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Directions

How Today's Juvenile Justice Trends Have Affected Policy

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October 1984

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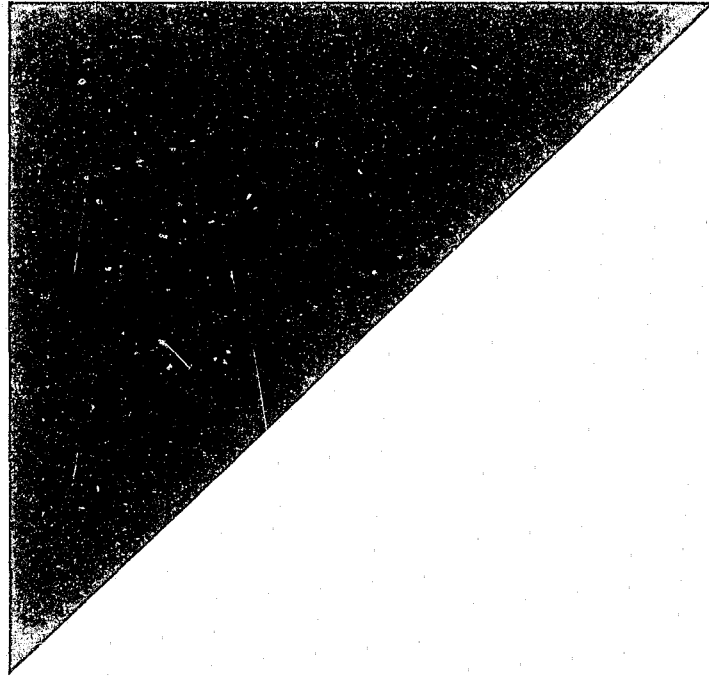
ACKNOWLEDGMENTS

For their kind assistance and review of this study, we wish to thank: Minnesota's House Research, Juvenile Code Revision Task Force and especially the Juvenile Justice Advisory Committee for funding the computer analysis.

EXECUTIVE SUMMARY

Juvenile justice in Minnesota is in a period of transition. The number of juveniles in the population is decreasing, and with it, the number of offenses committed by juveniles. The philosophy of juvenile court is shifting from a social service orientation to one that is increasingly "just deserts" or punishment oriented, making it more like an adult criminal court. This change in philosophy is captured in the proposal for a new juvenile court law that the Juvenile Code Revision Task Force is presenting to the legislature in 1985.

This report, based on 1983 data, describes juvenile crime in Minnesota and examines the processing of juveniles through the court. The statistics reveal not only the effect of the court philosophy on the outcomes of juvenile cases, but also identify problem areas. The report closes with recommendations to: (1) improve the legal representation of juveniles; (2) limit the referencing of juveniles to adult court for minor offenses; (3) scrutinize how the court enforces its orders; (4) enhance accountability and reporting; and (5) restrict county discretion, thereby making juvenile court practices fairer and more uniform around the state.



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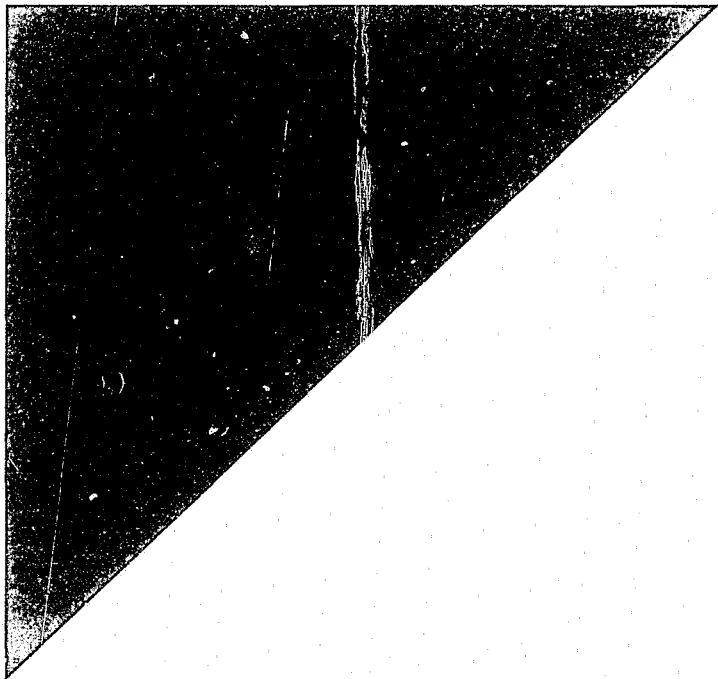
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INTRODUCTION

The purpose of the laws relating to juvenile court is to promote public safety, reduce delinquency, and provide care for neglected and dependent children. In this report we give statistics on the children who come into juvenile court and discuss what happens to them as a consequence.

The juvenile court act underwent a major revision in 1959 and has been amended repeatedly over the intervening years. In 1984 the Juvenile Code Revision Task Force has been working on an extensive revision of the act. This history of continual revision shows the difficulties inherent in establishing a policy to deal with all that comes before juvenile court. Moreover, changes in the law also spring from changes in opinion about how best to treat children in trouble. The direction of change seems to be away from a rehabilitation or social service model for juvenile court to one that is more like an adult court, with a greater emphasis on due process and punishment for crimes.

The best source of information that we have on the state's juvenile court system is the judicial information system administered by the Supreme Court. The data that we have obtained, through the Supreme Court's cooperation, gives us a comprehensive look at how juveniles are processed through the legal system. It allows us to analyze the workings of the juvenile court in every county but one. (Hennepin is the exception; they did not report data to the Supreme Court prior to 1984.)

Here we concentrate our analysis on several important court activities

that have received much attention in recent years and which may be affected by prospective reforms in juvenile law. Our topics include the types of dispositions juveniles receive for their acts, the referencing of juveniles to adult court, the use of legal counsel, and variation in county practices. We begin with background information on the nature, distribution, and trend of juvenile crime in Minnesota.

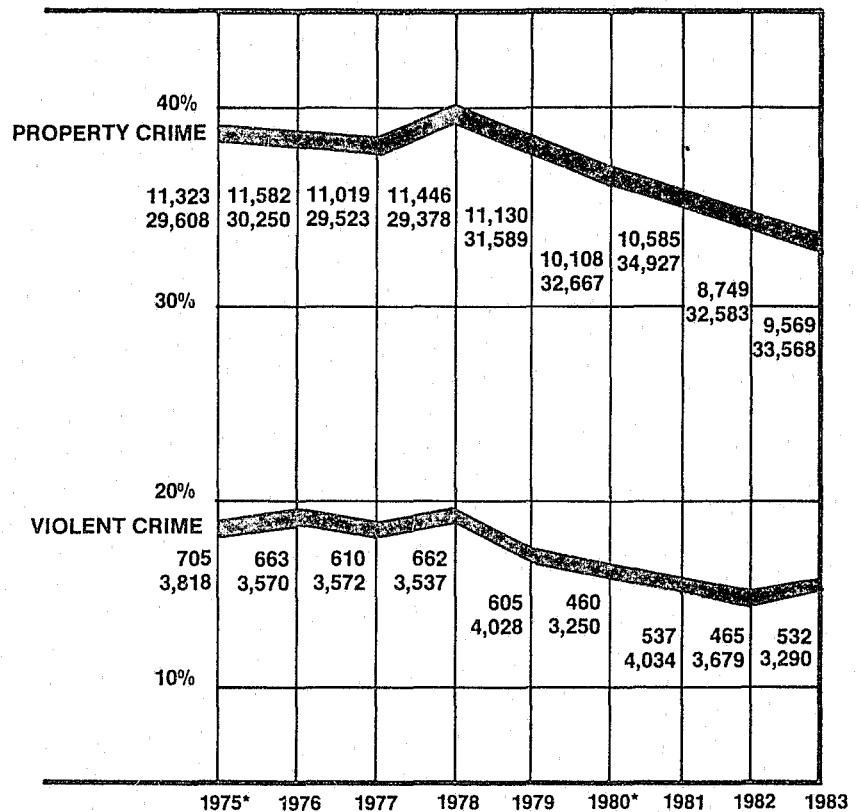
We call the reader's attention to two general qualifications in this analysis. First, one must be aware that within almost every category of crime there are offenses of different degrees of seriousness. The seriousness of larceny, for example, depends on the value of the goods stolen; the seriousness of an assault depends on the injury to the victim. When we discuss crimes here, we are including the whole range of seriousness allowed in the law. The different degrees of seriousness help to explain why similar looking cases have different outcomes. Nevertheless, some types of crime are generally more serious than others and one can rank them in an approximate order of seriousness, which we do below.

A second point to consider is that the same person may be brought into court more than once during a year for different criminal acts. In this analysis, we treat each case or crime separately. This has advantages and disadvantages. As a disadvantage, it obscures the effect of a person's delinquent or criminal history on the outcome of any given case. But by treating each case separately, we get a true picture of the demands placed on the system for time and services. Each case must be treated anew from the court's perspective. Furthermore, in



juvenile court — in contrast to the adult sentencing guidelines — the juvenile's past record is not so critical to determining case outcome as it would be in adult court.

SERIOUS JUVENILE CRIME IN MINNESOTA PERCENT OF CLEARED OFFENSES THAT ARE CLEARED BY ARREST OF A JUVENILE



JUVENILE CRIME ON THE DECLINE

In 1983, there were approximately four serious crimes committed for every one-thousand residents. Adults — not juveniles — appear to have committed the majority of those crimes. Twenty-five percent (9,222) of all serious crimes cleared by arrest were attributed to juveniles (under 18 years old). The remaining 75% (27,114) of offenses that were solved implicated adults, largely in the 18 to 24 age bracket.

Minnesota juvenile offenders are property offenders, not violent offenders. Even so, juveniles do not appear to commit the majority of property offenses, as the table below shows, and the proportion of crimes attributed to juveniles has been declining over the past several years as the juvenile population has declined.

*The juvenile population (10 to 17 years of age) in 1975 was 649,800 and in 1980 was 568,264
 Property crimes include burglary, larceny, auto theft. Violent crimes are murder, rape, robbery and assault.
 Data Source: Bureau of Criminal Apprehension.
 The numbers in this graph represent:
Offenses cleared by arrest of a juvenile.
 Total offenses cleared by arrest.

Of the serious property crimes cleared by arrest in 1983, larceny is the most frequent juvenile offense (6,950) and burglary is second (1,206). The most frequent violent juvenile crimes are assault (298) and robbery (134).

Juveniles are more likely to be arrested than adults, but juveniles appear to commit fewer offenses. In part, this higher arrest rate for juveniles is attributed to the tendency for juveniles to act in groups, so that while one crime is committed, two or more juveniles are likely to be arrested for that one crime. Also, juveniles may lack the sophistication of older offenders and may be caught more easily.

Juveniles are often blamed for higher crime rates than are accurate because offense and arrest statistics are mistakenly interchanged for each other. This leads to serious misinterpretation. The proper indicator of juvenile crime may be found in the proportion of crime cleared by the arrest of a juvenile. It is this offense data that truly measures juvenile contributions to the crime rate.

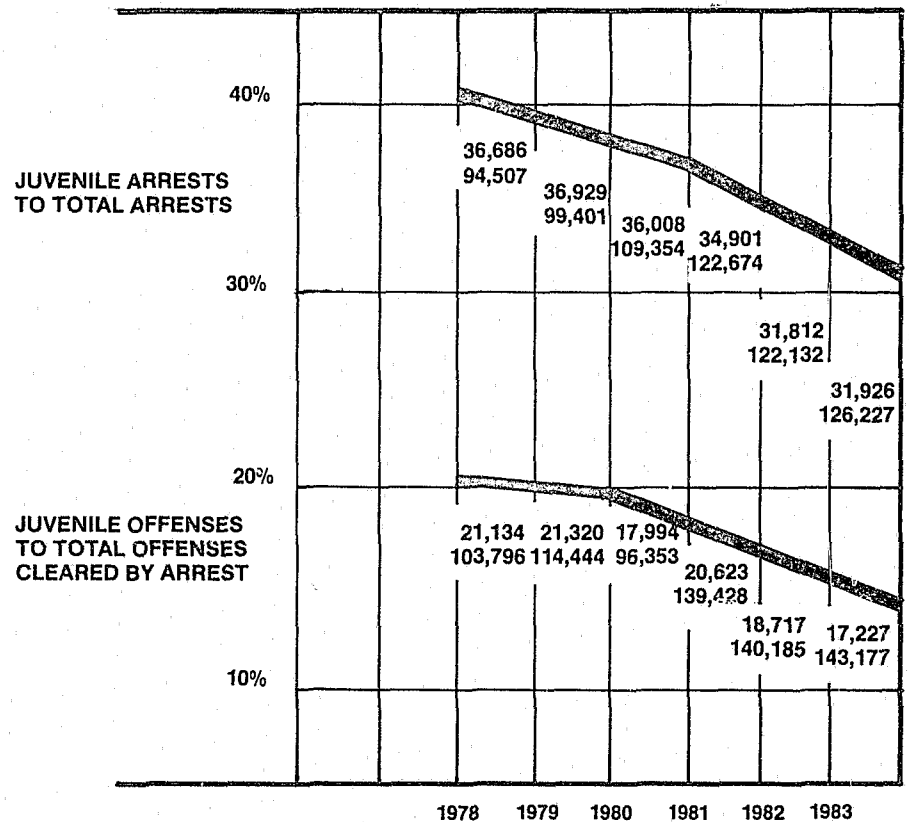
Arrest data is better used as a planning indicator to show how many juveniles go through the criminal justice system. The table presented next demonstrates the difference between these two statistics.

Since 1979, which was the peak year, the number of juvenile arrests has declined 14%. This means 5,000 fewer juveniles went through the system in 1983 as compared to 1979.

In short, serious juvenile crime in Minnesota is not increasing at an

alarming rate as many might believe. Quite the contrary, juvenile crime and arrests are on the decline, probably because the juvenile population is on the decline.

JUVENILE ARRESTS VS. JUVENILE OFFENSES



NOTE: This table uses total offenses not just Part I or Serious Offense data presented earlier.

Data Source: Bureau of Criminal Apprehension.

NATIONALLY, JUVENILE COURT IS VERY DIFFERENT FROM CRIMINAL COURT

The juvenile court, with its separate process for handling juveniles, resulted from reform movements of the late 19th century. Until that time, juveniles who committed crimes were processed through the adult criminal courts. In 1899, Illinois established the first juvenile court based on the concepts that a juvenile was a salvageable human being who needed treatment rather than punishment and that the court was to protect the child from the stigma of criminal proceedings. Delinquency and other situations such as neglect and adoption were deemed to warrant the court's intervention on the child's behalf. The juvenile court also handled "status offenses" (such as truancy, running away, and incorrigibility), which are not applicable to adults.

Juvenile courts are very different from criminal courts. The language used in juvenile courts is less harsh. For example, juvenile courts —

- Accept "petitions" of "delinquency" rather than criminal complaints
- Conduct "hearings" not trials
- "Adjudicate" juveniles to be "delinquent" rather than find them guilty of a crime
- Order one of a number of available "dispositions" rather than sentences.

Arrest is not the only means of referring juveniles to juvenile courts. While adults may begin criminal justice processing only through arrest, summons, or citation, juveniles may be referred to court by parents, schools, or other sources.

While 84% of the cases nationally are referrals from law enforcement agencies —

- 3% are from parents and relatives
- 3% are from schools
- 2% are from probation officers
- 2% are from other courts
- 5% are from miscellaneous sources.

"Intake" is the first step in the processing of juveniles. At intake, decisions are made about whether to begin formal proceedings. Intake is most frequently performed by the juvenile court, but prosecutors are becoming more involved. In addition to beginning formal court proceedings, officials at intake may refer the juvenile for psychiatric evaluation, informal probation, counseling, or, if appropriate, they may close the case altogether.

For a case involving a juvenile to proceed to a court adjudication, the intake unit must file a petition with the court. Intake units may handle most cases informally without a petition. The National Center for Juvenile Justice estimates that more than half of all juvenile cases accepted at intake are handled informally without a petition and are dismissed and/or referred to a social service agency.

Initial juvenile detention decisions are usually made by the intake staff. Prosecutors become involved in detention decisions at later stages of the processing. Juveniles may be released to the custody of their parents, put in protective custody (usually in foster homes or runaway shelters), or admitted to detention facilities. Nationally, separate juvenile detention facilities are usually provided, but in some

jurisdictions juveniles are held in adult jails.

Relatively few juveniles are detained prior to court appearance. The National Center for Juvenile Justice data shows that slightly less than one case in five results in secure detention of a juvenile prior to adjudication. The offenses for which such detention may be ordered range from school truancy to murder. In 1979, 28% of those juveniles detained in secure facilities were being held for crimes against persons; 21% for public order crimes; 18% for property crimes; 17% for drug-related crimes; and 17% for status offenses.

The preceding description of juvenile court is an excerpt from the Bureau of Justice Statistics' "Report to the Nation."

WHO'S IN TROUBLE HERE

The rest of this report will concentrate on Minnesota's juvenile justice system. While juvenile court handles more than just youthful offenders, we will emphasize offenders. The flow chart below shows the various steps facing juvenile offenders. The numbers presented for each point along the way are our best estimates based on available data for the entire state.

Over 3,700 cases are unaccounted for between arrest and petition because there is no formal statewide data collection between these stages of case processing. This also means a lack of statewide accountability where there is no data collected.

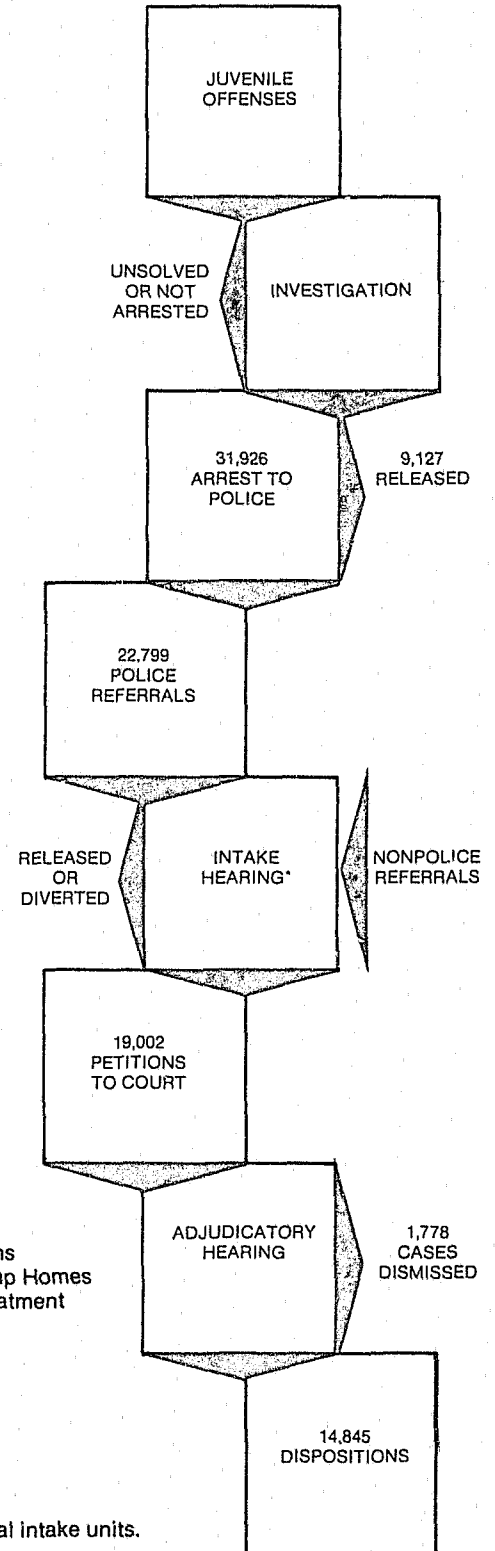
A juvenile does not necessarily have to commit a crime to be sent to juvenile court. Only two of the five types of juvenile cases are offense related. However, these two offense categories are the largest.

Minnesota Petitions to Juvenile Court, 1983

Delinquency	13,486	61%
Status offenses	5,516	25%
Dependency, Neglect and Termination of Parental Rights	3,218	14%
Missing Data	807	
TOTAL	23,027	

NOTE: Hennepin County IS included.

Delinquency cases are those where a juvenile has violated a federal, state or local law. Delinquency cases are the most frequent in juvenile court.



DELINQUENCY AND STATUS OFFENDER FLOW CHART

- DISPOSITIONS:**
 Reference to Adult Court
 Commitment to Department of Corrections
 Commitment to County Corrections Group Homes
 Chemical Dependency or Psychiatric Treatment
 Residential Treatment
 Counseling
 Fine
 Restitution
 Probation

NOTE: Hennepin County is included.

*Many smaller counties do not have formal intake units.

"Status offense" cases are different from delinquency offenses in that if an adult were to engage in these activities they would not be considered offenses. Such status offenses are running away, truancy, alcohol, or other petty offenses. Technically, under Minnesota law, each of these offenses is defined separately, but it is common practice to lump them together as status offenses. Together, the status offenses constitute the second most common case type in juvenile court. (We also include the category of juvenile controlled substance offender under status; it covers the cases of possession of a small amount of marijuana.)

The "dependent" child involves cases where the child is without a parent or guardian; or the child needs special attention; or the parents for good cause seek to end their responsibility; or the child is without proper care because of the disability of a parent. In other words, the parent is unable to take care of the child.

"Neglected" cases include children: who are abandoned by parents; or who are without proper parental care because of faults or habits of parents; or where the parents refuse or neglect necessary special care for the physical or mental condition of the child; or where the child's behavior, associations, occupation, environment, etc., is injurious to the self or others. In cases of neglect the parent refuses or neglects to care, whereas in dependency cases the parent is unable to care for the child.

"Termination of parental rights" applies to cases where parents consent to terminate their rights to their children; or where it has been determined by the court that the

parents have abandoned their child; or have substantially, continuously or repeatedly refused or neglected to meet the child's needs. Termination also applies to cases where the parent was ordered to support the child but failed without good cause or where the parent is determined unfit because of conduct detrimental to the child's physical or mental health.

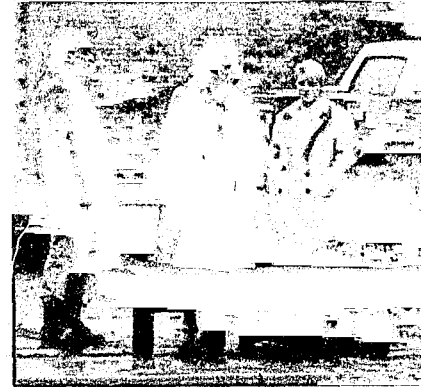
Overall, the juveniles most likely to appear in court are male delinquents between the ages of 15 and 17 years of age. However, the sex and age of youth varies among the five case types discussed previously (delinquency, status, dependency, neglect, termination).

According to 1983 data, 82% (8,724) of all delinquency cases (at disposition) involved males. Males also account for most status offense cases, 66% (2,208). The sexes are approximately equal in cases of dependency, neglect and termination.

In 1983, more than half (57%) of all juvenile cases involved juveniles in the 15 to 17 year old age group. There were 5,072 (31%) juvenile cases in the 12 to 14 age bracket; with the remaining 11% (1,794) under 12.

As can be expected, the majority of juveniles involved in delinquency cases in 1983 were 12 or older. **However, there were also 428 (4%) children under 12 years who fell in the delinquency category.**

In 1983 more than half (54%) of all dependency cases (at disposition) involved kids ages twelve and older. **The majority of dependency cases are teenagers, not little kids.**



There were about 7,900 delinquency petitions to juvenile court in 1983 where a disposition was recorded. In 86% of these cases only one crime was alleged in the petition. In the remaining 14% of petitions, additional charges were filed, but we have data on only the first two charges of multiple charge petitions. As a simplification to the analysis, we consider only the most serious of the first two charges. Our ranking of crime seriousness follows generally used practices: murder, rape, robbery, assault, burglary, larceny, and so forth. (See also the Appendix.)

The most common offense on delinquency petitions was larceny, occurring in 2,317 (21%) of cases. Third most common was burglary, on 1,058 (10%) petitions. That is, two of the top three delinquency offenses were property crimes.

The second most common offense in petitions in 1983 was not a property crime. **Of all the delinquency petitions, 1,104 (10%) were for obstructing court.** Obstructing court includes: perjury; contempt of court; obstructing justice; obstructing a court order; parole or probation violation; conditional release violation; and failure to appear in court.

There were 3,200 petitions for status offenses in 1983. Of those, 54% (1,700) were for alcohol offenses. The second most common status offense was truancy (18%) and runaways, third (14%).

State totals do not reflect county practices. An analysis of counties selected for diversity in size and location showed extreme variation in charges brought against juveniles.

As was presented earlier, larceny comprises 21% of total delinquency petitions, the largest offense category statewide. In a comparison of six counties larceny ranges from 17% (Ramsey) to 49% (Olmsted). The other two most prevalent delinquency offenses fit the same pattern. Burglary, as a percentage of total petitions disposed, ranged from 9% (Ramsey) to 25% (Cass). The state proportion is 10%. The range for obstructing court is 0% (Cass and Mower) to 41% (Ramsey) compared to the state proportion of 10%. Apparently, the high rate of obstructing court petitions in Ramsey County is a result of their practice of filing a new petition for court order violations in a case. This is an example of how a county practice may give a different statistical picture of that county.

**FREQUENT DELINQUENCY OFFENSES
1983**

	Total Number of Petitions Disposed	Larceny	Burglary	Obstructing Court
STATEWIDE—452,763 (Excluding Hennepin)	7,898	21%	10%	10%
RAMSEY—58,478	1,875	17%	9%	41%
ST. Louis—28,641	524	30%	17%	5%
DAKOTA—31,637	220	29%	22%	6%
OLMSTED—13,044	160	49%	9%	8%
CASS—3,079	73	37%	25%	0%
MOWER—5,720	68	43%	19%	0%

NOTE: The number next to each county is the estimated population in 1980 between 10 and 17 years of age.

County variability is even greater for status offenses than for delinquency petitions. The five counties presented in the next table were selected by size. In order to make valid comparisons, total status petitions had to exceed 75. Therefore, the counties in this table tend to be metro area counties.

The state figure for alcohol offenses is 54% of total status petitions. County proportions range from 10% (Ramsey) to 84% (Scott).

Truancy is 18% of total state status offense petitions and is the second largest offense category. At the county level it varies from 2% (Scott) to 30% (Ramsey).

Running away is the third most common status offense statewide, at 14% of total petitions. The county range is 3% (St. Louis) to 42% (Ramsey) for the sample of five counties.

There are numerous decision points in the system which can result in variations among counties. An individual or county policy at any point could explain many of the differences found. Some of the variation among counties can also be attributed to the variation in the kind of juvenile offender found in rural counties versus the more serious offenders associated with the metro area.

One of the first decisions is whether or not to arrest. Even if arrested, the police may or may not refer juveniles to court. For example, it may be that certain cases are routinely handled between police and parents or that arrest is considered punishment enough for particular offenses.

Once juveniles are referred to court, the intake unit, if there is one, or the prosecutor then decides whether to petition cases or divert or dismiss them. For example, an intake worker

**FREQUENT STATUS OFFENSE
FOR LARGE COUNTIES 1983**

	Total Status Petitions Disposed	Alcohol	Truancy	Runaway
STATEWIDE—452,763 (Excluding Hennepin)	3,234	54%	18%	14%
RAMSEY—587,484	551	10%	30%	42%
ST. LOUIS—28,641	175	55%	24%	3%
SCOTT—7,708	122	84%	2%	6%
ANOKA—33,433	119	38%	26%	13%
WASHINGTON—19,587	76	15%	37%	37%

The number next to each county is the estimated population in 1980 between 10 and 17 years of age.

may routinely divert juveniles out of the system if the juvenile voluntarily agrees to participate in some form of treatment. Unfortunately, this is one of the few steps in the system for which there is no statewide data. We do not know what is happening at this stage statewide.

The final decision rests with the prosecutor who may or may not file a petition. Certain cases may have priority, others may be dismissed for lack of evidence.

2 WHO GETS WHAT DISPOSITION AND WHY

For the juveniles who commit crimes, the philosophy of the court is expressed in the punishments or dispositions given the juvenile. The court must protect the public and discourage the juvenile from further criminal acts. At the same time, the court tries to respond to problems that might have contributed to the juvenile's delinquency, such as chemical dependency.

The variety of options available to a juvenile court judge ranges broadly from confinement of the delinquent juvenile in a state or local correctional institution or group home to medical treatment, probation, fine, restitution, and so forth. Juvenile law does not require a close correspondence between crime and punishment, as, for example, the sentencing guidelines impose on adult criminals.

The data on juvenile court dispositions lets us see what happens to juveniles who commit certain acts, but we presently lack important information as to how the judge determines the disposition,

such as a history of delinquency, a psychological evaluation, or the family situation. This means that we cannot make a complete evaluation of how equitably juveniles are treated.

For 1983, we have data on the disposition of over 11,000 petitions for delinquents and status offenders (exclusive of Hennepin County). An additional 2,800 such petitions were processed by the courts, but information on what happened is incomplete. (Often no formal disposition may have been given.)

Because a juvenile (as with an adult) may receive several dispositions simultaneously for a single or multiple offense, it is impossible to describe succinctly all of the possible outcomes of juvenile cases. Therefore, we must simplify and extract data in ways that capture the most telling aspects of court processing and allow us to focus on specific policy issues. In some of the analyses that follow we look only at the most serious crime charged (as best we can determine it) or the most serious disposition given a juvenile; at other points we examine certain types of dispositions independently of what else might have happened to the juvenile.

One of the most important questions about juvenile case processing is what disposition is given to a juvenile who commits a specific crime or status offense. If public safety and prevention of recidivism goals are to be met, there ought to be some connection — although not a perfect match — between seriousness of offense and final disposition. We examine this issue by observing the type of most serious disposition given a juvenile in relation to the offense. If more than one offense was committed, we





pick the most serious for the comparison. The violent crimes of murder, rape, robbery, and assault are the most serious, followed by property crimes, burglary and so forth. As the most serious disposition we rank referencing to adult court, followed by confinement in a state correctional institution, a local correctional facility or correctional foster group home, medical treatment, restitution, fine, probation, and so forth. (See the Appendix for a complete description.)

The two most common dispositions given in Minnesota are probation and restitution. Probation was given (or continued) in about 5,100 of the 7,900 delinquency petitions disposed of in 1983. In about 3,700 of the cases where a juvenile was given probation, however, he or she received additional, and — by our ranking — more serious, sanctions.

If we compare sentences across the broad crime categories in adult court, we find that violent crimes against persons get the most serious punishment in adult sentencing. In juvenile court we find that violent crimes do not always get the most serious punishment, although serious punishments are commonly given for violent crimes.

Of the small number of juveniles (five) brought into court on a homicide charge in 1983, three cases were referenced (transferred) to adult court. For rape, medical treatment was a common disposition, occurring in 23% of the cases (13 of 57), while 16% of rape petitions ended with the juvenile being sent to a state or local corrections facility or county correctional group home. For robbery, 31% of petitions (17 of 55)

ended in a juvenile correctional placement.

Juveniles judged delinquent for property crimes were generally less likely to be confined, and more likely to receive probation and restitution, than those who committed violent crimes. **In burglary cases, however, we find 23% of the juveniles given terms in a state correctional institution or a local correctional facility or correctional group home — a proportion greater than that for rape.**

The most likely reason a juvenile will be placed in a local correctional facility or a correctional group home is neither for a property crime nor for a violent crime; it is for the offense of "obstructing court," which includes violations of court orders or terms of probation for a previous offense, or failure to appear in court. Of 1,325 cases where juveniles were sent to local corrections, 417 or 31% were there for one of these court-related reasons. **From 1982 to 1983, the numbers of juvenile cases for "obstructing court" increased by 40%, causing an increase in correctional placements for these cases by 130 juveniles — a 47% increase.** This change occurred in spite of the fact that the total number of status and delinquency petitions hardly changed from 1982 to 1983.

Although it is reasonable that the court use strong measures to ensure that its orders are followed, we find it questionable that the court gives more severe punishments for violations of its orders than would usually be given for any of the crimes that precipitated the court activity. (See also the Appendix.) Furthermore, it is hard to account for the large increase in such cases from

1982 to 1983.

Another strong trend in dispositions over the last few years has been a decline in numbers of juveniles sent to state correctional institutions. From 1982 to 1983 this number went down by 20%, from 459 to 367. (Recall again that Hennepin County is not included in this data.) This decline was offset, however, by a somewhat larger increase in the use of local corrections — much the result of the increase in "obstructing court" cases.

The numbers of juveniles referenced to adult court has also decreased in recent years — from 172 in 1981 to 112 in 1983. (Hennepin County reported a decrease from 46 to 31 over the same years.)

Because status offenders are those whose actions, such as truancy or running away from home, are not crimes for an adult, one must consider their dispositions separately from those of delinquents. Probation is the most common disposition given status offenders, occurring in about 1,650 of 3,200 status offense dispositions. Fines and restitution are also commonly used. (Because these offenses do not have victims, the concept of restitution implies here community service rather than compensation of a victim's loss.) Fines are almost exclusively used for juvenile alcohol offenders. (See the Appendix for detailed statistics on status offender dispositions.)

About 7% of status offenders received local correctional placements (236 of 3,234) in 1983; this was about the same number as in 1982. The cases were most likely to be runaways (108 of 247 runaways).

The majority of status offenders receiving medical treatment were juvenile alcohol offenders required to be in outpatient or inpatient chemical dependency programs.

Minnesota, in contrast to many other states, tends to view status offenders as more like delinquents than as children in need of protection. In practice, Minnesota juvenile court does not have a separate "track" for status offenders where they would be treated differently from delinquents. This is evident in the dispositions given. Status offenders receive roughly similar kinds of dispositions as delinquents, although status offenders are more likely to pay fines and less likely to be asked to make restitution. The main exception is that status offenders cannot be sent to a state correctional institution.

REFERENCING TO ADULT COURT

State law establishes a process whereby juveniles charged with crimes can be transferred to adult court and tried as adults. This is called referencing. The issue of which juveniles ought to be treated as adults has been debated for years. Much of the debate centers on whether juvenile courts are "too soft" on juveniles who commit violent crimes or have a long record of serious crimes.

Juvenile offenders about to reach adult age (18 years in Minnesota) also present a problem in deciding how best to deal with them, that is, as juveniles or adults.

By law (M.S. 260.125) a juvenile can be referenced only if he or she is fourteen years or older, with

probable cause that he/she committed an offense in the delinquency petition, and only if the prosecutor has demonstrated by clear and convincing evidence that the child is not suitable to treatment or that public safety is not served under the laws that relate to juvenile court. This statute has been amended in recent years to specify what constitutes a prima facie case for referencing. These conditions include a first degree murder charge or a specific history of serious felony crimes.

In 1983, 112 juveniles were referenced to adult court (or 143 if Hennepin is included). Of the 112, almost all (107) were males and two-thirds (75) were seventeen years old.

Of the offenses charged in the delinquency petitions, burglary was the most common (29), but a great variety of other crimes were also represented. In order of decreasing frequency, the next most likely offenses after burglary were violation of a liquor law, stolen vehicle, and those related to obstructing court or police processes.

We do not know how many of these juveniles met the prima facie case for referencing owing to a history of felony crimes. **But the references for liquor law violations (or other minor offenses) do not satisfy the prima facie requirement, and it is highly questionable that they meet the statutory requirement for public safety or lack of treatment amenability.** Only 15 of the 112 petitions involved violent crimes against persons.

Also of concern is the fact that in 18 of the 112 cases, juveniles

apparently did not have legal counsel at their reference hearings. Some of these cases involved the minor liquor law offenses, but some were for felonies.

Including Hennepin, 34 counties referenced juveniles in 1983. This indicates the widespread use of this option for prosecution. Generally, as one might expect, larger counties referenced more juveniles. But we also observed that five of the juveniles referenced for liquor law violations were from a single rural county.

We also have data from the state's criminal history files on what happened to those juveniles brought into adult court on felony charges. In 1983, 94 juveniles were prosecuted for felonies in district court. Of the crimes charged, 23 (24%) were violent crimes, but burglary was the most common offense. Burglary was charged in 44 (47%) of the cases.

Of the 94 juveniles prosecuted in district court, 83 (88%) were convicted. A total of 23 were sentenced to prison and 51 were sentenced to jail terms. In other words, 79% of those juveniles charged with felonies were subsequently incarcerated.

Juveniles in adult court have a much higher rate of incarceration than juveniles in juvenile court for violent crimes or burglary.

Although the number of juveniles referenced to adult trial court has decreased from 1981 to 1983, the number of juveniles charged with felonies in adult court has increased — from 66 in 1981 to 94 in 1983. It may be that the juveniles who are referenced now have committed more serious offenses than those juveniles referenced in prior years.

OUT-OF-HOME PLACEMENT

Many consider an out-of-home placement to be the most serious disposition that a child might receive in juvenile court. Such placements are also an expensive option.

The total of out-of-home placements in 1983 for delinquency, status offenses, dependency, and neglect was 3,140. This total was about 20% of the number of petitions entered into court processing. The juveniles may, of course, have received other dispositions as well, and some individuals might have received multiple placements in a single year. Roughly speaking, however, one can conclude that **about one in five petitions leads to an out-of-home placement.**

Comparing (FY) 1981 data with 1983 (but exclusive of Hennepin County), we see a decline in out-of-home placements ordered by juvenile courts. (See the Appendix for the 1983 statistics.) The numbers of cases where juveniles were placed in local or state correctional settings decreased from 2,100 in 1981 to 1,730 in 1983. In-patient chemical dependency dispositions decreased from about 300 to 200.

TREATMENT

A prime motivation for a separate juvenile court has been the hope that a juvenile whose behavior can be traced to a medical, psychiatric, social, or family problem might be helped more through a flexible, rehabilitative juvenile court than would be the case in a punishment-oriented adult trial court. How often is it then, that juveniles present identifiable problems for which the court might

order treatment? We can answer this question in part by looking at the types of dispositions given.

Under the generic "treatment" we include in-patient and out-patient psychiatric and chemical dependency treatment as well as placement in a residential treatment facility. Counseling dispositions we count separately. In 1983 about 1,100 petitions resulted in juveniles receiving treatment dispositions. Of this number, 90% were for status or delinquency petitions, and 10% for dependency and neglect petitions. In about the same number of cases (1,045), juveniles received counseling as a disposition, possibly in addition to other dispositions. The total of treatment dispositions was about 7% of the total number of petitions brought to court; the same percentage applies to counseling. **This suggests that only a relatively small proportion of juveniles have readily identifiable, treatable, problems.** Availability and cost of treatment, however, must also affect this number.

In-patient psychiatric treatment is the least used option of the five treatment options; only 71 juveniles received this disposition. Out-patient psychiatric treatment was ordered in 209 juvenile cases.

The corresponding figures for in-patient and out-patient chemical dependency are 213 and 411, respectively. Residential treatment involved 163 juvenile cases.

Overall, 42% of the treatment dispositions required an out-of-home placement; 58% were on an out-patient basis.

A review of the offenses charged in petitions where treatment was ordered does not reveal any clear link

between charge and treatment. Alcohol-related offenses are often associated with chemical dependency treatment, but they occur in only a minority of chemical dependency dispositions. One also finds status offenders and delinquents receiving treatment dispositions for a great variety of crimes.

Presumably, the reasons why judges might order medical treatment derive from the court's knowledge about the juvenile which goes beyond the data that is collected. To have a reporting system where one can see the connection between the juvenile's identified problem and the treatment given — so as to evaluate appropriateness or effectiveness of treatment — would require a reorganization of the court's procedures and reporting systems. The reasons for the court's decisions would be more visible and accountable if punishment and treatment were handled and reported in separate procedures.

LEGAL REPRESENTATION — HALFWAY THERE

Children in juvenile court in Minnesota have the right to legal counsel (M.S. 260.155). This right extends to their parents, guardians, and custodians. A juvenile over 12 years can waive this right if it is an informed decision; a parent can waive this right for a younger child. The Gault decision by the U.S. Supreme Court also accorded juveniles the right to counsel in delinquency proceedings that may result in commitment to an institution. If parents cannot afford an attorney, the court is to provide one.

Despite this clear right to legal counsel in Minnesota, **we find that**

at adjudication juveniles in court are without an attorney in about half of all cases — 6,648 of 14,119 or 47%. Furthermore, whether or not legal counsel is present seems to depend greatly on the type of case, the seriousness of the case, and in what county the case is heard. This raises questions about the waiver procedure and about how fairly juveniles are treated in this regard.

In dependency, neglect, and termination of parental rights cases, 11% of children do not have attorneys at adjudication. In delinquency and status offense cases, however, 53% of juveniles do not have attorneys at adjudication. (See also the Appendix.) Some juveniles may be represented by an attorney at other points in the judicial process, but 35% of delinquents and 53% of status offenders do not have an attorney at any hearing.

The table below shows that the likelihood of having legal representation varies with the seriousness of delinquency and status offense cases. Juveniles in a reference hearing, or where the outcome was to be a state or local correctional placement, are more likely to have attorneys than status offenders or juveniles charged with burglary, for example. Still, it is a concern that in a significant portion of cases (284), where a juvenile is being sent to a correctional facility or correctional group home, there is no attorney representing the juvenile.



**Legal Representation
1983 Juvenile Petitions**

<u>Court Activity</u>	<u>Juveniles Without Attorney</u>
Reference hearing	20%
Adjudication where disposition is to correctional facility or group home	28%
Burglary adjudication	45%
Delinquency adjudication	48%
Status offender adjudication	68%

We also note that of those juveniles charged with sexual assault, 24% (12 of 50) did not have an attorney; and in robbery cases, 13% (5 of 35) did not have an attorney.

More striking is the variation in legal representation from county to county. **Geography is the single most important factor in whether a juvenile offender has legal counsel or not.** In some counties, attorneys are present in fewer than 10% of juvenile cases. **In most counties a substantial majority of the juveniles have no attorney.** It is primarily the counties in the Twin Cities area where a majority of juveniles are represented by counsel. (This also applies to Hennepin, which is not included in the analysis here.)

The lack of legal counsel in rural counties cannot simply be ascribed to a lower degree of seriousness of offenses than is the case in metro counties. If we examine representation for a serious crime such as burglary, for instance, we find the same degree of disparity among counties. And, certainly, juveniles receive serious dispositions throughout the state.

The system for providing indigent defense in a county, whether it uses court-appointed lawyers or public defenders, does not seem to affect

the extent of juvenile representation. Some counties do more, and others do less, under either system.



3 POLICY DIRECTIONS

This analysis points to several objectives that ought to be met in any future revision of the juvenile act.

Legal representation must be improved for juveniles. Whether a juvenile has legal counsel must not depend on the county where he lives. At a minimum, juveniles faced with the possibility of an out-of-home placement should not be allowed to waive counsel. The cost of meeting this standard will mainly affect counties outside the metro area. Statistics for 1982* show that the average cost of public defense in Minnesota (primarily for adults) was \$222 per case. If attorneys were provided in all adjudicated juvenile cases, the increased cost statewide would be, roughly, 6000 cases x \$250 = \$1.5 million annually.

*"Criminal Defense Systems," Bureau of Justice Statistics, Department of Justice, Washington, D.C., 1984.

Referencing to adult court should not be allowed for misdemeanors. Juveniles are being referenced to adult court for minor offenses, where there does not seem to be evidence of danger to the public or untreatability within the juvenile court system, as required by law. Additional restrictions on referencing might also be considered. Juveniles in a reference hearing should not be allowed to waive their right to legal counsel. In 1983, 20% did not have legal representation.

The courts ought to examine the seriousness of dispositions given in cases of contempt of court, failure of a juvenile to obey a court order, or failure to follow terms of a prior adjudication. In current practice, punishments for these offenses are likely to be more severe than for violent crime. Is this necessary? Why is use of these charges increasing (up 40% from 1982 to 1983)? Our data suggests that underlying problems exist in the use and dispositions of these charges. When a delinquent or status offender does not complete a prescribed program, it may be partially a fault of the program. The increasing use of obstructing court dispositions may indicate problems with treatment programs.

System accountability ought to be enhanced through increased data reporting and through changes in procedures that establish closer linkages between a juvenile's behavior or problem and what happens in a disposition. Reforms of the juvenile act ought to incorporate specific reporting and evaluating mechanisms to ensure that practices are as intended in the law.

Extreme variation in county practices ought to be restricted in future juvenile act reform. The great variation from one county to another in how juvenile status offenders and delinquents are processed runs against reasonable standards of fair and equitable treatment. Moreover, the degree of local discretion makes it difficult for state policy to be implemented at the local level.

APPENDIX

- Statewide Offense and Clearance Information
- Minnesota Juvenile Court Dispositions
- Out-of-Home Placements
- Legal Representation By Case Type
- Legal Representation By Disposition
- County Analyses Available Free

1983 STATEWIDE OFFENSE AND CLEARANCE INFORMATION

OFFENSE CATEGORIES	TOTAL ACTUAL OFFENSES	TOTAL OFFENSES CLEARED BY ARREST	CLEARED BY ARREST OF PERSONS UNDER 18
Murder/Non Negligent	66	48	1
Rape -- Total	932	429	40
Robbery -- Total	3,299	774	134
Assault -- Total	3,625	2,502	298
Burglary -- Total	44,585	5,517	1,206
Larceny -- Total	106,106	24,385	6,950
Auto Theft -- Total	8,674	2,424	500
Arson	978	257	93
Part I -- Total	168,265	36,336	9,222
Other Assaults	18,075	12,105	1,142
Forgery/Counterfeiting	3,169	1,499	215
Fraud	14,749	9,983	50
Embezzlement	112	55	7
Stolen Property	844	674	114
Vandalism	46,339	7,341	1,230
Weapons	2,375	1,397	193
Prostitution	1,145	1,097	77
Other Sex Offenses	4,489	1,912	242
Narcotics	3,933	3,546	442
Gambling	52	26	-0-
Family/Children	1,942	1,102	6
D.U.I.	31,322	30,938	517
Liquor Laws	5,755	5,282	1,931
Disorderly	26,050	16,950	534
Vagrancy	85	73	1
Other (Except Traffic)	19,541	12,861	1,304
Part II -- Total*	179,977	106,841	8,005
Grand Total	348,242	143,177	17,227

*St. Paul Police Department does not report Part II offenses (Simple Assault only).

Source: "Minnesota Crime Information," Bureau of Criminal Apprehension, 1983.

WHAT HAPPENS TO MINNESOTA'S JUVENILE OFFENDERS?

The data shown on the following table describes approximately what happened to juveniles in Minnesota in 1983 who committed various criminal acts or status offenses. The first table shows numbers and percentages of juveniles who received those dispositions for criminal acts. Status offenses are included in this table under the "liquor" or "other" categories. Status offenses are behaviors, such as truancy, which would not be criminal if committed by an adult. The second table shows the numbers and percentages of juveniles who received any of nine different dispositions for a given status offense. Each row in a table describes what happens to juveniles who commit a given act, whereas each column describes behaviors that result in a given disposition. Additional cases were processed by the court but are not included in these tables due to missing information about the case or disposition; such cases total about 2,800. State totals for all dispositions and offenses are shown on the margins of the first table.

Because a juvenile can be charged with more than one crime or status offense and can have several dispositions simultaneously, the number of possible outcomes of court cases is very large and difficult to describe fully. Therefore, we have chosen to simplify the data so that it conveniently presents the main features of juvenile court dispositions at the risk of losing some information. If a juvenile is charged with more than one crime we consider only the most serious crime. Crimes are ranked in order of

decreasing seriousness, as shown in the left column margin of the first table: homicide, rape, robbery, and so on. The crime types included in the analysis are the violent person crimes as well as the most commonly committed property crimes. The offense "obstruct court" includes a violation of a court order, contempt of court, or failure to appear in court. Driving under the influence (DUI) includes some other traffic offenses.

We have also ranked dispositions in order of decreasing severity across the top row of the tables. Our guide to seriousness is the degree of intervention in the juvenile's life. If a juvenile has more than one disposition he is counted in the table under the column with the most serious of his dispositions. The leftmost disposition — or most serious — is when the juvenile is transferred to adult court for trial as an adult. Next in order of seriousness is confinement to a state institution under the authority of the Department of Corrections (DOC), followed by commitment to a local correction facility (often a group home), a course of treatment (as for chemical dependency), restitution, and so forth.

Support for this analysis was given by the Juvenile Justice Advisory Committee.

NOTE: Hennepin County is not included in this data.

Data Source: Supreme Court Judicial Information System.

Analysis: Minnesota Criminal Justice Statistical Analysis Center.



**JUVENILE COURT PROCESSING
1983 STATEWIDE TOTALS**

Offense	Count Row Pct.	To Adult Court	State DOC	Disposition					Dismissed	Row Total	
				Local Corections	Treatment	Resti- tution	Fine	Probation			Other
Homicide	3 60.0	1 20.0	0 0	0 0	0 0	0 0	0 0	1 20.0	0 0	0 0	5 .0
Rape	2 3.5	4 7.0	5 8.8	13 22.8	8 14.0	0 0	14 24.6	6 10.5	5 8.8	5 8.8	57 .5
Robbery	5 9.1	10 18.2	7 12.7	5 9.1	15 27.3	0 0	10 18.2	1 1.8	2 3.6	2 3.6	55 .5
Assault	5 .9	24 4.5	73 13.5	28 5.2	146 27.1	14 2.6	128 23.7	61 11.3	60 11.1	60 11.1	539 4.8
Burglary	28 2.6	84 7.9	157 14.8	74 7.0	480 45.4	5 .5	132 12.5	44 4.2	54 5.1	54 5.1	1,058 9.5
Larceny	6 .3	66 2.8	212 9.1	88 3.8	1,018 43.9	88 3.8	393 17.0	198 8.5	248 10.7	248 10.7	2,317 20.8
Narcotics	3 1.2	6 2.5	19 7.9	39 16.2	66 27.4	24 10.0	34 14.1	27 11.2	23 9.5	23 9.5	241 2.2
Damage Property	4 .6	15 2.3	36 5.6	42 6.5	371 57.8	8 1.2	60 9.3	39 6.1	67 10.4	67 10.4	642 5.8
Obstruct Court	6 .5	32 2.9	417 37.8	80 7.2	106 9.6	12 1.1	340 30.8	63 5.7	48 4.3	48 4.3	1,104 9.9
D.U.I.	5 1.4	0 0	2 .6	41 11.8	65 18.7	118 34.0	24 6.9	65 18.7	27 7.8	27 7.8	347 3.1
Liquor	13 .7	11 .6	26 1.5	180 10.2	374 21.2	520 29.5	204 11.6	274 15.6	160 9.1	160 9.1	1,762 15.8
Other	32 1.1	114 3.8	371 12.3	253 8.4	656 21.8	127 4.2	833 27.7	303 10.1	316 10.5	316 10.5	3,005 27.0
Column Total	112 1.0	367 3.3	1,325 11.9	843 7.6	3,305 29.7	916 8.2	2,173 19.5	1,081 9.7	1,010 9.1	1,010 9.1	11,132 100.0

Status Offense	Count Row Pct.	To Adult Court	State DOC	Disposition					Dismissed	Row Total	
				Local Corections	Treatment	Resti- tution	Fine	Probation			Other
Habitual Truancy	0 0	2 .3	52 8.9	49 8.4	61 10.5	7 1.2	283 48.6	74 12.7	54 9.3	54 9.3	582 18.0
Runaway	0 0	5 1.1	95 21.3	40 9.0	27 6.1	2 .4	180 40.4	50 11.2	46 10.3	46 10.3	445 13.8
Juvenile Alcohol	15 .9	16 .9	31 1.8	173 9.9	392 22.5	515 29.6	190 10.9	256 14.7	151 8.7	151 8.7	1,739 53.8
*Juv. Cont. Substan.	1 .6	4 2.4	15 8.8	27 15.9	54 31.8	13 7.6	25 14.7	14 8.2	17 10.0	17 10.0	170 5.3
Incorrigibility	0 0	2 1.3	31 20.5	17 11.3	11 7.3	0 0	47 31.1	32 21.2	11 7.3	11 7.3	151 4.7
Juv. Petty Offend.	1 .7	2 1.4	12 8.2	6 4.1	50 34.0	27 18.4	20 13.6	17 11.6	12 8.2	12 8.2	147 4.5
Column Total	17 .5	31 1.0	236 7.3	312 9.6	595 18.4	564 17.4	745 23.0	443 13.7	291 9.0	291 9.0	3,234 100.0

*Juvenile controlled substance is possession of small amounts of controlled substances.

**JUVENILE COURT (1983)
OUT-OF-HOME PLACEMENTS**

	<u>Delinquency</u>	<u>Status</u>	<u>Dependency</u>	<u>Neglect</u>	<u>Total</u>
DOC	305	20	-0-	-0-	370
Local Corrections	1,126	206	24	4	1,360
Local Residential Treatment	104	21	28	-0-	153
Inpatient Psych.	42	13	6	5	66
Inpatient CD	145	44	9	1	199
Temporary Residential	70	20	22	19	131
Shelter Care	90	41	1	1	133
Jail/Lockup	30	2	-0-	-0-	32
Secure Detention	98	11	1	-0-	110
Foster Home	221	58	220	87	586
TOTAL	2,276	436	311	117	3,140

NOTE: Hennepin County is not included.

LEGAL REPRESENTATION BY CASE TYPE

ATTORNEY TYPE AT ADJUDICATION, 1983

	<u>Delinquency</u>	<u>Status</u>	<u>Dependency</u>	<u>Neglect</u>	<u>Termination</u>	<u>State Total</u>
Private	466 5.1%	84 2.8%	10 1.1%	10 1.7%	38 8.2%	608 4.3%
Public Defender	2,521 27.5%	601 20.1%	161 17.6%	111 18.8%	42 9.1%	3,436 24.3%
Court Appointed	1,716 18.7%	217 7.3%	642 70.3%	389 65.9%	288 62.5%	3,252 23%
None	4,393 47.9%	2,039 68.2%	79 8.7%	57 9.7%	80 17.4%	6,648 47.1%
Other	69 0.8%	49 1.6%	21 2.3%	23 3.9%	13 2.8%	175 1.2%
STATE TOTAL	9,165 100%	2,990 100%	913 100%	590 100%	461 100%	14,119 100%

NOTE: Hennepin County is not included.

LEGAL REPRESENTATION BY DISPOSITION

**STATUS OFFENDER AND DELINQUENCY DISPOSITIONS
ATTORNEY TYPE AT ADJUDICATION, 1983**

<u>Disposition (Most Serious)</u>	<u>Private</u>	<u>Public Defender</u>	<u>Court Appointed</u>	<u>None</u>	<u>Other</u>
To Adult Court	3	49	39	18	2
State Corrections	18	86	171	91	2
Local Corrections	28	463	193	637	3
Treatment	35	130	188	464	9
Restitution	133	695	366	2,032	58
Fine	38	41	57	774	0
Probation	48	357	258	1,493	7
Other	46	106	151	743	26
Dismissed	51	101	142	274	91
TOTAL	400	2,028	1,565	6,526	198
TOTAL DISPOSITIONS	10,717				

**COUNTY ANALYSES AVAILABLE
FREE**

The Criminal Justice Statistical Analysis Center has the following county level analyses available without charge.

Juvenile Crime Trends 1975 to 1983

Serious crimes (Part I) are graphed for property offenses and violent crimes for every county and statewide.

Juvenile Court Processing 1983

The most serious disposition by crime (delinquency and status) is presented in a table for each county.

Juvenile Legal Representation 1983

Each county is described in terms of the type of representation provided juveniles (private attorney, public defender, court appointed or no attorney).

Juvenile Court Demographics 1983

Age, sex and case type (delinquency, status, dependency, neglect and termination of parental rights) is listed for each county in Minnesota.

To order call or write:

**MN Criminal Justice Statistical
Analysis Center
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