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JUVENILE DELINQUENCY DISPOSITION COMMISSION

Richard J. Hughes Justice Complex
 CN-037
 Trenton, New Jersey 08625

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 Francis J. McManimon

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 President, New Jersey State Senate
 State House Annex
 Trenton, New Jersey 08625

The Honorable Chuck Hardwick
 Speaker, New Jersey State General Assembly
 State House Annex
 Trenton, New Jersey 08625

Gentlemen:

On behalf of the Juvenile Delinquency Disposition Commission, I am pleased to present you with our First Annual Report.

This report represents a breakthrough in the way we approach juvenile justice policy development. When you enacted the Code of Juvenile Justice, you asked the Commission to supply you with ongoing information on what works, what doesn't and where we go next. I think you will find that the report responds to these requests.

The work of the Juvenile Delinquency Disposition Commission is ongoing. We have developed a unique capacity to supply you with the type of information that replaces policy based on speculation with policy based on fact. We look forward to continuing to serve you and to your continued support.

Sincerely,

Peter W. Loos
 Chairman

PWL/ja

STAFF
 Martin J. Hodanish
 Executive Director
 Bruce D. Stout
 Assistant Director
 Judith Arciniaco
 Staff Assistant
 609-292-2264

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ACQUISITIONS

September 19, 1986

EXECUTIVE SUMMARY

This is the first report of New Jersey's Juvenile Delinquency Disposition Commission. It analyzes the impact of our new Juvenile Code during the initial phase of implementation, examines how we handle delinquency cases and recommends a number of future actions. Major points are highlighted in bold print throughout the report to facilitate quick overview.

The Code has been hailed as landmark legislation. The framers anticipated that implementation would take time and require coordinated action. Considerable progress has been made, but additional work is required.

The Commission was established by the Legislature to monitor the Code's implementation. It is required to study all aspects of the juvenile justice system relating to dispositions and to report findings to the Governor and Legislature on an annual basis. Our emphasis is on research rather than advocacy, and our efforts are geared to generating the type of policy relevant information that identifies and resolves problems.

SUMMARY OF FINDINGS ON CODE IMPLEMENTATION

The new Code points us in the right direction. Increased levels of coordination and cooperation are evident within the juvenile justice system. We have developed a new system of Juvenile Family Crisis Intervention Units for handling a variety of minor delinquency and family related problems. Mandated court service planning is operational for the first time in history and holds much promise for the future.

Interestingly, some of the Code's impact predictions have not materialized. Despite the fact that the number of juveniles under the care and custody of the Department of Corrections has increased, the number of juveniles incarcerated in state correctional facilities has not increased. Rather, incarcerated populations are declining. We have not experienced an increase in waivers to adult court.

However, we have had limited success in achieving many of the Code's policy goals and in implementing some of its major provisions. Specifically:

- Decisionmaking in the juvenile justice system continues to be characterized by considerable diversity. County variations in the use of detention, diversion and dispositional interventions are apparent and raise significant questions about the degree of equity and uniformity.

THIS IS THE COMMISSION'S FIRST REPORT. IT ANALYZES THE IMPACT OF THE NEW JUVENILE CODE.

THE COMMISSION'S APPROACH HAS FOCUSED ON RESEARCH RATHER THAN ADVOCACY.

OUR FINDINGS INDICATE THAT THE CODE POINTS US IN THE RIGHT DIRECTION. CONSIDERABLE PROGRESS HAS BEEN MADE. MANY POLICY GOALS HAVE BEEN ACHIEVED, BUT MORE WORK IS STILL REQUIRED.

INTERESTINGLY, SOME PREDICTED IMPACTS HAVE NOT MATERIALIZED.

FOR A VARIETY OF REASONS, WE HAVE HAD LIMITED SUCCESS IN REALIZING OTHER POLICY GOALS.

- Despite Code intent, the dispositional services available to the Court have not significantly expanded.
- Significant dispositional service gaps continue to exist.
- These gaps exist not only because of limited resources but also because of a lack of responsiveness by service providers to court service needs.
- "Short-term" commitment programs are being used by only six counties and there is considerable disagreement as to what short-term commitment should be used for.
- While the Code has been characterized as "getting tough" on juvenile crime, analysis indicates it may be more lenient. In any case, there is little evidence suggesting that we are providing harsher penalties for serious or repetitive offenders.
- While the Code expands the court's jurisdiction to include parents, guardians or family members found to be contributing to delinquency, available information suggests that few of these individuals are formally ordered to participate in dispositions.
- Despite provisions to the contrary, developmentally disabled offenders continue to be incarcerated.
- The Department of Corrections continues to serve juveniles other agencies are unwilling or unprepared to deal with.

Many of the problems associated with limited impact are due to the fact that we are poorly organized to deal with delinquency. We have failed to adequately define who is responsible for what. This often leads to confusion, frustration, counterproductive activity and inefficient use of resources. These issues must now be addressed.

At the front end of the system, we lack a consistent approach for assessing the needs of court involved youth or for determining what services are required. The dispositional stage is even more disorganized. The courts rely on a service provider system that is fragmented, unresponsive and unaccountable. Agencies capable of providing services unilaterally define their obligations. Policy is driven by bureaucratic response rather than Legislative or Executive direction. The court has no organized system for monitoring many of its dispositions nor for determining if its dispositions are effective responses to delinquency.

We respond to delinquency but have difficulty resolving it. The lack of an integrated approach means that juveniles are poorly or inappropriately served or "pushed around" from one program or agency to another. Our response is to create new programs when a back to basics approach stressing accountability and responsibility is more appropriate.

ONE REASON IS THAT WE ARE POORLY ORGANIZED TO DEAL WITH DELINQUENCY. FUTURE EFFORTS SHOULD STRESS ACCOUNTABILITY.

RECOMMENDATIONS

The Commission has provided a series of detailed recommendations aimed at:

- Increasing appropriate uniformity and equity within the juvenile justice system.
- Improving court access to dispositional services.
- Pinpointing responsibility for the provision of service.
- Evaluating the impact of the Family Court and the success of Juvenile-Family Crisis Intervention.
- Increasing appropriate parental involvement in the remediation of delinquency.
- Improving our ability to deal with serious and/or repetitive offenders.
- Improving the system's ability to handle developmentally disabled offenders.
- Creating a balanced system of residential and quasi-residential services specifically geared to the needs of delinquent youth.
- Creating an aftercare system for juveniles released from residential and custodial settings.
- Improving the State's role in dealing with delinquency and encouraging appropriate local responses.
- Assuring ongoing monitoring and research to improve the operations of the juvenile justice system.

**THE REPORT PROVIDES A SERIES OF
SPECIFIC RECOMMENDATIONS FOR
IMPROVING JUVENILE JUSTICE.**

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1. ABOUT THE COMMISSION

- WHAT IS THE COMMISSION'S ROLE?
- WHAT IS THE COMMISSION DOING?
- WHAT WILL IT DO IN THE FUTURE?

ROLE OF THE COMMISSION

The Juvenile Delinquency Disposition Commission was created by the Legislature. Its mission is to provide oversight and monitoring of Code implementation. The mission was recently described by former Assemblyman Martin Herman:

An oversight committee, made up of legislators, law enforcement officials and members of the public, will monitor the effectiveness of the Code so problems in the system can be dealt with as they occur, and not 20 years down the road.¹

The Commission's specific mandate is to study all aspects of the juvenile justice system relating to dispositions. This is accomplished by compiling individual case data and analyzing the availability and interrelationship of dispositions and the reasons for their use. The results of this effort are reported herein.

The Commission's activities are ongoing. After its first report, it is required to file an annual report with the Governor and Legislature containing its findings and recommendations.

The Commission provides a forum for various agencies to discuss issues and coordinate actions. Monthly meetings, subcommittees, study groups and task forces are used to identify and address important issues. Symposiums examine such diverse topics as the Code's policy goals or the organization of court services.

Membership is indicative of the Commission's mission. It consists of 17 members, including two members of the Senate, two members of the General Assembly, the Chief Justice of the Supreme Court, the Attorney General, the Public Advocate, the Chairman of the State Parole Board, the Commissioner of the Department of Corrections, the Commissioner of the Department of Human Services, the President of the County Prosecutors Association, the President of the New Jersey Association of Counties, the President of the League of Municipalities, the Commissioner of the Department of Health and three public members appointed by the Governor. Although formal

THE COMMISSION HAS PROVIDED OVERSIGHT AND MONITORING OF THE CODE IMPLEMENTATION.

MONITORING IS IMPORTANT. IT HELPS US IDENTIFY PROBLEMS AS THEY OCCUR, NOT 20 YEARS DOWN THE ROAD.

THE COMMISSION IS RESPONSIBLE FOR ANALYZING THE AVAILABILITY, INTERRELATIONSHIP AND REASONS FOR THE USE OF VARIOUS DISPOSITIONS.

ACTIVITIES ARE ONGOING. THE COMMISSION IS REQUIRED TO FILE AN ANNUAL REPORT WITH THE GOVERNOR AND LEGISLATURE.

THE COMMISSION PROVIDES A FORUM FOR DISCUSSION AND COORDINATION.

MEMBERSHIP CONSISTS OF LEGISLATORS, THE JUDICIARY, LAW ENFORCEMENT OFFICIALS, STATE AND LOCAL OFFICIALS AND REPRESENTATIVES OF THE PUBLIC.

membership is limited to these individuals or their designees, input has been expanded by enlisting the participation of many others.

THE COMMISSION'S APPROACH

With a role specified by statute, the Commission has also been asked to examine a variety of related issues: How is the new Code working? Are various provisions meshing? Are its goals being realized? Are there unanticipated consequences? Is the system equitable? Do we have the dispositional options we need? Are we organized properly? What incentives are needed? Where do we go next?

The Commission has taken a unique approach. It operates as a fact-finding, research and analysis operation rather than as an advocacy group. Initial focus has been on the Code's policy goals. A number of observations were made. Implementation of the Code would be difficult. Numerous agencies and individuals were involved. Since new legislation is often characterized by a gap between legislative intent and what actually happens, monitoring would be critical.² There were varying opinions about what the Code was intended to do and what it could achieve. Not surprisingly, there was a variety of opinions on both problems and solutions.

The primary problem faced by the Commission was that the information it required was not available. In fact, the juvenile justice system is characterized by a paucity of information; a situation noted by the Task Force Advisory Committee on Data Collection and numerous other groups as responsible for limiting our ability to develop an effective juvenile system.³ This dearth of information required us to focus considerable effort on developing good information systems.

Given these starting points, the Commission formulated a long-term strategy aimed at replacing policy based on speculation with policy based on fact. It stressed three initial goals:

- Development of an information system geared to providing policy-relevant data—the type of information that executive agencies, the Legislature and the courts could use.
- The development of a Clearinghouse Operation cataloging and disseminating up-to-date research findings.
- Monitoring of Code implementation.

The Commission is pleased to report that these goals are being met. A "Unit Case" information system has been developed in coordination with the Administrative Office of the Courts. This system now provides data relevant to the Commission's monitoring, evaluation and research activities and the judiciary's management functions. By necessity, much of our initial effort in this area went toward planning and implementation of this new and comprehensive data collection system. The system is now oper-

THE COMMISSION WAS ASKED TO EXAMINE A VARIETY OF ISSUES.

A UNIQUE APPROACH STRESSES RESEARCH RATHER THAN ADVOCACY.

WE REALIZED THAT IMPLEMENTATION EVALUATION WAS IMPORTANT—THERE IS OFTEN A GAP BETWEEN LEGISLATIVE INTENT AND WHAT ACTUALLY HAPPENS.

JUVENILE JUSTICE IS OFTEN DRIVEN BY IDEOLOGY AND IS CHARACTERIZED BY MANY OPINIONS, FEW FACTS.

IN RESPONSE, WE FORMULATED A RESEARCH STRATEGY AIMED AT REPLACING POLICY BASED ON SPECULATION WITH POLICY BASED ON FACT.

THE COMMISSION HAS:

- **DEVELOPED A POWERFUL DATA SYSTEM.**
- **ORGANIZED A CLEARINGHOUSE.**
- **MONITORED CODE IMPLEMENTATION.**

THE COMMISSION'S ACTIVITIES ARE AIMED AT PROVIDING INFORMATION RELEVANT TO EXECUTIVE, LEGISLATIVE, AND JUDICIAL AGENCIES.

ational and ongoing. This report contains the first usable six months of Unit Case data and should be viewed as an early indication of system functioning under the new Code. Future reports will take advantage of the historical and ongoing nature of the database.

One notable implementation problem was the difficulty encountered in capturing race information. Court personnel rely on police complaint forms for demographic information and many police forms in existence at the start of Unit Case did not record race. As a result, information on race is missing from this initial Unit Case data for about 50% of the juveniles, making it impossible to draw any valid conclusions about racial differences. Owing to the efforts of the Administrative Office of the Courts and the Office of the Attorney General, this problem has been addressed and the most recent Unit Case filings capture race in the majority of the cases. The Commission has established the examination of racial influences in decisionmaking as a research priority for the coming year.

The Unit Case system utilizes county specific juvenile identification numbers, making it possible, for the first time, to distinguish between cases and juveniles. This approach facilitates research in areas never before possible. Unit Case captures demographic, offense, and dispositional information at three distinct points: docketing, intake, and disposition. Court generated data is entered into an IBM mainframe database by the Statistical Services Unit of the Administrative Office of the Courts.

This approach is valuable since it will enable us to monitor trends, examine recidivism and evaluate dispositional program effectiveness. The approach is geared to producing payoffs, increasing knowledge, improving planning and targeting resources. The system is increasingly relied on by individuals and agencies in their research and policy development efforts.

A Clearinghouse operation has been developed. Reports on dispositional trends are provided at regular intervals. Monthly Commission meetings, committee activities and study group discussions provide opportunities for information exchange. A computer-based reference system provides access to a collection of important research documents.

Monitoring of Code implementation is ongoing. Unit Case data analysis, "key actor" surveys, agency interviews and field observations are geared to understanding the dynamics of implementation. Together, these activities have provided the findings for this initial report. More importantly, an ongoing process has been established to assist policymakers in various branches and levels of government in their future deliberations.

**OUR INFORMATION SYSTEM FACILITATES
THE TYPE OF RESEARCH NEVER BEFORE
POSSIBLE. THIS APPROACH WILL RESULT
IN FUTURE PAYOFFS.**

2. JUVENILE DELINQUENCY

- HOW BIG A PROBLEM IS JUVENILE DELINQUENCY?
- WHAT ARE THE TRENDS IN JUVENILE DELINQUENCY?

Our juvenile justice system deals with many types of offenders. Most will be involved in the system only once. Others will experience multiple contacts. Some of our "interventions" will be successful. Others will fail.

THE EXTENT OF JUVENILE DELINQUENCY

Information about juveniles who are arrested is the best available indicator of the overall incidence of juvenile delinquency that we have. There are, however, caveats that should be kept in mind when interpreting arrest data. Not all crimes are reported. Not all crimes are "cleared" by arrest. Juveniles frequently commit crimes in groups, and may be easier to apprehend than adults, thus biasing juvenile-adult comparisons.

With these limitations in mind, arrest data indicate that juvenile delinquency continues to be a major social problem. The good news is that juvenile arrests in New Jersey have dropped substantially over the past eight years. However, juveniles still account for a significant portion of all arrests:

- From 1977 through 1984, we experienced a 21% decline in juvenile arrests (from 122,422 to 96,780). This coincides with 12% decrease in the State's juvenile population.¹
- Forty-two percent of the 1984 arrests were for the lesser offenses of criminal mischief, disorderly conduct, runaways, and offenses not categorized in the Uniform Crime Reports.
- Arrests for the crimes most frequently committed by juveniles (Burglary and Larceny/Theft) have decreased by over 26% (from 29,425 to 21,629).
- In 1984, the 96,780 juvenile arrests reported represented 27% of all arrests in the State as compared to 37% in 1977.²

Despite these promising trends, arrests of juveniles for violent crimes (the Federal Bureau of Investigation violent index offenses; Murder, Rape, Robbery and Aggravated Assault) have increased dramatically. Although violent crime arrests represent a small portion of all arrests, this trend appears significant:

JUVENILE DELINQUENCY IS A MAJOR SOCIAL PROBLEM.

THE GOOD NEWS IS THAT JUVENILE ARRESTS HAVE DROPPED SUBSTANTIALLY OVER THE PAST EIGHT YEARS. YET JUVENILES STILL ACCOUNT FOR 27% OF ALL ARRESTS STATEWIDE.

THE BAD NEWS IS THAT THERE HAS BEEN A 71% INCREASE IN ARRESTS FOR VIOLENT CRIME.

- From 1977 through 1984, New Jersey experienced a 71% increase (from 3,204 to 5,481) in juvenile arrests for violent offenses.³
- This increase occurred primarily in five of the State's highly urbanized counties (Camden, Hudson, Essex, Passaic and Union). These five counties now account for 72% of all juvenile arrests for violent crime.⁴
- By comparison, the five rural counties of Cape May, Hunterdon, Salem, Sussex and Warren account for only 1% of all juvenile arrests for violent crime.⁵

Every county except Hudson experienced a substantial decrease in the number of arrests from 1977 through 1984. Further:

- Cape May, Cumberland, Hunterdon and Middlesex Counties each enjoyed a decrease of approximately 40%.
- Hudson County experienced a 16% increase.⁶

While the above information indicates that the State as a whole is enjoying a decline in juvenile arrests, this decline does not compare favorably with national trends. Eight-year Federal Bureau of Investigation statistics indicate that the Nation as a whole was more fortunate than New Jersey:

- The State's decrease in total juvenile arrests (24%) compared unfavorably with a 29% nationwide decrease, despite the fact that New Jersey's juvenile population declined at a greater rate than the Nation's (12% vs. 4%).
- While New Jersey experienced a 71% increase in juvenile violent crime arrests, national figures show a 21% decrease.⁷

Violent juvenile crime is a major problem in New Jersey's cities. A recent National Institute of Juvenile Justice and Delinquency Prevention Report rank ordering 160 cities of population 100,000 or more on the basis of violent juvenile crime found that three of the top eight cities were in New Jersey (Paterson, Newark and Trenton).⁸

Demographic data also reveals important information relative to juvenile crime trends in New Jersey.

Males continue to account for the vast majority of juvenile arrests:

- Eighty-one percent of all juveniles arrested are male, 19% female.
- Males account for 90% of all violent crime arrests, females only 10%.⁹

Statistics indicate that most juveniles entering the system are typically in their late teens. These older juveniles account for an even greater majority of violent crime than younger juveniles. For example:

- Fifteen to seventeen year olds account for 63% of all juvenile arrests.

INCREASES IN VIOLENT CRIME ARRESTS OCCURRED PRIMARILY IN THE FIVE URBAN COUNTIES (CAMDEN, HUDSON, ESSEX, PASSAIC AND UNION). THESE COUNTIES NOW ACCOUNT FOR 73% OF ALL JUVENILE ARRESTS FOR VIOLENT CRIME.

EVERY COUNTY EXCEPT HUDSON HAS EXPERIENCED SUBSTANTIAL DECREASES IN OVERALL JUVENILE ARRESTS SINCE 1984. CAPE MAY, CUMBERLAND, AND MIDDLESEX COUNTIES ENJOYED THE LARGEST DECREASES.

HOWEVER, NEW JERSEY HAS NOT BEEN AS FORTUNATE AS THE NATION AS A WHOLE WITH RESPECT TO ARREST TRENDS.

NEW JERSEY EXPERIENCED A 24% DECREASE IN ARRESTS IN COMPARISON TO A 29% DECREASE NATIONWIDE.

WHILE WE EXPERIENCED A 71% INCREASE IN JUVENILE VIOLENT CRIME ARRESTS, THE NATION EXPERIENCED A 21% DECLINE.

VIOLENT CRIME IS A PROBLEM IN NEW JERSEY CITIES.

MALES ACCOUNT FOR THE VAST MAJORITY OF ALL JUVENILE ARRESTS (81%) AND AN EVEN GREATER PERCENTAGE OF VIOLENT CRIME ARRESTS.

OLDER JUVENILES ACCOUNT FOR THE MAJORITY OF ALL JUVENILE ARRESTS.

- Juveniles of this age group also account for 69% of all violent crime arrests.¹⁰

Although still accounting for the majority of arrests, substantially fewer white juveniles are being arrested than in the past. Arrest figures for black juveniles have remained relatively stable over an eight-year period; however, the types of offenses for which black juveniles are arrested appear more serious than in the past:

- Arrests of white juveniles have decreased by 30% over an eight-year period; arrests of white juveniles still account for 65% of all juvenile arrests statewide.
- Arrests of black juveniles for non-violent crimes (all crimes other than violent index offenses) have decreased. However, arrests of black juveniles for violent crime offenses have increased by 104% (from 1,848 to 3,769). Black juveniles currently account for 69% of all juvenile violent crime arrests.¹¹

Increasing evidence suggests that a significant amount of serious crime is committed by a small number of repeat offenders. Current research indicates that while most juvenile offenders are involved in the system on a limited basis, a limited number are repeatedly involved in serious criminal activities.¹²

While the overall social and economic costs of juvenile crime are difficult to calculate, direct governmental expenditures in juvenile justice continue to tax state, county and local budgets. A variety of "interventions" in the form of dispositions will be provided to these juveniles. Many will involve considerable resource expenditure. Yet, we have limited knowledge about how effective various interventions are.

- Each year, almost 15,000 juveniles in New Jersey are adjudicated delinquent.¹³
- Nearly 800 juveniles were incarcerated in 1985 in our state correctional institutions at a per capita annual cost of about \$24,000.¹⁴
- Well in excess of 7,000 juveniles are placed on probation.¹⁵

SIXTY-FIVE PERCENT OF ALL ARRESTS INVOLVE WHITE JUVENILES.

ARRESTS OF WHITE JUVENILES HAVE DECREASED OVER THE PAST EIGHT YEARS.

WHILE ARRESTS OF BLACK JUVENILES FOR NONVIOLENT CRIMES HAVE DECREASED, THERE HAS BEEN A 104% INCREASE IN VIOLENT CRIME ARRESTS.

THERE IS INCREASING EVIDENCE THAT A SMALL NUMBER OF REPEAT OFFENDERS ARE RESPONSIBLE FOR A SIGNIFICANT AMOUNT OF CRIME.

GOVERNMENT SPENDS A GREAT DEAL OF MONEY IN ITS ATTEMPT TO CURTAIL JUVENILE CRIME. THE "INTERVENTIONS" PROVIDED TO JUVENILE OFFENDERS INVOLVE CONSIDERABLE EXPENSE.

ALMOST 15,000 JUVENILES ARE ADJUDICATED DELINQUENT EACH YEAR.

NEARLY 800 ARE INCARCERATED.

OVER 7,000 JUVENILES ARE PLACED ON PROBATION.

Much of the juvenile justice system is driven by ideology. Some start with a premise that the juvenile justice system should be geared to rehabilitation. Others stress accountability and punishment. While not always in conflict, both realize that our ultimate objective is to reduce juvenile crime. Government's responsibility is to find the most effective and efficient ways to achieve this objective. The Commission's research is intended to make a contribution to this pursuit.

**MUCH OF WHAT WE DO IS DRIVEN BY
IDEOLOGY.**

**GOVERNMENT'S RESPONSIBILITY IS TO
FIND THE MOST EFFICIENT AND
EFFECTIVE WAYS TO REDUCE JUVENILE
CRIME. THIS CANNOT BE ACHIEVED
WITHOUT GOOD INFORMATION.**

3. OUR APPROACH TO JUVENILE DELINQUENCY

- WHAT HAVE WE DONE IN THE PAST?
- WHERE ARE WE GOING IN THE FUTURE?

To understand where we are going demands an appreciation of where we have been. The historical development of juvenile justice can be viewed from many perspectives. While the interpretation presented below represents a commonly accepted view, other conflicting interpretations have been made.¹

While informal social controls, including the positive influence of the family and the community, continue to be some of the most powerful tools of behavioral control, we have found it necessary to develop "formal" responses to delinquency. Many of these are patterned from the British concept of "Parens Patriae" in which government assumes the role of benevolent parent. These responses have generally viewed delinquents as misguided and in need of supervision and reform. Thus, the traditional goal of our juvenile justice system has been rehabilitation rather than punishment.

The juvenile justice system has been rich in aspiration. We have traditionally felt that juveniles are salvageable; for example, as early as 1825, joint housing of juvenile and adult offenders was viewed as counterproductive to our protective doctrine. Our first juvenile "houses of refuge" were built to instill social and religious values by providing parental discipline. Unfortunately, experience shows that many of our aspirations were not realized.²

Widespread immigration, industrialization and urbanization along with a subsequent breakdown of traditional social controls led to increased reliance on governmental intervention and the use of formal mechanisms of control such as the juvenile reformatory system. Because many children continued to be dealt with as adults, laws such as the Illinois Juvenile Court Act of 1899 created separate juvenile court systems. Founded upon the "Parens Patriae" doctrine, this law provided the first separate court jurisdiction for delinquent and status offenses. The approach was widely imitated. All but two states adopted similar legislation over the next 25 years.

Since the juvenile court was viewed in the role of benevolent parent, considerable discretion was permitted. Hearings were informal and confidential. Emphasis was placed on understanding the reasons for a juvenile's behavior, not on the offense, and attempts were made to provide appropriate treatment. Since rehabilitation was paramount, due process safeguards were not deemed necessary.

UNDERSTANDING WHERE WE ARE GOING DEMANDS AN APPRECIATION OF WHERE WE'VE BEEN.

MANY OF OUR APPROACHES TO JUVENILE CRIME HAVE BEEN PATERNALISTIC. THE SYSTEM IS GEARED TOWARD REHABILITATION RATHER THAN PUNISHMENT.

THE JUVENILE JUSTICE SYSTEM HAS BEEN RICH IN ASPIRATION, POOR IN DELIVERY.

GOVERNMENT INTERVENTION INCREASED AS SOCIETY BECAME MORE COMPLEX.

CONSIDERABLE DISCRETION WAS PROVIDED TO THE COURT.

It was increasingly recognized that the lack of due process safeguards led to abuses of discretion. The U.S. Supreme Court's review of court practices led to rapid change. Several landmark cases, *Kent v. United States*, *In Re Gault*, and *In Re Winship*, recognized that juveniles had long-absent constitutional rights. While these decisions corrected many shortcomings, some feel that the blurring of distinction between the juvenile and criminal court will result in the former's demise.

Recent reform movements have sought to deemphasize the use of institutions in favor of community-based approaches. Relying on research demonstrating the failure of juvenile institutions to rehabilitate, the new theory views community-based programs, with their ties to the family and community, as a preferable approach.³ Advocates advanced a further thesis that the courts should not deal with minor delinquency and status offenses.⁴ Diversion would avoid criminal association, stigmatization and "labeling". Diversion has not been without its critics who claim it serves to "widen the net" of intervention by drawing juveniles into programs who would never have been involved in the court system before. They note that while juvenile populations have decreased, institutional and court caseloads have not. The only difference has been a dramatic increase in outside agency work loads.⁵

A more recent debate has focused on the "hard core" juvenile offender, a debate sparked by an increase in violent offenses and fueled by media reports and some research indicating that a small number of juveniles account for a large portion of all juvenile crime.⁶ In fact, some suggest that our focus is increasingly shifting toward punishment as opposed to rehabilitation. Concurrently, the juvenile justice system's tradition of withholding information on cases from the public has led to characterizations of the system as closed and more interested in the juvenile's rights than the public's safety.

These and other influences have led many states to rethink their approach. Within the last decade, over three-fourths of the states have either enacted entirely new juvenile codes or have substantially modified existing ones. While each approach is distinct, several major themes emerge. Some states, such as Washington, have developed approaches downplaying service intervention and stressing accountability and "just deserts" as a means of rehabilitation. Most other states, however, continue to emphasize service interventions.

BUT ABUSES OF DISCRETION RESULTED IN THE IMPOSITION OF MORE DUE PROCESS RIGHTS IN JUVENILE PROCEEDINGS.

SOME FEEL THAT THE FUTURE OF THE JUVENILE COURT IS UNCERTAIN AND THAT IT WILL BECOME LIKE THE ADULT COURT.

MANY OF OUR CURRENT RESPONSES TO DELINQUENCY EMPHASIZE DIVERSION AND COMMUNITY-BASED APPROACHES.

DIVERSION IS NOT WITHOUT ITS CRITICS. THEY CLAIM IT ONLY "WIDENS THE NET".

THERE IS INCREASING CONCERN OVER HARD CORE JUVENILE OFFENDERS.

MOST STATES HAVE RECENTLY REVISED THEIR JUVENILE CODES.

SOME CODES STRESS ACCOUNTABILITY, BUT REHABILITATION THROUGH SERVICE INTERVENTION IS STILL THE DOMINANT THEME.

Regardless of the approach, increased attention is being given to dispositional decisionmaking. There are several reasons. Juvenile justice actors have traditionally been afforded a great deal of discretion. The use of this discretion is being questioned. Another concern is with equity—the degree to which similarly situated offenders are disposed of similarly. Another is with dispositional intervention. Are “services” always necessary? Who should receive what? What works? Since most juvenile courts have traditionally relied heavily on services to “rehabilitate” their clients, the location, organization and availability of services continues as a major issue. Increased emphasis on community-based approaches, combined with a realization that local services are often more effective than state-delivered services, has increasingly shifted the state role from direct service delivery to planning, coordination, funding, standard setting, research and monitoring.⁷ New Jersey’s new Code reflects many of these trends.

**THERE IS INCREASING CONCERN OVER
THE INTERVENTIONS WE USE:**

- **ARE THESE INTERVENTIONS APPROPRIATE?**
- **ARE THESE INTERVENTIONS EQUITABLE?**
- **WHAT INTERVENTION SERVICES ARE NEEDED?**
- **WHERE SHOULD THEY BE LOCATED?**
- **HOW SHOULD THEY BE ORGANIZED?**

**THE LATEST THINKING STRESSES LOCAL
APPROACHES TO COMBATTING
DELINQUENCY.**

**THE STATE’S ROLE IS INCREASINGLY
FOCUSED ON PLANNING, COORDINATING,
FUNDING, STANDARD SETTING,
MONITORING AND RESEARCH.**

4. THE POLICY GOALS OF THE NEW CODE

- WHY A NEW CODE?
- WHAT DOES THE CODE TRY TO DO?
- WHAT PREDICTIONS WERE MADE ABOUT ITS IMPACT?

The Juvenile Code represents a new blueprint for juvenile justice. Why a new Code? What did it hope to achieve?

Interestingly, this revision followed a recent and similar effort. In December of 1973, the Legislature enacted 2A:4-42 et seq. which provided for a revised Code, effective March of 1974. Perhaps its most noteworthy provision was a prohibition against confinement of status offenders. While this significantly changed the fabric of our juvenile system, in less than ten years we undertook yet another revision.

ROOTS OF REFORM

The roots of reform were nurtured by a number of deficiencies in the juvenile system. Some suggested that the courts were overburdened and felt that status and minor delinquency cases could more effectively be handled by an alternative mechanism. The public's perception of the system was increasingly negative; some suggested it was "closed" to public scrutiny. Sentiment was increasingly voiced that few dispositional choices were available to the court and that this severely limited its ability to deal effectively with delinquency. Concurrently, others claimed we were soft in dealing with serious or repetitive offenders, and some felt that we were not dealing with delinquency as a family-related problem.

What followed was a major effort to examine these deficiencies and develop solutions. In the spring of 1980, a Juvenile Justice Task Force was created by the Assembly Judiciary, Law, Public Safety and Defense Committee for the purpose of developing recommendations. Initial objectives were to create uniformity and standards within the system and provide the court with increased ability to respond to juvenile issues.¹

The Task Force, divided into nine committees, was unique in its broad and diverse representation. This undoubtedly contributed significantly to the Code's acceptance. Committees addressed the following topics: The Family Court; Pre-Trial Practices; Alternative Dispositions; Determinate/Indeterminate Sentencing; Guardian/Child Abuse; Youth Employment; School Violence and Alternative Schools; Data Collection;

THE CODE IS A NEW BLUEPRINT. THIS BLUEPRINT WAS NEEDED FOR A VARIETY OF REASONS.

THE NEW CODE RESPONDS TO MANY PAST DEFICIENCIES:

- THE COURTS WERE OVERBURDENED.
- THE COURTS HAD FEW DISPOSITIONAL OPTIONS FOR DEALING WITH DELINQUENCY.
- THE SYSTEM WAS CLOSED TO PUBLIC SCRUTINY.
- THE SYSTEM WAS SOFT ON SERIOUS CRIME.
- THE SYSTEM DID NOT DEAL WITH DELINQUENCY AS A FAMILY PROBLEM.

MANY INDIVIDUALS PARTICIPATED IN THE CODE'S DEVELOPMENT. TASK FORCES WERE USED TO PROVIDE RECOMMENDATIONS. THIS UNDOUBTEDLY CONTRIBUTED TO THE CODE'S ACCEPTANCE.

and Confidentiality. Each committee report contains numerous observations and recommendations, many of which were subsequently incorporated in the final bill draft.

THE END PRODUCT

While many recommendations were altered in the ensuing legislative process, what emerged was a bill described by the following Senate Judiciary Committee statement:

This bill recognizes that the public welfare and the best interests of juveniles can be served most effectively through an approach which provides for harsher penalties for juveniles who commit serious acts or who are repetitive offenders, while broadening family responsibility and the use of alternative dispositions for juveniles committing less serious offenses. Moreover, the provisions of this bill and the other accompanying bills reflect a philosophy which is pragmatic and realistic in nature rather than bound to any particular ideology.²

The new Code outlines a number of new directions.³ Some of the more important include:

INCREASED UNIFORMITY AND EQUITY

One objective of the Code is to increase uniformity and equity in the handling of juvenile cases. This lack of uniformity was viewed as a major pre-Code problem. The Task Force on Pre-Trial Practices stated that variations in court practices had led to disparity in treatment and, in some cases, to insufficient due process protections. The Task Force on Determinate/Indeterminate Sentencing urged greater legislative definition of dispositional decisionmaking. Past practices had led, in the words of Assemblyman Herman, to situations where little distinction was made "... between kids who took candy from a candy store and a six foot tall thug with weapons who stuck-up a liquor store."⁴

In response, many formerly unaddressed practices and procedures in such areas as court intake and diversion are codified. The Code provides criteria for waiver, short-term custody and detention decisions. A series of standards and "guidelines" require the court to weigh certain factors in arriving at dispositions, prohibit the incarceration of certain offenders and relate the terms of incarceration the court may impose to offenses.

THE CODE IS SAID TO BE PRAGMATIC, NOT BOUND TO ANY PARTICULAR IDEOLOGY.

THE CODE PROVIDES FOR A NUMBER OF NEW DIRECTIONS. FOR EXAMPLE:

UNIFORMITY WAS STRESSED. PRACTICES AND PROCEDURES WERE CODIFIED, STANDARDS WERE ESTABLISHED. GUIDELINES WERE SPECIFIED.

A FAMILY EMPHASIS

The Code recognizes the family as a building block of society and as a unit that must be considered in problem remediation. Thus, it paved the way for creation of a "Family Court" by consolidating several functions previously handled by the former Juvenile and Domestic Relations Court and the Matrimonial Part of the Chancery Division of District Court and establishes a county-level Family Part to the Superior Court. This "structural" change is important. Theoretically, it enhances the court's ability to deal with delinquency in the context of the family by extending the court's jurisdiction beyond the juvenile to include parents, guardians or family members found to be contributing to delinquency or a "juvenile-family crisis". Thus, the Code recognizes that the roots of delinquency are often found within the family and that a "vast majority of juvenile misconduct is a result of troubled family circumstances".⁵

ALTERNATIVE HANDLING OF STATUS OFFENSES

Concluding that an alternative to formal court processing of status offenses would be desirable and that some cases required immediate, short-term intervention, the Code provides a new mechanism, the Juvenile-Family Crisis Intervention Unit. These units are intended to provide troubled youth and their families with "a noncoercive opportunity to resolve conflicts and receive needed services".⁶ Concurrently, by eliminating initial court intervention, the court can concentrate on more serious cases. Some view this as the most significant provision of the Code. One Task Force committee suggested that as many as 80% of all status cases could be handled by this mechanism designed to avoid formal court processing.⁷

Crisis Intervention Units can operate as part of court intake or can be operated by "outside" agencies subject to court jurisdiction. Since these units deal with problems prior to court intervention but can refer unresolved cases directly to court, they represent a compromise between those advocating complete removal of status cases from court jurisdiction and those maintaining that juveniles benefit from the court's ability to command services.⁸

INCREASED DISPOSITIONAL OPTIONS

In response to criticisms that too few dispositional options were available to the court, the Code expands the range of options available to the court. It also creates an entirely new option—incarceration in a county detention facility for a period not to exceed 60 days. However, programs or resources to support these options were not created or expanded. The 60 day incarceration option is created contingent upon county initiative and State approval.

A FAMILY COURT WAS CREATED. THE CODE VIEWS THE VAST MAJORITY OF JUVENILE MISCONDUCT AS THE RESULT OF TROUBLED FAMILY CIRCUMSTANCES.

JUVENILE-FAMILY CRISIS INTERVENTION UNITS WERE DESIGNED TO HANDLE CERTAIN TYPES OF CASES. THIS REPRESENTS A COMPROMISE BETWEEN THOSE WHO ADVOCATE COMPLETE REMOVAL OF STATUS-TYPE CASES FROM COURT JURISDICTION AND THOSE WHO MAINTAIN THAT JUVENILES BENEFIT FROM THE ABILITY OF THE COURT TO COMMAND SERVICES.

CRISIS INTERVENTION UNITS CAN BE A PART OF COURT OPERATIONS.

DISPOSITIONAL OPTIONS WERE EXPANDED BUT ADDITIONAL RESOURCES TO SUPPORT THESE OPTIONS WERE NOT PROVIDED.

HARSHER PENALTIES FOR SERIOUS, REPETITIVE OFFENDERS

In response to criticism that the system was ineffective in dealing with serious or repetitive offenders, the Code modifies the provisions for the waiver of juveniles to adult court and provides increased deterrence capacity by authorizing extended incarceration terms. Early parole of incarcerated offenders is made subject to court review. The Code was characterized as more punitive in dealing with more serious offenders and less punitive in dealing with minor offenders.

EXPEDITED CASE PROCESSING

Responding to criticism that juvenile cases were not handled expeditiously, the Code provides for alternative case processing of status and minor delinquency offenses and specifies both time intervals and procedures that must be utilized in considering detention cases.

A MORE OPEN SYSTEM

Faced with a public perception that the system, by maintaining confidential hearings, withholding offender identities, and thwarting victim input, was shrouded in an aura of secrecy, the Code modifies the level of privacy a juvenile can expect and stipulates that certain case information is to be released. The Code requires that information on the identity of a juvenile, the offense(s) charged, the adjudication and the disposition be disclosed to certain persons including the victim, the complainant, any law enforcement agency investigating the offense, any law enforcement agency in the municipality where the juvenile resides and (confidentially) the principal of the juvenile's school. The Code also provides that the law enforcement records pertaining to juveniles can be disclosed for law enforcement purposes to any law enforcement agency of the State. Additionally, when a juvenile is diverted, notice must be sent to the complainant or victim.

PLANNING, COORDINATION AND RESOURCE DEVELOPMENT

Since the court relies on outside agencies to provide family crisis and dispositional intervention services, resource availability is an important issue. Rather than increase resources or pinpoint service provision responsibility, the Code establishes a planning process for the development of court services. Comprehensive plans for the provision of community services and programs meeting the needs of children under the jurisdiction of the Family Court are to be developed in each county. In doing this, the Code emphasizes service provision responsibility at the local (county) level, and mandates, for the first time in history, statewide planning for court-related services.

HARSHER PENALTIES WERE PROVIDED FOR SERIOUS, REPETITIVE OFFENDERS. MANY FEEL THAT THE CODE IS MORE PUNITIVE IN DEALING WITH THESE OFFENDERS, LESS PUNITIVE IN DEALING WITH MINOR OFFENDERS.

THE CODE WAS CHARACTERIZED AS A GET TOUGH APPROACH TO SERIOUS JUVENILE CRIME.

THE LEVEL OF PRIVACY OF JUVENILE PROCEEDINGS WAS CHANGED. INFORMATION ON CASES MUST BE PROVIDED TO CERTAIN PERSONS AND AGENCIES.

COURT SERVICE PLANNING WAS MANDATED FOR THE FIRST TIME IN HISTORY. LOCAL RESPONSIBILITY IS EMPHASIZED.

ONGOING REVIEW

By emphasizing a pragmatic approach and by creating the Juvenile Delinquency Disposition Commission, the Legislature intended that the new Code be subjected to review and refinement. This is further demonstrated by requirements that the Attorney General collect information on waivers and report findings to the Legislature, and that the Commission evaluate the impact of the short-term commitment option.

THE PREDICTED IMPACT

Numerous impact predictions were made. Some saw the new Code as an attempt to "get tough" on juvenile crime. Others viewed the law quite differently. While there was no universal consensus concerning impact, enactors identified the more common predictions as:

- Implementation would be difficult. Numerous agencies would be involved. Each would pursue its individual agenda. Few resources were allocated. This lack of resources would impede the implementation process.
- The use of waivers to adult court would increase. A National Council on Crime and Delinquency report suggested this could result in at least 500 more youths being incarcerated in adult correctional systems.⁹
- Dispositional resources available to the Court would increase as a result of new sentencing provisions and Code-inspired planning and coordination.
- Court workloads would decrease. Juvenile-Family Crisis Intervention Units would largely absorb status cases. The court would be able to concentrate on more serious cases.
- Dispositional patterns would change. A wider range of intervention options would, theoretically, provide the court with more choices.
- Use of detention would decrease. Detention admissions, governed by a more restrictive provision, would decline. Streamlined hearing provisions would accelerate dispositional decisions in detention cases, leading to less reliance on centers as holding facilities.
- Correctional populations would increase. Extended term provisions would lengthen the amount of time serious offenders would be incarcerated. A National Council on Crime & Delinquency report suggested this would result in a need to create an additional 150 beds at a cost of 9-12 million dollars.¹⁰
- Service demands on the Department of Human Services would escalate. There would be increased referrals to the Division of Youth and Family Services, increased use of residential placement and increased demands on the Division of

ONGOING RESEARCH AND MONITORING WAS MANDATED.

THERE WERE MANY IMPACT PREDICTIONS:

- **IMPLEMENTATION WOULD BE DIFFICULT.**
- **WAIVERS TO ADULT COURT WOULD INCREASE.**
- **THE COURT'S WORKLOAD WOULD DECREASE.**
- **DISPOSITIONAL RESOURCES WOULD INCREASE.**
- **DISPOSITIONAL PATTERNS WOULD CHANGE.**
- **UNIFORMITY IN THE PROCESSING OF CASES WOULD INCREASE.**
- **UNIFORMITY IN DECISIONMAKING WOULD INCREASE.**
- **USE OF DETENTION WOULD DECREASE.**
- **CORRECTIONAL POPULATIONS WOULD INCREASE.**

Mental Retardation (now the Division of Developmental Disabilities) since "developmentally disabled" offenders could no longer be incarcerated.

- Uniformity in decisionmaking would increase in such areas as diversion, detention, and sentencing.
- There would be an increase in the number of parents, guardians or family members formally involved in dispositional orders.

Our research has focused on what has actually happened—the extent to which the Code's goals are being realized and predictions have actually materialized. This has been achieved by compiling detailed data on system behavior and conducting a series of interviews, surveys and field observations. Our findings are reported in the following sections.

**THE COMMISSION'S RESEARCH HAS
FOCUSED ON WHAT ACTUALLY
HAPPENED. OUR FINDINGS ARE
REPORTED IN THE FOLLOWING SECTIONS.**

5. A SYSTEM PROFILE

JUVENILES IN "THE SYSTEM"

- HOW MANY ARE ARRESTED?
- HOW MANY ARE REFERRED TO COURT?
- WHAT ARE THEIR CHARACTERISTICS?
- HOW MANY ARE DIVERTED?
- HOW MANY ARE ADJUDICATED DELINQUENT?
- WHAT TYPE OF DISPOSITIONS DO THEY RECEIVE?
- ARE THERE COUNTY DIFFERENCES IN DISPOSITIONAL PATTERNS?

The Commission's first step in evaluating Code implementation was to develop a detailed description of system actions and decisions. This section contains this description. The information indicates wide variation in the way delinquency cases are handled and in the choice of dispositional interventions.

The information reported below has been obtained from a variety of sources. *Uniform Crime Reports* provided arrest data. Information from the Unit Case System covering a six-month period, (January through June, 1985) profiles court decisions at various points. This interval was used since it provides a snapshot of actions over a period of time. Information of this type has not been available until now and provides a rich profile of how delinquency cases are handled.

Where offenses are discussed, the "lead", or most serious offense is identified. It should be noted that these characterizations do not capture information about the number of charges for that case or the number or type of other, less serious offenses involved in any case. Additionally, local charging practices vary, and can result in similar offenses being charged differently.

THIS SECTION CONTAINS DETAILED INFORMATION ON WHAT HAPPENS TO JUVENILES WHO COME IN CONTACT WITH THE "SYSTEM". THE INFORMATION INDICATES THAT THERE IS WIDE VARIATION IN THE WAY WE HANDLE DELINQUENCY CASES.

THE INFORMATION REPORTED HEREIN HAS NOT BEEN AVAILABLE PREVIOUSLY. IT ENABLES US TO EXAMINE DECISION-MAKING IN AN ORGANIZED WAY.

JUVENILES ARRESTED AND REFERRED TO COURT

Although arrest information is not totally indicative of overall juvenile crime, it provides a starting point for analysis:

- Over 96,000 juvenile arrests were reported in 1984.¹
- There are distinct arrest patterns in each county ranging from a high of over 14,000 in Essex County to a low of approximately 400 in Hunterdon County.
- Arrest rates (per 1,000 "at risk" juveniles 10-17 years of age) ranged from 146 in Mercer County to 33 in Hunterdon County.²

Not all arrests are for serious offenses, but a significant number of arrests are referred by police to court.

- Statewide, 51,634 juvenile arrests were referred to court in 1984.³
- There are notable differences in police-court referral patterns. The percentage of juvenile arrests referred to court ranges from 84% and 80% in Cumberland and Atlantic Counties to 30% and 40% in Ocean and Bergen Counties, respectively.⁴
- This pattern has remained relatively stable over a three-year period, indicating little change since Code implementation.⁵

This information suggests that a degree of disparity is introduced to the system before court entry. While variation may relate to differences in crime levels, it cannot be explained by this factor alone. This suggests that "informal" mechanisms found in some communities may be responsible for differences since they act to resolve problems before formal system entry. Likewise, there are notable differences in police apprehension and case processing practices.⁶ Increased police training, designation of "juvenile" officers and the establishment of Youth Service Bureaus have been suggested as ways to increase uniformity or provide improved police-level options for dealing with delinquency.⁷

JUVENILES ENTERING THE COURT SYSTEM

Juveniles enter court through a Court Intake Unit. Intake is responsible for screening and docketing all complaints, and for providing recommendations related to case processing. Delinquency cases form a large part of its workload.

Docketing represents formal acceptance by the court of responsibility for a complaint. Information on all cases docketed is maintained by the Unit Case System. For the six-month period (January-June, 1985) the following information on new cases docketed is provided:

- A total of 29,585 new cases (involving 23,342 individual juveniles) were docketed.⁸

ABOUT ARRESTS

OVER 96,000 JUVENILES ARE ARRESTED EACH YEAR. THERE ARE DISTINCT ARREST PATTERNS IN EACH COUNTY.

OVER 50,000 ARRESTS ARE REFERRED TO COURT EACH YEAR. POLICE REFERRAL PATTERNS ARE DIFFERENT IN EACH COUNTY. THESE DIFFERENCES ARE DIFFICULT TO EXPLAIN.

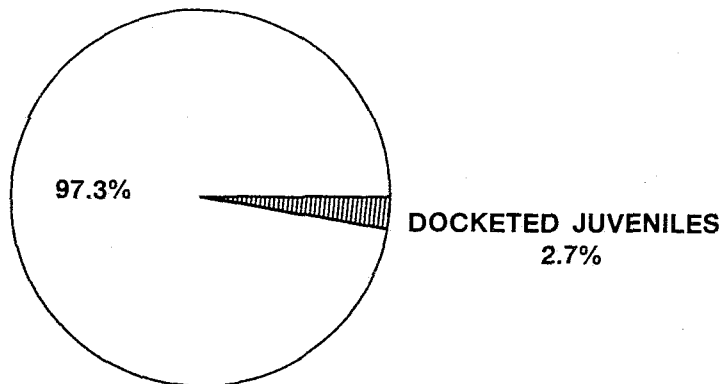
DIFFERENCES IN REFERRAL RATES CANNOT BE FULLY EXPLAINED ON THE BASIS OF OFFENSE. THIS SUGGESTS THAT SOME DEGREE OF DISPARITY IS INTRODUCED TO THE SYSTEM BEFORE COURT ENTRY.

ABOUT COURT ENTRY

JUVENILES ENTER THE COURT THROUGH INTAKE. INTAKE IS RESPONSIBLE FOR DOCKETING ALL CASES.

- This sample indicates that approximately 60,000 new cases will be docketed statewide over a one-year period.
- Some counties have higher docketing rates than others. The number of juveniles docketed per 1,000 at risk juveniles varied from 38.7 and 36.8 in Cumberland and Atlantic Counties to 12.0 and 18.3 in Hunterdon and Morris Counties, respectively.⁹
- Approximately 2.7% of all juveniles in the state between the ages of 10 and 17 entered the court system during this six-month period.

**JUVENILES DOCKETED AS
A PROPORTION OF ALL
JUVENILES "AT RISK"**



- Since the number of individual juveniles docketed (23,342) is less than the number of cases docketed (29,585), some juveniles had multiple court contacts.
- Approximately 17% of the juveniles docketed returned to court on new charges at least once during this interval. Some juveniles were docketed as many as 13 times. This clearly demonstrates that a small group of juveniles consume a disproportionate amount of court time.
- Many cases involve more than one charge. The number of charges per case ranged from 1 to 30. While the number of charges per complaint is influenced by local charging practices, the state average of charges per docketed case was 1.6.¹⁰
- Half the cases docketed involve one or more codefendants. This indicates that juvenile crime is often a group enterprise.¹¹

DURING A SIX-MONTH PERIOD:

- 29,585 NEW CASES WERE DOCKETED.
- 23,342 INDIVIDUAL JUVENILES WERE DOCKETED.

SOME COUNTIES HAVE FAR HIGHER COURT ENTRY (DOCKETING) RATES THAN OTHERS.

APPROXIMATELY 2.7% OF ALL JUVENILES IN THE STATE BETWEEN THE AGES OF 10 AND 17 ENTERED THE COURT SYSTEM IN A SIX-MONTH PERIOD.

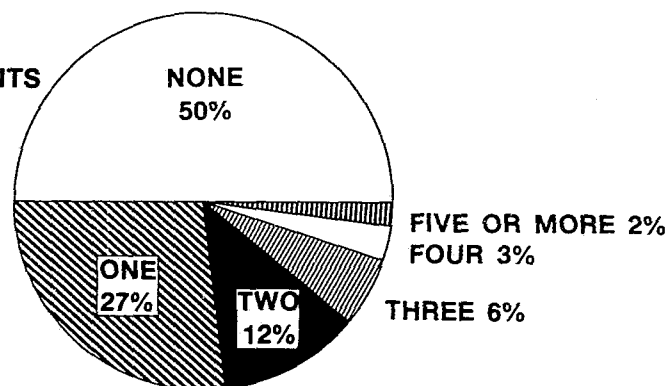
OUR ANALYSIS SHOWS THAT A NUMBER OF JUVENILES HAVE MULTIPLE COURT CONTACTS.

THERE IS EVIDENCE THAT A SMALL GROUP OF JUVENILES CONSUME A DISPROPORTIONATE AMOUNT OF COURT TIME.

MANY JUVENILES ARE BEFORE THE COURT ON MORE THAN ONE CHARGE.

HALF OF THE CASES DOCKETED INVOLVE ONE OR MORE CODEFENDANTS. THIS INDICATES THAT JUVENILE CRIME IS OFTEN A GROUP ENTERPRISE.

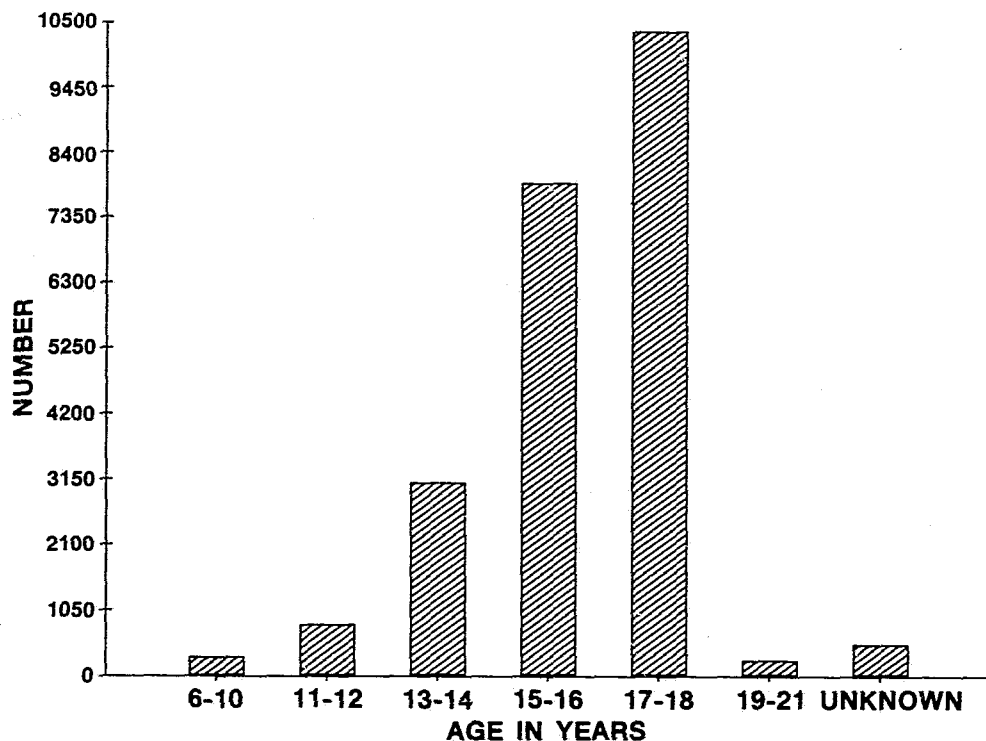
**NUMBER OF CODEFENDANTS
INVOLVED IN CASES
AT DOCKETING**



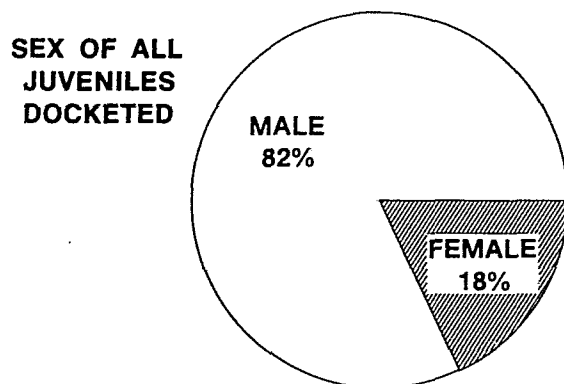
- Older juveniles are more likely to enter the court system. The most highly represented age group at docketing is 17-18 years of age (44%), followed by 15-16 (34%) and 13-14 (13%) respectively. This indicates that most delinquent acts are committed by older juveniles and/or that younger juveniles are more likely to be diverted before court entry.¹²

**OLDER JUVENILES ARE MORE LIKELY TO
ENTER THE COURT SYSTEM.**

AGE OF JUVENILES AT DOCKETING



- Race was reported in only 53% of all cases docketed, making it impossible to conclusively profile the racial composition of the group of juveniles docketed during this time period.¹³ Of all cases where race was reported, approximately 60% involved whites, 33% involved blacks, and 7% involved hispanics.¹⁴
- Eighty-two percent of the cases docketed involved males, 18% involved females.¹⁵



EIGHTY-TWO PERCENT OF ALL CASES INVOLVE MALE DEFENDANTS. CLEARLY, MALE OFFENDERS ARE THE DOMINATE GROUP INVOLVED IN THE JUVENILE JUSTICE SYSTEM.

Since Unit Case does not provide a detailed profile of the backgrounds of juveniles at court reception, a survey was conducted among key actors in the juvenile justice system asking them to summarize problems experienced by offenders before the court on delinquency charges. The following observations emerge from this survey:

- The most frequently observed set of problems observed by those surveyed include poor academic performance, broken home situations and lack of parental support or involvement.
- Parental drug/alcohol abuse, sibling criminal involvement, sibling drug/alcohol abuse, juvenile drug/alcohol abuse and family dependence on public assistance form the second most commonly observed set of problems.
- Mental health problems, parental mental health problems, abuse/neglect and parental criminal involvement form the third most commonly observed set of problems.¹⁶

While this survey does not provide us with a definitive profile, it does suggest a population experiencing a significant number of problems, many of which relate to the family.

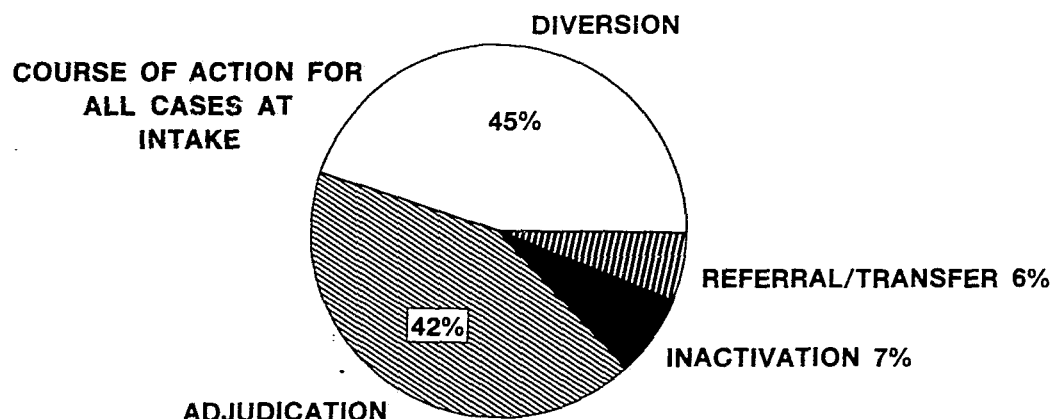
OUR SURVEY INDICATES THAT JUVENILES ENTERING THE COURT EXHIBIT A NUMBER OF PROBLEMS. THESE INCLUDE:

- **POOR ACADEMIC PERFORMANCE**
- **BROKEN HOMES**
- **LACK OF PARENTAL SUPPORT**
- **DRUG/ALCOHOL ABUSE**
- **PUBLIC ASSISTANCE DEPENDENCY**

THIS SURVEY SHOWS THAT MANY OF THE PROBLEMS EXPERIENCED BY DELINQUENT YOUTH ARE FAMILY RELATED.

COURT INTAKE

All docketed cases are disposed of in one of four ways: referral/transfer, inactivation, diversion or adjudication. Transfers include waivers to adult court and referrals to municipal or another county court. Inactivations generally result from escape or incapacitation. Diversion is geared to "informal" case remediation. Adjudication refers to the formal processing of a case before a judge. For all cases where intake decisions were made during the six-month study period, 1,758 (6%) were transferred to other courts, 2,040 (7%) were inactivated, 12,762 (45%) were diverted and 11,937 (42%) were referred to adjudication.¹⁷



JUVENILES WHO ARE DIVERTED

Whether one views diversion as a "disposition" or not, the diversion decision is an important one. Similar to pre-Code practice, many cases are diverted. Unit Case provides the following information on cases diverted during the six-month study period:

- A total of 12,762 cases (involving 11,992 juveniles) were diverted.¹⁸ Some juveniles were diverted more than once.

ABOUT COURT INTAKE

CASES COMING TO COURT ARE DISPOSED IN A VARIETY OF WAYS. DURING THE SIX-MONTH PERIOD:

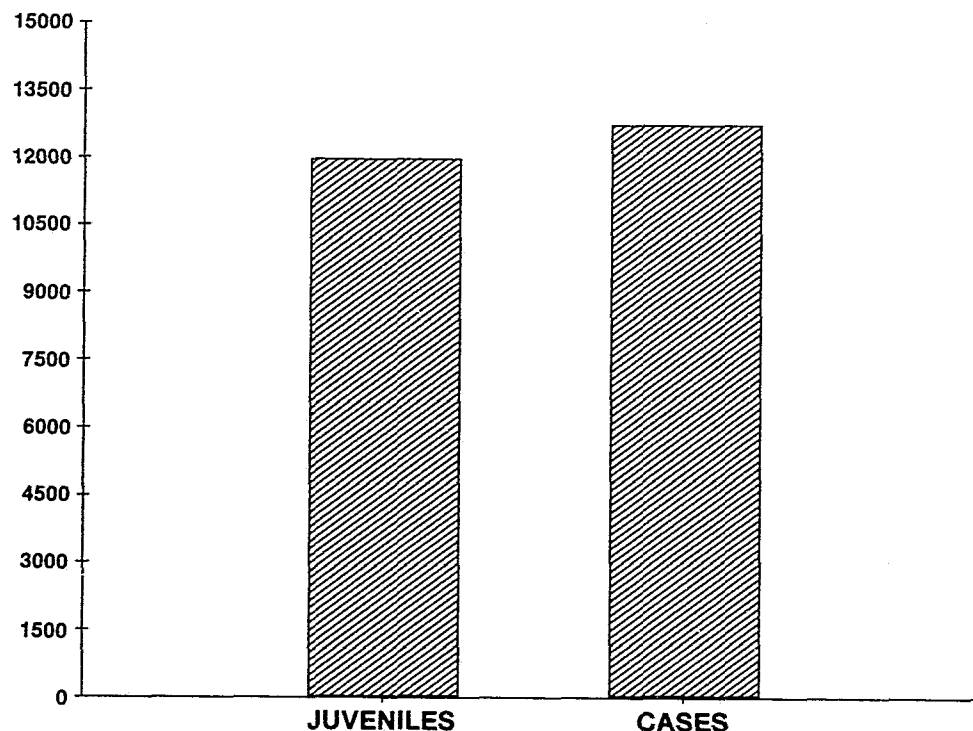
- 6% WERE TRANSFERRED.
- 7% WERE INACTIVATED.
- 45% WERE DIVERTED.
- 42% WERE PROCESSED FOR ADJUDICATION.

ABOUT COURT DIVERSION

DIVERSION IS AN IMPORTANT INTAKE DECISION. DURING A SIX-MONTH PERIOD:

- 12,762 CASES WERE DIVERTED.
- 11,992 JUVENILES WERE DIVERTED.
- SOME JUVENILES WERE DIVERTED MORE THAN ONCE.

COMPARISON OF JUVENILES AND CASES DIVERTED

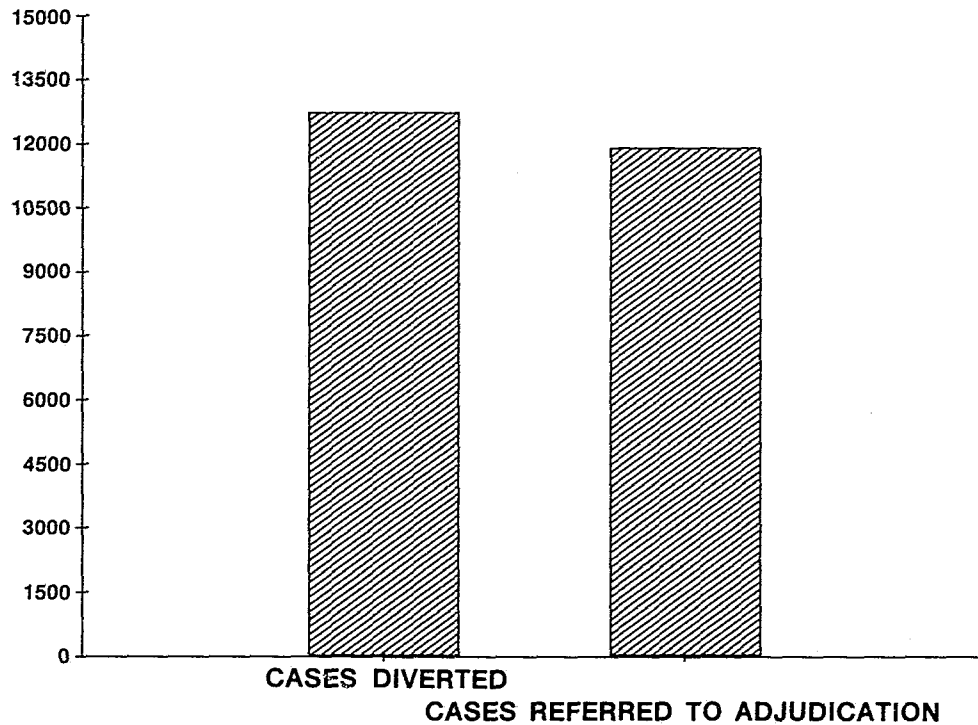


- This suggests that approximately 25,000 new cases will be diverted statewide over a one-year period.
- About 45% of all cases processed at intake are diverted. This percentage varies considerably by county, from 72% in Morris County to 23% in Somerset County.¹⁹
- More new cases are diverted than are processed through to adjudication.

IT IS PROJECTED THAT ABOUT 25,000 DELINQUENCY CASES A YEAR WILL BE DIVERTED. THIS INDICATES THAT DIVERSION IS WIDELY USED.

EXCLUDING TRANSFERS AND INACTIVATIONS, MORE CASES ARE DIVERTED THAN ARE ADJUDICATED.

COMPARISON OF CASES DIVERTED AND ADJUDICATED



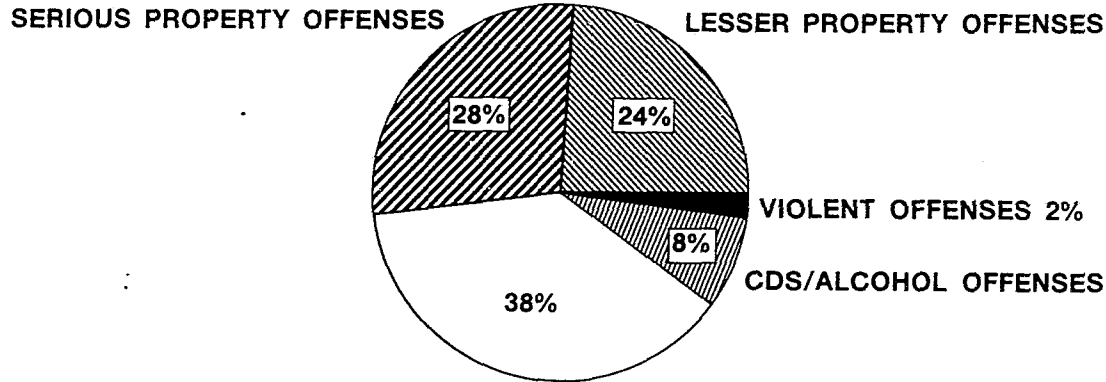
- Diverted cases are referred to a variety of mechanisms: 61% to Intake Service Conferences (I.S.C.); 37% to Juvenile Conference Committees (J.C.C.); .5% to Crisis Intervention Units (C.I.U.); and 1.5% to other agencies.²⁰
- The use of diversion mechanisms varies considerably by county. Somerset County referred 100% of their diverted cases to I.S.C.'s, while Sussex and Camden Counties relied on J.C.C.'s to handle 79% and 80% of their diverted cases, respectively.²¹
- Cases with a wide range of lead charges are diverted: 2% of the cases diverted involve charges for violent crimes; 8% involve drug/alcohol-related offenses; 28% involve charges for serious property crimes and 24% involve charges for less serious property crimes.²²

DIVERTED CASES ARE HANDLED IN A VARIETY OF WAYS.

THIS METHOD OF HANDLING DIVERTED CASES DIFFERS SIGNIFICANTLY BY COUNTY.

DIVERTED CASES INVOLVE A WIDE VARIETY OF CHARGES.

TYPES OF OFFENSES DIVERTED

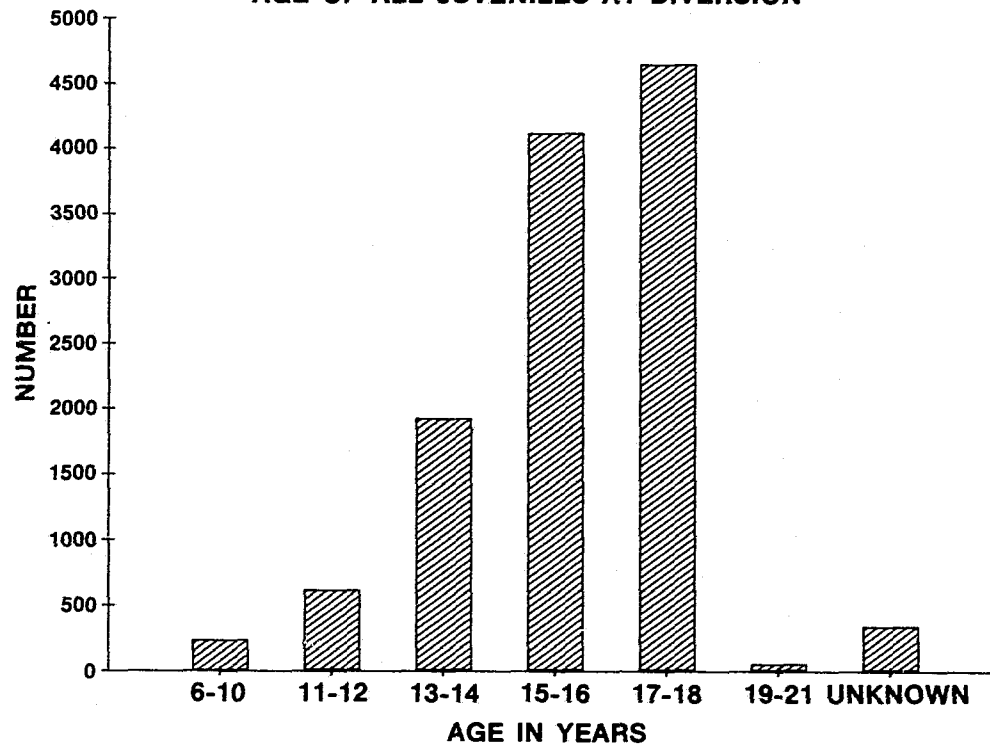


OTHER OFFENSES

- The most highly represented age group at diversion is 17-18 years of age (38%), followed by 15-16 (34%), and 13-14 (16%) respectively. When compared with docketing information, there is an indication that younger juveniles are slightly more likely to be diverted than older juveniles.²³

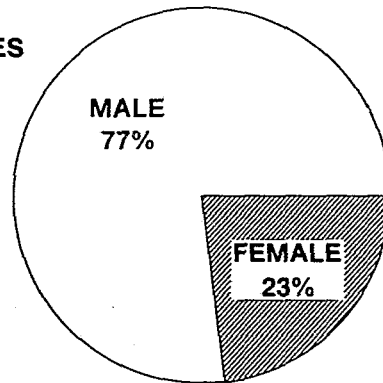
YOUNGER JUVENILES ARE MORE LIKELY TO BE DIVERTED THAN OLDER JUVENILES.

AGE OF ALL JUVENILES AT DIVERSION



- Males account for 77% of diversions, females 23%. Since the percent of juveniles docketed who are females (18%) is lower than the percent diverted (23%), females appear more likely to be diverted. Whether this difference is due to other intervening factors such as prior record or offense is not determined.²⁴

**SEX OF JUVENILES
DIVERTED**



- Race was reported in only 52% of all cases diverted, making it impossible to conclusively profile the racial composition of the group of juveniles diverted during this time period. Of all cases where race is recorded, 67% of diversions involve whites, 26% involve blacks, and 6% involve hispanics.²⁵

One might expect that county differences in diversion are explained by police referral rates, e.g., that a high police-to-court referral rate results in a high use of diversion. Our analysis does not indicate this:

- Counties with the highest police referral rates (Atlantic, Cumberland, Salem) do not have higher than average diversion rates.
- Conversely, counties with the lowest police referral rates (Ocean, Bergen) do not have lower than average diversion rates.²⁶

This absence of the expected relationship might be attributed to differences in offense patterns, levels of court confidence in diversionary mechanisms or diversion philosophies. Future research in this area is warranted.

ADJUDICATION

Adjudication is the determination of guilt. A finding of guilt is followed by a disposition which may be a formal continuance. Continuances allow that other dispositions be withheld for a period of up to 12 months. All charges can then be dismissed, providing the juvenile makes satisfactory adjustment. Unit Case reveals the following information on cases processed to adjudication during the six-month study period:

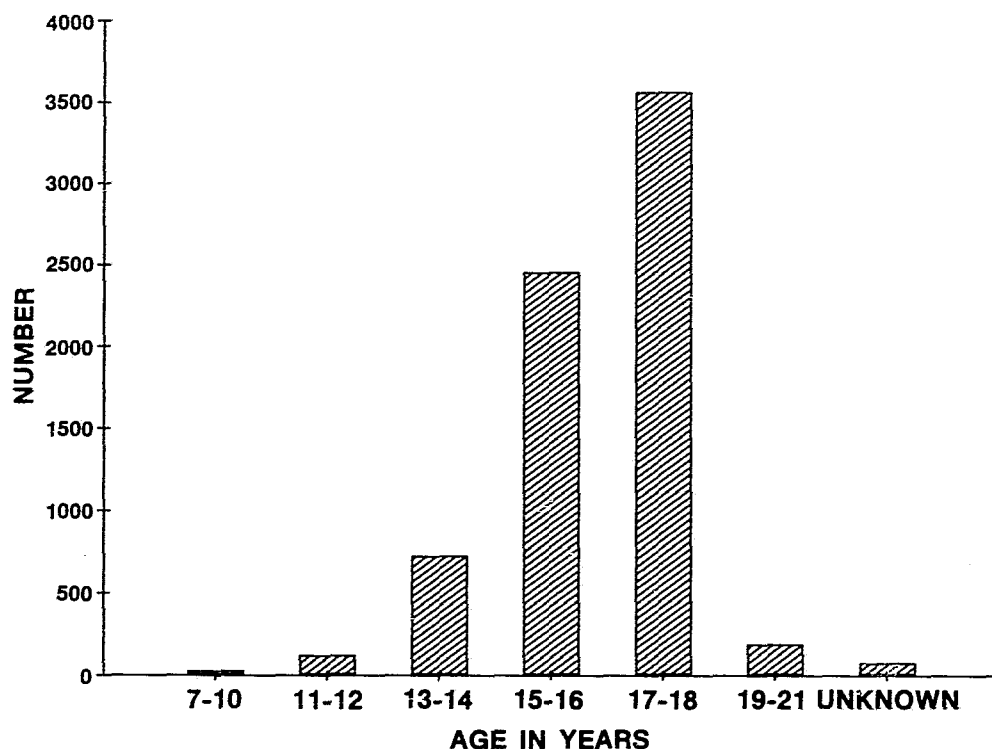
**A HIGHER PROPORTION OF FEMALES ARE
DIVERTED THAN MALES.**

**SURPRISINGLY, WE FOUND THAT
COUNTIES WITH HIGH POLICE-TO-COURT
REFERRAL RATES DO NOT NECESSARILY
DIVERT MORE CASES.**

**THE REASONS FOR DIFFERENCES IN THE
USE OF DIVERSION NEED TO BE STUDIED.**

- Many juveniles had all charges dismissed at adjudication by virtue of complaint withdrawal or a not guilty finding.
- A total of 7,972 new cases (involving 7,200 juveniles) were adjudicated delinquent. This indicates that some juveniles were adjudicated delinquent more than once.²⁷
- These 7,972 cases involved 18,769 offenses. The average case involved adjudication of 2.4 offenses, a significantly higher average than at docketing.²⁸
- There are considerable county differences in the number of juveniles adjudicated delinquent per 100 juveniles docketed. These rates range from 15 in Cape May County to 46 in Sussex County.²⁹
- Similar to the docketing pattern, the largest age group represented at disposition is 17-18 (50%), followed by 15-16 (34%) and 13-14 (10%).³⁰ Since the adjudicated group is slightly older than the docketed group, this indicates that younger juveniles are more likely to be diverted prior to adjudication.

AGE OF ALL JUVENILES ADJUDICATED DELINQUENT



ABOUT ADJUDICATION

MANY JUVENILES HAVE ALL CHARGES DISMISSED AT ADJUDICATION.

DURING A SIX-MONTH PERIOD:

- **7,972 CASES WERE ADJUDICATED DELINQUENT.**
- **7,200 JUVENILES WERE ADJUDICATED DELINQUENT.**
- **SOME JUVENILES WERE ADJUDICATED DELINQUENT MORE THAN ONCE.**

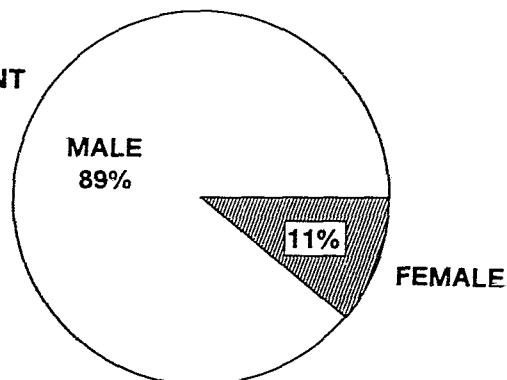
MOST DELINQUENCY ADJUDICATIONS INVOLVE MORE THAN ONE OFFENSE.

OLDER JUVENILES ARE MORE LIKELY TO BE ADJUDICATED DELINQUENT.

- Males predominate, representing 89% of all those sentenced.³¹

MALES PREDOMINATE AT THE SENTENCING STAGE.

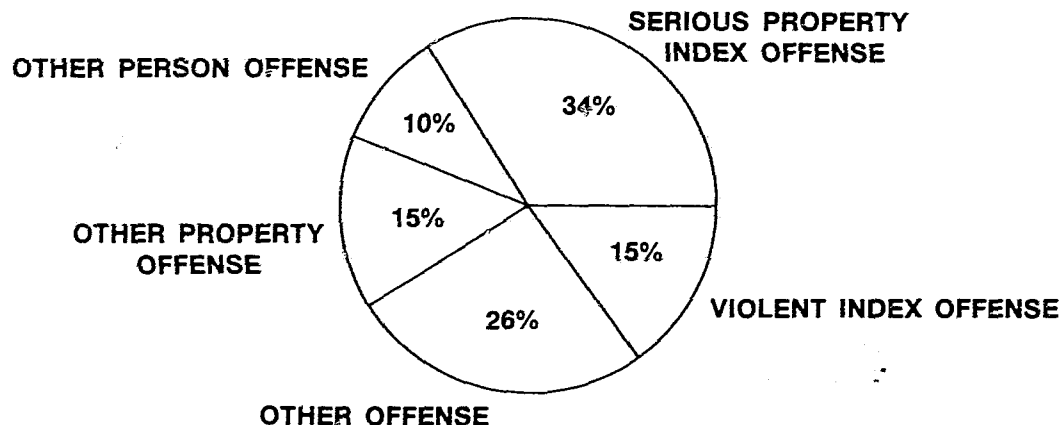
**SEX OF ALL JUVENILES
ADJUDICATED DELINQUENT**



- Race was reported in only 57% of all cases adjudicated delinquent and sentenced, making it impossible to conclusively profile the racial composition of the group of delinquents sentenced during this period. Of all cases with race reported 53% of those adjudicated are white, 39% are black and 7% are hispanic.³²
- Most "convictions" involve serious offenses. Statewide, 34% of all delinquency adjudications stem from at least one serious property offense (Burglary and Larceny/Theft), while 15% stem from at least one violent offense (Murder, Sexual Offenses, Robbery and Aggravated Assault).³³

OUR RESEARCH SHOWS THAT MOST DELINQUENCY ADJUDICATIONS ARE BASED ON SERIOUS OFFENSES.

LEAD CHARGES FOR ALL JUVENILES ADJUDICATED DELINQUENT



DISPOSITIONS

The Commission maintains particular interest in dispositions. The analysis presented below focuses on several issues: What dispositional interventions are used by the court; Do interventions vary by county and by offense; What are the implications of these variations?

Our analysis employs "lead disposition" and "lead offense" categories to describe decisionmaking. This approach is necessary since many cases involve more than one offense and result in more than one disposition. As used below, "lead offense" indicates the most serious offense, and "lead disposition" the most restrictive or punitive disposition. Offense and dispositional categories are defined in the supplement.³⁴

The courts use a wide variety of dispositional interventions. During the six-month study period:

- Many cases received multiple dispositions.
- Probation was employed as the "lead" disposition in 41% of all cases; conditional dispositions (fines, restitution, community service) in 8% of all cases; formal continuance in 24% of all cases; remedial (nonresidential) dispositions in 11%; and incarceration in 6%.³⁵

The relative use of dispositions varies on a county basis, with some courts more likely to employ certain dispositions. This is demonstrated by comparing statewide and county disposition patterns during the six-month study period:

- Six percent (or 481) of all cases disposed resulted in incarceration as the lead disposition. But some counties (Camden, Passaic, Somerset, and Atlantic) use incarceration in a much higher percentage of cases adjudicated while others (Sussex, Gloucester, Warren, Burlington and Morris Counties) use incarceration less frequently.
- Forty-one percent (or 3,261) of all cases disposed utilized probation as the lead disposition. Gloucester County had the highest utilization rate (63%), while Cape May County had the lowest (20%). Burlington, Mercer, Union, Atlantic, Monmouth and Hudson Counties use probation more frequently than others.
- Twenty-four percent (or 1,932) of all cases disposed utilized formal continuance as the lead disposition. Variance in utilization is substantial, ranging from 43% in Middlesex County to 1% in Sussex County. Monmouth, Ocean, Bergen, Hudson and Essex County rank high in their use of formal continuance.
- Eleven percent (or 870) of all cases disposed utilized remedial dispositions. County differences were significant, ranging from 46% in Cape May County to 1% in Bergen County. The use of remedial programs as a lead disposition appears to

ABOUT DISPOSITIONS

THE COURTS USE A WIDE VARIETY OF DISPOSITIONS.

PROBATION IS THE MOST FREQUENTLY USED DISPOSITION.

OUR ANALYSIS SHOWS THAT DISPOSITIONAL PATTERNS VARY BY COUNTY. SOME COUNTIES ARE MORE LIKELY TO USE CERTAIN DISPOSITIONS THAN OTHERS.

SOME COUNTIES UTILIZE INCARCERATION MORE THAN OTHERS.

THE UTILIZATION OF PROBATION RANGES FROM 20% TO 63%.

THERE IS WIDE VARIATION IN THE USE OF FORMAL CONTINUANCE.

predominate in smaller, less urbanized counties (e.g. Cape May, Morris, Warren, Hunterdon, Salem, Sussex, Somerset and Cumberland).

- Two percent (or 121) of all cases statewide were disposed utilizing non-custodial Department of Corrections residential programs as the lead disposition. Atlantic, Mercer, Sussex and Essex Counties appear to make the highest relative use of these programs.

Interestingly, differences in the dispositional interventions used by the court cannot be always explained on the basis of offense alone. This is demonstrated by comparing the lead dispositions relating to five lead offense categories. For each offense category, we selected one lead disposition to show the extent of variance in dispositional practices. Many other examples could be cited:

- Statewide, cases in which Aggravated Assault is the lead offense result in probation as the lead disposition 43% of the time, formal continuance 22% of the time, and incarceration 8% of the time. Yet probation is used as the lead disposition in over 55% of all cases where Aggravated Assault is the lead offense in Gloucester, Morris, Union, Burlington, Monmouth and Middlesex Counties.
- Statewide, cases in which Robbery is the lead offense result in probation as the lead disposition 37% of the time, formal continuance 12% of the time, and incarceration 20% of the time. Yet incarceration is used as the lead disposition in over 30% of all cases where Robbery is the lead offense in Bergen, Cumberland, Passaic, Salem, Somerset and Mercer Counties.
- Statewide, cases in which Burglary is the lead offense result in probation as the lead disposition 45% of the time, formal continuance 13% of the time and incarceration in 11% of all cases. Yet incarceration is used as the lead disposition in over 18% of all cases where Burglary is the lead offense in Camden and Cumberland Counties.
- Statewide, cases in which Larceny/Theft is the lead offense result in probation as the lead disposition 43% of the time, formal continuance 23% of the time and incarceration 5% of the time. Yet probation is used in less than 35% of all cases where Larceny/Theft is the lead offense in Cape May, Hunterdon, Passaic, Salem, Somerset, Sussex and Ocean Counties.
- Statewide, cases in which Drug and Alcohol offenses are the lead offenses result in probation as the lead disposition 40% of the time, formal continuance 32% of the time and remedial dispositions 13% of the time. Yet certain counties (Hunterdon, Warren, Sussex and Morris) utilize remedial dispositions in over 50% of these cases.

**OUR ANALYSIS SHOWS THAT
DIFFERENCES IN DISPOSITIONAL
PATTERNS ARE NOT FULLY EXPLAINED BY
OFFENSE.**

Analysis also indicates that the most serious offenses do not always receive incarceration as a disposition:

- Violent index offenses are generally viewed as the most serious offenses. Yet only 14% of all cases involving violent crimes as the lead offense resulted in incarceration.

However, analysis indicates that juveniles adjudicated for the most serious offenses are generally more likely to receive more punitive dispositions. For example:

- Statewide, 6% of all juveniles receiving dispositions are incarcerated. In cases with the most serious lead offenses incarceration is used at a higher rate.
- Data also indicate that more serious offenses are generally more likely to result in suspended sentences of incarceration and less likely to receive continuances.

Another interesting observation is that many cases differing in their degree of seriousness result in similar dispositions. This is observed by comparing some lead offenses with lead dispositional categories statewide:

- Probation is used as the lead disposition in 35-45% of all cases involving such lead offenses as Robbery, Aggravated Assault, Larceny/Theft, Other Assaults, Other Thefts, Drug or Alcohol Related Offenses or Public Order and Decency Related Offenses.
- Remedial dispositions are used as the lead disposition in 9-14% of all cases involving these same lead offenses.
- Residential programs are used as the lead disposition in 3-7% of all cases involving these same lead offense categories.

CONCLUSIONS

The Commission is required to analyze the reasons for the use of various dispositions. The first step was to analyze dispositional intervention choices made by the court. This was accomplished by drawing from the rich database maintained in the Unit Case System. In the process, we found considerable variation in decisionmaking at various stages in the juvenile system. These variations commence at police referral, continue through diversion, and are apparent in dispositional choices. Dispositional choices vary by county. Some counties are more likely to employ certain dispositions than others. These choices are not always explained by offense. Offense is not the only determinant of dispositional outcome.

- There are notable differences in police-court referral patterns. The percent of juvenile arrests referred to court ranges from 84% and 80% in Cumberland and Atlantic Counties to 30% and 40% in Ocean and Bergen Counties, respectively.³⁶

OUR ANALYSIS ALSO INDICATES THAT ONLY 14% OF THOSE ADJUDICATED FOR VIOLENT INDEX OFFENSES RECEIVE INCARCERATION AS A DISPOSITION.

HOWEVER, JUVENILES ADJUDICATED DELINQUENT FOR THE MORE SERIOUS OFFENSES ARE MORE LIKELY TO RECEIVE HARSHER DISPOSITIONS.

ANALYSIS ALSO INDICATES THAT WIDELY DIFFERING OFFENSES OFTEN RECEIVE SIMILAR DISPOSITIONS.

CONCLUSIONS

THE ABOVE ANALYSIS INDICATES THAT THERE ARE CONSIDERABLE VARIATIONS IN CASE DECISIONMAKING AT VARIOUS STAGES IN THE JUVENILE JUSTICE SYSTEM. VARIATIONS COMMENCE AT ARREST, CONTINUE THROUGH DIVERSION AND ARE APPARENT IN THE DISPOSITIONAL CHOICES MADE BY THE COURTS.

- Race was reported on approximately 53% of all cases docketed.³⁷ Of all cases where race was reported, approximately 60% involved whites, 33% involved blacks, and 7% involved hispanics.³⁸
- A total of 12,762 cases (involving 11,992 juveniles) were diverted.³⁹ Some juveniles were diverted more than once.
- The most highly represented age group at diversion is 17-18 years of age (38%), followed by 15-16 (34%), and 13-14 (16%) respectively. When compared with docketing information, there is an indication that younger juveniles are slightly more likely to be diverted than formally processed.⁴⁰
- Race is reported on approximately 52% of all diversion cases. Of all cases where race is recorded, 67% of diversions involve whites, 26% involve blacks, and 6% involve hispanics.⁴¹
- There are considerable county differences in the number of juveniles adjudicated delinquent per 100 juveniles docketed. These rates range from 15 in Cape May County to 46 in Sussex County.⁴²
- Of all cases with race reported (approximately 57%), 53% of those adjudicated are white, 39% are black and 7% are hispanic.⁴³

6. SELECT ISSUES

- THE USE OF DETENTION
- WAIVERS TO ADULT COURT
- THE FAMILY COURT
- FAMILY CRISIS INTERVENTION
- FAMILY MEMBER INVOLVEMENT IN DELINQUENCY DISPOSITIONS

This section contains an analysis of decisionmaking in four areas: detention; the practice of waiving juveniles to adult court; family crisis intervention; and family member involvement in delinquency dispositions.

JUVENILE DETENTION

Detention typically involves the temporary placement of juveniles in a physically restrictive facility prior to adjudication. It can also involve the temporary holding of juveniles adjudicated and awaiting transfer to an institution or a residential facility. All but four counties (Cape May, Salem, Somerset and Hunterdon) maintain juvenile detention facilities. Those counties without a detention center utilize neighboring facilities.

Broadly stated, the rationale for detention is to assure the presence of a juvenile in court and to protect persons and property from harm. For nearly a decade prior to the passage of the new Code, the use (and misuse) of detention had been widely debated.¹ Critics expressed concern over a lack of clear statutory guidance, disparity in the use of detention, and conditions in individual detention facilities.

The Task Force on Pre-Trial Practices suggested that our previous detention criteria were so broad and vague as to permit the detention of virtually any juvenile charged with delinquency. A majority of the Task Force advocated restrictive criteria based on the degree of the offense or a finding that the juvenile would not appear at his/her court hearing. Others opposed these recommendations and advocated a continuance of broad judicial discretion.²

The new provisions represent a middle ground approach. Juveniles under the age of 12 cannot be detained except if charged with certain serious offenses. For older juveniles, detention is limited to cases in which there is a demonstrable likelihood that

ABOUT DETENTION

DETENTION IS USED TO PHYSICALLY RESTRICT A JUVENILE PRIOR TO ADJUDICATION.

THE USE OF DETENTION HAS BEEN WIDELY DEBATED. MANY FEEL THAT IT IS UNNECESSARILY USED IN MANY CASES.

SOME FELT THAT PRIOR STATUTES WERE SO BROAD AS TO PERMIT THE DETENTION OF ALMOST ANY JUVENILE CHARGED WITH DELINQUENCY.

IN RESPONSE, THE NEW CODE REDEFINES THE CRITERIA FOR USE OF DETENTION.

a juvenile will not appear at a court hearing or that the juvenile presents a serious threat to the physical safety of persons or property and is charged with an offense that would be a crime if committed by an adult. Juveniles charged with repetitive disorderly persons offenses may be detained but only if there is a likelihood of a custodial sentence. Additionally, the new Code incorporates provisions designed to protect due process rights and expedite case processing.

Has detention use been altered by these new provisions? We addressed this question by analyzing two separate but related data bases: the Department of Corrections' Juvenile Detention and Monitoring Unit reports and the Commission's Unit Case Database. Monitoring Unit reports indicate the following:

- Detention is extensively used. In 1984 and 1985 there were approximately 9,200 admissions per year to detention facilities. Unit Case indicates that some juveniles were placed in detention more than once during our six-month study period.
- From 1980 to 1985, admissions to detention facilities declined by 15%. During this same time period, juvenile populations in the applicable age group declined by 11%.³
- There is considerable variation in the use of detention among New Jersey's counties.
- This variation is apparent when detention rates are compared with delinquency complaints. In 1984, the statewide average of detention admissions as a percentage of delinquency complaints was 10%. Hudson County's ratio was 21%, while Cape May's was 3%.⁴
- While there has been a long-term decline in detention admissions, we experienced a slight increase in admissions in the first two years of Code implementation (9,076 admissions in 1983 vs. 9,213 in 1984 and 9,188 in 1985) despite a declining crime rate.
- However, the average daily population of juveniles being held in detention facilities fell substantially during the Code's first year, from 462 in 1983 to 394 in 1984, but rose to 432 in 1985.

This decline in average daily population appears attributable to a shortening in the average length of stay in detention facilities, from 18.6 days in 1983 to 15.7 days in 1984.⁵ A variety of factors may account for this, including Code mandated expedited case processing and accelerated transfer of disposed cases. In 1985, however, the average length of stay in detention facilities increased to 17.1 days. However, as this report goes to print in mid-1986, detention populations are increasing significantly.

Interestingly, counties differ significantly in their use of detention. Since each county varies in the level and seriousness of criminal activity, it is important to review information in this context. Unit Case enables us to track cases from original charges

DETENTION IS STILL EXTENSIVELY USED. THERE WERE OVER 9,200 ADMISSIONS IN 1984.

OUR ANALYSIS INDICATES THAT ADMISSIONS TO DETENTION FACILITIES HAVE DECLINED OVER A FIVE-YEAR PERIOD.

HOWEVER, THERE ARE CONSIDERABLE REGIONAL DIFFERENCES IN THE USE OF DETENTION.

AVERAGE DAILY POPULATIONS DECLINED SUBSTANTIALLY JUST AFTER THE CODE, BUT HAVE INCREASED SINCE.

AN INTERESTING FINDING IS THAT THE AVERAGE LENGTH OF STAY IN DETENTION HAS DECREASED SIGNIFICANTLY IN THE AFTERMATH OF THE NEW CODE. THIS IS DUE IN LARGE PART TO CODE PROVISIONS.

THERE ARE SIGNIFICANT REGIONAL DIFFERENCES IN THE TYPES OF CHARGES DETENTION IS USED FOR.

through disposition. Our review of this data (from January 1 through June 30 of 1985) on juveniles detained at court entry (docketing) provides the following information:

- The most common "lead" charges pending against juveniles detained at docketing include: Burglary (15%), Theft (14%), Robbery (13%), Assault (11%), Aggravated Assault (8%), and Drug Related Offenses (8%).
- County variations in this pattern are significant. For example, in Essex and Hudson Counties, nearly 40% of the detained cases involve serious lead offenses including Homicide, Sexual Offenses, Aggravated Assault and Robbery. Conversely, in Bergen, Cape May, Gloucester, Monmouth, Morris, Ocean and Salem Counties, over 50% of the cases detained involve less serious lead offenses including Burglary, Theft, or Assault.

Another interesting fact is that not all juveniles detained are adjudicated, and few are eventually subject to any type of institutional confinement. Unit Case indicates that during a six-month period:

- Statewide, 88% of those cases placed in detention at docketing were eventually adjudicated. The remaining 12% were not adjudicated by virtue of diversion, dismissal or case inactivation.
- Of those cases placed in detention at docketing and eventually adjudicated, 30% had their charges dismissed at adjudication and only 19% received a disposition involving residential placement or incarceration.

WAIVERS TO ADULT COURT

The transfer of jurisdiction of an accused juvenile from juvenile court to adult criminal court has historically been a rare event in New Jersey. In keeping with its objective of dealing more punitively with serious offenders, the new Code significantly expands the types of cases eligible for waiver by adopting a chiefly offense-based waiver criteria. Additionally, the burden of proof is shifted to the defense to show that the defendant can be rehabilitated by age 19.

Considerable controversy surrounded adoption of these new waiver guidelines. Framers of the provision did not articulate intent that waivers should increase, but rather that the reasons waivers were requested or granted be more clearly articulated, thus requiring more prosecutorial and judicial introspection.⁶ However, there was a general consensus that the new provisions would result in more juveniles being tried as adults, but there was little agreement as to how many would be waived. Some critics charged that changes would "open the floodgates" to juvenile waivers. This did not happen.

OUR RESEARCH INDICATES THAT FEW OF THE JUVENILES WHO ARE DETAINED ARE SUBSEQUENTLY INCARCERATED OR PLACED IN RESIDENTIAL SETTINGS.

ABOUT WAIVERS

HISTORICALLY, THE USE OF WAIVER HAS BEEN RARE.

THE NEW CODE EXPANDS THE POSSIBILITY OF WAIVER USE.

MANY PREDICTED THAT WE WOULD EXPERIENCE A DRAMATIC INCREASE IN WAIVER USE.

Figures compiled by the Attorney General's Office on the use of waivers pre and post-Code are enlightening.⁷ In 1983 (the last year before the Code implementation), prosecutors filed 151 motions for waiver; 93 (62%) were granted. In 1984 (the first year of expanded provisions), prosecutors filed motions for 95 waivers; 76 (80%) were granted. Thus, under the new Code, a greater percentage of prosecutorial motions for waivers were granted, but fewer prosecutorial motions were filed than under the old provisions. The Attorney General's report concludes "... the revised state legislation regarding juvenile waivers has not had a dramatic impact upon prosecutorial motions for waivers".⁸

THE FAMILY COURT

A major thrust of the new Code is its focus on the family. While juveniles previously had been held solely accountable for their actions, the new Code recognizes that the public welfare and the interests of juveniles are best served by broadening family responsibility for juveniles who commit less serious offenses. To accomplish this, a number of structural and statutory changes were effected.

Primary among these changes was the creation of a Family Court through constitutional amendment. A component of the Superior Court, the Family Court assumed jurisdiction over all matters previously heard in the Juvenile and Domestic Relations and the Matrimonial Part of the Chancery Division of the Superior Courts and for adoption matters previously under the jurisdiction of County Surrogate's offices. This consolidated jurisdiction over a diverse collection of family law matters under one court at the Superior Court level.

The new structure provides for a more unified approach to all family law matters. Proponents anticipated that a number of benefits would result from the formation of the new court. Some felt that organization would improve and that problems associated with separate courts having jurisdiction over different areas of family law (i.e., the issuance of conflicting orders from different courts) would be reduced or eliminated. Others felt that the new structure would enhance the ability of judges to consider individual problems in the context of the family. The old structure, it was said, made it possible for one judge to hear a divorce proceeding in one courtroom, while down the hall another judge presided over a delinquency hearing for the couple's child. This structure made it difficult to consider each case in a comprehensive fashion.

The Code does not specify all elements of family court operations. In conjunction with the creation of the new court, the Administrative Office of the Courts exerted much effort to develop new structures to support the Family Court. For example, it promulgated a Family Division model plan which provided for a regional approach to Family Division management. The plan stated that each vicinage Family Division Staff Support Unit should be divided into teams, each of which would be assigned

THIS PREDICTION HAS NOT MATERIALIZED. IN FACT, FEWER PROSECUTOR MOTIONS FOR WAIVER HAVE BEEN FILED, AND FEWER HAVE BEEN GRANTED.

THE FAMILY COURT

THE NEW CODE RECOGNIZES THAT THE PUBLIC WELFARE AND THE BEST INTERESTS OF JUVENILES ARE BEST SERVED BY BROADENING FAMILY RESPONSIBILITY.

MANY FELT THAT THE CREATION OF A FAMILY COURT WITH ITS EXPANDED JURISDICTION WOULD IMPROVE OUR ABILITY TO HANDLE FAMILY PROBLEMS.

THE NEW STRUCTURE PROVIDES FOR A MORE UNIFORM APPROACH.

THE COURTS HAVE MADE A SIGNIFICANT EFFORT TO DEVELOP A FAMILY COURT APPROACH.

to a particular geographical region. The teams would view individuals in the context of the family and would become expert brokers of the social services available in their regions, a structure intended to strengthen ties between courts and communities.

The plan outlined three alternative strategies for the assignment of judges and the calendaring of cases. The first was a one judge-one region approach, wherein all matters emanating from a region would be referred to a particular judge for handling. Each judge would become "fully conversant with the resources and demographics" of a region and would base his decisions "on his knowledge of local conditions." Alternatively, a one judge-one family approach could be used wherein new complaints would be assigned to judges randomly and all subsequent complaints ever filed against that individual or any member of that individual's immediate family would be heard by the same judge, who "would come to know the family and, therefore, be able to deal more intelligently with its legal problems." The third alternative was judicial specialization, where judges would be assigned to particular types of cases, although the plan noted that "a strict specialization approach probably would not be acceptable" since it was not in line with the philosophy of a family court.

In December of 1983 the Administrative Office of the Courts conducted a Family Division planning conference for the Family Division Presiding Judges and Case Managers. The concept of regionalization was a major topic at the conference. Each vicinage was asked to develop a written Family Division Implementation Plan which would include a regionalization component. The vicinages subsequently submitted plans, each of which was ultimately approved by the Administrative Director.

The degree to which regionalization has been achieved in the family courts is a matter of debate. While some vicinages have adopted regional approaches to delineating responsibility to Family Division Staff Support Units, the assignment of judges, and the calendaring of cases, other vicinages appear to have made only limited progress in this area. Managerial headaches are an impediment, but there also appears to be resistance to a plan which eliminates judicial specialization. Many judges have developed specific expertise. While judges may be reluctant to move into new areas of law simply because of preference, there also appears to be resistance to the concept of generalist judges.

Whatever the reason, the plans for regionalization have enjoyed limited success. To what extent this has impacted on the functioning of the court, and particularly on the ability of the court to view individual problems in a family context, is undetermined. It seems, though, that having the divorce proceeding in one courtroom and the delinquency hearing in another does not differ significantly from having the cases heard in Matrimonial and Juvenile and Domestic Relations Courts.

REGIONALIZATION IS PART OF THE FAMILY COURT PHILOSOPHY. YET THERE HAS BEEN LIMITED SUCCESS IN IMPLEMENTING THIS SYSTEM.

FAMILY CRISIS INTERVENTION

Another important aspect of the Code is the creation of Family Crisis Intervention Units. These Units, operating in some counties as part of court intake, are intended to deal with non-delinquent juvenile and family problems. From the Senate Judiciary Committee statement:

Essential in the reasoning underlying a family court is the recognition that a vast majority of juvenile misconduct is the result of troubled family circumstances. Critical in dealing with this situation is a mechanism which will provide troubled juveniles and their families a noncoercive opportunity to resolve conflicts and receive needed services. These juvenile-family crisis intervention units provide a procedure to deal with those juvenile matters which do not result in delinquent acts, but which are sufficiently serious to necessitate intervention.¹⁰

The Units have jurisdiction over parents, guardians, and other family members "found to be contributing to the family crisis" and are required to respond immediately to problems. After assessing the nature of the crisis, the Units either provide services or refer the family to community services. Every attempt is made to address the crisis and keep the case out of court through voluntary provision of services.

Units have been created in each county and have successfully assumed jurisdiction over many cases previously handled by the court. A recent survey conducted by the Association for Children of New Jersey indicates that these Units frequently recommend that parents get help. Half of these Units report making such recommendations in at least 80% of their cases; three-fourths in at least 40% of the cases they consider.¹¹

The Commission is interested in the extent to which these units are providing an alternative case processing system. Available information suggests this is occurring:

- In Court Year 1983, the courts handled approximately 11,600 Juveniles-In-Need of Supervision (JINS) cases.
- Approximately 5,300 JINS cases were handled in the first six months of Court Year 1984. The JINS System was terminated midway through the court year and cases were subsequently referred to Crisis Intervention Units.
- In Court Year 1985, Juvenile-Family Crisis Intervention Units handled a total of 13,798 cases. Of these, only 1,416 (10%) were eventually referred to court as Juvenile-Family Crisis Petitions.¹²

These figures indicate that Juvenile-Family Crisis Intervention Units divert a large number of cases, although their success in stabilizing or resolving family problems remains a question. There is some evidence to suggest that they have not achieved their full potential. A past Department of Human Service report indicates:

JUVENILE-FAMILY CRISIS INTERVENTION UNITS

THE CREATION OF JUVENILE-FAMILY CRISIS INTERVENTION UNITS IS AN IMPORTANT ASPECT OF THE CODE. THESE MECHANISMS WERE DESIGNED TO PROVIDE TROUBLED YOUTHS AND THEIR FAMILIES WITH A NONCOERCIVE OPPORTUNITY TO RESOLVE CONFLICTS AND RECEIVE NEEDED SERVICES.

THESE UNITS HAVE JURISDICTION OVER PARENTS, GUARDIANS, AND OTHER FAMILY MEMBERS CONTRIBUTING TO A FAMILY CRISIS.

ONE IMPACT IS A REDUCTION OF COURT WORKLOAD. THESE UNITS ARE NOW HANDLING A SIGNIFICANT CASELOAD PREVIOUSLY HANDLED BY THE COURT. FOR EXAMPLE, THE COURTS HANDLED 11,600 JINS CASES IN 1983. THESE ARE NOW HANDLED BY CRISIS INTERVENTION UNITS.

... while every county has established a Juvenile-Family Crisis Intervention Unit, virtually all of them are inhibited by lack of resources to provide necessary staffing. The intensive hands-on intervention with less serious offenders and their families envisioned by the Legislation is *not* happening on a state-wide basis".¹³ (emphasis added)

There is evidence suggesting that this situation is improving. In Fiscal Year 1986, the Legislature appropriated approximately one million dollars for use by Family Crisis Intervention Units.

FAMILY MEMBER INVOLVEMENT IN DELINQUENCY DISPOSITIONS

Since a major goal of the Code is to enhance the court's ability to deal with delinquency as a "family issue" the Code permits parental (or guardian) involvement in dispositions. In fact, the Code empowers judges to order that parents receive services or participate in programs when it is found that their actions or failure to act contributed to a juvenile's delinquency. Parents failing to comply with such an order can be incarcerated under the court's authority to enforce litigant's rights.

There is conflicting evidence concerning the extent of utilization and effectiveness of this provision. Seven of nine judges, responding to the Association for Children of New Jersey's survey indicated that they were utilizing authority over parents more frequently than before.¹⁴ When asked what they would do to improve the functioning of the Family Court, 31% of the DYFS Caseworkers we surveyed indicated that this authority should be expanded or used more extensively. When asked to indicate provisions of the new Code which they thought were working particularly well, 37% of the Prosecutors and 36% of the Public Defenders we surveyed noted "broadening of family responsibility for juvenile's conduct". Conversely, 7% of the Prosecutors and 21% of the Public Defenders indicated that this same provision was not working particularly well.¹⁵

Case Managers, responsible for the day-to-day operations of the Family Courts, have a unique perspective on court functioning. We asked them about the use and impact of this provision:

- Half (7) of those surveyed estimated that parental participation was ordered in 10% or less of all disposed cases.
- Six of the fourteen Case Managers felt that parental participation was ordered in 15% to 30% of all disposed cases. One felt that 65% of the dispositions involved an order for parental participation.
- Case Managers felt that parents were almost exclusively ordered to attend counseling, but were sometimes ordered to make restitution, attend substance abuse evaluation or prevention programs, keep the juvenile in at curfew, or see that the juvenile attends school.

THOUGH THESE UNITS DIVERT MANY CASES FROM THE COURTS, THEIR SUCCESS IN RESOLVING FAMILY PROBLEMS SHOULD BE SUBJECT TO FURTHER EVALUATION.

FAMILY MEMBER INVOLVEMENT IN DELINQUENCY DISPOSITIONS

AN IMPORTANT ASPECT OF THE CODE IS THE POWER IT GRANTS JUDGES TO INVOLVE FAMILY MEMBERS IN DISPOSITIONS.

HOWEVER, OUR SURVEYS INDICATE THAT THERE ARE CONFLICTING OPINIONS ABOUT HOW SUCCESSFUL THIS NEW PROVISION IS.

MANY WOULD LIKE TO SEE GREATER UTILIZATION OF THIS AUTHORITY.

OUR SURVEYS INDICATE THAT:

- **THE PARENTAL PARTICIPATION PROVISION IS RARELY USED.**
- **WHEN USED, PARENTS WERE ALMOST EXCLUSIVELY ORDERED TO COUNSELING.**
- **WHEN ORDERED, PARENTS USUALLY COMPLY WITH COURT ORDERS.**

- Most parents apparently complied with the court orders. Eight of the Case Managers estimated that fewer than 10% of the parents had failed to comply with a court order.
- A variety of mechanisms are used to monitor parental compliance. In some counties court staff, including judges (through periodic review) do the monitoring. In other counties, the agency providing the ordered service has responsibility for reporting noncompliance.
- When asked to characterize the provision of the Code broadening parental responsibility, nine Case Managers responded "moderately successful" and five Case Managers responded "unsuccessful".

The perceptions of Case Managers reinforce the information derived from the Unit Case system. During the six-month study period, only 42 dispositions were recorded as including an order of parental involvement. Since Unit Case only captures the four most central components of any disposition, it possibly underrepresents parental involvement in dispositions. It does appear, however, that this provision has had very limited impact in most jurisdictions.

Additional surveys with other actors informed us that the Court often relies on "voluntary" parental involvement and that when a parent indicated he/she is willing to cooperate with the Court, formal involvement in a disposition may not be utilized. Parental involvement is also used as a "condition" of probation and, as such, would not be recorded as a disposition. Other dispositions involve services which have a family focus, and encourage at least some degree of parental involvement. These mechanisms for voluntary compliance have always existed, however. By granting judges the authority to formally order family involvement, the Court obtains the authority to enforce that participation.

Most Case Managers informed us that there is reluctance to find parents in contempt for noncompliance, the enforcement mechanism built into the Code. However, this provision has been utilized. Recently, parents were ordered jailed for failing to comply with an order mandating counseling.

**"VOLUNTARY" INVOLVEMENT IS
FREQUENTLY USED.**

**OUR SURVEYS ALSO INDICATE THAT
THERE IS RELUCTANCE TO HOLD PARENTS
IN CONTEMPT FOR NONCOMPLIANCE.**

In any case, it appears that the court faces complex obstacles in dealing with delinquency in the context of the family. Many juveniles do not have a "family" in the traditional sense. They are rootless. Others come from such bad family situations as to make parental involvement meaningless. There are significant practical, legal and philosophical issues related to family participation. To what extent is bad parenting "illegal"? Will ordering parental or family member involvement in dispositions have any impact? What type of dispositional involvement is practical? How can family member involvement be monitored? One Judge informed us that monitoring is the most difficult problem he faces, and that there are no programs he can refer parents to for counseling. Who provides services? If a family member fails to abide by a court order, what practical recourse is available? It appears that these and similar issues must be resolved before we can make significant progress in this area.

**THERE ARE A NUMBER OF BARRIERS TO
INCREASED PARENTAL PARTICIPATION.**

7. COURT ACCESS TO SERVICES AND RESOURCES

- HAVE NEW SERVICES BECOME AVAILABLE?
- WHAT ADDITIONAL SERVICES ARE REQUIRED?
- WHO PROVIDES DISPOSITIONAL SERVICES?
- WHAT PROBLEMS DOES THE COURT HAVE IN OBTAINING SERVICES?
- DO ACCESS OR RESOURCE FACTORS INFLUENCE DISPOSITIONAL DECISIONMAKING?

A major goal of the Code is to expand the services available to the court. This goal is supported by several provisions. The range of dispositional choices available to the court is significantly expanded. New options such as short-term incarceration are added to the list of possibilities. Code-mandated planning encourages increased court access to services and fosters an atmosphere conducive to creating new options. Juvenile-Family Crisis Intervention Units provide a new option. Generally, one would anticipate that these provisions would improve the court's ability to obtain services for its clients.

Yet despite these provisions, our analysis indicates that several distinct (yet related) problems exist. The first is a lack of resources; the second, the existence of barriers to court utilization of existing services and the third, a lack of monitoring of dispositional services.

RESOURCE AVAILABILITY

Our interviews indicate that many key actors feel that the Code's overall impact is limited because few additional resources were provided for services. The Chief Justice of the Supreme Court has noted the need for additional services.¹ Service provider agencies, such as the Department of Human Services, have requested additional funding to support court related services.² While efforts to improve services are being spearheaded at the local level by County Youth Services Commissions, State government is being asked to finance much of this effort. Various requests are now or will soon be presented to the legislature. A court study group concluded:

THE NEW CODE PROVIDES THE COURT WITH A MUCH WIDER RANGE OF OPTIONS FOR DEALING WITH DELINQUENCY.

HOWEVER, SEVERAL PROBLEMS LIMIT THE COURT'S ABILITY TO USE THESE OPTIONS.

ONE PROBLEM IS A LACK OF RESOURCES TO SUPPORT THESE OPTIONS. OPTIONS CAN EXIST ON PAPER AND NOT IN REALITY.

MANY INDIVIDUALS THINK THE CODE'S IMPACT HAS BEEN LIMITED BECAUSE OF LACK OF RESOURCES.

The State should provide financial incentives to encourage counties to provide a variety of alternative disposition programs which would reduce the number of juvenile offenders sent to state correctional facilities. In addition, a program should be established to reimburse counties for capital expenses they incur in establishing/upgrading juvenile detention facilities for use on a post-disposition basis...³

To gain insight into what is available or needed, we surveyed a group of key actors. The survey group consisted of 177 individuals including 14 Judges, 14 Family Part Case Managers, 46 Prosecutors, 28 Public Defenders, 21 Department of Human Services County Representatives and 54 Division of Youth and Family Service Caseworkers.⁴ Their responses to our inquiries are summarized below.

Have Options Increased?

It had been predicted that the dispositional options available to the court would increase as a result of Code provisions. Our survey indicates that this has happened, but only to a limited degree:

- In response to a question asking if options in delinquency cases had increased since Code implementation, most Judges indicated that there had been some, but not a major increase, in dispositional options.
- In response to a question asking if any specific programs had been created to support the Code's expanded dispositional options, a majority of Prosecutors (by a slim margin) indicated that new programs had been created, while most Public Defenders (also by a slim margin) responded negatively.

Are Current Options Adequate?

A related issue is whether the dispositional choices presently available to the court are adequate. Key actors express a variety of views on this issue:

- Describing the "range" of choices available to the court in delinquency cases, 57% of the Case Managers and 50% of the Prosecutors surveyed described this range as "adequate, but needs expansion". However, 53% of the Department of Human Services Representatives characterized this range as "poor or nonexistent".
- Our judicial survey indicated that 80% of Judges questioned felt that one of the juvenile system's greatest immediate needs was a system of residential or quasi-residential programs.

Are All Options Available?

Our surveys indicate that some options are limited. This observation is based on the response of 109 key actors in completing a matrix. The matrix listed a series of Code specified dispositions and asked respondents to describe the resources supporting

WE SURVEYED A NUMBER OF INDIVIDUALS TO FIND OUT WHAT SERVICES ARE AVAILABLE AND WHAT SERVICES ARE NEEDED. THEY TOLD US:

THERE HAS NOT BEEN A MAJOR INCREASE IN DISPOSITIONAL OPTIONS.

SOME, BUT NOT MANY, NEW PROGRAMS HAVE BEEN CREATED TO SUPPORT THE OPTIONS SPECIFIED IN THE CODE.

THE RANGE OF DISPOSITIONAL SERVICES IS DESCRIBED BY KEY ACTORS AS POOR OR IN NEED OF EXPANSION.

JUDGES FEEL THAT ONE OF THE GREATEST NEEDS IS A SYSTEM OF RESIDENTIAL AND QUASI-RESIDENTIAL PROGRAMS.

SOME SERVICES THAT DO EXIST ARE ADEQUATE. OTHERS NEED TO BE IMPROVED OR EXPANDED.

these dispositions in one of five ways: adequate resources available; resources available but needs improvement; resources available but needs expansion; resources not available but of limited use; and resources not available/needs to be established.

While there was considerable variation in response by region, the overall response can be summarized as follows:

- Resources supporting *incarceration, probation, community service and restitution* were most frequently described as either "adequate" or "available but needs improvement".
- Resources supporting *residential programs, residential drug and alcohol programs, educational/vocational programs and work programs* were most often viewed as "available, but needs expansion".
- Resources supporting *outdoor programs* were most frequently described as "not available, needs to be established".
- Respondents were generally split on their characterization of resources supporting *counselling services*. Equal numbers indicated resources were "adequate" or "available, but needs expansion".

Have Dispositional Patterns Changed?

One index of the Code's impact is the extent to which dispositional patterns have changed. Our survey indicated the following:

- Forty-four percent of the Prosecutors surveyed felt that the Code had impacted on the use of various dispositions, while 35% were undecided. Most of those indicating that dispositional patterns were changing thought that incarceration was being used less frequently. Some indicated that residential and day programs were being utilized more frequently.
- By contrast, 50% of the Public Defenders surveyed did not think that the Code had changed dispositional patterns.

What Options Are Still Needed?

What dispositional resources do key actors think should be expanded, improved or established? Our survey indicated the following:

- In response to a request to list, in priority order, up to five options they would like to see established, expanded or improved in their county, judges most frequently noted increased residential programs, increased drug and alcohol programs, better DYFS related services (placements, better coordination, etc.), better probation services (especially intensive supervision), short-term commitment programs and improved court diagnostic and evaluative services.

SOME FEEL THAT DISPOSITIONAL PATTERNS ARE CHANGING, WHILE OTHERS DISAGREE.

JUDGES IDENTIFIED CURRENT SERVICE NEEDS AS:

- **MORE RESIDENTIAL PROGRAMS.**
- **MORE DRUG/ALCOHOL PROGRAMS.**
- **BETTER DYFS SERVICES.**
- **BETTER PROBATION SERVICES.**
- **CREATION OF SHORT-TERM COMMITMENT PROGRAMS.**
- **IMPROVED DIAGNOSTIC AND EVALUATION SERVICES.**

- 163 other key actors responded to a request to list up to five dispositional programs or services that they believe need the highest priority attention. The most frequently cited services (by category) included:

Dispositional Service (By Category)	Number Indicating This As A Choice
• Residential Programs (Various Types)	85
• Drug and Alcohol Programs (Residential and Nonresidential)	77
• Community-Based Programs (Various types, including Day Treatment, Outdoor Programs, Community Service Programs, etc.)	60
• Sex Offender Programs (Residential and Nonresidential)	41
• Various Educational, Vocational, Alternative School and Work Programs	35
• Mental Health Programs (Various types)	23
• Custodial Programs (Including Incarceration, 60 Day Commitment & Detention Programs)	22

While opinions do not represent empirical fact, they do provide valuable insight into what actors see as system needs. As stated by one Judge:

It is one thing to legislatively list new services but yet another to actually provide them. Such a sleight of hand appears evident in our new Code.

Based on the results of these opinion surveys, the following observations are made:

- While the Code expands dispositional options "on paper", and some new programs and services have become available, options are still limited.
- Specific gaps exist.
- Because the gaps are identified by key actors in a position to influence dispositional choices, it is likely that expanded resources in areas related to gaps would result in different dispositional choices.

OTHER KEY ACTORS IDENTIFIED CURRENT SERVICE NEEDS AS:

- **MORE RESIDENTIAL PROGRAMS.**
- **MORE DRUG/ALCOHOL PROGRAMS.**
- **MORE COMMUNITY-BASED PROGRAMS.**
- **ESTABLISHMENT OF SEX OFFENDER PROGRAMS.**
- **MORE EDUCATION AND WORK PROGRAMS.**
- **MORE MENTAL HEALTH PROGRAMS.**
- **IMPROVED CUSTODIAL PROGRAMS.**

FROM OUR SURVEYS, WE CONCLUDE THAT:

- **MANY OPTIONS EXIST ON PAPER ONLY.**
- **MANY EXISTING SERVICES NEED TO BE IMPROVED OR EXPANDED.**
- **SPECIFIC GAPS EXIST.**
- **EXPANDED SERVICES WOULD LIKELY RESULT IN DIFFERENT DISPOSITIONAL PATTERNS.**

COURT ACCESS TO SERVICE

Even presupposing that significant additional resources are provided to service agencies, this does not necessarily mean that court access to these services is assured. Court actors frequently complain about the difficulty they encounter in obtaining services. Access is achieved in several ways: direct control, purchase or through "cooperation" from outside service providers.

While a few states provide the court with resources to directly administer post-dispositional services, others permit the courts to purchase service. Pennsylvania, for example, permits judges to place juveniles in specific programs with costs shared jointly between state and county government. In most states, however, the juvenile court does not directly provide dispositional services. Florida has organized its system by separating the legal procedures of the juvenile court from the delivery of service. All intake, detention, probation and dispositional services traditionally connected to the juvenile court are now administered by a single state-level executive branch agency.

New Jersey's approach is one where the court relies on a combination of its own services and the resources of other state and local, public and private agencies. With the exception of probation, the court does not usually directly administer or control dispositional services and has no fund for the purchase of services. It relies on the cooperation of a "service provider" system to supply services and, in some cases, to determine which services are appropriate. And even though the court's own service, probation, is used for approximately 41% of all dispositions, it largely relies on outside agencies to provide support.

The court faces a significant array of problems in obtaining the cooperation of outside agencies. It must understand what services are available. It must locate these services and gain cooperation. Agencies which provide services can be characterized as a highly fragmented and centerless network. Many programs are specialized. They treat individual symptoms rather than the range of problems experienced by many court involved juveniles and their families. The court must also deal with agencies that unilaterally define their responsibility. Some avoid serving delinquent populations. Further, the lack of services in some critical areas (e.g. residential placement) compromises the court's ability to intervene in ways it deems appropriate (see Section 9).

The service provider system also has difficulty in dealing with the court. The pressure to "do something" in delinquency cases often leads to a service orientated intervention. The indiscriminate use of a service "fix" has numerous implications. While pre-dispositional conferences, pre-dispositional reports and dispositional hearings provide an opportunity to diagnose client needs, the ability to diagnose problems varies by region.

Given the fact that many delinquents receive neither diagnosis nor treatment prior to court involvement, responsibility for obtaining diagnostic service falls to the court.

EVEN IF MORE SERVICES ARE PROVIDED, THIS DOES NOT GUARANTEE COURT ACCESS.

COURT ACTORS FREQUENTLY COMPLAIN ABOUT THE DIFFICULTY IN OBTAINING SERVICES.

A FEW STATES LET THE COURT DIRECTLY ADMINISTER DISPOSITIONAL SERVICES. OTHERS PERMIT THE COURT TO PURCHASE SERVICES.

IN NEW JERSEY, THE COURT DOES NOT CONTROL MOST DISPOSITIONAL SERVICES, NOR DOES IT HAVE FUNDS TO PURCHASE SERVICES. IT LARGELY RELIES ON THE COOPERATION OF A SERVICE PROVIDER SYSTEM TO SUPPLY DISPOSITIONAL SERVICES.

THE COURTS FACE A NUMBER OF PROBLEMS IN OBTAINING DISPOSITIONAL SERVICES:

- **THE COURT DOES NOT ALWAYS KNOW WHAT'S AVAILABLE.**
- **THE SERVICE DELIVERY SYSTEM IS FRAGMENTED.**
- **THE SERVICE DELIVERY SYSTEM IS UNRESPONSIVE.**
- **THE SERVICE DELIVERY SYSTEM IS UNACCOUNTABLE.**

SERVICE PROVIDERS ALSO HAVE DIFFICULTY IN DEALING WITH THE COURT.

Currently, the court is able to meet this responsibility to some extent, but not as adequately as necessary given the dearth of diagnostic resources available to it.

To obtain diagnostic evaluation, the courts use a variety of resources. Some have evaluation units. In other counties, a judge may refer cases to a local mental health center or another service provider for evaluation before rendering a disposition. However, there is no uniform procedure for evaluating all youth entering the courts or for determining what interventions are needed.

There is evidence suggesting that many juvenile problems are not known at the point of disposition. This became increasingly evident when reviewing the information contained in pre-disposition reports in comparison with information developed on these same juveniles once they had been committed.

Our key actor surveys indicate that some service providers feel the court inappropriately utilizes their services because they do not understand the client's needs or the agency's program. Others feel that the court is often forced to use more restrictive or costly options because no other alternatives are available. The classic argument is that the lack of community-based services results in overutilization of incarceration.⁵

Another problem is the inherent difficulty of utilizing an outside service provider system when little feedback is provided. Even in those cases where a juvenile is successfully disposed to an outside agency, the court receives little or no information on what services are being provided, the juvenile's progress (save for those juveniles who re-enter the system on new charges), or how effective these services are in dealing with delinquency. While some courts have developed monitoring systems, no uniform system for monitoring court dispositions exists.

These problems have led some to suggest that the court should directly administer dispositional services. In fact, there is evidence to suggest that this is happening in New Jersey. Court units such as probation are increasingly developing their own services. Others argue this arrangement causes duplication, confusion of responsibility and poses serious due process issues. Thus they maintain that services should be provided by executive branch agencies.⁶

PROBATION

Probation is the most visible example of direct court administration of a dispositional service. Probation departments function as arms of the court in all 21 counties. As noted in Section 5, our statistics indicate that probation is used as the lead disposition in 41% of all dispositions. Probation's role is even more extensive, however, since probation departments administer restitution and community service programs, collect Violent Crimes Compensation Board penalties and fines, and "informally" monitor formal continuances.

WITHOUT A DIAGNOSTIC CAPACITY AT THE FRONT END OF THE SYSTEM, THE NEEDS OF MANY JUVENILE OFFENDERS BECOME A MYSTERY.

THERE IS NO CONSISTENT APPROACH FOR DETERMINING WHAT SERVICES ARE REQUIRED OR WHO WILL SUPPLY THEM.

MANY SERVICE PROVIDERS FEEL THAT THE COURTS INAPPROPRIATELY UTILIZE THEIR SERVICES.

EVEN WHEN SERVICES ARE OBTAINED, THE COURT RARELY GETS ANY FEEDBACK ON THE SUCCESS OF THE TREATMENT.

PROBATION IS THE MOST WIDELY USED DISPOSITION.

PROBATION'S ROLE IS EXTENSIVE.

Probation supervision involves monitoring of clients, enforcement of court orders, and referral to or delivery of services. A recent Division of Probation publication describes this role:

The responsibility of the supervising officer is two-fold: monitoring the juvenile's behavior for compliance with court-ordered conditions as well as providing services which will enhance the juvenile's ability to affect positive behavior change. These include social, mental health, vocational, educational, and any number of other needed services.⁷

Probation faces a classic dilemma—is its primary function the protection of the community or the provision of services? While probation has always retained its monitoring and enforcement responsibility, it has traditionally relied on referrals to other agencies providing services to fulfill its service provision responsibility. It is increasingly moving to direct service provision, though. A recently published Resource Manual lists some of the direct services provided by probation. The listing is impressive and includes many and varied efforts including counseling, education and training, job development, family assessment and treatment, alcohol and drug treatment, and more.⁸ Probation even administers a day-treatment program, Probation Fields, in Passaic County.

The development of direct services by probation is an understandable response to environmental constraints; lack of outside agency service provision and lack of responsiveness to delinquency cases by the existing service provider system. Yet this significant trend raises several important policy questions: How should the court's role as a direct service provider be defined? Do increasing levels of direct service provision by probation detract from or diminish probation's supervision function? Will service provision by probation diminish the court's legitimate demands for service provision from other non-court agencies? Will increasing levels of service delivery by probation result in an uncoordinated and duplicative service provision system?

THE IMPACT OF INCREASED RESOURCES ON DECISIONMAKING.

One significant policy question is whether the introduction of new resources modifies court behavior. Because no system-wide information on court dispositions was maintained in the past, pre-post Code decisionmaking comparisons are difficult. However, there is some evidence that the introduction of new programs or improvements in access may result in changed dispositional behaviors.

The resource surveys indicate that we are experiencing a slow, limited and somewhat mixed expansion of dispositional services. Expansion of residential programs appears to be a priority need. Despite the fact that the court can request residential placement, residential slots for delinquent populations are difficult to obtain.

THE ROLE OF PROBATION IS EXPANDING BEYOND SUPERVISION TO DIRECT SERVICE DELIVERY.

A MAJOR ISSUE IS WHETHER PROBATION'S ROLE OF SERVICE PROVIDER WILL DISCOURAGE RELIANCE ON OTHER NON-COURT AGENCIES.

A MAJOR POLICY QUESTION IS WHETHER THE INTRODUCTION OF NEW PROGRAMS WILL MODIFY COURT DISPOSITIONAL BEHAVIOR. THERE IS SOME EVIDENCE THAT IT WILL, BUT ADDITIONAL RESEARCH IS REQUIRED TO DETERMINE THE EXTENT.

One area in which changed dispositional behavior can be observed is in the court's use of incarceration. To test the proposition that the introduction of new programs influences dispositional choice, we examined the impact of "alternative" programs (residential programs, day programs, etc.) developed by the Department of Corrections. Since 1980, the Department has gradually developed a number of such programs (see Section 9). Our analysis indicates a strong correlation between the increased availability and use of these alternative programs and a decrease in the use of incarceration. This is illustrated by a six-year comparison of the mix of juveniles incarcerated vs. those placed under the "custody" of the Department of Corrections and subsequently placed in alternative programs.

Average Daily Populations In Department of Corrections Juvenile Programs Incarcerated vs. Under Custody (Non-Incarcerated)						
	1980	1981	1982	1983	1984	1985
Number of Juveniles Incarcerated	809	844	882	811	728	695
Number of Juveniles Under Custody in Alternative Programs	99	118	165	207	227	301

Some have argued that incarceration and alternative programs are similar in the degree to which they deprive juveniles of their liberty. Even given this, these trends illustrate the potential for impact the development of new resources can have. While the number of incarcerated offenders has decreased by 114 (13%) over five years, the number of those in custody in various Departmental alternative programs has increased by 202 (204%). While a direct cause and effect relationship cannot be established, it appears evident that creation of alternative programs has at least an indirect impact on institutional commitments.⁹

THERE APPEARS TO BE A CORRELATION BETWEEN INCREASED ALTERNATIVES TO INCARCERATION AND DECREASED USE OF INCARCERATION.

WHILE THE NUMBER OF JUVENILES UNDER THE CARE AND CUSTODY OF THE DEPARTMENT OF CORRECTIONS HAS INCREASED, THERE HAS BEEN A DECREASE IN THE NUMBER OF JUVENILES INCARCERATED IN THE DEPARTMENT'S INSTITUTIONS.

CONCLUSIONS

The issues expressed in this section are complex. While we are experiencing some growth in dispositional services for delinquent populations, many feel that these are inadequate to meet the court's needs. While some new resources have been provided, there is almost universal acclaim by key actors that existing resources are inadequate. The court's ability to access the services provided by outside agencies is thwarted by a number of conditions. Some feel that more services are required, others that court authority to command services should be improved. Outside service providers are requesting more resources to provide court-related services. Yet, as more resources are provided to these outside agencies, there are no guarantees that they will be used to meet the needs of court-involved youth. Concurrently, there are ever increasing efforts by judicial agencies such as probation to develop their own services.

OUR ANALYSIS INDICATES THAT WHILE THERE HAS BEEN SOME GROWTH IN DISPOSITIONAL SERVICES, EXISTING SERVICES ARE NOT ADEQUATE TO MEET COURT NEEDS. THE COURTS HAVE DIFFICULTY IN OBTAINING WHAT IS AVAILABLE.

MORE RESOURCES ARE BEING REQUESTED BY SERVICE PROVIDERS. YET THERE IS NO GUARANTEE THAT NEW RESOURCES WILL BE USED FOR COURT-INVOLVED YOUTH, NOR THAT NEW RESOURCES WILL CHANGE THE DISPOSITIONAL BEHAVIOR OF THE COURT.

8. SHORT-TERM COMMITMENT—A LITMUS TEST

- WHY WAS THIS NEW OPTION CREATED?
- HOW HAS THE OPTION BEEN IMPLEMENTED?
- TO WHAT EXTENT (AND FOR WHOM) IS THE OPTION USED?
- WHAT HAVE WE LEARNED FROM THIS IMPLEMENTATION EFFORT?

The new Code grants the courts a sentencing option previously unavailable; authority to commit juveniles to a youth detention facility for a term not to exceed 60 days. However, counties must take the initiative in establishing commitment programs. These programs must be approved by the Department of Corrections. No state funds were allocated to assist counties in creating commitment programs.

To date, only five counties (Cumberland, Middlesex, Ocean, Sussex and Warren) have implemented programs. While other counties may have affiliation agreements to use existing programs (for example, Somerset County has used existing programs in the past) program availability is clearly limited. In the first two years of Code implementation, just over 100 juveniles have received short-term commitment orders.

This new provision is an example of the expanded dispositional options specified in the Code. However, our analysis indicates:

- The Code provides little guidance as to who is an appropriate candidate for short-term commitment and what the program should be used for.
- Implementation of the option is contingent on county initiative. No state funds were provided. Programs must be financed by the county.
- Implementers at both the state and county level were left free to determine the specific nature of the option by how they define, create or use the program.
- The option can be viewed as "experimental" insofar as the Commission is required to review its implementation and the option is "sunset" after a period of 48 months absent legislative reinstatement.

THE CODE PERMITS JUDGES TO SENTENCE JUVENILES TO A YOUTH DETENTION FACILITY FOR A TERM NOT TO EXCEED 60 DAYS.

HOWEVER, FOR JUDGES TO USE THIS OPTION, COUNTIES MUST CREATE NEW PROGRAMS. TO DO SO, THEY MUST MEET STATE STANDARDS AND PROVIDE THE FUNDING. FEW PROGRAMS HAVE BEEN ESTABLISHED.

THE CODE PROVIDES LITTLE GUIDANCE ON WHO IS AN APPROPRIATE CANDIDATE FOR SHORT-TERM COMMITMENT.

These points, along with the fact that the option is entirely new, have caused us to view this option as a type of "litmus test" related to other Code implementation issues:

- How is legislative intent interpreted and operationalized?
- What happens when implementation is totally dependent on local initiatives?
- How does a lack of state funding impact on creation of new options?
- To what extent will implementers differ in their understanding or approach to Code provisions. What impact will this have?

The genesis of the legislative provision for short-term commitment relates to the Code's goal of expanding dispositional alternatives. Short-term commitment is an option somewhere between probation and state-level incarceration. The Code stipulates that juveniles sentenced to this option must have committed an offense which would have been a crime or repetitive disorderly persons offense if committed by an adult, and that the commitment sentence must be "consistent with the rehabilitative goals" of the Code.¹ There is no indication whether this new option should be used in lieu of probation, state-level incarceration, or as a substitute for some other type of disposition.

The concept of short-term commitment played to mixed reviews when originally proposed. Opposition was based on the fact that detention facilities were designed as "holding" institutions and were usually overcrowded. Further, the fact that the Code did not provide funds for implementation of programs led some to believe that juveniles would merely be warehoused. The basis for the option was debated. Some viewed it as an alternative to state-level incarceration and believed it would reduce the use of incarceration. Others saw it as "shock incarceration", a punitive method to deal with juveniles who would have otherwise received probation. Still others viewed the option as an intensive period of intervention in a residential setting.

Absent legislative guidance, the new option was left to implementers to define. The first step in this process was the creation of the Advisory Task Force on Juvenile Detention Commitment by the Department of Corrections. With membership drawn from the Department, the New Jersey Juvenile Detention Association, the Interstate Consortium on Residential Child Care, the Administrative Office of the Courts, the Judiciary and Detention Center Administrators, the Task Force was charged with developing the commitment program approval criteria.

The result of the Task Force's work, the *Manual of Standards for Juvenile Detention Commitment Programs* sets forth the facility and programmatic requirements that detention centers must meet. The *Manual* outlines a decidedly rehabilitative type of intervention; within seven days of admission, a treatment plan, "based on a thorough assessment of the juvenile's problems and needs" must be developed by the detention center's social worker. Social and educational services must be provided to committed

THE 60 DAY OPTION CAN BE USED AS A "LITMUS TEST" TO EXAMINE GENERAL IMPLEMENTATION ISSUES:

- **WHAT HAPPENS WHEN IMPLEMENTATION IS TOTALLY DEPENDENT ON LOCAL INITIATIVE.**
- **WHETHER LACK OF STATE FISCAL SUPPORT IMPACTS ON THE CREATION OF NEW OPTIONS.**
- **WHETHER IMPLEMENTERS DIFFER IN THEIR INTERPRETATION OF LEGISLATIVE INTENT.**

THE 60 DAY COMMITMENT OPTION PROVIDES AN ALTERNATIVE SOMEWHERE BETWEEN STATE-LEVEL INCARCERATION AND PROBATION.

SOME VIEW SHORT-TERM COMMITMENT AS AN ALTERNATIVE TO STATE LEVEL INCARCERATION WHILE OTHERS VIEW IT AS "SHOCK INCARCERATION".

THE STANDARDS FOR COMMITMENT PROGRAMS WERE DRAFTED BY A DEPARTMENT OF CORRECTIONS ADVISORY TASK FORCE.

THESE STANDARDS HAVE A HEAVY TREATMENT ORIENTATION.

juveniles. A juvenile's progress and the "effectiveness" of his treatment must be evaluated at least once every two weeks.²

While the *Manual* defines the nature of short-term commitment programs by outlining program requirements, judges determine who is committed. Our interviews with administrators of detention centers with commitment programs and a judge who has utilized the option found varying views on what the option is being used for. Further, a judicial survey indicated that many judges would like to have the option available for "shock" or short-term incarceration.³

Prosecutors and Public Defenders are equally divided on the issue of what the option is, or should be used for. When those surveyed were asked to assess the impact of short-term commitment, both groups were split on whether the option would be used in place of correctional commitment or for some other purpose.

A PROFILE OF SHORT-TERM COMMITMENT JUVENILES

To further address this issue, we examined criminal justice, education, personal and family histories of the first 41 juveniles sentenced to a commitment program. These juveniles served commitment sentences in Cumberland, Middlesex and Ocean Counties. Some of the juveniles in the Middlesex and Ocean programs were sentenced in Somerset County. The following information describes this group of juveniles.

The majority of juveniles did not commit serious, violent offenses:

- Sixty-eight percent committed offenses which involved no damage to property or injury to person.

Most (80%) were already under the jurisdiction of the court:

- Forty-four percent were on straight probation.
- Twenty-seven percent were on probation with a condition of restitution or community service.

Most of these juveniles had histories of prior juvenile justice system involvement, although few had extensive histories:

- These juveniles averaged 5.4 prior arrests.
- The average age at first arrest was about 13.
- These juveniles averaged 2.7 prior adjudications of delinquency.

The typical juvenile was previously diverted several times and placed on probation nearly three times. Few had ever been incarcerated. Specifically:

- These juveniles averaged 3.4 prior diversions.
- These juveniles had been placed on probation an average of 2.7 times previously.
- Only four juveniles (10%) had previously been incarcerated.

THERE IS A QUESTION AS TO WHETHER THIS TREATMENT APPROACH IS CONSISTENT WITH USING THE OPTION FOR "SHOCK INCARCERATION".

THERE IS CONSIDERABLE DISAGREEMENT AS TO WHAT THE OPTION SHOULD BE USED FOR.

A PROFILE OF JUVENILES SENTENCED TO SHORT-TERM INCARCERATION SHOWS THAT:

- **MOST DID NOT COMMIT SERIOUS OR VIOLENT OFFENSES INVOLVING INJURY OR PROPERTY DAMAGE.**
- **MOST WERE ALREADY UNDER COURT JURISDICTION.**
- **MOST HAD PRIOR RECORDS THOUGH FEW WERE EXTENSIVE.**
- **FEW HAD PREVIOUSLY BEEN INCARCERATED.**
- **FEW HAD RECEIVED SOCIAL SERVICES OTHER THAN BY COURT ORDER.**
- **MANY WERE NOT ENROLLED IN SCHOOL. MOST HAD BEEN DISCIPLINARY PROBLEMS AND/OR POOR PERFORMERS IN THE CLASSROOM.**
- **ALMOST HALF CAME FROM SINGLE PARENT HOMES.**
- **MANY HAD SERIOUS FAMILY PROBLEMS.**
- **IN ADDITION TO DELINQUENCY, MANY HAD OTHER SERIOUS PERSONAL PROBLEMS.**

Few of these juveniles had received social services other than by court order. Our analysis of the records of these juveniles indicates the following percentages have received the following selected services:

- Special classes—20%
- Social services (DYFS)—15%
- Community mental health services—7%
- Other nonresidential social services—7%
- Drug counseling/therapy—5%
- Alcohol counseling/therapy—5%
- Residential or group placement settings—5%

More than half had been classified by a child study team:

- The most frequent classification (20%) was "emotionally disturbed".

Many of the juveniles were not in school. Even more had been behavioral or disciplinary problems in school. Some were very poor performers in the classroom:

- Twenty-nine percent had dropped out or had been expelled.
- Fifty-nine percent had been behavioral or disciplinary problems in school.
- Fifteen percent had reading grade equivalencies below the fourth grade level.

Many of these juveniles came from single parent homes:

- Forty-four percent were living in homes where the mother was the sole parent.

Some of these juveniles had experienced family problems. Our analysis of their records indicate the following number had experienced specific family-related problems:

- Lack of parental support/involvement—37%
- Abuse/neglect—27%
- Acting out/other emotional behavior by sibling(s)—17%
- Sibling(s) adjudicated delinquent—17%
- Recent death/illness in family—15%
- Recent separation/divorce of parents—15%
- Recent move of juvenile—15%
- Parental drug/alcohol abuse—15%
- Sibling(s) incarcerated—10%
- Recent unemployment of breadwinner—7%
- Sibling(s) drug/alcohol abuse—2%

For some of these juveniles, delinquency was accompanied by other personal problems. Our analysis of the records indicates the following incidences of selected personal problems:

- Destructiveness against persons—24%
- Diagnosed emotional disorder, non-psychotic—24%

WHEN COMPARED WITH A GROUP OF JUVENILES INCARCERATED DURING THE SAME TIME PERIOD, THIS GROUP:

- **COMMITTED LESS SERIOUS OFFENSES.**
- **HAD LESS EXTENSIVE RECORDS.**
- **HAD BEEN DIVERTED OR PLACED ON PROBATION MORE FREQUENTLY.**

IT THEREFORE SEEMS UNLIKELY THAT MANY OF THESE JUVENILES WOULD HAVE BEEN INCARCERATED EVEN IF THE 60 DAY OPTION DID NOT EXIST.

- Drug abuse—22%
- Alcohol abuse—22%
- Destructiveness against property—22%
- Hostility—20%
- Learning disability—20%
- Serious mental incapacitation short of retardation—12%
- Physical disorder or disability—10%
- Sexual deviance—7%
- Destructiveness against self—5%
- Pregnancy—5%
- Mental retardation—2%
- Cerebral palsy or epilepsy—2%
- Dyslexia—2%

A comparison of the characteristics of this group of juveniles with the characteristics of incarcerated juveniles (contained in Section 9) illustrates that the groups are unique. The short-term commitment juveniles committed less serious offenses, had less extensive prior records, but had been diverted and placed on probation more frequently than the incarcerated juveniles. It does not appear likely, therefore, that these juveniles would have been incarcerated if commitment programs had not been available.

PROGRAM AVAILABILITY

The Code allows, but does not mandate, the creation of this new option. Since no funds were allotted, creation is wholly dependent on county initiative.

The reasons for the failure of most counties to establish commitment programs appear varied. Incarceration has traditionally been viewed as a state-level responsibility. Without financial incentives, counties are reluctant to assume this responsibility. Many detention centers are at or near capacity and many detention center administrators are reluctant to accept jurisdiction over an additional population. Still others have informed us that 60 days is not enough time to meaningfully intercede in the lives of troubled juveniles.

Existing programs have been created largely through the efforts of detention facility staff as opposed to other system actors. Activism of detention center administrators, good facilities and enthusiastic staff appear to have contributed. These conditions appear in other counties, though, and interest in the option appears high. We surveyed Judges, Prosecutors, and Public Defenders and found:

- Over 90% of the Judges surveyed who did not have the option available indicated they would like to see it created.

TO DATE, ONLY FIVE COUNTIES (CUMBERLAND, MIDDLESEX, OCEAN, SUSSEX AND WARREN) HAVE CREATED 60 DAY COMMITMENT PROGRAMS.

IN THE FIRST TWO YEARS OF CODE IMPLEMENTATION, JUST OVER 100 JUVENILES HAVE BEEN COMMITTED.

SEVERAL FACTORS SEEM TO ACCOUNT FOR THE LIMITED ADOPTION OF THIS OPTION:

- **A TRADITIONAL RELIANCE ON THE STATE'S RESPONSIBILITY FOR INCARCERATION SERVICES.**
- **A LACK OF STATE FISCAL SUPPORT.**
- **CROWDED CONDITIONS IN SOME DETENTION CENTERS.**

- Sixty-seven percent of the Prosecutors surveyed said that the option was either already available (15%) or that there was interest in creating it (52%).
- Sixty percent of the Public Defenders surveyed said that the option was either already available (21%) or that there was interest in creating it (39%).

Why haven't other counties created short-term commitment programs? Much has been made of the programmatic requirements outlined in the *Manual*. Some actors suggest that these requirements mandate additional staff, making programs prohibitively expensive. At least one county's application is in limbo because it includes funding for a social worker position and there is opposition to increasing detention center cost. The administrator of the detention center in that county asserts the position is necessary to meet the *Manual's* standards. Others, familiar with the situation in this county and others, believe the *Manual* is being used as a scapegoat to retard the development of the option. It is difficult to determine whether more programs will develop in the future.

CONCLUSIONS

The short-term commitment option appears to be a victim of circumstances. This has resulted in its limited implementation and use. The option was widely debated from the beginning and was seen variously as an alternative to incarceration, as "shock incarceration" or as an intensive residential treatment option. Without legislative guidance, implementers were left to interpret the nature of this intervention. The Task Force on Juvenile Detention Commitment cast the program as social work intervention at the outset, limiting its potential as "shock incarceration". However, the profiles of juveniles committed to these programs clearly indicate that many are in need of rehabilitative services. To diminish program requirements might result in limiting much needed service.

Program administrators are now reiterating feelings that may have led the New Jersey Detention Association to initially oppose the option (a stance which was later reversed); 60 days may be too short a period in which to "rehabilitate" a delinquent. This problem, they argue, is compounded by the fact that sentence length is often reduced when credit is given for time spent in the detention center predispositionally. Further, some judges have exercised their authority to sentence juveniles for periods shorter than 60 days. The result is an option which may be difficult to implement as a purely incarcerative sentence and which is losing support for its rehabilitative potential.

Another equally disturbing issue is that of equal protection. If in fact the option is being used in some cases as an alternative to incarceration, is it fair that this option should only be available to the residents of certain counties? And the finding that juveniles committed to short-term incarceration would not likely have been incarcerated if the

- **THE RELUCTANCE OF DETENTION CENTERS TO ACCEPT ADDITIONAL RESPONSIBILITY.**
- **SKEPTICISM OVER MEANINGFUL REHABILITATION IN 60 DAYS OR LESS.**

DESPITE THESE PROBLEMS, OUR SURVEYS INDICATE THAT THERE IS STILL WIDE INTEREST IN ESTABLISHING THIS OPTION IN COUNTIES WHERE IT DOES NOT EXIST.

SOME ACTORS SUGGEST THAT THE PROGRAMMATIC REQUIREMENTS CONTAINED IN THE STANDARDS MANUAL AND THE EXPENSE INVOLVED IN MEETING THESE REQUIREMENTS SERVE TO LIMIT FURTHER GROWTH OF PROGRAMS.

OTHERS FEEL THAT THE MANUAL IS BEING USED AS A SCAPEGOAT.

MANY FEEL THAT ITS POTENTIAL AS A REHABILITATION OPTION IS LIMITED.

option did not exist supports those who claimed the option would merely "widen the net".

To what extent has implementation been impeded by a lack of state support? This is particularly difficult to assess because of a traditional view that incarceration is a state responsibility. Counties may be more willing to establish other types of non-incarcerative sentencing options. Since it appears that many counties could establish commitment programs with little or no additional expenditures, absence of state dollars may be a rationale for not creating programs which are not wanted for reasons wholly independent of cost.

The history of implementation of this option is important since it leads to several general implementation observations:

- Providing for the creation of a new sentencing option without mandating its creation leads to fragmented response and exacerbates existing regional differences in resource availability.
- Absent legislative guidance, implementers are free to shape the nature of new provisions. This may mean that new provisions are not used as their authors intended.
- Absence of supporting state dollars may impede program creation but may also support pre-existing lack of county initiative in establishing low or no-cost program options.

**THE LACK OF STATE-LEVEL SUPPORT MAY
NOT BE THE ONLY FACTOR RETARDING
FURTHER DEVELOPMENT.**

9. THE ROLE OF TWO SERVICE PROVIDERS: HUMAN SERVICES AND CORRECTIONS

- **WHAT SERVICES DO THESE AGENCIES PROVIDE TO THE COURT?**
- **WHAT IMPACT HAS THE CODE HAD ON THEIR OPERATIONS?**
- **HOW ARE THEIR ROLES RELATED?**
- **THE CHARACTERISTICS OF DELINQUENTS IN RESIDENTIAL AND CORRECTIONAL SETTINGS.**
- **MENTAL HEALTH SERVICES FOR DELINQUENTS.**
- **INCARCERATION OF DEVELOPMENTALLY DISABLED OFFENDERS.**

The Commission is mandated to analyze the availability and interrelationships of dispositions between the Department of Corrections (DOC) and the Department of Human Services (DHS). Since these agencies play a pivotal role in the provision of dispositional services, much of our research has focused on their activities and their relationship to the court and each other.

THE DEPARTMENT OF HUMAN SERVICES

The Department of Human Services is the state's primary human service agency. With a role significantly broader than that of court service provider, its services are nonetheless critical to court functions. With an annual budget in excess of \$600 million and over 24,000 employees, the Department is the largest (and perhaps the most complex) of state agencies. Annual caseload statistics suggest the extent of its mission. The Division of Developmental Disabilities services over 9,000 persons. The Division of Youth and Family Services (DYFS) deals with an estimated 48,000 children and over 28,000 families; an estimated 8-10,000 children are in out-of-home placement. The majority of the children under DYFS care are non-delinquent; approximately 30% of out-of-home placements are pursuant to court order by virtue of abuse, neglect or delinquency. While the Department's role in delinquency cases is specified in only three dispositional provisions (e.g. service provision by the Division of Youth and Family Services, Division of Mental Retardation or the Division of Mental Health & Hospitals), other dispositions may rely heavily on Department provided or financed services.

THE COMMISSION IS MANDATED TO ANALYZE THE AVAILABILITY AND INTERRELATIONSHIPS OF DISPOSITIONS BETWEEN THE DEPARTMENT OF CORRECTIONS AND THE DEPARTMENT OF HUMAN SERVICES.

THE DEPARTMENT OF HUMAN SERVICES

THE DEPARTMENT'S ROLE IS SIGNIFICANTLY BROADER THAN THAT OF COURT SERVICE PROVIDER. YET, THE COURT IS HEAVILY RELIANT ON DEPARTMENT SERVICES.

THE MAJORITY OF CHILDREN UNDER DYFS CARE ARE NON-DELINQUENT; ONLY ABOUT 30% OF OUT-OF-HOME PLACEMENTS ARE PURSUANT TO COURT ORDER BY VIRTUE OF ABUSE, NEGLECT OR DELINQUENCY.

IMPACT OF THE CODE

Departmental staff predicted that the Code's provisions would impact on service demands in three ways: increased referrals to DYFS, increased demands for residential placement, and increased demands for servicing developmentally disabled offenders.¹

At least two of these predictions have materialized. DYFS has reported increased service demands from both Court Intake and Crisis Intervention Units. While Crisis Intervention Units handle many cases internally, they also rely on DYFS referral. Of the 13,798 cases disposed by these units in Court Year 1985, 6,438 (47%) were handled internally, 5,944 (43%) were referred to other outside agencies and 1,416 (10%) were forwarded to court. Some cases involve more than one referral to an outside agency. While there are variations in referral patterns, at least 14% of all outside referrals were made to DYFS.² The Department has also reported that DYFS residential placements are up by approximately 100 per year, and attributes this to increased court service demands.³

One of the more significant post-Code developments has been the Department's strong involvement in planning for court related services. This involvement stems from its mandate to review and approve county plans for the provision of services for children under the jurisdiction of the Family Court. Planning has developed to a degree far greater than originally anticipated. It also involves a number of actors. A state-level Youth Services Commission was formed for the purpose of coordinating county and state activities, and Youth Service Commissions have been formed in at least 20 counties. Local commissions assess local needs, coordinate local resources and articulate local service needs. Despite the fact that Court-Departmental relationships continue to be characterized by many of the problems observed in Section 7, the Code has "opened communications between the court and the Department not previously possible".⁴

THE DIVISION OF YOUTH AND FAMILY SERVICES

Much of the conflict between the Department and the court surrounds DYFS-provided services. The Code provides new, albeit unclear provisions regarding this relationship. While the previous statute clearly authorized DYFS specification of services for juveniles placed under its care, the new Code provides the court with greater authority to specify services by permitting review of DYFS service plans. Our research on the Court-DYFS relationship indicates the following:

- Court actors are generally critical of DYFS-provided services. Most characterize DYFS as unresponsive to service requests.

THE CODE WAS EXPECTED TO IMPACT ON THE DEPARTMENT IN A NUMBER OF WAYS:

- INCREASED REFERRALS TO DYFS.
- INCREASED RESIDENTIAL PLACEMENTS.
- INCREASED SERVICE DEMANDS FOR DEVELOPMENTALLY DISABLED OFFENDERS.

DYFS REPORTS INCREASED SERVICE AND RESIDENTIAL PLACEMENT DEMANDS AS A RESULT OF CODE PROVISIONS.

AS A RESULT OF THE CODE, THE DEPARTMENT IS NOW HEAVILY INVOLVED IN COURT SERVICE PLANNING.

THE CODE HAS OPENED COMMUNICATIONS BETWEEN THE COURT AND THE DEPARTMENT.

MANY OF THE CONFLICTS BETWEEN THE COURT AND THE DEPARTMENT INVOLVE DYFS-PROVIDED SERVICES.

COURT ACTORS FEEL THAT DYFS IS UNRESPONSIVE TO COURT SERVICE REQUESTS.

- Concurrently, DYFS caseworkers express negative feelings about their relationship with the court. A Commission survey involving 54 DYFS Caseworkers indicates that under half are unclear about DYFS's role in delinquency cases, only 20% felt that DYFS should be responsible for providing services in delinquency cases and nearly three-quarters thought judges did not have realistic expectations about what the agency can do in delinquency cases.⁵ This may stem from a traditional view of DYFS as a "child protection" agency.

DYFS WORKERS ARE UNCLEAR ABOUT THEIR RESPONSIBILITY IN DELINQUENCY. MANY THINK THEY SHOULD NOT BE INVOLVED IN DELINQUENCY CASES.

RESIDENTIAL PLACEMENT—A CONTINUING DILEMMA

Our surveys (see Section 7) indicate that the development of residential programs is a priority system need. This observation is not new. Numerous past reports have made the same point. The 1977 report of the Governor's Adult and Juvenile Justice Advisory Committee noted:

Too often a judge has the unpleasant choice of sending the juvenile back to the destructive environment which encouraged the deviant or criminal behavior in the first place. For those juveniles who should not be incarcerated or released, a system of work camps or other residential programs with firm but flexible discipline and careful supervision should be of enormous assistance in both rehabilitating the juvenile and protecting the public.⁶

Our analysis indicates the following:

- The courts have traditionally relied on DYFS for providing residential services for a variety of cases, including delinquency. However, current reliance on DYFS residential placement for delinquency cases is limited. Presently, only 1% of delinquency dispositions result in DYFS residential placements.⁷
- The DYFS approach to placement is at odds with the court needs. Whereas the court may seek an alternative to incarceration in those instances where removal from the home appears warranted, DYFS views the decision from a "social work" perspective. Placement may be in direct conflict with the DYFS mandate to "preserve the family", often interpreted by DYFS as keeping the juvenile at or close to home.
- DYFS has been under considerable pressure for both economic and philosophical reasons (e.g. the deinstitutionalization movement) to reduce its use of residential placement.
- At the same point that juvenile system actors were calling for increased residential or quasi-residential programs, the "deinstitutional" movement was impacting on all levels of human services. The average number of juveniles in DYFS residential placements dropped from nearly 1,850 in 1976 to just over 1,400 in 1985.⁸

THE NEED FOR A SYSTEM OF RESIDENTIAL SERVICES FOR DELINQUENT YOUTHS HAS BEEN EXTENSIVELY DOCUMENTED.

THE COURTS HAVE TRADITIONALLY RELIED ON DYFS FOR RESIDENTIAL SERVICES IN DELINQUENCY CASES, BUT THIS RELIANCE IS DECREASING.

THE DYFS APPROACH TO RESIDENTIAL PLACEMENT IS NOT RESPONSIVE TO THE NEEDS OF THE JUVENILE JUSTICE SYSTEM.

DESPITE DEMANDS, DYFS HAS BEEN UNDER PRESSURE TO REDUCE RESIDENTIAL PLACEMENTS.

- The DYFS "network" of residential programs has limited ability to handle delinquency cases. This limitation stems from both a scarcity of resources and an inability to handle certain types of delinquent juveniles. This network consists of about 100 contract facilities including group homes, residential treatment centers, teaching parent homes, youth shelters and transitional living programs. Delinquent youth are particularly difficult to place in these programs since vendors can refuse to accept applicants. Our field research indicated that many juveniles were refused services by agencies with state contracts. The most difficult placement cases include sex offenders, arsonists, and offenders with assaultive backgrounds, serious emotional problems, or histories of drug and alcohol abuse.⁹
- Even in those cases where DYFS does secure residential placement, it may take three to six months or longer to secure a placement. In past years, it was not uncommon for a DYFS caseworker to have to apply to 10 to 20 residential programs before being able to find a placement. In the interim, the juvenile's problem may become increasingly severe. Many of those awaiting placement remain in detention facilities.
- Family court judges cannot order DYFS to place a juvenile in a specific program. According to a 1976 Appellate Court decision, DYFS retains control over specific placement decisions in order to maintain control over its budget.¹⁰
- Despite these limitations, our analysis below indicates that the DYFS network does serve a limited portion of the delinquent population; one that appears to be characterized by severe family and emotional problems and less serious delinquency problems.

All these factors lead to a conclusion that DYFS's ability to provide residential services in delinquency cases is limited to certain types of offenders. Many have concluded that this has led to the use of incarceration as the only alternative available to the court in dealing with other cases.

THE DEPARTMENT OF CORRECTIONS

The Department provides several court-related services including secure custody, community-based programs for both committed juveniles and probationers, monitoring of juvenile detention facilities, and parole supervision. In 1984, the Department had an average daily population of over 11,300 individuals, including nearly 1,000 juveniles in a variety of institutional and community-based programs.

THE DYFS RESIDENTIAL SYSTEM HAS LIMITED ABILITY TO HANDLE DELINQUENCY CASES.

DYFS PLACEMENTS MAY TAKE THREE TO SIX MONTHS.

DESPITE CRITICISMS, DATA INDICATES THAT DYFS DOES SERVE A LIMITED POPULATION OF DELINQUENT JUVENILES.

MANY FEEL THAT THE LACK OF A VIABLE SYSTEM OF RESIDENTIAL SERVICES HAS LED TO INCREASED RELIANCE ON INCARCERATION.

THE DEPARTMENT OF CORRECTIONS

THE DEPARTMENT PROVIDES A NUMBER OF COURT-RELATED SERVICES INCLUDING:

- CUSTODY
- PAROLE SUPERVISION
- COMMUNITY-BASED PROGRAMS
- DETENTION FACILITY MONITORING

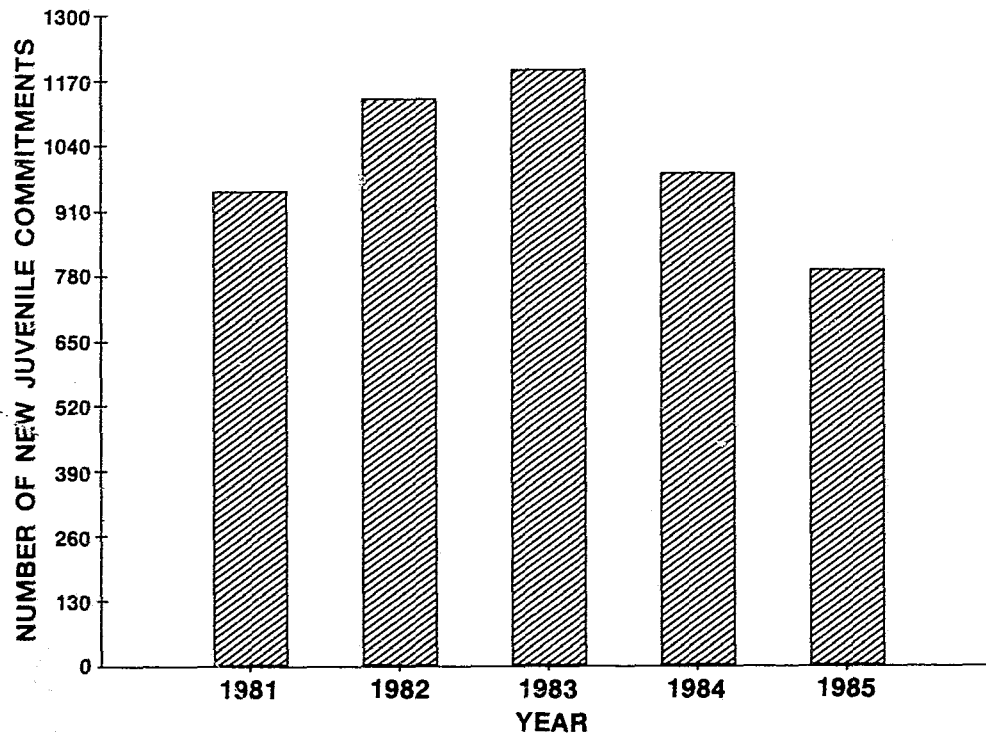
Population Trends

While it had been predicted that certain Code provisions would lead to increases in the use of incarceration, this has not occurred:

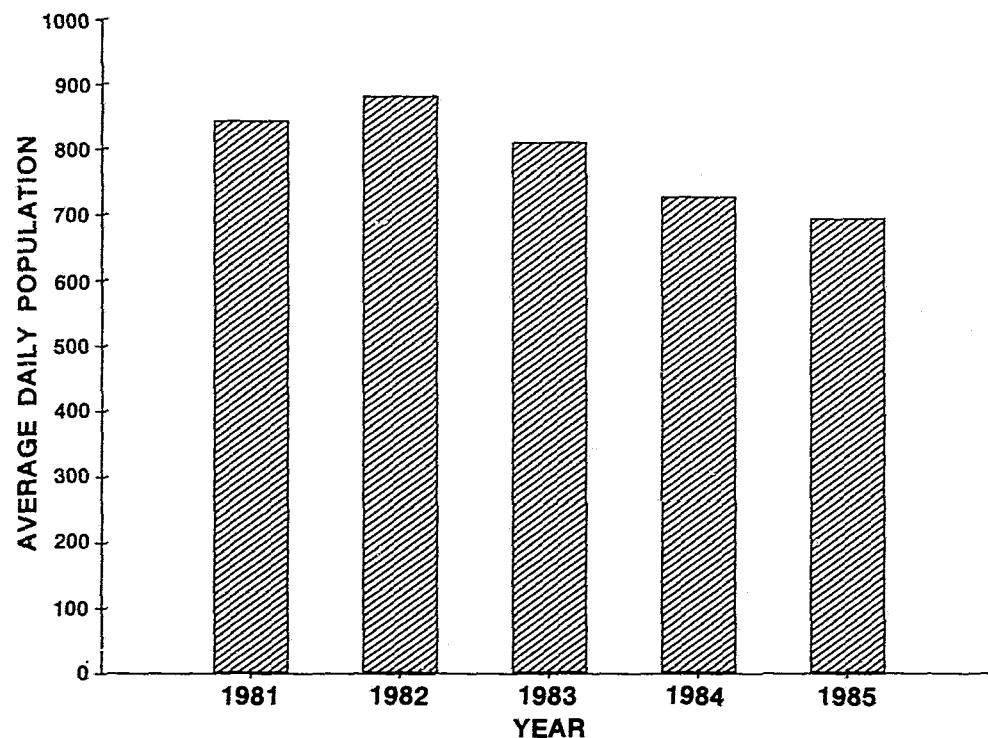
- There has been an actual decrease in the number of juveniles incarcerated in correctional institutions over a recent five-year period, and a significant decrease in the two years following Code implementation.¹¹

THE PREDICTION THAT THE CODE WOULD LEAD TO AN INCREASED USE OF INCARCERATION HAS NOT MATERIALIZED.

THERE HAS ACTUALLY BEEN A DECREASE IN THE NUMBER OF JUVENILES INCARCERATED.

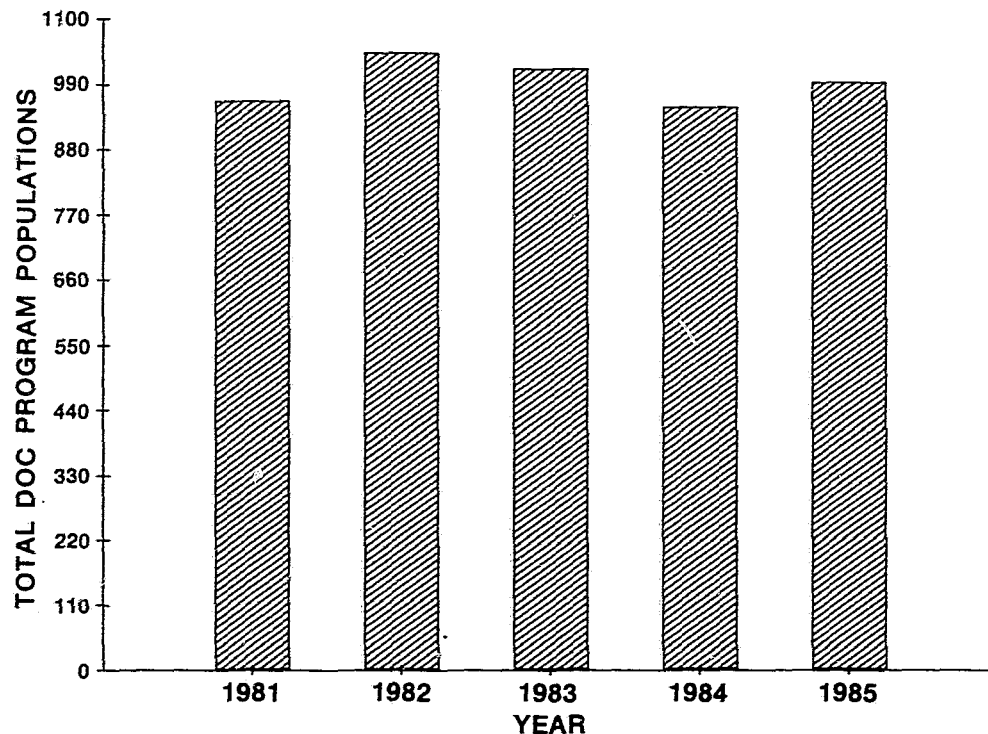


- The average daily population of incarcerated juveniles has also decreased during this period.¹² The downward trend has been particularly significant since 1983.



- By contrast, the total number of juveniles under the care of the Department has not diminished. The average daily population of juveniles in all institutions, facilities and programs run by the Department has remained relatively constant over a five-year period.¹³

HOWEVER, THE TOTAL NUMBER OF JUVENILES "SERVICED" BY THE DEPARTMENT HAS NOT DECREASED. THIS IS BECAUSE THE DEPARTMENT HAS DEVELOPED A NUMBER OF NEW PROGRAMS FOR DELINQUENT POPULATIONS.



Several reasons account for these trends. The courts are incarcerating fewer offenders. The Code's extended term provisions are not being utilized (see below). Concurrently, as a result of Departmental actions, there has been a dramatic change in both the composition and distribution of correctional populations. Whereas in 1980 much of the Department's effort focused on incarcerated populations, increasing emphasis is now placed on community based programs:

- The Department has expanded the number of community based residential programs from 10 in 1980 to 20 in 1985.
- The Department now administers 17 day treatment programs servicing over 225 juveniles. No such programs were administered by the Department in 1980. These programs are also direct service providers to county probation departments.
- Programs such as Youth Advocacy stress alternatives to incarceration.
- The Department is beginning to utilize the services of private programs such as the Glenn Mills School and recently, the RCA Corporation.

THERE ARE SEVERAL REASONS FOR THESE TRENDS:

- **THE COURTS ARE INCARCERATING FEWER OFFENDERS.**
- **EXTENDED TERM PROVISIONS ARE NOT BEING USED.**
- **THE DEPARTMENT HAS EXPANDED COMMUNITY BASED PROGRAMS.**
- **THE DEPARTMENT HAS ESTABLISHED DAY TREATMENT PROGRAMS.**
- **DEPARTMENTAL INITIATIVES STRESS ALTERNATIVES TO INCARCERATION.**

Together, these actions have increased the Department's ability to offer alternative options to the court. As noted by one judge:

We have an ever increasing range of correctional but not custodial programs. This is good. It helps avoid the trauma of Jamesburg.¹⁴

Others have argued that the alternative programs, because of the degree to which they deprive juveniles of their liberty, are essentially commitment with a new name. Whatever the interpretation, this analysis points to an agency that has been aggressive in creating alternatives to incarceration; filling the gaps left by service providers such as DYFS.

A COMPARISON OF JUVENILES PLACED IN DOC AND DYFS SETTINGS

Institutional or residential dispositions are the most restrictive sentences imposed by the court. While Corrections has traditionally been responsible for incarceration and DYFS for residential placement, this pattern is changing as Corrections expands residential programs servicing both incarcerated and non-incarcerated juveniles.

Since there are no guidelines specifying who goes where, the court retains primary authority for deciding which of the three options (incarceration, DOC residential program as a condition of probation, or DYFS residential program) is appropriate. While some incarcerated juveniles are placed by the Department in DOC residential settings and probation departments use these programs, DYFS retains exclusive placement authority over its referrals and utilizes its own network. Therefore, a variety of actors determine the nature of the three populations.

There has been much speculation about the type of juveniles found in these three programs. DYFS maintains that its system is geared to "emotionally disturbed" juveniles while the DOC handles "bad apples". Others suggest that DYFS gets juveniles who are just beginning to commit delinquent acts, while DOC gets the juveniles with extensive records. Critics charge that the DYFS population is primarily white, while black offenders are more likely to be incarcerated. Little evidence existed to substantiate or refute any of these claims.

To examine these issues, we profiled juveniles placed in each of these three settings. In all, demographic, offense, prior record, prior social service history, family and related information was collected for a sample of 214 incarcerated juveniles, 46 juveniles placed in DYFS residential programs as a result of an adjudication of delinquency and 147 juveniles placed in DOC residential programs as a condition of probation.

DEPARTMENTAL INITIATIVES HAVE FILLED GAPS IN SERVICES LEFT BY AGENCIES SUCH AS DYFS.

INSTITUTIONAL OR RESIDENTIAL DISPOSITIONS ARE THE MOST RESTRICTIVE OPTIONS USED BY THE COURT.

MUCH SPECULATION HAS EXISTED AS TO THE TYPES OF JUVENILES FOUND IN PROGRAMS RUN BY DYFS VS. CORRECTIONS.

WE PROFILED THE DELINQUENT POPULATIONS FOUND IN THREE PROGRAMS:

- **INCARCERATED DELINQUENTS.**
- **DELINQUENTS PLACED IN DEPARTMENT OF CORRECTIONS RESIDENTIAL PROGRAMS AS A CONDITION OF PROBATION.**
- **DELINQUENTS PLACED IN DYFS RESIDENTIAL PROGRAMS.**

A Profile of Incarcerated Juveniles

Our analysis indicates that the average incarcerated juvenile is older, a member of a minority group and male:

- Fifty-four percent are between the ages of 17 and 18.
- Race was reported in only 61% of all cases, making it impossible to conclusively profile this sample's racial composition. In those cases where race was indicated 48% were black, 33% were white and 19% were hispanic.
- Ninety-five percent were male.

While many of these juveniles have committed serious offenses, half have committed less serious offenses involving neither damage to property nor injury to person:

- Thirty-one percent committed a homicide, sexual offense, robbery, or an assault.
- In those cases where such information was recorded, 51% of the offenses did not involve damage to property or injury to person.

The majority of incarcerated juveniles had previous contact with the juvenile justice system, and were likely to have extensive prior records:

- Over 80% were involved with the juvenile justice system at the time of their offense.
- Over 50% were on probation at the time of their offense.
- Almost one-third had delinquency complaints pending at the time of their offense.
- The sample averaged nine prior delinquency complaints and five prior adjudications of delinquency.
- On the average, incarcerated juveniles have been diverted once previously and had been placed on probation twice.

Most incarcerated juveniles came from low income, broken or single parent homes with a multiplicity of problems:

- In those cases where such information was recorded (94%), over 80% of the juveniles came from homes where parents were separated, divorced, widowed, or single.
- In those cases where such information was recorded (61%), more than 50% of the juveniles came from households with estimated annual incomes of less than \$10,000.

INCARCERATED JUVENILES

OUR ANALYSIS OF THE BACKGROUNDS OF INCARCERATED JUVENILES INDICATES:

THE AVERAGE INCARCERATED JUVENILE IS OLDER, A MEMBER OF A MINORITY GROUP AND MALE.

THIRTY-ONE PERCENT HAD COMMITTED VIOLENT OFFENSES, WHEREAS OVER HALF HAD COMMITTED LESS SERIOUS OFFENSES INVOLVING NEITHER DAMAGE TO PROPERTY NOR INJURY TO PERSON.

THE AVERAGE INCARCERATED JUVENILES HAD FIVE PRIOR DELINQUENCY ADJUDICATIONS. ALMOST ONE-THIRD HAD OTHER DELINQUENCY CHARGES PENDING AT THE TIME OF THEIR INSTANT OFFENSE.

MOST INCARCERATED JUVENILES CAME FROM LOW INCOME, BROKEN HOMES.

The records of incarcerated juveniles indicate a number of family problems. Our analysis of the records indicates the following incidences of selected family problems:

- Lack of parental support/involvement—63%
- Abuse/neglect—24%
- Parental drug or alcohol abuse—24%
- Sibling(s) adjudicated delinquent—23%

Most incarcerated juveniles had problems in school.

- More than three-fourths of the juveniles have been behavioral or disciplinary problems in school.
- Forty percent of the juveniles for whom the information was known (93%) had either dropped out or been expelled from school.

Many incarcerated juveniles had some type of mental health problem. Our analysis of the records for these juveniles indicates the following incidences of personal problems:

- Destructiveness against persons—66%
- Destructiveness against property—56%
- Drug abuse—54%
- Hostility—52%
- Alcohol abuse—36%
- Depression—35%
- Diagnosed emotional disorder, non-psychotic—32%
- Serious mental incapacitation short of retardation—19%
- Learning disability—19%
- Mental retardation—4%

Typically, one-third or fewer of incarcerated juveniles had previously received social services. Our analysis of the records of these juveniles indicates that the following percentages had received specific social services:

- Special education classes—42%
- Social services (DYFS)—37%
- Counseling (general)—35%
- Residential or group placement—33%
- Community mental health services—26%
- Other mental health services—17%
- Drug counseling/therapy—15%
- Other non-residential social services—13%
- Alcohol counseling/therapy—8%

LACK OF PARENTAL SUPPORT, ABUSE AND NEGLECT AND PARENTAL DRUG/ALCOHOL ABUSE ARE FREQUENT PROBLEMS IN THESE JUVENILES' BACKGROUNDS.

OVER THREE-FOURTHS WERE DISCIPLINARY PROBLEMS IN SCHOOL. MANY HAD BEEN EXPELLED OR DROPPED OUT.

EMOTIONAL OR MENTAL HEALTH PROBLEMS ARE EVIDENT.

SUBSTANCE ABUSE IS A MAJOR PROBLEM.

RELATIVELY FEW INCARCERATED JUVENILES HAVE RECEIVED THE TYPE OF SOCIAL SERVICES THEY SEEM TO HAVE REQUIRED.

A Profile of Probationers In DOC Residential Programs

Similarly, our analysis indicates that the average juvenile in a DOC residential program as a condition of probation is older, black and male:

- Forty-seven percent were between the ages of 17 and 18.
- Race was reported in only 65% of all cases, making it impossible to conclusively profile this sample's racial composition. In those cases where race was indicated 26% were white, 66% were black, and 8% were hispanic.
- Ninety-five percent were male.

While many committed serious, violent index offenses, most committed less serious offenses:

- Twenty-eight percent committed a sexual offense, robbery, or an assault.
- In those cases where such information was recorded, 57% of the offenses did not involve damage to property or injury to person.

For most, this was not their first experience with the juvenile justice system:

- Nearly two-thirds were involved with the juvenile justice system at the time of the offense.
- Over 50% were on probation at the time of their offense.
- Almost one-third had delinquency complaints pending at the time of their offense.
- The sample averaged 7.5 prior delinquency complaints and 3.5 prior adjudications of delinquency.
- The sample averaged nearly two prior formal continuances.

Most residents came from low income, broken or single parent homes with a multiplicity of problems:

- Of all cases where such information was recorded (97%), over 77% of the juveniles came from homes where parents were separated, divorced, widowed, or single.
- Of all cases where such information was recorded (66%), nearly 60% of the juveniles came from household with estimated average incomes of less than \$10,000.

The records of this sample of residents indicate the following incidences of select family problems:

- Lack of parental support/involvement—56%
- Parental drug or alcohol abuse—24%
- Abuse/neglect—19%
- Sibling(s) adjudicated delinquent—16%
- Recent move of juvenile—16%
- Recent separation/divorce of parents—14%
- Recent death/illness in family—12%
- Sibling(s) incarcerated—10%

PROBATIONERS IN CORRECTIONS RESIDENTIAL PROGRAMS

**OUR ANALYSIS OF THE BACKGROUNDS OF
PROBATIONERS IN DEPARTMENT OF
CORRECTIONS RESIDENTIAL PROGRAMS
INDICATES:**

**THE AVERAGE JUVENILE IS OLDER, A
MEMBER OF A MINORITY GROUP AND
MALE.**

**TWENTY-EIGHT PERCENT HAD COMMITTED
VIOLENT OFFENSES, WHEREAS MOST
COMMITTED OFFENSES INVOLVING
NEITHER INJURY NOR PROPERTY
DAMAGE.**

**THE AVERAGE JUVENILE HAD OVER THREE
PRIOR DELINQUENCY ADJUDICATIONS.**

**SIMILAR TO THOSE INCARCERATED, MOST
COME FROM LOW INCOME, BROKEN
HOMES THAT ARE CHARACTERIZED BY A
NUMBER OF DYSFUNCTIONS.**

Most of these juveniles had problems in school:

- Over two-thirds of the juveniles had been behavioral or disciplinary problems in school.
- Forty percent of the juveniles for whom the information was known (93%) had either dropped out or been expelled from school.

Additionally, many of these juveniles had a variety of mental health problems. The records indicate the following incidences of selected personal problems:

- Drug abuse—46%
- Destructiveness against persons—42%
- Destructiveness against property—39%
- Hostility—31%
- Alcohol abuse—28%
- Diagnosed emotional disorder, non-psychotic—22%
- Depression—16%
- Learning disability—14%
- Destructiveness against self—10%

While nearly one-third of these juveniles have previously been enrolled in special education classes or have received social services from DYFS, records indicate they have received other types of social services less frequently. Our analysis indicates the following percentages have received the below-noted social services:

- Social services (DYFS)—30%
- Special education classes—30%
- Counseling (general)—27%
- Residential or group placement—24%
- Other non-residential social services—20%
- Other mental health services—17%
- Drug counseling/therapy—13%
- Community mental health services—9%
- Alcohol counseling/therapy—8%

A Profile of DYFS Juveniles

By contrast, our analysis indicates that the typical juvenile placed in a DYFS residential program as a disposition of delinquency is a white male in his mid-teens.

- Forty-eight percent were between the ages of 15 and 16.
- Race was reported in only 78% of all cases, making it impossible to conclusively profile this sample's racial composition. In those cases where race is reported 60% were white, 37% were black, and 4% were hispanic.
- Eighty percent were male.

SIMILAR TO THOSE INCARCERATED, MOST HAD BEEN DISCIPLINARY PROBLEMS IN SCHOOL. MANY HAD DROPPED OUT OR BEEN EXPELLED.

EMOTIONAL OR MENTAL HEALTH PROBLEMS ARE COMMON AND THERE IS A HIGH INCIDENCE OF DRUG AND ALCOHOL ABUSE.

THOUGH EMOTIONAL AND MENTAL HEALTH PROBLEMS ARE PREVALENT, SOCIAL SERVICE INTERVENTIONS WERE NOT USED AS EXTENSIVELY AS MIGHT BE IMAGINED.

DELINQUENTS IN DYFS RESIDENTIAL PROGRAMS

OUR ANALYSIS OF THE BACKGROUNDS OF JUVENILES PLACED IN DYFS RESIDENTIAL PROGRAMS AS A RESULT OF ADJUDICATION INDICATES:

IN CONTRAST TO OTHER POPULATIONS, THE TYPICAL DYFS JUVENILE IS A WHITE MALE IN HIS MID-TEENS.

Most juveniles placed in DYFS residential programs as a result of a delinquency disposition committed Burglaries, Thefts, or violated probation. Nearly 25% committed serious violent crimes.

- Twenty-four percent committed a Sexual Offense, Robbery or an Assault.

Many of these juveniles had been before the court on previous occasions:

- This group of juveniles averaged 3.4 prior delinquency complaints and 1.8 prior adjudications of delinquency.

The most frequent prior diversion or disposition for this group was probation.

- The group averaged .9 prior probation sentences.

These juveniles were most likely to come from families where the parents were divorced or from single parent homes.

- Eighty-four percent of the juveniles for whom the information is known (96%) came from homes where parents were separated, divorced, widowed, or single.

Records indicate that the families of these juveniles are troubled. There appears to be little parental involvement and frequent instances of abuse or neglect. Our analysis of the records indicate the following incidences of selected family problems:

- Lack of parental support/involvement—85%
- Abuse/neglect—74%
- Recent move of juvenile—65%
- Acting out/other emotional behavior by sibling(s)—46%
- Parental drug or alcohol abuse—33%
- Recent separation/divorce of parents—26%
- Sibling(s) adjudicated delinquent—22%
- Parental conviction of a crime—17%
- Recent death/illness in family—15%
- Parental incarceration—15%
- Sibling(s) incarcerated—13%

While most of these DYFS residents were enrolled in school at the time of the offense, nearly all had behavioral or disciplinary problems in school:

- Nearly half were enrolled in traditional schools, while 40% were enrolled in special classes or alternative schools.
- About one in ten (11%) had dropped out.
- Ninety-three percent of the juveniles for whom the information was known (89%) were indicated as being behavioral or disciplinary problems in school.

MOST WERE COMMITTED TO DYFS FOLLOWING AN ADJUDICATION FOR SERIOUS PROPERTY OFFENSES, ALTHOUGH A SUBSTANTIAL MINORITY DID COMMIT VIOLENT OFFENSES.

MANY HAD PRIOR RECORDS, ALTHOUGH THESE RECORDS ARE NOT AS EXTENSIVE AS THE OTHER TWO POPULATIONS.

THOSE WITH PREVIOUS JUVENILE JUSTICE SYSTEM CONTACT WERE MOST LIKELY TO HAVE BEEN DIVERTED OR PLACED ON PROBATION.

MOST CAME FROM BROKEN HOMES.

PROBLEMS SUCH AS LACK OF PARENTAL SUPPORT, ABUSE AND NEGLECT ARE MORE COMMON TO THIS GROUP THAN TO THE ABOVE POPULATIONS.

THOUGH MOST WERE STILL ENROLLED IN SCHOOL AT THE TIME OF THEIR OFFENSE, THEY ALSO EXHIBITED DISCIPLINARY OR BEHAVIORAL PROBLEMS IN SCHOOL SETTINGS.

Three-fourths of these juveniles had diagnosed emotional disorders. Many had other mental health problems. The records indicate the following incidences of selected personal problems:

- Diagnosed emotional disorders, non-psychotic—74%
- Destructiveness against persons—57%
- Destructiveness against property—44%
- Hostility—37%
- Learning disability—35%
- Depression—35%
- Drug abuse—24%
- Alcohol abuse—20%
- Serious mental incapacitation short of retardation—17%
- Destructiveness against self—17%
- Sexual deviance—15%
- Arson—13%

Most of these juveniles had previously received social services from DYFS. Half had previously been placed in a residential or group settings. Many had previously received other social services as well. Our analysis of the records indicate that the following percentages have received specific social services:

- Social services (DYFS)—83%
- Special educational classes—63%
- Residential or group placement—50%
- Other mental health services—33%
- Counseling (general)—15%
- Community mental health services—9%
- Drug counseling/therapy—9%
- Alcohol counseling/therapy—9%
- Other non-residential social services—7%

Summary

These profiles provide a clearer picture of juveniles who are placed out of their homes as a result of a delinquency adjudication and indicate that these three programs are handling unique populations. Juveniles in DYFS residential placements differ, from those in either of the DOC placement options. Probationers in DOC residential settings differ from incarcerated juveniles. The following observations are made:

- Regardless of the placement, delinquency is not the only problem faced by many of the juveniles. All appear to have experienced a multiplicity of personal and family problems including broken homes, lack of parental involvement, substance abuse, and poor school performance.

THREE-FOURTHS HAD DIAGNOSED EMOTIONAL DISORDERS WHILE MANY OTHERS EXPERIENCED SERIOUS EMOTIONAL OR MENTAL HEALTH PROBLEMS.

THESE JUVENILES HAD RECEIVED MORE SOCIAL SERVICES THAN HAD BEEN PROVIDED TO THE ABOVE GROUPS.

OUR COMPARISON INDICATES THAT WHILE THERE ARE SOME SIMILARITIES, NOTABLE DIFFERENCES CHARACTERIZE THESE THREE POPULATIONS. SPECIFICALLY:

- **ALL GROUPS HAVE EXPERIENCED MULTIPLE PERSONAL AND FAMILY PROBLEMS.**

- Many of these juveniles have not previously received social services directed at their problems. While 54% of the incarcerated juveniles had drug abuse problems, only 15% had received drug counseling or therapy. Similar discrepancies exist for other populations as well.
- Many of the offenses committed by juveniles involve no damage to property or injury to person.
- Out-of-home placement for a juvenile typically occurs only after other options have been tried. Incarcerated juveniles had been adjudicated delinquent on an average of about five times prior to incarceration, DOC residential program probationers three times, and DYFS residents two times.
- Many juveniles were already under the court's jurisdiction when they committed the present offense. Over half of the juveniles in both types of DOC settings were on probation at the time of their present offense.
- Juveniles in either of the two DOC settings tended to be slightly older than juveniles in the DYFS programs.
- Although the number of cases where race is unknown is quite high, making any conclusions about racial differences extremely tentative, the DYFS residential programs appear to have greater proportions of white juveniles than either type of DOC setting.
- DYFS residential programs had a greater proportion of females than either of the two DOC settings.
- Although not dramatic, the offense histories of these groups differ. The incarcerated sample had the highest proportion of serious, violent offenses, the DOC probation program sample had a slightly lower proportion of such offenders, and the DYFS sample had the smallest proportion.
- The prior delinquency records of juveniles show dramatic differences. Incarcerated juveniles had nearly three times the number of prior delinquency complaints as did juveniles in the DYFS residential program sample. Probationers in the DOC programs fall midway between the other two samples.
- Juveniles in the three settings differed with respect to dispositions they had previously received. The incarceration sample averaged two prior probation sentences and one prior sentence to either incarceration or a residential or group home. The DOC residential sample averaged nearly two prior formal continuances. The DYFS sample, which had the least prior system contact averaged approximately one prior sentence of probation.
- **MANY HAVE NOT RECEIVED THE TYPE OF REMEDIAL SOCIAL SERVICES THAT MIGHT HAVE BEEN EXPECTED.**
- **MOST HAVE PRIOR DELINQUENCY RECORDS.**
- **JUVENILES IN CORRECTIONAL SETTINGS ARE OLDER THAN THOSE IN DYFS SETTINGS.**
- **JUVENILES IN DYFS PROGRAMS ARE MORE LIKELY TO BE WHITE.**
- **JUVENILES IN DYFS SETTINGS ARE LESS APT TO HAVE EXTENSIVE OR SERIOUS DELINQUENCY HISTORIES. INCARCERATED JUVENILES HAVE NEARLY THREE TIMES THE NUMBER OF PRIOR DELINQUENCY COMPLAINTS THAN DYFS RESIDENTS.**

- The incidence of family problems appears greatest among DYFS residents. Families in this sample are characterized by a lack of parental support or involvement (85%) or abuse and neglect (74%). Incarcerated juveniles appear to experience the second highest incidence of family problems, the DOC residential sample the least.
- DYFS juveniles were much more likely to be in school at the time of their placement than either incarcerated or DOC residential juveniles.
- Juveniles in both types of DOC settings seem to have higher instances of substance abuse.
- Juveniles in DYFS settings had more than twice the incidence of diagnosed, non-psychotic, emotional disorders than incarcerated juveniles and more than three times the incidence when compared with juveniles in DOC residential settings.
- Juveniles in DYFS residential programs were most likely to have received social services prior to their placement.

In summary, our analysis indicates that DYFS juveniles are younger, may be more frequently white, and are less frequently male in comparison with DOC populations. They have less previous involvement with the justice system, fewer delinquency adjudications, are less likely to have committed serious offenses, are less likely to have dropped out of or been expelled from school, and are less likely to have drug and alcohol related problems.

On the other hand, DYFS juveniles are more likely to have experienced child abuse, neglect and related family problems, are more likely to have mental health problems, more likely to have received social services, and to have been previously placed in residential or group settings.

MENTAL HEALTH SERVICES

A major theme that emerged from many of our discussions with juvenile justice actors was the failure of the mental health system to deal adequately with juvenile offenders.

A number of juveniles before the court on delinquency charges have mental health problems (see Section 5). A recent study of all male adolescent delinquents (200) committed to the Department of Corrections during a ten-week period in 1980 found that 56% had emotional disorders, including 17% with serious emotional disturbances. Those returning as recidivists were significantly more likely than first timers to have emotional disorders. More than one-fifth of the delinquents had been victims of child abuse.¹⁵ Our analysis of the backgrounds of juveniles placed in DOC and DYFS settings also indicates a significant number of mental health problems. Thus, there is little doubt that there is a substantial need for mental health diagnostic and treatment services for juvenile offenders.

- **THE INCIDENCE OF FAMILY PROBLEMS APPEAR GREATEST AMONG DYFS RESIDENTS.**
- **DYFS JUVENILES WERE MORE LIKELY TO HAVE BEEN IN SCHOOL AT THE TIME OF THEIR PLACEMENT.**
- **JUVENILES IN CORRECTIONAL SETTINGS APPEAR TO HAVE PROBLEMS WITH SUBSTANCE ABUSE.**
- **JUVENILES IN DYFS SETTINGS ARE MORE LIKELY TO HAVE RECEIVED SOCIAL SERVICES PRIOR TO THEIR PLACEMENT.**

MENTAL HEALTH SERVICES

MANY THINK THE MENTAL HEALTH SYSTEM FAILS TO DEAL WITH DELINQUENT YOUTH.

YET, MANY JUVENILES BEFORE THE COURT HAVE MENTAL HEALTH PROBLEMS.

RESEARCH INDICATES THAT THERE IS A HIGH FREQUENCY OF MENTAL HEALTH PROBLEMS AMONG JUVENILES IN DOC OR DYFS SETTINGS.

The above study indicates, however, that only half of these delinquents had been previously evaluated by a child study team in their schools or by other professionals, and only 13% had received counseling prior to court involvement. Only 37% had ever received counseling even after court involvement. Our surveys also indicate that most key actors feel that mental health services for juvenile offenders were in need of expansion or improvement.

An important thing to keep in mind is that mental health problems among juvenile delinquents seldom occur in isolation. They are generally associated with a host of other debilitating factors which may include learning disabilities, cerebral dysfunction, drug or alcohol abuse, perceptual impairment, mental retardation or borderline IQ's and poor academic performance. Moreover, family backgrounds of delinquents often include poverty and broken home situations. These findings are clear from both our surveys and past studies of incarcerated delinquents.

Given such bewildering combinations of problems, add delinquent behavior, and it is not surprising that many mental health agencies with programs oriented toward distinct problems regard juvenile offenders as inappropriate candidates for their programs. Many court referrals are diagnosed as having "character disorders", and are thus viewed as inappropriate for service. Further, delinquent youth are being coerced into receiving services, a situation which a mental health system geared toward voluntary treatment finds difficult to handle.

A staff member of a community mental health center informed us that such centers are far more comfortable serving "healthy neurotic kids" than severely disturbed juvenile offenders. While this is a problem itself, many mental health professionals believe that skills development and job training programs might be more appropriate for the youth in question than counseling and psychotherapy.

A further complicating factor is the varying schools of thought on what should be viewed as the primary problem in dealing with delinquency. Is a particular adolescent offense the primary problem, or is his delinquency merely the symptom of a psychopathology that must receive priority treatment? There is often conflict between the court, which is likely to view a juvenile's mental health needs as the primary problem, and mental health agencies, who may feel that "mainstreaming" (treating juveniles with mental health needs as ordinary juveniles) is the best approach, even in the justice system.

The Department of Corrections often inherits many of the clients who are not served by other agencies. Forced into its "dumping ground" status by default because of the anarchical situation existing among the other human service agencies, because few secure non-corrections residential facilities exist within the state, and perhaps because courts know that if a juvenile is sent to Corrections he will at least be placed, Corrections has responded as constructively as possible. It has developed its own programs for retarded and severely emotionally disturbed adolescents, sometimes with the fiscal

MENTAL HEALTH PROBLEMS AMONG DELINQUENTS ARE OFTEN COMPLEX AND ARE AGGRAVATED BY POOR HOME ENVIRONMENTS, DRUG ABUSE, LOW IQ LEVELS AND OTHER PROBLEMS.

MANY MENTAL HEALTH AGENCIES FEEL THAT DELINQUENTS ARE INAPPROPRIATE CANDIDATES FOR THEIR PROGRAMS.

MENTAL HEALTH CENTERS ARE MORE COMFORTABLE SERVING "HEALTHY NEUROTIC KIDS".

THOUGH VIEWED AS A DUMPING GROUND, CORRECTIONS HAS RESPONDED POSITIVELY BY DEVELOPING ITS OWN MENTAL HEALTH PROGRAMS.

support and technical assistance of the state human service agencies that do not want these same clients. Corrections has established a Home Environmental Learning Program at Jamesburg Training School as a resident program for mentally retarded children. Yet the Department of Corrections is not a mental retardation or a mental health agency.

Recent efforts have been made by other agencies to reduce the service gaps and to mend the "cracks" in the system. In 1984, through a federal grant, the Division of Mental Health established a Child and Adolescent Service System program (CASSP) for severely disturbed youth, with special emphasis on youth within the juvenile justice system. To date, the project has provided training to corrections staff. This training has been in the form of conferences and one-day workshops rather than uniform, ongoing, periodic training programs. Training of Skillman staff on adolescent suicide prevention took place after a recent suicide in their facility. CASSP has made significant progress in forging linkage contacts between detention centers and mental health units. Yet some contend that severely emotionally disturbed adolescents do not belong in detention centers in the first place, because such environments themselves contribute to further mental and emotional deterioration.

The Division of Mental Health has developed services and programs for delinquent youth outside of correctional settings and detention centers (e.g., in regional group homes and in-home therapy programs). The Division has made "children in crisis" one of its four priority population groups for funding services, although it has not carried out the recommendations of the Governor's Committee on Children's Services Planning to target such children for 27% of its funding for mental health services. Presently, 17% of its funding for community mental health services is spent on children.¹⁶

Youth Service Commissions have been funded to develop programs at the county level. Some of these efforts are aimed at improving mental health services. Yet while substantial coordinative and program development efforts exist at various points in the system aimed at filling service gaps, these efforts are in danger of taking us in conflicting directions. Current legislation is pending to beef up mental health programs in Corrections. This is an appropriate response to the needs of Corrections. There is, nonetheless, a still more fundamental system need to provide "preventative" mental health services to offenders in the community before delinquent behavior escalates to a level necessitating incarceration. Thus, the necessary improvements of mental health programs for Department of Corrections juveniles must not countenance a consequent decrease in motivation on the part of other mental health agencies to develop their own programs.

RECENT EFFORTS HAVE ATTEMPTED TO MEND THE CRACKS IN MENTAL HEALTH SERVICES BUT THESE EFFORTS ARE FRAGMENTED AND PIECEMEAL.

WHILE CURRENT EFFORTS ARE GEARED TOWARD IMPROVING MENTAL HEALTH SERVICES IN CORRECTIONS, ONE WONDERS IF THESE EFFORTS WILL RETARD THE DEVELOPMENT OF EFFORTS BY OTHER AGENCIES.

DEVELOPMENTALLY DISABLED OFFENDERS

The Code provides that "developmentally disabled" juveniles shall not be committed to state correctional facilities. This prohibition responds to a concern that correctional institutions were being used as dumping grounds for offenders with serious mental limitations and/or other developmental handicaps. However, our analysis indicates that the practice of incarcerating seriously limited juveniles has not ceased.

Since adoption of the Code, the statutory definition of developmental disability has been revised. Developmental disability is currently defined as a severe chronic disability, attributable to a mental and/or physical impairment which may be caused by mental retardation and several other impairments; is manifested before the age of 22; is likely to continue indefinitely; and results in substantial functional limitations in areas of major life activity (adaptive skills).¹⁷ Additionally, current law defines mental retardation as significantly subaverage general intellectual functioning existing concurrently with defects in adaptive behavior and manifested during developmental periods.¹⁸ The Department of Human Services and the American Association on Mental Deficiency, currently utilize a full scale IQ level of 69 or less as an operational definition of "significantly subaverage general intellectual functioning".

In November of 1985, the Commission asked the Department of Corrections (Division of Juvenile Services) to assess the number of "developmentally disabled" juveniles presently incarcerated in state correctional facilities, using the definition of developmental disabilities applicable at the time the juvenile was sentenced.

The Department identified a total of 51 juveniles under its care as either developmentally disabled as defined by statute or manifesting similar characteristics. The vast majority of these juveniles are incarcerated. Others are committed to Department facilities as a condition of probation. Identified by child study teams and professional personnel, many of these juveniles are classified as multiply handicapped, perceptually or neurologically impaired and/or educable-mentally retarded. In 30 of these cases, the Department provided the Commission with data on full scale IQ. This revealed that one juvenile had a full scale IQ of 55, 17 had IQ levels between 60 and 69; 11 had IQ's between 70 and 73, and one was rated at 75. It is interesting to note that a 1979 study of juvenile correctional populations identified that 34 juveniles in Skillman and Jamesburg with full scale IQ levels of 70 or less.¹⁹ While the two samples are not equivalent, this would indicate that the overall situation has not changed significantly.

While the Department of Corrections has developed several programs to deal with these offenders, a primary concern of advocates for the developmentally disabled is that they receive a "combination and sequence of special interdisciplinary generic care which are individually planned and coordinated". At present, the Department of Corrections lacks the resources and the mandate to provide such a continuum of care.

THE CODE SPECIFICALLY PROHIBITS THE INCARCERATION OF DEVELOPMENTALLY DISABLED JUVENILES. HOWEVER, THIS PRACTICE HAS NOT CEASED.

WE ASKED THE DEPARTMENT TO IDENTIFY DEVELOPMENTALLY DISABLED JUVENILES INCARCERATED IN STATE CORRECTIONAL FACILITIES. A NUMBER OF SUCH JUVENILES WERE IDENTIFIED.

WHILE THE DEPARTMENT HAS ATTEMPTED TO PROVIDE PROGRAMS FOR THESE JUVENILES, MANY FEEL THAT THE DEPARTMENT LACKS THE RESOURCES OR THE MANDATE TO HANDLE DEVELOPMENTALLY DISABLED OFFENDERS.

While agencies may debate whether individual cases fall within specific definitional categories, many seriously impaired, multiply handicapped, low IQ juveniles with adaptive problems are being committed to state correctional facilities.

10. INCARCERATION

- TO WHAT EXTENT IS INCARCERATION USED?
- ARE THERE COUNTY DIFFERENCES IN THE USE OF INCARCERATION?
- HAS THE CODE IMPACTED ON THE USE OF INCARCERATION?

THE USE OF INCARCERATION

A frequently debated issue in juvenile justice involves the use of incarceration. Some suggest that the cost of incarceration makes it desirable in only the most serious of cases.

Unit Case figures for January to June, 1985 show that, incarceration is used as the disposition in only 6% of all cases. This suggests that a policy of restricted use may indeed be the current practice. However, our research also indicates significant regional differences in its use. For example, while Sussex County sentenced no juvenile to incarceration during the study period, 14% of all the cases adjudicated delinquent in Camden County were sentenced to incarceration. A caveat is that the use of "recalls" (the practice of incarceration of an individual and subsequently resentencing prior to the completion of the incarcerative term) also varies by county.

We expected the incarceration rate in any particular county to be dependent on a variety of factors (crime rates, types of offenses committed, etc.). Our research attempted to explain this regional variation by examining the relationships between rates of incarceration and a variety of exogenous variables. We found:

- Differences in county incarceration rates are not explained by county juvenile populations. Counties with large juvenile populations do not necessarily incarcerate more delinquents. Camden, Essex, Monmouth, Passaic and Union Counties accounted for over three-fifths of all commitments in 1985. Yet, controlling for "at risk" populations, Atlantic, Camden, Cumberland, Passaic and Somerset Counties have the highest rates of incarceration.
- Differences in incarceration rates are not explained by crime rates. During 1984, Mercer, Essex and Union Counties had the highest rates of juvenile crime. Yet, during the first six months of 1985, Camden, Passaic and Somerset Counties had the highest rates of incarceration.

THE USE OF INCARCERATION IS ONE OF THE MOST FREQUENTLY DEBATED TOPICS IN JUVENILE JUSTICE.

UNIT CASE DATA SHOWS THAT INCARCERATION IS ONLY USED IN 6% OF ALL CASES DISPOSED.

HOWEVER, THE USE OF INCARCERATION IS NOT CONSISTENT. THERE ARE SIGNIFICANT REGIONAL DIFFERENCES.

OUR RESEARCH ATTEMPTED TO EXPLAIN THESE DIFFERENCES BY VARIOUS FACTORS. WE FOUND:

DIFFERENCES COULD NOT BE EXPLAINED ON THE BASIS OF POPULATION.

DIFFERENCES COULD NOT BE EXPLAINED ON THE BASIS OF CRIME RATES.

- Differences in incarceration rates are not explained by the severity of juvenile crime. During 1984, Ocean, Essex and Atlantic Counties had the highest rates of juvenile index offenses. Yet, Camden, Passaic, and Somerset had the highest incarceration rates.
- Differences in incarceration rates as a percent of all dispositions are not explained by the degree of urbanization. If a relationship existed between urbanization and incarceration, we would expect counties like Essex County to have the highest rates. Yet nine counties, including suburban/rural Somerset, Salem, Cumberland, Ocean and Monmouth utilize incarceration as a disposition at a greater rate than Essex. And the highly urbanized Hudson County uses incarceration at a rate half the state average.
- Differences in county incarceration rates are not explained by prior records. The prior records of incarcerated juveniles differ markedly by county. The average number of prior adjudications of delinquency among incarcerated juveniles from each county ranged from a low of two prior delinquency adjudications for juveniles incarcerated from Passaic County to nearly eight in Atlantic and Monmouth Counties.
- Differences in county incarceration rates are not explained by prior use of diversion. Incarcerated juveniles from some counties are likely to have been seen by an Intake Service Conference or a Juvenile Conference Committee for other offenses prior to an incarceration sentence. However, juveniles incarcerated from other counties are less likely to have been previously diverted to an I.S.C. or J.C.C.
- Differences in county incarceration rates are not explained by prior dispositions. While incarcerated juveniles from a number of counties average one prior probation sentence, incarcerated juveniles from a number of others have been placed on probation an average of three times previously.
- Differences in county incarceration rates are not explained by the level of social services received prior to incarceration. There is considerable variance between counties in the percentage of juveniles who have received prior DYFS, mental health services, special education classes, counseling, therapy or residential program services prior to incarceration.

These facts suggest that it may be the county in which a juvenile commits his or her crime, rather than characteristics of that juvenile or the crime committed which determine the probability of incarceration. This may be because each county is incarcerating its serious offenders and seriousness is a relative term. Our data base indicates that those incarcerated from some counties—Essex, Mercer, Passaic and Union—are more often adjudicated delinquent for such serious offenses as Robbery, Aggravated Assault, and/or Sexual Offenses. Conversely, other generally suburban counties incarcerate juveniles adjudicated delinquent for less serious offenses such as Burglary, Theft, and Minor Assaults.

DIFFERENCES COULD NOT BE EXPLAINED ON THE BASIS OF SEVERITY OF CRIME.

DIFFERENCES COULD NOT BE EXPLAINED ON THE BASIS OF THE DEGREE OF URBANIZATION.

DIFFERENCES COULD NOT BE EXPLAINED ON THE BASIS OF PRIOR RECORD.

DIFFERENCES COULD NOT BE EXPLAINED ON THE BASIS OF PRIOR DISPOSITIONS.

THE COUNTY IN WHICH A JUVENILE COMMITS A CRIME MAY BE THE CHIEF DETERMINING FACTOR AS TO WHETHER INCARCERATION IS USED. WHILE EACH COUNTY MAY INCARCERATE ITS MOST SERIOUS OFFENDERS, WHAT IS SERIOUS IN ONE COUNTY MAY NOT BE AS SERIOUS IN ANOTHER.

THOSE JUVENILES FROM MORE URBANIZED COUNTIES ARE MORE LIKELY TO HAVE BEEN INCARCERATED FOR SERIOUS, VIOLENT CRIMES WHILE JUVENILES INCARCERATED FROM SUBURBAN COUNTIES ARE MORE LIKELY TO HAVE COMMITTED LESS SERIOUS OFFENSES.

THE CODE'S IMPACT ON THE USE OF INCARCERATION

Predictions of expanded use of incarceration rested in large part on Code's provisions for revised and extended terms. Our analysis indicates that the impact has been negligible: incarceration terms are actually declining in length for the majority of offenders and extended term provisions are not being used.

Revised Terms

The Code revises terms of incarceration by relating these to offense. This step toward determinate sentencing stems from an observation by the Task Force on Determinate/Indeterminate Sentencing that the former practice of providing for three-year terms for the majority of offenses resulted in similar treatment irrespective of offense.¹ The new Code provides for maximum terms based on degree of offense:

Murder under N.J.S.2C:11-3a(1) or (2)	20 years
Murder under N.J.S.2C:11-3a(3)	10 years
Crimes of first degree, except murder	4 years
Crimes of the second degree	3 years
Crimes of the third degree	2 years
Crimes of the fourth degree	1 year
Disorderly persons offense	6 months

Unit Case data indicates that, at present, approximately 17% of all correctional commitments are based on first degree offenses, (excluding Murder), 20% on second degree offenses, 42% on third degree offenses, 6% on fourth degree offenses, 10% on disorderly person offenses and 5% on violations of probation. This demonstrates that the new Code does, in fact, provide longer terms for a limited class of offenses (e.g. first degree) but equal or lesser terms for the larger group of offenses (second and third degree offenses). Assuming that pre-Code commitment patterns are comparable, the net impact is shorter sentences for most offenders.

A caveat is that the actual amount of time served is a function of both sentence and parole policy. The new Code provides that if a juvenile is approved for parole prior to serving a fixed percent of his/her term (one-third), the granting of parole is subject to approval of the sentencing court. To determine the extent to which the actual amount of the time served has changed, two groups of incarcerated juveniles were examined. The first group (consisting of 469 juveniles) was admitted prior to the new Code (July-December, 1983), the second (consisting of 340 juveniles) was admitted after Code implementation (July-December, 1984). Our analysis was limited to several offense categories (Aggravated Assault, Robbery, Burglary, Theft and Drug-related offenses). Together, these constitute over 50% of the offenses for which juveniles are incarcerated. Our findings are as follows:

IN SPITE OF PREDICTIONS TO THE CONTRARY, INCARCERATION TERMS ARE ACTUALLY DECLINING IN LENGTH FOR MOST OFFENDERS. EXTENDED TERMS ARE NOT BEING USED.

WHILE FORMER CODE PROVISIONS LED TO SIMILAR TREATMENT OF OFFENDERS IRRESPECTIVE OF OFFENSE, THE NEW CODE REVISES INCARCERATION TERMS ON THE BASIS OF OFFENSE.

WE FOUND THAT THE NEW CODE IS MORE PUNITIVE FOR FIRST DEGREE OFFENSES BUT EQUALLY OR LESS PUNITIVE FOR ALL OTHER OFFENSES.

ACTUAL TIME SERVED IS A FUNCTION OF BOTH SENTENCING AND PAROLE POLICY.

- The sentences received by these two groups differed considerably. The post-Code group, on average, received shorter sentences than the pre-Code group.
- While a small number of juveniles in both the pre and post-Code samples are still incarcerated, it appears that the actual length of stay of the post-Code sample is not diminishing.
- Juveniles in the post-Code period are generally serving a greater proportion of their total sentence.

Although this analysis is not conclusive, it does suggest that despite a reduction in length of sentence for the majority of incarcerated offenders, the actual amount of time served by these offenders is similar to pre-Code conditions. This suggests that present parole policy has toughened despite the less punitive provisions in the Code. The actions of the Parole Board may reflect the fact that juveniles who are now incarcerated represent increasingly severe cases. It has also been suggested that the lack of aftercare programs hinders earlier release, or that the Board had already incorporated adjustments for offense severity into its decisionmaking process prior to the new Code. Research in this area is warranted.

Extended Terms

A stated goal of the Code is to deal more harshly with serious, repetitive offenders. One means provided is the extended term. Extended terms may be used, upon Prosecutor application, in cases where a juvenile is adjudicated delinquent on an offense involving third degree or greater offenses, and the juvenile has also been convicted on at least two occasions of first or second degree offenses and has previously been committed to a state correctional facility. Extended terms are also permitted in cases where a juvenile is convicted of three or more unrelated offenses involving crimes of the third degree or greater.

Despite these provisions, our analysis indicates that extended terms are not being used. From July to December, 1984, fewer than five extended terms were utilized. Several factors may account for limited use. Some have suggested that both Prosecutors and Judges are unfamiliar with this provision. Additionally, there is evidence suggesting that the provision as currently drafted has practical limitations. By the time a juvenile has been adjudicated on two separate occasions, incarcerated, paroled and is being adjudicated on other offenses, he is likely to be beyond the jurisdiction of the Family Court or a prime candidate for waiver.

Based on this analysis, it appears that the limited use of the extended term provision could be attributable to a variety of factors and should be considered as a candidate for further analysis.

JUVENILES SENTENCED POST-CODE ARE GENERALLY SERVING A GREATER PROPORTION OF THEIR SENTENCES THAN THOSE SENTENCED PRE-CODE.

OUR ANALYSIS INDICATES THAT THOSE JUVENILES INCARCERATED UNDER THE TERMS OF THE NEW CODE ARE SERVING ABOUT THE SAME AMOUNT OF TIME AS THOSE INCARCERATED BEFORE, DESPITE THE FACT THAT MOST COULD BE RELEASED EARLIER.

EXTENDED TERM PROVISIONS NOW ALLOW JUDGES TO SENTENCE SERIOUS JUVENILE OFFENDERS TO TERMS LONGER THAN THE STATUTORY MAXIMUM.

HOWEVER, OUR ANALYSIS INDICATES THAT EXTENDED TERMS ARE NOT BEING USED. THERE APPEAR TO BE A VARIETY OF REASONS FOR THE LIMITED USE OF EXTENDED TERMS.

11. FINDINGS AND RECOMMENDATIONS

The Commission has focused much of its initial effort on Code impact evaluation. Section 4 of this report identifies the major policy goals of the Code. This final section presents findings on goal attainment and contains recommendations for future action.

POLICY GOAL NUMBER 1: INCREASED UNIFORMITY AND EQUITY

CODE INTENT: Uniformity and equity in handling of delinquency cases would increase.

PREDICTIONS: Uniformity in decisionmaking would increase in such areas as the use of detention and diversion, dispositions and incarceration. The use of detention, governed by more restrictive provisions, would decline.

FINDINGS: Our research has identified considerable county-by-county variations in the way delinquency cases are handled. These variations are evident throughout the system, from police handling of delinquency cases through detention, diversion, and dispositional decisions.

While there is little evidence to suggest that the Legislature intended that similar offenses result in similar dispositions, current decisionmaking can be characterized as highly diverse by county. The degree to which this situation has improved under the new Code is difficult to determine, given the lack of pre-Code data.

Members of the Commission have expressed concern over whether there is unjustified variation in the way cases are handled. There is particular concern regarding the treatment of minority group juveniles. Some information (for example, the fact that 79% of the population in State juvenile correctional institutions consists of minority youth) may suggest the possibility of unequal treatment. Our ability to examine this particular issue has been limited by a lack of information (e.g. underreporting of racial information on complaint documents), a situation which will be resolved

in the near future. The fact that there is incomplete reporting of racial data is significant in and of itself and indicates that little research in this area has been conducted in the past.

Since we have traditionally granted significant discretion to the courts and other agencies in handling delinquency, there is increasing interest in how discretion is used. Dispositional guidelines are often mentioned as a means to encourage uniformity and equity, discourage bias or achieve other policy goals. But guidelines can also restrict appropriate judicial discretion or have other negative impacts. Some suggest that equity should be a central goal of the system. Others note that the desire for equity must be balanced by an appreciation for local community values. The Commission believes that it is premature to consider adoption of a system of dispositional guidelines at this point. More research should be conducted to determine if such a system is appropriate.

Our analysis of detention practices indicates that while there had been a long-term decline in admissions to detention, admissions slightly increased in the first two years of Code implementation. There had, however, been a decrease in the average length of stay in the first two years of Code implementation. The Code's due process and accelerated hearing provisions are viewed as largely responsible. It should be noted, however, that these trends may now be changing.

Of particular concern is the fact that detention use varies considerably and a finding that many detained juveniles do not receive custodial or residential dispositions, raising questions as to why detention was required in the first place. At present, no agency has the responsibility for monitoring compliance with Code detention provisions. Home detention programs, traditionally viewed as an alternative to the use of detention, exist in only three counties.

RECOMMENDATION 1: VARIATION IN DISPOSITIONAL DECISIONMAKING CONTINUES TO BE A MAJOR ISSUE. THE COMMISSION'S RESEARCH HAS DOCUMENTED, FOR THE FIRST TIME, THE EXTENT OF THIS VARIATION. WHILE MANY FACTORS ASSOCIATED WITH VARIATION HAVE BEEN EXAMINED, MORE RESEARCH IS NEEDED TO DETERMINE IF THIS VARIATION IS JUSTIFIED. THE COMMISSION THEREFORE RECOMMENDS THAT A MAJOR STUDY OF THE FACTORS UNDERLYING VARIATION IN SENTENCING AND THE IMPLICATIONS OF THIS VARIATION BE UNDERTAKEN IN COOPERATION WITH THE JUDICIARY.

RECOMMENDATION 2: OUR CURRENT STATE-LEVEL APPROACH TO DETENTION IS "NEITHER HERE NOR THERE". THE RESPONSIBILITY OF THE JUVENILE DETENTION AND MONITORING UNIT OF THE DEPARTMENT OF CORRECTIONS IS LIMITED TO SELECT ASPECTS OF DETENTION, INCLUDING THE SEPARATION OF ADULT AND JUVENILE OFFENDERS AND COMPLIANCE WITH VARIOUS PHYSICAL AND PROGRAMMATIC STANDARDS. LITTLE TECHNICAL ASSISTANCE OR FINANCIAL SUPPORT IS PROVIDED TO COUNTY GOVERNMENT. THEREFORE, THE COMMISSION RECOMMENDS THE ESTABLISHMENT OF A SINGLE UNIT, PERHAPS BY EXPANSION OF THE CURRENT AUTHORITY OF THE JUVENILE DETENTION AND MONITORING UNIT, TO OVERSEE ALL ASPECTS OF JUVENILE DETENTION AND TO PROVIDE APPROPRIATE ASSISTANCE TO COUNTIES. THIS UNIT WOULD:

- INCORPORATE THE CURRENT FUNCTIONS OF THE JUVENILE DETENTION AND MONITORING UNIT.
- MONITOR ADHERENCE TO CODE PROVISIONS.
- PROVIDE TECHNICAL ASSISTANCE AND FISCAL SUPPORT TO COUNTY DETENTION FACILITIES, INCLUDING ASSISTANCE IN THE DEVELOPMENT OF HOME DETENTION PROGRAMS AND OTHER ALTERNATIVES TO DETENTION.

POLICY GOAL NUMBER 2: A FAMILY EMPHASIS

CODE INTENT: Creation of a Family Court would enhance our ability to deal with family problems and delinquency. Extending the court's jurisdiction to include parents, guardians or other family members found to be contributing to delinquency or a family crisis would facilitate family involvement in rehabilitation.

PREDICTIONS: Treating juvenile misconduct in the context of the family would enhance the court's effectiveness. There would be an increase in the number of parents, guardians, or family members formally involved in dispositional orders.

FINDINGS: While our research has not included an analysis of how effective the Family Court is in dealing with family problems, our observations indicate that the court has taken significant steps in developing approaches to deal with problems in a unified fashion. While Family Crisis

Intervention Units provide a promising option for dealing with problems in a family context, more work will undoubtedly be required to fully develop the Family Court concept.

However, our research also indicates that the formal involvement of parents, guardians or family members in dispositional orders is limited. Yet, our data also indicates that many juveniles before the court on delinquency charges have significant family-related problems. This inconsistency may stem from the fact that the courts face numerous legal, practical and philosophical barriers in mandating parental involvement. Some feel that the courts are reluctant to use their existing powers. Other data suggests that many juveniles do not have families in the traditional sense, and others come from such bad home situations as to render expectations of parental support meaningless.

RECOMMENDATION 3: THE CREATION OF A FAMILY COURT REPRESENTS A MAJOR NEW POLICY DIRECTION FOR THE STATE. HOWEVER, LITTLE IS KNOWN ABOUT ITS OVERALL IMPACT ON THE FAMILY. A COURT STUDY GROUP (THE FAMILY COURT LIAISON COMMITTEE) IS NOW EXAMINING ISSUES RELATED TO CREATION OF A FAMILY COURT, BUT ITS ANALYSIS WILL BE LIMITED. A FAMILY COURT IS A PUBLIC POLICY TOOL FOR DEALING WITH FAMILY ISSUES. AS SUCH, IT SHOULD BE SUBJECT TO LEGISLATIVE OVERSIGHT. THE COMMISSION THEREFORE RECOMMENDS THAT THE JUDICIARY, THROUGH THE ADMINISTRATIVE OFFICE OF THE COURTS, CLOSELY MONITOR PROGRESS AND REPORT ITS FINDINGS TO THE LEGISLATURE ON AT LEAST AN ANNUAL BASIS. THIS REQUIREMENT SHOULD BE MANDATED BY STATUTE FOR A PERIOD OF AT LEAST FIVE YEARS.

RECOMMENDATION 4: A SUB-COMMITTEE OF THE COMMISSION, CONSISTING OF FAMILY PART JUDGES, REPRESENTATIVES OF THE DEPARTMENT OF HUMAN SERVICES AND OTHER APPROPRIATE INDIVIDUALS, SHOULD ANALYZE WHY FEW PARENTS, GUARDIANS OR FAMILY MEMBERS ARE FORMALLY INVOLVED IN DISPOSITIONS AND RECOMMEND PRACTICAL SOLUTIONS FOR EXPANDING THIS INVOLVEMENT. THE COMMITTEE SHOULD ALSO DEVELOP STATUTORY LANGUAGE, IF APPROPRIATE, TO MORE CLEARLY DELINEATE APPROPRIATE REMEDIES FOR FAMILY COURT JUDGES IN DEALING WITH PARENTS, GUARDIANS OR FAMILY MEMBERS WHOSE OMISSIONS OR CONDUCT HAVE CONTRIBUTED TO DELINQUENT BEHAVIOR OR THE INEFFECTIVE IMPLEMENTATION OF COURT ORDERS. THESE REMEDIES COULD INCLUDE APPROPRIATE PENALTIES, SUCH AS FINES OR COMMUNITY SERVICE, TO ADD TEETH TO THE ENFORCEMENT POWERS OF THE COURT. WHEN LACK OF PARENTAL SUPPORT NECESSITATES THE USE OF RESIDENTIAL PLACEMENT OR OTHER COSTLY INTERVENTIONS, PARENTS SHOULD BE REQUIRED TO CONTRIBUTE FINANCIALLY TO THE JUVENILE'S SUPPORT.

POLICY GOAL NUMBER 3: ALTERNATIVE HANDLING OF STATUS OFFENSES

CODE INTENT: An alternative to formal court processing of minor delinquency and status-type offenses would provide troubled youth and their families with a non-coercive opportunity to resolve conflicts and receive needed services.

PREDICTIONS: Court workload would decrease. Juvenile-Family Crisis Intervention Units would absorb status-type cases. The court would be able to concentrate on more serious cases.

FINDINGS: Family Crisis Intervention Units have been a quantitative success but, as yet, a qualitative question mark. Only about ten percent of the cases handled by these Units are referred to court as Juvenile-Family Crisis Petitions. These Units are handling a significant volume of cases previously referred directly to court and appear to provide a more immediate response to crisis situations. Many feel that Juvenile-Family Crisis Intervention is the

most significant element of the new Code.

Additionally, there are indications that these Units are handling a broader spectrum of problems than originally handled by the court. The Department of Human Services has issued several reports on their operations and a study being conducted by the Association for Children of New Jersey promises to provide additional information on their effectiveness.

While Family Crisis Intervention Units were initially implemented at the county level with limited State fiscal support, the Legislature is increasingly being asked to provide assistance. In Fiscal Year 1986, one million dollars was provided to support Crisis Intervention Unit operations. Additional support has been provided from county funds, the Judiciary budget and other sources. Yet, considerable disparity in the quality and quantity of services available from one county to another continues to exist.

RECOMMENDATION 5: DESPITE THE FACT THAT FAMILY CRISIS INTERVENTION UNITS MAY BE THE MOST IMPORTANT COMPONENT OF THE NEW CODE, THERE IS NO LEGISLATIVE REQUIREMENT THAT THEIR OPERATIONS OR IMPACT BE EVALUATED. THESE UNITS OPERATE AS COURT INSTRUMENTALITIES. THEY ARE IN LARGE PART DEPENDENT ON DEPARTMENT OF HUMAN SERVICES PROGRAMS. THE COMMISSION THEREFORE RECOMMENDS THAT THE JUDICIARY, THROUGH THE ADMINISTRATIVE OFFICE OF THE COURTS, TOGETHER WITH THE DEPARTMENT OF HUMAN SERVICES, EVALUATE THE SUCCESS OF THESE UNITS AND REPORT FINDINGS TO THE LEGISLATURE ON AT LEAST AN ANNUAL BASIS. THIS REQUIREMENT SHOULD BE MANDATED BY STATUTE FOR A PERIOD OF AT LEAST FIVE YEARS. THE COMMISSION FURTHER RECOMMENDS THAT AN OVERALL PROGRAM OF STATE FISCAL SUPPORT FOR FAMILY CRISIS INTERVENTION BE PROVIDED ON THE BASIS OF DEMONSTRATED SUCCESS.

POLICY GOAL NUMBER 4: INCREASED DISPOSITIONAL OPTIONS

CODE INTENT: Dispositional options available to the court would increase.

PREDICTIONS: The dispositional options specified in the Code would provide the courts with a wider range of choices in dealing with delinquency. Services available to the court would increase as a result of Code-inspired planning and coordination. Dispositional patterns would change. Service demands on the Department of Human Services would escalate.

FINDINGS: Despite the Code's elaboration of options, our surveys indicate that a significant increase in services to support these options has not occurred. Few new dispositional programs have been created. Serious dispositional gaps exist. The short-term commitment option is used in only six counties and there is considerable disagreement as to whether this option should be used and, if so, for what purpose.

The Code did not originally provide funding for additional dispositional services. There is widespread agreement that more services are needed. However, subsequent improvements have been realized. Local court service planning has improved access and facilitated service development. A state-level Youth Service Commission, chaired by the Attorney General and the Chief Justice, is attempting to improve court access to services. And new State dollars subsequently have been provided to support local services.

Despite these improvements, the court still confronts a service provider system composed of numerous agencies which unilaterally define their responsibilities, are unaccountable for the delivery of services and are often reluctant to deal with delinquent populations.

The court can be viewed as an instrument of social control. It exercises its authority by mandating treatment (of various types) for individuals who would not ordinarily receive or desire treatment. To fulfill its role, the court must have access to services. This is why access is a central issue.

Unresponsiveness by agencies can lead to increased ef-

forts by the court to develop its own services. In fact, probation is moving in this direction. Such a trend has important fiscal implications, makes little sense, and is not likely to provide the range of services needed. Additionally, there is a strongly held view among a large body of professionals that the way to assure quality service is to extend court monitoring of services and to assure that services themselves are provided elsewhere. The major business of the courts is to resolve cases and to bring about appropriate dispositions, not to provide social services.

A problem the court must face is its limited ability to match the needs of delinquent youth with services and to determine if its dispositional referrals are resulting in real service delivery or rehabilitation. This limitation can seriously compromise the court's ability to perform its function and can lead to inappropriate referrals and misuse of resources.

The court has partially addressed this issue by creating the position of Family Division Case Manager to enhance the processing of family-related and delinquency cases. Yet there is no system for monitoring all dispositions, nor any way that the court can obtain simplified access to human service providers on a case by case basis.

Our analysis indicates that many juveniles entering the court system have serious problems in addition to delinquency. Our analysis of juveniles adjudicated delinquent and placed in three different types of residential or custodial settings indicates that most juveniles in each setting, although characterized by different levels of involvement with the juvenile justice system, experience serious family problems, educational deficits, mental health problems, (often) drug and alcohol related problems and other difficulties. Many of these problems have not been dealt with prior to commitment.

Many juveniles involved in the juvenile justice system are there by virtue of alcohol or drug involvement. Yet there are limited resources and programs to address this problem. This is an area demanding additional attention.

A major problem is the limited availability of residential and quasi-residential programs (e.g. day programs, wilderness programs, etc.). The lack of an articulated Legislative or Executive policy has led to one dictated by bureaucratic initiative or the lack thereof. The residential network maintained by the Division of Youth and Family Services is not geared to the needs of many delinquent youth. Innumerable delays are encountered in securing placements. Contract agencies are, with disturbing regularity, reluctant to accept many types of delinquent or emotionally disturbed youth.

While Corrections has created a series of residential programs to serve both incarcerated juveniles and probationers in noninstitutional settings, this trend is not without implication. Many believe that less severe delinquent populations should be handled by "human service" agencies

and that overreliance on Corrections will have a negative long-term impact. Our analysis indicates that while correctional programs serve a different type of adjudicated juvenile offender than DYFS programs, these groups manifest many similarities. However, there are no policies governing who goes where.

Our analysis also indicates that despite Code provisions, developmentally disabled offenders continue to be incarcerated. The reasons for this violation of Code intent are mixed. A lack of adequate diagnostic capacity at the pre-dispositional stage undoubtedly contributes as does the absence of alternative programs to absorb these offenders. The Division of Developmental Disabilities of the Department of Human Services is described by various court actors as either inaccessible or unresponsive.

RECOMMENDATION 6: BECAUSE OF THE PROBLEMS ASSOCIATED WITH COURT ACCESS TO SERVICES, WE NEED TO CREATE BETTER LINKS BETWEEN THE COURT AND DISPOSITIONAL SERVICE PROVIDERS AND TO DEFINE WHO IS RESPONSIBLE FOR PROVIDING WHAT SERVICES. SINCE MANY OF THE SERVICES PROVIDED TO DELINQUENT YOUTH ARE DIRECTLY OR INDIRECTLY ADMINISTERED BY EXECUTIVE AGENCIES AND STATE DOLLARS SUPPORT MANY LOCAL AND PRIVATE AGENCY EFFORTS, THE EXECUTIVE IS IN THE BEST POSITION TO ADDRESS THE ISSUE OF COURT ACCESS. IT IS THEREFORE RECOMMENDED THAT THE COMMISSION, IN COOPERATION WITH THE OFFICE OF THE GOVERNOR, ESTABLISH CRITERIA, GUIDELINES OR STANDARDS GOVERNING EXECUTIVE AGENCY RESPONSIBILITY IN DELINQUENCY CASES. THESE STANDARDS COULD ALSO APPLY TO OTHER NON-GOVERNMENTAL AGENCIES RECEIVING STATE DOLLARS.

RECOMMENDATION 7: THE COMMISSION RECOMMENDS THE ESTABLISHMENT OF "LINKING MECHANISMS" BETWEEN THE COURT AND SERVICE PROVIDERS AS A MEANS TO IMPROVE COURT ACCESS TO DIAGNOSTIC AND DISPOSITIONAL SERVICES ON A CASE BY CASE BASIS. THE COMMISSION, IN COOPERATION WITH APPROPRIATE AGENCIES AND GROUPS, SHOULD DEVELOP RECOMMENDATIONS IN THIS AREA. SEVERAL APPROACHES WILL

BE EXPLORED: AFFILIATION AGREEMENTS; THE USE OF TEAMS CONSISTING OF ON LOAN REPRESENTATIVES FROM AGENCIES; THE USE OF "DISPOSITIONAL COORDINATORS" ORGANIZATIONALLY ATTACHED TO LOCAL YOUTH SERVICES COMMISSIONS, ETC. THE DETERMINATION OF APPROPRIATE MODELS AND THE SPECIFIC SERVICES TO BE PROVIDED SHOULD BE BASED ON LOCAL PRACTICES AND NEEDS.

RECOMMENDATION 8: GIVEN THE FACT THAT THE COURT DISPOSES A NUMBER OF CASES TO OUTSIDE AGENCIES FOR THE PROVISION OF SERVICE, THE COMMISSION RECOMMENDS THAT THE COURT DEVELOP A DISPOSITIONAL MONITORING SYSTEM TO DETERMINE, ON A CASE BY CASE BASIS, IF SERVICES ARE BEING PROVIDED AND HOW EFFECTIVE THESE SERVICES ARE IN REMEDIATING DELINQUENCY.

RECOMMENDATION 9: CONFLICTING POLICIES AND DIRECTIONS IN THE PROVISION OF RESIDENTIAL AND QUASI-RESIDENTIAL SERVICES (DAY PROGRAMS, WILDERNESS PROGRAMS, ETC.) REQUIRE THAT A BALANCED AND COORDINATED SYSTEM BE CREATED. A VIABLE SYSTEM CANNOT BE CREATED BY INCREMENTALLY IMPROVING ON THE EXISTING SYSTEM. THE COMMISSION THEREFORE RECOMMENDS THE CREATION OF A SYSTEM OF SUCH SERVICES SPECIFICALLY GEARED TO THE NEEDS OF DELINQUENT YOUTH.

A SUB-COMMITTEE OF THE COMMISSION WOULD REVIEW THE ISSUES ASSOCIATED WITH THE CREATION OF SUCH A SYSTEM AND PROVIDE APPROPRIATE RECOMMENDATIONS FOR LEGISLATIVE OR EXECUTIVE ACTION.

RECOMMENDATION 10: THE SHORT-TERM COMMITMENT OPTION, CONSIDERED "EXPERIMENTAL" ON THE BASIS OF ITS SUNSET PROVISION, IS OF LIMITED USE IN ITS PRESENT FORM. THERE IS BOTH DISAGREEMENT ON WHAT IT SHOULD BE USED FOR AND HOW EFFECTIVE IT IS IN DEALING WITH DELINQUENCY. CURRENT DEPARTMENT OF CORRECTIONS "STANDARDS" MAY DISCOURAGE ITS USE AS "SHOCK INCARCERATION". YET THE BACKGROUNDS OF A SAMPLE OF INCARCERATED JUVENILES INDICATE THAT MANY HAVE SERVICE NEEDS. THE COMMISSION RECOMMENDS CONTINUATION OF ITS RESEARCH IN THIS AREA. A RECOMMENDATION FOR CONTINUANCE, MODIFICATION, OR DISCONTINUANCE OF THIS OPTION WILL BE BASED ON RESEARCH FINDINGS.

RECOMMENDATION 11: THE COMMISSION BELIEVES THAT EXISTING CODE PROVISIONS PROHIBITING THE INCARCERATION OF DEVELOPMENTALLY DISABLED OFFENDERS ARE APPROPRIATE. DEVELOPMENTALLY DISABLED OFFENDERS SHOULD NOT BE MIXED WITH OTHER INCARCERATED POPULATIONS. DISABLED OFFENDERS ARE PRONE TO BE TARGETS IN SUCH SETTINGS AND CLEARLY NEED SPECIAL TREATMENT. CONVERSELY, SUCH OFFENDERS MAY BE IN NEED OF SECURE TREATMENT BUT CAN BECOME AGGRESSORS WHEN HOUSED WITH OTHER NONDELINQUENT DEVELOPMENTALLY DISABLED POPULATIONS. THE SITUATION DOES NOT LEND ITSELF TO EASY SOLUTION. EVEN ASSUMING A PROACTIVE APPROACH BY THE DIVISION OF DEVELOPMENTAL DISABILITIES IN DEALING WITH DELINQUENTS, NEW PROGRAMS AND/OR FACILITIES WOULD HAVE TO BE CREATED.

THE COMMISSION RECOMMENDS A MODIFICATION TO THE EXISTING CODE PROVISION ACCOMPANIED BY THE DEVELOPMENT OF A PROGRAM FOR DEVELOPMENTALLY DISABLED OFFENDERS WHO REQUIRE CONFINEMENT. THIS PROGRAM WOULD BE JOINTLY ADMINISTERED BY CORRECTIONS AND THE DIVISION OF DEVELOPMENTAL DISABILITIES. ADDITIONALLY, THE DIVISION WOULD BE REQUIRED TO PROVIDE DIAGNOSTIC SERVICES TO THE COURT AND TO DEVELOP COMMUNITY-BASED PROGRAMS PROVIDING APPROPRIATE PREVENTATIVE AND AFTERCARE SERVICES. THE PLACEMENT OF DEVELOPMENTALLY DISABLED OFFENDERS IN STRICTLY CORRECTIONAL SETTINGS WOULD CONTINUE TO BE PROHIBITED.

IN THE INTERIM, THE COMMISSION RECOMMENDS THAT THE STATE PAROLE BOARD AND THE OFFICE OF THE PUBLIC DEFENDER, WITH THE ASSISTANCE OF APPROPRIATE PROFESSIONAL PERSONNEL, CONDUCT A CASE BY CASE REVIEW OF DEVELOPMENTALLY DISABLED OFFENDERS CURRENTLY COMMITTED TO CORRECTIONAL FACILITIES. PUBLIC DEFENDER INVOLVEMENT WOULD BE LIMITED TO THOSE CASES REPRESENTED BY THE AGENCY. IN THE EVENT THAT IT IS DETERMINED THAT INDIVIDUAL JUVENILES HAVE BEEN INCARCERATED CONTRARY TO STATUTE, THE PAROLE BOARD SHOULD USE ITS EXISTING STATUTORY AUTHORITY TO PAROLE SUCH JUVENILES TO APPROPRIATE AGENCIES FUNDED IN WHOLE OR PART BY STATE FUNDS.

RECOMMENDATION 12: APPROXIMATELY 41% OF ALL CASES DISPOSED IN OUR STUDY SAMPLE RECEIVED PROBATION AS THE LEAD DISPOSITION. THE ROLE OF THE PROBATION AGENCY IS EVEN MORE EXTENSIVE SINCE PROBATION MONITORS FORMAL CONTINUANCES AND ADMINISTERS RESTITUTION, COMMUNITY SERVICE AND OTHER PROGRAMS. WHILE THE PRIMARY ROLE OF PROBATION IS SUPERVISION, PROBATION IS INCREASINGLY MOVING TO DIRECT SERVICE PROVISION. WHILE NECESSITATED BY LACK OF SERVICE BY OTHER AGENCIES, THIS TREND SHOULD BE CAREFULLY MONITORED BY THE COMMISSION TO ASSURE THAT SUCH EFFORTS DO NOT SUPPLANT EFFORTS BY OTHER APPROPRIATE SERVICE PROVIDERS AND THAT THEY DO NOT DETRACT FROM PROBATION'S ROLE IN SUPERVISION.

RECOMMENDATION 13: THE EXTENSIVE PROBLEMS ASSOCIATED WITH DELINQUENT GROUPS AT ALL STAGES IN THE SYSTEM INDICATE A NEED FOR TREATMENT SERVICES. WHILE INVESTMENTS MUST BE MADE TO PREVENT PENETRATION OF JUVENILES INTO THE SYSTEM, WE MUST ALSO PROVIDE AFTERCARE FOR THOSE OFFENDERS BEING RELEASED BACK TO THE COMMUNITY AFTER INCARCERATION. STATE PAROLE BOARD MEMBERS HAVE REPORTED ON THE DIFFICULTY SUCH JUVENILES HAVE IN RETURNING TO THE COMMUNITY. IT MAKES LITTLE SENSE TO EXPEND CONSIDERABLE RESOURCES TO INCARCERATE A JUVENILE FOR ONE OR TWO YEARS AND THEN FAIL TO PROVIDE ADEQUATE AFTERCARE. THE COMMISSION THEREFORE RECOMMENDS THE CREATION OF A SYSTEM OF AFTERCARE FOR SUCH JUVENILES.

POLICY GOAL NUMBER 5: HARSHER PENALTIES FOR SERIOUS, REPETITIVE OFFENDERS

CODE INTENT: Juveniles convicted of serious offenses, and repetitive offenders would be dealt with more punitively.

PREDICTIONS: The use of waivers to adult court would increase. Corrections populations would increase as a result of extended and revised term provisions. Serious offenders would be serving longer sentences.

FINDINGS: Our research indicates that although the Code has been characterized as a "get tough" approach to juvenile crime, there is little empirical evidence suggesting that its provisions are more punitive or that it has resulted in offenders being treated more punitively. The use of waivers has not increased on a state-wide basis, the number of juveniles incarcerated has declined significantly (despite the fact that the number of juveniles under the care of the Department of Corrections has not declined), terms of incarceration are shorter on average, short-term commitments are limited by a lack of programs supporting use of this option and extended term provisions applicable to serious and/or repetitive offenders are not being utilized.

Our data also indicates (see Section 5) that cases involving serious charges are diverted and that only 14% of all adjudicated cases involving the most violent offenses (Murder, Sexual Offenses, Robbery and Aggravated Assault) as the lead offense result in a disposition of incarceration. Further, data also indicates that a significant number of juveniles are before the court on a repetitive basis.

A comparison of juveniles incarcerated pre and post-Code indicates that the latter group received, on the average, shorter sentences. However, this research also indicates that despite shorter sentences, juveniles may be spending about the same amount of time in correctional facilities prior to release. Our research also indicates that the extended term provisions are not being utilized and appear inconsistent with current sentencing practices. A cautionary note is that these trends may be temporary. It is therefore important that we continue to monitor such trends.

RECOMMENDATION 14: THE CODE CURRENTLY PROVIDES THAT THE OFFICE OF THE ATTORNEY GENERAL COMPILE INFORMATION ON WAIVERS AND REPORT ITS FINDINGS AND RECOMMENDATIONS 18 MONTHS AFTER THE ENACTMENT OF THE CODE. THIS REPORT HAS BEEN PROVIDED AND MONITORING HAS DISCONTINUED. THE COMMISSION BELIEVES THAT MONITORING SHOULD BE ONGOING AND RECOMMENDS THAT THIS REQUIREMENT CONTINUE TO BE MANDATED BY STATUTE AND THAT THE OFFICE OF THE ATTORNEY GENERAL REPORT ITS FINDINGS AND RECOMMENDATIONS ON AN ANNUAL BASIS.

RECOMMENDATION 15: THE COMMISSION RECOMMENDS THAT THE CODE'S CURRENT EXTENDED TERM PROVISION BE REVIEWED TO DETERMINE IF IT IS USEFUL IN ITS PRESENT FORM.

RECOMMENDATION 16: THE COMMISSION'S DATA SYSTEM MAKES IT POSSIBLE, FOR THE FIRST TIME, TO MEASURE THE DEGREE TO WHICH A SMALL GROUP OF OFFENDERS ARE REPETITIVELY BEFORE THE COURT. THE COMMISSION RECOMMENDS THAT RESEARCH BE CONDUCTED TO DETERMINE THE EXTENT OF THIS PROBLEM AND TO IDENTIFY APPROPRIATE APPROACHES FOR DEALING WITH SERIOUS AND/OR REPEAT OFFENDERS.

POLICY GOAL NUMBER 6: EXPEDITED CASE PROCESSING

CODE INTENT: Adjudication of detained juveniles would be expedited. Family Crisis Intervention Units would handle a large number of less serious cases allowing judicial concentration on more serious issues.

FINDINGS: Our research has identified several areas in

which Code provisions have impacted on case processing. Family Crisis Intervention Units have reduced court workloads. The average length of stay in detention facilities has declined significantly. The tighter case processing guidelines contained in the Code are viewed as important factors underlying these trends.

RECOMMENDATIONS RELATED TO THIS AREA ARE PROVIDED ABOVE.

POLICY GOAL NUMBER 7: A MORE OPEN SYSTEM

CODE INTENT: Victims, law enforcement officials and other interested parties should have greater access to information on juvenile cases. The juvenile justice system should be more open to public scrutiny.

FINDINGS: Although the Commission has not conducted an impact analysis of this Code objective, there are indica-

tions that the system is becoming more open to public scrutiny. The Commission's research provides information on system behavior not previously available, enabling greater public scrutiny of the system. Increased planning and coordination at the local level have largely opened the system to public participation.

THE COMMISSION OFFERS NO SPECIFIC RECOMMENDATIONS IN THIS AREA AT THIS TIME.

POLICY GOAL NUMBER 8: PLANNING AND COORDINATION

CODE INTENT: The provision of community services and programs to meet the needs of juveniles under the jurisdiction of the court would be enhanced by local planning.

FINDINGS: One of the most promising post-Code developments has been the establishment of local court service planning. Family court service plans have been developed in each county. Agencies with limited contact in the past are increasingly communicating with each other. Youth Service Commissions have been established in most counties. These Commissions have demonstrated potential for improving services and making better use of existing services. The State-level Youth Services Commission chaired by the Chief Justice and Attorney General has facilitated planning and coordination. The Juvenile Delinquency Dis-

position Commission is generating policy relevant information critical to planning and coordination.

No single actor or level of government "owns" the juvenile justice system. It is a highly decentralized system with responsibility, authority and discretion diffused among multiple agencies, branches and levels of government. However, State government's role is important and needs to be well organized. At present, responsibility for planning, funding, monitoring and other functions are assigned to a variety of instrumentalities. Since State government is increasingly being asked to provide direction and resources, it is important that its direction be consistent and targeted and that there be a clear definition of State vs. local roles.

RECOMMENDATION 17: LEGISLATION HAS BEEN INTRODUCED TO PERMANENTLY ESTABLISH COUNTY YOUTH SERVICES COMMISSIONS. THESE COMMISSIONS ARE USEFUL FOR IDENTIFYING LOCAL NEEDS AND IMPLEMENTING LOCAL APPROACHES. THE COMMISSION THEREFORE RECOMMENDS THAT COUNTY YOUTH SERVICE COMMISSIONS BE PERMANENTLY ESTABLISHED.

RECOMMENDATION 18: THE DATA AND RESEARCH GENERATED BY THE JUVENILE DELINQUENCY DISPOSITION COMMISSION IS HIGHLY RELEVANT TO LOCAL PLANNING EFFORTS. THE COMMISSION THEREFORE RECOMMENDS THAT IT PROVIDE ASSISTANCE TO LOCAL YOUTH SERVICES COMMISSIONS IN THEIR PLANNING EFFORTS.

RECOMMENDATION 19: STATE GOVERNMENT WILL INCREASINGLY BE CALLED UPON TO ASSUME A LEADERSHIP ROLE IN DEALING WITH DELINQUENCY. THE COMMISSION THEREFORE RECOMMENDS THAT AN EFFORT BE MADE TO DEVELOP A COORDINATED STATE APPROACH FOR DEALING WITH DELINQUENCY. IN PART, THIS EFFORT SHOULD BE GEARED TO ADDRESSING THE UNIQUE PROBLEMS IN THE STATE'S URBAN AREAS.

POLICY GOAL NUMBER 9: ONGOING REVIEW

CODE INTENT: The Code would be subject to ongoing monitoring and the Legislature would receive information on its implementation and impact.

FINDINGS: This report is an indication that ongoing review is occurring. However, the type of research conducted by the Commission is not an end in itself but a means to improve future directions.

The Commission's progress to date has been significant. Numerous agencies have cooperated in supplying support and assistance. The Unit Case information system, a pioneering first step toward the development of a fully integrated Family Court information system, has provided the first ever detailed profile of decisionmaking. While the system has proved successful in providing data relevant to the Commission's research agenda, a similar degree of success in providing management relevant data to the courts has not yet been achieved. Future effort in this area is required.

Overall, the message is a positive one. The groundwork has been developed for providing ongoing policy relevant information. The Commission can provide the type of analysis critical to Legislative or Executive action. Its research agenda will be expanding in the months ahead. As the Unit Case database expands, we acquire additional ability to research the nature and extent of recidivism, to identify problems associated in dealing with serious, violent or repetitive offenders and to evaluate the effectiveness of various dispositions. Empirical studies to isolate factors associated with variability in dispositions will also be conducted. Monitoring and evaluation of specific programs such as short-term incarceration will continue.

Additionally, the Commission will begin to address a number of issues raised in this report: the organization and availability of services, use of the family in the remediation of delinquency, the handling of developmentally disabled offenders, and the status of detention practices. These continuing efforts will contribute to the effectiveness of New Jersey's juvenile justice system.

RECOMMENDATION 20: THE COMMISSION'S CURRENT LEGISLATIVE MANDATE SHOULD BE EXPANDED TO ENABLE IT TO PROVIDE THE LEGISLATURE AND GOVERNOR WITH POLICY RECOMMENDATIONS IN THOSE AREAS NOTED ABOVE.

RECOMMENDATION 21: ONGOING COMMISSION RESEARCH SHOULD BE CONDUCTED IN THE FOLLOWING AREAS:

- UNIFORMITY AND EQUITY IN DISPOSITIONAL DECISION-MAKING.
- IMPROVEMENT OF COURT ACCESS TO SERVICES.
- IMPROVEMENT OF DISPOSITIONAL RESOURCES.
- PROBLEMS OF MINORITY YOUTH IN THE JUVENILE JUSTICE SYSTEM.
- HANDLING OF SERIOUS, REPETITIVE JUVENILE OFFENDERS.

- ALTERNATIVES FOR DEALING WITH DEVELOPMENTALLY DISABLED OFFENDERS.
- USE OF THE FAMILY IN THE REMEDIATION OF DELINQUENCY.
- JUVENILE DETENTION PRACTICES.
- EFFECTIVENESS OF VARIOUS DISPOSITIONAL INTERVENTIONS.
- USE OF SHORT-TERM INCARCERATION.
- RESIDENTIAL AND OTHER DISPOSITIONAL SERVICE NEEDS (ALCOHOL, DRUG, MENTAL HEALTH, ETC.).
- THE ROLE OF STATE GOVERNMENT IN DELINQUENCY.

FOOTNOTES

SECTION 1

1. "Crime and the Young; New Code Makes Effort to Rehabilitate Offenders", *The Trenton Times*, Dec. 1, 1985, p. A10.
2. There is a growing body of research on the difficulty of implementing new legislation; see, for example, Jeffrey L. Pressman and Aaron Wildavsky, *Implementation*, (Berkley, University of California Press, 1973); for an analysis of implementation of the 1974 N.J. Juvenile Code, see Ellen C. Kahn, "The Creation and Implementation of Statutory Reform: A Case Study of a Revised Juvenile Code in New Jersey", (M.A. Thesis, Woodrow Wilson Department of Government and Foreign Affairs, University of Virginia, 1976).
3. See New Jersey Assembly Judiciary, Law, Public Safety and Defense Committee, *Summary of the Recommendations of the Juvenile Justice Task Force*, Jan. 26, 1981, p. 11.

SECTION 2

1. State of New Jersey, Division of State Police, *Crime In New Jersey*, Uniform Crime Reports, 1975-1984.
2. *Crime In New Jersey*, 1984 Uniform Crime Reports, pp. 40-41.
3. *Crime In New Jersey*, 1984 Uniform Crime Reports, and *Crime In New Jersey*, 1977 Uniform Crime Reports.
4. Ibid.
5. Ibid.
6. Ibid.
7. Federal Bureau of Investigation, *Uniform Crime Reports*, 1977-1984; compared with *Crime In New Jersey*, Uniform Crime Reports, 1977-1984.

8. Statistics developed from 1980 Federal Uniform Crime Report Data by the National Institute of Drug Abuse and the National Institute of Juvenile Justice and Delinquency Prevention.
9. *Crime In New Jersey*, 1984 Uniform Crime Reports.
10. Ibid.
11. Ibid.
12. This conclusion is reached in various studies. See, for example; Donna Hamparian, Richard Schuster, Simon Dinitz and John Conrad, *The Violent Few, A Study of Dangerous Juvenile Offenders*, (The Academy for Contemporary Problems, Lexington Books, Lexington, Mass., 1978). See also; U.S. Department of Justice, NIJJDP, *Assessing the Relationship of Adult Criminal Careers to Juvenile Careers*, 1980.
13. Figure derived from Unit Case data. For an explanation of Unit Case, see Section Five of this report.
14. Statistics developed from Fiscal Year 1985 New Jersey Budget.
15. Figure provided by New Jersey Administrative Office of the Courts, Probation Services.

SECTION 3

1. See Anthony M. Platt, *The Child Savers*, (University of Chicago Press, Chicago, 1969).
2. For a summary of the historical roots of juvenile justice, see James O. Finckenhauer, *Juvenile Delinquency and Corrections, The Gap Between Theory and Practice*, (Academic Press, Inc., Orlando, Fla., 1984), pp. 108-124.
3. Many of these opinions are expressed in a landmark report. See U.S. Law Enforcement Assistance Adminis-

tration, National Advisory Commission on Criminal Justice Standards and Goals, *Corrections*, 1973.

4. This opinion is expressed in State of New Jersey, State Law Enforcement Planning Agency, *Governor's Adult and Juvenile Justice Advisory Committee; Standards and Goals for the New Jersey Criminal Justice System; Final Report*, Dissemination Document No. 27, 1977.
5. See, for example, "Juvenile Justice System has reached a Watershed and New Reform Agenda is Needed", *Juvenile Justice Digest*, (Vol. 13 no. 15), Washington Crime News Services, Aug. 12, 1985, p. 7.
6. This conclusion is reached in various studies. See, for example; Donna Hamparian, Richard Schuster, Simon Dinitz and John Conrad, *The Violent Few, A Study of Dangerous Juvenile Offenders*, (The Academy for Contemporary Problems, Lexington Books, Lexington, Mass., 1978). See also; U.S. Department of Justice, NIJJDP, *Assessing the Relationship of Adult Criminal Careers to Juvenile Careers*, 1980.
7. For discussion of state trends in youth services see Michele R. Magri, *Legislator's Guide to Youth Services*, (National Conference of State Legislators, 1982).

SECTION 4

1. New Jersey Assembly Judiciary, Law, Public Safety and Defense Committee, *Summary of the Recommendations of the Juvenile Justice Task Force*, Jan. 26, 1981, p. 1.
2. New Jersey Senate Judiciary Committee, *Statement to Assembly Bill No. 641*, Feb. 8, 1982, p. 1.
3. There may be diverse interpretations as to the Code's major policy goals. Those selected here are based on our analysis of pertinent documents including Task Force reports, Senate and Assembly Committee documents and interviews with individuals associated with the development of the Code.
4. "Crime and the Young: New Code Makes Effort to Rehabilitate Offenders", *The Trenton Times*, Dec. 1, 1985, p. A10.

5. New Jersey Senate Judiciary Committee, *Statement to Assembly Bill No. 644*, Feb. 8, 1982, p. 1.

6. Ibid.

7. New Jersey Assembly Judiciary, Law, Public Safety and Defense Committee, *Final Report of the Juvenile Justice Task Force Advisory Committee on Alternative Dispositions/Community-Based Programs*, Jan. 1981, p. 16.

8. For review of this topic, see; Academy for Contemporary Problems, *Major Issues in Juvenile Justice Information and Training*, 1981.

9. National Council on Crime and Delinquency, *Rediscovering Juvenile Justice: The Cost of Getting Tough*, June, 1981, p. 46.

10. Ibid.

SECTION 5

1. State of New Jersey, Division of State Police, *Crime In New Jersey*, 1984 Uniform Crime Reports.

2. Information developed from *Crime In New Jersey*, 1984 and New Jersey Department of Labor and Industry population estimates. For more detail, see Supplement, Table 4.

3. *Crime In New Jersey*, 1984 Uniform Crime Reports. For more detail see Supplement, Table 10.

4. Ibid.

5. Ibid.

6. "Juvenile Justice in Essex County; Problems and Prospects", (unpublished study, 1985).

7. New Jersey State Law Enforcement Planning Agency, *Application for Fiscal Year 1985, Juvenile Justice and Delinquency Prevention Formula Grant Funds*, Dec. 21, 1984.

8. For more detail, see Supplement, Table 11.

9. For more detail, see Supplement, Table 12.

10. For more detail, see Supplement, Table 11.

11. For more detail, see Supplement, Table 16.
12. For more detail, see Supplement, Table 13.
13. At present, information regarding race is not recorded evenly by various counties at the docketing point. Thus, there have been some information gaps. Newly implemented procedures will improve recording of this demographic statistic in the future. As of June, 1986, race is being recorded in over 90% of all cases.
14. For more detail, see Supplement, Table 14.
15. For more detail, see Supplement, Table 15.
16. This survey was conducted among Case Managers, Public Defenders and Prosecutors. For a description of specific responses, see Supplement, pp. 69-72, 80-85, 86-92.
17. For more detail, see Supplement, Table 17.
18. For more detail, see Supplement, Table 18.
19. For more detail, see Supplement, Table 17.
20. For more detail, see Supplement, Table 22.
21. Ibid.
22. The violent crimes include Homicide, Rape, Robbery, and Aggravated Assault. The serious property crimes include Burglary, Larceny-Theft, and Arson. Less serious property crimes include Criminal Trespass, Other Thefts, Criminal Mischief, and Other Property Crimes. For more detail, see Supplement, Table 23.
23. For more detail, see Supplement, Table 19.
24. For more detail, see Supplement, Table 21.
25. For more detail, see Supplement, Table 20.
26. For more detail, see Supplement, Table 24.
27. For more detail, see Supplement, Table 25.
28. Ibid.
29. For more detail, see Supplement, Table 26.
30. For more detail, see Supplement, Table 27.

31. For more detail, see Supplement, Table 29.
32. For more detail, see Supplement, Table 28.
33. For more detail, see Supplement, Table 30.
34. For categorization and scaling of "lead offenses" and "lead dispositions" see Supplement, Tables 53 and 54.
35. A complete state and county breakdown of lead offense by lead disposition statistics is contained in the Supplement, Tables 31 through 52.
36. *Crime In New Jersey*, 1984 Uniform Crime Reports. For more detail see Supplement, Table 10.
37. At present, information regarding race is not recorded evenly by various counties at the docketing point. Thus, there have been some information gaps. Newly implemented procedures will improve recording of this demographic statistic in the future. As of June, 1986, race is being recorded in over 90% of all cases.
38. For more detail, see Supplement, Table 14.
39. For more detail, see Supplement, Table 18.
40. For more detail, see Supplement, Table 19.
41. For more detail, see Supplement, Table 20.
42. For more detail, see Supplement, Table 26.
43. For more detail, see Supplement, Table 28.

SECTION 6

1. Information derived from New Jersey Judiciary, Law, Public Safety and Defense Committee, *Final Report of the Juvenile Justice Task Force Advisory Committee on Pre-Trial Practices*, Jan. 1981.
2. Ibid.
3. Information derived from New Jersey Department of Corrections, Juvenile Detention and Monitoring Unit, *Statistics on Juveniles in Detention Facilities—1985*, May 1, 1986. For more detail, see Supplement, Table 60.
4. For more detail, see Supplement, Table 56.

5. For more detail, see Supplement, Table 61.
6. Interview with Martin A. Herman, March, 1986.
7. New Jersey Department of Law and Public Safety, Division of Criminal Justice, Research and Evaluation Section, *Juvenile Waivers to Adult Court; A Report to the New Jersey State Legislature*, Sept., 1985.
8. Ibid, p. vii.
9. New Jersey Administrative Office of the Courts, *Draft Report on Juvenile-Family Part Operation and Organization*, December, 1983.
10. New Jersey Senate Judiciary Committee, *Statement To Assembly Bill No. 644*, February 8, 1982, p.1.
11. A detailed evaluation of the impact of Family Crisis Intervention Units is now being done by the Association for Children of New Jersey.
12. Association for Children of New Jersey, *The Juvenile Code Implementation Project: An Interim Report of Phase I Findings* (Newark, N.J., 1985).
13. New Jersey Department of Human Services, *Implementation of Family Court Service Plans*, April 1, 1985.
14. Association for Children of New Jersey, *The Juvenile Code Implementation Project: An Interim Report of Phase I Findings* (Newark, N.J., 1985).
15. For more detail, see Supplement, pp. 73-79, 80-85, 86-92.

SECTION 7

1. "Wilentz Urges More Help For Troubled Youths", *The Newark Star-Ledger*, Oct. 6, 1985, p. 48.
2. The Department of Human Services requested a total of 6.1 million dollars to support court related services for Fiscal Year 1985-86.
3. New Jersey Administrative Office of the Courts, *Report of the State Family Court Committee to the June 24, 1983 Judicial Conference*.
4. For more detail, see Supplement pp. 69-95.

5. The Governor's Committee on Children's Services Planning, *New Jersey's Action Plan for Children*, (Trenton, N.J., 1985).
6. The Academy for Contemporary Problems, *Major Issues in Juvenile Justice Information and Training*, 1981.
7. New Jersey Administrative Office of the Courts, Probation Services, *Juvenile Probation Special Programming Resource Manual*, November, 1985, p. i.
8. Ibid.
9. Juveniles under the "custody" of the Department of Corrections are generally placed on probation with a condition that they be placed in one of these alternative programs. Some maintain that the distinction between incarceration and placement in an "alternative" program is unclear since in either case the juvenile is deprived of freedom.

SECTION 8

1. N.J.S.A. 2A:4A-43c.
2. New Jersey Department of Corrections, *Manual of Standards for Juvenile Detention Center Commitment Programs*, Jan. 1984.
3. Information developed through judicial survey. Copies of survey instruments and an analysis of responses are available through this Commission.

SECTION 9

1. Departmental interview, (Department of Human Services) conducted Aug. 13, 1985.
2. Statistics provided by New Jersey Administrative Office of the Courts, Division of Statistical Services.
3. Departmental interview, (Department of Human Services) conducted Aug. 13, 1985.
4. Agency interview, (Administrative Office of the Court) conducted July 24, 1985.
5. For more detail, see Supplement, pp. 73-79.

6. New Jersey State Law Enforcement Planning Agency, *Governor's Adult and Juvenile Justice Advisory Committee; Standards and Goals for the New Jersey Criminal Justice System: Final Report*, Dissemination Document No. 27, 1977.
7. Information derived from Unit Case data.
8. Information based on New Jersey Department of Human Services, Division of Youth and Family Services, *Census of Residential Facilities*, 1985.
9. For more detail, see Supplement, pp. 73-79.
10. State in the Interest of D.F., 145 N.J. Super. 381, (1976).
11. Information derived from New Jersey Department of Corrections, Division of Juvenile Services.
12. Ibid.
13. Ibid.
14. Public hearings conducted by Family Division Liaison Committee, New Jersey Supreme Court, May 22, 1985.
15. For more detail, see Supplement, Table 55.
16. New Jersey Department of Human Services, *The New Jersey Child and Adolescent Service System Program Grant*, 1984.
17. N.J.S.A. 30:60-3.
18. N.J.S.A. 30:4-23.
19. *A Study of the Characteristics and Treatment of Mentally Retarded Adolescent Offenders in New Jersey*, Mentally Retarded Adolescent Delinquent Project (Rutgers Medical School, 1979).

SECTION 10

1. New Jersey Assembly Judiciary, Law, Public Safety and Defense Committee, *Final Report of the Juvenile Justice Task Force Advisory Committee on Determinate/Indeterminate Sentencing*, Jan. 1981.