LOST OPPORTUNITIES

A Study of the Promise and Practices of the Department of Probation's Family Court Services in New York City.

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CITIZENS' COMMITTEE FOR CHILDREN OF NEW YORK INC.
105 EAST 22nd STREET • NEW YORK, NEW YORK 10010 • 212-673-1800

NOVEMBER 1982
$7.50

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A Report By

Citizens' Committee for Children of New York, Inc.

November, 1982

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FOREWORD

With this report we continue our examination of the juvenile justice system in New York. In a recent report on the secure custody facilities of the State's Division for Youth, "Last Chance: Juveniles Behind Bars," we found a system struggling to improve itself in order that it may improve the quality of the young lives assigned to it, thereby serving to secure the lives and limbs of all of us. Much remains there to be done, but given the chance, there is the promise of better things to come.

There is no such promise in the service on which we now report. This we deeply regret, for probation services are a critical part of the justice system. They are there to help the court render precise, individualized justice, they are there to play an important part in trying to turn a young, misguided life around, to everyone's advantage.

It is the probation officer who stands at the entrance to the Family Court, seeking when possible a course of help outside the Court for a young person, or opening the portals of the Court when that is necessary. It is the probation officer who investigates the facts of the child's life in order that the Court know before it acts. And it is the probation officer who may provide the proper word, the steady hand to those returned to their families and communities on conditional release ('probation'). The probation officer has precious opportunities not to be blundered or missed.

What facts we have found in this investigation, what we conclude, and what we recommend are all set forth in the following pages. Obviously the City must spend our dollars for probation services more effectively. It behooves the City's administration to attend closely the management of probation services for children in New York.

Citizens' Committee Members who served on the Board-appointed Task Force gave freely of their time in overseeing and in participating actively in the

course of the study and in the deliberations that followed. They were a highly disciplined group under the able chairmanship of Mr. Hamilton Kean. Ms. Elizabeth T. Schack was the thorough, hard-working Project Director. Substantial support also was given the project by Mrs. Hermine Nessen, Staff Associate for Juvenile Justice and Patrick J. O'Brien, a social worker who was completing his professional training with us. A special word is due Mrs. Eleanor Mannucci, a Member who gave unstintingly of her time and of her research skills.

Citizens' Committee warmly appreciates the contributions of the two Foundations that provided principal financial support for this undertaking, the Florence V. Burden Foundation and the Field Foundation. The Executive Director of each Foundation responded generously to pleas for counsel. For their help the Committee is most grateful. Of course, the responsibility for the conduct of the study and for the contents of this report is fully the burden of Citizens' Committee for Children.

We earnestly hope our efforts will lead to better services to the Court, to the tangled young lives in the toils of the law, and consequently then, to all of us.

Nancy Hoving
Nancy Hoving
President

Bernard C. Fisher
Bernard C. Fisher
Executive Director

INTRODUCTION

Late in 1980 Citizens' Committee for Children determined that it was essential to take a close look at the delivery of probation services to children brought before the Family Court in the City of New York. We were cognizant of the procedures of the Family Court; were completing a study of the New York State Division for Youth, the major placement agency for delinquent children, and our knowledge of voluntary child care agencies was thorough.

In the preceeding decade, however, there had been major changes in the juvenile statutes and changes in the Court's procedures and operations. The major statutory changes, for the purposes of this study, were passage of the Juvenile Justice Reform Act of 1976 and the Juvenile Offender Law of 1978. The 1976 amendment to the Family Court Act required the Family Court to consider the protection of the community as well as the needs of the child in ordering a disposition and provided for much longer periods of placement. The Juvenile Offender Law provided for the initiation of many cases involving 14 and 15 year olds (and in some cases 13 year olds) in adult criminal courts.*

Both laws were passed by the Legislature amid charges that children with 'records a mile long' were repeatedly sent back into the community by probation Intake or placed on probation Supervision where 'they received no supervision, services or control.'**

These laws combined with fundamental changes in the administration and organization of probation services, budgetary cut backs and the transfer of certain responsibilities to other units of government raised some basic questions about probation.

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* The statutes are Chapter 878, L. of 1976; Chapter 481, L. of 1978.

** See generally, legislative memoranda and records of public hearings, 1975 - 1978.

What have these changes meant to the quality and quantity of services available to children and families? We refer here to the management and organization of service delivery by probation.

What has been the effect of budget cuts - begun in 1975 - on probation services to and for children and on the effective functioning of the Family Court? Here we recognize that the probation service - in its own offices in the courthouses, in the courtrooms and in the field, before and after fact-finding - is one of the most important of the Court's auxiliary arms.

What has the increasingly adversarial nature of proceedings regarding delinquents and PINS meant for services to children? This is reported to have 'devastated' the morale of probation officers. Has it also meant that while children are receiving more procedural due process, they are receiving less substantive justice? Are they getting out of the system and back into limbo?

How valid are the many complaints received by CCC from judges, attorneys and representatives of public and private child care agencies as to: delays caused by missing or incomplete reports; inappropriate screening of alleged delinquent and PINS* children into and out of the Court; inadequate reports on the part of individual probation officers to understand the law or how to comport themselves in the Court; and on and on.

These are but a few of the most important questions we had late in 1980. Behind these questions were three firm convictions:

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* PINS is the acronym for "person in need of supervision," or status offender. A PINS child is one before the 16th birthday who is habitually truant, incorigble, ungovernable, habitually disobedient and beyond control of parent or other legal authority, or uses a small amount of marijuana.

- The Department of Probation is presently the major public agency for the delivery of services to children before the Family Court.
- The Department of Probation presently provides the major alternative to the placement of children away from their families and communities.
- It is essential that the Department of Probation provide the highest quality of services possible in the quantity required. There should be no "throwaway" children.

Armed with our convictions and nagged by our questions, a study outline was prepared and funds were received from the Field and Burden Foundations to underwrite such a study. A task force of 34 professional and lay persons, members of CCC and others who gave their assistance, was organized.

Altogether the Task Force members and staff interviewed a total of 62 probation officers assigned to Family Court Services and observed their interactions with children and families in the several probation settings: Intake screening, Investigations and community Supervision. In addition, the performance of probation officers at work in the court rooms was observed at two separate time periods. Visits were made to eight community based probation projects where 16 more POs were interviewed and again observed at work. Interviews were held with 51 children to determine their impression of the juvenile justice system.

Finally there have been meetings with judges, defense and prosecuting attorneys, representatives of the New York State Division for Youth and the voluntary child care agencies, the head of the Court's Mental Health Services and

the City officials responsible for establishing a computerized information system in the Department. The operation of this system was also observed at several points. (See Chapter VI)

Important information about the Department of Probation has been carefully studied. It was secured under the provisions of the State's Freedom of Information Law. A comparison has been made of New York State laws, policies and procedures and those recommended by a number of national organizations as standards for juvenile probation. Reports issued by the New York City Comptroller, the State Legislative Commission on Expenditure Review and a special joint committee of the State Division for Youth and the State Division of Probation have been reviewed along with a host of publications and reports about probation generally.*

We regret that we have not had the cooperation of the Department of Probation, its Commissioner and the Deputy Commissioner for Family Court Services.

The Commissioner agreed to our study well in advance of its start, urging that Citizens' Committee members use a 'hands-on' approach by sitting with POs as they went about their work so that we would 'understand their problems.' He also urged us to visit eight community based programs and agreed to our reading 300 probation folders.

We interviewed the Branch Chiefs in the four large boroughs, almost all of the line POs on duty in the Queens and Brooklyn courthouses, and some of those in the Manhattan courthouse. The interviews were discontinued because there was such a sameness in the responses of the POs to our questions about their problems, needs and practices. In addition, the disparities in operations and staffing from borough to borough had become quite clear. All of the community based projects were visited and interviews were held with the POs stationed there. Court Liaison Officers, stationed in the courtrooms, were observed and interviewed in all four large boroughs. Sixty-five case folders were read.

* See bibliography

In November, 1981, we forwarded to the Deputy Commissioner for Family Court Services a copy of a short report that we had submitted to our supporting foundations on the progress of the work to that date. The report and an accompanying letter identified for further inquiry: (1) the methods used to measure case loads (see page 61), (2) the decision making process that led to the removal of Court Liaison Officers from the court rooms (see page 48) and (3) the use of Police Department YD I cards at Probation Intake (see page 33).

In mid-December the Commissioner withdrew his support for the study and instructed his staff to cease any cooperation with Citizens' Committee. He held that CCC had broken its word and "published" a report critical of his Department without providing him an opportunity to respond. He persisted in this assertion despite our assurances that the interim report was prepared only for the foundations funding the study and for CCC Task Force members.

Despite this action by the Commissioner we are confident that our study, findings and recommendations are valid. They stand on the solid ground of extensive field work, careful study of written material, lengthy discussions with professionals long associated with the Family Court, the Department of Probation and other services to children as well as our discussions that led to the formulation of recommendations.

The material that follows is divided into seven parts: Chapter I, a brief history of the development of probation, with an emphasis on the changes that

have occurred in this second half of the 20th Century, resulting in the present New York City Department of Probation; Chapter II, the New York City Department of Probation, 1982; Chapters III - V, discussions of the way in which the Department provides the three traditional functions of a probation service - Intake screening, Investigations and Supervision. The latter are supplemented with vignettes from lives of children as depicted in some of the probation folders to which CCC had access.

Chapter VI contains a review of the issues surrounding the confidentiality of sensitive reports concerning children and families in trouble and the controversies generated by a mixture of 'law and order' concerns and by technological developments. Chapter VII provides our findings, recommendations and supporting discussion as well as comparisons of New York City procedures, our recommendations and those of the several standard-setting groups.

Appendices provide the reader with the comments of some of the 51 children who talked to us about their journey through - and some times sojourn in - the juvenile justice system; statistics and excerpts from statutes and reports that are relevant to the subject matter of this report.

"What's the use of being in a hurry to punish the girl when kindness may save her?"

John Augustus
First Probation Officer*

Chapter I PROBATION: FROM ONE MAN TO MANY. WHITHER NOW?

Throughout the country, juvenile probation is for the most part a three pronged service: Intake that screens some children into and others out of the juvenile justice process; Investigations that provide the judges with basic information on which to base a dispositional order; and Supervision for those children deemed able to remain in their own homes and communities. The aim is to rehabilitate, not punish. This is the stated purpose of the Department of Probation (DOP) in New York City as it serves the Family Court and the Court's clients.

Throughout the country, juvenile probation (and adult probation, as well) is in trouble. The services stand accused of failing to prevent crime, of failing to rehabilitate, of failing to provide needed services. This is true of the City's DOP - it is accused of multiple deficiencies and is in trouble.**

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* This and succeeding quotations from or about John Augustus are taken from John Augustus, First Probation Officer, National Probation Association, New York, New York, 1939, as is the information about his activities.

** State Division of Probation Programs, Program Audit, June 1982, Legislative Committee on Expenditure Review, The Legislature, Albany, New York. Hereinafter, LCER.

What are the roots of this notion that children (and adults) can be turned from errant ways, rehabilitated and returned to society? Some scholars trace it back to English common law and the practices of pardon and judicial reprieve. Most Americans, however, cite John Augustus, a Boston maker of shoes during the 1840s and 1850s, as the "father of probation."

John Augustus went into the courts of Boston where, with the consent of the judge and often over the objections of court officers, he bailed out prisoners - men, women, children - found them places to stay, work and otherwise assisted them. He became a familiar figure in Boston as he drove his buggy about the city, visiting his many charges on a regular basis. It is reported that in one year he made no fewer than 1,500 calls and received more than this number at my house."

Of the more than 2,000 people he "bailed", only 10 absconders (recidivists in today's parlance) were reported. The remainder had their cases dismissed and the bail was returned, following the probationary period. Sheldon Glueck* has written of this man "It is not hard to picture him as a sort of dynamic synthesis of Paul Revere, John Howard and Florence Nightingale, as he rode back and forth in his "chaise," animated by an unquenchable thirst for justice tempered with kindness and understanding," and that Augustus acted on his belief that "The object of law is to reform criminals, and to prevent crime and not to punish maliciously, or from a spirit of revenge."

In the wake of John Augustus came children's aid and prison aid societies, manned almost entirely by volunteers even as John Augustus had, himself, been

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* Late Professor of Criminology, Harvard Law School, Cambridge, Mass.

a volunteer. The aim was reform - particularly to remove children from adult prisons and from the almshouses. Some offending children remained at home, with little supervision or care; others went to new types of institutions known as 'houses of refuge' or 'reform schools.' The institutions, although limited to children, bore a strong resemblance to adult prisons in their restrictiveness and sometimes outright brutality.

The animus against these schools soon became strong in some quarters. On the one hand, philanthropic groups and some state agencies began to seek ways to reform delinquents without incarcerating them. On the other, a number of state courts began to vacate the sentences of children to those schools. They commented on due process rights of children almost a hundred years before In Re Gault in which the U.S. Supreme Court first enunciated those rights for children as protected by the United States Constitution*. In 1870 the Illinois Supreme Court reversed the sentence of a young boy to a reform school on the grounds that he had not committed a crime and had been imprisoned without due process of law.** In 1895, the New Hampshire Supreme Court, in a similar case, queried: "If the order committing a minor to the school is not a sentence but the substitute for a sentence.....what is a substitute for a sentence but a sentence in and of itself?"***

These two somewhat disparate thrusts were among the major reasons for the establishment of the first juvenile court in Chicago in 1899. The court was

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* In Re Gault 387 U.S. 1 (1967) 87 S. Ct. 1428, 18L. Ed. 2d 527

** The People v. Turner, 55 Illinois 280 (1870)

***State v. Ray, 63 New Hampshire 405 (1886)

to be civil in nature, thus eliminating the need for some due process procedures; it was to look to the best interest of each child and avoid unnecessary incarceration. This first juvenile court, authorized to appoint "one or more persons of good character to serve as probation officers," has been referred to as an admixture of New York's special procedures for the trial of juveniles and Massachusetts' advanced system of probation.

The movement toward juvenile courts spread rapidly to other states. With it came the development of probation to provide a variety of services to the children and their families. New York's first children's court was established in 1922, although as noted above special procedures and laws for juveniles had been enacted late in the 1800s. New York City's children's court was established in 1924. The State's first probation law was enacted in 1901.

Probation has always been 'in trouble,' it seems. As one noted commentator has written, "practice must be compared with promise" and "the gap was simply enormous." This writer cites one investigation after another - by legislators, social workers, district attorneys, grand juries in state after state - all with "a similar verdict: probation was implemented in a most superficial, routine and careless fashion, as a 'more or less hit-or-miss affair,' a 'blundering ahead.'"* He presents a scathing indictment of the lack of training and qualifications, inadequate salaries and impossibly high case loads.

These same indictments are heard today about probation across the country and about New York City's Department of Probation. As to the last, witness the recent reports from the City's Comptroller, the State Legislative Committee

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* Conscience and Convenience, Rothman, David; Little, Brown and Co. Boston, 1980, Chapter 3.

on Expenditure Review (LCER) and the comments of the Department's commissioner in response to these criticisms.

It has been observed that the failure to adequately staff services in the juvenile courts is an indication of the value that society assigns to poor people as well as discriminatory justice. Throughout the country, the recipients of juvenile justice are poor children and for the greatest part they are disproportionately from whatever minority exists within the particular court's jurisdiction.*

In any event, by the second half of the Twentieth Century two trends were noticeable in attitudes toward the juvenile court and its auxiliary services of which probation remained the most important. First, proceedings in juvenile courts were becoming more and more adversarial in nature.

Civil libertarians questioned whether the system functioned adequately and in the best interest of children. Lawyers for respondent children began to appear in the court, first in New York City in 1960 as part of a special program for indigent children sponsored by Citizens' Committee for Children and the Association of the Bar of the City of New York. This representation was mandated by the New York State Family Court Act in 1962. The process begun then culminated in the landmark United States Supreme Court decision, In the Matter of Gault, (387 U.S. 1 (1967) 87 S. Ct. 1428, 18L. Ed. 2d 527). This decision mandated many of the procedural due process rights for children that had long existed for adults.

Second, during the period from 1950 through the end of the 70's, doubts as to the effectiveness of the juvenile court and probation in the rehabilita-

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* Doing Good, The Limits of Benevolence; Willard Gaylin, Ira Glasser, Steven Marcus and David Rothman; Pantheon Books, New York, 1978.

tion of deviant children or intervention with neglectful or abusive parents grew apace. In New York State a series of administrative and statutory changes have seriously restricted or removed authority and responsibilities that had been regarded as an essential part of the traditional role of probation. By the end of the 1970s probation was under concerted attack;

- o from legislators and from the media, who characterized probation officers as muddle-headed, lazy, incompetent;
- o from judges who believed they could not rely on probation officers to follow instructions for the supervision of probationers or to secure appropriate services for them; to conduct expert investigations and submit reasoned recommendations.

The Family Court and its auxiliary services - primarily probation and to a lesser extent, mental health clinics - were receiving much more attention in the 1970s than ever before* This attention, however, was not translated into the provision of more resources. Those who castigated the Court and its clients did not hear it supporters' claims: that the Court had never had the tools to do the job; that the Court and its Probation Service was being discriminated against because it was the Court of the poor, mostly Black and Hispanic persons, and because it did not have significant patronage to dispense.

As we move further into the 1980s, it is important to delineate what is left of this experiment and to determine where we should go in the best interest

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* See, generally, legislative memoranda and records of public hearings on the Child Neglect and Abuse Act of 1973 (Chapter 276, L. of 1973) and the Juvenile Justice Reform Act (Chapter 878, L. of 1976). Additionally, see practice commentaries, Family Court Act, Articles 7 and 10. (Herinafter, F.C.A.) These were sweeping attacks. As will be seen, CCC members found the POs a mix - some very good, others indifferent to their clients.

of children, families and the social fabric of New York City. To do this, we need to review where we have been, the changes that have been made the reason for and results of those changes; and determine where we should go. We need to look at the problems here and in other large cities with a diverse population and wide economic and social dislocations. In sum, we need to know (1) what are the essential probation services that a court must have in order to administer justice for children and families; (2) if the services are available, who is providing them, how well and at what costs, and (3) how the situation can be improved.

Twenty years of change

New York's Family Court was established in 1962 as an amalgam of jurisdictions from several separate courts. The probation services of those separate courts were consolidated, assigned to and controlled by the judges of the new court.

In 1965, however, Family Court probation services were merged with those of the lower criminal court in New York City with little statutory recognition of the different purposes of the two courts and the different needs of their clients. Administrative control of the services was vested in higher courts that also approved budget submissions for the new Office of Probation.

Nine years later another merger occurred of the probation services available to the inferior courts (Family and Criminal Courts) with those that were then controlled by the highest trial court (the State Supreme Court). Completing the separation from the Courts, administrative control was vested in the Executive Branch of government through mayoral appointment of the Commissioner of the New York City Department of Probation and the initial formulation of its budget.

During this period of structural changes in the administrative and budgetary control of the probation services in New York City, other changes were occurring:

1. The Office of Probation was charged, in 1968, with the operation of juvenile detention services, a customary responsibility for probation departments in many jurisdictions.* Its responsibilities were thereby increased somewhat for a short period. However, in 1971, responsibility for detention was shifted to the City's Human Resources Administration/Department of Social Services.

2. In 1970 Family Court judges were required by a higher court rule to place children, removed from parents and relatives because of neglect or abuse, with the Commissioner of Social Services, rather than directly with an agency. A major responsibility for probation officers, that of locating appropriate living situations for these children, was thus removed.

3. Following in this line, in 1973 state legislation removed from probation the responsibility for the investigation of alleged neglect and abuse cases and the supervision of adjudicated adults in those cases. The responsibility was vested in the Department of Social Services.

4. The authority of the probation services to "adjust" certain cases (that is, divert them from the judicial process) was eliminated in abuse and neglect cases in 1973 and sharply curtailed in some delinquency cases in 1976 by state laws. (See Appendix B for listing of allegations). It was sharply curtailed in other delinquency and PINS cases by Court rules, promulgated in 1976.**

5. The authority of probation staff, with or without judicial approval, to seek advice from mental health professionals has see-sawed throughout this period as has its relationship with the mental health services available to the Court.

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* Operation of detention facilities was transferred to the Department of Social Services in 1971 and, in 1979, to a new Department of Juvenile Justice.

** The Court rules were deemed by some to evince the judges' distrust of probation intake by prescribing a long list of issues that must be considered in the adjustment process and prohibiting discussion of other issues. See Appendix C.

6. The authority of the Family Court to make direct placements of adjudicated delinquent and PINS children with private agencies was eliminated in 1976. The Court is required to order placements with the Commissioner of Social Services or the Division for Youth and may stipulate that the child be transferred to a particular voluntary agency. Thus, as in the instance of neglected and abused children, another major responsibility of probation officers - that of seeking the most appropriate placement for a delinquent or PINS child - was removed or no longer mandatory.*

7. The Juvenile Rights Division of the Legal Aid Society established a Juvenile Service Unit. This unit of trained social workers, all MSWs, has assisted the attorneys with skilled assessments of the children's needs and strong advocacy in securing services. It is said that the advent of this new unit affected the morale of the probation officers who felt 'out classed' by better trained workers and increased the adversarial relationships between the JRD and probation officers.

8. The City Department of Juvenile Justice was established in 1979. It was specifically charged by statute with operating detention services. At the time the new department was created, consideration was given to other responsibilities that were traditional probation activities; i.e., 'after care'** in non-adjudicated cases and the securing of appropriate placement. The new Department operated a special placement service with the cooperation of the Department of Probation, the City's Special Services for Children and the State Division for Youth for a year. The service was abandoned as a result of 1982 budget cuts.

9. Passage of the Juvenile Justice Reform Act in 1976 required the Family Court to consider the protection of the community on an equal basis with the needs of a child found to have committed a serious violent act.*** While a

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* Probation is not prohibited from seeking appropriate placement in a voluntary agency. However, it is said that whether this is done depends on the particular judge and the probation officer assigned to the case. Similar confusion surrounds efforts to place a child with the open facilities of the Division of Youth. (See below, Chapter IV)

** The after care would have been provided for children who had been in detention and subsequently been discharged by the Court without adjudication. Such cases are believed to be similar to (and therefore legally susceptible to the same treatment) cases that are adjusted at Intake. This service never got underway.

*** F.C.A. Sec. 753.a

mandate to the Court, the legislation had changed the responsibility of probation officers who investigate on behalf of and recommend to the Court since they must make a recommendation that takes into consideration both issues.

10. In 1978 legislation required certain juvenile cases to originate in the criminal courts. Probation officers assigned to the Family Court have handled the investigations and recommendations for the criminal courts. It is said that they prepare for the criminal courts the same type of reports that are prepared for the Family Court.

11. The budget for probation services, at one time paid roughly 50% of approved expenditures by the City and 50% by the State, has see-sawed up and down during the last 20 years while the case load has increased. In 1981, state aid hit a low of 41.5%. At present (1981 - 1982) the State's contribution has risen to approximately 46.5%.

12. Finally, the DOP was one of the most drastically cut agencies when the City's fiscal crisis began in 1975. Its staff has dropped 36% through a combination of firings and leaving vacancies unfilled. The number of POs fell from 638 in 1974 to 484 in 1981.* When additional POs were hired in 1982, not one was assigned to the Family Court services.**

While these changes that directly and obviously affected the manner in which probation services were provided and the relationship between judges, probation officers and clients - other more subtle changes were occurring. 'Prevention, diversion and advocacy' came to the forefront. Grants from foundations and from federal agencies, primarily the Department of Health and Human Services and the Law Enforcement Assistance Administration, as well as some grants from the State Department of Social Services and the State Division for Youth, were given to a wide variety of voluntary agencies and organizations. Some of these projects overlapped or duplicated the work of probation, while others supplemented probation services or filled gaps that had resulted from

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* LCER, supra, p.6

** Statement of the Deputy Commissioner for Family Court Services, DOP.

statutes, court rules, and budget cut backs. They are said to have affected both probation morale and budgets. Most of the grants have 'dried up' while those that remain appear to go mostly to agencies other than probation.

With this as a very brief background of the concept and development of probation services - with their multiple 'promises, problems and pitfalls' - let us turn to the way CCC monitors found the Department of Probation to be structured and functioning in and for the New York City Family Court during 1981 - 1982.

Chapter II THE NEW YORK CITY DEPARTMENT OF PROBATION, 1982

The City DOP operates under the statutes, rules and regulations of New York State. DOP was established in 1974, a few years after the establishment of the State Division of Probation as a part of the State's Executive Branch. The rules and regulations were promulgated in 1975 and have been revised from time to time as changes in the law made it necessary.

The State Division is authorized to enforce probation and Family Court law, regulate local departments' administrative methods and procedures, administer state aid reimbursement to local departments, investigate any local department or probation officer, and provide education, training or information designed to increase the number of qualified probation personnel and improve the caliber of the service across the state. When the State Division was established it was claimed that a strong Division in the Executive Office would be able to stimulate effective local services. At the time the Judicial Conference (now the Office of Court Administration) objected to this separation of what is "in reality an arm of the courts" from the court system.*

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* LCER, supra, p. 6

The promise of improved services in New York City has been another promise unfulfilled. The State Division has exercised its responsibilities in relation to the City DOP in the most perfunctory manner and has done little to assist or improve the Department's performance for many years.*

State reimbursement for approved expenditures was fixed for the 1981 - 82 budget at 46.5%. However, state approved expenditures exclude capital expenditures, debt services, rental of office space and fringe benefits. In the City's 1980 - 81 budget, state reimbursement (then pegged at 41.5%) amounted to only $6,282,974 out of a total budget of $21,188,777. The City's 1982 - 83 budget provides approximately $23 million for the Department.

The City Department is headed by a Commissioner, appointed by and serving at the pleasure of the Mayor. He is assisted by five deputy commissioners, seven assistant commissioners, a general counsel and other top level personnel most of whom function out of the main office in Manhattan.** Altogether, this top cadre must oversee probation services to three districts of the State Supreme Court (the State's highest trial court), the Criminal Court and the Family Court at a total of 23 separate locations.

Family Court services are under the supervision of a deputy commissioner and assistant commissioner. The Family Court, although a citywide court, has a court house in each of the five boroughs that comprise the City. Space has

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* Statement from a former high level probation administrator. The CCC study group noted that the City DOP has promulgated much more extensive rules and regulations than has the State Division.

** This seems an usually high number of top level positions for what is essentially a rather small City Department.

been allocated to Probation in each of the court houses and there virtually all the services are provided under the direction of a branch chief in each borough.

CCC monitors noted that the space allocated to Probation ranges from many attractively furnished but otherwise unoccupied rooms (thanks to personnel cutbacks) in two new court houses to dingy, poorly furnished rooms in the older buildings. The rooms were decorated, apparently, according to the desires of individual POs. We saw, for example, one office filled with dozens upon dozens of cat figurines; another barren of any decoration, not even a calendar; a third, bright with posters that would attract a child's attention.

Qualifications, Salaries, Promotion, Training

Probation officers are appointed from a pool of qualified civil service candidates. Each officer must be at least 21 years of age at the time of appointment and possess one or more of the following minimum requirements:

a. Master of Social Work degree with a major in casework or community organization; or

b. Bachelor of Social Work degree (with one year field placement) and one year of full time paid experience in the areas of case work and/or counseling; or

c. A baccalaureate degree including or supplemented by 24 credits in psychology, social work or sociology and two years of paid experience; or

d. A satisfactory equivalent combination of education and experience.*

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* New York City Department of Personnel, Recruitment and Applications Division, 49 Thomas Street, New York, N.Y. 10013

In October, 1979 the starting salary for a probation officer was set at $14,843. By 1981, the range for a New York City PO was from $17,312 to $22,300 annually. This contrasts with a possible top salary of $35,000 for a federal probation officer and approximately $25,000 for state parole officers. Federal POs and state parole officers must have similar qualifications and perform similar functions.*

The relatively low starting salary, the rare opportunities for promotion that limit monitary increase to annual increments, and the disparity of salaries between similar agencies has resulted in a staff with a disproportionate number of older officers. It has been said that the older ones stay on to collect their pensions and younger candidates go on to greener fields.** As stated by a former head of the probation union, "We have become a training ground for other departments. The only people who remain are those too old to apply for other jobs.***

How scarce that opportunity for career advancement is can be seen in the number of probation officers authorized for the City Department in recent years. In 1970, the combined courts had a total of 2,123 budgeted clerical and professional probation staffs. By the end of 1974, the figure stood at 1,454. By 1981, the figure stood at 1,014. In 1974 DOP had 638 budgeted POs; by 1981, there were 484.****

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* Information provided by the United Probation Officers Association.

** Organization Report on New York City Department of Probation, Economic Development Council Probation Task Force, New York, N.Y. 1977.

*** Arnold Billig, former president of the United Probation Officers Association, as quoted in the New York Times, August 3, 1981. Mr. Billig made the same statement to CCC interviewers.

****LCER and information provided by the Department of Probation.

The LCER audit indicates that case bearing staff in the Family Court probation services had decreased, between 1978 and 1980, by 17% in Intake, 12% in Investigations and 13% in Supervision. During the same period, the audit found an increased case load of 17% for Intake POs and 6% for Investigation POs but a decrease of 9% for Supervision POs.

These figures become even more stark for Family Court services when one learns that there has been only one promotion within the services since 1974 and that was to promote an acting branch chief to full chief.* As noted earlier, when the City added 88 new POs to the ranks in July, 1982 not a single one was allocated to the Family Court Services.**

The Department rates rather well in meeting Equal Employment Opportunity standards as to women and Blacks: 47.1% (32) officials and administrators are women as are 262 of the professional line officer staff; 17 Blacks (25%) hold official or administrative offices and 179 (29.3%) are professional staff. However, there is only one Hispanic administrator and there are only 25 (4.1%) Hispanic professionals. For the entire Department Staff, out of 1,014 - 579 (57.1%) are women; 394 (38.9%) are Blacks and 59 (5.8%) are Hispanic.***

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* Other promotions have occurred through transfers to and from the adult courts and the Family Court. The point is that experienced Family Court POs have not been able to rise within the Family Court Services.

** Statement of the Deputy Commissioner for Family Court Services.

***These figures are taken from the Department's 1981 Equal Employment Opportunity report. The term "official" refers to the top personnel of the Department; "administrative offices," to those POs who hold offices such as branch chief; "professionals," to the case bearing staff. DOP was either unwilling or unable to provide CCC with a breakdown of these figures so that a determination could be made as to the staff assigned to the Family Court.

Finally, we turn to the training of the few new POs that are hired and to the up-date-training for those on the job. State law authorizes New York City's commissioner to grant scholarships and leaves of absence to pursue graduate education. It should be noted that State regulations and statutes require training at the time of hiring and on a regular periodic basis thereafter.* CCC was informed that such scholarships have not been authorized since 1974 because the City has failed to appropriate funds for the purpose. City POs have not been permitted to attend those courses that have been provided by the State.

When CCC monitors visited the probation officers in their offices in the Family Court buildings during the summer of 1981 one of the most consistent grievances we heard from line POs - whether they were stationed in Intake, Investigations or Supervision - was the lack of training. The table of organization lists two person as being in charge of training at the main office. None of the POs to whom we talked knew of their existence. We were repeatedly told "There is no such thing as training." "We can't even take time off to go to a conference where we might learn something." "We are lucky if we learn when there are changes in the law."**

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* Part 346 of the Rules and Regulations of the State Division of Probation requires a minimum of 70 hours of training in the fundamentals of probation practice within the first six months of employment. A minimum of 35 hours in an advanced course in probation practices is required annually thereafter.

** We learned that the DOP did establish a training program for the 88 new POs hired under the 1982 -83 budget. We understand that this program is in no way geared to the needs of a Family Court Service but have not been able to determine that because of the Commissioner's refusal to cooperate with us. These new officers will only go to the Family Court if they replace others who retire or move on to adult courts.

In summary, it would seem that both the diminution in staff and the lack of training is stark and real. While the number of probation officers available for the total City is woefully inadequate, it would appear that matters are even worse for the Family Court. Before turning to the services that are delivered and how they are delivered, let us look at who the children, subject of our present concern, are. They fall into four categories:

PINS:

A PINS child (person in need of supervision) is a child less than 16 years of age who is habitually truant, incorrigible, ungovernable, habitually disobedient and beyond lawful control of parent or other legal authority, or uses a small amount of marijuana.

A juvenile delinquent is a child, who, between the 7th and 16th birthdays, commits an act that is a crime when committed by an adult. By statute these children are divided into three subcategories and are treated differently by the Court and by Probation. The subcategories are:

1. Removed Juvenile Offenders: (RJOs) These are children between the 13th and 16th birdthdays alleged to have committed one or more of the most serious acts. Their cases are initiated in adult courts where they may be held criminally responsible. Under certain circumstances their cases may be removed back to the Family Court for trial or disposition or both.*

2. Restrictive Juvenile Delinquents: (RJDs) These are children alleged to have committed virtually the same list of acts as JOs but at an earlier age.*

3. Regular Juvenile Delinquents: (JDs) These are children between the 7th and 16th birthdays alledged to have committed less seious acts.

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* See Appendix D for list of acts and differential treatment.

The next three chapters of this report deal with the statutory responsibilities and authority of the DOP Family Court Service units and the Guidelines for Intake screening, Investigations and Supervision - and with CCC interviews and observations of POs as they dealt with children and families in the Brooklyn and Queens Family Courts. We quote the POs, but not by name. Almost all of them spoke to us openly and frankly.

We also quote what the POs told us and what we clearly saw about the quality of services provided; about the need for services; and the gaps that appear to exist throughout the system. Each chapter is headed by vignettes that illustrate the wide disparity between one PO and another as we found it in interviews, observations and case reading.

CHAPTER III. PROBATION INTAKE SCREENING

Two young girls appeared in the Intake PO's office. One was accompanied by a distraught mother; the other, by a bellicose mother and equally bellicose aunt. Both girls exhibited an air of indifference although perhaps it was just bravado.

The complaints were laid on the table. On girl was charged with constantly assaulting the other. They lived in the same housing project, attended the same school, could not be kept apart. The girls did not deny the charges.

The PO appeared to be in his late 50s. He has worked in the Court for 20+ years. His solution for those families appeared to be primarily that of shouting. He repeatedly told them to "Shut up" and threatened to send them to jail. The bellicose mother shouted back and the girl against whom the charges had been brought, laughed.

Eventually one girl was ordered to borrow a book from the library and write an essay on Black history for him. The other was told to attend a nearby tutorial service.

Five minutes later the distraught mother who had brought the charges returned and insisted on the PO's reading a letter from a highly respected family counselling clinic. It wrote of the high degree of disturbance in the mother's family, the need for her to be free from the harassment of the other family. The PO turned her away regardless.

Wrote the CCC monitor: "Is this the best we can do for these families? At least one mother was afraid of the PO. They do have a right to their day in court. Couldn't the court help them? He didn't tell her that she had any rights at all."

Two boys, 12 and 14 years old

These two boys appeared in another Intake PO's office. They had been picked up by the police the night before for "joy riding." Minor damage (about $75 - $100) had been done to the car. The police had gotten their parents to the precinct house and, upon the parents' promise to produce the boys in court on a day certain, had released them.

That day the PO had all the police papers; the parents and the boys were present. The PO had spoken to the complainant, the owner of the car, who had agreed that - if the boys would make restitution and the PO thought they would keep their word - he would drop the charges.

The PO had checked earlier to see if the boys had any past records of court appearances. They did not. After talking to them gravely, explaining the seriousness of their actions, and talking to the parents he secured their agreement to make restitution.

Wrote the CCC monitor: "I thought this case was handled in a most appropriate manner. The PO spoke to the parents and the boys with courtesy; the boys have, I hope, learned a lesson and this time around they have been saved from a record of delinquency. The Court has been saved valuable time and the owner of the car will be recompensed."

Chapter III PROBATION INTAKE SCREENING

The Family Court Act of New York State provides for a preliminary procedure, known as Probation Intake. As defined by DOP "It is designed to divert individuals from the Family Court system when appropriate. Intake's primary responsibilities are to examine situations to establish jurisdiction, to ascertain persons who can be diverted through referral to other treatment resources or held at the Intake level for short term counselling, and to forward to the court those matters requiring judicial intervention."*

Over the years, Intake screening has existed in virtually every juvenile court across the country and has been considered one of the most critical points in the juvenile justice system. It was and is designed to screen out minor cases that do not require court processing, to 'prevent further penetration into the system' and consequent stigmatization, and to provide some necessary services. Services are supposed to be accepted by a child and his family voluntarily under a system of informal or non-judicial probation. Over the years it has been claimed that this screening resulted in the adjustment of over 50% of the potential juvenile cases throughout the country; that is, dismissal of

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* New York City Department of Probation Family Court Service Guidelines, Revised June, 1982.

the case without a petition or any official court processing.

As the years have passed, however, criticism has come from both those concerned with the quality of the care of children and those concerned with 'law and order' and fearful of what they perceive as increased juvenile crime.*

It is argued that (1) services are more paper than real, making a mockery of the process and leading the child to believe that he has beaten the system; (2) that there may be a major intrusion into a child's life without an informed and voluntary consent; (3) that the discretion permitted to Intake probation officers (POs) enables them to exert, at times, arbitrary, discriminatory or unequal treatment of juveniles; and (4) that the process discourages a complainant from insisting on his day in Court, and (5) results in the screening out or dismissal of many cases inappropriately.

Authority of an Intake PO

The intake screening process was initiated in New York State in 1963 shortly after the establishment of the Family Court.** The basic rules for the process

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* See LCER audit (p. 72, Letter from Thomas J. Callanan, Director, State Division of Probation; p. 29, LCER Judges Survey indicates that 40% of the New York City Family Court judges believed the Intake units diverted cases appropriately as opposed to 82% of the Family Court judges elsewhere in the State. Another 40% of the New York City judges indicated that too many cases were petitioned to Court.)

Juvenile Justice Goals Held to be Changing, Tessa Melvin, The New York Times, New York, N.Y., 4/19/81.

Report of the Governor's Special Committee on Violent Juveniles, New York State Division of Criminal Justice, New York, New YorK, 1976.

** There had been previously an even more informal process in New York City known as the Bureau of Adjustment in the predecssor Domestic Relations Court.

as set forth in 1963 and continue to the present for the Intake PO to follow are:

(1) He must inform the child and family that he need not participate in a screening conference and may insist on proceeding to Court; that nothing said at the conference can be reported to the Court prior to adjudication;

(2) He must inform the complainant that he may insist on going to Court.

(3) He must investigate the facts sufficiently to determine that the Court, in all probability, has jurisdiction over the matter and that there appears to be sufficient evidence to sustain a petition.

A case may be held open for adjustment for 60 days and, thereafter, for another 60 days with the consent of a judge. During the adjustment period a child may be referred to an outside agency for services or be required to attend additional conferences with the Intake PO. If efforts at adjustment fail (i.e., if the child gets into further trouble or refuses to cooperate) the case may be referred to Court. It may also be "terminated without adjustment" if the complainant refuses to proceed.*

As criticism of the intake activity and fears of juvenile crime grew during the 1970s, the Legislature and the Family Court acted to restrict the authority of the Intake POs. First, the Legislature in 1973 removed their authority to interview or attempt to adjust cases of alleged neglect or abuse. Then, in 1976, the Legislature provided that Intake might adjust a designated felony case (alleged

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* Because this term was also used in some boroughs to cover cases in which adjustment was attempted, failed and the child was eventually sent to Court, two new terms have been sutstituted. See Chapter VI, p. 72.

RJD) only with the consent of a judge. Significantly, although special forms were prepared for the purpose, by May, 1982 only two such requests had been made.*

In 1977, rules of the Family Court were promulgated to provide that the Intake PO might not attempt to discourage any person from filing a petition by discussing (1) how long the court proceeding might take, (2) the likely outcome of the proceeding, or (3) the likely conduct of the legal representative of the child. The latter responds to the repeated complaints of probation officers that the defense attorneys representing the children cross examine witness and POs unfairly.

Finally, in 1978 the Legislature stipulated another long list of crimes that may not be adjusted without the permission of the Corporation Counsel who prosecutes the 'regular' JD petitions. Significantly, this time DOP did not even prepare its usual forms. There are no statistics on how many, if any, requests to adjust these cases have been submitted. To complete this dimunition of the Intake POs authority, the Legislature - again in 1978 - provided that cases of juvenile offenders removed back to the Family Court may not be seen by Intake.

How the Process Works

There is an Intake section in each court house with waiting room space, a reception area, and individual offices. There are separate waiting rooms for adults and children and, in most cases, the line POs will work with either ju-

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* Family Court - Myths, Realities of Little-Understood Tribunal, Hon. Edith Miller, Administrative Judge, New York City Family Court, New York Law Journal, New York, N.Y. 5/4/82.

venile or adult cases. The unit is headed by an Intake Supervisor.*

Alleged delinquent and PINS children are expected to arrive at 9 A.M. and register at the reception desk. The clerk checks with a computer system, known as the Juvenile Justice Information System or JJIS, to search the records in the City's other four boroughs for the child's past history, if any. Since the computer records only go back to January, 1981 and additionally are incomplete, this procedure must or should be supplemented by a manual search of the particular borough's own records and telephone calls to the others.** When this has been completed the case is assigned to a probation officer. When the child comes in on an appointment some of this will be done ahead of time.

PINS children - The vast majority of PINS children are brought to Probation Intake by their parent (s); a considerably fewer number, by school attendance officers or a service agency. In some boroughs, all alleged PINS will be assigned to a 'sift' officer while in other boroughs they will go to any of the POs on duty. The Intake PO will make efforts to reconcile child and parent or to refer for services. Every effort is made to divert these children from the Court.

Generally, these children are 'walk-ins' - that is, a prior appointment has not been made. If the parent is adamant about not taking the child home, the

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* This is a PO with management responsibility as opposed to a field supervision officer. Until recently, the Kings County probation service was divided into three branches - one each for Intake, Investigations and Supervision with a branch chief heading each one.

** For a more complete discussion, see Chapter VI.

child will be 'referred to petition' - that is, sent to Court - in hopes that the Court will persuade the parent to relent or order the City's Human Resources Administration/Special Services for Children to provide emergency shelter. Efforts will be made to have the parent seek a voluntary placement on his or her own before the latter is done.

Delinquent children - again in the vast majority children charged with delinquency are referred or brought to Intake by police officers. Children who have been apprehended (i.e., arrested) for minor offenses are frequently released to parents at the precinct with the approval of the desk officer - in other words, a Police Department/Adjustment. If the decision is to proceed to Court efforts are made to secure an orderly flow of the cases so that police officers will not be unduly delayed by the process, so that the Intake officers will not be "overwhelmed" by numbers, and to assure an orderly process in the Court for those children referred to petition. There are three methods that are used:

(1) The police may release on own recognizance (ROR), that is release a child to his parents upon a written undertaking to assure the child's presence in Court on an appointed date.

Before a determination of ROR is made, the police officer will have (1) checked the Department's Warrant Section for outstanding warrants and the Youth Records Section for prior arrests; (2) completed an arrest report, probation intake referral form, and a civilian complaint form; and (3) scheduled an appointment with Intake through a Police Department unit known as the Wagon Board.

The Wagon Board is expected to have a reasonable idea of the number of cases scheduled for Probation Intake in each borough through its own records and communication with the POs. Certain categories of allegations must be seen

on the next day the Court is in session; others within 5 working days, 7 - 8 working days, 9 - 10 working days and all others within 12 working days. (See Appendix E)*

(2) A child who is apprehended during hours that the Court is in session and not given ROR is supposed to be taken to Court that same day. This occurs when a child's parent(s) has not been located, since the police may not question a child without a parent or other responsible adult being present, and, of course, in cases in which the police would not consider ROR.

(3) A child apprehended when the Court is not in session and not released on ROR is taken to the City's Juvenile Detention Center (Spofford). That child must be taken to Intake on the next Court day.

Intake POs are supposed to make efforts to adjust appropriate cases of delinquents seen at Intake with referrals for service. However, as noted this has been attempted for only two of the restrictive JDs and no information is available as to Intake action for those cases in which consent of the Corporation Counsel must be secured.

The Intake Interview is a crucial one. Not only does it determine whether some children will actually have a case filed against them, it represents to those brought to Court for the first time their first encounter with an authority

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* Discussion with Wagon Board officers, 6/29/81. This procedure, known as the "Officer Excusal Program," was begun in 1972 by agreement between the Police and Probation Departments. In 1980, 9,749 children were scheduled for probation Intake by the Wagon Board. The papers are forwarded to Probation Intake, the police officer does not have to appear at Court until his testimony is required and the POs are able to do an advance search of their records.

CCC was told by probation officers that the program, in general, is a good one. However, the POs noted that the police did not always secure a witness' signature or inform the complainant that he must appear at Intake. They also said that, not too infrequently, the children arrived before the papers did. Both lapses resulted (often they said) in what they described as "forced dismissals" or cases being "terminated without adjustment."

figure in the court setting. The Intake PO is expected to interview all persons involved in a case, to explain their rights to them as well as the role of Probation Intake.

This explanation is particularly delicate and important since all that happens in the intake process is supposed to be voluntary. As many have asked, if you have a choice of going to a mental health clinic, for example, or going to court 'how voluntary is voluntary?'* In addition to the spoken explanation, each person involved in a case must be given a written statement. The latter is a page long, single spaced document written in formal and technical terms, English on one side and Spanish on the other.**

Customarily the PO will interview each party involved separately - the complainant, the child/respondant, the parent(s) and others - and then bring them together to discuss a plan of action or inform them of his decision. During these interviews the PO completes what is known as the 'face sheet,' recording the basic facts about the child and family, the allegations in the case, information about the complainant and similar information. When completed the document is sent to the clerk to enter into the computer.

Criteria for adjusting delinquency and PINS cases, long considered a somewhat arcane matter, was spelled out, to a degree, in 1978 when revised Family Court rules were promulgated. The PO is to take into account the age of the child, the seriousness of the act, the likelihood that the child will cooperate if the case is adjusted, past court and probation history and similar issues. The

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* Conscience and Convenience, supra at p. 8

** See Appendix F

complete rule appears as Appendix C.

An Intake Report is mandated by the Court rule and the DOF Family Service Guidelines for each child seen. It must include a detailed account of each interview including; allegations, complainant's statement, child's statement, school history, legal history, significant social history, recommendations and disposition. Records of adjusted cases are to reflect all subsequent contacts.

When CCC monitors observed and interviewed Intake POs, we were told that this requirement was 'unreasonable,' 'impossible to follow' and the like. We noted that frequently how the child was performing in school and 'significant social history' depended on what the child, parent or complainant said. The difficulties that POs - whether in Intake, Investigation or Supervision units - have in securing school information was stressed throughout our interviewing sessions.

In non-adjusted cases, the Intake PO is responsible for taking the folder, and appropriate forms to the petition room and escorting the child there. In the past, he was also expected to provide the Court with a recommendation on the needs for detention. The permissable grounds for detention of alleged JDs (belief that the child will commit a delinquent act or abscond if released) were challenged in 1981 in the Federal District Court.* Prediction of future delinquency was ruled unconstitutional by the district court and the decision has been upheld on appeal. As a result the Intake officer (1) makes no recommendation, (2) where there is a history of absconding, recommends detention and

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* Family Court Act, Sec. 739 (a). United States ex rel Martin v. Strassburg, 513 F. Supp. 691 (S.D.N.Y.) App. pdg. (2d Cir.)

(3) if the judge insists on a recommendation and there is no history of absonding recommends parole.*

Community Based Probation Intake Project**

In April 1979, the Criminal Justice Coordinating Council (CJCC) awarded $390,319 to the DOP and the New York City Police Department to operate a community intake project.*** Probation staff are stationed in precinct houses, one in each of the City's four large boroughs. The precincts selected are in high crime areas and all except the Brooklyn site serve several additional precincts. The most serious crimes, designated felony cases that cannot be adjusted by a PO alone, are excluded.

The project had a director stationed in the central office in Manhattan. Each precinct staff consisted initially of two probation intake officers, a Youth Aid officer from the Police Department, a paraprofessional called a 'probation assistant' and a clerk/receptionist. In the fall of 1982 the staff was reduced to one PO, the probation assistant and clerk. The offices used by the project are separated from the main activities of a police precinct.

The objectives of the project as stated in the grant award were to:

1. Reduce the number of juvenile delinquency cases and PINS petitions referred to court,
2. Reduce the number of intake cases terminated without adjustment.

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* Department of Probation, Executive Policy and Procedure No. 30-481

** This information is based on an evaluation of the first 10 months of the project conducted by CJCC and visits of CCC monitors.

***CJCC was the City agency responsible for distributing funds from the former Legal Enforcement Assistance Act and Juvenile Justice Delinquency Prevention Act.

3. Reduce the man hours spent by police at Family Court,
4. Limit recidivism in the diverted delinquent population,
5. Increase the use of alternatives available to the Intake probation officers through the use of established mediation techniques, and
6. Reduce the number of overnight remands of youngsters.*

Subsidiary objectives were to develop more information about community services, make it easier for working parents and complainants since each site was to be open until 8 P.M. at least several nights each week. In addition, they could be given specific time appointments as opposed to arriving at 9 A.M. in the main office where they might have to wait for many hours. Running throughout the document was the expressed intention of providing intensive and individualized treatment to cases under the adjustment process, particularly the PINS children.

Finally, since it was in the precinct and directly involved the Youth Aid police officers, it permitted an 'experiement' with resumed use of YD-1 cards. YD-1 cards are made up for children by police officers when they are suspected of a delinquent act but there is insufficient proof to warrant taking them to court. These cards were given to the Intake POs for many years. The practice was challenged in the Federal District Court and, in a stipulation entered into by the Police Department, the practice of giving them to probation at a decision making point was forbidden. (Cuevas v. Leary, Index No. 70 Civ. 2017 , 1972.)

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* When the police are unable to locate the parents of an alleged delinquent and the court is not in session, they will take the child to the City's Juvenile Detention Center. Frequently the child will be released by the Court the following day or have his case adjusted at Intake.

It should be noted that those unsubstantiated allegations had a ripple effect throughout the decision making processes of a juvenile case: affecting the Intake decision, the Investigation PO's recommendation, and utimately the disposition ordered by the judge by creating a pattern of illicit behavior - proven or unproven.

The evaluation by CJCC covered June, 1979 - April, 1980. It indicates that the project staff had an average case load of 39.1 per month as opposed to an average of 81.9 at the borough offices. CCC monitors visited each of the projects and inspected the log books. It appeared that on some days no cases were scheduled at all and there were seldom indications that more than 4 - 6 cases had been scheduled for a given day. The probation manual of services, first produced in 1978, was available at each site but did not appear to be up-dated.

Our monitors at one of the project sites waited for over an hour to interview one PO while she had her hair corn braided by a young girl. (We were assured that she was a neighborhood child, not a probation client.) At another site the PO had come in early because she wanted to leave early, thus vitiating the benefit to the clients of evening hours. There appeared to be a general lack of oversight of the projects.

Using the six objectives for the project, the CJCC evaluation staff measured the success of the program, as follows:

- o The percentage of delinquency cases sent to Court was substantially less than that of the branch offices: 36.4% vs. 55.9%. The differential for PINS cases, however, was 57.3% vs. 63.9%.

- o The percentage of cases terminated without adjustment was not reduced. It was 20.4% vs. 17.6% for delinquency cases and 4.8% vs. 5.9% for PINS cases.
- o The man hours spent by the police at Family Court was substantially reduced.
- o Recidivism rates for the project and the branch offices were 28% and 26% respectively.
- o The project provided services with less delay, kept cases open longer, and appeared to have provided more counselling and to do more referrals and follow up than the branch office.

The preceding information appears as the summary to the evaluation. In the text of the report it is noted that only approximately 1/2 of the 1,581 alleged delinquents and 1/3 of the 131 alleged PINS children received any service beyond the initial intake interview. Additionally, no efforts had been made to evaluate whether the project had reduced the number of overnight remands to detention since no records had been kept.

The project was refunded and continued until the fall of 1981. The federal funds disbursed by CJCC were drying up. It was reported that DOP had a choice of continuing the precinct project at its full staffing or establishing a "parenting program" for 300 parents of delinquent and PINS children and chose the latter. As noted, the programs continue with curtailed staff.

Some statistics

During calendar year 1980, the intake sections of Probation, citywide, interviewed the participants in a total of 234 alleged designated felony cases; 16,803 alleged juvenile delinquency cases and 5,111 alleged PINS cases and took the following actions:*

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* Statistics secured from DOP through exercise of the Freedom of Information Law.

	Designated Felonies	Juvenile Delinquents	PINS
Referred to Petition	234	9,842	3,244
Adjusted by probation only	--	3,569	753
Adjusted by referral to community agency	--	786	702
TOTAL adjusted	--	4,355	1,455
Terminated without adjustment	--	2,118	254

CCC has been told by those knowledgeable in the field - probation officers and representatives of voluntary child care agencies - that 'adjusted by probation only' generally means, as it did at the precinct projects, that the child was seen for the intake interview only. The same sources have stated that the referral process consists primarily of providing the child and family with the address of an agency where they might get some help; that there is little if any follow up to see if the child actually went to, and was accepted by the agency and continued in the recommended program. When we interviewed Intake POs we were told that this was, indeed, the case: their case loads were 'too heavy' to permit follow-up.

In view of the widely expressed concern about recidivism by children whose cases are adjusted, CCC used the Freedom of Information Law to request statistics on the number of "new complaints on respondants returning to intake within 12 months." The City's statistical form (DP 30) used to collect data for reporting to the State Division of Probation has space for the provision of this information.

The response received from the FOI Access Officer was that the request "does not relate to any data which this agency collects for DP 30 or any other purposes."* As a result of this failure to collect basis data neither DOP nor the public can evaluate the effectiveness of the Intake screening process.

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* Letter from Howard W. Yagerman, Esq., Freedom of Information Law Access Officer, March 31, 1982.

CHAPTER IV. INVESTIGATION RESPONSIBILITIES OF PROBATION

"I invariably reported to the court, a true statement of the case, to the best of my knowledge, which was the result of personal observation and requested the court to dispose of them in a manner in which I should have done had I held the office of a judge, but, of course, the opinion of the court was in many cases different from my own."

John Augustus
First Probation Officer

An 11 Year Old Boy In New York City

This boy lived in a housing project with his mother and sister when he was arrested for petty larceny in the fall of 1980. He had a history of 12 prior court contacts in 1979 and 1980, in two of the City's boroughs - a melange of PINS and minor delinquency charges.

"My impression," wrote CCC's case reader, "was that the investigation report was an honest and straightforward presentation of this child - a balance of his personal strengths as well as his problems. The situation in his family is clearly presented. The PO had made a visit to the voluntary child care agency that accepted him for residential care."

The report was completed 10 days after it was ordered since the child, known to be a 'runner,' was in detention. "The assessment of the child had been made by a voluntary child care agency at the time of an earlier petition," the case reader noted, "but it had been brought up to date. Everything about the report portrayed a conscientious and competent PO who secured information promptly, made and followed up on referrals." The folder was described as neat, well ordered and complete.

A 14 Year Old Boy In New York City

This young boy had a past court history of three delinquency petitions when he was arrested for criminal mischief and burglary 3°. The investigation report was not completed until three months after it was ordered. A disposition was not ordered until five months later while the boy was referred to and rejected by nine voluntary agencies by an experimental 'Resource Assessment Panel.' During much of the 8 month period the boy was in and out of the Juvenile Detention Center.

"The investigation report is the worst I have read to date," wrote CCC's case reader. "It contains nothing about his social history but does recite the court history in great detail. Where there was some attempt to deal with the family situation it appeared - from other material in the folder - that she was confusing siblings with nieces and nephews."

"Not only was it a completely negative report, it was incomplete and the folder was totally disorganized. Probation recommended placement but gave no reason for the recommendation. The Resource Assessment Panel finally recommended placement with the State Division for Youth because they could find nothing else. One has to wonder if the report had been positive and complete something better than a secure facility could have been found."

The boy was placed with the Division for Youth with an order that he be in a secure facility for at least six months.

Chapter IV: INVESTIGATION RESPONSIBILITIES OF THE DOP

There are two steps in the process of determining that a child is delinquent or a person in need of supervision (PINS). The Court must first determine, on the basis of proof beyond a reasonable doubt, that the child committed the act or exhibited the behavior alleged in the petition. This proceeding is known as the fact-finding hearing.* The Court must then determine, on the basis of the preponderance of the evidence, that the alleged delinquent is in need of supervision, treatment or confinement or the alleged PINS child is in need of supervision or treatment. Only when the latter has been determined, may the Court order a disposition. The latter process is known as the dispositional hearing.**

The activities of the probation officers - prior to and during the dispositional hearing - are crucial during this time, in the life of the child and in the effectiveness of the Court in devising an appropriate disposition. At the conclusion of a fact-finding hearing, the Court will almost invariably order and 'I and R,' or an investigation and report from the DOP. The investiga-

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* Family Court Act, Sec. 712 (f)

** Family Court Act, Sec. 712 (g)

tion is a review of the child's social history and needs, family environment, legal history and similar issues as opposed to an investigation of the facts of the particular case.

The permissable time periods between the bi-furcated hearings are prescribed by the Family Court Act and depend in part on the sub-category of the alleged delinquency and in part on whether the child is being held in detention. The I and R is supposed to be completed by the date set for the dispositional hearing and, in the case of designated felonies, at least five days in advance.

The procedures for conducting an investigation as well as the format and contents of the report are specified in the various policy statements and guidelines issued by the DOP and the State Division. CCC monitors observed the investigative process in the POs' offices and interviewed a number of investigating POs in the Queens and Brooklyn court houses during the spring and summer of 1981. In addition, we read through a number of case records prior to DOP's withdrawing its cooperation with this CCC study.

There are three crucial areas in the I and R procedure that should be assessed: the quality of the report and timeliness of its completion; the presentation of the report and recommendation in the court room; and the implementation of the Court's dispositional order.

Quality and Timeliness

The Family Court Service Guidelines suggest that some or all of the following areas should be covered, depending on the type of case.

1. Present offense

   Violations against a person including the circumstances, age and physical condition of the victim; the injuries to the victim and attitude of the victim.

   Violations against property including the extent of theft or vandalism.

   Attitude of respondent child including his understanding of the act, his emotional attitude, whether he was a leader or follower.

2. Legal history

   A consideration (and listing) of all past and pending petitions, including adjustments at Intake.

3. Family and environment

   Relationship within the family; "the strengths and weaknesses of the respondent, as evidenced in the physical and emotional tones of the home must be observed".....; the attitude of parents(s) to child and child to parent; the physical conditions of the home.

4. The respondent child

   Present functioning and ability to change; a descriptive profile, present and past educational situation; medical history.

5. Evaluative statement

   An assessment of the child's "total functioning" and identification of strengths and weaknesses; an assessment of whether past court history indicates a risk to self or community.

6. Recommendation:

   Based on the foregoing material, the PO "must determine that placement, probation or discharge is indicated." (The service guidelines provide for only these recommendations although the Court has three additional dispositions that may be ordered.)

It should be noted that in almost all cases the Court orders a psychiatric and psychological evaluation at the time the I & R is ordered. When a finding of a designated felony has been made the probation assessment, school reports and mental health examinations must be quite extensive.

The Court's Mental Health Services (MHS) will not, save under exceptional circumstances, undertake the psychiatric and psychological examinations until

Probation has completed its social history. The investigating POs are responsible for notifying MHS and providing them with the information necessary for scheduling appointments.*

Once all the required material has been assembled it may be made available, in whole or in part at the option of the judge, to the child's attorney and the prosecutor in regular delinquency and PINS cases. Where the case involves a designated felony, it must be given to the judge and attorneys at least five days before the dispositional hearing. In these cases, the PO must make a recommendation to the judge on the need for a restrictive placement for the protection of the community.**

As noted earlier, CCC monitors interviewed investigating POs, observed them interviewing clients and read some 65 of their reports to consider the quality and the timeliness of their presentation. In addition, we spoke to over 50 children about their recollections of this process.

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* There are mental health units stationed in the court houses of each of the four large boroughs, consisting of psychiatrists, psychologists and social workers. The service is governed jointly by the Court and the City Department of Mental Health, Mental Retardation and Alcoholism Services. CCC Task Force members met with the director of MHS and discussed the service with the Investigation POs whom we interviewed.

There seemed to be little substantive communication between probation officers and the MHS staff, the two auxiliary services so important for the child and essential for an appropriate judicial decision. Several POs spoke resentfully about having to hurry with their social history so it could be 'cribbed by some psychiatrist.' Others, however, said that they found the MHS reports helpful, in some cases extremely helpful, in framing their recommendations. As to the latter, when there are case conferences involving staff from the two services, it is on an informal basis. It is not even suggested in the Family Court Services Guidelines.

** See Appendix D

When a case is referred for investigation, the PO will have the folder that includes records from past petitions, if any, as well as Intake material for the case in which the finding has been made, and any earlier cases. Prior to the fall of 1981, probation officers, known as Court Liaison Officers, (CLOs) were stationed in the trial parts of the Court and made notes of the findings, orders and other pertinent material for their own use and that of the Investigation PO. The CLOs were abruptly withdrawn, however, and replaced by a system of 'floating CLOs' who appear at dispositional hearings.* As a result the investigating PO has less information than before and is not always informed, in a timely fashion, that an investigation has been ordered.

The usual procedure is for the PO to meet with the child and parents in his office, securing as much of the information listed above as possible and obtaining signed releases for school, medical and, where indicated, mental health information. Interviews with complainants occur from time to time but CCC monitors were told by the POs that, in almost all instances, the complainant's attitude is determined through telephone contacts, if at all.

The Guidelines states that "Home and Collateral visists must be made." Indeed, it is hard to see how an evaluation of family relationships and home conditions can be made absent such visits. The Guidelines go on to state, however, that a supervisor may grant exceptions to this provision in consideration of (1) the safety of a staff member or (2) when circumstances indicate that a home visit is "inappropriate " or is "not feasible."

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* As in so many procedures, the way floating CLOs are used varies from borough to borough. In some boroughs, one person covers two court rooms; in others, three.

Some investigation POs told the CCC observers that they seldom made home visits; others, that they never made them unless they were specifically ordered by the Court - that it was too dangerous or their case load was so large that there was no time. None of the 51 children whom we interviewed as a separate part of this study had any memory of a visit to their home during this part of their Court experience.

In a review of 65 probation folders, CCC case readers found that field visits had been made in seven cases - one at the specific behest of the Court and one that consisted of a meeting with a mother and her paramour on a street corner. Permission to omit the home visit is supposed to be granted by the investigating PO's supervisor in writing and made a part of the case record. No such excuses were found.*

Again the I & Rs are supposed to be reviewed, concurred in and countersigned by the investigating PO's supervisor. The concurring signature appeared on only a few of the reports. The investigating POs frequently complained to CCC observers of the failure of their supervisors to assist them, particularly in difficult cases, and indicated that this group did not carry a full workload.

One of the perennial complaints about Probation Investigations has been that the quality is poor: that the recommendations do not seem to stem from the investigation itself but to rest on value judgements of an individual PO,

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* Our review of case folders, particularly of the investigation reports, did not embrace a sufficiently large sample for us to make definitive statements on that basis alone. However, we present here what information we were able to garner plus the comments of the POs themselves, attorneys, judges and others that work in the system.

particularly in delinquency cases; that the folders are full of unverified material and material that is not necessary either to guide a judicial decision or for the implementation of a judicial order; that delay in producing the I & R causes repeated adjournments of dispositional hearings.

CCC had heard all of these complaints prior to the present study and has heard them anew as the study progressed. They have come from the POs themselves as well as from judges, defense and prosecuting attorneys and social workers in service agencies. The DOP withdrew its cooperation before CCC case readers could review a sufficiently large number of cases to make as complete an assessment as we would have liked.

Based on the small sample of 65 cases, one must say that - at least in those cases - the quality of the evaluation, recommendation and reasons for the recommendation varied so widely that they seemed to reflect workers untrained for any standard operating procedure within one citywide department designed to provide justice for children. Many of the folders were reported to be disorganized or chaotic by our case readers. All were reported to contain unverified material - ranging from a telephone report of excessive truancy with no indication of the source of the report, to the complainant's statement that he "believes the kid has been ripping off the neighborhood for months."

Court delays, attributable directly to a delay in the completion of the I & R, was apparent in 20 cases. Delay in other cases could be attributed to the fact that the Court ordered 'exploration of placement.' This warrants further consideration (See below, p. 54)

The Probation Officer in the Courtroom

As noted above, the Court Liaison Officers were abruptly removed from the trial parts in the fall of 1981. DOP's administration conducted an 'audit' of the position, based apparently on the actual court room activity and determined that these POs could be better utilized elsewhere.* Some of the judges were consulted during the audit but far from all of them. There are at present CLOs stationed in the Court Intake Parts (essentially arraignment parts) and several 'floating CLOs' in each Court house. The floaters go from one trial part to another as their presence is required during a dispositional hearing.

The CLOs in the trial parts had carried a number of important responsibilities: (1) they notified other sections of probation when the Court - for example - ordered an investigation or an order of disposition; (2) secured emergency shelter for some children and transmitted orders for the detention of others; (3) presented the I & R to the Court during the dispositional hearing, and (4) secured the probation records that would be needed for the next day's calendar. Being present during the fact-finding hearing enabled the CLO to have a deeper knowledge of the dynamics of the case and assisted in smoother operation of the proceedings. Additionally, they frequently suggested - to a busy judge trying to handle a heavy calendar - some interim measure such as referral to Probation's community based Alternatives to Detention program. (See below, P.57 for a discussion of ATD).

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* DOP refused to grant our Freedom of Information Law request for the audit on the grounds that "the documents and data requested are non-final recommendations to the Agency Head which are specifically excluded from Freedom of Information Law discovery." Letter from Howard W. Yagerman, Esq., Supra at page 37.

CCC observers were in the court houses during the summer and early fall of 1981 and then again in August, 1982. They observed courtroom activities when the CLOs were there and when they had been removed. What has happened then to the responsibilities formerly handled by the CLOs?

Transmittal of information - There are four major types of information that need to be transmitted from the courtroom to other parts of the system: (1) order for an I & R with the necessary dates and other information; (2) notice that a case has been 'adjourned in contemplation of dismissal' (ACD), (3) the need for emergency shelter, and (4) notification that the child has been sent to detention. Some of these responsibilities have been picked up by court clerks and uniformed court officers. Other information is secured by the Investigation unit through perusal of court calendars which may or may not be complete and legible.* When delay occurs in Probation's awareness that an investigation has been ordered, delay in its production can be expected.

An order to adjourn a case in contemplation of dismissal can come before, during or after a fact-finding hearing and at the time of a dispositional hearing.** The case is then supposed to be logged with Probation Investigations - name, address, age, sex and expiration of the adjourned period. At the end of the specified time, if the child has not gotten into any further trouble the case is dismissed. If there are additional problems, however, the Court is supposed to be notified by Probation and the ACD'd case can be reopened.

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* Statement by the Deputy Commissioner for Family Court Services that the latter would be the process.

** Note that this is not given in the Family Court Service Guidelines as a permissable recommendation for probation to submit to the Court. ACDs are dealt with more substantively in Chapter V.

This, then, becomes important information for the Court, for Probation Intake, for Investigations, and for the children. Some judges have indicated a belief that the information is not being adequately or completely recorded and monitored by Probation.

Delay in the Court occurs for several reasons. The CLOs had traditionally been responsible for securing the probation folders for the next day's calendar so that they were available for the first calendar call. This made it possible for the judge, alone or in consultation with the PO and others in the court room, to plan the ordering of the cases. Now, with one CLO attempting to cover two or three trial parts, the folders are frequently late in arriving. The problems can be compounded when cases are placed on the calendar as emergencies. Past records have to be located and reviewed for material that is permissable for the judge to have. One judge has commented that he has asked the child's counsel on occasion to review the probation folder when he has a busy calendar and the CLO is unavailable.

Professional presentation of the probation material is a key issue. Hand in hand with the provision of probation material to the respective attorneys has come increased use of the cross examination techniques of an adult trial.

In the past CLOs have been expected to present the probation recommendation and the reasons for it. Now, since they are covering several parts, they may be expected to explain a recommendation in a case about which they have no personal knowledge since they were not present at fact-finding and have not been able to discuss it with the investigating PO.

In 1981, CCC monitors were told by the CLOs that they resented the cross examination to which they were subjected; that, if they were to be cross examined, they should have attorneys to represent them. When CCC returned to the Court

in 1982, the resentment seemed even greater. This time, too, the judges were strong in their denunciation of the lack of a 'CLO of my own.'

Said one judge, "Things grind to a stand still as I wait for a fragmented CLO to come and straighten out a messy folder so we can find the recommendations." Said a CLO, "Your Honor, I'd like a short adjournment so I can read the report and speak to the PO who prepared it. Then maybe I can defend myself against these lawyers."*

Some judges have begun to insist that the Investigation POs appear in person. Another judge summed up what appeared to some CCC monitors to be the feeling of most of the judges, "A PO is supposed to provide the court with a professional opinion on a disposition that will satisfy the needs of the child and the interest of the community. Defense and prosecution attorneys have every right to try and carry the day for their side. If the PO can't stand the gaff - or his material won't bear close inspection - perhaps he belongs elsewhere. The issues, of course, are competence, training, self confidence and enough time to do the job."

Implementation of the Court's Dispositional Order

DOP's Family Court Services Guidelines state that "The Investigating Officer must determine that placement, probation or discharge is indicated," making it appear that these are the only recommendations that the PO may or should submit to the Court. The Guidelines later contradict themselves stating the need for a recommendation as to whether a restrictive or non-restrictive placement should be ordered in designated felony cases. Not mentioned in the Guidelines is the

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* Observations in the courtrooms, and discussions with judges, August and September, 1982.

fact that the Court may place an adjudicated delinquent with the Division for Youth and authorize the Division to hold the child in a secure or non-secure facility and transfer from one type of facility to another within 60 days without further hearings.*

Additionally, for both delinquent and PINS children the Court may suspend judgment, place the children with the Commissioner of Social Services or Division for Youth. Delinquent children may be transferred to the State Office of Mental Health or State Office of Mental Retardation and may be ordered to make restitution. PINS children may be dismissed with a warning.**

One would think that the authority or responsibility of an Investigation probation officer would extend to making recommendations for any of the possible dispositions. The Guidelines are silent however. One Investigation probation officer told CCC that her supervisor would never allow her to recommend discharge of a child on whom a finding has been made.

When probation is recommended, the investigating officer is responsible for preparing the order and the conditions of probation (See Appendix G) for submission to the Court along with any special conditions that relate to the reasons for the recommendation.

By far the most difficult work for the Investigations officers is the location of placement for seriously disturbed children. The Court may place delinquent children with the New York State Division for Youth, Title III, and must place children given restrictive placements with that agency. DFY, Title

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* F.C.A. 756 (a) (iii) (1)

** See F.C.A. Article 7, generally.

III must accept all children placed with it. All other child care agencies, (including DFY, Title II) may pick and choose the children they will accept for residential care.* It is the responsibility of the Investigations POs to refer children to the various agencies according to the age, sex and religion served by the agency and the needs of the particular child. While the referral process is going on the child may be in secure or non-secure detention or returned to his or her home.

CCC case readers found multiple referrals in many of the probation folders, that is records of children referred to 10 agencies at the same time. One probation officer told us, about one child, that she 'knew the agencies wouldn't take the child but I have to have 10 rejections before I can recommend DFY, Title III.' Over the years there have been a number of efforts to 'get around' this problem.

In 1974 the Legal Aid Society's Juvenile Rights Division was given a federal grant to employ a social work staff. These workers are present in each of the courthouses, to assist the lawyers in assessing the children's needs and, if placement is an issue, to help secure it. The program has been institutionalized now and is paid, as are the lawyers, from the state budget. With what appears to be a greater dedication to their client's needs, these workers seem able to secure placement with a voluntary child care agency or with DFY Title II more successfully than the Investigations POs.**

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* See, generally, New York State Executive and Social Services Laws, McKinney's, West Publishing Co., St. Paul, Minn. Vols. 18 and 52.

** Comments of Judges of the Family Court.

A number of judges have indicated their belief that this is because a child is presented by the Legal Aid social worker in a positive and individualized manner.

In 1980, a special program was started in Brooklyn. A Resource Assessment Panel (RAP) was established. Its members consisted of a representative of the City's Special Services for Children, the Division for Youth, the City's Department of Juvenile Justice and DOP. The records for all children for whom placement was to be sought (other than DFY III) were referred to the RAP which was supposed to make specialized referrals both for placement and alternatives to placement.

This panel set as its goals:

- To increase the likelihood that each juvenile delinquent and PINS is provided with the best treatment alternative consistent with his/her needs.
- To reduce costs by reducing inappropriate reliance on residential placement.
- To reduce the length of time between the issuing of an order to explore placement and final disposition of the case.
- To identify gaps and needs in available dispositional alternatives, and encourage the implementation of programs to address these needs.

As always it is difficult, after the fact, to discover the rationale for all of the elements of a particular program. In this case it is doubly so since CJCC, the agency that provided the $100,000 per year grant, has closed and the personnel responsible for helping to develop the program and evaluate

it have scattered. CJCC conducted an evaluation of the program covering the 10 month period, August, 1979 - May, 1980*

This evaluation indicates that it was originally estimated that there would be approximately 780 referrals to the panel annually, or 15 per week, for a variety of services. During that period, however, the panel received 130 referrals and the evaluation anticipated that because of special efforts with the Brooklyn bench - the number would increase to 218 in its second year of operation. One must question the advance planning, on-going oversight, and information provided to other POs and judges.

In any event, the evaluation states that, early on, the Panel discovered that "the majority of the children referred to it, because of their serious emotional and social problems, do require institutional placement." Why was this not known earlier? Did the four agencies not have a sense, at least, of the kind of children with whom they had been dealing for many years?

Additionally, what was the basis for projecting the numbers? From all of New York City, in calendar year 1978, a total of 1,388 children were placed; from Brooklyn, a total of 508.** By August, 1979, when the panel began its work the effects of the Juvenile Offender Law were apparent. During calendar year 1979, citywide a total of 745 children were placed; 126, from Brooklyn.* Since

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* The evaluation states that, while there was a clerical coordinator none of the professionals was in charge. As a result the work was uneven, with delays and serious omissions on the part of one worker in particular.

** These figures are taken from the First and Second Annual Report of the Chief Administrator of the Courts, New York, N.Y. 1980. DOP does not account statistically for the number of placements secured although these efforts require a significant amount of an Investigation PO's time.

children ordered confined under the JO Law or as restrictive placements may only go to DFY, Title III, this could have been anticipated. Those children would not even have access to the Panel

The evaluator notes that, at the end of the 10 months, dispositions had been ordered for 75 of the 130 children referred to it (approximately 58%). Of these dispositions, 45 represented the Panel's first choice; five, its second choice while 17 were not a Panel choice and eight cases were dismissed. It should be noted that four of the children were eventually placed with DFY, Title III and 12 were placed on Probation Supervision.

CCC monitors had read this evaluation prior to our interviews and observations of POs in the Brooklyn Court and sought to determine some of the reasons that the Panel was not utilized to a greater extent. The paraphrased answers received included 'No one wants these kids; you can't ram them down some one's throat.' 'They don't do any better than we do. I only refer to the Panel for placement.' (An investigating PO.) 'I heard something about the Panel but I don't really know who they are or what they're supposed to do.' (Several judges.) The head of the investigations unit indicated that she felt some of the Panel's recommendations were inappropriate. She indicated that they frequently 'gave up' and recommended supervision for children for whom they had initially recommended placement.

The evaluation sets forth clearly some of the problems that exist in the investigation/disposition process, perhaps the foremost being labled 'missing information.' The document lists 80 cases in which one or more of the items needed for assessment or referral, or both, were missing: psychiatric and psychological evaluations (39 cases), adjustment reports from placement or remand agencies (18), diagnostic reports from remand agencies (10), educational assessments and reports (5), medical or neurological reports (4) other (4).

While not attempting to assess blame to either the investigating POs or the panel workers, the evaluator does note that delay - in some cases, excessive delay - led the Court to order inappropriate dispositions or to dismiss some cases.

The RAP was discontinued in the fall of 1981, after a little more than two years. Statistics on its second year of operation are not available.

Perhaps there are lessons to be learned from this and other short term efforts.

In the mid-1970s, regular meetings, chaired by the Deputy Executive Officer of the Court were held in each courthouse. Representatives of the DOP units, Legal Aid Society, Corporation Counsel, Mental Health Services and the Court clerks met to discuss mutual problems and methods of addressing them. Until the meetings were discontinued under a new Court administration, the left hand appeared to know what the right hand was doing. Judges were kept aware of new or changing programs by a combination of their court clerk, the now missing Court Liaison Officers and attorneys.

Alternatives to Detention (ATD)

Early in the 1970s, juvenile probation (then the Office of Probation) operated several different programs designed to provide alternatives to secure detention and other institutions. All of them survived in some form both the structural changes in the City's probation services and the City's fiscal crisis. One was left with the Department of Probation and the others were transferred to Special Services for Children to which the operation of all detention facilities, secure and non-secure, had been transferred.

DOP now operates day/evening centers in each of the four large areas. The program consists basically of edcation in the morning with teachers supplied by

the City Board of Education; recreation in the afternoon, including trips to museums, zoos and the like, as well as pool, basketball and other sports. Recreation is provided two evenings a week from 5 - 9 P.M. for children assigned to the ATD centers and for community residents in Manhattan, the Bronx and Brooklyn. The Queens evening program is limited to the ATD children.

CCC monitors were told by workers at the centers that they had children enrolled who were in virtually every stage of the court process - from Court intake through to disposition. The program is designed to provide a structured setting for the children, with some Court "clout," while allowing them to remain at home.*

Overall supervision of the Centers is provided by a branch chief who is physically situated in the Manhattan Center. Staffing and capacity for the four centers are:**

	Children	POs	Teachers	Community Assistants
Manhattan	30	2	3	2
Brooklyn	30	4	4	2
Bronx	20	2	2	2
Queens	20	2	2	1

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* It should be noted that Prof. Charles Linder, John Jay College of Criminal Justice and a former employee of DOP, has stated that the program is only open to adjudicated children. Journal of Probation and Parole, New York, N.Y. Fall, 1981.

** In addition, each center has a clerical worker.

CCC Task Force members and staff were told by the branch chief that generally 75% of the enrollees are Black; 23%, Hispanic, and at the most 1 - 2%, White or other. Boys out number girls, 9 to 1. The average stay is 2 & 1/2 - 3 months although some children have remained enrolled for much longer periods. DOP reported to Citizens' Committee in response to our Freedom of Information Law request that only 12 children had been removed as disruptive between July 1, 1981 and December 31, 1981. This statistic was not kept earlier.

CCC monitors visited all four sites, two of them twice. The centers are located in rather low socio-economic areas and the facilities vary. Generally speaking, however, there are class rooms, areas to serve breakfast and lunch, and recreation areas. Some of the centers utilize the gyms of YMCAs.

The teachers are assigned by the Board of Education and are accountable to the principal of a public (cluster) school. Our monitors found a great variation in the quality of the education program - one site had only outdated texts and workbooks; another had a wood working program only because the teachers made the rounds of lumber shops periodically to collect scraps; one had well organized lesson plans while another did not appear to have the semblance of one.

The children are expected to arrive at 8 A.M. in time for a free breakfast. They attend classes from 9:30 to 12:30 when they break for lunch. Our monitors ate lunch with the children at several of the centers and found the food adequate for the most part, although frequently it needed to be supplemented by the POs from extra funds available to them. Recreation occupies the children until 3:30 when they are dismissed.

There are "rap sessions" and counselling or crisis intervention on an 'as needed basis.' There is no attempt at formal individual or group counselling because of the transient nature of the centers' populations and the short time

they will be there. A movie is shown once a week and there is an expedition once a week for those who have earned it on the basis of attendance, behavior and the like. The costs of the trips and daily carfare to and from the Centers are both provided by the program.

Wake-up calls are made to some children, particularly if they are poor attenders or scheduled to appear in Court or for some other appointment such as a mental health examination. Reports on a youth's progress are made to the Court on request, and on occasion, a PO or community assistant will accompany a youth to the Court. Home visits are said to be made by the community assistants, particularly in cases where the youth does not turn up for a number of days.

The ATD program is one probation activity about which CCC has received only good comments from judges. Most of the comments from attorneys and POs stationed in the court house were positive as well. Some of the POs at the centers, however, were critical of the overall probation administration, the failure to provide them with sufficient up-to-date materials for education and recreation, and the difficulties in getting 'competent' teachers.

The CCC monitors saw programs in which there was good interaction between the POs, community assistants and children; where children were occupied, for the most part peacefully and to an extent profitably. However, when we visited in October, we found that none of the centers was operating at full or nearly full capacity. It is also to be noted that there are no statistics kept on the 'success' rate of the program: that is, the number of children who stay out of trouble and out of Spofford while waiting a final order of disposition.

During the calendar year, 1980, 563 children spent 16,339 days at the ATD centers; in 1981, the figures were 503 children for 11,557 days.* The branch chief for the ATD programs told CCC that the overall budget for the program (not including teachers' salaries) in 1981 was $750,000.

During 1981, DOP prepared a plan to expand the programs because of severe overcrowding at the Spofford secure detention center. DOP declined our Freedom of Information Law request for a copy of this plan, which, in any event has not been implemented. It is estimated that it costs approxiamtely $161+ per day to maintain a child at Spofford. Taking the admittedly low figure of 11,557 days in 1981 and a total cost of $750,000 the per diem costs of ATD would stand at approximately $65.

It is difficult to see why the Department did not expand the program to save the City money - if not to save children from the trauma of removal from their homes and placement in secure detention.

Some More Statistics/What Nobody Knows

In calendar years, 1980 and 1981, the following probation investigations and reports were ordered by the Family Court judges in New York City.**

	1980	1981
Designated felony cases	90	51
Juvenile delinquency cases	2,168	2,086
PINS	688	820
	2,946	2,957

* The seemingly large drop in numbers from one year to the next can be explained by an absence of figures for four months in 1981 as opposed to one month in 1980.

** Information received under the Freedom of Information Law request.

There were, in addition, an unspecified number of investigations and reports in regard to juvenile offenders convicted by the Supreme Court in these years, that were prepared by POs assigned to the Family Court. Neither DOP nor the Office of Court Administration keep statistics for JOs as opposed to adults.

What do we not know?

One major area of information that is not covered by any part of the juvenile justice system is the extent to which probation recommendations are followed at disposition. CCC has been told repeatedly - by judges, POs and attorneys - that over and over the PO will submit an initial recommendation of "residential placement with a voluntary child care agency providing therapy." After attempts to secure that placement (earnest or not, depending on to whom you are speaking), we are told they will come back with secondary recommendations: probation supervision or placement with DFY III.

Except for the limited reported experience of the Resource Assessment Panel, there is no recent report documenting this. Certainly, we found this to be the situation in a good many of the case records in the limited sample we were able to examine.

Again, the quality of the investigations and assessments has been sharply criticized and we have only the limited experience of the RAP and CCC's more limited review of the case records on which to proceed. Both the quality of the recommendation and the availability of services are worthy subjects for research and action if the needs of court-related children are to be met.

Finally, we do not know the actual size of the case load carried by investigating POs. We were given a range of those whom we interviewed of 15 to 25 new cases a month plus those that were carry-overs from the preceeding month. LCER, however, indicates that in 1980 the average investigation PO had a total of 112 new cases a year, or 9 - 10 per month.

CHAPTER V. PROBATION SUPERVISION

Twelve boys, all of about nine or ten years of age, were brought into the Boston Municipal Court one afternoon last week....They had been convicted or pled guilty, and their sentences had been postponed; some for nearly a year. Most of them had been bailed by John Augustus....Mr Augustus had been watching over them, procurring them employment, or securing their attendance at school; and as to each boy he testified that he could learn nothing against his honesty or good behavior during the term of his probation.....

It was a scene both affecting and encouraging. We congratulate the community upon the hopes thus entertained of rescuing these unfortunate children from the characters and careers of felons.

Christian World, 1848

A 15 year old boy

This boy was apprehended for the sale and possession of heroin and resisting arrest. A finding of criminal possession of a controlled substance was made in June. The boy was placed on probation supervision pending transfer to the Job Corps.

Between that June and the following February 13, - 9 months - there was no record of (1) the boy appearing in the PO's office, of (2) anything other than a few telephone calls to the boy's home, or (3) any effort to speed up the Job Corps placement or find the boy a drug abuse program. He was discharged from probation supervision in February, having attained his 16th birthday.

Wrote the CCC case reader: "If anything this boy has been damaged. What respect can he have for a court order? What help is he going to get with drug abuse?"

A 14 year old boy

A boy, small for his age, apprehended for an 'in concert' robbery was placed by the Court under probation supervision, for two years. One year later, when the case folder was read, the boy was attending a special school and receiving speech therapy from an excellent hospital near by.

Wrote the CCC case reader, "Now here is a super probation officer. She referred the boy to the school and hospital; kept after them until they accepted him. She also saw him each month, in her office, and checked each month on his progress with the school and hospital. There are letters in the folder that indicate the kid is doing well."

Chapter V PROBATION SUPERVISION

As noted in earlier sections of this report, probation supervision has been viewed by some as "the brightest hope for corrections." Yet the practice has never lived up to the promise.

A delinquent child may be placed on probation for a period not to exceed two years and a PINS child, for a period not to exceed one year. In both cases, the probation period may be extended for an additional year if the Court finds that there are "exceptional circumstances" that warrant it. DOP's Guidelines direct the supervision PO to "develope a mutually acceptable plan" for the probationer, to establish effective relationships with the probationer and family; to interpret and clarify the rules of probation all in the interest of helping the probationer to modify his behavior and attitudes.

When CCC members interviewed Supervision POs they found the accustomed wide variety among them as to their perception of their clients, their jobs and how they proceeded. The Guidelines, however, are quite specific and, with one exception, quite complete. As noted above the period of probation may be extended. Although there are extensive directions and forms for keeping records of the activities during the probationary period and for terminating probation, there are no forms for requesting an extension of probation. One Supervision PO interviewed by a CCC monitor insisted that 'we cannot have supervision extended' while another replied that 'we'd have to be crazy to ask for more work.'

The opinons the judges have of the supervision provided by probation can perhaps be seen by the fact that, in calendar year 1981, they adjourned in contemplation of dismissal 1,700 of the delinquency and PINS petitions as opposed to placing only 1,217 on probation. (See Appendix H) It should be noted that no supervision is provided for ACD'd cases.

The process*

Within 72 hours of the time that a child is placed on probation, the Supervision PO is expected to interview the child, and, if possible, family members. Before this interview the PO is expected to have reviewed the investigation report so that he is acquainted with the case. Additional information, necessary for the appropriate handling of the case should be secured during the interview and the conditions of probation should be explained to both child and family members.

Thereafter, within thirty days, a supervision plan is to be developed through "a mutual goal setting process" between the probationer, his parents and the PO. This plan is supposed to be approved by the Supervision PO's supervisor. When CCC case readers reviewed the folders, we did not find that this had occurred in more than a few of the cases in the sample we were able to review. This treatment plan and the probationer's progress are supposed to be reviewed every three months, modified as necessary, and summarized. Again the

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* As prescribed in the Guidelines.

CCC case readers found little evidence of this. Indeed, here again, we were told by line POs that their supervisors were of little or no help in evaluating their clients' programs, summarizing cases and the like.

Rather, we found lists of dates when probationers did or did not appear for an office appointment, occasional letters instructing them to appear, and occasional referrals for services to other agencies. The Guidelines state that home and collateral visits are to be made "when deemed necessary" but we found little evidence that they were. Supervision POs whom we interviewed repeated the same statements their colleagues in investigations had made: it was too dangerous, the case load was too heavy.

A violation of probation exists when one or some of the conditions of probation, as promulgated by the Court, are not met or when a child is rearrested. In these cases the Court may continue the period of probation or terminate it because of the rearrest. Probation is terminated, other than by the expiration of the term, and extended by the filing of a petition. It is significant that the Guidelines are quite complete about terminations, ignore extensions and that no statistics are kept about either.

Adjournments in contemplation of dismissal

The Family Court Act authorizes the adjournment in contemplation of dismissal for up to six months and Family Court rules set the terms and conditions of the order. The DOP Guidelines provide that these cases will be supervised and that written reports will be provided to the court only for those cases that have a specific adjourned date and at least one court stipulated condition.

When CCC monitors met with probation officers and with judges, defense attorneys and prosecutors it was frankly stated that no service or supervision was provided. The POs stated that they logged the cases in, spoke to the child

and parent and told them what the condition(s) were and that if anything came up they could come to the courthouse and ask for help.

We note here that during the course of our study CCC members interviewed some 51 children to gather their perceptions of the juvenile justice system. We saw one child and mother at a mental health clinic and talked to them for quite a while. We rather felt that the boy's case had been adjourned in contemplation of dismissal and the director of the clinic later confirmed this. But neither the 13 year old boy nor his mother fully understood what that meant. This is another fall-out of the removal of the CLOs from the trial court parts, possibly. In the past the CLO might have given them at least a brief explanation before sending them on to the Investigation unit.

The practice of ordering an ACD for a delinquent or PINS child, long a disposition available for adults in criminal courts, began in the mid-1970s and at first grew apace. By 1981, this dispositional order was decreasing somewhat but was still the most frequent disposition.*

In 1981, the cases of 1,217 delinquent boys were ordered ACD'd - 20% of the total delinquency proceedings against boys. Thirteen percent of the boys were placed in an institution and 14% (831) were placed on Probation Supervision. In two percent of the cases judgment was suspended; the remainder were dismissed at various time and for various reasons during the process. (See Appendix H)

One judge told CCC monitors that he ordered an ACD for a good many youths but would prefer to put them on Probation Supervision with a condition that no

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* The following figures are taken from the Annual Reports of the Office of the Chief Administrative Judge, New York, N.Y.

services were to be provided. His reasoning was that if a child is officially on probation he, the judge, has a greater degree of control over the child and for a year or two years as opposed to the six month ACD. He believes that placing a child under supervision with the notion that services will be provided simply breeds cynicism in the child who receives neither supervision nor services.

One CCC monitor wrote "I am absolutely furious. One boy asked for help in getting a job - he was referred to the State Employment Office. Another quite small boy wanted to change schools because, he said, he was always being beaten up by bigger boys. The PO said 'he'd see.' At most he spent 15 minutes with each of these boys. Two other kids didn't show up and he had nothing else to do all day! Heavy case load?"

However, another monitor wrote "I spent most of the day with a superb PO. She saw five kids and devoted her full attention to them while they were there - unhurried, warm, friendly. She's obviously making field visits. One boy said 'Gee, you know what it's like, Miss _____. You've been in my house.' Another child - 'I wasn't really going to get high when you found me down at the project the other night.' One kid wanted help in getting a part time job and I am sure that the PO will locate something," concluded the monitor.

Quality of Supervision

Certainly, this is a key issue. LCER reports "New York City, which served 39 percent of the State's 1980 probation population, has experienced major probation staff cutbacks, resulting in high caseloads per probation officer, increased workload for Family Court and minimal supervision of City probationers."

In addition, 173 New York City probation officers - in December, 1980 - sent a "declaration of disclaimer" to court officials saying that they would accept additional cases "under duress" and refused responsibility for any problems that might arise with present or additional cases. It is uncertain whether POs assigned to the Family Court participated in that action. It is symptomatic of the problems of the Department as a whole, however. Certainly, it was among the Supervision units that we found the poorest morale, the greatest resentment directed at the DOP top administration on the one hand and at the lack of services on the other.

Chapter VI CONFIDENTIALITY/TECHNOLOGY/ACCURACY

One of the strong hopes of the juvenile court movement has always been that the delicate problems of children and families would be dealt with in confidence, without the glare of publicity and subsequent stigmata. This remains one of the significant goals of juvenile and family law and proceedings.

Probation folders almost always contain a great deal of private, some times intimate, information about a child and his family: special problems, mental health history, family income, interfamilial relationships and the like. Much of this material may be helpful to the judge in reaching his dispositional decision, to a PO supervising a child in the community or to an agency providing community services or residential care. Some of it is verified, some unverified; some of it stems from pure speculation - perhaps by a neighbor - and, at times, some of it flows from spite.

Probation folders, we are told, are seldom purged of unverified information or information unnecessary to a child's care, supervision or treatment. Information gathered on one case remains in the folder for use if the child returns on a subsequent case. Much of it appears to be appropriately disclosed to the various units of probation and to service agencies. At the same time, there appears to be a need to look at the procedures for safeguarding probation records.

As our monitors were in the courthouse and probation offices we did not find much concern for such safeguards. Rather, the folders appeared to be dealt with casually by some, left on tables in the courtrooms and in the Probation Record room. The Probation Record rooms, as well, seemed at times to be thoroughfares with many people in and out to remove or return files. In addition, many of the case records we had hoped to read were either mis-filed, lost or removed without insertion of an 'out' card - the latter intended to state who took it, the date and the purpose. Now another issue threatens the confidentiality of probation records - computerization.

In the early days of the New York State Family Court, there was a movement to establish a central registry of cases at least within New York City. It was intended to provide all parties with information in cases of multi-problem families when, for example, a neglect petition was pending against a parent(s) in one borough and delinquency or PINS petitions against children were pending in another borough or boroughs. Then, it was believed, the full benefits of the helping and rehabilitative services could be brought to the assistance of the family. All of this was to be done without public announcement.

As has been the case with so many matters that would enable the Family Court and its auxiliary services to function better for the children and families, the central registry was never established: 'too expensive,' 'too complicated.' As the 'law and order' issues came front and center, however, the situation has changed and technology has been developed. Let us look at the relevant sections of the Family Court Act first.

Sec. 166 provides that "records of any proceeding in the Family Court shall not be open to indiscriminate prublic inspection." The section permits the Court to allow agencies providing care for a child access to the records. Section 783

authorizes the use of Family Court records in other courts only when "imposing a sentence upon an adult after conviction." Both of these sections have been in the Family Court Act since the Court was established in 1962. Probation records are deemed to be court records under both sections.

When the Juvenile Justice Reform Act was passed in 1976, two significant sections were added to the statute. Sec. 782-a provides that, when a child is placed with a residential facility as a delinquent or PINS child, the agency must be provided with all court and probation records. Sec. 783-a provides that there shall be "an index of the records of the probation departments" for all delinquency and PINS proceedings in New York City. The state director of probation, "after consultation with the state administrative judge" is directed to specify the information to be collected and the organization of the index.

Several years later the Criminal Justice Coordinating Council (CJCC) applied for a federal grant to establish a computerized information system, now in existence and known as the Juvenile Justice Information System (JJIS). The CCC Task Force has studied the grant proposal carefully, observed the entry and retrieval of data in the system and discussed at length the accuracy and completeness of the material, how it should be disseminated and to whom. We have also discussed JJIS with the Administrative Judge of the Family Court, the Deputy Commissioner of Probation for Family Court Services and staff of the Criminal Justice Coordinator's office.

The grant proposal makes clear some of the benefits that might be secured by a uniform, complete and accurate system in the five boroughs of the City:

(1) The DOP is expected to provide 'clearances' when petitions are filed in court; that is, notify the judge if there are petitions pending in other boroughs, warrants outstanding, and past history. Prior

to JJIS (the records now go back to January 1, 1981) this was done via telpehone and a search of manual records which, according to the grant proposal, are "often misfiled and cannot be located."*

(2) Accurate information would be available at all stages of the juvenile justice process: Probation Intake, Court Intake, Investigations and Family Court dispositional hearings.

(3) Some of the disparate procedures and variations in terms used in the five boroughs of the City could be made uniform.

Despite these assertions of benefits to be gained from JJIS and the participation in its development by representatives of DOP, the Court and others in the field - the promises have not been fulfilled. As described in Chapter III, when a child charged with delinquency or PINS behavior comes to Intake, all the allegations are put into the computer along with complete identifying data as to the child and complainant and whether the case did or did not go to court. The information ceases there except for, as stated by one of those responsible for the system, the "hit or miss" insertion of information that may reach probation at a later date.

Thus, it would appear that JJIS is compiling 'rap sheets' for children - allegations that may amount to overcharging with no indication as to what was proven or disproven. Moreover, it is incomplete since a child may have a juvenile delinquency petition in the Family Court, a removed juvenile offender (JO) petition also in Family Court and a JO indictment in adult court. JOs and removed JOs are not seen by the Family Court Intake Unit.

The decision not to enter the findings and dispositions in JJIS appears to have been made by the Family Court and DOP both. The Deputy Commissioner

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* CCC case readers can attest to the accuracy of this statement.

for Family Court Services told CCC that the POs and probation clerical employees would not enter this information since it was purely court information and for absolute accuracy should be entered by court personnel.*

The Court's Administrative Judge, on the other hand, has stated that court personnel would not enter court information into a social service computer.**

The JJIS system consists of terminals in each court house and a central storage unit in the Manhattan courthouse. Workers were trained by the Criminal Justice Coordinator's Office which still maintains oversight of the system. There appears to be little discussion of opening the system or hooking it up with other juvenile justice agencies as originally planned. Rather, those agencies - Department of Juvenile Justice, Corporation Counsel and the Legal Aid Society - are planning or have established their own systems.

JJIS is financed with City tax levy funds at the rate of over $300,000 a year. One wonders whether this is an appropriate allocation of scarce dollars. Does the greater ability to learn that petitions exist or were filed elsewhere in the system, outcome unknown, balance equitably with the jeopardy in which it places the individual youths?

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* By extension, of course, this means that Investigation and Supervision POs proceed, now and have been, on possibly inaccurate information since the material in probation's manual records is entered by POs.

** Again, by extension, this means that the Court proceeds - at Court Intake, at least - on incomplete and possibly inaccurate information.

Chapter VII FINDINGS AND RECOMMENDATIONS

Citizens' Committee for Children has concluded an 18 month study of the services provided by the New York City Department of Probation (DOP) to the children and youths who come before the Family Court. We began this study because of a long-standing concern for children, particularly for poor children and those in trouble with the law. We believed then, as we believe now, that the best hope for the majority of such children is to remain in the community with adequate support services such as counselling, link-up with helping agencies and the like.

As noted elsewhere, midway in our study the Commissioner of the Department withdrew his cooperation.

We were disturbed that a Commissioner of a New York City executive agency would instruct his personnel to cease any cooperation with a citizens' group such as CCC - for that is what the Commissioner did. In short, the head of a City department, financed by City and State taxpayers' money, attempted to prevent an objective look at its operations. His action was not a fatal hindrance because:

- We had an established network of judges, attorneys and social workers who provided us with information;

- o The bulk of our field work had been completed;
- o New York State's Freedom of Information Law was available;
- o Our Task Force included persons with many years of experience in the juvenile justice system.
- o We could draw on CCC's many years of experience as advocates for childrens' well being.

FINDINGS

We have found DOP rife with problems. We are joined in our opinion by others in the field.

General Findings

- o Among the judges, attorneys and social workers who come in contact with probation there is a pervasive disrespect for the Department. However, most of them can name some probation officers (POs) - as can we - who are conscientious, skilled and caring professionals.
- o While on paper there is a division between adult and childrens' services, it is a paper separation only. Personnel are transferred between one division and another on the basis of seniority rather than special abilities. As one high-ranking PO said - when asked to provide such basic information about probation officers assigned to the Family Court services as age, sex, ethnic background, training, education and experience - "It's not broken down that way. We are all just probation officers."
- o DOP must compete with Federal Probation and the State Division of Parole for competent, well trained officers. The top salary for a New York City PO is $22,300; for a Federal PO, it is $35,000; and for a State Parole officer, $25,000. It appears that the three other agencies, whose workers must have similar qualifications and perform similar functions as do New York City POs, "cream" the potential POs.

Management/Accountability

- o On-the-job management supervision of line POs, we found, is woefully inadequate. For example, the management supervisiors are supposed to review decisions made at Intake, recommendations submitted to the Court by Investigating POs, and service plans prepared for children on community Supervision. We found little evidence that this was done. The line POs told us that it seldom was and, moreover, that they were provided with little or

or no guidance on a daily basis.

- o Probation officers at work in the Family Court buildings complained of large case loads and overwork. We observed few of them to be busy on the days that we sat in their offices while they interviewed or 'counselled' children and their families. We saw that they did not do much about those who did not keep their appointments. This finding was confirmed by their own statements.
- o Probation records are in poor condition and the provisions to safeguard confidentiality are inadequate. Many of the records we read were disorganized and contained unverified material. Many of them were misfiled and others were found in unlocked offices and courtrooms. The Department now has an expensive computer system that records information about every child brought to Intake screening. It is grossly incomplete, lacking information about the outcome of the case: such as findings and dispositions.
- o The statistics maintained by the Department do not provide a base for measuring the quality or quantity of probation services. It cannot be determined, for example, how many children were returned to court on new charges after cases were adjusted, while on probation supervision or in placement during a given period. There are no figures on the number of field visits, how many recommendations submitted by POs are followed; information on caseload size is uncertain. There are no publicly available statistics from DOP on the number of placements sought, number secured or information on the location of the placements sought, rejected or secured. In short, there are few ways to hold the Department, its administrators, or individual POs accountable for their work.

Training/Service Manuals

- o There is little or no training for new POs other than on-the-job training, if that. When training courses are given they appear to be just for probation officers in general, without distinction for the special needs of children before the Family Court or for the needs of the Court itself. This lack of training is a direct violation of the rules and regulations of the State Division of Probation.
- o The "Family Court Services Guidelines" are incomplete and internally contradictory. They were not updated between 1978 and June, 1982 despite multiple and important changes in the statutes. This is the document intended to guide the POs in all aspects of their work so that omissions and inconsistencies are dangerous.
- o Similarly, the manual of services has not been updated since 1978. Some of the services listed no longer exist while new ones are not included. This means that some children are denied access to services they might receive and some referrals have no chance of being effective.

Service Delivery

- o We found that many potential cases were adjusted at Probation Intake in a perfunctory fashion - paper referrals to agencies with no follow up. We found the intake procedure impeded by legislative restrictions and Family Court rules.

- o We found the investigative procedure to be equally pro forma. 'Investigations' are conducted and recommendations are submitted to the Court on the basis of short office interviews - there are almost never home visits according to the POs themselves.

- o Again, we found the supervision provided for children to be routine and inadequate. Children were seen in the probation offices, if they came when they were supposed to come. The interviews we observed had little substance: children wanting part-time or summer jobs were turned off with an "I'll see" or referred to the State Employment Office, for example. Field work - visits to home, schools, service agencies, follow-up on referrals - appeared to be the exception in the Supervision units; again according to the POs themselves.

- o Conferences on difficult cases or issues are not held on a regular basis between probation officers and the mental health staff on duty in the Court and, indeed, do not appear to be encouraged.

- o Procedures for referring children for residential placement are perfunctory. Investigation reports are sent out with a form letter and personal advocacy for a particular child seems to be a thing of the past. The POs state that they do not have adequate information about the voluntary agencies that might accept some of their children.

- o The Alternatives to Detention program is providing care for a considerable number of children, avoiding the necessity for secure confinement. Although the Centers' programs and attendance are uneven and require better management, they are a welcome bright spot in the Family Court Probation Services.

- o Since the Court Liaison Officers (CLOs) were abruptly removed from the trial parts of the Court, delay in processing individual cases has increased; families and children, attorneys and judges are forced to wait while a PO or missing information is sought. The reassignment of the CLOs was a unilateral action taken by DOP without adequate consultation with the judges.

We make these findings on the basis of our long experience in the area of juvenile justice, our field work over the last 18 months, and on information secured under the New York Freedom of Information Law. Based on these findings - we assert that the Department of Probation must undergo major re-

organization if the children and youths before the Family Court are to be adequately served.

RECOMMENDATIONS

RECOMMENDATION I

> There must be an absolute and clear cut division between juvenile probation services and those for adults.

A paper or table of organization separation is not enough. Provision must be made, by statute or clear and definitive regulation for this division. By this we mean, at least, (1) that probation officers should not be transferred from the adult to the juvenile services except where their knowledge and skills would meet the special needs of the juvenile division; (2) that specialized training in working with children and youths should be provided on an on-going basis for all POs assigned to the Family Court services; (3) that when new probation officers are appointed, they should be assigned to the respective courts on the basis of actual need - established on the basis of factual data on caseloads and specialized needs, and (4) that a career ladder should be established within the separate divisions.

The statement reported earlier, "We are all just probation officers" implies that there are no differences in the service needs of children and adults. Indeed, there are. Children and youths require considerable skills from those who treat or help them - a special tone and rapport, an ability to communicate as well as to understand the complex emotions and problems of a growing and changing person - to mention a few.

As we have stated in the body of the report, the Family Court consistently receives the 'short end of the stick.' POs from the adult services have been

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1 OF 2

able to move to higher positions in the juvenile services, resulting in a total absence of promotions within the Family Court Services for over 10 years. The head of one Family Court unit arranged for us to meet with his assistant during our field work because, he said, he had worked for the adult services for over 20 years and was not 'too familiar' with Family Court procedures or needs. A career ladder and adequate continuing training and education are essential if skilled POs are to be attracted and retained by the Family Court Services.

The standards proposed by all of the national organizations recommend this type of clear cut separation, regardless of whether the services are operated by the executive or judicial branch of government or whether the juvenile jurisdiction is vested in a separate or general trial court.* Citizens' Committee believes this type of separation is essential. Services for adults and services for children require different training and skills. They cannot be equated.

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* CCC's Task Force compared the most salient points of the standards for juvenile probation, promulgated by national organizations, with the system in New York City. To some extent we found them not relevant to New York City. We are only referencing them in this commentary where they are pertinent and would result clearly in improvements. The standards that were reviewed were prepared by the Commission on Accreditation for Corrections, the Institute of Judicial Administration and American Bar Association, the National Advisiory Committee on Criminal Justice Standards and Coals and the National Advisiory Committee on Juvenile Justice and Delinquency Prevention.

RECOMMENDATION II

> A training course concerning the provision of services to children and youths must be designed by Probation Officers of proven merit with the advice and assistance of leaders in the helping professions. Participation in this course must be made a condition of employment in the Family Court service units. Similarly, annual refresher courses for POs must be designed and made mandatory for all those assigned to Family Court Services.

Again, this type of training is recommended by all the standard setting groups. We were astonished by the statement reported in the body of the report that "No one knows how to provide differential or intensive supervision to children."

This is an attempt to side step what is a serious error. Past history in New York City indicates that intensive supervision can, indeed, be provided to children. There is a considerable volume of published material describing programs across the country that provide differential and intensive supervision for juveniles. For the most part, these programs are reported favorably.

CCC is dismayed that there is virtually no training - other than on the job training, if that - for probation officers. It is even more dismaying to learn that the leaders of DOP do not - or will not - understand that children and youths require specialized services. Citizens' Committee is convinced that, in addition to specialized training for work with children, the training must also encompass an understanding of the provisions of the Family Court Act and case law that protect the due process rights of children.

This is an issue that must be addressed - and immediately - by the State Division of Probation and the State Legislature. We recognize that the training we propose will be expensive - not as expensive, however, as the inappropriate placement of some children or the wasted lives of children left in the

community with only token or no supervision.

RECOMMENDATION III

> A juvenile probation service should (1) provide, directly or through effective referral and follow-up, a wide variety of rehabilitative services to children and their families, always with a regard for the best interests of the child, the protection of the community, and due process; (2) assist in the smooth operation of the Court by providing necessary information and expert assessments in a timely fashion and by carrying out the Court's orders. (It is assumed that the latter adheres to the accomplishment of the three goals of the former.)

To accomplish this in New York City there must be a thorough-going reorganization of the units that provide the three traditional services of probation: Intake screening, Investigations and community Supervision.

A. The Intake units must be provided with sufficient well-trained manpower to (1) adequately screen the children brought to the Family Court, (2) refer the children for services and (3) follow up to see that the referred children actually receive the services and how they profited from them. It must be monitored on an on-going basis to determine the quality of the work performed.

None of this is done and perhaps is not possible now. Because of the inadequate staff many children are screened out of the juvenile justice system on one-day paper adjustments, as shown in the text of this report, although they clearly have problems and should be referred for helping services. Others are sent to Court because of a particular PO's predilections although their cases might be appropriately adjusted.

In addition to recommending a basic upgrading of the Intake service, CCC has some subsidiary recommendations:

1. A manual of community services must be developed and kept up-to-date.

2. Statistics must be kept on recidivism and other facts about adjustment after a case or cases have been adjusted.

This must be accompanied by a study of the nature of recidivism - does the seriousness of the acts or behavior escalate, what services did the child receive, did the child receive services but not benefit from them, for example. It is only based on such information that one can determine the appropriateness or inappropriateness of the Intake officers' actions as well as the restrictions placed on Intake by the Legislature.

B. The Investigation and Supervision units must be reorganized and moved into the community under a thorough system of management supervision.

A PO sitting in a court house can neither investigate nor supervise a child adequately, let alone well. We recognize that there is fear in the City and that some POs are afraid to go into certain areas that are perceived to be dangerous. We believe, however, that if those probation services are based in the communities from which most of the clients come, a number of benefits would be derived:

- Probation could establish a "presence" in the community - a respected and helping presence provided it has a sufficient staff of adequately trained officers.
- Probation officers could work as teams with groups of children who are placed on community supervision and provide the intensive supervision needed by so many. Working as teams, they could provide each other the support or protection that they believed to be needed thus eliminating one of the major excuses given for not making home visits.
- POs, either conducting investigations or supervising children, would be in the neighborhood and have a much better grasp of each child's environment, day-to-day behavior and service needs.

- o Stationed in the community, POs could come to know what services actually exist, which ones are accessible to the children and conduct a personal face-to-face advocacy (as opposed to the present referrals by telephone or letter) and know which services are apt to accept court related children.

- o The POs would be able to link up with other service agencies in the area - for example, the youth service teams attached to the State Division for Youth, child welfare workers, local hospitals and counselling centers and similar agencies.

Citizens' Committee recognizes that the kind of organization here proposed may be opposed by DOP and individual probation officers. We believe it is essential for appropriate services for children, however, and note that community based services are recommended by all the national standard setting organizations. It has been tried successfully in other jurisdictions. Again, we have some subsidiary recommendations:

1. It is essential that the the table of organization for this decentralization provides for regular, on-going management supervision of each location and the development of uniform policies and procedures for all of them.

The inclusion of the words "under a system of thorough management supervision" in the basic recommendation is not a casual one. As the text of the report indicates, the experience with a community based Intake operation in police precincts is more a case of mis-management or non-management than one of management.

2. State Aid for probation services must be increased and cover the cost of the rental of locations in the community.

RECOMMENDATION IV

The procedures for referring children for services - whether they require placement, mental health treatment in the community, jobs, a change in schools or other assistance - must be thoroughly reformed. At the least juvenile probation services must have:

a. Specialists in each borough that understand the various service systems, that search out new services, that can negotiate the system. These specialists should be available to help the line POs in the community locations.

b. A referral manual that is kept up-to-date and includes information from the community as well as from the central adminisistration. The manual must include information on which kinds of children with what problems are accepted, procedures for referral, and costs, if any.

c. A well organized procedure to follow-up on referrals so that a child and a needed service can be truly linked. This procedure must be carefully monitored by the management supervisors and through data collection as well.

d. A special committee within the probation services to advocate for the truly 'hard-to-place' child. Such a group existed in the past. The POs assigned to it established good relaions with the voluntary agencies, had an understanding of the practices of many of them and were able to place some of the children that the line POs had been unable to place.

RECOMMENDATION V

The Court Liaison Officers should be returned to the courtrooms.

It is essential for the smooth functioning of the Court to the end that children are not subjected to unnecessary and damaging delay, that accurate information is conveyed to other units of probation and to outside agencies where appropriate.

RECOMMENDATION VI

So long as juvenile probation remains a part of the Executive Branch of government, there must be a regular communication and continuing cooperative efforts between the judges and the heads of DOP.

We believe that it is essential that communication be more than a pro forma. DOP and the Court must cooperate and make decisions based on what is best for their mutual clients, particularly the children. We believe that resumption of regular meetings between court officials, DOP, the Legal Aid Society, Corporation Counsel and District Attorneys would be beneficial.

RECOMMENDATION VII

> Probation officers should be encouraged to request conferences with the staff of the Court's Mental Health Services in regard to children with exceptional problems. DOP should seek affirmatively training and information about emerging mental health issues and new techniques for dealing with disturbed children.

Citizens' Committee believes that there should be an on-going communication between these two important auxiliary arms of the Court and urges DOP to take the lead in establishing it. Many of the children before the Family Court are disturbed and they and the probation officers can only benefit from a joint approach in the handling of some cases. We have a subsidiary recommendation here:

> A. Steps must be taken, to the extent possible, to end the fragmentation in the handling of cases, so that work is not duplicated by several agencies and so that children are not subjected to multiple questioning and contradictory advice or orders.

RECOMMENDATION VIII

> The Alternatives to Detention program should be expanded and provided with adequate educational materials and staff.

We believe that many children are confined to secure detention unnecessarily in New York City. Indeed, there is a considerable volume of literature that indicates this is true in virtually every juvenile detention center across

the country. We urge the Department to move promptly to prevent the destructive and costly detention of these children.

RECOMMENDATION IX

> The Department's data collection system must be revised so the public can know at least:
>
> A. How many children engage in recidivism and at what stage in the process;
>
> B. How many and what percentage of probation recommendations are accepted by the judges;
>
> C. How many field visits are made, by whom and at what time in the handling of a case; how many exceptions to the requirement for field visits are requested, by whom and how many granted;
>
> D. How many investigations are completed in a timely fashion;
>
> E. A true measure of caseloads at Intake, Investigations and Supervision - requiring regular audits of each section.

RECOMMENDATION X

> Probation's manual records should be improved. Safeguards for protecting confidentiality should be strengthened. The contents of the records must be organized so that essential material can be easily located in the courtrooms and in the various units of the probation services.

If the provisions of the June, 1982 Family Court Service Guidelines are followed, the organization of the records should improve. The issues surrounding confidentiality have not been addressed, however. This should be a basic part of the training for juvenile POs. They must be given a thorough understanding as to which persons may review the records and at what stage in the process; what information they may convey to others. Procedures must be established to prevent access to the record rooms by unauthorized persons and to return records to the appropriate files promptly.

RECOMMENDATION XI

> The computerized information system should either (1) be made complete and accurate or (2) it should be suspended.

As it is now- with allegations but not outcome on some children but not all children, with partial histories of some children - it represents a clear and present danger to many children whose cases are dismissed and does not serve the 'law and order' purpose for which it was intended. Citizens' Committee does not belive that, in a time of economic distress, the City should spend over $300,000 per year on an ineffective and at times damaging system.

RECOMMENDATION XII

> The salaries of New York City POs should be made competitive with those of other probation departments.

As we have shown in the body of the report, DOP with lower salaries has difficulty in attracting young, well qualified POs. When it does secure such workers, they soon move on to the better paid positions in other agencies. DOP will not be able to develop the kind of service delivery system that is needed unless it can attract and retain a stable, well trained and satisfied work force.

RECOMMENDATION XIII

> We recommend that a high level commission be appointed to examine the auspice and administrative operation of juvenile probation services to the children of New York City. The commission should have subpoena power and be authorized to investigate every aspect of juvenile probation.

We have described the slow erosion of juvenile probation services over the last two decades. This report is a litany of disorganization, mismanagement, lack of services for children in trouble and lack of understanding of the special requirements for a juvenile probation service. We believe there are a number of reasons for this sorry state of affairs:

- o Merger of juvenile services with those for adult criminals;
- o Merger of services for the Family Court, the so-called "inferior court" with those of the Supreme Court. (The latter court has secured automatically more and better services than the Family Court has been able to do.)
- o The years of inertia, the lack of training, the lack of staff and lack of effective leadership.
- o The emphasis recent City administrations have placed on additional police, judges and courtrooms at the expense of human services.

For all of these reasons, we believe that the organization, location and authority over juvenile probation services should be carefully studied.

We note that within the last nine months two major organizations in New York City have expressed views about the inadequacies of the Department of Probation that are quite similar to ours. The Correctional Association of New York, in a report dated March, 1982, recommends that DOP's responsibility be limited to Supervision only. It states "Further, activities performed by probation departments that are not directly related to the supervision function, including the prepartion of presentence reports and family court intake, should be the responsibility of a more appropriate agency."*

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* The Prison Population Explosion in New York State: A Study of Its Causes and Consequences with Recommendations for Change The Correctional Association of New York, New York, N.Y. March, 1982

The New York County Lawyers' Association, in an August, 1982 report, suggests an on-site audit of the Intake units to determine whether they are working effectively and urges an examination of the manner in which presentence reports for criminal courts and investigations for the Family Court are prepared.*

Finally, the National Center for State Courts conducted a "Study of Structural Characteristics, Policies and Operational Procedures in Metropolitan Juvenile Courts" which appears to indicate that probation services operated by the juvenile court - as opposed to the executive branch of government - are more beneficial for the children and for the operations of the court.

Citizens' Committee for Children has found the operations of DOP to be totally inadequate for the needs of children before the Family Court. Others have found its operations to be inadequate for the persons before the adult courts. It is time for responsible government officials to set an official inquiry underway so that changes can be made.

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* Report on the New York City Department of Probation, New York County Lawyers' Association Committee on the City of New York, New York, N.Y. August 1982.

APPENDIX A

SOME JUVENILES' JUDGMENT

OF THE

JUVENILE JUSTICE SYSTEM

What do young people think of the juvenile justice system when they are entangled in its far-reaching tentacles? What do they think of the men and women who, in black robed solemnity, speak sternly, harshly, kindly or indifferently to them? What do they think of the lawyers, their charges and counter-charges, their objections and their motions?

What do they think of probation officers who send them into or out of the Court, who ask them questions of an intensely personal nature and then make recommendations to the judges - probation officers who supervise some of them in the community, telling them to do this, do that, go there? And what do they think of others such as court clerks and uniformed court officers who also tell them at times where to go and what to do?

Can they sort these people out - who does what and why, who is supposed to do what and why? What do they remember when they are out - or partly out - of the system? Do they believe they were treated fairly? Do they think, perhaps, that they conned the system? What are their memories - of Spofford and other institutions, of their police contacts?

Citizens' Committee for Children decided to conduct a small exploration of some of these questions as a part of our overall, on-going concern for children in the juvenile justice system. We were particularly concerned with their

understanding of the juvenile probation services since these services impinge, to some degree of help or hurt, on the lives of every alleged delinquent or PINS child who is brought to a Family courthouse. Since we were engaged in a study of juvenile probation services - and these services are expected to be the major helping auxiliary arm of a juvenile court - the emphasis was a reasonable one.

We wanted to talk to a mix of children and youths: some with a reasonably extensive experience in the system and others whose penetration into it was limited; some who had been harmed (possibly) as well as helped and others whose only experience had been a positive one. We wanted a picture of the children's perceptions of the broad spectrum of the system, with a special emphasis on those professionals whom the children believed to be or to have been helpful.

We reasoned that the children with a lengthy court history would, or should, recognize who the persons with whom they had contact were and understand the responsibilities of those persons. We believed it important to know whether or not those children with minimal juvenile justice contacts understood what had happened and why, who had helped them and how.

We recognized that the mix we hoped to interview would mean, necessarily, that we would interview some streetwise youths, some young people who had been too frightened by just being in court to comprehend or remember what had happened, as well as others who simply were not informed about the different steps in the process. We hoped that this would permit a measure of the effectiveness of communications within the court process.

We wanted to talk to the children and youth in a non-threatening environment, unlike a courthouse where they might fear that probation officers,

attorneys or judges might be 'looking over their shoulders.' A number of voluntary child service agencies agreed to cooperate with us. This meant that we would be interviewing children who had profited from their experience in the juvenile justice system, who were - at the time of the interview - receiving help or assistance of some kind. Who, better than these children, should be able to identify the people who had sent them to the service agency - to identify the person in the courthouse who had helped them?

And so we embarked on our interviews. CCC monitors were permitted to talk informally with children in the agencies' programs after the purpose of the talks had been explained to the children and they had agreed.

Before going further, a word about the children and youths with whom we spoke in the spring of 1982. They were typical of those who go through the juvenile justice system in New York City. They, as do most of the young people in the system, come from a background of poverty, often a violent or disorganized home, and many are academically retarded. Some of them had long Family Court histories, others had recently entered the system when we spoke with them. They have been accepted into small specialized programs that have the potential to help. So they are lucky and, in that way, they are not typical of Family Court clients.

We talked to children at five programs: one, primarily aimed at remedial education and preparation for and securing jobs; one that primarily diverts children from the court process at the earliest point possible; two alternative schools with heavy doses of counselling; the fifth was a mental health clinic. All of the programs were located near to public transportation. Some of the 51 children we saw had been placed in residential centers at the end of the earlier court proceedings; similarly some were under an order of

understanding of the juvenile probation services since these services impinge, to some degree of help or hurt, on the lives of every alleged delinquent or PINS child who is brought to a Family courthouse. Since we were engaged in a study of juvenile probation services - and these services are expected to be the major helping auxiliary arm of a juvenile court - the emphasis was a reasonable one.

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probation supervision and had been referred to the program. Others had been i the programs as a condition of probation and continued when the order expired.

Our CCC interviewers included a psychologist, several social workers, a former probation officer and lay persons with extensive knowledge of various juvenile justice programs and court proceedings. We did not have a structured interview schedule but rather a listing of the areas we wanted to cover.

The youths were asked if we might take notes. All agreed and some wanted to check to see that they had been quoted correctly. As the attached checklist indicates, we wanted to determine the youths' perceptions of the process from the initial incident or behavior that brought them to the Court until the day of the interview. Each interviewer had several sheets of sample questions that might be asked but they were urged to set the youths at ease through informality. Each youth was seen individually, in a private room where they were, to the extent possible, free from restraining influences.

We saw 51 youths: 42 boys and 9 girls. The average age was 16 with an age spread from 12 to 20. They came from the four boroughs of the City with the considerable majority (32) from the Bronx. Twenty-three of the youths had a past case or a pending one in adult court, either as a Juvenile Offender or because they had outgrown the Family Court's jurisdictional age of the 15th year. Eleven of the children had recently had a PINS petition and 12 of them had last been in Court on juvenile delinquency petitions. Two of the youths said that they did not know the outcome of their most recent case and three had cases pending. As to the latter, it is always possible that the case might be dismissed or the category of petition changed through some form of plea bargaining.

Ten case histories are presented below - some in the language of the children themselves. When we had questions as to the accuracy of the information provided by the youths, we spoke to the program staffs. Those youths who were articulate were also accurate in what they told us although virtually all had forgotten some aspects of the process.

SOME VIGNETTES *

RICK:

Rick is an 18 year old Black youth who had two delinquency cases in the Family Court and a Juvenile Offender conviction in the Supreme Court. He had "done time" at the Spofford Juvenile Detention Center (6 months), the Rikers Island Detention Center for Juvenile Offenders (9 months) and had been placed at the Brookwood Secure Center (21 months) operated by the State Division for Youth for sentenced JOs.

Rick's memories of the Family Court are not too precise: His lawyer was "okay - did his best." He remembered the judge's face but not his name. He had no memory of probation intake - "Nah, they just hauled me straight from Spofford into court with that man and his black robe." At some point, however, he remembered that some one talked to his mother and the victim. Rick's Family Court case was adjourned and so far as he recalled, he never saw a PO after that. He went off to Brookwood, instead, as a Juvenile Offender placed by the Supreme Court.

The function of a parole officer is much the same as that of a supervision PO. Rick had been on parole from Brookwood for six months when we met with him. He was enthusiastic about his parole officer whom he said he saw every Monday for 15 - 30 minutes. Since he was doing well the reporting schedule had been shifted to every other week. Rick said this parole officer was "fair - respects my manhood - makes me want to succeed - helped me get into this program and now I have a job."

* All names have been changed in these accounts.

ORVIL:

Orvil was 15 when interviewed. He was petitioned to Family Court on a "petty crime" which he preferred not to define any further. He was placed on probation supervision but was unable to tell us whether or not there had been a probation investigation into his background or recall anything about the judge. He had been referred to the program by his lawyer.

Orvil did remember - vividly - one meeting with a PO and his mother. Paraphrased: "I asked her - politely - to respect my manhood and talk to me, not my mother. I'm the one on probation, not her." He said the PO began to yell and scream and "acted like she wanted to kick my butt." A lot of men came running, he said, and pinned his hands behind his back, taking him off to the detention room.

At the time of the interview, Orvil was seeing the PO for a few minutes once a month. "There's no way she can help me. I'd just rather stay away from her. The system stinks."

GARY:

At the time we interviewed Gary he had turned turned 16. His experience with the juvenile justice system was extensive although perhaps part of it was exaggeration.

He started stealing bikes when he was about 10 and soon found himself in the Spofford Detention Center. When he went to Court the next day, the complainant did not come so "whoever those people were, they let me go home."* Gary could not recall the number of cases he had had or reasons for them during his six year experience or much about judges, lawyers or others on the court scene. "They were okay." However, something of the extent of his activity can be gauged since he spent 18 months at St. Agnes, a voluntary child care agency; 18 months at the Tryon Training School and seven months at the Great Valley Forestry camp.

* That would have been probation intake. The POs at intake are not allowed to detain a child if the complainants refuse to appear and a parent or other adult is there to take the child.

Although Gary could not sort out the courtroom scene or any single step in the process, he did remember two POs. They had talked to him a lot and tried to get him help, he said. He wished he had listened to them.

MIKE:

Mike was 16 at the time of our interview. His first experience with the system was an arrest at age 13 for stealing. There had been five or six arrests since then, also for stealing. All of the cases except one were dismissed because "people were trying to be fair and I didn't do nuthin."

An 18 month placement with a DFY residence had been ordered in one case. He said he really learned a lot upstate where "you really get a chance to see yourself." The judge and lawyer were "okay" - "What's a probation officer?*

DARYLL:

This boy was just 16 at the time of his first arrest and the case - snatching a purse from a 63 year old woman - was tried in adult court.** His Legal Aid attorney convinced the judge that he, Daryll, should not be jailed since the woman had not been hurt and did not want "vengeance." Instead, Daryll was sentenced to five years probation.

His PO, a "good dude", told him to go to school or go to work. He opted for both and the PO referred him to the program where we saw him - a combination of school and job training. Daryll believes that, so far, the PO has "steered me okay" so he intends to keep in touch.

* Most of the youths categorized the various professionals as "okay", "lousy" or "stinking."

** This case is reported here because it portrays a system working for the benefit of a youth and, presumably, for society.

JEFF:

One of our most unflappable interviewers talked to Jeff. Jeff sat, stuck his feet on the rung of another chair, tilted against the wall. "Understand you want to know about the Family Court. Well, I'm a veteran. I'll tell you like it is - see?" (This became a monologue for the most part.)

"Sometimes the cops rough you up but mostly they don't if you don't give them trouble. Then - depending - they take you to Spofford or court or let you go home. Mostly you gotta go to Court sometime though. First place you go there is probation - probation INtake. Now, if you're real polite and say you're sorry probably they'll let you go - not if you hurt someone or had a weapon, course. Sometimes even then - if you say 'That other dude - big dude - made me.'"

"Sometimes you have to go to Court though and there you gotta have a good lawyer (one of those Legal Aid people, not the others) and you gotta know how to be polite and sorry for what you done. I always got off light - ACD'd or what they call probation supervision."

"Back up a minute," said our interviewer. "Do you know if a probation officer ever looked into your background - talked to your mother, the school, came to your home?"

"Yeah," Jeff replied "some woman talked to my mother and me. Nobody ever came to my house. Why would they do that? Now let me finish. I got ACD'd and that was that. Didn't have to report no where or call no one. Last time, I got supervision - that's shit. I was supposed to go to the courthouse once a month and talk about my problems - what problems? After a few months I didn't bother and nothing happened. (An expansive smile.) Anything else you want to know?"

"Yes, how did you get to this program?"

Jeff suddenly serious, replied "You know in that system, if you wanta make it you have to help yourself. I'm 16 now and I don't wanta do big time. My friend was sent here and the people who run it said they'd take a chance on me. I'm gonna finish school and I'm gonna make it. I sure wish someone had told me all this before."

ANNIE:

Annie had been to the Family Court only once. A 15 year old, her mother wanted to file a PINS petition and have her "put away." Annie remembered "some lady" who had talked to her and her mother for a "half hour - maybe longer." Annie thought the lady was "with me and really trying to help me. We must have the same sign." (Zodiac sign)

The PO at Intake made sure that Annie could go to the neighborhood program and persuaded the mother to take the girl home. Several months later when we saw her, Annie was still in the program and reported to be doing well.

There was some confusion in all of this. Annie had no idea of what the terms "probation", "intake", "POs" or "referred" meant. Although the program director and our interviewer explained the purpose of the talk, Annie seemed to believe he was there to explain birth control.

RON:

Ron had had only one case in the Court and was not very articulate for a 15 year old. With some probing, he made the following comments about his court experience:

"The cops picked me up and put me in a cell until my mother came." (He volunteered that they did not hit him.)

The lawyer was "hard working and did all she could."

The judge was "just." "If you know you are wrong you go along with it."

The PO has been helpful and "keeps me out of Spofford." He sees her whenever he wants and does not have to have an appointment.

Ron could not remember, or perhaps had not understood at the time, what happened or who was responsible for what at each step in the court/probation process.

THERESE & IMOGEN:

Therese and Imogen are 12 year old Puerto Rican twins who were brought to the Family Court on PINS petitions by a high school attendance officer. Here are some of the comments taken down by an interviewer with short hand skills.

"The court is out to get you and treats you as a criminal instead of a human being."

"The judge told us if we stopped going to school again it would mean 'bye-bye.' So why do we have to miss school to go there?"

"The judge and lawyers just huddle together and won't let me speak for myself."

The twins were uncertain how they had gotten to the program where they were doing well. (We learned that they had been ACD'd and referred by a PO.) The two girls complained that their mother had to come to court all the time and even though she could not speak English there was never a translator. They had a totally negative attitude toward the judge, lawyers and the court process; they had no idea of who POs are or what they do.

* * * * * * * * * *

Have we learned anything from this mini-exploration into the perceptions of young people about the juvenile justice system? Yes and no.

Obviously, activities in the court room were confusing to the youth - but we knew that since we have, at times, been unable to hear or, at other times, to understand what was going on in the courtrooms where we have observed the process. Most of the youths could recall some things about the judges and attorneys, however, and understood their roles. Not surprising - these professionals play distinctive roles in the courtroom and feature prominently in many of the TV programs that are followed by these youths.

Few of them had a comprehensive understanding of the court process - from probation intake to disposition - although some of them, witness Gary, were streetwise kids. Here we recalled our observations of the POs in the courthouse that are reported in the body of this document. We know that some of the POs tried to explain the system thoroughly while some of them were extremely cursory. It would seem that it needs to be explained several times over and at each step. Perhaps more that an oral explanation is needed, some thing easily read that explains the process.

Again the apparent absence of home visits was underscored. None of the 51 youths to whom we spoke remembered a PO visiting his home. They did remember visits from the staffs of the programs. Overall, the youths seemed to remember with some specificity, as might be expected, the persons who had helped or tried to help them or those who were "mean" or "vengeful."

The programs we visited: Each was, in its own way, an oasis providing opportunities for young people to learn and grow and turn their lives around. Many, many more such programs are needed in the City of New York. We are grateful to the agencies for their cooperation.

CHECKLIST

The following is a checklist of items that might be covered in the interview. Since the interview will be rather informal in structure, it is understandable that all the areas in the checklist might not be covered. We simply ask that the interviewer use the checklist as a guide in directing the discussion during the interview. The checklist follows the order of the court process. You may or may not wish to follow this order.

I) Some comfort warming opening questions and statements
   a) Tell the youth who you are and what your are doing
   b) Ask youth his/her name but please do not record it
   c) Find out youth's perception of agency he/she is currently placed at
   d) Please suggest or think of other good opening questions and statements

II) Youth's perception of arrest process
   a) Attitude toward police
   b) If detained, attitude about Spofford
   c) Perception of treatment during arrest process

III) Youth's perception of initial court contact (Probation Intake)
   a) Youth's attitude about Intake Officer
   b) Youth's perception of services offered, if any
   c) Did youth remember this stage?

IV) Youth's perception of court process
   a) Ability to distinguish actors in court process (i.e. clerk from P.O., P.O. from Corp. Coun., Law Guardian form Corp. Coun. etc.)
   b) Attitude toward Law Guardian
   c) Attitude toward Judge
   d) Feeling about plea
   e) Perception of Investigation
   f) General perception of court experience (i.e. youth's perception of being treated fairly, youth's feeling of "beating the system" or getting off lightly, etc.)

V) Youth's perception about disposition/placement/detention
   a) Perception of ATD if ever placed there (Alternatives to Detention)
   b) Perception of past placements if ever placed anywhere
   c) Feelings about fairness of recommendations and disposition

VI) Perception of Probation Supervision if ever placed
   a) Perception of Probation in general
   b) Perception of P.O.
   c) How often did youth see P.O.?
   d) Did youth miss any appointments?
   f) Was youth ever violated?

APPENDIX B

Allegations that may not be adjusted by Probation Intake without special permission

Designated felony acts may only be adjusted with the consent of a judge.* These acts are separated into three categories:

1. When committed by 13, 14 and 15 year olds

Murder 1 & 2	Sodomy 1
Kidnapping 1	Kidnapping 2 (with use or threat of deadly physical force)
Arson 1 & 2	Assault 1
Robbery 1	Manslaughter 1
Rape 1	Attempted Murder 1 & 2
Attempted Kidnapping 1	

2. When committed by 14 or 15 year olds

Burglary 1 & 2	Robbery 2
Assault 2 & Robbery 2 but only where there has been a prior finding that the youth had committed assault 2 or robbery 2 or any other designated felony act except burglary	

3. Any felony committed by any person between the 7th and 16th birthdays when there have been two findings of the commission of any act that is a felony when done by an adult.

Other allegations may not be adjusted, irrespective of the age of the child, without the consent of the Corporation Counsel when the potential respondent has been found to have committed one of them earlier. The acts are:

Assault 2	Burglary 1, 2 & 3
Manslaughter 2	Robbery 2 & 3
Coercion	Rape 3
Arson 3	Sexual abuse 1
Reckless endangerment 1	Criminal mischief 1
Sodomy 3	Criminal possession of weapon 1, 2 & 3

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* It should be noted that all of these acts, when alleged to have been committed by a 14 or 15 year old are included in the definition of a juvenile offender and the cases are initiated in the criminal courts. Allegations of murder by a 13 year old are also tried in the criminal courts.

APPENDIX C*

Rules of the Family Court Governing
The Adjustment of Alleged Delinquency
and Pins cases by Probation Intake

Rule 2507-2 Authority of probation before the filing of a petition.

The probation service is authorized to confer with any person seeking to originate a proceeding under Article Seven of the Family Court Act, the potential respondent and any other interested person concerning the advisability of filing a petition and to attempt to adjust suitable cases over which the court apparently would have jurisdiction before a petition is filed.

Rule 2507-3 Preliminary referral to probation.

(a) Any person who seeks to originate a proceeding under Article Seven to determine whether a child is a person in need of supervision or is a juvenile delinquent shall first be referred to the probation service.

(b) The probation service shall be available to meet with any person who is referred pursuant to subdivision (a) of this rule on the same day that the person is referred to the probation service.

(c) Upon referral, the probation service

(1) shall ascertain from the person seeking to originate the proceedings a brief narrative statement of the underlying events and, if known to that person, a brief statement of factors that would be of assistance to the court in determining whether the potential respondent shall be detained or released;

(2) shall explain to the person seeking to originate the proceedings the existence, function, objectives and limitations of, and the alternatives to, the adjustment process;

* Taken from the Family Court Services Guidelines, prepared by the Department of Probation, June 1982.

(3) shall inform the person seeking to originate the proceedings:

(i) that he or she is entitled to request that the probation service confer with him or her, the potential respondent and any other interested person concerning the advisability of filing a petition under Article Seven,

(ii) that he or she is entitled to have access to the court at any time for the purpose of filing a petition under Article Seven,

(iii) that the probation service is not authorized to, and cannot compel any person, including the person seeking to originate the proceedings, to appear at any conference, produce any papers, or visit any place,

(iv) that if, in the judgment of the probation service, it appears at any time that the case is not suitable for adjustment, the probation service will inform the person seeking to originate the proceeding of that conclusion.

(d) If it appears to the probation service that the court would not have jurisdiction over the case, it shall inform the person seeking to originate the proceeding that it is declining to adjust the case for that reason and that the question of the court's jurisdiction may be tested by filing a petition.

Rule 2507-4 Preliminary conference and adjustment.

(a) The probation service, upon commencing to adjust a suitable case, shall explain to the person seeking to originate the proceeding, the potential respondent and other interested persons:

(1) that attendance at meetings with the probation service is not compulsory and no person may be compelled to confer with the probation service;

(2) that efforts at adjustment may extend for a period of two months and, unless those efforts are successful, a written application to the court may be made, seeking an extension of the period for an additional sixty days;

(3) that if, in the opinion of the probation service, the matter has been successfully adjusted, the case will be deemed closed except in cases involving a designated felony act in accordance with section 734 subdivision (a);

(4) that if the matter has not been successfully adjusted, or if the adjustment process is terminated either at the insistence of the probation service or by the withdrawal of potential respondent, the person seeking to originate the proceedings will be notified of that fact and the case will be referred to the court;

(5) that the person seeking to originate a proceeding and the potential respondent are entitled at any time to dispense with the assistance of the probation service and the person seeking to originate the proceeding may proceed to file a petition with the court;

(6) that no statement made during any preliminary conference with the probation service may be admitted into evidence at a fact-finding hearing held in the Family Court or, if the proceeding is transferred to a criminal court, at any time prior to conviction.

(b) The probation service is not authorized to, and shall not

(1) prevent any potential respondent, or any complainant or potential petitioner, who is represented by a lawyer from having that lawyer present at any conference with him or her held with the probation service;

(2) compel any person to appear at any conference, produce any paper or visit any place;

(3) prevent any person who wishes to file a petition under Article Seven, from having access to the court for that purpose;

(4) attempt to discourage any person from filing a petition under Article Seven by discussing with that person;

(i) the length of time that will be required to reach a resolution of the petition; or

(ii) the likely outcome of the proceedings; or

(iii) the conduct of any legal representative of, or law guardian for the potential respondent;

(5) adjust a case in which the potential respondent is accused of having done a designated felony act, without the prior written approval of a judge of the court.

(c) Unless the matter is terminated and referred to the court, efforts at adjustment pursuant to Rule 2507-2 of this Part may extend for a period of 60 days from the date of the initial interview with the potential petitioner, and may extend for an additional sixty days with leave of a judge of the Family Court. The probation service shall apply for leave to extend the period of adjustment when, in the judgement of the assigned probation officer, it appears that the matter will not be successfully adjusted unless an extension is granted. The application shall be in writing and shall set forth the services rendered to the potential respondent, the degree of success achieved, and the services proposed to be rendered.

(d) The probation service shall terminate its efforts at adjustment if at any time during the adjustment process:

(1) the potential respondent or petitioner requests termination;

(2) the potential respondent refuses to cooperate with the probation service or any agency to which the potential respondent, or a member of his or her family, has been referred;

(3) the potential respondent appears to be in need of extended supervision, treatment, placement or commitment either because of the nature of other acts during the period of adjustment or for other valid reasons.

(e) If the adjustment process has been successfully completed, the case shall be deemed closed. If the adjustment process was terminated before completion or was not successful, the probation service shall notify the petitioner that a petition may be filed.

Rule 2507-5 Circumstances to be considered in determining whether or not a case is suitable for adjustment.

In determining whether the case is suitable for adjustment or whether the processes of the court should be invoked, the probation service shall take into account, but is not limited to, the following circumstances:

(a) The age of the potential respondent.

(b) Whether the conduct of the potential respondent involved:

(1) an act or acts causing or threatening to cause death, substantial pain or serious physical injury to another;

(2) the use or knowing possession of a dangerous instrument or deadly weapon;

(3) the use or threatened use of violence to compel a person to engage in sexual intercourse, deviate sexual intercourse or sexual contact;

(4) the use or threatened use of violence to obtain property;

(5) the use or threatened use of deadly physical force with the intent to restrain the liberty of another;

(6) knowingly entering or remaining unlawfully in a residence for the purpose of committing an act which if committed by an adult would be a crime;

(7) intentionally starting a fire or causing an explosion which resulted in damage to a building;

(8) a serious risk to the welfare and safety of the community;

(9) an act which seriously endangered the safety of the potential respondent or another person.

(c) There is a substantial likelihood that the potential respondent would not appear at scheduled conferences with the probation service or with an agency to which he or she may be referred.

(d) There is a substantial likelihood that the potential respondent will not participate in or cooperate with the adjustment process.

(e) There is a substantial likelihood that in order to adjust the case successfully, the potential respondent would require services that could not be administered effectively in less than one hundred and twenty days.

(f) The potential respondent appears to be in need of medical or psychiatric treatment or observation that cannot be obtained without the intervention of the court.

(g) There is a substantial likelihood that if the matter is not promptly referred to the court, the potential respondent will during the adjustment process:

(1) commit an act which if committed by an adult would be a crime; or

(2) engage in conduct that endangers

the physical or emotional health of the potential respondent or a member of the potential respondent's family or household; or

(3) harass or menace the person seeking to file a petition or complainant or a member of that person's family or household.

(h) There is pending another proceeding to determine whether the potential respondent is a person in need of supervision or a juvenile delinquent.

(i) There have been prior adjustments under Article Seven of the Act.

(j) There has been a prior adjudication of delinquency.

(k) The temporary removel of the potential respondent from home is indicated.

(l) A change of custody is indicated.

(m) A proceeding has been, or will be, instituted against another person for acting jointly with the potential respondent.

Rule 2507-6 Basis for adjustment to be stated by probation service.

In every case which has been adjusted by the probation service, the probation record shall contain a statement of the factors which prompted the adjustment.

APPENDIX D

THE JUVENILE OFFENDER AND DESIGNATED FELONY STATUTES

Juvenile Offender Law

Youths alleged to be JOs, have their cases initiated in the adult criminal courts. Under certain circumstances, the cases may be removed back for determination in the Family Court and, in fact, a majority (60%) have been so removed or have been dismissed.

The youths who are tried, convicted and sentenced in adult court are criminally responsible for their acts and incur the same civil disabilities as adults. They may be placed on probation supervision if given youthful offender status or committed to one of the Division for Youth's secure facilities. There are specified minimum/maximum terms established for the acts. Prior to the expiration of their terms, they may only be released with the consent of the State Board of Parole and thereafter remain under that agency's supervision.

Age	Crime	
13, 14, 15 year olds	Murder 2^{o}	
14 and 15 year olds	Arson 1^{o} & 2^{o}	Burglary 1^{o} & 2^{o}
	Kidnapping 1^{o}	Manslaughter 1^{o}
	Assault 1^{o}	Rape 1^{o}
	Attempted Kidnapping 1^{o}	Robbery 1^{o} & 2^{o}
	Attempted Murder 2^{o}	Sodomy 1^{o}

The sentence structure ranges from a minimum of 5-9 years and a maximum of life for Murder 2°, to a maximum of 3-7 years for a Class C Felony. That carries a minimum of one third of the maximum imposed. A JO may be given "youthful offender status." Under this sentence the records are sealed and the judge may order confinement for up to four years, rather than a crime specific sentence, or a five year sentence to probation supervision.

Designated Felony Acts/Family Court

These are the most serious acts, committed by 13, 14 and 15 years olds, that may be heard by the Family Court depending on removal from the criminal court or the age of the youth or both. They are divided into two categories (Class A & Class B) with differing lengths of placement possible.

Age	Class A Designated Felony
13, 14 and 15 years olds	Murder 1° & 2°
	Attempted Murder 1°
	Kidnapping 1°
	Arson 1°

When found to have committed one of these acts, a youth may be placed in restrictive confinement for five years if it appears necessary after a consideration of the youth's needs and the need to protect the community. Placement must be in a secure DFY facility for a minimum of 12 to 18 months. Thereafter the youth must be confined in a less secure facility for an additional year. The youth, thereafter, remains under the intensive supervision of DFY's aftercare staff until the end of the five year period.

Age	Class B Designated Felony	
13, 14 and 15 year olds	Arson 2°	Kidnapping 2°
	Robbery 1°	Assault 1°
	Rape 1°	Manslaughter 1°
	Attempted Murder 1°	Attempted Murder 2°
	Sodomy 1°	Aggravated sexual abuse

Upon a finding and after due consideration of the youth's needs and that of the community a three year restrictive placement may be ordered. The youth must be confined in a secure DFY facility for a period of six to 12 months; then in a less secure facility for an additional six to 12 months; and thereafter, must be under intensive supervision until the expiration of the three year term.

Age	Other Class B Designated Felonies
14 and 15 year olds	Burglary 1° & 2°
	Assault 2° & Robbery 2° when there has been a prior finding of Assult 2°, Robbery 2° or any other designated felony act except burglary.

It should be noted that there are other designated felony act provisions:

A restrictive placement must be ordered when the youth has caused serious physical injury to a person 62 years of age or more.

The provisions also cover any felony committed by a child between his seventh and 16th birthday if he had been found to have committed two felonies earlier.

APPENDIX E

The Wagon Board schedules cases to appear in the Family Court as follows:

Next Court date:	Rape Homicide Sexual assault	
Category I (within 5 working days)	Arson Kidnapping Possession of gun Assault 1	Robbery 1 Hospitalized victims Auto theft
Category II (within 7-8 working days)	Purse snatch Robbery 2 Assault 2 Assault 3	Reckless endangerment Grand larceny, other than auto theft
Category III (within 9-10 working days)	Sale of narcotics	Burglary
Category IV (within 12 working days)	All other acts	

APPENDIX F*

NEW YORK CITY DEPARTMENT OF PROBATION

NOTICE OF RIGHTS FOR PROBATION CLIENTS
AT THE
PRELIMINARY CONFERENCE JUVENILE SERVICES**

(a) The probation service, upon commencing to adjust a suitable case, shall explain to the person seeking to originate the proceeding, the potential respondent and other interested persons:

(1) that attendance at meetings with the probation service is not compulsory and no person may be compelled to confer with the probation service;

(2) that efforts at adjustment may extend for a period of two months and, unless those efforts are successful, a written application to the court may be made, seeking an extension of the period for an additional 60 days;

(3) that if, in the opinion of the probation service, the matter has been successfully adjusted, the case will be deemed closed except in cases involving a designated felony act in accordance with section 734(a) of the Family Court Act;

(4) that if the matter has not been successfully adjusted, or if the adjustment process is terminated either at the insistence of the probation service or by the withdrawal of the potential respondent, the person seeking to originate the proceedings will be notified of that fact and the case will be referred to the court;

(5) that the person seeking to originate a proceeding and the potential respondent are entitled at any time to dispense with the assistance of the probation service and the persons seeking to originate the proceeding may proceed to file a petition with the court;

(6) that no statement made during any preliminary conference with the probation service may be admitted into evidence at a fact-finding hearing held in the Family Court, or if the proceeding is transferred to a criminal court, at any time prior to conviction.

(b) The probation service is not authorized to, and shall not:

(1) prevent any potential respondent, or any complainant or potential petitioner, who is represented by a lawyer from having that lawyer present at any conference with him or her held with the probation service;

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* Taken from the Family Court Services Guidelines, prepared by the Department of Probation, June 1982.

**22 N.Y.C.R.R. 2507.4

(2) compel any person to appear at any conference, produce any paper or visit any place;

(3) prevent any person who wishes to file a petition under Article 7 of the Family Court Act, from having access to the court for that purpose;

(4) attempt to discourage any person from filing a petition under Article 7 of the Family Court Act by discussing with that person:

(i) the length of time that will be required to reach a resolution of the petition; or

(ii) the likely outcome of the proceedings; or

(iii) the conduct of any legal representative of, or law guardian for the potential respondent;

(5) adjust a case in which the potential respondent is accused of having done a designated felony act, without the prior written approval of a judge of the court.

(c) Unless the matter is terminated and referred to the court, efforts at adjustment pursuant to section 2507.2 may extend for a period of 60 days from the date of the initial interview with the potential petitioner, and may extend for an additional 60 days with leave of a judge of the Family Court. The probation service shall apply for leave to extend the period of adjustment when, in the judgment of the assigned probation officer, it appears that the matter will not be successfully adjusted unless an extension is granted. The application shall be in writing and shall set forth the services rendered to the potential respondent the degree of success achieved, and the services proposed to be rendered.

(d) The probation service shall terminate its efforts at adjustment if at any time during the adjustment process:

(1) the potential respondent or petitioner requests termination;

(2) the potential respondent refuses to cooperate with the probation service or any agency to which the potential respondent, or a member of his or her family, has been referred;

(3) the potential respondent appears to be in need of extended supervision, treatment, placement or commitment either because of the nature of other acts during the period of adjustment or for other valid reasons.

(e) If the adjustment process has been successfully completed, the case shall be deemed closed. If the adjustment process was terminated before completion or was not successful, the probation service shall notify the petitioner that a petition may be filed.

APPENDIX G

Permissable Terms and Conditions of Probation Supervision

2507.10 Permissible terms and conditions of an order entered in accordance with sections 755 and 757 of the Family Court Act.

(b) An order placing the respondent on probation in accordance with section 757 of the Family Court Act shall contain at least one of the following terms and conditions, including subdivision (c) of that section and including any of the terms and conditions set forth in subdivision (a) of this section, directing the respondent to:

(1) meet with the assigned probation officer when directed to do so by that officer;

(2) permit the assigned probation officer to visit the respondent at home or at school;

(3) permit the assigned probation officer to obtain information from any person or agency from whom the respondent is receiving or was directed to receive diagnosis, treatment or counseling;

(4) permit the assigned probation officer to obtain information from the respondent's school;

(5) cooperate with the assigned probation officer in seeking employment counseling services;

(6) submit records and reports of earnings to the assigned probation officer when requested to do so by that officer;

(7) obtain permission from the assigned probation officer for any absence from the county or residence in excess of two weeks;

(8) with the consent of the Division for Youth, spend a specified portion of the probation period, not exceeding one year, in a facility provided by the Division for Youth pursuant to subdivision 2 of section 502 of the Executive Law;

(9) do or refrain from doing any other specified act of omission or commission that, in the opinion of the court, is necessary and appropriate to implement or facilitate the order placing the respondent on probation;

(10) make restitution or require services for public good.

(c) The court may set a time or times at which the probation service shall report to the court, orally or in writing, concerning whether the terms and conditions of a judgment entered in accordance with sections 755 or 757 of the Family Court Act are being complied with.

(d) A copy of the order setting forth its duration and the terms and conditions imposed shall be furnished to the respondent and to the parent or other person legally responsible for the respondent.

APPENDIX H

1981 Family Court Dispositions

Delinquency & PINS Petitions

New York City*

	Delinquency		PINS		Total
	Boys	Girls	Boys	Girls	
Total Petitions	5,980	483	1,551	1,397	9,411
Adjourned in Contemplation of Dismissal	1,217 (20.3)	148 (30.6)	185 (11.9%)	150 (10.7%)	1,700 (18.0%)
Probation without placement	831 (13.8%)	55 (11.3%)	87 (5.6%)	104 (7.4%)	1,077 (11.4%)
Placement	844 (14.1%)	29 (6.0)	188 (12.1%)	156 (11.1%)	1,217 (12.9%)

* Figures secured from the Office of Court Administration. It should be noted that the Office maintains 22 categories of dismissals and adjudication. We have listed here only those pertinent to this study.

GLOSSARY AND ABBREVIATIONS*

Acts: A child is alleged to have committed an act that would be a crime if committed by an adult or to have exhibited certain behavior - not accused of crimes.

Adjudication: A child is adjudicated to be a delinquent or "person in need of supervision" - not convicted.

Complainant: The person making the allegations.

Corporation Counsel: Attorneys who present the petition; i.e., prosecute PINS and minor delinquency cases.

Court Liaison officers: Probation Officers assigned to the courtrooms to present probation information.

Delinquent: See "juvenile delinquent," "juvenile offender," "juvenile delinquent restrictive," "juvenile offender removed."

Detention: The temporary confinement of a child before or during hearings or while awaiting transfer to long term placement.

Dispositional hearing: A court proceeding to determine whether a child, found to be delinquent, requires supervision, treatment or confinement; whether a child found to be a PINS child requires treatment or supervision.

District Attorney: Attorneys who present the petition; i.e., prosecute case involving the restrictive juvenile delinquents and removed juvenile offenders in The Family Court.

Division for Youth: The state agency that operates a wide variety of residential facilities for the placement of delinquent and PINS children.

Fact-finding hearings: A court proceeding to determine, upon proof beyond a reasonable doubt, that a child committed the acts or exhibited the behavior alleged in a petition.

Hearing: A court proceeding, or trial.

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* As used in the Family Court and the Family Court Services of the Department of Probation.

Intake: A unit of the probation service that screens some children before a petition may be filed. It may divert some children from the juvenile justice process.

Investigations: A unit of the probation service that conducts a social and legal history of a child, found to be delinquent or a PINS, and submits a recommendation for a disposition to the judge.

Juvenile delinquent: A child between the 7th and 16th birthdays found to have commited a relatively minor act or acts.

Juvenile delinquent (restrictive): A child between the 7th and 16th birthdays found to have committed one or more of the most serious acts.

Juvenile Offender: A 13, 14 or 15 year old child tried in adult court and convicted of one or more of the most serious crimes.

Juvenile Offender (removed): A child whose case was initiated in adult court and removed back to the Family Court.

Law Guardians: Attorneys who represent children in the Family Court.

Person in need of Supervision: A child less than 16 who is habitually truant , incorribible, ungovernable, habitually disobedient and beyond the lawful control of parent or other legal authority or uses a small amount of marijuana. (PINS)

Petition: The instrument used to bring a case before the Family Court.

Petitioner: The complainant.

Placement: A child is placed in residential care as opposed to sentenced.

DFY: Division for Youth

DOP: Department of Probation

JD: Juvenile Delinquent

JO: Juvenile Offender

LCER: Legislative Commission on Expenditure Review

PINS: Person in Need of Supervision

POs:	Probation Officers
RJD	JD who may be subject to restrictive placement
RJO:	Juvenile offender whose case was removed to Family Court
CLOs	Probation officers who are Court Liaison Officers

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