STATUS OFFENDER

A REVIEW OF THE ISSUES IN MISSOURI

MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE

February 1982

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Prepared by

Missouri Juvenile Justice Review Committee

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Missouri Juvenile Justice Review Committee
P.O. Box 1332
Jefferson City, Missouri

MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE

P. O. BOX 1332

JEFFERSON CITY, MISSOURI 65102

(314) 751-3265

Dear Reader:

As part of its review of the juvenile services system in the State, the Missouri Juvenile Justice Review Committee has prepared the following report on the Status Offender. The Committee believes this category of youth deserves immediate attention in terms of the services, processes, and agencies that impact these children.

It is the hope of the Review Committee that you will find this report both informative and thought provoking. We intend to work for the changes recommended in this report and we would welcome your support and participation in this endeavor.

Sincerely,

Robert L. Perry
Facilitator

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INTRODUCTION

The Missouri Juvenile Justice Review Committee (MJJRC), considers the State of Missouri's response to the status offender to be one of the most critical issues of concern to the State's juvenile justice system. In the final analysis, the MJJRC believes that the present system inadequately serves the best interest of the juvenile status offender and that the failure of the system is primarily due to a lack of a commitment to a uniform philosophy setting forth the manner in which the system should respond.

In 1980, the juvenile justice system's posture relative to the status offender was significantly altered with the enactment of Senate Bill No. 512. First, it clarified that behavior which constituted status offenses and subjected a juvenile to the jurisdiction of the juvenile court. Secondly, it limited the commitment of a status offender to the Division of Youth Services to one who was already subject to the prior and continuing jurisdiction of the court. And, finally, it limited the placement of a status offender within the Division to community based programs. Such modifications of the system were crucial first steps for reducing the vague grounds by which the system initiated intervention and by establishing an atmosphere condusive to system change.

The MJJRC believes that further changes in this area are inevitable, but should only be effected after a thorough examination of the subject matter and its related parts. This paper purports to present an analysis of the relevant issues and recommend changes culminating in a Missouri juvenile justice system that is more responsive to the needs of the status offender.

PART I. DEFINITION OF TERMS

For the purpose of this discussion and to assure a common thread of understanding, we shall define the term "status offense" as:

> "an offense committed by a juvenile that would not be a crime if committed by an adult."

Pursuant to Section 211.031.1(2) of the Revised Statutes of Missouri, such offenses would include truancy, incorrigible behavior, runaway from home and injurious behavior. From the outset, it is important to note that status offenses are defined acts specifically proscribed by Missouri State Statutes.

It reasonably follows from the definition of status offense provided above that a "status offender" be defined as:

> "any juvenile who has been charged with or adjudicated for conduct proscribed by Section 211.031.1(2) RSMo."

PART II. DEFINITION OF "SYSTEMS"

It behooves us, though, to go beyond a definition of terms and examine more closely the manner in which a juvenile defined as a status offender may be served. There are four defined systems:

1. no label;
2. separate class;
3. delinquent category encompassing status offender; and
4. dependent category encompassing status offender.

The "no label" system essentially provides no real or actual system of categorizing juveniles brought before the juvenile court. While there is, in fact, a referral made to the court and it is specific in nature, the juvenile is processed individually according to his needs. Conceivably, a status offender, a delinquent offender and a dependent juvenile could receive identical services through the court process though each would be before the court for clearly different reasons. The "no label" system is consistent with the original concept that gave birth to the juvenile court separating juveniles from adults and processing them according to their needs as opposed to their acts or the acts performed on them. In such a system, a status offender is "defined" no differently than any other juvenile--he need not be since he is similarly in need of the care and protection of the court.

The "separate class" system does in fact make a distinction, at least in definition if not in practice, among the juveniles referred to the court. Such systems are easily identifiable in that status offenders are "labeled" as CHINS, PINS, MINS (Children, People, Minors in Need of Supervision) and so on. Such systems purport to deal with the status offender in distinct terms according to his particular needs which are perceived to be different than those of the delinquent or dependent juvenile. Such systems assume that behavior alone defines needs.

In the system where the delinquency category encompasses the status offender, he is perceived as an actor violating the law; his act is conscious, it is deliberate, he is at fault. Accordingly, he is dealt with as if he were a delinquent offender. In contrast, in the system where the dependency category encompasses the status offender, he is perceived as a victim of circumstances; his actions are the outgrowth of intolerable conditions, they are not conscious, deliberate violations of the law. Accordingly, he is dealt with as if he were a dependent juvenile. Both systems, similar to the "separate class" system, assume that behavior alone defines needs.

The "system" in the State of Missouri is not clearly aligned with any one of the above defined systems. The State's system is similar to the

"no label" system in that a juvenile is not adjudicated dependent, status offender or delinquent by the juvenile court and so labeled; however, a juvenile is adjudicated and found to be subject to the jurisdiction of the court pursuant to Section 211.031.1(1) (dependent), or (2) (status offender) or (3) (delinquent). Thus, the juvenile is "labeled" but without an identifiable term. At the same time, the State of Missouri is similar to the "separate class" system. It does proscribe under Section 211.181 that at the dispositional phase of the proceedings in juvenile court, the court cite the section (i.e. 211.031) and subsection (i.e. 1, 2 or 3 as above) "upon which it exercises its jurisdiction" and dispose of the matter prescribed under each subsection respectively. The distinctions to be made, however, in the alternative dispositions for the status offender in contrast to the dependent or delinquent youth are not significant enough to truly categorize the State's system as a "separate class" system.

It is not the intent of this paper to fully examine these systems but only to lend some perspective to the state of the art and Missouri's relationship thereto. The MJJRC recommends, pending further study of the implications and ramifications of the separate class system, that the State of Missouri should maintain the philosophy of services associated with the no label system. That is, each juvenile before the juvenile court should receive services according to his individual and specific needs and not according to any behavioral class or jurisdictional category to which he might be assigned.

PART III. THE ISSUE OF JURISDICTION

The substantive issue for Missouri is whether or not the juvenile court should maintain jurisdiction over status offense behavior.

> "The importance of retaining jurisdiction over status offenses is apparent when its purposes are considered. In the first place, the public has a stake in what happens to young people. It expects children to be educated, which means that they should not drop out of school in the second or third or seventh grade. It expects children to be healthy, not to be alcoholics before they start to shave. It expects children to be controlled until they learn self-control, which means they should not run the streets at night. It expects children to adhere to a moral code, at least to the extent of not producing their own children while they are themselves still going through puberty."[1]

The assumption of jurisdiction over a juvenile status offender is a relatively clear cut matter: the juvenile must be of such an age as to make him subject to the juvenile court's jurisdiction, the behavior he is engaged in must be proscribed by state statute and evidence of such must be clear and convincing. Yet, jurisdiction implies substantially more than the mere authority to act in the interest of a juvenile. It implies the ability to make such decisions in the best interest of the juvenile and to provide and/or secure appropriate services consistent with the needs of the juvenile. Jurisdiction over status offenses implies the need, therefore, to control such behavior as well as the ability, if not the responsibility, to effect change in such behavior.

The issue of jurisdiction over status offenders is not a simple proposition. There are social implications. There are legal ramifications. There are standards that recommend against the retention of such jurisdiction by the juvenile court and there are, assuming the juvenile court maintains jurisdiction over such behavior, standards that recommend how to proceed with such cases. The MJJRC offers the following summary of social issues, legal issues, standards and the practioner's perceptions in assessing this issue of jurisdiction.

A. SOCIAL ISSUES

Provided herein are the four major theories - LABELING/STIGMATIZING,

MASKING, ESCALATION and TRANSITIONAL DEVIANCE - that are most cited by proponents and opponents of the juvenile court's retention of the status offense jurisdiction.

The mere processing of a juvenile by the juvenile court is said to label him as a delinquent, as a deviant. All commentators agree that status offense behavior is suggestive of family disharmony. As such, the labeling by the court reinforces the negative assessment already made by the juvenile's parents who are, more often than not, the initial reporters of such conduct. Rather than ameliorating the family situation and resolving the conditions that give rise to such behavior in the first place, the court's intervention often accentuates it, engaging the status offender in the system still further by penetrating the formal process which frequently culminates in placement. Such is obvious when examining the statistics compiled by the Missouri Division of Youth Services which reflect that one-fifth to one-fourth of its annual commitments are for status offenses. The long term effect of such labeling/stigmatizing is viewed as having ramifications certainly for future delinquency, but also for education, employment, military service and the like.

Masking of the juvenile's actual behavior is often accomplished by the juvenile's attorney seeking to minimize either the court's intervening role or the stigma that may be associated with a serious offense versus that which might be associated with a status offense. In substance, masking is to the juvenile system what plea bargaining is to the adult system. Proponents of masking argue that the court's obtaining jurisdiction over the juvenile is of greater consequence than the finding of fact that a specific law violation occurred. Once jurisdiction is established, regardless of the grounds for it, the juvenile court has the authority to proceed with any course of action deemed in the best interest of both the juvenile and the state. Opponents argue that masking cloaks that behavior, specifically delinquent behavior, which is of greater concern and consequence to the community; and, as such, accomplishes little positive in affording the community protection from the delinquent offender now dubbed a status offender. Such should be obvious when examining Missouri's juvenile justice system. A singular adjudication of delinquent conduct is sufficient for the court to commit the juvenile to the Division of Youth Services whereas a juvenile engaged in status offense behavior must be subject to the prior and continuing jurisdiction of the court before being committed to the Division, and then he may only be placed in a community based program.

The oft heard phrase of juvenile justice practioners - "I'd rather work with a good delinquent any day over a status offender" - reflects the frustration often associated in working with the latter group. It is argued that status offense behavior is symptomatic of deep-seated personal problems and that juveniles engaged in such behavior, if left to their own devices, will escalate into more serious behavior of greater offense to the community. In contrast to the escalation theory, it is assumed that such behavior is really transitional deviance, reflective not of deep-seated personal problems but rather the striving for independence by a

not-quite-mature or responsible youth. Proponents of the former theory view the court's intervention as necessary, in fact vital, if the juvenile's behavior is to be curbed before it can no longer be curbed. Proponents of the latter theory view the court's intervention as an unwarranted intrusion into the life of a juvenile and his family who must resolve on their own the balance of dependence and independence as an ongoing growth process.

B. LEGAL ISSUES

The juvenile court's jurisdiction over status offenses has been challenged on a number of legal fronts. The primary legal issues are: VOID for VAGUENESS, EQUAL PROTECTION, CRUEL and UNUSUAL PUNISHMENT, RIGHT to PRIVACY, and RIGHT to TREATMENT.

The void for vagueness challenge attacks the lack of specificity with which the statutes governing status offense behavior often abounds. Such statutes are perceived as overly broad, encompassing whatever behavior may be interpreted by the judge to be included therein. The constitution provides that "no state shall deprive any person of life, liberty, or porperty without due process of law,"[2] and due process of law requires that the "statute must be clear as to the act or its omission which can result in charges being brought."[3] The issue is whether the state should be limited to proscribing very specific behavior, be the behavior that of juveniles or adults. This issue goes to the essence of the juvenile court and the role it has perceived itself as having since its inception; that is, of the benevolent parent providing care and guidance to juveniles in the absence of the actual parent or in behalf of the parent incapable of providing same. It is suggested that the vague language of such statutes has been adopted only to serve this enduring purpose of the court.

The equal protection challenge comes from two fronts. The first compares the manner in which the delinquent offender and the status offender are dealt with by the juvenile court. It is argued that the former are extended all their procedural rights as delineated in the Gault case, while the latter are not. Yet, both groups are subject to the same sanctions from the juvenile court. This challenge has generally met with failure for "the equal protection clause (of the constitution) does not require that laws apply equally to everyone, but rather that all who are similarly situated before the law be treated the same."[4]

The second challenge under the equal protection clause raises the issue with which many policymakers struggle today. It is whether parents or surrogate parents, responsible for juveniles exhibiting status offense behavior, should somehow be assessed equal liability as the juvenile. If it is true that status offense behavior is, at least in part, the outgrowth of family disharmony, then the parents must share some fault, some liability for the juvenile's behavior. Historically, such

an argument would not have been considered, but these are different times. Today more credence is given such arguments, and systems are changing accordingly.

The cruel and unusual punishment argument challenges the juvenile court's "prerogative" to punish or sanction a juvenile for the condition of being a status offender. It is argued that a juvenile status offender suffers from underlying problems beyond his control which cause the behavior that brings him to the attention of the court. The Supreme Court has consistently upheld the argument that punishment of a condition, such as drug addition or alcoholism, is unconstitutional under the cruel and unusual provisions of the Eighth Amendment. Such arguments have not been sustained, though, when raised on the issue of the juvenile court's jurisdiction over status offenses. The courts have consistently held that being adjudged a status offender is based upon a finding that a proscribed act was committed as opposed to a condition existing.

The right to privacy versus intervention by the state requires that a critical balance be struck. "In some cases, the court must intervene to protect the child's welfare from himself. But such intervention must weigh the child's right to liberty and the state's interest in his or her welfare."[5] This argument is used to support the position that the state must show in status offense cases that a pattern of behavior exists which if unchecked will harm the juvenile further or expose the juvenile to further potential harm before the state may intervene. Short of showing such a pattern of conduct, the court should not be permitted to intervene or intrude into the private life of a juvenile and/or his family.

The right to treatment is emerging as perhaps the most persuasive legal issue yet. The juvenile court, in assuming jurisdiction of the status offender, assumes the responsibility to habilitate the juvenile or treat the underlying conditions that give rise to the status offense behavior. The juvenile court, via the resources, facilities and services generally available can, to some degree, incapacitate or control behavior. But can the system address the needs of juveniles; can it treat them effectively?

C. STANDARDS

While notable groups of various disciplines have proposed standards for use in the juvenile justice field, there are two groups that have made considerable contributions in this particular area of study. The first is the Institute of Judicial Administration/American Bar Association and the second is the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

The Institute of Judicial Administration/American Bar Association,

hereinafter referred to as IJA/ABA, in proposing:

> "These standards take the position that the present jurisdiction of the juvenile court over noncriminal misbehavior - the status offense jurisdiction - should be cut short and a system of voluntary referral to services provided outside the juvenile justice system adopted in its stead. As a general principle, the standards seek to eliminate coercive official intervention in unruly child cases. However, because of the particular problems presented by certain kinds of cases - youths who run away, who are in circumstances of immediate jeopardy, who are in need of alternative living arrangements when they and their parents cannot agree, and who evidence a need for emergency medical services - some carefully limited official intervention is preserved, though in all cases wardship as a result of the child's noncriminal behavior or circumstances is precluded."[6]

The IJA/ABA considers the arguments offered for maintaining jurisdiction of the status offender as lacking any empirical base. They suggest that the effects of labeling and stigmatizing are real and should not impact juveniles who engage in noncriminal misbehavior. They suggest:

> "Further, allowing formalized coercive intervention (which is coercive only on one side - the child's) in unruly child cases undermines family autonomy, encourages parents to abdicate their functions and roles to the court, may blunt the effectiveness of any ameliorative services that are provided, and cuts against the development of controls and means within the family for the resolution of conflicts."[7]

Essentially, they argue that the present system does not work, that it does not work fast enough, and that it is not effective in dealing with the problems that arise out of family conflict. On the other hand, they suggest that voluntary, noncoercive services outside the present system can work, can be employed more quickly and easily, and untimately be more effective when the family members elect to participate.

When it comes to the statutes governing school attendance, the IJA/ABA argue that:

> "Whatever the causes of truancy, in the aggregate or in the particular case, the existance of the truancy jurisdiction in the juvenile court cuts

against the school's assumption of its own responsibilities and the improvement of its programs. As long as that jurisdiction remains, the schools have a ready dumping ground for their problem children."[8]

In summary, the IJA/ABA supports the elimination of the juvenile court's jurisdiction over the status offender. It supports voluntary as opposed to coercive intervention. It argues that the responsibility for dealing with the problems that arise out of conflict in the family and in school are theirs respectively to resolve, not that of the juvenile court. The role that the juvenile court would continue to play would only be to facilitate the temporary care of a juvenile when a parent is not available to act or when a juvenile and a parent in conflict cannot resolve the conflict satisfactorily and shelter care in a suitable facility is thereby necessitated.

In all respects, save the dismissal of juvenile court jurisdiction, the Standards for the Administration of Juvenile Justice are similar to those of the IJA/ABA.

> "Jurisdiction over Noncriminal Misbehavior - the criteria set forth in this standard seek to limit referrals to the intake unit to those instances in which all available and appropriate noncoercive alternatives to assist the juvenile and the juvenile's family have been exhausted, and to encourage communities to meet their obligations to juveniles and families by developing a full range of voluntary services."[9]

A referral to the intake unit should be premised upon a showing that such services were ineffectual or that the parties simply could not or would not participate. These standards, as well, call for a pattern of conduct to be demonstrated as opposed to a singular act being sufficient for the court to exercise jurisdiction. The court would intervene and assume jurisdiction only as a last resort--when all else has been tried and failed, when the parents and/or school can do nothing further and the juvenile's behavior persists. The juvenile court would utilize the least restrictive alternatives when intervening and such should be consistent with the needs of the juvenile and his family; for "the primary concern should be to assist the family in resolving its problem and conflicts and to provide needed services, not to punish."[10]

Especially since the passage of the Juvenile Justice and Delinquency Prevention Act of 1974 with its emphasis on the deinstitutionalization of the status offender, there has been a call for a change in direction in this area. This has given rise to such standards as delineated above

and to the actual system changes that are occurring nationally. There appears to be no attempt at wholesale termination of jurisdiction, but certainly a strong emphasis on voluntary services outside the juvenile justice system, a standard of least restrictive/least obtrusive intervention by the court when called for as a last resort, and an effort to return to parents and schools greater responsibility for their charges.

D. MISSOURI'S STANCE

In May of 1981, the MJJRC surveyed the forty-three judicial circuits in the state to ascertain Missouri's position on the issue of jurisdiction. The respondents were the chief juvenile officers or administrators of the respective juvenile courts who are charged with the responsibility of implementing the court's philosophy of services. The first question on jurisdiction asked and the response provided appears below: (Figures used represent percentages)

DO YOU FEEL THE JUVENILE COURT SHOULD HAVE EXCLUSIVE ORIGINAL JURISDICTION AS IDENTIFIED IN SENATE BILL 512 INVOLVING THE CHILD WHO IS:

	YES (%)	NO (%)	NO RESPONSE (%)
a) Truant	44	56	0
b) Incorrigible	72	23	5
c) Runaway	70	25	5
d) Injurious	84	11	5

The response to this question clearly shows that Missouri's juvenile courts overwhelmingly support the retention of jurisdiction over the juvenile engaged in incorrigible, runaway and injurious behavior. While the courts do not to the same degree support the retention of jurisdiction of the truant, there is no wholesale abdication of jurisdiction in this area.

A follow-up question and the response provided appears below: (Figures used represent percentages)

WHO DO YOU FEEL SHOULD HAVE ORIGINAL JURISDICTION IN THE CASES INVOLVING A CHILD WHO IS:

	JUV. CT. (%)	DFS (%)	DYS (%)	DMH (%)	OTHER (%)	NO RESPONSE (%)
a) Truant	49	14	0	0	35	2
b) Incorrigible	77	17	2	2	0	2
c) Runaway	70	26	2	0	0	2
d) Injurious	84	6	0	5	0	5

The response to this question shows the respondents feel that courts should assume primary responsibility for jurisdiction of status offenders in all categories. Second to the courts, the Division of Family Services should assume some responsibility for the status offender exhibiting incorrigible, runaway and injurious behavior. In responding to the truant category, 35% of the courts assessed significant responsibility to someone other than the court by checking the "other" category. Of these respondents, 94% specified that the schools should have jurisdiction over the truant. The Division of Family Services was, as in the other three categories, assessed some responsibility for the truant. It is significant to note that neither the Division of Youth Services nor the Department of Mental Health were assessed any responsibility of consequence in this area.

The MJJRC supports the retention of jurisdiction by the juvenile court over status offense behavior. It does so:

- despite the social issues which clearly lack conclusive empirical evidence to support the dismissal of jurisdiction;

- despite the legal issues which may challenge aspects of jurisdiction but certainly not refute jurisdiction itself;

- because of the standards which clearly advocate services to said juveniles, not the abdication of such; and

- because Missouri's juvenile courts, which presently bear the responsibility of jurisdiction, overwhelmingly support retention of it.

Though retention of jurisdiction is supported, the philosophy of services and the system as it exists in Missouri for providing these services to the status offender and his family must be scrutinized and changed as appropriate. The MJJRC supports change. It supports:

- increased accountability on the part of parents and school systems;

- greater care in the handling of the status offender by the juvenile court;

- the philosophy of least restrictive shelter and least obtrusive services; and,

- expanded community services and a role for the Division of Family Services.

PART IV. CHANGING DIRECTIONS

> "Juvenile justice policymakers today now face the unpleasant yet imperative task of defining institutional limitations and reeducating society as to what individuals can pragmatically expect from government in solving status offender problems, as well as defining what responsibilities they must assume as communities and individuals."[11]

For all too long the juvenile justice system has accepted basic responsibility for providing services to the juvenile status offender. What, in fact, has occurred is that it has assumed responsiblity for the status offender proportionate to that which has been abdicated by other segments of society, notably parents and schools. It is time to terminate the conditions and, more importantly, the attitudes that allow the court to be used as a "dumping ground" for juveniles exhibiting status offense behavior. It is time to expect more of families and of schools and less of the court. The basic problem that needs to be resolved is not with parental and school awareness of their respective responsibilities but the ease with which they can shift to the court their obligations.

A. FAMILY REFERRALS

While it is the juvenile who is referred to the juvenile court for status offense behavior, the entire family impacts upon the situation and circumstances that give rise to such conduct. Often parents allow such behavior to persist or escalate without obtaining any services; only to resort ultimately to the court, requesting the drastic action of having the juvenile removed from the home. The juvenile court has all too often obliged.

The fact is that court intervention may occur at one of two levels. The first is the informal adjustment process as spelled out in Supreme Court Rule 113, while the second is the formal court process which is initiated with the filing of a petition for jurisdiction. The former requires the cooperation and participation of the parties while the latter is generally utilized in the absence of such. The former implies a shared responsibility while the latter makes it too easy for parents to shift same to the court.

The MJJRC advocates the use of the informal adjustment process as the prime means by which status offense causes might be disposed of. Formal court action should only be employed as a last resort. Accordingly, the MJJRC recommends that Chapter 211, "Juvenile Courts" be appropriately

amended to codify the informal adjustment process thereby magnifying the significance of engaging the parents and the juvenile in a process of amelioration, of shared responsibility, of shared accountability. Community resources should be utilized to the extent that they are available and to the degree that the parties are comfortable with same to reduce, as much as possible, even the informal services of the court's supervision services.

B. SCHOOL REFERRALS

Schools with a truancy and/or behavior problem with a juvenile often find it necessary to refer such a case to the juvenile court. Generally, such a referral only reflects the presenting problem, be it truancy or behavior. The referral should, however, fully document not only the truancy record and/or the behavior problem but also the steps taken by school officials to remedy such conduct and the results thereof. The court intake unit, upon receiving such a referral, must first necessarily determine that such conduct is proscribed by statutes. Then it should proceed with appropriate action informally, if possible, or formally, as may be necessary, based upon the action and efforts already expended by school officials to rectify the conduct.

There is an obvious societal rational for compelling children to attend school. Certainly, if children are to be obligated by statute to attend school, there must be enforcement of same. There is, as well, the obvious need to enforce discipline to facilitate the learning process. Both the school system and the juvenile court have clear statutory obligations in these areas. Only a mutually cooperative relationship between these two distinct systems will produce the most positive results. At the heart of such a relationship must be an open communication system and an appreciation of each system's limitations.

The MJJRC recognizes the magnitude of each system, educational and court. More or different laws and/or regulations or rules may effectuate change but not necessarily improve communication. The MJJRC therefore recommends the reduction of these massive systems to their individual school districts and judicial circuits for the resolution of these issues. The MJJRC invites exemplary cooperative projects to come forth and boast of their efforts and accomplishments. The MJJRC challenges all other systems to take note of such projects and endeavor to work toward such goals.

C. JUVENILE COURT INTERVENTION

The MJJRC believes that the juvenile court, in having jurisdiction over the status offender, shoulders a significant responsibility. While

care should be exercised in all areas of processing, there are three areas of prime importance that warrant review and require change. They are: Intake, Detention and Court Disposition.

1. INTAKE: The juvenile court's jurisdiction over status offense behavior is vested with the court pursuant to Section 211.031.1(2) which reads:

> (2) Involving any child who may be a resident of or found within the county who is alleged to be in need of CARE AND TREATMENT because:
>
> (a) The child while subject to compulsory school attendance is REPEATEDLY and WITHOUT JUSTIFICATION absent from school; or
>
> (b) The child disobeys the REASONABLE AND LAWFUL directions of his parents or other custodian and IS BEYOND their control; or
>
> (c) The child is HABITUALLY absent from his home WITHOUT SUFFICIENT CAUSE, PERMISSION or JUSTIFICATION: or
>
> (d) The BEHAVIOR or ASSOCIATIONS of the child are otherwise INJURIOUS to his welfare or to the welfare of others; or
>
> (e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; (EMPHASIS ADDED).

From the very outset, it behooves us to take care in interpreting the statutes that proscribe status offense behavior. The MJJRC submits that the statutes require the finding of a course of conduct which is without justification and is unreasonable. A singular act would not normally subject the juvenile to the court's jurisdiction unless it were of such a nature as to be injurious to the welfare of the juvenile or others. Such should be specifically limited to a clear demonstration of injury having occurred in contrast to the proposition that certain behavior or associations may be injurious.

The MJJRC recommends, therefore, that the juvenile officer's petition for jurisdiction alleging status offense conduct be specific, conforming to the wording and intent of the statutes.

Missouri's informal adjustment process, as delineated by Supreme Court Rule 113, should be the prime means of disposing of such cases. Such might be extended to a juvenile and his family on the very first referral alleging status offense behavior but only to inform the family of community services that might be utilized then or in the event such

should be deemed necessary in the future. A family's non-response to or uncooperativeness with the informal adjustment process should not in and of itself be grounds for invoking the formal court process UNLESS additional referrals are received for similar conduct.

In all instances where services are indicated or desired, such should be sought from community resources. The family's level of motivation, as well as the specific form of services required and/or desired, should dictate the resources utilized. Only if the family should indicate an uncomfortableness with or unwillingness to utilize such resources and such is still clearly indicated or desired, should the juvenile supervision unit provide said services. All services should be as least obtrusive as necessary. That is, the participants should equally share the responsibility of determining the parameters of their interaction, with the purpose being to resolve the root problems of the family disharmony and the resultant behavior of the juvenile that precipitated the court referral.

The MJJRC recommends that Chapter 211, "Juvenile Courts," be appropriately amended to require that every effort be made to resolve the presenting problem through the informal adjustment process, utilizing community based resources to the fullest extent possible. This reiterates the recommendation made above under "Family Referrals." The MJJRC further recommends that formal court jurisdiction be pursued only as a last resort after a showing that community based resources were ineffectual and subsequent referrals alleging similar conduct are received by the juvenile office.

2. DETENTION: The issue of pre-trial detention is certainly no small or insignificant matter. It deprives a person, clearer than anything else, of the right of liberty; yet, pre-trial detention has its purposes.

> "While in the adult criminal system the principal purpose behind pre-trial detention statutes is to ensure the presence of the defendant in court, in the juvenile justice system this concern is only one of the three major factors cited as a basis for determining pre-adjudication detention. The juvenile court may also impose detention on a child to ensure no further offenses are committed pending adjudication (preventive detention); or, to remove a child from an endangered environment into the court's protective services' (therapeutic detention.)"[12]

Pre-trial detention as applied to an adult criminal offender or even a juvenile delinquent offender is often rational; and, when used properly, requires no justification. Such is not so clearly the case when applying pre-adjudication detention to the status offender.

The Standards for the Administration of Juvenile Justice recommends:

> "If unconditional release is determined not to be appropriate, the least restrictive alternative should be selected. When it is necessary to provide temporary custody for a juvenile pending a noncriminal misbehavior proceeding, every effort should be made to provide such custody in the least restrictive setting possible and to assure that contact with juveniles detained under Standard 3.151 (Purpose and Criteria for Detention and Conditioned Release-Delinquency) or who have been adjudicated delinquent is minimized. In no case should a juvenile be placed in a facility in which he/she has regular contact with adults accused or convicted of a criminal offense."[13]

As one might expect, the practioner's perception of what is or is not appropriate or necessary does not always conform with what a standard might recommend. In this instance, such is clearly the case. In the survey cited above, the MJJRC asked the juvenile officers or administrators of the juvenile courts for their opinion on this issue. The first question on detention asked and the response provided appears below: (Figures used represent percentages)

DO YOU FEEL THAT NO STATUS OFFENDER SHOULD BE PLACED IN SECURE DETENTION?

YES:	9
NO:	89
UNDECIDED:	2

The respondents, though overwhelmingly supportive of the use of secure detention for status offenders, added comments that generally qualified their positive response, such as: "limiting the use of detention for chronic cases," "because no other alternative exists," "after a showing that less restrictive alternatives failed," "for out-of-state status offenders" and so on.

A follow-up question and the response provided appears below: (Figures used represent percentages)

MISSOURI SUPREME COURT RULES PROVIDE THAT IF A JUVENILE'S HABITS OR CONDUCT ARE SUCH AS TO CONSTITUTE 1) A MENACE TO HIMSELF, OR 2) A MENACE TO OTHERS, THE JUVENILE MAY BE PLACED IN A JAIL OR OTHER FACILITY FOR DETENTION OF ADULTS PROVIDING THAT THE JUVENILE IS PLACED IN A ROOM OR WARD ENTIRELY SEPARATE FROM PERSONS SEVENTEEN (17) YEARS OF AGE OR OLDER CONFINED THEREIN. DO YOU FEEL IT SHOULD BE PERMISSABLE FOR A JUVENILE TO BE PLACED IN

AN ADULT JAIL OR LOCKUP?

YES: 63
NO: 37

Again, the respondents overwhelmingly favored the use of such facilities but they again qualified their positive response with such phrases as: "if there was a felony offense involved," "anything that would constitute a menace to himself or a menace to others," "when there is no other place," "as long as they are separated from adults" and so on.

The MJJRC supports the philosophy and standard of least restrictive custody. That is, a status offender, if he cannot be released or his parent is unwilling to accept custody of him, should be placed in a temporary foster home, group home or shelter facility. Detention, pre or post adjudication, in a secure juvenile detention facility should be the exception to the norm and should be conditioned upon a finding that less restrictive alternatives have been tried and failed to ensure the presence of the juvenile at court or prevent further offenses being committed or there is reason to believe the juvenile is in imminent danger and needs protection. The MJJRC further opposes the use of adult jails and lockups UNLESS the same criteria for use of a secure juvenile detention facility are satisfied AND sight and sound separation from adults is ABSOLUTE in all respects and at all times. It is further recommended that when jail detention is used that a judicial determination be required within seventy-two (72) hours, excluding non-judicial days, of a juvenile's admission to said facility that such is necessary, and that the juvenile's habits/conduct constitute a menace to himself or others. The MJJRC recommends that Section 211.151, "Places of detention..." be amended accordingly; and, further, considering the potential deleterious effects of jail detention upon a juvenile, that any person violating said section be guilty of a Class A misdemeanor and shall, upon conviction, be punished by a fine not to exceed one thousand dollars or imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment. Certainly, all the procedural safeguards and rights of the juvenile as delineated in Supreme Court Rule 111, "Custody and Detention," should be guaranteed a juvenile status offender.

3. COURT DISPOSITION: The juvenile court, unlike the adult court, is not bound at the dispositional phase of its proceedings to prescribed sanctions. The judge, in fact, wields tremendous discretion in determining disposition.

> "Proponents of such discretion argue that it is a necessary element in order for the courts to carry out their rehabilitative goals . . . Opponents argue

> that the absence of statutory standards increase the likelihood of arbitrary action and that it is too easy for dispositions to be based on administrative expediency rather than on the best interests of the child."[14]

The MJJRC supports the philosophy of individualized treatment which requires that the court scrutinize in such cases the juvenile and/or his family's specific needs in deciding the course of disposition. It should be obvious that the court cannot provide for such personal needs unless it does, in fact, have the prerogative of electing one form of disposition over another.

The MJJRC believes that,

> "The dispositional alternatives in noncriminal misbehavior matters should include orders requiring (1) the provision of programs and services to the juvenile and/or his/her family; (2) cooperation by the juvenile and family with offered programs and services; (3) the continuation or discontinuation of behavior by the juvenile and family; (4) or placement of the juvenile in foster care, nonsecure group home, or other nonsecure residential facility."[15]

Additionally, the juvenile court should always utilize the "least obtrusive intervention" and/or "least restrictive custody" standards as final scrutinizing factors at the time of disposition. This would ensure that minimum intrusion into the private lives of a juvenile and his family or the least restrictive setting is utilized for the placement of the juvenile that will suffice to best serve his/her CARE and TREATMENT.

The MJJRC, using the mental health model, encourages the adoption and use of the following definitions for "least obtrusive intervention" and "least restrictive custody."

> "Least obtrusive intervention is that which may be reasonably found available wherein treatment is particularly suited to the level and quality of services necessary for the juvenile's and/or his family's personal needs enabling the juvenile and/or his family to maximize his/their participation as freely as possible." and,
>
> "Least restrictive custody is that which may be reasonably found necessary wherein care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary

for the juvenile's individualized needs enabling the juvenile to maximize his functioning potential to participate as freely as feasible in as normalized setting as possible."

The MJJRC recommends that Section 211.031, "Definitions," be amended so as to include the definitions of "least obtrusive intervention" and "least restrictive custody" as defined herein. The MJJRC further recommends that Section 211.181.2, "Order for treatment or disposition..." be amended so as to require a finding by the court that said standards were employed by it in ordering treatment or disposition of the juvenile.

PART V. SPECIAL ISSUES

A. CONDITIONED RELEASE

"To detain or not to detain?" That is the question that must inevitably be asked and answered by police and court officers alike whenever a juvenile is taken into custody. Only obvious situations lend themselves to such clear choices. Conspicuously absent in the statutes and court rules is a middle ground that would apply or could be applied to permit release of a juvenile, yet maintain some semblance of control. Therefore, the MJJRC recommends that Section 211.141, "Child returned to parent, when...," be amended so as to provide a conditioned release procedure for juveniles comparable to that operable in the adult system.

A conditioned release procedure would allow the court to release a juvenile in custody to his parents, a foster home, shelter or group home while setting forth certain conditions that the juvenile would be obliged to obey. Such conditions might include but not be limited to: 1) place the juvenile in the custody of a specific person, organization or facility willing to supervise him and to whom he would be willing to subject himself; 2) place restrictions on travel, associations and curfew; 3) require the juvenile to report regularly to an officer of the court or a like official; and 4) be available to the court and appear at all informal and formal proceedings. Failure to abide by any condition or conditions of the agreement would be grounds for the juvenile court to enter an order to take the juvenile into judicial custody and place him in a more restrictive setting.

Such a system would minimize if not eliminate the present ambiguities associated with release. Clear notice would be served upon the juvenile from the outset that his release is conditioned upon certain functions being performed and certain conduct being avoided, the failure of which would result in definite, predetermined court action. The MJJRC believes that such a system would make the use of less restrictive alternatives for the status offender much more palatable to juvenile justice practioners and would actually augment the use of such alternatives.

B. A ROLE FOR THE DIVISION OF FAMILY SERVICES

The Division of Family Services is the state agency whose most common known function is to provide services to neglected and abused children and their families. It should be noted that the status offender and his family often share the same disharmony, frustration and needs as neglected and abused children and their families. The MJJRC believes that the Division of Family Services can be of substantial assistance in this area, especially

in providing or obtaining services in rural areas where services are fairly limited. However, for the Division to provide services to the status offender and his family, there must be a resolution of conflicting statutes.

Section 211.031.1(2) vests jurisdiction with the juvenile court over the status offender. Section 211.181.2 prescribes the disposition options available to the court once jurisdiction of the status offender has been assumed. One such option allows the court to commit the juvenile to the custody of "a public agency or institution authorized by law to care for children..." (Section 211.181.2(2) (a) RSMo.) which on the surface would appear to apply to the Division of Family Services. However, Section 207.020.1(17) provides the Division with the authority to assume care only of "homeless, dependent, or neglected" children.

Pursuant to the latter citation above, the Division's administrative policy precludes the acceptance of a status offender for care and custody. However, there is an apparent discrepancy between administrative policy and actual practice for, pursuant to the MJJRC survey cited above, the juvenile officers or administrators of the juvenile court reported:

> 63% using D.F.S. supervision with juvenile in parental home,
>
> 63% using D.F.S. supervision with juvenile in relative home,
>
> 77% using D.F.S. foster care,
>
> 37% using D.F.S. approved group home care (in-state), and
>
> 14% using D.F.S. approved group home care (out-state).

This certainly reflects the receptiveness with which the Division offers services to juvenile status offenders and their families. This does not reflect, and there are no figures to demonstrate, the actual use of such services by the courts.

The MJJRC recommends that Section 207.020.1(17) "Powers of the division of family services" be amended so as to provide the Division of Family Services with the authority to accept for care and custody a juvenile status offender.

The MJJRC would be remiss if it did not recognize that "the state has the correlative responsibility of sufficiently funding that intervention to make it effective."[16] One might posit that such services are preventative in nature and would reflect savings in juvenile corrections, adult corrections, and so on. The MJJRC has no evidence to support this assumption. It does assume, though, that such additional costs as needed are worthwhile and are warranted. The MJJRC therefore recommends this additional function should be assigned to the Division of

Family Services which should receive correlative funding.

C. COMMUNITY AWARENESS

A community's interest in status offenders is more often than not demonstrated by its interests in the enforcement of truancy or curfew laws than concern for services or resources available to such offenders and their families. Such is typical primarily because the community's interest in such needs has not been challenged, has not been elevated to a conscious awareness. The fact is that a community may never become so challenged or become so aware as to become interested in such needs. Certainly, though, if the juvenile justice system is to activate any new sources of services to the status offender, it must pursue and obtain the support of the community.

It behooves juvenile justice practioners to inform the public of its limitations as well as its capabilities and to lay at the community's front door its responsibility to make up the difference. While a governmentally funded shelter program may survive with no greater community support than passive resistance; foster homes, alternative educational programs and the like require active community involvement. Communities will become active only if they become aware, and they will become aware only if they become informed. There will be no better time than the present to start educating the public.

Informing or educating the general public regarding the juvenile justice field, in particular the role it would now perceive itself as having in the area of the status offender, may be accomplished through various formats such as public forums, informational pamphlets and so on. Certainly, there will be costs incurred for such, either in time and/or in dollars; costs that should be will worth investing to policymakers attempting to heighten public awareness and action.

The most important means available to policymakers, however, for communicating to the public is through the news media. The apprehension, real or not, associated with the media must be overcome. Juvenile justice practioners should come to accept the news media as a legitimate public information forum that can serve the constructive interests of the system as well as report, and rightly so, on those areas that are suspect. The confidentiality built into the present system is intended to protect the interests of juveniles engaged in it, not the system itself. Juvenile justice policymakers should therefore engage the news media as allies serving the best interest of juveniles and the public alike.

PART VI. SUMMARY OF RECOMMENDATIONS

For the sake of clarity, the MJJRC offers herein a summary of the recommendations developed during the course of this paper on the status offender.

A. DEFINITIONS:

The MJJRC recommends that these definitions be employed systemwide to assure concensus of thought and expression when dealing with these terms.

1. "A status offense is an offense committed by a juvenile that would not be a crime if committed by an adult."

2. "A status offender is any juvenile who has been charged with or adjudicated for conduct proscribed by Section 211.031.(2) RSMo."

B. JURISDICTION

The MJJRC recommends that the juvenile court system retain original jurisdiction over status offenses and of the status offender.

C. INTERVENTION

Though retention of jurisdiction is supported, the philosophy of providing services needs to be examined, focusing on the purpose being served. The MJJRC, therefore, recommends the following guidelines:

1. Chapter 211, "Juvenile Courts" be amended so as to require that every effort be made to resolve the presenting problems through the informal adjustment process spelled out in Supreme Court Rule 113.

2. Section 211.031, "Definitions" should be amended to include the following:

   a. "Least obtrusive intervention is that

   which may be reasonably found available wherein treatment is particularly suited to the level and quality of services necessary for the juvenile's and/or his family's personal needs enabling the juvenile and/or his family to maximize his/their participation as freely as possible."

   b. "Least restrictive custody is that which may be reasonably found necessary wherein care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary for the juvenile's individualized needs enabling him to maximize his functioning potential to participate as freely as feasible in as normalized setting as possible."

D. USE OF DETENTION

The MJJRC considers the detention of a juvenile status offender to be a crucial area of the system warranting additional safeguards to protect the interest of the juvenile. The following is recommended:

1. Section 211.141, "Child returned to parents when..." be amended so as to provide a conditioned release option to detention for a juvenile comparable to that operable in the adult system.

2. Section 211.151, "Places of detention..." be amended to require that detention, pre or post adjudication of a status offender, be conditioned upon a finding that less restrictive alternatives have been tried and failed to ensure the presence of the juvenile at court or prevent further offenses being committed or there is reason to believe the juvenile is in imminent danger and needs protection.

3. Section 211.151.(4) be amended to require that sight and sound separation be absolute at all times and in all respects between juveniles and adults when a jail or other facility for the detention of adults is used for the detention of a juvenile. It is further recommended that when jail detention is used that a judicial determination be required within seventy-two (72)

hours, excluding non judicial days, of a juvenile's admission to said facility that such is necessary and that the juvenile's habits/conduct constitute a menace to himself or others.

4. Section 211.151 to be further amended so that any person violating Section 211.151.(4) be guilty of a Class A misdemeanor and shall, upon conviction, be punished by a fine not to exceed one thousand dollars or imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

E. DISPOSITION

The MJJRC recommends that the juvenile court's range of alternatives as to disposition be broadened to better facilitate the care and treatment of the juvenile status offender.

1. Section 207.020.1(17), "Powers of division of family services," should be amended to provide the division with the authority to accept for care and custody a juvenile status offender.

2. The Division of Family Services should receive correlative funding to meet the service needs of the status offender.

In order to ensure that the court has explored this wider range of alternatives, the Committee would further recommend:

3. Section 211.181.2 should be amended to require a finding by the court that the standards of "least obtrusive intervention" and/or "least restrictive custody" were employed by the court in determining disposition.

FOOTNOTES

[1]Lindsey A. Arthur, "Should Status Offenders go to Court?", Beyond Control" Status Offenders in the Juvenile Court, Lee E. Teitelbaum and Aidan R. Gough, Cambridge, Mass.: Ballinger Publishing Company, 1977, pp. 235-236.

[2]Fourteenth Amendment, U.S. Constitution.

[3]Charles P. Smith, David J. Berkman, Warren M. Fraser and John Sutton, Reports of the National Juvenile Justice Assessment Centers, "A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints and Information Gaps," Washington, D.C.: American Justice Institute, 1979, p.22.

[4]Ibid., p. 23.

[5]Crime Control Planning Board "STATUS OFFENDERS, A Summary of the Issues and A Review of Options," St. Paul, Minn., 1980, p. 18.

[6]Institute of Judicial Administration/American Bar Association, "Juvenile Justice Standards Project, Standards Relating to Noncriminal Misbehavior," (Tentative Draft) Cambridge, Mass.: Ballinger Publishing Company, 1977, p.2

[7]Ibid., pp. 11-12.

[8]Ibid., p. 38.

[9]Report of the National Advisory Committee for Juvenile Justice and Delinquency Prevention, "Standards for the Administration of Juvenile Justice," Washington, D. C.: U.S. Government Printing Office, 1980, p. 186.

[10]Ibid., p. 342.

[11]Smith, et al., op.cit., p. 166.

[12]Ibid., p. 47.

[13]Report of the National Advisory Committee for Juvenile Justice and Delinquency Prevention, op.cit., p. 299.

[14]Smith, et al., p. 55.

[15]Report of the National Advisory Committee for Juvenile Justice and Delinquency Prevention, op.cit., p. 342.

[16]Institute of Judicial Administration/American Bar Association, op.cit., p. 56.

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MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE MEMBERS

Mr. Wally Allstun
Juvenile Administrator
32nd Judicial Circuit
Cape Girardeau, MO

Ms. Bettylu Donaldson
Assistant Director of Juvenile Court Services
16th Judicial Circuit
Kansas City, MO

Mr. Jerry Doty
Juvenile Officer
10th Judicial Circuit
Hannibal, MO

Mr. Raymond Grush
Juvenile Officer
11th Judicial Circuit
St. Charles, MO

Mr. Ken Hensiek
Chief Juvenile Officer
21st Judicial Circuit
Clayton, MO

Mr. Robert L. Perry
Director of Juvenile Court Services
13th Judicial Circuit
Columbia, MO

Mr. Don Szwabo
Administrative Assistant
22nd Judicial Circuit
St. Louis, MO

Mr. Bill Hentz
Juvenile Officer
36th Judicial Circuit
Poplar Bluff, MO

Mr. David Sirinek
President, Missouri Juvenile Justice Association
Liberty, MO

Ms. Susan S. Stepleton
Missouri Child Care Association
St. Louis, MO

Dr. Turner Tyson
Supervisor, School Finance
Department of Elementary and Secondary Education
Jefferson City, MO

Mr. John Bonnot
Porgram Development Administrator
Division of Youth Services
Jefferson City, MO

Mr. Dwain Hovis
Special Assistant to the Director
Division of Family Services
Jefferson City, MO

Mr. Ron Larkin
Director of Operations
Office of State Courts Administrator
Jefferson City, MO

Ms. Judy Shaw, Acting Supervisor
Social Services Program Unit
Division of Family Services
Jefferson City, MO

Mr. DeVon Hardy
Coordinator of Children & Youth Services
Department of Mental Health
Jefferson City, MO

Mr. Thomas Mountjoy
Director of Court Services
31st Judicial Circuit
Springfield, MO

Mr. Dale Bellerose
Western Missouri Mental Health Center
Child Psychiatry
Kansas City, MO

Mr. Jim Hair
Director, Division of Youth Services
Jefferson City, MO

Continued

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Clayton, MO

COMMITTEE STAFF

Ms. Edith Tate
Staff Director
Jefferson City, MO

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Jefferson City, MO

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Jefferson City, MO

STATUS OFFENDER

A REVIEW OF THE ISSUES IN MISSOURI

EXECUTIVE SUMMARY

MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE

February 1982

STATUS OFFENDER
A REVIEW OF THE ISSUES IN MISSOURI

Executive Summary

Prepared by
Missouri Juvenile Justice Review Committee
February 1982

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Missouri Juvenile Justice Review Committee
P. O. Box 1332
Jefferson City, Missouri 65102

MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE

P. O. BOX 1332

JEFFERSON CITY, MISSOURI 65102

(314) 751-3265

Dear Reader:

As part of its review of the juvenile services system in the State, the Missouri Juvenile Justice Review Committee has prepared the following Executive Summary of its report on the Status Offender. The Committee believes this category of youth deserves immediate attention in terms of the services, processes, and agencies that impact these children.

It is the hope of the Review Committee that you will find this summary both informative and thought provoking. We intend to work for the changes recommended in this report and we would welcome your support and participation in this endeavor.

Sincerely,

Robert L. Perry
Facilitator

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INTRODUCTION

The Missouri Juvenile Justice Review Committee (MJJRC) considers issues related to the status offender to be among the most critical questions facing Missouri's juvenile services policymakers. In basic terms, a status offender is a juvenile who has committed an offense that would not be a crime if committed by an adult. Although Senate Bill 512 passed in 1980 produced important steps toward clarifying procedures involving status offenders, there is still a belief that the present system may not fully serve the best interests of this juvenile offender. There appears to be a need for a clear, uniform philosophy in the Missouri juvenile services system in dealing with the status offender. There are several major issues concerning these youth yet to be resolved.

ISSUES

The main issues of immediate concern to juvenile services policymakers in regard to the status offender are the establishment of uniform definitions of systems, whether or not the juvenile court should maintain jurisdiction over the status offender, the need to review the direction and responsibilities of other agencies that deal with these youth and the need to ensure that necessary statutes and rules exist to provide guidance for juvenile courts in meeting the needs of status offenders.

REVIEW PROCESS

In addressing the above issues, the Review Committee took the following steps:

- examined the effects of existing statutes, Supreme Court Rules and local practices on status offenders in Missouri;
- conducted a survey of the forty-three (43) judicial circuits in the State (prior to January 1, 1982) to determine their attitudes and intent regarding status offender youth;
- reviewed proposed standards, model codes and statutes from other states; and
- reviewed existing literature on the subject.

RECOMMENDATIONS

Based on a review of the materials and information outlined above, the MJJRC developed several recommendations. The Committee believes these proposals will provide a more consistent, uniform approach to dealing with the status offender throughout the State. Further, the Committee believes these recommendations are consistent with the basic intent and philosophy of the Juvenile Code.

A. UNIFORM DEFINITIONS:

There appears to be a real need to develop into state law organized, comprehensive definitions of key ideas to be used in Missouri's juvenile services system. There is also a need to more clearly delineate the system used to serve youth defined as status offenders. While there are four identified systems throughout the Nation, Missouri uses a "no label" system. In this particular system, there is no formal process for categorizing juveniles brought before the court; rather a status offender is dealt with according to his needs.

In order to assure concensus of thought and expression when dealing with the status offender, the MJJRC recommends the following definitions be employed statewide and system wide:

1. A **status offense** is an offense committed by a juvenile that would not be a crime if committed by an adult.
2. A **status offender** is a juvenile who has been charged with or adjudicated for conduct proscribed by Section 211.031.(2) RSMo.

B. JURISDICTION:

The question of the retention of jurisdiction by the juvenile court over the status offender is one of the most important issues in Missouri's juvenile service system. The responsibility for jurisdiction implies the ability to make decisions in the best interest of the juvenile and to provide appropriate services for these youth. The MJJRC has explored the potential problems of the social and legal implications of juvenile court intervention with the status offender. At the same time, there is consensus among juvenile officers throughout the State that the juvenile court is the most viable agency to ensure the needs of the status offender are met.

Based on an examination of the above positions, the Committee recommends:

1. The juvenile court system retain original jurisdiction over the status offender and status offenses.
2. The court assume jurisdiction only as a last resort — when all else has been tried and failed, when the parents and/or school can do nothing further, and when the juvenile's behavior persists.

C. INTERVENTION:

Though retention of jurisdiction is supported, the philosophy of providing services needs to be examined, focusing on the purpose being served. The MJJRC believes that when court intervention is necessary, certain requirements need to be met. The MJJRC, therefore, recommends the following changes:

1. Chapter 211, "Juvenile Courts" be amended so as to require that every effort be made to resolve the presenting problems through the informal adjustment process spelled out in Supreme Court Rule 113.

2. Section 211.031, "Definitions" should be amended to include the following:

   a. "**Least obtrusive intervention** is that which may be reasonably found available wherein treatment is particularly suited to the level and quality of services necessary for the juvenile's and/or his family's personal needs enabling the juvenile and/or his family to maximize his/their participation as freely as possible."

   b. "**Least restricitive custody** is that which may be reasonably found necessary wherein care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary for the juvenile's individualized needs enabling him to maximize his functioning potential to participate as freely as feasible in as normalized setting as possible."

D. USE OF DETENTION:

The MJJRC considers the detention of a juvenile status offender to be a crucial area of the system warranting additional safeguards to protect the interest of the juvenile. The Committee, thus, offers the following recommendations:

1. Section 211.141, "Child returned to parents when..." be amended to provide a conditioned release option to detention for a juvenile comparable to that operable in the adult system.

2. Section 211.151, "Places of detention..." be amended to require that detention, pre or post adjudication of a status offender, be conditioned upon a finding that less restrictive alternatives have been tried and failed to ensure the presence of the juvenile at court or prevent further offenses being committed or there is reason to believe the juvenile is in imminent danger and needs protection.

3. Section 211.151.(4) be amended to require that sight and sound separation be absolute at all times and in all respects between juveniles and adults when a jail or other facility for the detention of adults is used for the detention of a juvenile. It is further recommended that when jail detention is used that a judicial determination be required within seventy-two (72) hours, excluding non-judicial days, of a juvenile's admission to said facility that such is necessary and that the juvenile's habits/conduct constitute a menace to himself or others.

4. Section 211.151 to be further amended so that any person violating Section 211.151.(4) be guilty of a Class A misdemeanor and shall, upon conviction, be punished by a fine not to exceed one thousand dollars or imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

E. DISPOSITIONS:

The MJJRC recommends that the juvenile court's range of alternatives as to disposition be broadened to better facilitate the care and treatment of the juvenile status offender. In order to accomplish this recommendation, the Committee would propose the following:

1. Section 207.020.1(17), "Powers of division of family services," should be amended to provide the division with the authority to accept for care and custody a juvenile status offender.

2. The Division of Family Services should receive correlative funding to meet the service needs of the status offender.

In order to ensure that the court has explored this wider range of alternatives, the Committee would further recommend:

3. Section 211.181.2 should be amended to require a finding by the court that the standards of "least obtrusive intervention" and/or "least restrictive custody" were employed by the court in determining disposition.

F. SHARED RESPONSIBILITIES:

Various individuals and systems impact the status offender. Yet, the juvenile court has assumed primary responsibility for providing services to this category of youth. The MJJRC, however, believes that entry of the juvenile into the juvenile justice system relates back to the issue concerning the degree of responsibility of parents and schools. Certainly parents and schools are closely involved with status offender children. The real need is to delineate the specific responsibilities of each system involved and to better coordinate the available resources of each. The MJJRC, therefore, recommends:

1. Available community resources should be utilized to a greater extent to reduce the formal and informal services currently provided by the juvenile court.

2. Local school districts and judicial circuits must work together to improve communication regarding each system's needs and limitations in order to maximize their efforts to meet the needs of the status offender.

3. Exemplary cooperative programs between local school districts and juvenile courts that have been successful should share their efforts and accomplishments so that such programs could be replicated.

MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE MEMBERS

Mr. Walley Allstun
Juvenile Administrator
32nd Judicial Circuit
Cape Girardeau, MO

Ms. Bettylu Donaldson
Assistant Director of Juvenile
Court Services
16th Judicial Circuit
Kansas City, MO

Mr. Jerry Doty
Juvenile Officer
10th Judicial Circuit
Hannibal, MO

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St. Louis, MO

Dr. Turner Tyson
Supervisor, School Finance
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Secondary Education
Jefferson City, MO

Mr. John Bonnot
Program Development Administrator
Division of Youth Services
Jefferson City, MO

Mr. Dwain Hovis
Special Assistant to the Director
Division of Family Services
Jefferson City, MO

Mr. Ron Larkin
Director of Operations
Office of State Courts Administrator
Jefferson City, MO

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Social Services Program Unit
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Ms. Edith Tate
Staff Director
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