitable and unfair when he is only willing to accept <u>one-quarter</u> of the responsibility.

Another problem which interferes with the youth's treatment is anger or resentment toward the co-participant(s) for "getting me involved in this mess." In addition, some youths expressed fear of reprisal if they testified in court against their co-participants. For example, a restitution hearing was ordered by the Court to determine the exact amount of money owed to the victim by the two youths who committed the delinquent act. One of the youths who thought he might be asked to testify against his co-participant expressed fear from reprisal threats that the co-participant would "beat me up, damage my car or my house. . ." etc., if he said anything that might anger his former partner in crime. The youth's parents also feared for his safety should the youth's co-participant be angered in any way over this incident.

It was clear from observations in juvenile court and conversations with probation counselors that, since the cooperation of youths <u>and</u> their parents is crucial to the treatment process, it is imperative that they feel their treatment in juvenile court has been fair and just. Otherwise, it is not unusual for such clients to balk at the

treatment programs designed for them and fail to fulfill the terms and conditions of probation or supervision.

CONCLUSION

In summary, the data show that youths who commit the same delinquent act together do not necessarily receive the same disposition, even when they have had the same allegations brought against them and play equal roles in the delinquent act. Only when they have similar prior records and similar ages does the likelihood of equal dispositions increase.

These findings suggest that the proportionality tenet embodied in both social equity theory and the just deserts principle is not necessarily supported by these data. Even though severity of allegations, role, and prior record are regarded as important variables influencing disposition equality for adults (von Hirsch, 1976) they obviously are not always the most important variables influencing the dispositions of juveniles. Age does not have a consistently strong effect either.

IMPLICATIONS FOR FUTURE RESEARCH

These data highlight some issues worthy of attention in future research.

The first issue, and perhaps the most important one, is what is the effect of sentencing disparities upon the youths themselves? Casper (1978) suggests that one of the goals of

the justice system is the distribution of fair and predictable justice. All defendants are concerned about equity and express dissatisfaction when they are singled out for harsher treatment. The juvenile court, with its historical orientation toward treating the offender rather than the offense, has felt justified in singling out juvenile offenders for harsher treatment when the youths' individual characteristics seem to merit it. However, as concern with equity becomes a larger issue in the criminal courts, this concern is bound to filter down into the juvenile courts. In turn, juveniles may have their "consciousness" raised and express more resentment at disparate treatment. As a result, we need to continue examining how juvenile co-participants are treated and how this treatment affects their perceptions of the fairness of the juvenile justice system.

A second issue, strongly related to the first, is how these perceptions of fairness affect the youth's rehabilitation and recidivism rates. The youth who receives a harsher disposition than his or her co-participant(s) may feel unfairly treated and this, in turn, may increase resentment toward the system and decrease willingness to cooperate during the treatment process.

A third issue revolves around the youth's constitutional rights. The Supreme Court decisions of the late 196Ø's extended several constitutional rights to youths, but "equal protection under the law" is rarely

mentioned. Juvenile co-participants whose dispositions vary for reasons other than relevant legal factors may be having this very important right violated.

CHAPTER 8
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CHAPTER 9

FAMILY AND JUVENILE DELINQUENCY*

Two primary issues run through the literature on family and delinquency. One is the family's role in the etiology of delinquency. The second is the impact that family background information has on the system's treatment recommendations and decisions. The present study emphasizes this latter concern. This chapter includes a review of the literature on family and delinquency, a description of the research methods employed in this portion of the study, and a summary of results from the study of family and delinquency.

RECENT LITERATURE ON FAMILY AND DELINQUENCY

Family's Role in the Etiology of Delinquency

Studies of juvenile delinquency in the early 1900's focused attention on inner city slum areas. These "urban pockets of deprivation" were recognized as centers of criminal activity, including juvenile delinquency. The

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[1]This chapter is primarily the work of Susan Calhoun Stuber who worked as a Research Assistant on the project during 1980-1981, coded much of the court record data, and based her MA Thesis in Sociology at the University of Denver on an analysis of the family variables from the court record study.

family, as the chief determinant of a child's place of residence and social class, therefore indirectly contributed to a youth's probability of becoming involved in delinquent activities. Several early studies in fact found that delinquency rates were highest in low income neighborhoods close to a city's center (Shaw and McKay, 1942; Barker, 1940). A number of different theoretical orientations were advanced to explain exactly why juvenile delinquency was concentrated in urban areas. And, a majority of these studies identified the lower class lifestyles and social disorganization associated with low-income urban areas as the main components of serious juvenile delinquency (Lewis, 1975).

In these ecological approaches to juvenile delinquency, the family was generally viewed as a peripheral agent in the etiology of juvenile delinquency. A child born to a family who lived in an unstable, high crime area would be more prone to delinquent conduct than a youth born to a family living in different conditions. Bordua (1958) went further, however, and suggested that family disorganization, endemic in low income areas, might itself indicate the absence of strong supports for antidelinquency norms. This concern was quickly picked up and elaborated in a series of studies involving the "broken home" and its role in juvenile delinquency.

Initially, most studies looking at the family's direct role in juvenile delinquency focused specifically on the

structural composition of the home as a causal and/or predictive variable and found a strong relationship between physically broken homes and juvenile delinquency (Rodman and Grams, 1967:196).

Shaw and McKay's 1932 study of Chicago school boys cast doubt on what had previously been accepted as a definite relationship when it failed to find evidence of a strong association between broken homes and juvenile delinquency. This research stimulated more rigorous investigation into the causal relationship between broken homes and delinquency, some of which failed to support Shaw and McKay's findings (Weeks and Smith, 1939; Merrill, 1947; Glueck and Glueck, 1962; Keller, 1971) and some of which did. A number of researchers explored the possibility that broken homes might have a differential effect on children since families were often composed of both delinquents and non-delinquents.

The family is embedded in a changing social environment. As a result, its role in the causation of juvenile delinquency may vary in relation to the other social forces impinging on a youth at any given time.

Many studies of family variables have considered their interaction with other important non-family variables. Charles Willie (1970) concluded that economic status and family structure make both independent and joint contributions to delinquency. Overall, the non-whites in his sample came from more impoverished family backgrounds,

while the whites came from more economically stable families. Willie concluded that family instability is less influential in non-white delinquency where bad economic conditions are the overriding factor. Conversely, family instability is more directly related to white juvenile delinquency. Johnstone (1978) found that the impact of family integration (a composite index) on delinquent behavior varied inversely with the seriousness of the offense. And, both of the most serious types of delinquent acts (ranked by Johnstone) were positively correlated with community poverty and negatively with SES. Therefore, Johnstone concluded that the influence of the external environment was greatest for more serious delinquencies. So, disorganized or unstable families may play a more important role in less hostile environments.

Recent studies which have confined their family measures to a structural assessment have generally found insignificant relationships between broken homes and types of delinquent behavior. (Grinnell & Chambers, 1979; Richards, et. al., 1979; Hennessy, et. al. 1978; Maskin and Brookins, 1974) The majority of these researchers identified serious limitations of the physically broken home as an adequate indicator of more important family disorganization factors. Hennessy, et. al. (1978) maintained that the differences between their results and others' results could be largely attributed to the extreme difficulties of separating out true effects of broken homes from other

impinging variables. Many other researchers have also concluded that it is necessary to look beyond the broken home structure to more internal signs of family disorganization in order to arrive at a more meaningful understanding of the complex etiology of juvenile delinquency. (Monahan, 1957b; Toby, 1957; Smith, 1955; Nye, 1948; Browning, 1960; Tait and Hodges, 1962; Sterne, 1964)

Information regarding a family's composition is usually readily obtained and easily coded. It is much more difficult to obtain consistent data on internal family dynamics. Initially, the researcher has to determine what characterizes a psychologically broken home and what questions will elicit the most reliable information.

In a variety of studies, family disharmony, as perceived by family members, appears to be strongly related to juvenile delinquency. The strength of this association varies according to economic status, sex, race, and type of offense. Generally, family conflict seems to contribute more to delinquency than a broken family structure. However, at least one recent study suggests that the interrelationships between measures of family conflict may be more complex than previously identified (Norland, 1979). In this study, family conflict affected the delinquency rates of both males and females, and no significant differentiation occured on the basis of either race or SES. The single self-reported measure of conflict in the home was more directly related to male delinquent conduct and more

indirectly to female delinquency. In addition, the nature and degree of relationship varied according to type of offense.

Another set of important studies in the area of family dynamics and delinquency deals more specifically with the attachment between a child and his or her parent(s). Again, measures of this "bond" have been operationalized in many different ways, but all are attempts to ascertain the strength of the parent-child relationship. The significance of this relationship for the etiology of juvenile delinquency is best expressed by social control theory. The main concern of the theory is explaining why children do not deviate rather than why they do. By means of the social bonds or attachments a child forms, he or she develops a sense of commitment toward conventional society, a commitment which serves to suppress delinquent impulses (Johnson, 1979).

Hirschi (1969), Medinnus (1967), Venezia (1968), and Riege (1972), all showed that those children who appeared most distant emotionally from their parents also displayed the greatest degree of commitment to delinquent values.

In summary, family conflict and parent-child bonds seem to represent two important future emphases in the juvenile delinquency literature. Composite scores or indexes which gauge certain family dimensions within these areas (e.g. family violence) could also help in beginning the tedious process of determining multi-causal explanations of

delinquent behavior. And, there is much evidence to suggest that there are different "types of delinquency" which are differentially related to associated variables. Similarly, family variables need to be viewed as potentially related to a child's delinquency, both directly and/or indirectly. Other family variables may intervene between the indirect effects of family conflict and/or affectional ties. Important variables from outside the family institution should also be considered.

How Court Officials Use Family Information

There is some strong evidence that the relatively high rate of officially recognized delinquents from broken homes is an artifact of the selection bias operating in the juvenile justice system. (Smith, 1955) Often the discrepancy between official and self-reported delinquency rates has been attributed to the discrimination of juvenile justice personnel on the basis of family factors. (Haney & Gold, 1973; Thornberry, 1973; Carter, 1979) However, others indicate that this "discrimination" merely reflects the societal expectation that juvenile officers "correct social conditions as well as criminal behavior." (Empey, 1978:156) In their studies on the nature of the criteria included in probation officers' predisposition reports, three researchers investigated the traditional family orientation and emphasis of the juvenile court process.

Theoretically, the total needs of a child determine the disposition. (Ferster and Courtless, 1972) However, it is exactly this attempt at individualized treatment that has been criticized as discrimination. While both Ferster and Courtless and Yona Cohn (1978) found support for such discriminatory treatment, the variables which were most often related to harsher dispositions involved perceived family disorganization on the part of the individual probation officer assigned to the case. In both studies removal from the home was most often recommended when there was family conflict.

The position of the probation officer is clearly delineated in Cohn's analysis of 175 presentence investigation reports in the Bronx New York Children's Court. Though objective items (e.g., age, sex, race, type of offense, seriousness of offense, family composition, etc.) were most frequently recorded for each subject, they bore little relation to the probation officer's decision regarding recommended disposition. In contrast, most of the subjective criteria, though less consistently reported, had a strong influence on the recommended disposition. Many of these variables focused on the child's family situation, emphasizing intrafamily relationships. Children receiving the least harsh (discharge) and the most harsh (institutionalization) recommendations represented polar opposites on the family variables. Children recommended for discharge usually had good relationships with both parents,

and the parents reportedly had stable marital relationships. Conversely, the parents of children recommended for institutionalization had poor marital relationships and tense relationships with their child.

There is still some disagreement concerning how often the judicial decision matches the recommended disposition. Ferster and Courtless (1972) found that the two judges in the juvenile court they studied frequently did not follow the probation officer's recommendation that the child be removed from the home. They imposed this harshest disposition significantly less frequently than it was recommended. On the other hand, Carter (1979) found that judicial decisions were very similar to recommended dispositions.

None of these studies concerning dispositional decisions totally discounted the importance of family variables, but the variables measured were found to have varying degrees of influence. More work needs to be done to identify the role of family factors in the differential treatment of youthful offenders. Only then will it become possible to identify organizational and/or personnel characteristics that determine how important a child's family situation is at different points in the juvenile justice decision process.

One study offers some important insights concerning which social characteristics of a defendant most influence possible dispositions. (Thomas & Cage, 1977) A multivariate

analysis of their variable supported the contention that judges in the court studied considered a wide range of social and legal factors when determining an individual juvenile's disposition. In other words, no single factor (legal or social) exerted a major independent influence. The home situation of the defendant played a part in some decisions. For example, both males and females from single parent or totally broken homes were more likely to be institutionalized when they had one prior offense than those which a comparable offense record from intact homes. Future studies in this area might try to further discriminate between the different decision points and which factors contribute most at the different levels. Also, a greater variety of family variables should be considered as possibly contributing to some of these decisions.

Even though official sources may be ;misleading in pinpointing causes of delinquent behavior, they are nonetheless important documents in attempts to understand discretionary decisions made by juvenile justice personnel.

Conclusion - Literature Review

If the family <u>does</u> contribute to a child's involvement in delinquent behavior, a family intervention and/or counseling approach through informal handling of the case may be completely justified. Perhaps some children do need to be separated from negative family environments, or whole

families may need to redirect their energy toward more positive interaction. Hopefully, future self-report studies will help to clarify which family factors should be most carefully considered in determining a child's disposition. But, if the police officer, probation officer, or judge is just <u>assuming</u> that children need to be taken out of "bad" families and "put away," then the practice itself may be perpetuating or heightening the child's future chances for misconduct. (Blomberg and Caraballo, 1979)

In order to direct desired changes in present court practices, researchers should attempt to discover the conditions which presently contribute to the determination of the treatment of juvenile offenders at all decision points in the system. Simultaneously, researchers must continue to study both the causal effects of family variables in juvenile delinquency and how these relationships, once verified, can help juvenile justice officials make decisions which will best meet the total needs of the child.

SYP FAMILY STUDY

Methodology

The majority of the subjects' family background information was obtained from official records. Additional qualitative material was gathered through court observation and meetings with various court personnel. Due to the two distinct groups of youths represented in the Suburban Youth Project (informally processed or Diversion cases and

formally processed or Juvenile Court cases), the quantitative data was collected from two separate sources. The family information gathered for those youths referred to Diversion came from the files of the counselor assigned to each case. Similarly, a predispositional report prepared by a Probation officer provided comparable family information for youths referred to the Court. The original copy of the predispositional report, included in the youth's official court file, was examined. Some notes on the nature of these two documents will illustrate some of the problems encountered in the family portion of the study. The strengths and weaknesses of each of the documents will be discussed, and the content and format of the two sources will be compared.

Diversion Records

Suburban county maintains two Diversion locations: one in the western portion of the county, and a newer facility in the rapidly growing easter section. Each case the District Attorney refers to Diversion is assigned to a Diversion counselor in the office which is closer to the youth's residence. The counselor is then responsible for scheduling a meeting with the youth and his or her parents. At this intake session the counselor meets the youth and his or her family for the first time and obtains some family background information as well as personal information on the youth and his or her delinquent activity. At this time

the family information is recorded on a standard form, the Social Summary Sheet, hereafter referred to as the Social Summary. A number of the family items in the project codebook were completed based on the information provided in the Social Summary. Specifically, the form included information on who had custody of the child, family structure, contact with natural father and mother, the family's willingness to cooperate with officials to help the child, past juvenile delinquent behavior of siblings, and those present with the child at intake.

Though not as consistently reported, other family information was often available from the Social Summary. In some instances the counselor's notes included data on family relationships. Such mentions involved whether the parents were supportive of the child, negative about the child, or unable to handle the child. Similarly, the nature of a child's relationships with his or her parents was frequently recorded. Occurrences of serious family problems were seldom mentioned in the Social Summary. Not surprisingly, the family members present at this initial meeting did not freely offer information regarding the family history of mental illness, alcoholism, abuse, or neglect. However, this type of information was often available in the counselor's notes of subsequent meetings. As a result, when coding family data, the researchers read the entire file on the youth. Although reading every file was a time-consuming process, it was necessary in order to get all the family

information that was available on a youth. Nevertheless, the amount and type of family background information available in each file varied. As a result, there is more information on some family aspects than others. For example, information regarding the family structure, custodial care of the child, contact with natural parents, and those present with the child at intake was more consistently recorded than other family variables. Even if there was no Social Summary in a youth's file, this type of information could often be obtained from alternate sources, such as the police report. However, only the counselor's notes provided more in-depth family data. And, whereas some counselors consistently kept very detailed and exhaustive notes, others rarely wrote more than a few general comments about each meeting.

In 1980, eight Diversion counselors were handling juvenile cases in Suburban county. The coders for this project quickly realized that each counselor had his or her unique style which was reflected in the notes we were using for data collection. However, the individual variation was overshadowed by the group differences between the two offices. As mentioned previously in this report, the population in Suburban county is very diverse, and various members of the Diversion staff made comments throughout the study about the two different types of clientele referred to the two Diversion branches. Generally, there was a feeling that the youths who go to the eastern branch come from more

"messed up" family situations than their counterparts in the western office. This perceived difference could contribute to the observed differences in the counselors' notes. In fact, the counselors in the eastern office generally scheduled more meetings with their clients and wrote more extensive notes at each meeting. Therefore, the content of their files was often richer in detail.

However, the coding scheme used for all but one of the non-structural family variables (those present with child at advisement or intake) did not take into account the amount of information pertaining to the family characteristics being tapped. In fact, in order to avoid subjective interpretations of the official records, the following rules were set forth which standardized the data collection from sources which were not always identical.

Only a specific reference to the family topic under consideration (i.e., dependency/neglect petitions) qualified as a "mention" and therefore was coded "yes." This indicated only that the Diversion or Probation counselor had obtained and recorded this information. When there was no direct statement of a particular family characteristic, the item was coded as "no mention." In this instance the counselor had either not obtained the relevant information or had obtained the data but had not recorded it. Therefore, a no mention response provides very little information. It does not signify that the item is not characteristic of the family, nor that the counselor was not aware of or

influenced by such knowledge. The only other valid code for these family variables was "missing value," used when there was no Social Summary included in the file. These cases accounted for only 17-18% of the Diversion population. While the Social Summary was present in at least 72% of the Diversion youths' files, the predisposition report used for gathering family data from records of youths referred to court appeared in only 28% of the court record files. A consideration of the nature of the court processing of juveniles in Suburban county provides an explanation for the low frequency of predispositional reports.

Court Records

When the District Attorney refers a child to Juvenile Court, rather than to Diversion, no informal intake session occurs. Instead, the youth and his or her parents are required to attend a formal advisement hearing before the presiding Juvenile Judge. This hearing generally serves as only a preliminary step in the youth's processing and as such tends to be brief. A minimal amount of information is exchanged between the Judge and the defendant. Often the Judge addresses the child directly to determine whether the child understands the charges and why he or she is presently in court. It is also common for the Judge to direct some questions or comments at the adult(s) sitting with the child. Specifically, the Judge is interested in the adults' relationship to the child and the whereabouts of any missing

parents. Such inquiries exemplify the court's continuing concern with the family situation of youths involved in delinquent activity. However, it is difficult to gauge what family factors, if any, contribute to dispositional decisions at this point in the juvenile court process.

Usually, additional hearings will follow the advisement proceedings before the Judge issues a final disposition. In fact, in 1980, only 106 (15%) youths received a judicial disposition during their advisement hearing. More commonly the youth will return at least once before any judicial disposition is granted. In some cases the Judge will ask that a predispositional report be prepared by a Probation officer for a particular case. The finished report offers the Judge a more comprehensive description of the youth's history and present situation, including family information. After being assigned the case, the Probation officer meets with the youth and the youth's family and compiles the information. Though different Probation officers were responsible for drafting the requested predispositions, a common format always seemed to be followed in the written report to the Judge. In addition to family information, each predispositional report discussed the youth's prior juvenile record, his or her attitude toward the present offense, the recent activities of the youth, including school and job performance, and a recommended disposition. Similar to the Social Summaries in the Diversion files, these reports varied in style and depth. An important

distinction between the court and diversion records should be noted. The diversion records were the treatment records of youths in a treatment agency. The court records were the records of a youth being processed by the court. The predispositional report was generally the only document in the youth's court file relevant to the family segment of the study. Once a youth was placed on probation, probation set up an intake interview and began to build the kind of treatment file with notes by counselors that was available in diversion. We did not utilize these records because of limited time.

RESEARCH QUESTION

The family portion of this study, as developed throughout the project, focuses on a concern held by many people today who are interested in the complexities of this country's Juvenile Justice System. Specifically, this study tries to address the following research question: what effect does a youth's family or home situation have upon his or her experience in a Suburban juvenile justice system? While a number of previous studies have focused on the influence of non-legal or social factors in juvenile court dispositions, few deal with the non-structural family variables present in this study. And, none of these studies have looked at the unique configuration of family factors proposed in our research design. Similar studies have pointed out the complexity of the interrelationships between

social and legal factors in the treatment recommendations and decisions of juvenile officials (Carter, 1979; Cohn, 1978; Thomas and Cage, 1977; Fersterand Courtless, 1972). With this study, we attempt to focus in on the various family factors that may be influencing these decisions. The hypothesis set forth is that the more negative family factors associated with the youth at any point in the process, the less likely he or she is to receive the least restrictive alternative available, regardless of the nature of the offense and previous record. It is also expected that observable family characteristics (i.e., family custody and those present with child at advisement and intake) will play a greater role in decisions early in the processing of the child while non-observable factors (i.e., mental illness and sexual abuse) will become more influential at later stages in the process.

The literature summarized in the first pages of this chapter provides both theoretical and empirical evidence of a link between the family and juvenile delinquency. This connection seems to have a dual nature. First, it appears likely that children living in families with problems are involved in socially unacceptable activity (i.e., juvenile delinquency) more frequently than children who reside in relatively trouble-free family environments. Second, a youth who is identified as being from a family that is considered abnormal or problematic for the community at large may be more likely to be perceived as potentially

"deviant," and therefore may be more likely to be pulled into the juvenile justice system as a result of decisions made by police and court officials. In the remainder of this chapter we shall try to deal directly with some of the issues raised by this second statement.

In order for family factors to influence the decisions of juvenile justice personnel, the workers must first be privy to such information. And, in fact, some information may be more observable or readily obtainable than other types of information. Or, certain situations may elicit information not previously available to decision-makers. All of these factors must be taken into account when trying to determine the relative importance of family related factors in decision-making at various decision points in the processing of juveniles through the system.

FINDINGS

Initially, the proposed study identified six major dimensions of family variables to be included in the coding instrument. However, some of the information was not available in the juvenile records and certain family measures had to be dropped from the design. Still, the majority of the items were maintained, and the coders were successful in obtaining a wide variety of family related information on a number of cases. A more detailed discussion of the six original dimensions follows. This presentation will point out which factors were unmeasurable

as well as the variables which were recorded most frequently.

Economic Factors

The first family dimension proposed for analysis was composed of economic elements. Prior research has documented a relation between the socio-economic status of a youth's family and his or her juvenile disposition, a relationship which persists when the nature or seriousness of the offense and prior record are held constant (Carter, 1979; Thornberry, 1973). However, this family dimension became the most problematic in this study. None of the desired measures were available. The court records did not include any mention of family income, parents' occupation, or parents' education. The predispositional report, when present, only occasionally contained information pertaining to one or more of the above factors. The Social Summary in the Diversion files requested information regarding the parents' income and occupation. However, this part of the form was often left blank. The parents present at the intake session were often asked to complete the form themselves and may have been unwilling to give this type of information to the counselor. This problem highlights a common obstacle encountered in much research which relies on official documents. The absence of certain information in the records does not necessarily indicate that the individuals processing the youth do not possess such

information. Though decision-makers in the juvenile justice system may not record family factors, they may still be influenced by what thet do know about a youth's home situation, the appearance and demeanor of the family and a knowledge of the socio-economic status of neighborhoods in which clients live. Short of taping all meetings between the youth and juvenile justice officials or interviewing officials about each case, there are few ways to gather information on how this "internal" knowledge base influences specific decisions.

At some point, it may be helpful to consider the more indirect measures of SES collected in the study, even though they would provide partial information at best. For example, only those youths who come from very low income families qualify for the services of a Public Defender. A separate analysis of the court experience of the 99 (14%) youths who were represented by a Public Defender may indicate that SES at least indirectly affects a youth's progression through the system. Similarly, it may be possible to make some comparisons between the court experiences of youths who live in low income areas and the corresponding experiences of youths from high income areas. However, it is best to leave such imperfect measures out of any preliminary analysis. Subsequently, no direct economic indicators were included in the codebook.

Family Structure

Another variable frequently considered as influential in juvenile dispositional decisions is family structure (Carter, 1979; Cohn, 1978; Thomas and Cage, 1977). Three separate measures of a youth's family structure were included in the original research design: who has custody of the child (variable 11), family composition or structure (variable 79), and the child's contact with his/her natural father (variable 80). A fourth criteria, child's contact with natural mother (variable 89), was added during the coding process. Recent trends in more egalitarian parenting and the increase in the numbers of fathers receiving custody of children seemed to dictate that the role of the absent natural mother should be recorded as well. This information was collected only from the Diversion files, and of those cases with Social Summaries 26 (7%) included a reference regarding the child's contact with a natural mother who he or she was not living with.

The frequencies on the remaining structural variables give some indication of the nature of the Diversion and Court populations. Whereas 271 youths, 60% of the Diversion population, were in the custodial care of both parents, only 343 youths or 48% of the Court populastion fit into this category. Conversely, more Court youths than Diversion youths were in the custodial care of a single parent when the offense was committed. A much larger percentage (12% or 83 youths) of Court youths were in the custodial care of

their father than were Diversion youths (6% or 25). And, while 23% or 104 Diversion youths were in the custodial care of their mother, a larger number (230 or 32%) of Court children belonged to this group. The differences in non-parental custodial care situations were much less between the two groups, and altogether the totals in these categories accounted for only 6% of the Diversion population and 7% of the Court population.

Because Juvenile Justice workers operate in a system which has long emphasized the parent's responsibility for minor children, it is not surprising that the structural variables were frequently reported in official records. Still, there is an important difference in the amount of missing information between the two major structural measures in this study. First, only three court files failed to provide information regarding the custodial care of the child. This information was consistently recorded on the first page of the formal petition filed in the clerk's office. Therefore, this data was readily available to all court personnel having access to a youth's file. On the other hand, the family structure variable requiring more specific information (i.e., step parent present) as well as an indication of the general stability of the family unit had a much greater number (510 or 72%) of missing values. This disproportionate amount of missing information is characteristic of all the non-structural measures in this study, with the exception of variable 50 which deals with a

very visible criteria, those present with child at advisement or intake. This tendency is also apparent in the Diversion files. On the custodial care measure of family structure, only 6% (27) of the total cases were missing information. On the other hand, 14% (65) of the Diversion files had no information regarding the specific nature and stability of the family unit; the information necessary for coding variable 79. The proportion of missing Diversion data on the other non-structural family variables varies from 17-18%, but may be considered to be as high as 95% when no mention responses are taken into account.

Before continuing the discussion of frequencies, it is necessary to further differentiate between the two populations of youths in the study. This difference relates to the early decision points in the juvenile justice system. The first official action, of course, involves the decision of the police officer to either arrest or release the youth. Because this study did not obtain information on youths who were released at this point, no conclusions can be drawn about the influence of family factors at this initial stage.

The second decision point in Suburban county involves the District Attorney's decision to file an informational filing, refer the child to Diversion, or forward the child's case to Juvenile Court. Again, this study does not have complete information regarding all three categories, but some comparison could be made between the family factors of the Diversion and Court youths. The D.A. makes his decision

based on the information in the police report. Two of the family variables in this study were recorded directly from the police report; whether the parents were cooperative during the arrest (variable 112) and the parents' attitudes toward the delinquent act (variable 113). In addition, a third family variable, the child's custodial care, is also included on the police report. It is possible that one or more of these three factors influences the D.A.'s decision. The frequencies listed above on the custodial care variable do show differences between the two populations.

The other two family variables on the police report were less often recorded, but there are still some differences between the Diversion and Court populations. For example, of those Diversion cases when the information was available (54 or 12%), 81% of the parents of the youth were reported by the police as being cooperative while the remaining 19% were referred to as uncooperative. Fifty-one Court cases (8%) had information on this variable. Fifty-three percent (27) of these parents were recorded as being cooperative, and 47% (24) were not considered as cooperative. Fewer cases had information concerning the parents' attitudes toward the delinquent act. Thirty-one Diversion files and 30 Court files had such information, but a much larger percentage of the Diversion parents (74%) were reported as concerned with the child's delinquent act than Courtparents (56%). Conversely, 37% of the Court parents were seen as being indifferent toward the act while only 19%

of the Diversion parents were seen as indifferent. The reported difference between the two groups on the third value, "accepting," was only 1%.

These trends indicate that some family indicators may be influencing the District Attorney's decision to refer youths either to Diversion or Juvenile Court. Of course further analysis needs to be performed in order to take into account the importance of legal variables to the decision made by the D.A. as well as the possible complex interactions between the legal and family factors.

Regardless of what factors have influenced the decision, Diversion youths have received the less severe sanction at this point in the system while Court youths have received the more severe alternative. In addition, the referral to Diversion can be considered the youth's final disposition. Though the conditions of Diversion may vary, the main implication for the youth is that he or she must participate in Diversion for the designated period. Therefore, the family information recorded by the Diversion counselor is unrelated to any further significant decision points in the juvenile justice system.

In contrast, youths who are referred to Juvenile Court may receive any one of a variety of dispositions ranging from dismissal of the case to institutionalization. Subsequently, there are additional points at which various family factors may be contributing to official decisions regarding the youth, and it is important to examine how

important these factors are at these later stages in the process. Two later decisions effecting the youth's court experience involve the probation officer's recommended disposition, presented at the conclusion of the predispositional report, and the judicial disposition. Since no extensive family information is available in court files without predispositions, only those files (197 or 25%) will be included in the following presentation of findings related to the other family dimensions in the research design.

The concern here is with what family factors the Probation officers include in the predisposition and how these variables may influence their recommended dispositions. However, only the judicial, rather than recommended, disposition was coded for each case. Therefore, further analysis on the second issue stated above would require separating out those cases where the judge followed the Probation officer's recommendation. This would narrow the population being considered to 95 or 48% of all cases with predispositions.

ADDITIONAL FINDINGS

Much of the recent literature in family and juvenile delinquency emphasizes the importance of non-structural family variables in the etiology of delinquency (Johnstone, 1980). In fact, many studies show that psychologically broken homes are more problematic for a youth than

physically broken homes. One might expect juvenile court workers to be aware of these recent findings and therefore be interested in gathering information on non-structural family variables. However, a review of the frequencies on these variables shows that no more than 30% of the predispositions included a mention of any of the coded characteristics. At the same time, 97% of the predispositions included information about the composition and general stability of the family unit (variable 79). Specifically, 83 (42%) youths were from intact families; 25 (13%) were from stable stepfamiles, 20 (10%) lived in unstable stepfamilies, 62 (31%) lived with single parents, and 4 (2%) youths came from essentially non-functioning or non-existent families.

One possible explanation for the scarcity of information on these variables might be the nature of the coding scheme. Whereas a predisposition might discuss a history of family disruption in some depth, the information would only be coded as a mention. And, more detailed information would be lost. In addition, it is possible that family variables other than those included in the codebook were mentioned more frequently. Interestingly, measures of positive family factors (i.e., family supportive of child) were recorded more frequently than negative family factors. Another possibility is that the figures accurately reflect the incidence of these negative family charcteristics in this population. As previously mentioned, however, a no

mention response cannot be interpreted as a no, and there are fewer variables in the codebook which measure positive family functioning. Nevertheless, the data that is available in this study can be used to test the hypothesis that a youth associated with a more negative family situation will be less likely to receive less restrictive recommendations and judicial dispositions.

Family Deviance

The following frequencies were obtained on the proposed measures of family deviance. There was a mention of some mental illness or drug or alcohol problem in 44 (22%) cases. The immediate problem presented by this variable is the combining of distinct behavior into a single measure. Like the other non-structural family variables, this measure provides minimal, and somewhat ambiguous, information about the youth's family situation, But, it seems likely that a minor incidence of mental illness occuring long ago might be seen as less significant to the child than a parent currently institutionalized in a mental hospital. These types of distinctions should be considered in future studies. In 33 (17%) of these cases there was a mention of some criminal activity of another family member. Forty-six (23%) cases reported some incidence of physical or sexual abuse in the family.

Family Control

There were also three indicators of family control of the child in the study. Results from the predisposition data show that 29 (15%) youths had previously been placed out of the home for some length of time. An almost identical number of reports (28 or 14%) indicated that the family had previously been involved in at least one dependency/neglect case. More generally, probation officers reported that in 49 (8%) cases either the mother or father or both parents seemed unable to handle or control the child.

Family Attitude Toward Child

Five measures attempted to gather information regarding the relationships among family members, particularly those between the youth and his or her parents. Seventy-two (36%) children were reported as having conflict with their parents. On the other hand, 14 (7%) youths had good relationships with their fathers, 18 (9%) with their mothers, and 36 (18%) got along well with both parents. Whereas 7% (13) of the youths' mothers were reported as being supportive of their child, only 3% (6) of the fathers were perceived as such. However, in 20% (39) of the cases, both parents seemed to be supportive of their child. In 11 (6%) cases fathers were negatove about the child, mothers were negative in only 5 (3%) cases, and both parents were seen as being negative toward the child in an additional 5

(3%) cases. Finally, in 9 (5) cases the parents were reported as being concerned about the delinquent act, in 2 (1%) cases they were considered accepting of the act, and in 4 (2%) cases the parents seemed somewhat indifferent.

Family Attitude Toward Court and Police

Finally, three measures of the family attitude toward the court and police were also coded. This set of criteria is of a different nature than those presented above. While the previous dimensions focus on internal family dynamics and problem behaviors this dimension attempts to gauge the behavior of the family in a public setting. An analysis of these variables might determine whether the parents' support or hostility toward the system itself had any effect on the youth's court experience.

The initial parental response to the youth's situation involves the demeanor exhibited at the police station upon arrest of the youth. In 15 (8%) cases the police report indicated that the parent(s) was cooperative while in only 6 (3%) cases was there a specific mention that the parent(s) present was uncooperative. Another indirect indicator (yet a more visible one) of parental cooperation with the system was whether they accompanied the child to the advisement hearing. The following data was collected on this variable. Three (2%) children were not present at their hearing. Two parents accompanied 68 (35%) of the youths. In 24 (12%) cases children appeared with their father only, and in 72

(37%) instances only the mother came with the child. In 17 (9%) cases some combination of parents and relatives were with the child. In only 9 (6%) instances were no parents present with the child, and in 2 of these cases the child was accompanied by his or her legal guardian. The third criteria in this dimension was the Probation officer's specific mention that the family was willing to cooperate with court agencies to help the child. Six (3%) fathers were considered cooperative, and 12 (6%) mothers were similarly perceived. IN 41 (21%) other cases both parents seemed cooperative.

CONCLUSION

This study yielded an array of family data. Both structural and non-structural characteristics were measured, and the information collected came from a variety of sources. There is no question that Juvenile Justice officials in Suburban county continue to see the family as an important consideration in dealing with youthful offenders. Parents are expected to accompany the child to intake sessions and court hearings. Some basic family information (i.e., structure and custodial care) is elicited in almost every Diversion and Court case. The family is often directly involved in the youth's disposition. For example, Diversion counselors often schedule meetings when other family members are able to participate in the counseling. And, it is not unusual for some form of family

therapy to be a stated condition of Diversion or Probation.

Preliminary analysis of the family data indicates that there is an emphasis on the individual consideration of each youth's case. This seems especially true of those youths for whom the Judge requests a predisposition. It appears unlikely that any single variable, legal or social, dictates the youth's experience at any decision point in the system. There does seem to be some trend for youths associated with negative family factors to receive more restrictive judicial dispositions. The strength of this tendency varies somewhat among the different family indicators. At this point no conclusive results can be reported. However, based on the preliminary findings mentioned, further analysis may provide some important new insights concerning the complex interrelationships between social and legal influences in Juvenile Court dispositions.

CHAPTER 10

GIFTED DELINQUENTS - LITERATURE REVIEW* AND DESCRIPTION OF RESEARCH POPULATION

One of the primary objectives of the Suburban Youth Project was to gather information about gifted delinquents. Details of the data collection process and the selection of research instruments have been outlined in an earlier chapter. Here we will provide a brief overview of the current state of the literature relevant to a study of gifted delinquents, outline a perspective which may be useful in thinking about the possible causes of delinquency in gifted youths, and describe the population of youths who agreed to be tested for the study and how they differ from the total population of youths in the juvenile justice system in which we did the research. The following chapter includes a description of the data analysis and results of the research on gifted delinquents. An explanation of factor analysis and Reticular Action Moment (RAM), the two techniques used in the analysis is included in Appendix A.

DEFINITION OF GIFTED

For the purposes of this study, gifted students are defined as those subjects who scored in the top five percent

[1]Portions of the review of literature were prepared by Steven Harvey as part of his Ph.D. dissertation for the School of Education, University of Denver, 1981.

on any of the tests designed to measure intelligence, creativity, or academic achievement. This is in line with the definition of giftedness in PL91-230, Section 806. This law further defines gifted children as those children, identified by professionally qualified persons, who by virtue of outstanding abilities are capable of high performance.

Children capable of high performance include those with demonstrated achievement and/or potential ability in any of the following areas, singly or in combination: 1) general intellectual ability; 2) specific academic aptitude; 3) creative and productive thinking; 4) visual and performing arts; 5) leadership ability; and 6) psychomotor abilities (Marland, 1971).

As a practical matter, studies of gifted or bright delinquents have tended to use much less stringent definitions of delinquency. The Suburban Youth Project, in identifying potentially gifted youths upon which to do full-scale assessments, also used a much less stringent definition. Part of the purpose of this study was to apply to the delinquent population a broader definition of giftedness than the traditional one which stresses high scores on IQ tests. We were particularly interested in exploring creativity in the delinquent population.

This literature review will include research on both intelligent and creative adolescents as well as on differences between them. Both are considered important to

this study in that some of the gifted delinquents are expected to be identified from their convergent abilities, and some from their divergent abilities.

LITERATURE RELEVANT TO A STUDY OF GIFTED DELINQUENTS

The literature relevant to the study of gifted delinquents can be categorized as that examining (1) creative thinking, (2) intelligence testing, (3) school environment, and (4) family environment.

Creative Thinking

For the purposes of this study, creativity is defined as the process of sensing gaps or missing elements, forming ideas or hypotheses concerning them, testing those hypotheses, and communicating those results (Torrance, 1965). Creative thinking is used to produce imaginative recombinations of known elements into something new (Osborn, 1967). In this study creativity was operationally defined from the results of the Torrance Test of Creative Thinking.

Related to creativity is divergent thinking, which is defined as thinking which is not goal bound. In this thinking style there is freedom to go off in different directions by rejecting old solutions and striking out in some new directions. Thinking in this mode leads toward revising the known and exploring the undetermined (Getzel and Jackson, 1962). In this study divergent thinking was operationally defined by the results of the Torrance Test of

Creative Thinking.

Verbal divergent production is the ability to produce verbal responses using divergent thinking. This term was operationalized in this study as one of the ability factors from the factor analysis of all the subtest scores, with high loading from the verbal portion of the Torrance Test of Creative Thinking. This factor was one of the input ability factors considered in the final model.

Figural divergent production is the ability to produce figural responses using divergent thinking. This term was operationalized as one of the ability factors from the factor analysis of all the subtest scores with high loadings from the figural loading portion of the Torrance Test of Creative Thinking. This factor was one of the input ability factors considered in the final model.

Anderson and Stoffer (1979) have pointed out that although much has been written on creativity, little has been done with regard to the possible relation between delinquent behavior and creative thinking. Torrance (1962) has observed that a number of the most creative children present behavior problems and that these problems may stem from repressed creative needs. Long, Henderson, and Ziller (1974) found that grade school pupils who were highly creative were a) alienated from authority figures and same sex parents; b) lower in self-esteem and higher in dependence; and c) described themselves as unhappy.

Torrance and Dauw (1965) reported that highly creative high school seniors frequently experienced rather intense and prolonged periods of stress that reduced their creativity. Torrance also noted in a longitudinal study that students who were identified in high school as having higher scores in creative abilities later experienced conflicts in developing their personal identities (1971). Many of these factors also seem to be characteristic of delinquent youth (Hirschi, 1969). Therefore, by including creative abilities, the present study can further the understanding of creativity among delinquents.

Difference Between Creativity and Intelligence

As early as 1898, investigators noted differences between creative imagination and convergent intelligence. The results of the Dearborn studies of imaginative responses of Harvard students to inkblots shows that two of the poorest records were made by students of the decidedly "intellectual type." Chassel (1916) studied a number of different tests ranging from word building and coding tasks to those requiring unusual and original responses to novel situations. The former tasks are quite similar to those included in many present tests of intelligence while the latter are similar to many present tests of divergent thinking and creativity. Chassel found that performance on I.Q. tasks bore relatively little relation to performance on the creativity tasks. This difference in thinking styles

has consistently been noted since that time.

The main study that this review will consider was done by Getzel and Jackson (1962) with high school aged students. These authors justify their study as an attempt to understand children with abilities other than those measured strictly by an I.Q. test. As they point out, a child who does not have a high I.Q. is not considered gifted, yet the present I.Q. test represents only a small band of intelligence, relying chiefly on convergent thinking while neglecting those tasks requiring divergent thinking.

Getzel and Jackson point out that though the correlation between I.Q. tests and achievement is positive, it rarely accounts for more than 25 percent of the variance in such factors as school achievement and academic performance. It is commonly observed that many children who are high in intelligence are not concomitently high in such other intellectual functions as creativity. Therefore, the purpose of their study was to compare students high in I.Q. abilities with those high in creativity abilities on such factors as achievement, aspirations, social behavior, teacher preferences (as measured by teacher ratings of the pupils on how much they liked to have them in class), the preferences of children themselves for personal qualities they would like to possess, the children's perception of the personal qualities they believed would lead to success in adult life and those they felt teachers would prefer in children.

The subjects for their investigation were chosen from 500 adolescents in grades six through twelve attending a midwestern private school. Two groups were chosen from this population: a highly intelligent group which was selected on the basis of conventional I.Q. scores, and a highly creative group which was selected on the basis of measures of divergent thinking. Each group was mutually exclusive, and those students who were both high in I.Q. and high in creative ability were not included. It should be noted that both of these groups had average I.Q.'s well above the norm. The mean for the intelligent group was 150, while the mean for the creativity group was 127. These scores place all of these students well into the bright range of intelligence. Therefore, when considering any results, one must remember that all of these students pass some exceptional cognitive ability tests.

The results of the comparison made by Getzel and Jackson can be summarized as follows:

1. Despite a difference of 23 points between the mean I.Q.'s of the two groups, they were both equally superior in school achievement compared to the student population as a whole. The creativity students could perform academically as well as the intellectual students, but because of their lower measured I.Q., they ran the risk of being classified as "overachievers," even though their superior creative abilities could explain their achievement.

2. When asked to rate the children on the degree to which they would like to have them in class, the teachers exhibited a clear-cut preference for the high I.Q. child, even though the highly creative children achieved at a high level. This preference suggests that the highly creative students must have exhibited some other types of behaviors that negatively influenced their teachers.

3. Students in the two groups differed sharply in regard to their personal values. The highly creative group stressed the importance of qualities such as a wide range of interests, emotional stability, and a sense of humor, and downplayed the importance of high grades, character, energy, and goal directedness. The rankings of the highly intelligent children are almost completely reversed. Humor is particularly noteworthy. The importance of a sense of humor was by far the most outstanding difference for the two groups.

4. The creative and highly intelligent children also differ in terms of their aspiration toward adult success. The high I.Q. children reported that they wanted the qualities which would lead toward success in adult life. In contrast, the creative children were less likely to focus on this remote goal of adult success.

5. The two groups also showed marked contrasts in the relationship between student's own personal aspirations and the qualities they believed teachers prefer. The high I.Q. students seemed to hold self-ideals which were consonant

with the ones they believed teachers would most readily approve. The self-ideals of the creative students were not. As a result the creative children may sense a conflict between what they want for their lives and what they perceive as the ideals presented by their teachers.

6. Finally, the students in the two groups differ in their written responses to a creative task. The creative children appear to be able to produce stories which seem to spring from the stimulus rather than be tied to it. Their stories made great use of humor, novel situations, and unexpected endings. They seemed to play with the stimulus in order to find the correct theme. The intelligent students, on the other hand, could only produce stereotyped responses to the stimulus.

The results of Getzel and Jackson indicate that these two groups of gifted students have some different characteristics. These differences are most pronounced in the area of inner perceptions, values, and future aspirations. While both kinds of students exhibit excellent scholastic behavior, their inner experience of school differs widely.

In general, the highly intelligent students report values, self-perceptions, and future aspirations which are highly congruent with their situations. They value working in a style they believe their teachers would approve and their aspirations are toward future career success. Importantly, the teacher's response to these children is

highly favorable, indicating that both teacher and student see these students as behaving appropriately.

The highly creative group reports a contrasting view of themselves and their behavior in school. Even though they do exhibit similar achievement behavior, they see themselves as valuing different things than teachers and other role models. They have a different view of success and are less goal oriented in terms of career. The teachers respond less favorably toward them and do not prefer them as students. These students appear to be operating in a role conflict. They do what is expected of them, yet aspire to values that are different from those expectations.

In trying to replicate Getzel and Jackson's research, Torrance (1962) found that in six of eight studies, creative students were able to achieve as well as students with high intellectual abilities. In the two non-successful replications, however, Torrance noted that the highly creative group had only average I.Q. scores. This finding led him to hypothesize that a certain minimum level of intellectual ability is necessary for any student to achieve well. Torrance suggested this level to be about 115 or 120. According to this theory, when comparing creativity and intelligence among students, intelligence accounts for superior achievement until the level of 120. Among students of this level of intellectual ability and above, creativity accounts for gains in achievement. In a partial test of this idea, Yamamato (1961) did indeed find that the I.Q.

beyond 120 had no effect on the academic achievement of highly creative students.

In an elaborate design relating many levels of I.Q. scores, high, medium, and low creativity levels, and different types of achievement, Cicirelli (1964) found very little evidence to validate the idea of a minimum I.Q. level above which creative abilities contribute to achievement. The results of the research concerning level of I.Q. and creativity are confusing and inconclusive at this point, but provide some direction for thinking about the relationship between delinquency and giftedness. If some kinds of giftedness, such as creativity unaccompanied by high intelligence, produces strains or conflicts in children which can alienate the child from school situations and adults, some kinds of giftedness may be more common in delinquent children than others.

Creativity and Delinquency

It is highly likely that some delinquents who are gifted are exceptional in the area of creative thinking only. A review of the evidence of creativity among youthful offenders is therefore highly relevant. Unfortunately, little work has been done in this area. The goal of this section will be to report what is known and offer a rationale for the questions concerning creativity in this study.

The earliest relevant study to the present research was conducted by Kuo (1967) who found that nondelinquents generally scored higher on measures of creative thinking than did a similar group of delinquents. Anderson and Stoffer (1979) criticize this study on the basis that Kuo used subjects who were institutionalized. These authors hypothesized that the environment of a correctional facility might not be conducive to providing an accurate sample of creative abilities.

To control for this adverse environmental factor, these authors drew their sample from delinquent males who were on juvenile parole status. The subjects volunteered for the study and received credit in their school situation. A control group of volunteering high school students was used. Verbal and figural creative thinking abilities as measured by the Torrance Test of Creative Thinking were compared.

The results indicate that although there were no consistent differences between the delinquents and nondelinquents in figural creativity, there were consistent and significant differences between these groups when examining verbal creativity. Also, the difference between the verbal and figural composite creativity was more pronounced in the delinquent group. This study suggests that delinquents have less ability in the verbal creative areas even though they are just as able, if not more so, in some of the figural areas.

These studies leave many questions unanswered when investigating individual differences of creativity among delinquents. Even though placement in an institution may well not encourage creative performance, many delinquents are in such institutions. It seems necessary, therefore, to compare such delinquents' creativity skills with those on probation, as well as those in diversion programs. Styles of creativity also need to be considered. There is some evidence (Torrance, 1965) that high scores in originality or elaboration, and high composite originality/elaboration scores reflect different personality and creative styles. Therefore, information on differences among subscale scores in delinquent and non-delinquent populations would be helpful.

Intelligence Testing

For the purposes of this study, intelligence was defined as thinking that requires the subject to produce a correct solution, pre-determined association, or answer to a stimulus task. In thinking of this type there is no freedom to reject an old solution and strike out in a new direction. All thinking in this mode is channelled or controlled in the direction of the pre-determined answer, and has this single solution as its goal (Getzels and Jackson, 1962). In this study, intelligence was defined operationally from the results on the WISC-R and the WAIS.

The literature to be reviewed in this section involves intelligence testing using the WISC or WISC-R with delinquents. These results are relevant to our understanding of gifted delinquents because the WISC-R is commonly administered in a school setting (Kaufman, 1979), and because this was the instrument administered to subjects in the present study. A common finding in studies of delinquents using the WISC or WISC-R is a discrepancy between the Verbal and the Performance sections, with the Performance score being higher. The interpretation of this finding has developed through the research and is at present still open to question.

This Verbal/Performance difference was first reported by Wechsler, the author of the test. In 1944 he stated, "The most outstanding single feature of the adolescent's psychopathic test pattern is his systematic high performance score as compared with his verbal test score...experience has shown that (this discrepancy) is also applicable to the adult male psychopath..." (p. 155). Wechsler interprets the discrepancy as signifying the delinquent's motility as opposed to ideational orientation; it is of diagnostic value. In this interpretation a higher performance scale indicates a trait or personality type that would predispose a child to anti-social behavior.

Richardson and Sorko (1956) again found this Verbal/Performance split among delinquents but suggested a different cause for this finding. These authors noted that

the Verbal section contained several tasks which required some prior school achievement to do well. School skills are especially demanded in the Information, Arithmetic, and Vocabulary subtests. Therefore, a delinquent's I.Q. score might indicate a lack of school achievement or ability to use school-related tasks rather than a deficit in intellectual ability or characteristic of a psychopathic personality.

In a later study, Graham and Kamano (1959) showed that youthful offenders who were successful readers were found to perform equally well on both the Verbal and Performance scales while only those offenders who were markedly deficient in reading exhibited the elevated Performance discrepancy. The authors concluded that the P>V pattern could be more diagnostic of learning disabilities than delinquency itself.

Prentice and Kelley (1963), in reviewing this material, concluded that almost without exception, studies based on a delinquent population report significant elevation of Performance scores over Verbal scores. Moreover this pattern is sustained generally in the majority of studies across such variables as age, sex, race, form of WISC administered as well as substantial differences between criteria for delinquency. However, in view of the present data, these authors state that there seems to be little evidence to justify Wechsler's contention that the P>V pattern is a useful one in differentiating psychopathology

per se although it may be diagnostic of some kinds of learning disabilities which in turn might affect school performance leading toward a failure-frustration-anti-social behavior cycle.

In view of the present findings in regard to Verbal/Performance discrepancies, many educators now conclude that unless the P>V is extreme and other evidence is present to confirm a learning problem, scale score differences can be affected by a variety of cognitive, affective, environmental, and handicapping conditions. At present, then, no definite interpretations may be placed on the P>V finding among delinquents.

Recently some authors have become interested in gifted delinquents. In her review of the literature, Mahoney (1980) points out that most of the empirical work done in this area focuses on the delinquent who happens to be gifted. This group is then compared to a group of delinquents of average or below average abilities in order to identify differences which may be relevant to the study of delinquency. This way of approaching the problem, unfortunately, does not compare gifted delinquents with normal gifted children and therefore does not search for causes or predictors which might increase the gifted child's risk of becoming delinquent.

Most of the research on gifted delinquents has been centered on youths with intelligence as measured by I.Q. scores, rather than on the full range of gifted and talented

children, and has been based on identification through group testing methods. This mitigates against finding students with special abilities in one unique area. Overall, the literature on gifted delinquents leaves many questions unanswered. However, a major link between the population of gifted delinquents and delinquents in general is that members of both groups usually experience difficulties in school achievement and are working far below their capacity (Seeley and Mahoney, 1980).

Research based on identification of giftedness through the use of intelligence tests suggests that the incidence of giftedness among delinquents is lower than it is in a normal adolescent population. Hirschi and Hindelang (1977) argue that highly intelligent individuals are less likely to appear in delinquent populations than they are in the population as a whole, and that even after controlling for social factors such as race and SES factors, low I.Q. is a major determinant of delinquency. They conclude that the traditional view of delinquency as occurring in society's intellectual inferiors still has value.

Gath et al. (1971) in their study of boys referred from Inner London Juvenile Courts, found that boys with an I.Q. of 115 and over comprised only 7.8 percent of all those tested, whereas one would expect to find 16.5 percent on the basis of a normal distribution. Gath and Tennent (1972), in their general review of research on high intelligence and delinquency showed that the proportion of bright offenders

is below expectations in all but one of the reviewed studies in the United States and the United Kingdom between 1930 and 1967.

Seeley and Mahoney (1980) point out that educators and others who work with gifted children are becoming more aware of the fact that I.Q. tests alone do not single out giftedness, especially those administered in group settings. I.Q. may be inadequate in providing identification of gifted minority or lower class youths, or of youths who are emotionally disturbed, anxious, or hostile. It could be that individuals with different styles of giftedness, such as the skills in divergent thinking mentioned in the earlier part of this review, contribute more heavily to the numbers of gifted delinquents. These youths may be overlooked because of inappropriate assessment procedures. Some delinquents possess personality characteristics such as anxiousness or hostility which also might mask their abilities during an assessment.

Pringle (1970), in her work with bright children with behavioral problems, shows how a child's emotional state or even physical handicap might affect an assessment. Of 468 children referred to a child guidance clinic for testing because of school problems, 23 percent were found by the clinic to have I.Q.'s of 120 or above, with several ranging close to 200. The majority of those children had been judged by their schools to be average or below average. Less than half were thought to have good or very good

ability.

School Environment

The school, social and family environments of gifted children are important factors to take into consideration in trying to understand the relationship between giftedness and delinquency. Most studies show that intelligent offenders had school problems in spite of high I.Q.'s. Bright delinquent youths were often truant, and had educational aspirations below capacity, even though they were in general less behind than other delinquent youths (Mahoney, 1980).

Brooks (1972), in a report of a ten-year follow-up study of 135 boys age 13-15 who "graduated" from a correctional school in Britain for boys with I.Q.'s over 120, divides the boys into three groups: those who entered the corrective school with achievement commensurate with the level of their measured intelligence, underachievers, and youths who were extremely hostile to school. From these groups 19% of the achievers, 44% of the nonachievers, and 81% of the youths hostile to school reoffended after leaving the facility.

An American study by Caplan and Powell (1964) offers contrasting results. In this study, the authors compare two groups of boys and girls brought to the attention of the juvenile court in Cleveland, Ohio, between 1954 and 1959. The experimental group includes white first offenders with an I.Q. of 120 or over, while the control group includes

first offenders with I.Q.'s between 90 and 109. From their results, the authors argue that underachievement and low status in school are not problems for most bright delinquents. They show that the intelligent youths had somewhat better academic records and only 3% compared to 26% of the average youths were retarded in grade placement. From this data, it should be concluded that even high achievers may get into trouble.

In spite of this finding, a recent review suggests that underachievement could well be the link between giftedness and delinquency (Seeley and Mahoney, 1980). Underachievement is particularly a problem for bright boys, and some educators estimate that it affects 50% of the boys of above average ability (Gallagher, 1964). The U.S. Office of Education estimates that 25-30% of school dropouts are gifted and talented (Report to Congress, 1971).

Seeley and Mahoney (1980) suggest that this underachievement might be influenced by the child's giftedness itself and the responses of parents, teachers, and the school system.

Because of his/her inquisitiveness, the child begins the cycle of asking too many questions, internally as well as externally, and forming many alternative views concerning social as well as academic subjects. Teachers and parents may react by punishing this exploration of alternatives and thereby discourage the child's abilities. This in turn may lead to the child's unwillingness to be creative and in the

long run to underachievement and rigid non-adaptive responses in the social environment.

Interestingly, the Caplan and Powell study (1964) offers support for this idea: The results show that delinquents of superior intelligence were more often brought before the court by their parents as being beyond their control than average delinquents (30% compared to 13%). The intelligent youths were more likely than the less intelligent group to be runaways (13% compared to 2%).

A recent study by King (1980), sponsored by the American Association for Gifted Children, gives some empirical evidence for how mismanagement of giftedness by parents and teachers may occur. This study of rural delinquent-prone and non-delinquent-prone sixth-graders compares normal and anti-social groups of gifted children in an effort to isolate factors associated with social adjustment. Because she used sixth graders just beginning to show signs of delinquent behavior, her results presumably could show more developmental factors leading toward a delinquent outcome than an investigation of older students might reveal.

King selected her subjects from several schools in a rural county of Wisconsin. The gifted students were selected by the following criteria: 1) performance on one standard deviation above the normal on the Iowa Test of Basic Skills or the OTIS Lennon Mental Abilities, and/or 2) degree of perceived giftedness by peers, and/or 3) teacher

evaluation of giftedness. It was found that the I.Q. score was the most reliable tool in locating gifted students. Ninety-five students were selected by this process. These students were then divided into groups of delinquent-prone and normal adjustment through teacher and peer nomination.

All subjects were then given the Environmental Support/Environmental Availability form. This questionnaire measured the amount of perceived resources available in the community and amount of perceived parental support. The availability questions had the children list the activities such as reading, biking, etc., they wanted to participate in and those activities they actually could do. The support questions asked such things as "Who cares?, Who´s proud?, and Who helps?" related to the child´s interest area.

The main result was that as a child´s perceived environmental support goes down, delinquency proneness goes up. Even though the delinquent-prone group felt less support from their families, they perceived a greater number of activities available to them.

Another finding was that the gifted delinquent-prone subjects selected by test results alone were not perceived as gifted by their teachers or peers, even though they had high intellectual ability scores. Interestingly, there was also a group of nondelinquent-prone students included in the group because of their test results, whom their teachers and peers also failed to identify.

From these results, King concludes that the most gifted and least delinquent-prone students were the most popular with their teachers. It appears that the gifted students who receive support at home also receive it at school while the students who need support at home don´t receive it at school either. These are just the students who are most vulnerable to negative environmental influences, in that they can perceive more attractive activities than their peers and yet receive no encouragement from parents or school to pursue these interests. If support is provided, however, gifted students seem to be protected from the lack of recognition of their teachers. The author concludes with the suggestion to the schools, "If we give gifted students emotional support...by way of counselors and teacher encouragement, we may be able to develop meaningful goals (among the delinquent-prone students)" (King, p., 15).

From the studies reviewed, it appears that some important school-related characteristics are correlated with delinquency. It has been shown repeatedly that students with delinquency problems do not achieve as easily as nondelinquents. Even those delinquents who are intellectually gifted achieve strikingly below their capacity. There is some evidence that these correlations between low achievement and behavioral problems begin to occur as early as third grade and that teachers can reliably select these students from their classes this soon. Results also show that students followed from these elementary

grades do progressively worse in their achievement, producing a growing split from their more socially adapted classmates.

Family Environment

Delinquency among gifted youths appears to become more intense as the child's family situation becomes more severe. In general, bright delinquents are more likely to have experienced separation from their parents, especially their fathers, than average delinquents, and are more likely to have come from a highly unstable family and to have been subjected to overly strict or inconsistent discipline.

Caplan and Powell (1964) found that bright delinquents are significantly less likely than average delinquents to live with both natural parents (38% compared to 55%) and twice as likely to come from single parent families (35% compared to 17%). They are also more likely to be runaways and to be brought to court by a parent, as was mentioned earlier. One English study of delinquent girls reported that 53 girls with I.Q.'s of 114-149 had been subjected to much more environmental stress than the other girls. They were more likely to have been illegitimate, adopted, or have suffered separation from their mothers. (Cowie and Cowie, 1962) Brooks (1972) found these same factors were significant in differentiating between the Kneesworth Hall reoffenders and non-reoffenders. Sixty-two percent of the boys who had had interrupted relationships with their

parents reoffended compared to only 38% of the boys without interrupted relationships. A boy's contact with his father seemed to be particularly salient. Sixty-seven percent of the boys who suffered interruption of relationships with their father reoffended compared to only 14% of those who had not.

Generally, unstable homes also posed problems for the youths. Brooks (1972) classified 75% of the 135 Kneesworth boys as coming from unstable homes and of these, 63% were reoffenders compared to 35% of the others. Caplan and Powell (1964) found that 11 parents of bright children had been officially convicted of neglect of their children at least once.

The quality of discipline--reasonable, over-strict, over-lenient, inconsistent--stands out as a particularly important variable. Brooks (1972) found that of the 24 youths whose families were over-strict, 71% were reoffenders and of the 49 whose families were inconsistent, 63% were reoffenders. By comparison, only 32% of the 62 youths with normal or lenient discipline were reoffenders. Inconsistent discipline was particularly common among the most persistent and difficult reoffenders. Fourteen of the 17 persistent reoffenders came from homes with inconsistent discipline. Inconsistent discipline was also a recurrent pattern among the bright underachievers who showed behavior problems in Pringle's (1970) study. One wonders whether a child's perception of his own intelligence, relative to that of his

parents, influences patterns of discipline. None of the studies provide any information on this, but Gath (1970) mentions that 26% of the bright delinquents considered themselves more intelligent than their fathers and 41% considered themselves more intelligent than their mothers, whereas none of the average delinquents said they were brighter than their parents. The relative intelligence of parents and child as well as the perception of such difference could well contribute to family conflict and would be an interesting idea for further study (Mahoney, 1980).

Cultural deprivation and low social status are usually associated with both delinquency and poor performance of bright children. High social status, however, does not by itself protect a child from delinquency. The fathers of a quarter of the bright delinquents in Caplan's (1964) study were executives or professionals. Several had assets over a million dollars. The majority of the children in Pringle's (1970) study came from upper status families, yet of these, 21% were classified as below average in their provision of cultural and school opportunities for their children.

Though there is still disagreement as to how much of the delinquent population is gifted, or if giftedness is a main variable in anti-social behavior, it is obvious that some delinquents are gifted.

In the next section we will speculate about how giftedness and environmental factors may interact to

increase a youth's likelihood of delinquency or anti-social behavior.

PERSPECTIVES ON THE RELATIONSHIP BETWEEN GIFTEDNESS AND DELINQUENCY

There are two perspectives on the relationship between giftedness and delinquency. One is that the gifted child, because of his or her greater perceptual acuity and ease of learning, is more sensitive to environmental factors than other children, and as a result is more affected by an unfavorable environment. A gifted child may also be more vulnerable because giftedness itself makes the child different and less able to "fit in" and do what is expected. As a result the child's environment may be less supportive. This approach is in keeping with much of the educational literature on gifted children which stresses the gifted child's difference from other children and his/her need for special educational programs and home enrichment (Gallagher, 1976). This "vulnerability" thesis suggests that gifted youths are more likely to become delinquent than other youths because they are more likely to be adversely affected by problems at home or school (Mahoney, 1980).

The second perspective sees giftedness as a protection against delinquency. Because of it, a youth has greater insight into his own actions and those of others, and can see the long range consequences of his behavior. As a result he is more able to understand and cope with

environmental conditions and move away from them. This "protection" thesis implies that gifted youths are less likely than others to become delinquent because their high ability gives them a means of mitigating the effect of a bad environment as well as expanded opportunities to move out of it. Therefore, gifted youths become delinquent only when environmental conditions are exceptionally unfavorable (Mahoney, 1980). The second perspective--the protection thesis--is more compatible with the evidence from earlier studies which show that bright youths are less common in delinquent populations than they are in the general population. It is also compatible with Terman's early classic study of gifted children (1926), which concluded that such children are well adjusted, productive individuals, contrary to the cliche images of the shy, disturbed genius child.

On the whole, the research on the family experience of bright and average delinquents described in the previous section would tend to support the protection thesis. Bright children who get in trouble appear to come from particularly unstable homes and to have been subjected to more family separation, extreme forms of discpline, and family conflict than other delinquent youths.

There is a well-documented association between school problems and delinquency, but it has not been clearly determined, either for bright delinquents or delinquents in general, whether school failure itself is a cause of

delinquent behavior or is simply an associated problem. Hirschi and Hindelang argue that IQ affects school experience which in turn is related to delinquent behavior. However, this does not hold for the bright delinquent and some other explanation must be developed to explain why they do badly in school or why they get in trouble in spite of adequate school performance. Harvey (1981) suggests some possible reasons related to the different responses teachers have to creative and highly intelligent children, and to children gifted with verbal creativity as opposed to figural creativity. Since there is some evidence that delinquents may be high on figural creativity and low on verbal creativity, this may have some relevance. It is also possible that if the genesis of a child's difficulties lies in the family, then difficulties there could cause both school difficulties and delinquent behavior.

Harvey, in his recent doctoral dissertation (1981) adds another dimension to the vulnerability-protection perspective. After describing differences between creativity and high intelligence and between figural and verbal creativity, he asks whether a gifted child's protection or vulnerability may come not just from giftedness per se, but from different kinds of giftedness. High verbal creativity, for example, could add to a youth's ability to adapt to the environment in more socially appropriate ways and substantially increase the child's protection from a negative or hostile environment. Lack of

these verbal skills, on the other hand, could leave a youth vulnerable to family and school environments. If the imbalance in skills was particularly acute and the less developed ones were those most useful for social adaptation, such as verbal creativity, a gifted youth might make him or herself more vulnerable to an unfavorable social environment or even create an unfavorable environment because of inappropriate questions, responses, or behavior.

In this section we attempt to lay out some elements which may enable us to set forth the beginnings of a theory about the development of delinquency in gifted youths. To the extent that it identifies factors which protect youths or increase their vulnerability to delinquency, it may also provide some insight into the development of delinquent behavior in nongifted youths. At present, however, we will focus only upon the gifted youths.

Factors That Provide Protection or Vulnerability

Kind of Giftedness:	Verbal Creative
	Figural Creative
	Verbal IQ
	Performance IQ
Family Environment:	Stable
	Unstable
	Disintegrated
School Environment:	Achievement at Appropriate Level
	Underachievement
	Hostile

Different styles of giftedness, then, may lead to either more vulnerability or more protection, depending on the social situation in which the youth finds himself or herself.

These differences can add further descriptive meaning to Mahoney's thesis of giftedness as offering protection or producing vulnerability to adverse environmental situations. It could be that the highly creative child is more vulnerable to the school experience because his/her values seem discrepant with the school's expectations and values. However, his/her creativity, value or humor, and stimulus-free responses could also offer some protection to the school situation as well.

The highly intelligent children by virtue of their convergent thinking style may be more protected, in that their aspirations, thinking, and values seem to fit the student role more completely. Howver, the question remains as to how well this group could adapt to a novel social situation. It could be that their social responses would be like their more rigid, stereotypic writing responses to unknown stimuli, and their convergent style might produce more vulnerability for students who find themselves in social situations which require a great deal of adaptation.

In conclusion, it seems that delinquents who are gifted may be both vulnerable and protected from certain

environmental factors. From the review of research included here, it is obvious that more work needs to be done to understand more about the individual differences of giftedness and delinquency.

It is important to differentiate type of giftedness and to further specify type of abilities within that larger category. It is not enough to assess a child as a low or underachiever; one must determine if that child has gifted potential. The assessment must then determine what kind of giftedness that child possesses, paying specific attention to the intelligent-convergent and/or creative style of abilities. Even within these categories, one should examine verbal/nonverbal abilities, and further specific styles.

COMPARISON OF TESTED, REFUSED AND MISSED YOUTHS

In order to ascertain how the youths who agreed to be tested might differ from the court and diversion populations from which they were drawn, we compared the tested youths with all youths who were missed or refused to participate in the study during the first four months of the testing phase of the study. The comparison population used was the court record study population for the last four months of 1980, which included background information on all youths who entered the system during that period.

For the most part, the three groups of tested, refused, and missed youths were similar. There were a few exceptions which are discussed here.

The tested court population includes a disproportionately low number of girls. Girls made up 13% of the court population on which we made the comparison (16% of the missed cases, 9% of the refused cases), but only 5% of the tested cases. In the diversion population, however, there was no such imbalance. Girls made up 27% of the total comparison population (25% of the missed cases, 27% of the population of refusals) and 27% of the tested cases. The difference between the two populations in regard to the distribution of tested girls may be accounted for in part by the fact that almost all the interviewing in diversion was done by women, whereas most of the interviewing in probation was done by men.

Testing was done on youths charged with the full range of offenses. In diversion, youths charged with felonies were slightly more likely to be tested. Felonies comprised 25% of the total diversion population (25% of the missed cases, 22% of the refused), and 30% of the tested cases. Perhaps youths charged with felonies were put under more strict supervision than other diversion youths or were more motivated to retain their diversion status than youths charged with less serious offenses. As a result they may have been both more accessible to the project and more motivated to cooperate. Among court youths, the most serious, uncooperative offenders were slightly underrepresented in the tested group. A slightly lower percentage of the tested group from the court had been

detained (9% compared to 19% of the missed cases and 9% of the refused cases). Fewer had more than three court appearances (42% of tested youths compared to 61% of the missed cases and 39% of the refused cases). Fewer were described by the arresting officer as uncooperative (2% in the tested group compared to 7% of the missed group and 9% of the refused group).

Tested youths in court were also somewhat less likely to have private attorneys. Youths who refused to be interviewed were especially likely to have private attorneys (54% compared to 38% of the missed population and 34% of the tested youths).

Toward the end of the project, the number of refusals and missed cases rose, but we are not able to make comparisons like the ones above for the last four months of the testing period because we do not have background information for missed and refused youths for 1981. However, we have no reason to believe that tested youths differed from the total population during this period.

The next chapter summarizes the findings from the research on gifted delinquents and describes the analysis techniques used for the giftedness research.

CHAPTER 10

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CHAPTER 11

GIFTED DELINQUENTS--ANALYSIS AND RESULTS*

The primary question this research set out to answer was whether gifted youths could be identified in a juvenile justice system. The question can be strongly answered in the affirmative in this court. Youths were classified as gifted if they scored in the top 5% on the Wechsler Intelligence Test for Children Revised, the Torrance Test for Creative Thinking, or the Wide Range Achievement Test. Using these criteria, 48 youths were classified as gifted, comprising 18% of the 268 youths screened and 7% of the approximately 700 youths eligible for screening during the interview year. Forty of the 48 youths actually scored in the top 3%. An additional 26 youths achieved scores which would place them in the top 15%, representing I.Q. scores of 115 or above on the WISC-R--the lower cutoff point used by several previous studies of bright delinquents. It appears that the judge who invited us to study gifted delinquents in this court was correct in his perception that many of the youths who came before him were gifted.

These findings do not support Hirschi and Hindelang's argument (1977) that a disproportionately small percentage

[1]Major portions of this chapter are based upon work by Steven Harvey who carried out the statistical analysis of the data on giftedness. He developed the analytic techniques used here during a pilot analysis of the SYP data for his PhD dissertation in the School of Education at the University of Denver. His dissertation advisor was Kenneth Seeley (See: Harvey, 1981).

of delinquents fall within upper intelligence ranges or the findings of Gath et al (1971) that the percentage of bright delinquents (I.Q. 115 and over) is lower among delinquents than in the general population.

Five additional questions were addressed in this study of gifted delinquents:

What are the intellectual and creative characteristics of youths who were screened by the suburban youth project?

What is the relationship between intellectual and creative characteristics to academic achievement and giftedness in this population?

Did the screening procedure adequately identify gifted youths in the screened population?

Do youths involved in the probation and diversion programs have different configurations of giftedness?

Are the school and family background characteristics of the SYP youths related to their ability characteristics?

The first section of this chapter provides a summary of the results of the Suburban Youth Project study of gifted delinquents in the form of answers to the above six questions. The rest of the chapter is devoted to a technical description of the findings and data analysis which involved the use of factor analysis and Reticular Action Moment (RAM). A detailed description of factor analysis and RAM is included in Appendix A of this report.

SUMMARY OF FINDINGS

The findings reported here are intended for the more general reader. Those interested in the specific details are encouraged to follow the discussion in the following sections. In relation to gifted youths in a juvenile justice system, the study reports six major findings. The most important one has already been mentioned. (1) There are a substantial number of gifted youths in this population. Other findings are: (2) these youths appear to have some unique characteristics, (3) their giftedness is not necessarily associated with high achievement, (4) because of their unique characteristics, they may be less likely to be identified as gifted, (5) youths in probation and diversion have similar configurations of giftedness, and (6) school and family characteristics do not appear to be related to ability characteristics.

In general, several different cognitive abilities emerged from all the youths studied in this court system. Those abilities were in the different areas of creativity and intelligence. For the most part, their characteristics were similar to those found for normal youth previously studied and were expected. However, the gifted youths in this population were different in some ways from youths in normal populations in that they had very high abilities in the area of fluid intelligence and, in most cases, did less well on the achievement tests in relation to their high fluid abilities. Furthermore, some of the youths who did

well on the creativity measures also did less well on achievement measures in relation to their higher ability scores.

Importantly, youths who were identified as potentially gifted orü talented in athletics or the performing and fine arts were not able to be identified by any of the standardized tests given. Finally, no distinct family characteristics could be related to the gifted youths. They were just as likely as others to have a more or less stable family situation.

From these findings, we can speculate that although many more gifted youths than expected may exist in a juvenile court system, they may be very hard to identify. These youths have none of the usual markings. Their grades may be low, their family may or may not have problems. Even if they are tested, other creative or athletic abilities might not be reflected in their scores. Most importantly, these gifted youths may have some high amount of fluid ability, and no research has as yet linked observable day-to-day behaviors to fluid ability. Horn (1980) has described fluid ability as an incidential learning, essentially an intelligence that is not taught and fostered in school. Since this ability is not encouraged in school, students who use this ability in their problem-solving may not get the high grades usually associated with giftedness. The thinking style of these students is often characterized by a nonverbal quick perceptiveness. To experienced

teachers or counselors, these students are the ones who just seem to intellectually "have it", though none of the usual verbal or achievement indicators are present.

Since a substantial number of youths gifted with fluid intelligence may exist in the juvenile justice system, special attention needs to be given to the development of ways to identify them. Tests such as the performance measures of any traditional intelligence tests have been used in identifying fluid intelligence. Other and more brief measures like the Ravens Progressive matrixes or the block design subtest from the WISC-R could also be used for youths suspected of possessing this kind of ability. Also questionnaires or informal interviewing can be used to identify artists and talented athletes.

DEFINITION OF TERMS

The following terms will be used throughout this chapter.

Factor Analytic Model: In this study the factor analytic model consisted of the theoretical and statistical organization of the patterns of relationships observed among all the variables used in this study (see Figure 11-7). These variables were divided into input and output. In this organization, change in the input variables produces change among the output variables. Variables were also categorized as those which were directly observed and those which were unobserved or latent. These latent variables were

determined from the factor analysis done in this study (McArdle, 1981). For the purposes of this study, thisfactor analytic model is defined as being the ability model and was operationally determined from the structural solutions produced by a factor analysis and a Reticular Action Moment (RAM) solution. From this solution, each variable is divided into some proportion of variance determined by a latent variable common to several other variables and some part of variance determined by unique factors such as measurement error and unique tasks. These concepts of common and unique factors are discussed further in Appendix A.

Ability Factors: This term refers to "the constant variations in behavior that accompany variations in the complexities of stimulus patterns to which subjects respond...Within this context it is recognized that the concept of an ability factor is an abstraction and that any measurement of an ability is based on observations of behaviors of observed abilities" (Horn, 1980). In this study ability factors were operationally defined as being the common factors which result from the factor analysis used. These ability factors were assumed general abilities which caused some observed abilities to be positively related to some other observed abilities aqnd negatively related to others. These ability factors were considered to be input variables to both achievement and giftedness outputs in the final model.

Crystallized Intelligence: For the purposes of this study, crystallized intelligence was defined as intellectual functioning on tasks requiring the use of previous training, education and acculturation. This ability is gained from direct and deliberate training (Kaufman, 1978). In this study, crystaqllized intelligence was operationalized as one of the ability factors of the intelligence scales used which had strong loadings from the verbal portion of the test. This factor was one of the input ability factors considered in the final model.

Fluid Intelligence: For the purposes of this study, fluid intelligence was defined as problem solving where quick adaptation to unfamiliar stimuli to understand the pattern or concept is implied. This ability is gained indirectly from life's experiences (Kaufman, 1978). In this study, fluid intelligence was operationalized as one of the ability factors of the intelligence and creativity test measures used. This factor had high loadings from the performance subtests of the intelligence measures and the figural elaboration score from the Torrance Test of Creative Thinking (1965), and was one of the input ability factors considered in the final model.

ORGANIZATION OF RESULTS

The end product of all analysis done on this giftedness portion of the study was an ability model which describes the relationships among all the variables involved. (See

Figures 11-1 and 11-7). These variables were divided into observed ability variables, creative and intellectual ability factors, and outcome variables. The observed abilities included all the creative, intellectual, and achievement test variables and gifted artistic or athletic extra-curricular indicators. The ability factors included the unobserved latent thinking factors generated from the factor analysis and RAM solutions of the observed thinking test scores. The outcome variables included academic achievement in reading and math, and the gifted/not gifted categorization.

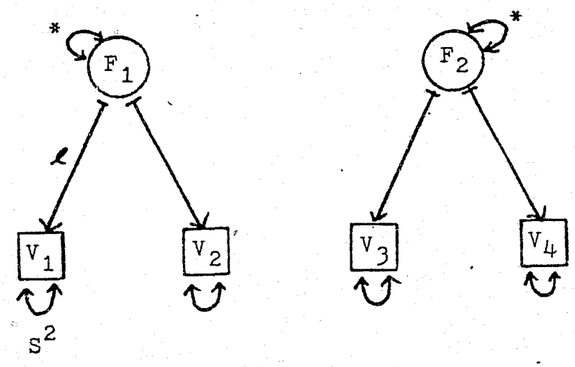
The assumed structure of these relationships was as follows: 1) the observed creativity and intellectual test variables were outputs of the linear functional relationship of input ability factors; 2) the outcome variable of achievement was also an output of the linear functional relationships of input ability factors; 3) the outcome variable of giftedness was an output variable of the ability factors, extra-curricular activity, and achievement inputs; 4) the ability factors had covariant relationships with each other; 5) the outcome variables had covariant relationships with each other; and 6) each of the variables considered had some uncorrelated uniqueness.

As was indicated in the summary of results, the analysis was organized around several questions:

What are the intellectual and creative characteristics of youths who were screened by the suburban youth project?

FIGURE 11-1

EXAMPLE OF FACTOR PRESENTATION



Key:
- ◯ = latent common factors
- □ = observed variables
- S^2 = amount of variance unique to each variable
- ℓ = common factor loading
- ⟼ = linear functional relationship
- ⟷ = covariant relationship
- * = set equal to unity

What is the relationship between intellectual and creative characteristics to academic achievement and giftedness in this population?

Did the screening procedure adequately identify gifted youths in the screened population?

Do youths involved in probation and diversion programs have different configurations of giftedness?

Are the school and family background charcteristics of the SYP youths related to their ability characteristics?

The research questions are organized so that different parts of the final model of the variables and their relationships are discussed separately before any discussion of the entire model. The separate parts of the model discussed are: (1) the observed creativity and intellectual test variables, the latent thinking ability factors, and the relationships among them, (2) the latent thinking ability factors, the outcome achievement variables, and their relationships, (3) the ability factors, the extra-curricular ability variables, the achievement variables, and their relationships, and (4) the entire system of variables, including all their direct and indirect relationships.

In each case, the questions were answered using a maximum likelihood factor solution and a promax-oblique rotation, followed by a RAM analysis. The solution for each question was used as a step to build the final RAM solution. This final solution provided the operational definition of the final ability model used in this study.

The factor solution in the first question provided the number of ability factors for the ability model. This number of ability factors was then used in all the following solutions. The factor analysis in the last questions was used only to determine the structure of the possible relationship between these ability factors and the achievement and extra-curricular abilities.

The factor loadings provided starting values for the linear functional relationships and the correlations among factors determined by the promax-oblique rotation for the correlated relationships then used in the RAM analysis. From this outline of relationships, further linear functional or correlational pathways were added or subtracted one at a time using RAM techniques to develop the final model which then produced the best goodness of fit of the model using the indicators discussed earlier.

The first question was answered in three stages using three RAM solutions. The stages consisted of the following steps of RAM modeling: 1) an analysis of previous data using normal age-mate subjects of the WISC-R and TTCT separately; 2) a comparison of these structural models to the WISC-R and TTCT data observed in this study separately; and 3) an analysis of the combination of the WISC-R and TTCT variables observed in this study.

The first two steps were considered important in order to 1) keep the final solutions of the data analyzed in this study within the bounds of previous work; 2) to insure that

any structural model generated by this research is not merely a mathematical artifact of the factor and structural analytic techniques but rather a model based from the theoretical understanding of cognitive abilities; and 3) to facilitate the interpretation of the final factor model. This was especially true because of the small number of subjects that was available for the final solution of this study.

With a small sample, more chance errors of sampling or measurement are likely to occur, especially with the number of variables used. These errors might produce random variability among some of the variables in an unequal way such that the final RAM solutions would be misleading. Comparisons of the latter solutions with those determined if these error possibilities have occurred. These comparisons also gave this study a theoretical base for interpretation as such structural or factoral modeling using both WISC-R and TTCT output variables as not been done.

These pilot analyses consisted of the exact subtests used in this study from previous work. The correlation matrices from the standardization sample of 15 1/2-year-olds from the WISC-R (Wechsler, 1974) and from 608 sixth-graders in a study using the TTCT (Cicirelli, 1964) were analyzed. To keep these solutions in line with this study, the digit span and mazes subtests from the WISC-R and the verbal elaboration from the TTCT were not considered as these scores were not used in the present assessments.

The final separate RAM solutions of the WISC-R and TTCT from these pilot analyses of the previous work and those using the subject of this study served as theoretical guidelines in analysis using a combination of all test variables. Specifically, these results helped determine the number of common factors extracted and the outline of pathways in the RAM model of the combination of test variables.

The resulting solution of these analyses was used in answering this research question. The final model consisted of a number of unobserved input factors referred to here as ability factors which the subjects used to a greater or lesser degree to produce their results on the output observed in the test scores.

The rest of the questions were answered using a final RAM model which described the relationships among the ability characteristics, the outcomes of achievement and giftedness, family characteristics, the athletic and artistic extra-curricular activities, and whether the youth was in the probation or diversion department.

Finally to answer the research question concerning the effectiveness of the screening procedure used by the SYP, a Chi Square between the youths identified as gifted from the screening and those identified from the full assessment was done. This test provided a measure of the amount of difference or sameness between these two groups. This measure is generated from a comparison between what would be

expected if there was no difference between these groups and what frequencies were actually observed in the actual experimental situation. (Ferguson, 1976)

All of the above analysis were done using 114 subjects who were given the full assessment. Of the youths selected for full assessment, 66 were in the experimental group selected by signs of giftedness from the screening and 48 were controls. Forty-eight of the total number of 114 subjects were ultimately classified as gifted on the basis of the full assessments and 68 were categorized as not gifted. The screening missed 9 gifted students and falsely categorized 27 as gifted. Of all the 114 youths only 6 were female, so the results were interpreted as representative of only male youths involved in a juvenile justice system. Also only 98 cases were used to compare subjects from the court (52) and diversion populations (46).

What are the intellectual and creative characteristics of youths who were screened by the Suburban Youth Project?

This question was answered in several steps: (1) A pilot model was generated by the RAM solution of the standardization sample of the Wechsler Intelligence Scale for Children Revised (WISC-R) (Wechsler, 1974) (N = 200 for age 15 1/2; (2) a pilot model was generated for the Torrance Test or Creative Thinking (TTCT) using Cicirelli's data (1964) (N = 608 sixth graders); (3) a model of intelligence characteristics was generated from the intelligence testing results of the subjects from the SYP study, and comparisons

were made between the normalized group (Wechsler, 1974) and the SYP group; (4) a model was generated of creativity characteristics of the SYP subjects, and comparisons were made between the normal group (Cicirelli, 1964) and the SYP group. Finally, a model of general thinking ability characteristics was generated from all the testing results.

Pilot Structural Solution of the WISC-R

This discussion will refer to Tables 11-1 and 11-2 and Figure 11-2. Table 11-1 includes the results of the indicators for the factor extraction procedure, while Table 11-2 includes the results of the indicators for the goodness of fit of the model. Figure 11-2 is a graphic representation of this model. An explanation of the meaning of the indicators presented on this and other tables is explained in the methodology section in Appendix A for readers who are unfamiliar with their use.

According to the results shown in Table 11-1, the two common factor model was chosen as best describing the data. This two common factor model is significantly close to the data ($z = 2.2$), significantly different from the one factor model ($z = 8.77$), comes close to describing the actual covariance data (.0087), and accounts for 50.4% of the variance among the variables. Finally, the amount of gain between the one and two factor models is greater than the amount of gain among the other extraction solutions. It should be noted that this solution only accounts for 50.4%

TABLE I1-1

Goodness of Fit of the Factor Extraction Solution

for the WISC-R Standardization Sample

(n = 200)

	Statistical Indicators						Measurement Indicators	
K	df	χ^2	z	ddf	$d\chi^2$	z	Browne's residual/original	% of common variance
1	35	161	8.42**	0	0	0	.0452	40.7
2	26	45	2.17*	9	79	8.77	.0087	50.4
3	18	25	1.07*	8	19	2.2**	.0044	54.4
4	11	11	1.08*	7	11	1.04**	.0018	60.6

Key: K = number of factors

df = degrees of freedom

χ^2 = Chi square

ddf = differential degrees of freedom

$d\chi^2$ = differential χ^2

z = standard deviations away from mean data

* = indicates significant closeness

** = indicates significant difference

TABLE 11-2

Goodness of Fit for the RAM Model

of the WISC-R Standardization Sample

(n = 200)

	Statistical Indicators			Measurement Indicators	
	df	χ^2	z	Browne's residual/original	TLR
Accepted Model	35	72	3.94**	.025	.95

4708

Key: df = degrees of freedom

χ^2 = Chi square

TLR = Tucker Lewis reliability coefficient

z = standard deviations away from mean data

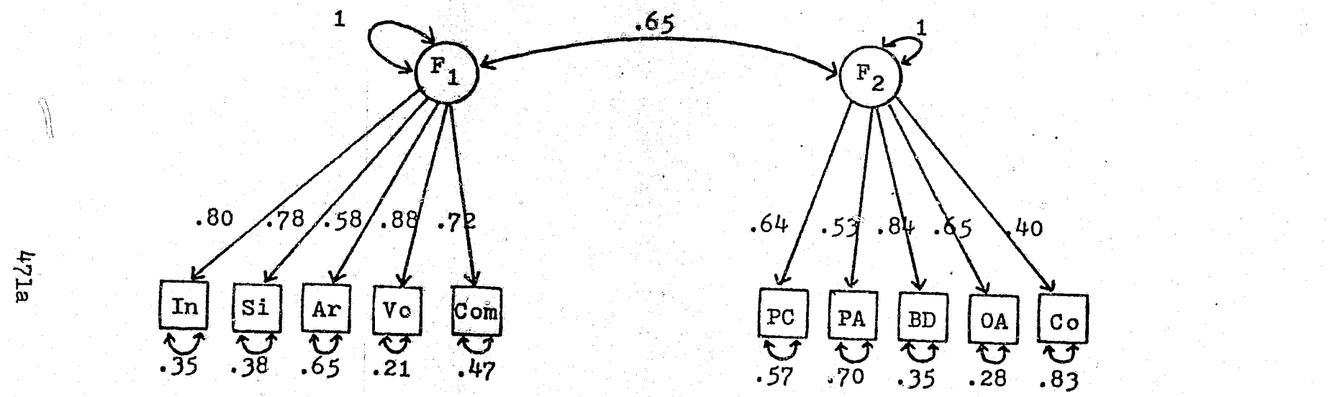
** = indicates significant difference

of the total variance of the system, with 49.6% being accounted for by the unique task demands and measurement error of the separate subtests.

The results of the Reticular Action Moment (RAM) solution for the two factor model of the WISC-R standardization sample as shown in Figure 11-2. Each square represents one subtest of the WISC-R instrument used. The individual factor loadings, goodness of fit, Browne's ratio of residual/original, and the Tucker-Lewis reliability coefficient are listed in Table 11-2. The solution accepted yielded a z value which indicated a nonsignificant goodness of fit (z = 3.94). How

FIGURE 11-2

RAM Model for WISC-R Standardization Sample



Key: F_1 = Crystalized intelligence

F_2 = Fluid intelligence

In = Informant

Si = Similarities

Ar = Arithmetic

Vo = Vocabulary

Com = Comprehension

PC = Picture Completion

PA = Picture Arrangement

BD = Block Design

OA = Object Assembly

Co = Coding

ever, these loadings and the path arrows indicating either covariant or functional relationships among the latent and observed variables were accepted as providing the most interpretable factors. Also, this solution accounted for a large amount of the covariance in the system (TLR = .95), while remaining close to the original data (residual/original = .025). It should also be noted that further analysis which did produce significant χ^2 values only slightly increased the TLR value (.97) and measurement accuracy (residual/original = .012). The advantage gained with these additional loading pathways was judged not worth the risk of capitalizing on chance and overfitting the model to the data merely to gain statistical significance, while other indicators yielded a satisfactory solution with the simpler model.

Past researchers have interpreted these factors in different ways. Wechsler (1974) suggested that these factors represent abilities in verbal comprehension and spatial organization. However, it has been argued by McArdle (1981, personal correspondence) that these factors are an artifact of the test construction resulting in variables presented verbally loading on one verbal factor and those variables presented in a nonverbal way loading on another.

Horn and Cattel (1966) and Horn and McArdle (1980), in their work on the Wechsler Intelligence Scale for Adults (WAIS), have suggested that these factors could more correct-

ly be interpreted as indicating crystallized and fluid ability factors. According to Horn and McArdle (1980), the presence of several multiple pathways determined from the Reticular Action Moment (RAM) analysis have contributed to the development of their theory. These authors have pointed to the pathways from the verbal factor to the picture arrangement and picture completion subtests and spatial factors to the comprehension and similarities subtests. The authors have pointed out that the tasks involved in picture arrangement and picture completion really do not involve verbal comprehension ability. Also, the tasks involved in the similarities subtests really do not involve a spatial ability. These authors concluded that ability factors found the WAIS must be more complex and have, therefore, suggested the interpretation of crystallized and fluid intelligence. There is also some evidence that these same interpretations can be made for the Wechsler Intelligence Scale for Children Revised (WISC-R) (Kaufman, 1979; Cattel, 1963). Therefore, Horn's (1980) interpretations for the WAIS were applied equally to results using the WISC-R.

Horn (1980) refers to these two types of intelligence as having much broader domains of behaviors than can be sampled by the variables used in any one study. According to Horn, crystallized intelligence pertains to the universe of abilities that are most valued in a culture and believed to be most essential for the maintenance of that culture.

Because the abilities are valued and because they are believed to be essential, systematic efforts such as education systems with specific teaching methods and curriculum to impart these abilities to the members of the culture are developed. These systematic efforts are referred to as acculturation. To acquire these valued abilities, the culture also provides conventional, generalized problem-solving techniques. Such aids are considered helpful in the development of intelligence. Algebra is an example of such a technique for this culture. Knowing algebra enables one to solve more complex problems than otherwise would be the case. Therefore, crystallized intelligence consists of the content and the process of valued abilities systematically presented by the culture.

This intelligence is defined primarily in terms of the kinds of prudent judgment, sound inferrence, and clear expression that depend on knowledge of the culture and especially on learned verbal facility. This ability factor has been reflected in both the WISC-R and the WAIS with high factor loadings of the verbal subtests along with the minor loadings of the picture completion and picture arrangement subtests. Crystallized ability has been especially reflected in the high loadings of the subtests related to school--information and vocabulary. This high loading of these school related variables has been especially true for adolescents, as school might be interpreted as being the primary

crystallizing force for subjects this age.

Horn (1980) refers to the fluid ability factor as a generalized concept of abilities that have been learned but have not been a part of the acculturation process. "For lack of a better term, these acquisition influences are referred to as causal learning (formerly incidental learning)" (Horn, 1980, p. 295). Fluid intelligence can be defined in terms of performances on tasks demanding that people quickly perceive novel and complex relations or draw logical consequences. As discussed earlier, this factor is reflected in the performance subtests of the WISC-R and WAIS, and the small, multiple loadings found with the comprehension and similarities subtests of the verbal portion.

In line with these findings, the present author interpreted the final RAM solution as indicating crystallized and fluid ability factors to explain the observed covariance among the subtests of the WISC-R standardization sample. As mentioned above, crystallized ability has a strong educational experience component. This component is emphasized because the positive or negative school experience of students of high school age would likely have influenced the subtests affected by the crystallized ability factor. This would be especially true in the information and vocabulary subtests, as these tasks consist of questions drawn from subject matter or words likely to be used in high school course work. Both these information and vocabulary subtests had the highest loadings on this factor.

Therefore, it was concluded that two factors exist among the intellectual abilities of normal high school students as measured by the same subtests as those used in the present study. These abilities are: 1) crystallized--consisting of the verbal subtests; and 2) fluid--consisting of the performance subtests.

Pilot Factor Solution for the TTCT

Figure13 is a representation of the factor solution of the 608 sixth graders presented by Cicirelli (1964). The raw data consisted of his published correlation matrix. Factors and factor loadings were determined by the techniques mentioned above. Table13 shows the statistical and measurement indicators used in determining the number of factors extracted.

From these indicators, the three factor solution was chosen. The Chi-square test showed that this solution did predict the data well (z = 1.11). The residual/original ratio showed that the predicted correlations were very close to the original matrix (.0002), and the three factor solution did account for a greater percentage of the system variance (70.7%) than the two factor solution. Thus, the three factor solution did appear to offer the best model.

The results of the final RAM three factor solution for the 608 sixth graders of the TTCT are shown in Figure13. The goodness of fit results of the model indicators are presented in Table14. As in the case with the WISC-R sample, the model accepted for the TTCT sample did not have a χ^2 value indicat-

TABLE 11-3

Goodness of Fit of the Factor Extraction Solution

for 608 Sixth Grade Students on the TTCT

(n = 608)

	Statistical Indicators							Measurement Indicators	
	K	df	χ^2	z	ddf	$d\chi^2$	z	Browne's residual/original	% of common variance
71g	1	14	789	22.55**	0	0	0	.1096	46.7%
	2	8	690	20.27**	6	686.78	20.22**	.0058	65.4%
	3	3	6	1.11*	5	91.7	7.97**	.0002	70.7%

Key: K = number of factors

df = degrees of freedom

χ^2 = Chi square

ddf = differential degrees of freedom

* = indicates significant closeness

** = indicates significant difference

z = standard deviations away from mean data

TABLE A 11-4

Goodness of Fit of the Structural Model
of the TTCT for 608 Sixth Grade Students
(n = 608)

	Statistical Indicators			Measurement Indicators	
	df	χ^2	z	Browne's residual/original	TLR
Accepted Model	9	65	6.09**	.004	.899

Key: df = degrees of freedom

χ^2 = Chi square

TLR = Tucker Lewis reliability coefficient

z = standard deviations away from mean data

** = indicates significant difference

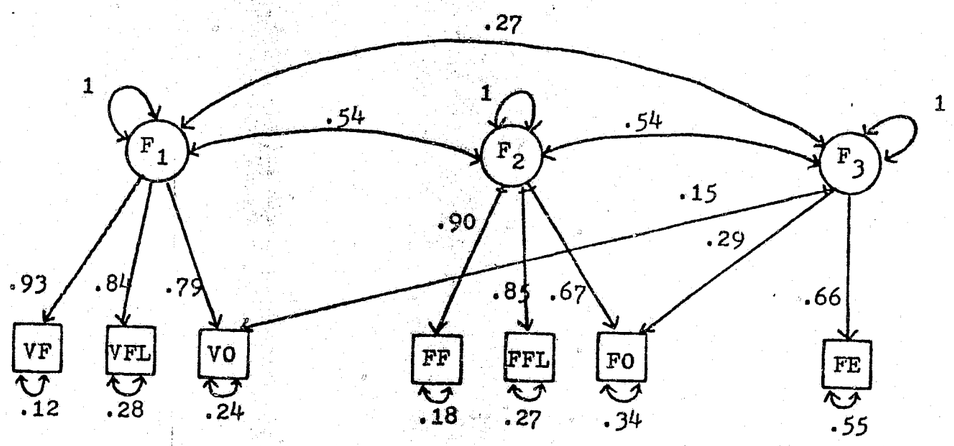
ing a significant closeness between the model and the data ($z = 6.09$). However, the amount of covariance accounted for (TRL = .899) and the low amount of residuals (residual/original = .004) provided strong enough indicators to accept the model. This model also lead to the most parsimonious theoretical interpretation in line with previous research. The high χ^2 could best be attributed to high sample size, as the value of this statistic was a function of the number of subjects. Therefore, this model also ran the risk of being overfitted by adding minor multiple loadings simply to achieve statistical significance. When this was tried, these loadings were found to be truly noninterpretable.

Results of Pilot TTCT RAM Solution

As shown in Figure II-3 the first factor consisted of the following variables with the respective loadings: 1) verbal fluency, .93; 2) verbal flexibility, .84; and 3) verbal originality, .79. This factor was interpreted as representing an ability to produce divergent verbal responses. The next factor consisted of the following variables with their respective loadings: 1) figural fluency, .90; 2) figural flexibility, .85; and 3) figural originality, .67. This factor was interpreted as representing the ability to produce divergent figural responses. The final factor consisted of the following variables with their respective loadings: verbal originality, .15; 2) figural originality, .29; and 3) figural elaboration, .66. This factor was interpreted as a creative energy ability.

FIGURE 11-3

RAM Model for 608 Sixth Grade Students



Key: F_1 = verbal divergent production

F_2 = figural divergent production

F_3 = creative energy

VF = verbal fluency

VFL = verbal flexibility

VO = verbal originality

FF = figural fluency

FFL = figural flexibility

FO = figural originality

FE = figural elaboration

The multiple loadings of the verbal and figural originality with this and the other factors made the interpretation of this factor more complex. When such multiple loadings occurred, the researcher concluded that the subjects in the sample used the respective multiple factors separately in achieving the results for the variable in question, or that these factors with such variables multidetermined formed a complex combination of abilities. This latter approach was used in the discussion of the final factor.

Because of the loadings of both types of originality variables and the loading of figural elaboration, the final factor was interpreted as representing the ability to produce responses which had creative energy. Creative energy is defined here as the combined ability to produce original ideas and to extend those ideas with separate, smaller ideas. This ability factor was not restricted to the verbal or figural area necessarily, but is considered to be more general. This ability factor could have been strengthened if a verbal elaboration variable had been used in the analysis. This ability factor was also seen as being separate from the ability to produce divergent responses, and especially was different from the verbal divergent ability in the verbal area (r = .27).

Previously, Torrance and Dauw (1966) determined some distinct self-reported personality characteristics associated with groups of adolescents with high or low scores in originality and elaborations. For those high in these

scores, those characteristics included: willingness to take risks; having a sense of humor; not being bored, quiet or timid; unwilling to accept things on another's say so; and, always asking questions. This group also expressed creative and unconventional career aspirations. These responses significantly differentiated this group with high scores from those groups with low scores in these same areas.

Though some differences were noted among those who scored high in originality and those who scored high in elaboration in the areas of parental and teacher expectations, it appeared that students with high scores in a combined factor of originality and elaboration differed more from other kinds of students than they do from each other. This research was then used to support the idea of a separate personal creative energy factor consisting of a differentiated set of creative abilities, personality characteristics and career aspirations. Differences in creative energy were, therefore, reflected by different scores on the originality and elaboration subscores. Also, any differences in the above areas among students using this factor to obtain their TTCT results could well be explained by the different factor loadings of each of the variables rather than a different factor constellation of the TTCT.

Particularly relevant to the present results, these authors describe two separate factors relating to creativity as broad general fluency and playful originality. In this study, the fluency factor consisted of ability indicators which measured a general ability to produce many divergent verbal responses to a test stimuli. The playful originality factor, however, consisted of a combination of temperament, motivational, and ability variables, including measure for the need for achievement in creativity, playfulness, acceptiveness, and originality. This factor on creativity was then charcterized by a competitive, receptive, playful orientation accompanied by clever original responses to test stimuli. These results support the findings of the present study in proposing fluency and originality as separate characteristics of creativity.

In conclusion, it appeared that three separate factors representing three different kinds of abilities as measured by the subtests used in the present study could be described for a normal population. These ability factors were: 1) divergent verbal ability; 2) divergent figural ability; and 3) ability to produce personal creative energy. The first two factors represent a fluency response to stimuli and the third factor represents a creative, motivational, and temperamental aspect. From this analysis, it appeared that

normal students made use of these three types of ability factors, each to a greater or lesser degree, to produce their observed test results. The most important finding from these results is the clear isolation of the personal creative energy ability which students used to a greater or lesser degree in responding to the test stimuli as different from the two fluency factors.

Further, the varying degrees of this creative energy ability have been shown to be associated with varying personality and career characteristics. Thus, if one were looking for students with this ability and these associated creative characteristics, one could use the performance of this factor on the TTCT.

Results of the Analysis of the WISC-R and WAIS, Using SYP Subjects

In doing the factor analysis and RAM techniques, it was found that the thinking abilities of youths who have come into contact with the juvenile justice system are extremely similar to abilities found in a normal population of their age-mate peers. The factor extraction and rotation procedures isolated the same factors consisting of the same similar subtest variables.

The RAM solution, however, generated a minor difference between the two populations. In the test population, a small path relationship (21) from the fluid intelligence factor to the similarities subtest variable was found to significantly increase the fit of the model. This path (Figure 11-4)

strengthened the theoretical interpretation of the crystallized-fluid intelligence theory. Horn (1980) has found this same pathway to be indicator-significant in his model.

Also, the coding subtest is loaded on the crystallized factor (.40) among the present population. This subtest measures a subject's ability to draw the correct symbol below a number when given a code of such correct matches. This task is influenced by memory, sequencing, facility with numbers, learning ability, anxiety, and distractability (Kaufman, 1976). The best interpretation of this finding was that this variable had the highest uniqueness (.84), and that it was highly unpredictable with more than 64% of its variance being accounted for by unique and measurement f . Another interpretation was that coding was primarily highly associated with Arithmetic and was therefore only more secondarily associated with crystallized intelligence in this sample. Kaufman (1979) has reported that a third factor consisting of Arithmetic, Mazes, and Coding has been extracted when the Mazes subtest is also administered. Therefore, the association between Arithmetic and coding may well be explained as a third factor which was not extracted in this study. This loading also did not change the interpretation of crystallization and fluid intelligence used to explain the present findings.

Therefore, the students in this study not only used the same ability factors reflecting the same subtest variables,

they used these factors such that their scores produced the similar path weights toward the variables. These results indicated that the youths, regardless of involvement with a juvenile justice system, use crystallized and fluid intelligence to the same degree on each subtest to produce their results.

The results of the factor extraction procedures are listed in Table 11-5. As the indicators point out, the two common factor solution was significantly close to the data ($z = 2.08$) and this solution was significantly different from the one common factor solution (3.57). The three common factor solution was not statistically different from the two common factor solution ($z = 1.83$) and was, therefore, rejected. The factor loadings and the path arrow indicating the linear functional relationships are shown in Figure 11-4.

These paths and weights are those determined from the pilot analysis of the standardization sample. The goodness of fit data for the model indicators are listed in Table 11-6. As the indicators show from these tables, the structural model determined from the normal youth was significantly close to the data ($z = 1.4$) and this model accounted for almost all the covariance observed among the subtest variables (TLR = .99).

From these results, it was concluded: 1) that the youths involved in the court system have the same intellectual ability factors as those in the normal

TABLE 11-5

Goodness of Fit of the Factor Extraction Solution

for the Intellectual Testing Results for Youths

Involved in a Juvenile Justice System

(n = 114)

	Statistical Indicators						Measurement Indicators		
K	df	χ^2	z	ddf	$d\chi^2$	z	Browne's residual/original	% of common variance	TLR
1	35	78	3.98 *	0	0	0	.025	46%	.902
2	26	43	2.08 *	9	29	3.57 **	.009	53%	.95
3	18	26	1.3 *	8	13	1.83 *	.004	59%	.96

Key: K = number of factors

df = degrees of freedom

χ^2 = Chi square

ddf = differential degrees of freedom

z = standard deviations away from mean data

TLR = Tucker Lewis reliability coefficient

* = indicates significant closeness

** = indicates significant difference

TABLE 11-6

Goodness of Fit for the RAM Model of Crystalized and Fluid Ability Factors for Youth Involved in a Juvenile Justice System

(n = 114)

	Statistical Indicators			Measurement Indicators	
	df	χ^2	z	Browne's residual/original	TLR
Accepted Model	33	44.9	1.14*	.0049	.99*

Key: df = degrees of freedom

χ^2 = Chi square

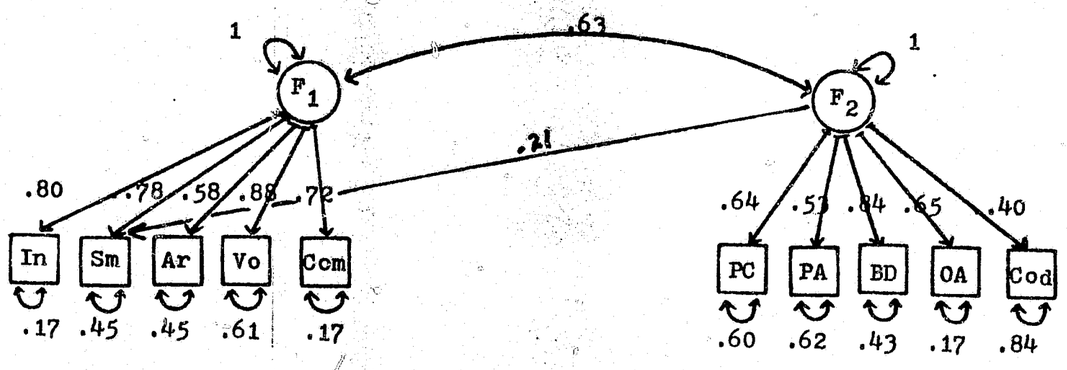
z = standard deviations away from mean data

TLR = Tucker Lewis reliability coefficient

* = indicates significant closeness

FIGURE 11-4

RAM Model for Crystalized and Fluid Ability Factors of Youth Involved in a Juvenile Justice System (n = 114)



Key: F_1 = crystalized intelligence
F_2 = fluid intelligence
In = Information
Sm = Similarities
Ar = Arithmetic
Vo = Vocabulary
Com = Comprehension
PC = Picture Completion
PA = Picture Arrangement
BD = Block Design
OA = Object Assembly
Cod = Coding

population. As mentioned earlier, these ability factors have been interpreted as 1) being a crystallized ability and fluid ability; 2) that the subjects in this study used the crystallized and fluid abilities separately to the same degree on each of the subtest variables to produce the observed results, except in the use of fluid ability in the similarities subtest; and, 3) though the mean score on the fluid ability factor was higher than the crystallized ability factor, the correlation between these two abilities was high (.63) and indicated a close association between them. In general, the subjects showed a tendency to use the fluid ability factor more effectively to achieve their final I.Q. scores.

Results of the RAM Solution of the TTCT

The results of the goodness of fit for the number of common factors extracted is shown in Table 11-7, and the goodness of fit of the structural model in Table 11-8. The final accepted RAM solution is presented in Figure 11-5.

From the indicators in Table 11-7, the three common factor model was accepted as providing the best description of the data. This model was significantly close to fitting the original data (z = .14), was significantly different from the two common factor model (z = 4.6), predicted correlations which were very close to the original data (Browne's ration = .0007), well explained the covariance (TLR = 1.00), and explained 75% of the variance among the

TABLE 11-7

Goodness of Fit of the Factor Extraction Solution

for the Verbal and Figural Divergent Abilities

Involved in a Juvenile Justice System

(n = 114)

		Statistical Indicators					Measurement Indicators		
k	df	X^2	z	ddf	drx^2	z	Browne's residual/ original	% of common variance	TLR
1	14	282	13.8**	0	0	0	.246	41%	.38
2	8	42	4.6**	6	219	12.3**	.0089	699%	.85
3	3	2.69	.14*	5	39.5	4.9**	.0007	75%	1.00

Key: * = indicates significant closeness

** = indicates significant difference

TABLE 11-8

Goodness of Fit of the RAM Model of Verbal and Figural Divergent Abilities of Youth Involved with a Juvenile Justice System

(n = 120)

	Statistical Indicators			Measurement Indicators	
	df	χ^2	z	Browne's residual/original	TLR
Accepted Model	8	8.13	.19 **	.0027	.99
Two Common Factor Model	12	45	4.2	.0067	.94

Key: df = degrees of freedom

χ^2 = Chi square

z = standard deviations away from mean data

TLR = Tucker Lewis reliability coefficient

** = indicates significant difference

variables. A comparison between degrees of fit shown in Table 11-8 of the two and three common factor RAM model also indicated a better fit with three common factors (z = 4.2 for two factors, z = .19 for three factors).

This evidence points to the conclusion that this population, like the pilot population of normal subjects, exhibited three characteristics on their result of TTCT. These characteristics were interpreted above as being the ability to produce divergent verbal responses, the ability to produce figural divergent responses, and the ability to produce responses with personal creative energy. In light of the findings of Horn and Rossman (1972) cited above, these factors could further be reduced to characteristics of the ability to produce a quantity of responses, with the verbal and the figural factors being the types of responses, and the ability to produce original quality responses.

This conclusion is further suggested by the high loading of the fluency subscores on the divergent production responses as shown in Figure 11-5.

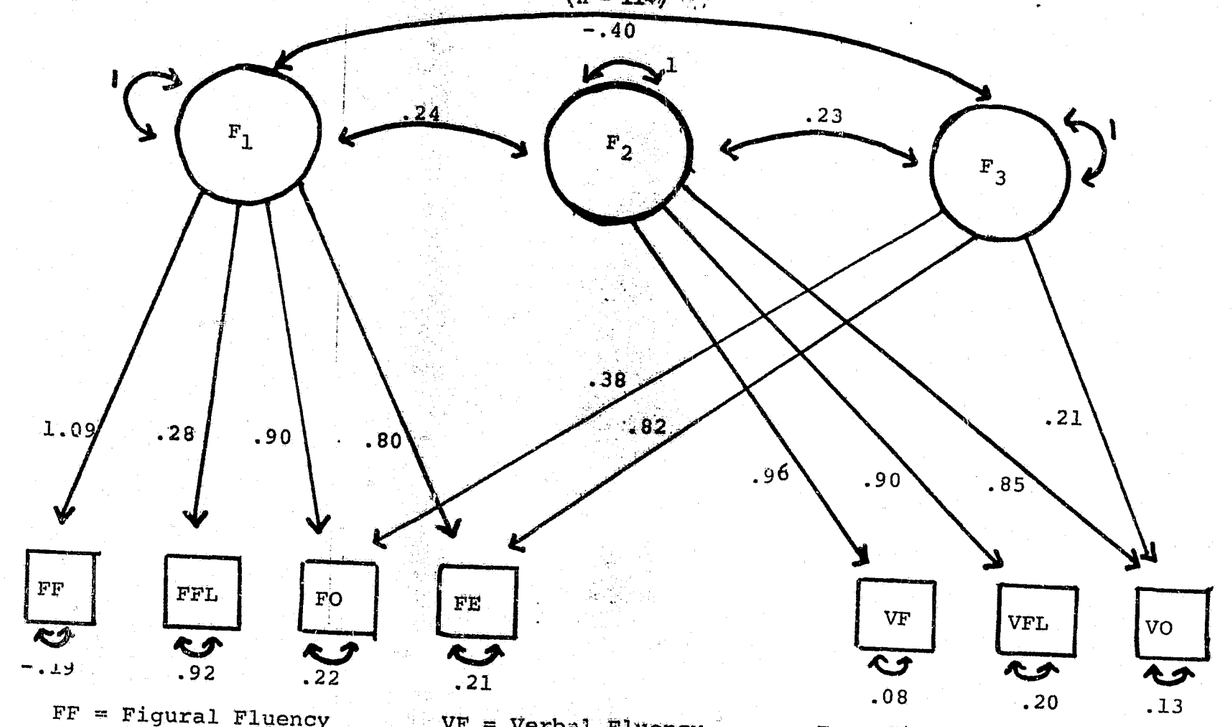
The figural fluency score had a loading of slightly over 1 (1.09) while the verbal fluency approached 1 (.96). This points to the interpretation that both of these factors were close to if not the same. The subjects produced scores which were close on these factors if not equivalent to the scores they received on their fluency subscale. This interpretation was also suggested by the relatively low correlation between the verbal divergent factor and the

creative factor (.23) and the negative correlation between the figural divergent factor and the creative energy factor (-40). In conclusion, this evidence suggested that these subjects had the ability to produce a quantity of responses, either verbal or figural, and the ability to produce more original creative quality responses to the test stimuli. These abilities had little association with each other. Therefore, it appeared that these subjects either spent their time producing responses which had a greater or lesser amount of originality and creative energy. This finding was important to further interpretations because each of these factors appeared to represent either a quantitative or a qualitative aspect of creativity.

An additional finding in this analysis proved interesting. Almost all of the factor loadings and correlations were similar between the present sample and the sample used in the pilot analysis. Only the loading of the figural flexibility scores on to the figural divergent ability factor proved to be very different. Usually it is very difficult to compare factor loadings from one population to another. However this loading, which expressed the linear functional relationship between the figural divergent ability factor leading to the figural flexibility subscores, was relatively low among the present subjects (.28) compared to the normal group used in the pilot analysis (.84). (See Figure 11-3) This finding suggested that the youths involved in the justice system shifted figural categories in

FI[illegible]

RAM Model for Creative Ability Factor
of Youths Included in a Juvenile Justice System
(n = 114)



FF = Figural Fluency
FFL = Figural Flexibility
FO = Figural Originality
FE = Figural Elaboration

VF = Verbal Fluency
VFL = Verbal Flexibility
VO = Verbal Originality

F_1 = Figural Divergent Ability
F_2 = Verbal Divergent Ability
F_3 = Creative Energy

relation to their ability to produce figural responses far less than the normal population of sixth graders. This further points to the interpretation of this divergent factor as an ability to merely produce a quantity of responses, rather than an ability to produce even different kinds or flexible responses.

Finally one of the main research implications of finding the stability of the personal creative energy factor in both the pilot study and the present study is to add more variables which might further define this factor in fugure work in this area. This is especially true since Horn and Rossman (1972) found motivational and temperamental characteristics such as playfullness and the need to achieve in creative activities to be associated with originality. Perhaps the criterion referenced categories such as sense of humor, expressiveness, and emotionality associated with the TTCT could be used to further differentiate this qualitative aspect of creativity from the mere quantitative ability to produce divergent responses.

Result of the RAM Solution of the Ability Factors

The results of the goodness of fit for the number of factors extracted is shown on Table 11-9, and the goodness of fit for the structural models on Table 11-10. The final RAM model is presented on Figure 11-6. This solution represents ability factors for the final ability model (c.f. Figure 11-7).

TABLE 1.

Goodness of Fit of the Extracted Common Ability Factors Among Youth Involved in a Juvenile Justice System

(n = 114)

	Statistical Indicators						Measurement Indicators		
K	df	X^2	z	ddf	dX^2	z	Browne's residual/original	% of common variance	TLR
4	74	117	3.07**	14	38	3.2**	.017	61%	.94
5	61	78	1.48*	13	39	3.5**	.0076	65%	.97
2	1	.12	-.59	***	***	***	.0001	57%	1,022

***Test Not Appropriate

Key: df = degrees of freedom

X^2 = Chi square

z = standard deviations away from mean data

TLR = Tucker Lewis reliability coefficient

** = indicates significant difference

TABLE 11-10

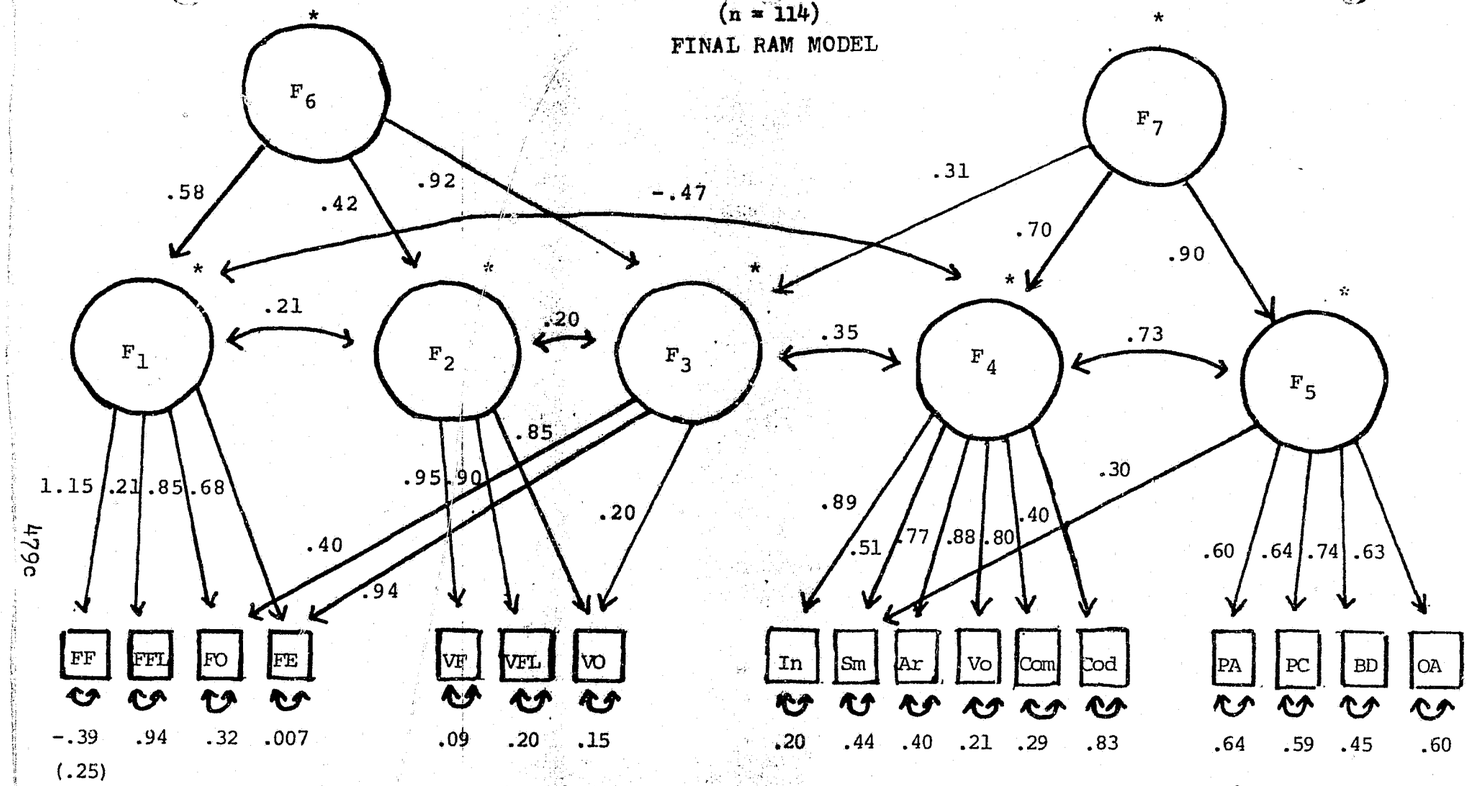
Goodness of Fit of the RAM Model of Ability Factors of Youth Involved in a Juvenile Justice System

(n = 114)

	df	X^2	Z	Browne's residual/original	TLR
5 Factor Model no higher order factors	104	1.38	2.18*	.018	.98
Accepted Model with Higher order Factors	4	.53	-1.84*	.0015	1.019

* indicates significant closeness difference

FIGURE 11-6
(n = 114)
FINAL RAM MODEL



F_1 = Figural Divergent Production
F_2 = Verbal Divergent Production
F_3 = Creative Energy
F_4 = Crystallized Intelligence
F_5 = Fluid Intelligence
F_6 = General Fluency
F_7 = General Intelligence

*note all factor's variance set at unity

From all of these indicators the five common factor model with two higher order factors was accepted as providing the best description of the original data. This result was produced in the following stages: 1) selection of which number of common factors which best fitted the data, 2) finding a higher order factor solution using the factor scores generated from the best number of common factors, and 3) fitting the higher order factor model to the data. The result of each of these steps will be presented below. Attention will be paid to the difference between a four common factor model fit and five common factor model fit, and a five common factor with two higher order factors model fit. This is especially necessary as Harvey (1981) in a pilot study using only 62 of these subjects found that a four common factor model fit the data.

From Table 11-9 it can be seen that the four common factor model does not significantly fit the data (z = 3.07) and accounts for only 61% of the variance while the five common factor model does significantly fit the data (z = 1.48), differs significantly from the four common factor model (z = 3.5), and accounts for 65% of the variance. The accepted number of common factors solution also comes closest to the fitting of the original correlation (Browne's ratio = .0076), and explained the most covariance in the system (TLR = .97). The RAM results shown in Table 11-10 also pointed to the acceptance of the five common factor model as this model significantly fit the model (z = 2.18)

accounted for a large amount of the covariance (TLR = .98), and produced a small amount of residual correlation (Browne's ratio = .018).

This five common factor solution was also in line with the previous results in that it was made up of a composite of the previous two common factor intelligence testing results and the three common factor creativity testing results. Therefore the number of common factors question was answered both by statistical and measurement indicators as well as previous data analysis and was taken as the best simple structure representation at the first level of common factors. It should be noted that Harvey's (1981) four common factor finding excluded the creative energy factor. He noted, however, that a five common factor solution might have fit the pilot sample but concluded that the four common factor solution was more conservative and perhaps a function of the small size of his sample.

Horn's (1980) and Horn and Rossman's (1972) findings have pointed to similar factor solutions when sampling similar creativity and intellectual variables. These studies have isolated crystallized and fluid intelligence, as well as abilities to merely produce verbal responses and abilities to produce more original responses. Therefore the five common factors of crystallized intelligence, fluid intelligence, figural divergent production, verbal divergent production, and creative energy are well within past research findings in this area, besides being indicated by

the above reasons.

The structure of the correlations between these five common factors and past research Horn (1980) suggested that higher order factors might be present. As Figure 11-6 shows, the two intelligence factors (F4 and F5) were highly correlated to each other (r = .73) while showing little or no association with the divergent production factors. Likewise the divergent production factors (F1 and F2) were correlated (r = .21) while showing no association to the intellectual factors. Finally the creative energy factor (F3) was correlated slightly (r = .35) with both crystallized intelligence (F4) and verbal divergent production (F2) factors (r = .20). A second order hierarchical structure was hypothesized to explain these relationships.

As Tables 11-9 and 11-10 show, the two higher order factor model fit significantly close in the factor solution (z = -.59, Browne's ratio = .0001, TLR = 1.022), and also fit significantly close in the Final RAM solution (z = -1.84, Browne's ratio - .0015, TLR = 1.019). This accepted model included pathways to the creative energy factor from both the general intelligence higher factor and the general divergent factor. When the path from the intelligence factor to the creative energy factor was not included, the model proved to fit less well (z = 4.0) and the creative energy factor had an uninterpretable high negative uniqueness (-.42). Because of these results, it was

concluded that both the higher order factors contributed to the creative energy factor.

It should be noted that no significant correlation was found to exist between the two higher order factors. This finding was interpreted to mean that the youths involved in this study used two basic unrelated general abilities to achieve their responses on the testing materials. Each of these high order abilities were composed of different characteristics as defined by the first order factors which were related to them.

These two higher order factors were defined as being (1) general intelligence with separate fluid and crystallized characteristics manifestly measured with intelligence testing results, and (2) a general ability to produce responses, with the separate characteristics to produce verbal and figural divergent responses which were measured by the TTCT subscores. The creative energy factor was interpreted as being directly influenced by a combination of both intelligence and the general fluency ability.

Horn, in his review (1980), has concluded that a general intelligence factor appears to influence all ability testing results when variables are selected to account for convergent thinking in some way. This general factor consists of both crystallized and fluid intelligence, with fluid intelligence having a slightly larger loading. This larger loading has been explained by Cattel (1962) as

reflecting the fact the fluid abilities are the first abilities developed from a general intelligence with the crystallized abilities developing from them especially with more formalized schooling. The loading of crystallized intelligence (.70) and fluid intelligence (.90) on the general intelligence higher order factor shown in Figure 11-6 are clearly in line with these previous findings and therefore demand the interpretation of a general intelligence general factor consisting of both crystallized and fluid factors.

Horn (1980) has also concluded from his review of studies on creativity and intelligence in the 70's, that a general verbal production ability is separate from general intelligence. According to Horn, this factor consists of an ability to produce verbal responses to test stimuli. Horn has further separated this ability into the ability to produce responses and an ability to produce original responses. These conclusions clearly fit the present findings of a general fluency factor consisting of both verbal and figural divergent production factors which influence creative energy.

The significant finding in this study, as Figure 11-6 shows, is that the creative energy factor is influenced by both the general intelligence factor (.31) (F7) and the verbal general fluency factor (.92) (F6). The main conclusion of this finding is that these subjects used both the general intelligence and the general fluency ability to

produce creative responses.

In summary, these results presented evidence that the youths involved in this study used basically two unrelated abilities to produce their results; 1) general intelligence, and 2) a general fluency ability to produce verbal responses. These subjects appeared to have used these two general abilities to produce a creative energy ability. These general abilities were further differentiated as having both 1) crystallized and fluid intelligence characteristics, and 2) an ability to produce either figural or verbal responses. The double loading of these higher order factors on the creative energy factor suggest that these subjects had to use both their intelligence and their fluency abilities in some combinational way to produce their original and elaborate responses. This is significant in light of the findings (Getzels and Jackson 1962) which have highlighted the differences between creative and intellectual styles among subjects. This finding indicates that at least in this study these subjects had to use these differing abilities together in a helpful rather than antagonistic fashion to produce their more original responses. With further research, this finding could shed more light of the general nature of creativity and its relationship to intelligence. This finding suggests that youths involved in a juvenile justice system need to use their intelligence as well as their ability to produce responses in order to produce quality creative responses.

Another interesting finding was that the SYP subjects appeared to have higher abilities in the more nonverbal aspects of these general abilities. This finding was determined by comparing the mean standard scores of the tests involved. Because no multiple pathways existed between the manifest variables and the crystallized, fluid, verbal divergent, and figural divergent ability factors, the actual standardized manifest test scores means was only a very rough estimate because no such weighing scheme was attempted. However, since the factors were so clearly related to the parts of the tests used and the differences between these parts were so large, conclusions about the amounts of different abilities relative to each other could be made. It should also be noted that the creative energy factor was not considered in this comparison because no estimate of a mean factor score could be easily obtained due to the complexity of its factor structure.

The fluency standard scores from the TTCT were used as estimates of the divergent production factors because of their high loadings. The verbal I.Q. mean score was used as an indicator of the crystallized intelligence because of the loading of the verbal subscores on this factor. Finally the performance I.Q. standardized scores including the coding subtests, which was determined to be an unstable indicator because of its high uniqueness, was taken as a measure of fluid intelligence. However, the contamination due to the inclusion of the variable in the total score was determined

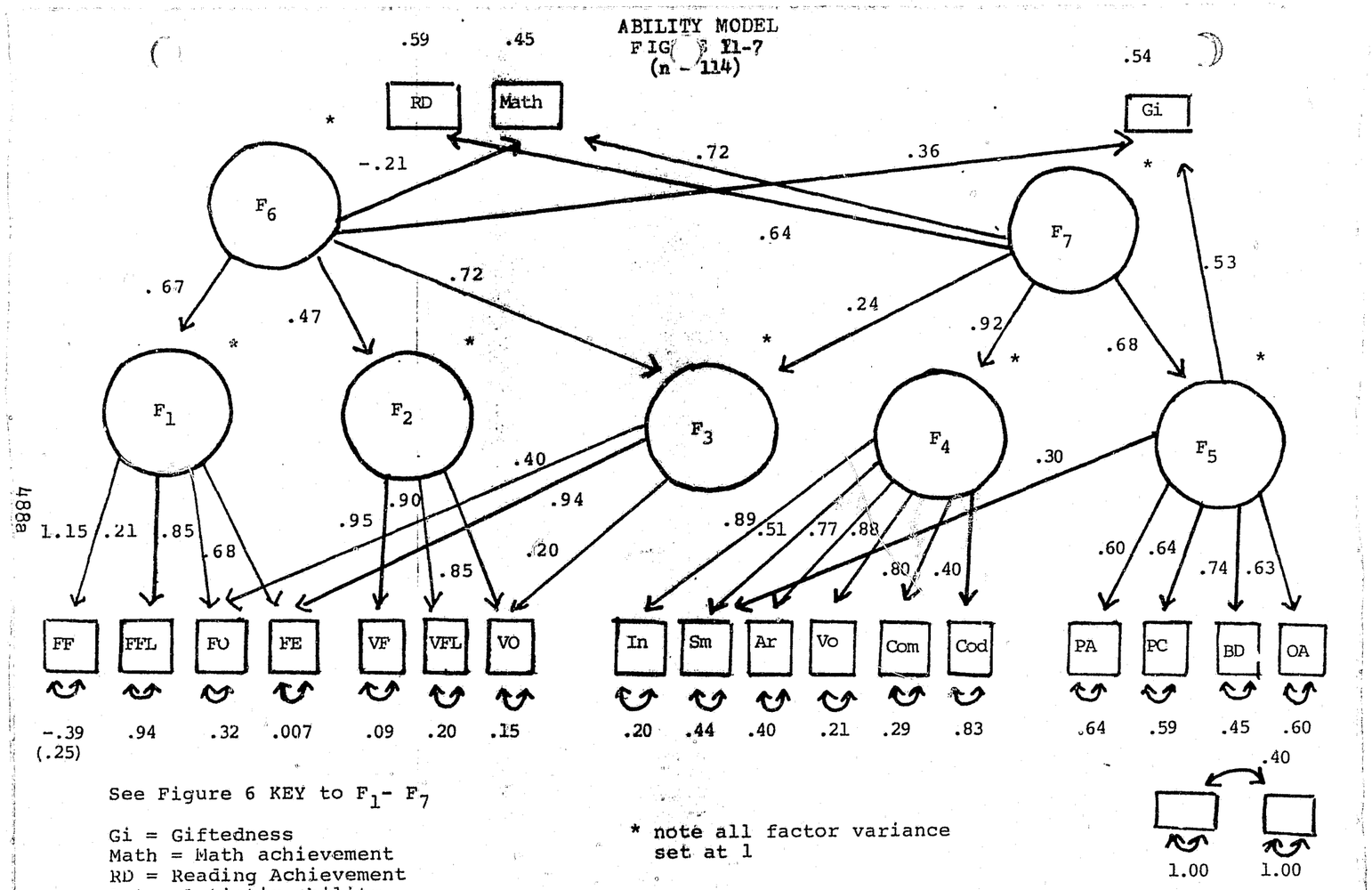
to be so slight due to the high loadings of the other performance subtest scores on the fluid factor that the performance I.Q. score was taken as a good indicator of fluid intelligence.

The means of these standard scores were: 1) verbal fluency = .86.5, 2) figural fluency = 103, 3) performance I.Q. = 112.8, and 4) verbal I.Q. = 102.1. By comparing these scores, it appeared that the SYP subjects had higher fluid abiities than the other abilities compared. Also they had less well developed verbal divergent characteristics. Among both the intellectual factors, the figural and fluid characteristics seemed more developed than the verbal production and crystallized abilities. Both these factors had a strong nonverbal component. Thus, it appeared that the SYP subjects have stronger ability characteristics in more nonverbal areas. The final model of abilities and academic and gifted outcomes (Figure 11-7) came very close to having a significant goodness of fit as shown in Table 11-11 ($z = 2.7$) and was better than all the alternative models tried. When adding other pathways to define a model fit all the alternative models fit less well when compared one by one to the accepted model. All of these alternative models with their goodness of fit indicators are listed in Table 11-11. As can be seen in Figure 11-7, the contributing paths to giftedness were from the general fluency higher order factor (F6) and directly from the first order fluid factor (F5). Only the general intelligence (F7) contributed

directly to the academic outcomes (RD and Math) in a positive way, while the small negative path (-.21) from the general fluency factor (F6) to the mathematics achievement outcome (Math) proved necessary.

The alternative model which proposed the path from the general intelligence higher order factor to giftedness rather than from fluid intelligence (Alternative Model 2 in Table 11) proved to fit less well (z = 4.0). No differential model fitting test could be done between Alternative Model 2 and the final model because the degrees of freedom were the same. However, the large difference of degree of fit shown in Table 11-11 (z = 2.7; z = 4.0) gave sufficient evidence that the best path to giftedness was from fluid intelligence. This is significant because this path proved to be the only path from a first order factor to an outcome variable. This path loading was the highest path leading to giftedness, indicating that fluid abiity contributed more to giftedness in this population than any of the other ability factors isolated by this study. In fact when the path from general fluency to giftedness was set equal to it, the model again proved to fit less well (z = 3.0). Also, this model, alternative model 1 in Table 11-11 was significantly different from the final accepted model (z = 2.6).

This finding indicates that fluid abilities accounted most for the variance between the gifted and nongifted students in this population. This path had more strength



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See Figure 6 KEY to F_1- F_7

Gi = Giftedness
Math = Math achievement
RD = Reading Achievement
Art = Artistic ability
Ath = Athletic Ability

* note all factor variance set at 1

TABLE 11
(n=4)

Differential X^2 for Alternative RAM Models
of Ability Factors, Achievement, and Giftedness

	df	X^2	z	ddf	dX^2	z	Browne's ratio residual/original	TLR
Accepted Model	17	36	2.7**	0	0	0	.0139	.96
Alternative Model 1	18	42	2.95**	1	4	2.6**	.015	.96
Alternative Model 2	17	49	4.0**	0	0	0	.013	.94
Alternative Model 3	18	54	4.4**	1	18	4.2**	.015	.94
Alternative Model 4	18	52	4.0	1	16	4.0**	.0338	.94
Five Common Factor Model	191	279	3.99**	***	***	***	.018	.98
Four Common Factor Model	207	368	6.5**	***	***	***	.049	.95

Alternative Model 1 = Accepted model with path from general fluency to giftedness set equal to path from fluid intelligence to giftedness

Alternative Model 2 = Accepted model with path from general intelligence to giftedness rather than from fluid intelligence to giftedness

Alternative Model 3 = Accepted Model and path from creative energy to giftedness

Alternative Model 4 = Accepted model with no path from general fluency to giftedness

KEY * - significantly close
** - significantly differentiancy
*** - test not done

TABLE 11 - 12
(n = 114)

Means of Gifted and Nongifted Youth Involved in Juvenile Justice System on I.Q., Creativity, and Achievement Means

(Gifted n = 48, nongifted = 66)

Test	Gifted $\bar{x}$	p	Nongifted $\bar{x}$
Full I.Q.	115.2	.000**	101.5
Performance I.Q.	120.4	.000**	106.6
Verbal I.Q.	107.5	.000**	97.1
Verbal TTCT	99.4	.000**	83.7
Figural TTCT	113.3	.000**	104.9
Reading Achievement	115.5	.000**	103.6
Math Achievement	94.6	.046*	89.8

KEY * = significant difference at .05 with one tailed test
** = significant difference at .01 with one tailed test
p = probability

than even the higher order abilities which would have been expected to have greater predictive power due to their theoretical generality and the broader base of input variance accounted for. The theoretical significance of this finding will be discussed later.

The study also compared the five common factor model with higher order factors to the five common factor model and to the four common factor model using the outcome variables. Again, as Table 11-11 indicates, the accepted model fit more closely ($z = 2.7$), while the five common factor model fit less well ($z = 3.99$), and the four common factor fit least well ($z = 6.5$).

These findings give additional support to the basic ability model structure, and suggests that the four common factor model can be discounted. This finding provides convincing evidence of the existence of the creative energy factor among the abilities used by these subjects. This creative ability contributed only indirectly to any of the outcomes as its influence was mediated by either general intelligence and general fluency. In fact the alternative model which proposed a direct path from the creative energy factor to giftedness did not fit the data ($z = 4.4$). This finding indicates that the subjects' creative energy is only a characteristic of a combination of their general fluency and their general intelligence and does not produce any direct contribution to their academic achievement or their giftedness.

With regard to academic achievement, as mentioned above, general intelligence had approximate equally direct paths to both reading (.64) and mathematics (.72) while general fluency had a small negative path to math achievement (-.21). This is of interest because it was determined above that these two general abilities had no relationship to each other. Students with one ability were as likely as not to have the other ability. This finding, however, suggests that these students use their creative and intellectual abilities differently and in opposite ways to achieving their basic school skills. A student's high general fluency ability worked against his achievement while a student's high general intelligence worked for him. Therefore in this study, no inherent difference between creative and intelligent students was found. However, in school those students with higher creative abilities achieved less well in relation to these abilities, while those with high intelligence are more likely to achieve in direct relation to their intelligence scores.

This is significant because these students appeared not to be differentiated into creative students with lower intellectual skill or vice versa. But once in the classroom, those students who used their creative ability achieved less well than those who used their intellectual skills. Therefore, it appeared that some classroom interaction discriminated against creative ability such that those students who tried to use this ability rather than

their intelligence achieved less.

Another interesting finding with regard to achievement, as shown in Figure 11-7, was that the loading from general intelligence to fluid ability was lower (.67) than crystallized ability (.91) when the achievement outcome was taken into account. This loading (.67) was also lower than the same loading in the general ability model (.90), as shown in Figure 11-6. This finding was interrupted to mean that these students used the fluid abilities less in obtaining their achievement even though these same fluid abilities contributed greatly to their giftedness (.53) and their overall intelligence. Thus it appeared that for those with the creative abilities, the classroom situation worked against these students' fluid ability in their achievement.

Those students with high fluid ability were still able to achieve but only with the help of their crystallized abilities. This is important in regard to giftedness, in that the classroom situation appeared to have suppressed these students' high fluid abilities in the process of the learning of the basic academic skills.

These findings are important when using Mahoney's 1980 protection/vulnerability thesis outlined in the review of the literature. From these results it appears that those students who use more creative abilities in the classroom will be more vulnerable to all the problems associated with a lower level of achievement relative to the amount of ability they possess. Also, and more importantly, those

students with high fluid abilities are vulnerable to having these abilities suppressed when they achieve their basic skills even though these same skills are directly responsible for their giftedness. It appears that youths involved in the juvenile justice system are far more likely to be gifted directly because of their fluid abilities and yet these same abilities do not appear to directly help them in school. In fact these abilities are likely to be suppressed in a school achievement situation. Unless these gifted students have some high amount of crystallized ability, they become vulnerable to significant underachievement and possible lack of recognition of their giftedness.

Another interesting finding concerns the extra-curricular activities. Only athletic and artistic giftedness were used for these analysis because all the other categories had too few cases. Both artists' and athletes' categories had frequencies of over 25% and were, therefore, used in the study. It was found that none of the extra-curricular abilities made any contribution to the giftedness variable, as no significant path relationship between these variables and any others could be determined.

Therefore, these abilities were totally unique in the system. This finding could have three interpretations: 1) the gifted/not gifted variable should have been expanded to include such things as teacher, peer, or self-nomination so that students with obvious abilities not capable of direct

measurement would have been included. 2) The artistic and athletic abilities could be totally unrelated to the other academic and gifted outputs. Athletically and artistically gifted students could be as likely as not to have high scores in the defined ability areas of creativity or intelligence. 3) Measurement errors in this study were so great that subjects were as likely as not to have been selected as being gifted artists or athletes. It was likely that some combination of all these explanations was true, suggesting that it was hard to identify gifted artists or athletes using test measures or other procedures and that these youths may have had their own unique abilities.

Some more quantitative information will now be presented to provide a more descriptive picture of the model. The means of several relevant variables for each of the gifted/not gifted groups are listed on Table 11-12. A T-test for correlated means was used to test for the difference between scores.

In the final classification, 48 students were defined as gifted and 66 as not. Also 40 out of these 48 had scores in the top 3%, while 74 had scores placing them in the top 15%. It was clear from this finding that these students as a whole produced scores above average with several in the extremely gifted range. Almost all of the gifted students had high scores on the performance I.Q. subtest, and in total, 54 students had performance scores over 115 indicating a high amount of fluid intelligence in this

sample. In fact, the mean of the performance scores was almost the same as that score used to define giftedness (120.4). This result taken with the high path coefficient between fluid intelligence and giftedness lead to the interpretation that giftedness for this study had a very strong fluid component.

When comparing means, all scores for the gifted group were significantly higher than the nongifted group. The higher scores in the performance scales among the gifted group were right in line with what the ability model predicted. The higher verbal I.Q. scores were also expected and could be best explained by the positive relationship between the verbal and performance scales and general intelligence. It should also be noted that gifted performance scores (120.4) were quite a bit higher than the gifted verbal scores (107.5), in line with the high amount of fluid abilities among the gifted students. The higher achievement results could be explained by the strong relationship between achievement and general intelligence and the strong relationship between general intelligence and crystallized and fluid ability. The higher results of the gifted students on the TTCT could be best explained in the fact that the gifted students did have some high amount of general fluency in combination with their fluid abilities.

From these results the best picture of the gifted student among these youth was of a youth who had higher abilities and achievement than his nongifted peers in all

areas measured. These gifted youths also in all cases had some high amount of fluid ability which was used either alone or in combination to produce the outcome of a gifted response. Therefore, the strongest single ability among these gifted youth was in the fluid area.

It is quite possible that this strong fluid ability could have had an influence on all the other abilities used by these students such that the general fluency, creative energy, and general intelligence were colored in some way as a student used them in combination with his fluid ability. Because an individual student has a whole complete style of responding to a learning situation rather than the suggested separate abilities isolated by any research study, it is quite possible that youths involved in a juvenile justice system might have such a style characterized in a distinctive fluid manner even when using more crystallized or creative abilities. Such youth's ability style in learning would be characterized by nonverbalness, and a quick perceptiveness in problem-solving even when learning skills in the traditional verbal classrooms or in a creative situation. This fluid interactive influence with other abilities in a learning style was not shown in the present results. However, the presence of such a strong fluid ability among these students suggested this possibility and suggests an area for future research. If such a learning style can be shown, perhaps the education system can provide a more effective teaching style for such gifted students,

and as a result perhaps deflect them from delinquent behavior.

Did the Screening Procedure Adequately Identify Gifted Youths in the Screened Population?

One objective of the Suburban Youth Project was to develop and test a short screening device for the identification of gifted youths in the juvenile justice system. Youths identified as potentially gifted as well as a control group of youths not identified as potentially gifted were given full-scale assessments to test the screening device. The screening device, though generally predictive of giftedness, was not as precise as we had hoped it might be. In order to evaluate its effectiveness, we compared the number of screened subjects predicted to be gifted with the number who were actually later classified as such. The Chi-Square results indicated a significant prediction ($p = .0001$). as Table 11-13 shows. However, the correlation showed that this association was small ($r = .38$). Fewer students actually turned out to be gifted than were predicted from the screening. To some extent, this is to be expected since the criteria for giftedness at the screening level was less stringent (top 15%) than the final criteria for giftedness used at the assessment level (top 5%). The less stringent level was used at the screening level to maximize the number of youths available for the full-scale assessment and to avoid missing potentially

TABLE 11-13

X^2 table of Screening Predictions of Giftedness
in a sample of Youth Involved in a Juvenile Justice System

(n = 114)

	Giftedness determined by Full Assessment		
	not Gifted	Gifted	
not Gifted (control)	39	9	48
Gifted (experimental)	27	39	66
	66	48	

KEY: X^2 = Chi Square
p = probability
r = preason correlation
* = significantly different at .05 level
** = significantly different at .01 level

X^2 = 16
r = .38**
p = .0001**

TABLE 11-14

X^2 test differences between youth involved in Probation or Diversion programs in a Juvenile Justice System using Intelligence, Creativity, and Achievement Test Results, and a Giftedness determination

(n = 99)

	df	X^2	P
Full Scale I.Q.	41	32	.82*
Performance I.Q.	36	38.4	.36*
Verbal I.Q.	40	48	.17*
Verbal TTCT	64	68	.33*
Figural TTCT	72	67	.63*
Reading Achievement	40	44	.27*
Math Achievement	45	49	.30*
Giftedness	1	.113	.73*

KEY * = not significantly different

** = significantly different

gifted youths.

Findings presented earlier in this chapter which show that tests which measure fluid intelligence have the most direct path to giftedness and therefore have the highest association with it, suggest that the best predictor of giftedness would be a good indicator of fluid intelligence. These results suggest that in designing a future screening procedure, measures such as the Ravens Progressive Matrices, or the Block design subtest would be especially appropriate. It should also be noted that the potentially gifted artists and athletes were totally unique to any of the measures used. Screening programs designed to pick up youths with these kinds of abilities need to include a questionnaire like the one used by SYP.

Do Youths Involved in the Probation and Diversion Programs Have Different Configurations of Giftedness?

The ability model set forth in these results applies to all the youths involved in the juvenile justice system regardless of whether they were in probation or diversion. No significant path could be determined between the final ability model and a youth's involvement in either program. A Chi Square analysis between all the test variables and program designation was also performed, the results of which are shown in Table 11-14. It appeared that no type of ability or outcome predominated in either agency.

Are the School and Background Characteristics of the SYP Youths Related to Their Ability Characteristics?

This question was answered by doing maximum likelihood factor analysis followed by RAM techniques. However, due to some problems mentioned below, the results were extremely guarded and were treated only in an exploratory fashion as their replicability does not seem to be certain. A short general outline of these findings will be presented, however, because of their extreme importance to practitioners in the field and as a guideline to future research.

The raw data for this analysis consisted of 23 indicator variables taken from either court or diversion records. No such information was available on youths screened at the Arapahoe Youth Diagnostic Team. The records included information on the stability of family, evidence of previous family involvement of crime, family support for child, problems in school, good academic record, and evidence of conflict with parents. A complete list of these indicators is presented in Table 11-15.

TABLE 11-15

Family and School Indicators Mentioned in the Court Records of Youth Studied by the Suburban Youth Project

1. History of mental illness
2. Previous out-of-home placement
3. History of school problems
4. Mention of intelligent or creative characteristics
5. Positive school or employment records

6. Conflict with parents
7. Good relationship with parents
8. Dangerous to self or others
9. Recent improvement in behavior or relationships
10. Undesirable peers
11. Stability of child's family
12. Child's contact with father
13. Mental illness or drug/alcohol problems with family member
14. Criminal activity or jail time of family member
15. Physical or sexual abuse within family
16. Dependency/neglect petitions involving family
17. Family supportive of child
18. Family willing to cooperate with court and agencies to help child
19. Family is negative about child
20. Family unable to handle or control child

It should be noted here that the coded variables only gave information on whether or not these indicators were present in the court records. Lack of mention of an item in the record does not necessarily mean it wasn't a factor in the child's life, only that it was not part of the written court record of the child. In addition to this problem, there was a serious problem of missing data. Family and school information was not usually available in court records unless a predisposition report was ordered by the judge. Diversion records varied in the amount of information available according to the individual counselor's style and the intensity of a youth's involvement in the diversion program. In the data analysis described in this section, missing values were replaced by the means of variables generated from the rest of the subjects. This technique is acceptable, although 16% of cases in this analysis had missing data. As a consequence, the findings

must be viewed with caution.

The factor analysis was done on 230 subjects using 18 indicators which had a loading of at least .2 on one of the major first order factors extracted. Program placement, severity of crime in original disposition, and screening results were also used in this analysis to determine significant associations.

The results suggested that these youth have two basic types of backgrounds as indicated by the court and diversion records: (1) relatively good backgrounds, (2) problem backgrounds. Among those youth with a relatively good background, two separate characteristics existed. (1) supportive family as shown by such indicators as a family willing to cooperate with the system, and the youth having a good relationship with his parents; and (2) positive school experience as shown by the indicators of a positive academic record, and evidence of some mention of intellectual, creative, or other talent.

Among youths with a problem background, three separate problem areas existed: (1) poor family structure as indicated by a lack of a father in the family, evidence of a previous criminal record in the family, evidence of drug or alcohol abuse in the family, and evidence of a poor family structure; (2) extremely poor family situation as indicated by reports of physical or sexual abuse in the family, family negative toward child, previous out-of-home placement for the child, and family unwilling to cooperate with the

system; (3) problems in school as indicated by poor academic records, recorded problems in school, and a negative loading with mention of academic, creative, or other ability on a report.

These background characteristics appeared to be similar for diversion and court youths.

This same result was also found for gifted youths as well as for the various ability indicators of ability subscale scores used in the screening. This suggests that the abilities discussed above and giftedness exist equally among the youth studied regardless of background. This analysis, though tentative, suggests that some gifted youth came from good backgrounds while others come from more difficult backgrounds. This finding is significant because it suggests that not all gifted youths are receiving the same amount of family support. Further research is needed to identify the possible different outcomes that result from good or poor family and school backgrounds.

The goodness of fit of the RAM model, extraction of number of common factors, and the final RAM for this section were not provided as they might be misleading. Further analysis and research needs to be done in this area and these present findings are presented only as guidelines and motivation toward additional research in this area.

SUMMARY

The results of the factor analysis and RAM modeling suggest the following findings.

(1) Youths assessed by the Suburban Youth Project have five first order mental abilities. These abilities are figural divergent production, verbal divergent production, creative energy, fluid intelligence, and crystallized intelligence. These abilities are manifestly expressed on test variables which adequately sample both creativity and intelligence.

(2) Two higher order factors--general intelligence and general fluency--can adequately explain the relationships of how the SYP subjects use their five abilities. These two higher order abilities are basically unrelated to one another. General intelligence affects both crystallized and fluid intelligence while general fluency affects both verbal and figural divergent production. Creative energy is affected by both general intelligence and general fluency. The implications of this finding for the study of creativity were discussed.

(3) Achievement outcomes are positively affected by general intelligence while being slightly negatively affected by general fluency. This finding helps to explain the differences often cited between more creative or more intellectual students.

(4) The primary form of giftedness among these youth is fluid intelligence. Discussion as to the possible

influences of this form of giftedness on academic achievement were presented.

(5) Youths in diversion and court do not seem to differ in regard to the above mentioned categories of abilities.

(6) Gifted youths appear to come equally from relatively good and relatively worse backgrounds. They do not seem to be concentrated in the group of youths with the most problematic backgrounds as the "protection thesis" would suggest.

(7) A screening procedure administered in the court setting did appear to identify gifted youth. It was also concluded that this screening could be further redefined using measures of fluid intelligence.

CHAPTER 11

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CHAPTER 12

A SUMMING UP

This report is about two topics--a suburban juvenile justice system and an aggregate of delinquents with special abilities. In this final chapter we want to raise some issues about courts and gifted delinquents that may be of interest to future researchers and policy makers. A detailed summary of the findings is available at the beginning of the report and will not be reiterated here.

A SUBURBAN JUVENILE JUSTICE SYSTEM

There are several issues that can be raised as a result of the findings reported here. They include (1) the impact of recurrent change on a court system, (2) the tensions between what a community tells a court it should do, what the community really expects it to do, and what the court in fact can do, (3) the impact of a youth's nonresident status upon court processing, (4) the meaning of time in a juvenile court, (5) treatment of co-defendants, and (6) the nature of a suburban court.

Impact of Recurrent Change

One concern that the qualitative research raised which bears further thought and study is the impact of change on a court system. Juvenile courts in particular have undergone

major and frequent changes in the past fifteen years. Within the two years we were involved in the court under study, the status offender jurisdiction was removed, strong legislation mandating emphasis on the least restrictive treatment was implemented, municipal courts were given jurisdiction over juveniles, and at least a dozen other less sweeping changes were put into effect. As a result, the court and much of its support system was in a constant state of flux. Actors within the system had different interpretations of some of the new legislation and often worked at cross purposes with one another, in spite of good intentions, because of their different understandings of their roles and the legislative requirements. This has a lot of implications for how well an organization can function.

In retrospect, we wished we had devised some system for recording the number of hours that workers and policy makers in the system devoted to trying to clarify or otherwise cope with the changes. This could be an interesting future study with relevance for many human service and governmental agencies, not just courts.

How much does system change cost in time? How do we evaluate the positive results of change against the costs in terms of system time and frustration? Is it possible to devise ways to estimate how much of a system's problems stem from "change overload". To the extent that a system may suffer from such overload, efforts to correct problems

through change may only intensify the problems or create different ones.

Much of the change in the system we studied was created by legislative bodies completely removed from the court. Compromise bills were passed, often hurriedly and without full consideration of how different pieces of a bill fit together with each other or with other laws already in effect. The courts were thrust into a reactive position, with little ability for autonomous action. What are the advantages and disadvantages of this kind of power division?

The Court's Role in the Community

Courts have a certain role to play in a community, but often, especially in juvenile courts, the role lacks clarity. Legislation usually provides guidance about what the court is supposed to do, but community resource allocations sometimes give other messages about the community's priorities. Some court services are easier to provide than others because they involve a lower outlay of local resources, although they may be more expensive in total tax dollars or in long term treatment cost if easily treated cases are allowed to go without treatment until they become more difficult and more expensive.

A dominant theme in our study of the system that was picked up in the beginning chapter of this report is the tension between the two social statuses of the juvenile offender--the status of child and the status of offender or

criminal. The court is expected to do something about youthful crime while protecting each child's best interest. Moreover, it is expected to do both within a budget--to keep the expenditure of local resources as low as possible. The response of individuals and community agencies toward juvenile offenders tends to be ambivalent. This ambivalence may reflect not only the tension between the statuses of offender and child, but also the ambivalence that many adults in our society have about adolescents in general.

The court's task is not made easier by its use by the community as a dumping ground for troubled and troublesome children. Children who cannot be handled by parents, social service agencies, educational organizations, and other community agencies, are brought to the courts. It also has a substantial percentage of children who do not appear to pose serious problems to the community. Does the court have the expertize or resources to sort and handle this diverse set of children? Is the full panoply of legal rights and rituals necessary for all children. What factors would be most relevant to case outcomes? Our study showed that setting a case for trial did not have any detectable impact--at least that we have been able to identify yet--on case outcome. The presence of counsel also did not seem to make a noticeable difference in outcome. These findings raise issues about the functions of some aspects of court process and warrant further research.

The Impact of a Youth's Nonresident Status Upon Court Processing

A third of the youth who come into this court during 1980 were not residents of the county in which they committed their offense. What impact does a nonresident court population have on a court? What kind of management problems does a substantial nonresident population create? To what extent does a youth's status as outsider elicit different responses from the system than responses to residents, or increase the chances that a child can "get away with" offenses without being sanctioned?

Nonresidents cause problems for courts, especially juvenile courts which usually demand fairly extensive treatment contact between youths and treatment personnel. It is harder to keep track of a youth who lives outside the jurisdiction especially if the child does not take the initiative to appear for appointments. It is also more difficult to get the child and the child's parents into the court. If the court maintains jurisdiction over a nonresident child, it may incur a heavier than average financial cost because of more missed appointments, the need to work with unfamiliar school and social service agencies, and longer distances. On the other hand, if the court gives up jurisdiction and sends the child back to his or her home court, it loses control over handling of the case and can be less accountable to local taxpayers for the outcome of cases

in which they have been injured. Also multiple offenses may be less likely to be discovered and taken into consideration for nonresidents. Because of these practical and political problems, youths who live in one jurisdiction and commit offenses in another may be more likely than other youths to slip through the cracks and receive fewer sanctions for their behavior. This is an important area for research and policy discussion.

The Meaning of Time in a Juvenile Court

The time a case takes to move from a juvenile's apprehension to dispostion may be even more crucial to a juvenile than to an adult because of the potentially different meaning that time has for children and adolescents. A year in the life of an adolescent may bridge the span between childhood and adulthood.

Time was the focus of a great deal of discussion and concern in this court during the year we observed it. There was general agreement that cases took too long to go through court and that the docket was overcrowded. The mean number of days required to process the cases of the 400 youths who received dispositions was 155. Of the 400, 25% of youths were in the court more than 208 days or almost seven months. There was no clear agreement, however, about how to solve the problem except to add more judges.

Time in juvenile court can be viewed from three perspectives: (1) the amount of time it takes for a case to

move from one point in the process to another, (2) the speed with which a docket of cases moves through a court on a given day, and (3) the amount and quality of the time that is given to a particular child in a particular court appearance. All three are important in an evaluation of the quality of justice for juveniles. Very little work has been done on case processing time in juvenile court, especially in regard to evaluation of these different kinds of time. Research is needed as well as policy discussion in regard to the impact upon processing times of added procedural safeguards. How can the legal rights of children be protected while minimizing the amount of time they must wait for resolution of their cases?

Treatment of Co-Defendants

The tension between individualized justice and equal justice is particularly pronounced in the case of juvenile co-defendants. About a third of the delinquent acts during 1980 were processed as co-participants, although even more, over 50%, actually involved more than one person.

More than half of the 70 groups of delinquent youths who were filed together received the same disposition from the juvenile judge. The remaining 46% received unequal dispositions, usually one youth receiving a reserved adjudication while the other(s) were adjudicated delinquent. There was no clear pattern of factors that enabled us to predict which co-participants would get different

dispositions.

These findings raise some important issues that are relevant for future research and policy planning. Parents and children who are treated more severely than other juveniles involved in the same delinquent act often feel that they have been treated unfairly. On the other side, a youth who accepts only partial responsibility for an act but is punished as though he has an equal share of the responsibility, also feels unfairly treated. What effect do these perceptions of unfairness have on the youths and on their rehabilitation and recidivism? The juvenile court with its historical orientation toward treating the offender rather than the offense has justified its singling out of some offenders for harsher treatment on the basis of the "best interest of the child". But as the juvenile court becomes more legalistic and there is more emphasis upon the juveniles' right to equal protection of the law, the discretion that permits differential treatment of youths involved in the same offense becomes less acceptable to youths and their parents. Here, as in so many other aspects of the handling of juveniles, the tension between the child's status as child and his status as offender can be seen.

The Nature of Suburban Juvenile Courts

This study was carried out in a suburban juvenile court. We purposely selected a suburban setting for the

research because we were eager to obtain descriptive data on a court that draws its clients from a more homogeneous and affluent population than is usually found in urban centers.

This suburban court has some special problems that probably would be characteristic of courts in many suburban areas. It is trying to cope with rapid population growth which creates needs for services that expand more rapidly than resources to provide services. It also operates in a context of decentralization so that a great deal of the work of agency members involves coordination with several autonomous school systems, police departments, and governments. Sometimes during our observation period it seemed that the need for coordination was so demanding that there was little time left for the provision of direct services, and that this was a constant source of frustration to everyone.

The more homogeneous population of the suburban community resulted in a more homogeneous court population, but it is interesting that county youths who did turn up in court came disproportionately from the less affluent sections of the community, just as they do in urban areas.

Except for the tensions created by population and decentralization of the suburban area, we did not find this suburban court especially different from other courts described in the literature. It seemed much like a juvenile court was envisioned to be, with an emphasis on legal rights, concern about children, and a generally competent

and caring staff. It was perceived generally around the state and in the community as a "good" court.

As our research wore on, we became less interested in the suburban context of the court and more interested in the organizational and bureaucratic dimensions that it shared with most other courts. Why was there such a sense throughout the system of frustration and dissatisfaction? What is the essence of the juvenile court? Is it possible to devise a system to satisfactorily handle troubled and troublesome children? Does the extension of due process rights provide meaningful protection to children? Do all children need these protections to the same degree? Is a court of law the appropriate forum for the handling of the range of problems that comes before the court? Have we reached a point in the provision of legal services to children in which the organizational demands are so great that they dominate the process to such an extent that there are few resources and little energy left to meet the needs of the children?

We selected a suburban setting because we thought we might be able to see some problems of delinquency causation and court processing more clearly if we looked at a system that was less complex and less overwhelmed than many inner-city courts. We feel our research site provided this opportunity. What we found ourselves wrestling with during this research, and what we will continue to wrestle with as we do further analysis of the data over the next year is not

the peculiar problems of suburban juvenile courts, but rather the general problems of the juvenile justice system itself, as highlighted in this study of one relatively effective court.

GIFTED AND TALENTED DELINQUENTS

One of the primary questions this research set out to answer was whether gifted youths could be identified in a juvenile justice system. Chapter 11 shows clearly that they can be identified in substantial numbers. The one year screening identified 48 gifted youths among those 268 juveniles who agreed to participate in the project, 18% of those who participated and 7% of all those who entered the system during the year. These youths did not appear, at least on the basis of preliminary analysis, to be significantly different from other youths in the system in regard to background characteristics or involvement with the system.

The gifted and talented youths who found their way into the juvenile justice system we studied were more likely than other gifted youths to have ability in the area of fluid intelligence and to do less well on achievement tests than other gifted youths. Because their giftedness was less likely to be associated with high achievement, they may be less easy to identify as gifted in schools, at home, or in a juvenile justice system.

Youths in the diversion program and in the court had similar configurations of giftedness, suggesting that they were no more likely than less able youths to be diverted away from the court.

What are the implications of these findings? The most important one is that we cannot assume that youths who enter the juvenile justice system have on the average less intellectual capacity than children who do not enter the system, as some early studies have suggested. Because we do not have comparable incidence data for the youth population of the county from which the court draws its clients, we cannot say conclusively that the court population draws youths from all ability levels in the same proportion that they exist in the general population. It may be that this county has a very high proportion of youths with extraordinary ability. In fact, the county has a reputation for having excellent school systems and may in fact have a higher than usual proportion of gifted children. This is likely but does not negate the fact that they find their way into the court in substantial numbers.

What the research does show is that gifted youths do enter this juvenile justice system. These findings have implications for the range of services that at least this court needs, and since we found nothing else unusual about this court or its population, it has implications for services that other courts may need as well.

The research suggests that youths in this system may be more likely than other gifted youths to have fluid abilities that may actually work against their achievement in the usual classroom. If further research on other populations bears this out, it may suggest an important causal relationship between patterns of thinking and disruptive behavior. It suggests that perhaps youths with a certain kind of giftedness are more vulnerable to getting in trouble because their giftedness is not recognized and may actually make life in a family or life in a classroom more difficult. Frustration and failure in school and at home may make these talented youths more likely than others to engage in unacceptable and disruptive behavior, thus setting up a pattern of further lack of acceptance and negative sanctioning by family, peers, and school teachers and officials. At this point this thesis remains speculative at best, but it is a thesis that merits further discussion and exploration.

Because they are in the system--and have abilities, which if tapped may give them tools to move out of delinquency-- they need to be identified and worked with. Not only do these children have skills that may enable them to move beyond delinquent behavior, they pose a particularly formidable threat to the community if they become criminals. We neither need nor want gifted criminals, and our entire correctional system, especially at the adult level, is particularly unsuited to the rehabilitation--or even the

containment of exceptionally able offenders. Identification of gifted delinquents early, when there is still time to help them develop their talents and direct them into positive channels might save the community from the losses caused by clever criminals. It could also add to our pool of highly productive adults.

APPENDIX A

TECHNIQUES OF DATA ANALYSIS

Two techniques used in the analysis of data on gifted delinquents were factor analysis and Reticular Action Moment (RAM) (McArdle, 1980). Because RAM uses factor analysis as the first step of its procedure, factor analysis will be discussed first. Discussion will then follow as to how RAM develops the factor solution into a model.

Factor Analysis

Because an initial factor hypothesis consisting of common factors, factor loadings, and factor coefficients are needed as a beginning structural outline for RAM, factor analysis was used.

Factor analysis refers to a variety of statistical techniques whose common objective is to represent a set of variables in terms of a smaller number of hypothetical variables. The fundamental assumption of these techniques is that unobserved factors are responsible for the covariation among the observed variables (Kim and Muller, 1978). The result of a factor solution is a description of a certain number of factors common to several variables. These variables have a linear functional relationship to the common factor such that a change in the factor produces change in the variables. Factors unique to each variable which account for a certain amount of the variability in

that single variable are also isolated. The final solution then is an attempt to describe a model of the system of observed covariance among several variables in terms of common and unique latent factors acting on these variables.

The main theoretical assumption of factor analysis is that something internal to the individual and therefore not capable of direct measurement causes a set of results of several directly measured variables. In using the relationships among the measured variables, factor analysis can go backward to determine the potential latent factors which may have caused them.

Because there is no single best way to perform a factor analysis, several decisions were made to produce results most suited to this particular study. The following is a summary of the steps used in a factor analytical process and the techniques chosen for this study of gifted delinquents.

The first step in factor analysis is to find the covariance of each variable with every other variable measured. This is accomplished by determining the Pearson correlations of every variable with each other. These correlations are a numerical representation of the amount of relationship which exists between separate measures. It is expected that some variables will have a high relationship with each other and other variables will be related only slightly. These measures are then placed in a matrix. This matrix of correlations is then analyzed to determine if common and unique latent factors are present which can

explain these relationships.

The next step involves the extraction of common factors from this matrix. The central task of this stage is to determine the number of common factors which can explain the largest amount of the covariance suggested by the correlational matrix. The method of factor extraction chosen for this study was the maximum likelihood procedure. The objective of this procedure was to find the underlying factor solution, including the factor loadings on each variable, which would have the greatest likelihood of producing the observed correlation matrix. Previous studies have shown this procedure to be the most appropriate when applied to factor models which have significant minor factors (Kim and Muller, 1978). This method weights the largest commonality estimates in its solution in an effort to isolate the largest common factors first, and is appropriate in this study because it considered only the major extracted factors.

To answer the question concerning the number of factors to be extracted, this study investigated several different factor solutions in each case and compared each solution to the data and to other solutions. These comparisons revealed the model which best reproduced the initial correlations observed in the data. Chi-square tests (Joreskog, 1967, Rippe, 1953) to determine the closeness of fit to the data predicted from each solution were done, as well as a sequential difference Chi-square to determine the difference

of each solution from each other solution. The results of these tests indicated which extracted factor solution could adequately fit the actual correlations and whether these results varied from each other significantly. Chi square values which reflect probability of less than .01 indicated that the correlations predicted from the extracted model did not significantly differ from the actual observations, or that the factor models differed from each other. High values indicated such differences.

The amount of covariance among the variables which could be accounted for by each factor model was also determined. This also aided in selecting the best fit of an extracted factor solution. When an increasing number of factors failed to achieve gain in the amount of covariance accounted for, the smaller factoral solution was taken (Kim and Muller, 1978). A final measure was used to determine the goodness of fit of a given factorial solution. This was the ratio of residual values of a predicted correlational matrix generated from a specific factorial solution compared to the original matrix (Brown, 1968). These values were reported in a goodness of fit table to facilitate the explanation of why one extracted solution was selected over another. All these results are needed as no one single result can reliably be used by itself.

The next step in the factorial process following the extraction of factors was the rotation procedure. This step enabled the researcher to best describe which variables were

linear functions of which common factor. The goal of this procedure was to find those variables which were highly determined by one factor while being least affected by the other factors in the system. Mathematically, this meant that each variable would come as close as possible to having nonzero loadings on only one common factor. The method of rotation used in this study was the promax oblique rotation. This method allowed for the final common factors to be correlated with each other while reducing all of the smaller factor loadings to a near zero level. Therefore the results of this rotation enabled this study to report on the correlations between the common factors while also reporting on the highest factor loadings of each individual variable (Kim and Muller, 1978).

Reticular Action Moment (RAM)

The main data analysis used in this study was a type of structural analysis technique, RAM, developed by McArdle (1980). This technique is a development of the techniques referred to as confirmatory factor analysis by Kim and Muller (1968) and Joreskey (1968).

The process of this kind of analysis was to impose a particular factor model on the covariance structure found in the data and find a solution that was most compatible to it. Given a covariance matrix for a group, in confirmatory factor analysis, one starts with an hypothesis about the factorial structure thought to be responsible for the

observed covariance structure (Kim and Muller, 1968). In RAM, this initial hypothesis consists of: 1) the number of common factors, 2) the nature of the correlation coefficients among factors, 3) the magnitude of the factor loadings for each variable, and 4) the amount of uniqueness for each variable and factor. The unique variances of the common factor are then set at unity and all the other factor loadings and correlations are freely estimated in relationship to this value. RAM changes these initial values such that the solution provides the best fit of loadings, coefficients, and uniqueness to the original covariance among the variables. This best fit of the model is then assessed through statistical and measurement indicators to be discussed later.

A difference between confirmatory factor analysis and RAM is that RAM assumes a more general system's conceptual base. According to McArdle, "Under this logic we define a system just as a set of variables and the relationships among them. We ignore several critical features of any specific system until these features prove necessary or useful in the conceptualization of that system." (1981, p. 31) The general framework used to bring order to a system description with RAM involves the input/output logic of general system theory and the latent/manifest variable distinction. Using these categories, RAM can also be considered as a general foundation of system limits on model conceptualization concerning the many direct and indirect

causes and effects with a defined system.

The general nature of RAM gives the researchers a way to describe the relatively "free form network of interrrelationships among many points in space," (McArdle, p. 38) or variables. The inclusion of the directed/undirected distinction denotes the importance of action or momentum points variables. The inclusion of the manifest/latent variables emphasizes the importance of the manifest moment structure as an empirical representation of the overall system action. Therefore, RAM offers a way to describe a system of multiple relationships in terms of input/output, and then to compare the model with the observed data. RAM also provides a way to describe how such a model of input/output relationships is manifest in various test scores.

In theoretical terms, RAM can be thought of as a combination of path analysis and factor analysis in that it is an attempt to describe a model of observed and unobserved variables and their covariant and functional relationships to each other. RAM makes use of the theoretical assumption of factor analysis that unobserved variables can be used to cause the resultant covariant relationships among a larger set of observed variables. The basic premise to this procedure is that several variables with a high relationship to each other and a low relationship to all the other variables are likely to have been caused by a single variable unobserved in the set of observations.

The main assumption of path analysis is that direction of causal pathways between variables can be determined and that the regression weights representing a numerical description of how much output variables will change as a function of input variable changes. These regression paths can be used to describe the correlations between different output variables using their path relation through a single input. Though path analysis is not generally applied to factor analysis, the combination of these techniques allows RAM to be very helpful to the researcher in generating models to describe the theoretical system of relationships among several measures in multi-variate designs in a quantified way.

The final result of a RAM solution consists of a structural model of the entire system of relationships between all the observed and latent variables with each other and themselves which could produce the relationships observed in the original measures. The steps to achieve this solution involve: 1) the determination of all unobserved input factors and the observed variables which constitute their output through factor analysis; 2) the determination of all possible pathways indicating functional or simple relationships among these variables with the closest possible determination of the regression or correlational weights of these pathways with path analysis; and 3) fitting of this model to the actual observed relationships through statistical tests and measurement

indicators.

In total, these models consist of the structural organization and numerical weights of the following relationships: 1) the linear functional relationships between input and output variables. Which variable is classified as input and which as output must be decided upon by the theoretical basis of the research; 2) the covariant relationships among any latent or observed variables. A covariant relationship here means the degree to which variables are associated with each other without any assumption as to which variable affects the other; 3) the amount of variance which is not explained by any common factor and is unique to the individual observed variable. This uniqueness consists of the variance accounted for by the specifically individual skill demands of each variable and measurement error.

The following consists of the definitions of some terms used in the presentation of the RAM results. In this context: 1) data referred to the original correlation matrix of all the observed variables considered. It was only through the use of these relationships that any structural model could be generated or evaluated for its closeness of fit. 2) Linear functional relationship implied that any change in an input variable necessarily produced a change in an output variable. This term suggested a cause and effect relationship with one variable causing an effect in another. However, true cause and effect can only be

determined through extra-analytical factors such as design and theory. In this study no cause and effect statements could be made yet, as in social science such statements can be made only after longitudinal research or multiple replications. Therefore, in this work, linear functional relationship implied that change in an input variable would necessarily produce change in the output variable. The linear functional relationship determined in this study was only causal to these subjects studied and gave indications of causes which need further work to be proven. The amount of change was a direct linear function of regression or loading weight determined. In illustration, a change in variable B of 25% could be expected in variable A changes, when a linear functional relationship existed between them such that A was the input and B was the output and the regression weight between A and B was .25. 3) Directionality referred to the direction of the linear functional relationship, with the change in the input variable producing change in an output variable. 4) Goodness of fit of the model refers to how close any structural organization or hypothetical relationships can come to reproducing the original data. Statistical, measurement, and interpretability considerations were used in determining any closeness of fit between a model and the actual observed data. 5) Parameters referred to the factor loadings, coefficients among factors or variables, and uniqueness.

The pathway arrows and the regression weights were used to generate 1) the amount of association between observed variables, and 2) the amount of variance in any variable which was explained by any other variable connected to it through any combination of pathways and other variables. The amount of association between two variables was generated by multiplying all the weights of the arrows associated with the pathways connecting them. The amount of variance in one variable by any other variable was determined by summing all the arrows used in determining the path between them. The directionality of the arrows must be followed in determining the pathways between any two variables. Using these simple guidelines, all the direct and indirect relationships between any two variables was determined. Therefore, besides the direct influences, RAM allowed the researcher to describe indirect relationships between variables which were mediated by other variables along the pathway between them. Thus a variable could have a strong influence on another even if not directly related.

An advantage of RAM over traditional factor analysis and regression is its use of the indirect pathways of linear functional pathways among input and output variables. In traditional factor analysis, especially those using varimax rotations, the goal is usually to find separate factors with only one loading per variable. Also in stepwise multiple regression analysis variables are found only to contribute directly or not at all to any prediction of the outcome

variable. In RAM, however, multiple loadings are easily determined through the addition of more linear functional pathways between factors and variables. Regression relationships can be determined in this same way. In significant direct regression predictions of a variable can be removed by subtracting direct linear functional relationships and yet the contributions of this variable can be determined by considering all indirect pathways passing through other variables or factors.

Another advantage of RAM is that this technique provides an estimate of all the unique parameters involved in its quantitative description of the whole system of relationships. Therefore the amount a variable is unrelated to common determinations through its measurement errors or unique skill demand can be described.

Multiple factor loadings, the ability to determine indirect regression paths and uniqueness, were considered to be very important tools to describe the system of the present study. It was expected that this population might have some complex ability characteristics. The capacity to consider multiple loadings on the ability factors was helpful to understand this. The capacity to describe the multiple direct and indirect predictive pathways was helpful in discussing the many relationships between abilities, achievement, and giftedness among the present subjects. Finally, the amount of uniqueness involved in a separate variable allowed discussion of its useful contribution to

the relationships to be studied in the present work.

The final model was assessed as to its degree of closeness of fit through statistical, measurement, and theoretical interpretations. The Chi square test developed by Joreskog (1975) allowed for a significance test to assess the degree to which the discrepancy between the hypothesized model and observed data could be attributed to the sample variability. The lower the z value of this test, the closer the presented model was able to regenerate to initial data. The z value of 2.58 was used as a limit in this case.

This statistical principle causes confusion, however, when the researcher suspects the existence of minor factors and is unwilling or unable to specify their exact nature (Kim and Muller, 1978). In such a case, the significance test may not reveal the adequacy of the model. Even if the specified factor model is economical in that it explains a large portion of the observed covariance and brings some order to the data structure, the test may indicate that the model is statistically inadequate. Therefore, descriptive indices of the adequacy of the factor model which are conceptually independent of statistical significance were used.

These extra-statistical indicators used in this study include Harmon's (1967) ratio of residual/original and the Tucker and Lewis reliability coefficient (1973). Harmon's ratio consists of the deviations between the observed correlations and those predicted from the structured model

related to the original data. The Tucker-Lewis measure is based on the residual correlations in the matrix after the effects of the final factors are taken out, and therefore provides an estimate of the amount of covariance explained by the factor model, including all the correlations between the variables and their unique values. These measures were similar to those used in determining the closeness of fit of the extracted factor solution. The difference between these procedures was that the goodness of fit of the model considers all the linear functional, correlational, and unique pathways while the indicators in the factor solution considered only the number of common factors extracted and the unrotated factor loadings.

Data Presentation

Besides the tables of the goodness of fit of extracted factors and goodness of fit of the model described above, this study made use of a graphic representation of the final RAM solutions. These representations were seen by the author to be more useful in describing the linear functional pathways in the covariance system among the observed variables. These representations used the format established by McArdle (1980). The graphs will be used in presenting all results hereafter.

In these graphs, the □ represented the observed variables, while the ○ represented the latent unobserved common factors. The arrows represented the

covariant and linear relationships between these variables. The one headed arrows indicated a linear functional relationship with the tail coming from the input, the head pointing toward the output. The two headed arrows indicated a simple covariant relationship between the variables indicated. The numbers used represented the amount of relationship existing between the two variables indicated. The covariant relationship of a common factor with itself was defined as unity. This then permitted the researcher to determine the amount of variability of the observed variables accounted for by the change in its common factor. For every unit of change in a common factor, the proportion of change indicated by the factor loading occurred in those variables its arrow pointed toward.

Also, the amount of variance accounted for by factors unique to each variable was indicated by two headed arrows from that variable to itself. These factors included errors in measurement as well as skill characteristics unique to each variable. Therefore, the graphic figures gave a pictorial representation of the system of common and unique interrelationships among the observed correlations in the variables. These figures were used to develop theoretical statements of the common ability characteristics and their relation to each other and the output variables. An example is shown in Figure 1. Such a figure and goodness of fit tables were presented with each result discussed.

END