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# JUVENILE JUSTICE REFORM:

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**A MODEL  
FOR THE  
STATES**

ate of State and Local Government  
an Legislative Exchange Council

# JUVENILE JUSTICE REFORM: A MODEL FOR THE STATES

U.S. Department of Justice  
National Institute of Justice

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AMERICAN LEGISLATIVE EXCHANGE COUNCIL

**JUVENILE JUSTICE REFORM:  
A MODEL FOR THE STATES**

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**JUVENILE JUSTICE REFORM:  
A MODEL FOR THE STATES**

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## About The Organizations

The Rose Institute of State and Local Government is a research center at Claremont McKenna College, specializing in state and local government. The Institute engages in a wide variety of activities, including:

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Californians in Congress: 1982, 1984, 1986

California Maps and Statistics

Redistricting the States

Carving Up California

The Hispanic Community and Redistricting: Volume 1

The Hispanic Community and Redistricting: Volume 2

The American Legislative Exchange Council (ALEC) is the nation's largest individual membership organization of state legislators. Of the nearly 7,500 state legislators across the United States, over 2,000 have joined ALEC, including ten Speakers, six Presidents and Presidents Pro Tem, eight Majority Leaders, thirty Minority Leaders and over three-hundred Committee Chairmen. ALEC members--Republican, Democrat and Independent--can be found in leadership positions in every State Capitol in America.

ALEC is a nonprofit, nonpartisan, tax-exempt organization founded by State Legislators and dedicated to preserving individual liberty, basic American values and institutions, productive free enterprise, private property rights, and limited representative government. ALEC is classified as a Section 501(c)(3) organization under the Internal Revenue Code. It is further classified as a "nonprivate" (i.e. "public") organization under Section 509(a)(2) of the Code. Individuals, corporations, companies, associations, and foundations may support the work of ALEC through tax deductible gifts, the principle source of ALEC's funding.

As a nonprofit, bipartisan tax-exempt public policy organization, ALEC provides research, legislative analysis, model legislation and a forum for communication for state legislators who share a basic commitment to free enterprise and limited, representative government. State Legislative Task Forces and Private Sector Coordinating Councils--twelve in all--provide unique opportunities for legislators and private sector representatives to work together on model legislation and other ALEC programs. ALEC also serves as a liaison between state lawmakers and the business community and between Washington, D.C. and the State Capitals.

## ABOUT THE AUTHORS

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## PREFACE

The Model Acts contained in this volume are designed to hold juveniles individually responsible for their delinquent acts and noncriminal misbehavior. They are also designed to hold the juvenile justice system accountable for its treatment of these youth. In order to achieve these goals, the Acts are formal and offense-oriented, two characteristics which are most apparent in the Model Juvenile Delinquency Act. It is formal because it limits discretionary decisionmaking and expands criminal due process in juvenile courts. It is offense-oriented because it employs legal variables like offense severity and prior offense history to determine dispositions. The Act is not wholly offense-oriented, however, because individual characteristics are taken into account when they have a bearing on responsibility. Older or chronic offenders, for example, can be held more responsible than younger or first offenders.

Individual responsibility is a concept whose importance is growing among policymakers and practitioners in juvenile justice. It is based on the recognition that juveniles should be held more accountable for the crimes they commit. Accountability is pursued by linking dispositions more closely to delinquent acts and by utilizing dispositions, such as restitution, that force juveniles to recognize their obligations to the community and to the victims of their crimes. The offense orientation of the Model Delinquency Act, in particular, reflects this approach. Juveniles receive sanctions because of what they have done, not because of who they are or of what they might do in the future.

The concept of system accountability represents a revival of the classic principles of equality and proportionality. According to these principles, like cases should be treated alike, while only the most serious offenses should be subject to the most punitive sanctions. In other words, sanctions against juveniles should be limited, deserved, uniform, and justified. This requires that decisionmaking be formalized to a degree not generally evident in current state juvenile codes. It also requires that the public be given a greater opportunity to scrutinize the performance of juvenile courts.

The theoretical underpinnings of this approach can be found in the findings of psychological research on the development of moral and legal reasoning in adolescents; in the arguments of Andrew von Hirsch and the American Friends Service Committee; and in the reforms proposed by the Institute of Judicial Administration/American Bar Association and the Twentieth Century Fund. The Model Delinquency Act has also benefited from Washington State's experience with its 1977 Juvenile Justice Act. The Washington Act, too, is formal and offense-oriented. It makes prosecutors responsible for intake decisions; utilizes accountability-oriented diversion programs; and employs presumptive and determinate juvenile sentencing standards.

Washington's experience has generally been positive. An evaluation of the Act's implementation and impact indicated that its provisions eliminated informal adjustment of cases at juvenile court intake. The disposition standards produced greater equality, proportionality, and predictability of dispositions. They also increased the certainty that juvenile offenders would be held accountable, but decreased the overall severity of sanctions.

Washington's experience indicates that the individual responsibility/system accountability model does not necessarily expose juvenile



delinquents to harsher penalties than they can receive under existing juvenile codes. The intent of the Model Delinquency Act, for example, is to hold all juveniles accountable in a way that treats them equally and in proportion to their criminal capacity, as evidenced by their age and the nature of their present and past behavior.

The volume in which the Model Acts and their background material are contained represents two years of work designed to present juvenile justice issues to state legislators in an easily understood and useful format. In developing the Model Acts contained in the volume, the project benefited from the experience and expertise of the Project's Advisory Board, including: State Senator James Butcher of Indiana; Alan Cropsey, former member of the Michigan State Senate; Richard M. Daley, State's Attorney for Cook County, Illinois; Norman Early, District Attorney for Denver County, Colorado; Leland Fish, Administrator of Juvenile Court Services in Spokane County, Washington; Judge David Grossman of the juvenile court in Cincinnati, Ohio; State Senator Fred H. Lovegrove, Jr. of Connecticut; Orlando Martinez, Director of Youth Services for the State of Colorado; George Nicholson, an attorney in private practice in Sacramento, California and formerly Director of the National School Safety Center; Chief Justice Charles Springer of the Nevada Supreme Court; Hal Stratton, Attorney General elect and former member of the New Mexico House of Representatives; and William L. Webster, Attorney General of Missouri. While most members of the Advisory Board have agreed with much of what we have proposed and drafted, others have disagreed with parts. On those occasions when we have departed from their counsel we have done so at our peril. The Advisory Board has not formally endorsed the Model Acts contained in the volume, nor has it been asked to do so.

Appreciation is also extended to all those at the American Legislative Exchange Council and the Rose Institute of State and Local Government who contributed to this monumental task. First, we would like to thank the staff of the American Legislative Exchange Council, without whose efforts this volume would have been impossible. Special thanks are given to Margaret Wynne, Sarah Most, Nanette Barrett, David Shaneyfelt, Esq., Lauri Turner, Esq., Lawrence Joyce, Esq., and Brian Young, Esq. who conducted most of the research of the state codes. Thanks is also extended to the ALEC Programs Department, which made the conferences and seminars such a success. Particular thanks is given to Sharon Werning and Michael Fletcher.

The staff of the Rose Institute was equally indispensable. We extend special appreciation to Institute Director Alan Heslop and Assistant Director Florence Adams, as well as to Donna Rueff, Christina Mercer, Andrea Horner-Cabush, Lori Norris and other members of the Institute's support staff. We are also indebted to Professor Alfred Balitzer of the Department of Government at Claremont McKenna College for his assistance. Finally, we would like to acknowledge the assistance of our OJJDP grant monitors, Peter Freivalds and John Veen, who provided both advice and encouragement.

As always, however, we take final responsibility for the fruits of this collective labor. All deficiencies in this volume, therefore, remain ours.

R.A.R  
B.J.K  
C.P.M

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## INTRODUCTION

Ralph A. Rossum

This volume, consisting of two Model Juvenile Justice Acts and their supporting documentation, is intended to aid state legislators and others interested in reforming their state's current juvenile justice code in general and its delinquency section in particular. It represents the culmination of the Juvenile Justice Reform Project, a two-year research and training program of the Rose Institute of State and Local Government at Claremont McKenna College and the American Legislative Exchange Council (ALEC), supported by a grant from the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice.

The Juvenile Justice Reform Project has had as its objective the systematic reform of juvenile justice systems so that they will hold juveniles individually responsible for their delinquent acts at the same time that they are held accountable for their treatment of delinquent youths. The principles of individual responsibility and system accountability are delineated and the reasons for basing juvenile reform on these principles are developed in the first major section of this volume, entitled "Reforming Juvenile Justice: From Treatment to Individual Responsibility and System Accountability." These principles provide the foundation on which the Model Acts are based. The commentaries on the Model Acts, which immediately follow them, make explicit the presence and application of these principles. A word about the Model Acts is in order here. The volume contains two Model Acts--the Model Delinquency Act and the Model Disobedient Children's Act. In addition, it contains Suggested Legislation concerning Incapacitated Juveniles, Release From Physical Custody, and School Safety (as well as suggested amendments to the state's criminal code) that complement the Model Delinquency and Disobedient Children's Acts and that reform-minded legislators may wish to consider.

The Juvenile Justice Reform Project included a number of major activities, three of them research-related. The first research component was a comparison of the juvenile justice codes of the fifty states. The purpose of the comparison was to present an analysis of current legislation used by the states to deal with delinquent and disobedient youth and to identify trends in legislative reform. The State Code Comparison follows the Model Acts and their commentaries. The second research component was a national opinion survey of juvenile justice and youth-serving professionals concerning their attitudes toward their states' current juvenile justice system and their opinions concerning various reforms. The purpose of the survey was to assist legislators and others interested in juvenile reform by ascertaining pockets of resistance to, and support for, the general orientation and specific policy elements embodied in the Model Acts. The results of the national survey--in both tabular and graphic form--are found in the section following the State Code Comparison. Finally, the third research component was a comprehensive review of the scholarly literature on juvenile justice reform. The obvious purpose of this component was to ground the entire project solidly on the tested and retested findings of scholarship. Another purpose was to identify whatever historical trends in juvenile reform might exist; interestingly, this review of the scholarly literature revealed a general movement from juvenile justice systems that are offender-oriented and informal in procedure to those that are offense-oriented and formal in procedure (i.e., from juvenile

codes that are based on the "treatment" model to those that--like the Model Acts--are based on principles of responsibility and accountability). Still another purpose of this third research component was to prepare an annotated bibliography by which to introduce reform-minded legislators and their staffs to a variety of scholarly and policy-oriented literature pertinent to juvenile justice reform. The annotated bibliography, which concludes the volume, covers areas of juvenile justice not expressly addressed by the Model Acts, such as child abuse and neglect, and the causes and prevention of juvenile crime. Finally, in Spring of 1986, the staff commissioned a fiscal impact study of the first draft of the Model Juvenile Delinquency Act. It is not included in this volume because of revisions made to the Act as the project progressed. It is available from the Rose Institute for legislators who are interested in it.

The central activity of the Juvenile Justice Reform Project was, of course, the development of the Model Acts. They have been developed through an iterative process. Guided by the comparative analysis of the state juvenile codes, the dominant conclusions of the scholarly literature, and the advice and counsel of the Project's national advisory board (the members of which have already been acknowledged in the Preface), the Project staff prepared the first draft of the Model Acts and submitted it to the advisory board for comment in February of 1986. This initial draft was thereupon revised to incorporate the recommendations made by the board members, and this revised draft was presented at a National Training Conference for State Legislators sponsored by the Rose Institute and ALEC and held in Washington, D.C. in April of 1986. Over 125 state legislators attended the National Conference, as did judges, corrections officials, and juvenile justice specialists from over 34 states. The draft of the Model Acts was circulated to every participant, along with a Statement of Policy, which asked those who received the draft to review it and comment on the Model Acts' policies. The National Conference was followed by a Regional Conference for State Legislators in Sacramento, California, in June of 1986 and a Legislative Training Seminar in Denver, Colorado, in July of 1986, at which over 100 copies of the Model Acts and the Statement of Policy were distributed. After these sessions, many of the participants commented on the draft language, and their recommendations were incorporated into subsequent iterations of the Model Acts.

The staff of the Juvenile Justice Reform Project did not rely solely on the comments and recommendations of its Advisory Board and of those legislators and other interested parties who attended the training conferences; it also sought the suggestions and counsel of the full panoply of major juvenile justice organizations. Representatives from these organizations were invited to attend the training conferences, were provided with copies of the Model Acts, and were asked for their comments. Where possible, their assessments were incorporated into a final draft, which was distributed in January, 1987 to over 400 state legislators and other interested parties for final review and comment.

With the publication of the Model Acts and accompanying materials, a new set of activities for the Juvenile Justice Reform Project begins. They include the wide dissemination of this volume to all state legislators and other members of the public interested in juvenile justice reform; the collaboration with those legislators who favor the adoption and implementation of the Model Acts to tailor them as may be required to fit differing state conditions; and, finally, the institutionalization of state legislative interest in improving and monitoring their juvenile justice systems.

**REFORMING JUVENILE JUSTICE**

## Reforming Juvenile Justice:

### From Treatment to Individual Responsibility and System Accountability

Christopher P. Manfredi

American juvenile courts continue to face a serious challenge from youthful offenders. From 1975 to 1981, the number of delinquency cases handled by juvenile courts increased by 2.5 percent,<sup>1</sup> while the proportion of the U.S. population between the ages of 10 and 17 decreased by nearly 9 percent. In 1983, the Bureau of Justice Statistics reported that property crime arrests peak at age 16, and violent crime arrests at age 18.<sup>2</sup> Juveniles accounted for 16.8 percent of all arrests for serious crimes (homicide, rape, assault, and robbery) and 30.4 percent of all other UCR Index offenses in 1983.<sup>3</sup>

Especially disturbing is the fact that a small number of juveniles appear to commit most of these offenses. Data from Marvin Wolfgang's second cohort study indicate that 7.5 percent of the juvenile population committed 68 percent of the cohort's offenses. This group was responsible for 61 percent of the homicides, 75 percent of the rapes, 73 percent of the robberies, and 65 percent of the assaults committed by the cohort. Wolfgang found that this second cohort (born in 1958) was more criminally active and violent than the first cohort he studied (born in 1945). The second cohort, he concluded, contains "a very violent criminal population of a small number of brutal offenders."<sup>4</sup>

The continued presence of a small core of serious and chronic offenders, combined with public and professional dissatisfaction with juvenile courts,<sup>5</sup> has created a policy vacuum in juvenile justice. Marc Miller has observed that dissatisfaction with existing practices and a desire for change have been accompanied by uncertainty about the proper direction of juvenile justice reform. The result, he argues, is immobility. "Dissatisfaction is not enough," Miller writes, "legislators need somewhere rational and sensible to head."<sup>6</sup> The inability of policymakers to meet the challenges of reform suggests the necessity of reassessing the assumptions which underlie current policies. The challenge for the future is to devise a juvenile justice policy that reflects changes in juvenile crime and protects the interests of juveniles, the victims of their offenses, and society in general.

### Historical Origins and Recent Developments

The first juvenile court in the United States was established in 1899 in Chicago, creating an innovation which spread rapidly throughout the nation. The mission of juvenile courts was to remove young offenders from criminal courts and provide them with the care and supervision typical of that found in a stable and loving family. Community supervision through probation was the cornerstone of the court's work, and removal of children from their families was a last resort. Individualized justice, based on the equity doctrine of *parens patriae* replaced the cold, objective standards of criminal law.

Prior to this development, the sole distinction in criminal law between children and adults was their different capacity to form criminal intent. In common law, children under seven were incapable of criminal intent; children

## **JUVENILE JUSTICE REFORM: A MODEL FOR THE STATES**

*On behalf of the Department of Justice, we are proud that we could lend our support to the Juvenile Justice Reform Project [Its] new philosophy arises from a natural, obvious intuition. It is, stated most simply, that individuals — juveniles as well as adults — should be held responsible for their conduct. And that, similarly, all parts of our criminal justice system — both its enforcement and judicial components — must be made accountable for their performance. You might say that that sounds like plain common sense. But it's indicative of how far out of kilter our juvenile justice system has become that common sense now reappears as a new approach.*

U.S. Attorney General Edwin Meese III  
National Training Conference for  
State Legislators  
Juvenile Justice Reform Project  
April 28, 1986

With the compliments of the Rose  
Institute of State and Local Government  
and the American Legislative Exchange  
Council

between the ages of seven and fourteen benefited from a rebuttable presumption of incapacity. All individuals over the age of fourteen were treated identically with respect to criminal capacity. These common law distinctions began to erode early in the nineteenth century when children's crimes were attributed to poor parental supervision and to the immorality inevitably bred by pauperism. Later in the century, juvenile crime was explained in terms of the unique psychological and other problems experienced by individual children.

Early reformers attributed crime to economic and social systems which produced citizens "who were physically and morally unfit for social life."<sup>7</sup> The early proponents of a separate justice system for children had at least three goals in mind: (1) to establish a set of procedures for removing children from the disordered environment that was thought to be the root cause of their misbehavior; (2) to establish institutions to shelter children and to provide the ordered environment they needed; and (3) to develop techniques to teach children how to cope with their environment.

Social activists argued that separate children's facilities would train delinquent, neglected, and abandoned children to cope with an "open, free-wheeling and disordered community."<sup>8</sup> Reformers believed that a "daily routine of strict and steady discipline" would provide children with the power of will to resist the temptations of vice surrounding them.<sup>9</sup> In the 1820's these hopes were embodied in the House of Refuge movement that emerged in New York, Boston, and Philadelphia.<sup>10</sup>

Support for the House of Refuge movement began to wane as critics complained that practices in the Houses seldom coincided with their stated ideals.<sup>11</sup> In addition, the emergence of positivism and scientific criminology suggested explanations for crime that were inconsistent with those underlying the House of Refuge movement. Positivist criminology introduced three new assumptions into the study of criminal behavior.<sup>12</sup> First, it shifted attention from criminal acts to the individuals who commit them. Second, it relied on a model of human behavior derived from scientific determinism. Finally, it posited the existence of fundamental differences between delinquent and non-delinquent youth. Each of these assumptions contributed to the juvenile court movement.

The leaders of the movement redefined juvenile delinquency as a disease which is caused by psychological disturbances in children. These disturbances, they asserted, become visible through various behavioral problems, as well as the commission of criminal acts. The purpose of juvenile justice was to bring the child into juvenile courts where the disease could be diagnosed by experts and treatment prescribed by a judge to meet the child's individual needs. The circumstances underlying an act, rather than the specific act itself, were to be the court's primary concern.

Julian Mack, a leading figure in the Chicago court's establishment and one of its first judges, summarized these principles on the occasion of the court's tenth anniversary in 1909.<sup>13</sup> The state's duty, he wrote, is to discern the physical, mental, and moral state of the child to determine whether he is in danger of future criminality. The important question, Mack stated,

is not Has this boy or girl committed a specific wrong, but What is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career.



Mack declared that juvenile court judges "must be willing and patient enough to search out the underlying causes of the trouble and to formulate the plan by which...the cure may be effected."<sup>14</sup> This "rehabilitative ideal," according to Francis Allen, "assumed that measures employed to treat the convicted offender should serve a therapeutic function" by effecting "changes in the behavior of the convicted person in the interests of his own happiness, health, and satisfaction and in the interest of social defense."<sup>15</sup>

The juvenile court was not a court of law in the ordinary sense. Central to the court was the presumption that the interests of the state are identical to those of the child. Consequently, the adversary procedures characteristic of criminal courts could be abandoned. The non-adversarial nature of juvenile proceedings meant that uniform rules and due process safeguards were unnecessary.<sup>16</sup>

The equity doctrine of *parens patriae* justified the court's informality. The doctrine originated in the English courts of chancery where the king could act as "father of his country," exercising protective control over the person and property of children.<sup>17</sup> For the juvenile court's proponents, the doctrine permitted benevolent intervention in a child's life without the encumbrances of constitutionally protected rights to due process.<sup>18</sup> Thus, the juvenile court was characterized as a civil court of equity, and its judge as a benevolent substitute father, concerned with the child's welfare and with safeguarding his interests. Through the *parens patriae* doctrine, reformers were able to resolve the conflict between the juvenile court's welfare and policing functions.<sup>19</sup>

Although the first juvenile courts differed from each other in function, organization, and jurisdiction,<sup>20</sup> they shared one important feature in common--the immense power and discretion of the judge. As early as 1914, one observer of the court felt compelled to remark on this feature.<sup>21</sup> More recently, David Rothman has written that the court's structure "made the personality of the judge, his likes and dislikes, attitudes and prejudices, consistencies and caprices, the decisive element in shaping the character of his courtroom."<sup>22</sup> Under normal circumstances, the court might never have been able to sustain its informal, discretionary approach to juvenile misconduct. It was successful, however, in promoting rehabilitation as a virtuous mean between the undesirable extremes of punishing and doing nothing.<sup>23</sup> As a result, procedures that would otherwise have been considered unconstitutional were deemed indispensable. Indeed, early twentieth century appellate decisions sustained and strengthened the *parens patriae* doctrine.<sup>24</sup>

In the 1950's, critics started to question the principles and procedures underlying the doctrine.<sup>25</sup> They argued that the consequences of juvenile court proceedings are identical to those of criminal trials: rehabilitating juveniles in training schools, they claimed, is the same as punishing adults in prisons. Critics argued that because of this functional similarity, juvenile courts should be held to the same procedural standards as criminal courts. They were particularly concerned that informal procedures prevented the "criteria for intervention" in a juvenile's life from being specified clearly enough to be meaningful.<sup>26</sup>

In 1966, the U.S. Supreme Court indicated that it was ready to address these concerns.<sup>27</sup> The Court did so directly for the first time in 1967 in In re Gault.<sup>28</sup> It held that juveniles are constitutionally entitled to some of the same due process protections enjoyed by adults, including notice of charges;

representation by counsel; confrontation and cross-examination of witnesses; and the privilege against self-incrimination.

In the Court's view, "the absence of substantive standards has not necessarily meant that children receive careful, compassionate, individualized treatment."<sup>29</sup> The reality of juvenile court accomplishments, the Court said, does not justify lax procedural standards. Despite the importance of these conclusions, the holding in Gault was narrow. It applied only to delinquency adjudication hearings where a juvenile's liberty is at stake. The Court did not address dependency or neglect proceedings, nor did its ruling apply to intake or disposition. The decision's objective was to formalize the juvenile court adjudication process without affecting the court's offender-orientation in other areas.<sup>30</sup> The Supreme Court was confident that a higher standard of procedural fairness would not impair the rehabilitative mission of juvenile courts.

The Court's compromise between "constitutional domestication" and the traditional juvenile court philosophy did not address the most controversial issue in Gault--whether dispositions should be related directly to specific criminal acts.<sup>31</sup> This became the next target of juvenile court critics. They argued that individualized intake and dispositional decisions violate principles of equality and proportionality, and produce disparate results based on irrelevant offender characteristics like race and sex. They also began to question the juvenile court's rehabilitative goals. These attacks culminated in several major reform proposals.

The most ambitious proposal was the product of joint efforts by the Institute of Judicial Administration (IJA) and the American Bar Association (ABA).<sup>32</sup> The IJA-ABA's twenty volumes of juvenile justice standards rejected the *parens patriae* approach. They recommended a high degree of procedural formality and strict dispositional guidelines in the form of equal, proportionate, and determinate sanctions. The standards also recommended reductions in judicial discretion, deinstitutionalization of less serious offenders, a larger role for prosecution and defense attorneys, and greater predictability throughout the system.

Similar conclusions informed the recommendations of the 1978 Twentieth Century Fund Task Force on Sentencing Policy toward Young Offenders.<sup>33</sup> The Task Force argued that culpability and proportionality, in addition to diminished responsibility resulting from immaturity, should be the guiding principles of sentencing policies. In 1980 the National Advisory Committee for Juvenile Justice and Delinquency Prevention also recommended a closer fit between dispositions and unlawful conduct.<sup>34</sup>

Legislative reaction to these proposals has been mixed. Although the majority of purpose clauses of state juvenile codes still celebrate the nineteenth century ideals of the juvenile court movement, specific provisions of juvenile codes reflect modern twentieth century criminal practice and procedure.<sup>35</sup> Legislative developments during the past decade have been in two major directions.<sup>36</sup> First, juvenile courts have been formalized through the introduction of more elements of criminal due process. Second, legislators have narrowed the juvenile court's jurisdiction by limiting its power over status offenders and by making it easier to transfer serious offenders to adult criminal courts.

The first development is evident from the number of states which have expanded juvenile due process beyond the minimum standards required by the

Supreme Court. Twenty-six states grant juveniles the right to a verbatim transcript of proceedings, and 36 states specifically mention the right to appeal some decisions of juvenile courts. In many states, moreover, the qualifications the Court attached to the procedural rights granted in Gault have been removed.

Other elements of criminal procedure have also been included in juvenile codes. Seventeen states provide for bail in some circumstances; thirteen states permit jury trials; and seventeen states allow public trials. In addition, juvenile codes now define rules for discovery of evidence; for the use of fingerprints and photographs; and for prior examination of social reports by prosecutors and defense attorneys.

The second development is reflected in the number of states (10) which no longer include status offenses in their juvenile codes. It is also reflected in the procedures associated with transferring juveniles to adult criminal courts. Waiver of jurisdiction has historically served as an escape valve to protect the rehabilitative ideal of juvenile courts from the difficulties posed by serious, violent, or chronic offenders. The traditional criteria for waiver were the vague notions of "dangerousness" and "unamenability to treatment." The determination of whether these criteria were present in any individual case was usually made by the judge after a waiver hearing.

In recent years, states have introduced more specificity into the waiver decision and have removed it from the exclusive purview of judges. Judicial waiver has been joined by legislative and prosecutorial waiver as methods whereby juveniles are transferred to criminal courts. It is unclear, however, whether waiver as currently practiced satisfies the legislative desire to hold serious offenders more accountable for their crimes. One study from New York State indicates that only four percent of all serious juvenile offenders tried in criminal courts receive more severe sanctions than could have been imposed by juvenile courts.<sup>37</sup> Criminal courts generally treat defendants transferred from juvenile courts as first offenders.<sup>38</sup>

The one area in which legislators have been reticent to intrude is dispositions. In part, they have been discouraged from addressing the issue because of the Supreme Court's separation of adjudication and dispositional practices. This is one area where the rhetoric of individualized justice and rehabilitation has been maintained. Despite efforts by groups like the IJA-ABA Standards Project, discretion in dispositions remains a significant policy problem.

### A Reassessment of Goals

Historically, the goals of juvenile justice have been treatment and rehabilitation. The current situation suggests that several tradeoffs have been made in pursuit of these objectives. A new set of goals should be concerned with both justice and prevention.

#### Justice Goals

By virtue of their very name, juvenile justice systems should promote justice.<sup>39</sup> While justice is difficult to define when abstracted from its context, there are two related principles of justice that can be applied to procedures and

outcomes in the juvenile and criminal justice systems. These principles are equality and proportionality.<sup>40</sup> Equality requires that like cases be treated alike, while proportionality refers to the fit between offenses and the system's response to them.

Juvenile courts abandoned these principles by equating the notion of equity with individualized justice. Equity, David Matza points out, "is best viewed as a doctrine--a qualification or legitimate exception to the principle of equality."<sup>41</sup> The doctrine of equity is invoked to correct the occasionally unjust consequences of strictly applying the principle of equality. Individualized justice, on the other hand, is a principle in itself. It differs from equality in two significant ways: it is more inclusive and its criteria for judgment are more diffuse.<sup>42</sup> "The principle of individualized justice," Matza argues, "results in a frame of relevance that is so large, so all-inclusive, that any relation between the criteria of judgment and the disposition remains obscure."<sup>43</sup>

The juvenile justice system has deviated from the principle of equality because of its assumption that no case is like any other. Traditional approaches have divorced dispositional outcomes from criminal acts, resulting in disproportionate treatment of youths. Dispositions have been applied inconsistently because of the belief that offenses indicate the existence of behavioral problems requiring treatment. This is an unavoidable consequence when the relationship between offenses and dispositions is at best indirect or implicit. This can lead to the perception, among offenders and the public alike, that "juvenile justice" is a fiction. Such inconsistency has a detrimental impact on the system's legitimacy and effectiveness.<sup>44</sup>

Despite the importance of equality and proportionality, there is no reason why rehabilitation cannot be pursued as a legitimate goal. What must be avoided is the use of rehabilitation as the primary justification of punishment. This is necessary not only to ensure consistency, but also to maintain "the general preventive effects of coercive intervention."<sup>45</sup> According to Barry Feld, the justification of coercive intervention by rehabilitation erodes the general deterrence value of juvenile court sanctions

by characterizing dispositions as treatment rather than sanctions, by preventing the communication of the threat of punishment to other potential offenders because of closed proceedings and restricted publicity, and by individualizing dispositions, thereby reducing any certainty of application of sanctions and obscuring any relationship between an act and its consequences.<sup>46</sup>

The policy instruments for achieving equality and proportionality concern the legal framework governing the juvenile justice system. This framework outlines organizational responsibilities, establishes decision rules, and defines the acts and individuals over which the juvenile justice system has jurisdiction. Changes to this framework can be described as "system reform."

The most important area of system reform is decisionmaking. Two issues must be considered. The first is how decisions are made, and the second is who makes those decisions. The principal choice involved in the first issue is between formal rules and discretionary decisionmaking. Formal rules require that the criteria for all decisions be clearly specified in the juvenile code. The discretionary approach sets as its sole criterion the decisionmaker's determination

of the juvenile's needs. Organizational responsibility for decisionmaking is determined in part by the choice between formal rules and discretion.

### Prevention Goals

Every society has an obligation to ensure the safety of its members. Consequently, the juvenile justice system should also strive to prevent crime. At least three prevention strategies are possible: deterrence; social intervention; and rehabilitation.

Deterrence can be both general and special.<sup>47</sup> General deterrence refers to the impact on criminal behavior of the threat of punishment. The nature of traditional juvenile court dispositions makes them poorly suited to this task because they are not designed to communicate the threat of punishment effectively. Special deterrence refers to the effect of actual punishment on the individual offender. Both types of deterrence assume actors with the capacity to choose their actions freely according to their estimation of the consequences (pleasant or unpleasant) of any act. Research indicates that punishment, or the threat of punishment, has a deterrent effect on potential offenders.<sup>48</sup>

Social intervention attempts to attack the underlying environmental causes of juvenile crime. This includes such phenomena as racial prejudice, economic status, family instability, lack of educational achievement, presence of delinquent peer groups (e.g. gangs), and simple boredom. Some environmental causes may be susceptible to intervention by social programs, but the elimination of them is costly. Moreover, emerging evidence suggests that the relationship between these conditions and juvenile crime is not as high as once thought.<sup>49</sup> One important exception is the relationship between child abuse and delinquency.<sup>50</sup>

Rehabilitation is similar to social intervention because it assumes that actions are determined to some degree by antecedent conditions.<sup>51</sup> It focuses on the behavioral causes of juvenile crime. Research on delinquent behavior attempts to identify behavioral patterns associated with juvenile crime in order to design treatment programs that will modify those patterns. Whether these behavioral patterns can be identified accurately enough to design effective programs is the central question of rehabilitation.

### An Alternate Model

The link between goals and policy instruments is provided by a theoretical framework or model. Historically, the "treatment model" has served this function in juvenile justice.<sup>52</sup> Commentators and policymakers, however, have recognized that juvenile courts share an important characteristic with adult criminal courts: they both represent coercive state intervention into individual lives because of the commission of criminal offenses. What has distinguished the juvenile court is its claim that the purpose of its interventions is not punishment, but aid, comfort, and rehabilitation.

Critics of the *parens patriae* model argued that this distinction is an insufficient justification for coercive intervention. They attacked the theoretical assumptions of individualized treatment, as well as the manner in which it was administered.<sup>53</sup> The result has been a reconceptualization of juvenile justice in

which coercive intervention is justified by individual responsibility for criminal acts and juvenile courts are held accountable through public visibility.

The individual responsibility/system accountability model is an attempt to adapt a "just deserts" philosophy, which has enjoyed a renaissance in the criminal justice literature, to the special needs of juveniles. The reemergence of this philosophy can be attributed largely to Andrew Von Hirsch's 1976 book Doing Justice.<sup>54</sup> Von Hirsch argued that desert, rather than deterrence, incapacitation, or rehabilitation, should serve as the principal justification for coercive intervention. He also argued that specific sanctions should be distributed among offenders according to the principle of commensurate deserts. Sanctions should be determined, according to Von Hirsch, by the seriousness of an offense and the number and seriousness of prior convictions, rather than by their potential utility in preventing crime.

The individual responsibility/system accountability model reflects an effort to develop an alternative to juvenile justice systems based solely on individual treatment without at the same time becoming overly punitive. The critical difference between this model and traditional approaches is the relative importance of rules and discretion. More accurate than the punishment/treatment distinction, therefore, is the distinction between a formal/offense-oriented system (high reliance on rules) and an informal/offender-oriented system (high reliance on discretion).

### Individual Responsibility

It is unnecessary here to survey all of the legal, moral, and philosophical meanings attached to the concept of responsibility.<sup>55</sup> Supporters of the individual responsibility/system accountability model link responsibility to blameworthiness. They focus on specific offenders who choose to commit acts whose consequences are harmful to others. Criminal sanctions, as opposed to other legal remedies for injuries, are applied because of the acts' "moral repugnance" and the attachment of moral blame.<sup>56</sup> According to this view, the only justification for the juvenile justice system to intervene in a juvenile's life is the commission of an act for which the youth can be held culpable. Culpability includes both *mens rea* (the capacity of mind to make blameworthy choices) and legal responsibility.<sup>57</sup> Culpability is also retrospective; it permits the application of sanctions only because of what individuals have done, not because of who they are or of what they might do in the future.

The conceptual underpinnings of the assumption that juveniles can be criminally responsible are drawn from research on the development of moral reasoning in adolescents. Children develop the capacity for such reasoning in stages which correspond closely to the common law presumptions of legal responsibility, and acquire "most of the legal and moral values and reasoning capacity" that will guide their future behavior by age fourteen.<sup>58</sup> The fact that individuals do not reach their full capacity for culpability until later in adolescence is the principal reason for maintaining a separate juvenile justice system, even when its concerns are similar to the adult criminal justice system.<sup>59</sup>

The lessons drawn from developmental psychology highlight an important aspect of individual responsibility which is captured in Von Hirsch's concept of desert and its emphasis on past behavior.<sup>60</sup> Traditionally, juvenile courts have

been almost exclusively utilitarian and future-oriented; past behavior has served as either a symptom of deeper problems or as a predictor of future actions. As a result, juvenile courts have been more concerned with social hygiene than with justice, and have failed to play an important role in reinforcing the developing sense of responsibility experienced by children. Both H.L.A. Hart and Norval Morris have pointed out the negative consequences of this failure.<sup>61</sup>

The notion that juvenile court intervention may serve to reinforce the natural development of legal and moral reasoning suggests that responsibility should also be the objective of intervention, as well as its justification. Intervention, in other words, should articulate the obligations that juveniles owe to their communities. The individual responsibility model requires that offenders be held accountable for breaking those obligations. Rather than excusing behavior because of factors outside a youth's control, or intervening because of treatment needs, the model's criteria for intervention are "the harm that the offender consummated or attempted" and "the intent with which he acted."<sup>62</sup> Intervention, according to this view, should reinforce a sense of responsibility rather than undermine it by focusing on psychological, social, or economic problems.

By justifying intervention on the basis of responsibility, proponents of the model claim that they can provide a more coherent argument in favor of intervention. Such arguments are important to justify the juvenile justice system's continued existence. At the same time, responsibility as the guiding purpose of intervention offers objective criteria according to which the justice of specific sanctions can be evaluated. Individual responsibility also provides a foundation upon which measures to guarantee system accountability can be developed.

### System Accountability

The second premise of the model is that the state cannot intervene in an individual's life unless it is willing to justify itself publicly. At least two conditions are necessary to ensure system accountability: the guiding principles of intervention must be reasonably explicit and clearly stated; and the public must have an opportunity to determine how well they are being followed. Setting standards, and making visible how conscientiously they are being applied, is the first step toward system accountability. Recognizing this, the IJA-ABA Standards For Juvenile Justice conclude that "visibility and accountability of decision making should replace closed proceedings and unrestrained official discretion."<sup>63</sup>

To some extent, the Supreme Court decisions which extended due process rights to juveniles can be understood as attempts to establish system accountability. The presence of legal counsel and procedural safeguards are two methods by which the legal system is subjected to outside checks on its exercise of power. Still, there was no direct constitutional challenge to the closed nature of juvenile hearings. Public scrutiny depended on the vigilance of defense counsel. As Donald Horowitz discovered, however, defense counsel often share the same treatment-oriented perceptions of juvenile court traditionalists. As a result, they are often willing to permit circumvention of due process if they believe it is in the best interests of their clients.<sup>64</sup>

One important way to promote protection of the juvenile's rights is to require that at least some stages of the decisionmaking process be open to the public. This serves not only to protect the juvenile's interests, but also permits the public to determine if its interest in community protection is being served. The National Council of Juvenile and Family Court Judges (NCJFCJ) recommends that transfer hearings and adjudication hearings "involving juveniles charged with criminal violations" should be public.<sup>65</sup> The NCJFCJ recommends, however, that disposition hearings be closed. While this point is open to debate, system accountability will suffer unless the criteria for dispositional decisions are clearly evident. This raises a critical issue for system accountability: the principles according to which dispositions are determined, applied, and distributed.

The core principle of the individual responsibility/system accountability model is Von Hirsch's notion of "commensurate deserts."<sup>66</sup> Commensurate deserts requires that the severity of a sanction fit the seriousness of the offense. One criticism leveled against this principle is that such a scale of offenses and sanctions is impossible to construct. There is the chance that offenders will be punished more severely than they deserve. To defend the principle, a distinction is drawn between absolute and relative commensurateness. Absolute commensurateness would require that each offense carry a sanction of precisely calculated severity. Relative commensurateness only requires that more serious offenses receive more severe sanctions than less serious offenses.

Of all possible aims of intervention, commensurate deserts alone is a requirement of justice rather than a strategy for controlling crime.<sup>67</sup> The principle's proponents assert that dispositions are poor tools for preventing crime by "compensating for the social ills of the wider society."<sup>68</sup> Supporters of the individual responsibility/system accountability model do concede that dispositions offer an opportunity to exploit restricted liberty in order to implement rehabilitation programs.<sup>69</sup> Approaches to rehabilitation would have to be adjusted, however, to comply with limitations imposed by the principle of commensurate deserts.

The most serious limitation placed on rehabilitation is the abolition of indeterminate dispositions. Such dispositions, where the duration of intervention is not specified in advance, violate the principles of both desert and commensurateness. When the termination of intervention is based on the needs of offenders, little consideration is taken of their culpability or the seriousness of their offenses. Consequently, since individuals have different needs, juveniles who commit equally serious offenses with equal culpability can receive vastly different dispositions. The unprincipled disparity of indeterminate dispositions led the IJA-ABA drafting committee to reject them.<sup>70</sup>

Von Hirsch summarized his sentencing policy based on commensurate deserts in a list of five components.<sup>71</sup> First, presumptive sentences should replace indeterminate sentences. Second, sentencing guidelines should be adopted in which the relative seriousness of offenses and their corresponding sentences are specified. Third, the number and seriousness of prior offenses should be related more clearly to increases in the severity of the presumptive sentence for each offense. Fourth, judges should have the option to order sentences above or below the presumptive sentence, but only within a prescribed range and under specified conditions. Finally, sentencing guidelines should include general principles of aggravation and mitigation.



Of particular concern to many of the principle's adherents is the difficult question of when juveniles should be waived to the adult criminal justice system. Traditionally, waiver has been permissible upon a finding of "dangerousness" or "unamenability to treatment." Both of these criteria are a form of individualized sentencing, uncontrolled by specific decisionmaking criteria. Some proponents of the individual responsibility/system accountability model argue that it precludes judicial discretion in waiver decisions.<sup>72</sup> Barry Feld, for example, argues that waiver decisions should be based on objective offense and offense history characteristics.<sup>73</sup> He advocates using legislatively mandated waiver criteria based on actuarial predictions calculated according to knowledge of juvenile crime career patterns.<sup>74</sup>

The most significant characteristic of the model's dispositional guidelines is their attempt to substitute equal justice under law for individualized justice. The latter too often becomes subjective or stereotypical justice.<sup>75</sup> Limits to human knowledge can restrict a judge's capacity to treat individuals as individuals. At the same time, abandoning the treatment approach to juvenile justice requires that juveniles be protected by greater procedural safeguards. Feld argues that juvenile courts will lose legitimacy if they become increasingly offense-oriented without instituting corresponding increases in due process protections.<sup>76</sup>

### Policy Implications

It should be evident that the principles of individual responsibility and system accountability represent a revolution in juvenile justice. By rejecting the rehabilitative model, the individual responsibility/system accountability model transforms the responsibilities of various elements of the system and changes the relationship among those elements.

Some of the policy implications of the model are revealed through a brief examination of reforms enacted by Washington State in 1977 and amended in 1979. The 1977 Washington State Juvenile Justice Act and its subsequent amendments encompass many of the principles found in the individual responsibility/system accountability model. The intent of the Act is "that youth...be held accountable for their offenses" and that a juvenile justice system be established that is "capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders."<sup>77</sup> The authors of the legislation argued that sanctions against juveniles must be limited, deserved, uniform, and justified.<sup>78</sup> In order to end perceived abuses by the juvenile justice system against its clients, the Act permits the pursuit of rehabilitation and deterrence only so long as the degree of intervention is not contingent upon achieving those purposes.

To implement these policy goals, the Washington Act employs four strategies. First, the Act divests the juvenile court of its jurisdiction over status offenders and neglected children. The Washington Act transfers jurisdiction over status offenders to other agencies in the Department of Social and Health Services.

The Act's second strategy imposes limits on discretionary decisionmaking at juvenile court intake by shifting responsibility for intake decisionmaking to

prosecutors and by establishing legal criteria to guide intake decisions. These criteria include seriousness of the current offense, age of the juvenile, and prior offense history. Thus, the decision to proceed with formal court processing is now based on a case's legal sufficiency rather than on an individual offender's treatment needs.

The third strategy is directed toward those juveniles who are diverted from formal court proceedings. Diversion must be offered to certain categories of offenders. At the same time, diversion programs no longer focus on providing treatment services such as counseling, recreation, or educational assistance. Payment of restitution, either directly to the victim or by service to the community, is the preferred diversion alternative.<sup>79</sup>

The final strategy involves sentencing. The heart of the Washington Act is its juvenile sentencing standards. The standards are developed by a commission composed of nine members, who represent various professional and regional interests. The work of the commission is reviewed by the State legislature in even-numbered years.

In developing specific sets of sentencing standards, the commission pursues three objectives: (1) justice and accountability; (2) community safety; and (3) youth development and treatment. The need for treatment services, however, is not used by the commission as a variable in determining the severity of sentences. Juveniles who might require treatment beyond the duration of their sentences are encouraged to continue in treatment programs voluntarily. One aspect of sentencing in Washington that deviates from justice principles is waiver, where the Act retains the traditional unamenability to treatment and dangerousness criteria.

Each set of standards developed by the commission mandates presumptive and determinate sentences proportionate to the seriousness of the offense, the offender's age, and prior offense history. The standards are composed of three elements. The first element is a list of all offenses and their seriousness, ranging from Class A+ to Class E offenses. This list is used to determine whether a juvenile is classified as a serious, middle, or minor/first offender. Serious offenders are juveniles fifteen years or older who have been found guilty of a Class A felony, or a Class B+ felony causing bodily harm or involving a weapon. Minor/first offenders are juveniles sixteen years or younger who have committed three or fewer offenses with no felonies, a Class C felony with less than two prior offenses, or a Class B felony without any prior offenses. All other offenders are classified as middle offenders.

The second element of the sentencing standards is a point system in which points are assigned on the basis of age, offense severity, and the recency and severity of prior offenses. The juvenile's prior offense history acts as a multiplier of the basic point level for each offense. Under the current standards, for example, a fifteen year old offender would receive fifty points for committing a Class B offense like Burglary 2. If he had committed a Class C offense (e.g. Malicious Mischief 2) within the past year he would be assigned an additional 25 points.

The final element of the standards consists of dispositional alternatives. For serious offenders the only option is commitment to a state juvenile institution for a specified length of time. However, a judge may substitute local

confinement, community supervision, or a combination of the two upon a finding of "manifest injustice." Minor/first offenders are subject to community supervision, community service, or fines, and may only be confined locally upon a finding of manifest injustice. The greatest opportunity for judicial discretion in sentencing is with middle offenders. Judges have available three sets of options composed of four dispositional alternatives, including community supervision, community service, fines, and local confinement.

In 1983, Anne Schneider and Donna Schramm completed an extensive evaluation of the implementation and impact of the Washington Act. They found that the new legislation produced significant changes in organizational responsibilities throughout the juvenile justice system. Informal adjustment at juvenile court intake, for example, was eliminated due to the enhanced participation of prosecutors and the use of legal variables to determine intake decisions. Formal court diversion programs replaced informal adjustment. Consistent with the Act's philosophy, these programs hold juveniles accountable rather than provide them with treatment services.

The use of presumptive and determinate sentencing standards resulted in greater equality, proportionality, and predictability of dispositions.<sup>80</sup> The sentencing standards contributed to an increase in the certainty that juvenile offenders would be held accountable with some type of sanction.<sup>81</sup> They also promoted a decrease in the overall severity of sanctions. Violent and serious/chronic offenders were more likely under the 1977 Act to be institutionalized than under the pre-1977 arrangements. Non-violent first offenders and chronic minor property offenders were less likely to be institutionalized under the new Act. Schneider and Schramm also found high compliance with the sentencing standards. Ninety-five percent of all cases were sentenced within the standard ranges.

### Summary

Historical developments and legislative reforms indicate that juvenile courts are moving away from a reliance on discretionary decisionmaking toward a greater concern with rules. Juvenile court procedures are more formal, and dispositions are more directly related to offense, rather than offender characteristics. The theoretical underpinnings of this evolution are to be found in a model of juvenile justice based on individual responsibility and system accountability. This model seeks to hold juveniles accountable in a way that treats them equally and in proportion to their criminal capacity, as evidenced by their age and by the character of their present and past behavior. Thus, it is more consistent with current knowledge about the development of moral reasoning in children. It also increases the deterrence value of dispositions, protects juveniles from unfair treatment, and allows for better public scrutiny of juvenile courts.

The most important policy implications of this model are the provision of heightened procedural safeguards in juvenile courts and the implementation of objective criteria to guide dispositional decisions (including waiver). The need for such criteria suggests the establishment of presumptive and determinate sentencing guidelines for juvenile courts, a strategy which is currently in place only in Washington State. Although this "criminalizes" juvenile courts to some extent, it also reduces significantly the disparity which has historically characterized them.

## Notes

1. Statistical Abstract of the United States. (Washington, D.C.: U.S. Government Printing Office, 1985), p. 182.
2. Bureau of Justice Statistics, Report to the Nation on Crime and Justice: The Data (Washington, D.C.: U.S. Government Printing Office, 1983), p. 32.
3. Calculated from Statistical Abstract of the United States, p. 173. It should be noted that most arrests of juveniles are for property offenses rather than crimes against persons.
4. Paul E. Tracy, Marvin E. Wolfgang, and Robert M. Figlio, Delinquency in Two Birth Cohorts: Executive Summary (Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1985), p. 23.
5. In a public opinion poll conducted for the Hubert H. Humphrey Institute of Public Affairs (University of Minnesota), 87 percent of respondents agreed that juvenile crime is becoming more serious, and 88 percent agreed that juvenile courts are too lenient on juveniles found guilty of serious crime. See Public Attitudes Toward Youth Crime, Working paper (Minneapolis, MN: Hubert H. Humphrey Institute of Public Affairs, 1982). In the Rose Institute's national survey of juvenile justice and youth-serving professionals, 86 percent of respondents rated juvenile crime as serious, and 77 percent thought that juvenile crime is becoming more serious.
6. Marc Miller, "Changing Legal Paradigms in Juvenile Justice," prepared for Peter Greenwood, ed. The Juvenile Rehabilitation Reader (In press).
7. Ellen Ryerson, The Best-Laid Plans: America's Juvenile Court Experiment (New York: Hill and Wang, 1978), p. 25.
8. David J. Rothman, The Discovery of the Asylum: Social Order and Disorder in the New Republic (Boston: Little, Brown, 1971), p. 210.
9. Ibid. p. 213.
10. Robert M. Mennel, Thorns and Thistles: Juvenile Delinquents in the United States, 1825-1940 (Hanover, NH: University Press of New England, 1973), p. 3. See also Alexander W. Pisciotta, "Treatment on Trial: The Rhetoric and Reality of the New York House of Refuge, 1857-1935," American Journal of Legal History 29:2 (1985), pp. 151-181.
11. Mennel, Thorns and Thistles, p. 124.
12. David Matza, Delinquency and Drift (New York: John Wiley and Sons, 1964), pp. 3-12.
13. Julian Mack, "The Juvenile Court," Harvard Law Review 23 (1909), pp. 104-22.

14. Ibid. p. 119. Mack's attitude was similar to that of earlier proponents of the juvenile court. See Children's Courts in the United States: Their Origin, Development, and Results. H. Doc. No. 701, 58th Cong., 2d Sess. (1904).
15. Francis Allen, The Borderland of Criminal Justice (Chicago: University of Chicago Press, 1964), p. 26.
16. David J. Rothman, Conscience and Convenience: The Asylum and its Alternatives in Progressive America (Boston: Little, Brown, 1980), p. 242.
17. Arnold Binder, "The Juvenile Justice System: Where Pretence and Reality Clash," American Behavioral Scientist 22:6 (1979), p. 626.
18. Mennel, Thorns and Thistles, p. 131.
19. Rothman, Conscience and Convenience, p. 225. For a discussion of the innovations of the Illinois Juvenile Court Act see Joseph Hawes, Children in Urban Society: Juvenile Delinquency in Nineteenth-Century America (New York: Oxford University Press, 1971), pp. 171-73.
20. Rothman, Conscience and Convenience, pp. 236-37.
21. Edward Lindsey, "The Juvenile Court Movement From a Lawyer's Standpoint," Annals of the American Academy of Politics and Social Science 52 (1914), p. 147.
22. Rothman, Conscience and Convenience, p. 238.
23. Ibid. p. 213.
24. Mennel, Thorns and Thistles, p. 144. For a list of these decisions see Pee v. United States 274 F.2d 556, 561-62.
25. See, for example, Fred E. Ellrod, Jr. and Don H. Melaney, "Juvenile Justice: Treatment or Travesty," University of Pittsburgh Law Review 11 (1950); Monrad Paulsen, "Fairness to the Juvenile Offender," Minnesota Law Review 41 (1957); Mathew J. Beemsterboer, "The Juvenile Court--Benevolence in the Star Chamber," Journal of Criminal Law, Criminology, and Police Science 50 (1960); and Chester James Antieau, "Constitutional Rights in Juvenile Courts," Cornell Law Quarterly 46 (1961).
26. David May, "Delinquency Control and the Treatment Model: Some Implications of Recent Legislation," British Journal of Criminology 11 (1971), p. 364.
27. Kent v. United States 383 U.S. 541 (1966).
28. 387 U.S. 1 (1967).
29. Ibid at p. 18.

30. This became the standard used by the Court to measure the necessity of other procedural requirements. See In re Winship 397 U.S. 358 (1970); McKeiver v. Pennsylvania 403 U.S. 528 (1971); Breed v. Jones 421 U.S. 519 (1975); Fare v. Michael C. 442 U.S. 707 (1979); Schall v. Martin 104 S. Ct. 2403 (1984); and TLO v. New Jersey 105 S.Ct. 733 (1985).

31. Brief for the Ohio Association of Juvenile Court Judges as amicus curiae, In re Gault 387 U.S. 1 (1967) at p. 4.

32. Barbara D. Flicker, Standards For Juvenile Justice: A Summary and Analysis (Cambridge, MA: Ballinger, 1977).

33. Twentieth Century Fund Task Force, Confronting Youth Crime (New York: Holmes and Meier, 1978).

34. National Advisory Council for Juvenile Justice and Delinquency Prevention, Standards for the Administration of Juvenile Justice (Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1980).

35. For a discussion of the meaning of changes to purpose clauses see Barry C. Feld, "Criminalizing Juvenile Justice: Rules of Procedure for the Juvenile Court," Minnesota Law Review 69 (1984), pp. 250-52.

36. The discussion of legislative trends which follows draws on a comparison of state juvenile codes conducted by Benedict J. Koller and his staff at the American Legislative Exchange Council.

37. Citizen's Committee For Children of New York, The Experiment that Failed: The New York Juvenile Offender Law--A Study Report (1984).

38. Barry C. Feld, "Delinquent Careers and Criminal Policy: Just Deserts and the Waiver Decision," Criminology 21 (1983), p. 206. Moreover, there appears to be no systematic criteria for the use of juvenile court records by prosecutors in adult criminal courts. See Joan Petersilia, "Juvenile Record Use in Adult Court Proceedings: A Survey of Prosecutors," Journal of Criminal Law and Criminology 72 (1981), pp. 1746-71.

39. Justice is a difficult concept to define in the abstract. John Rawls defines it as "the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. See his A Theory of Justice (Cambridge, Mass.: The Belknap Press, 1971), p. 7. For a critique of Rawls' position see Robert Nozick, Anarchy, State, and Utopia (New York: Basic Books, 1974), pp. 183-231. For a critique of the entire notion of social justice see Friedrich A. Hayek, The Mirage of Social Justice (Chicago: University of Chicago Press, 1976).

40. For a discussion of these principles see Richard G. Singer, Just Deserts: Sentencing Based on Equality and Desert (Cambridge, Mass.: Ballinger Publishing Company, 1979).

41. Matza, Delinquency and Drift, p. 112.

42. Ibid. p. 114.

43. Ibid. p. 115.

44. See, for example, Maynard L. Erickson, Mark C. Stafford, and James M. Galliher, "The Normative Erosion Hypothesis: The Latent Consequences of Juvenile Justice Practices," Sociological Quarterly 25 (Summer 1984):373-84.

45. Barry Feld, "Reference of Juvenile Offenders for Adult Prosecution: The Legislative Alternative to Asking Unanswerable Questions," Minnesota Law Review 62 (1978), p. 607.

46. Ibid. p. 608.

47. For a discussion of deterrence see Johannes Andenaes, "General Prevention Revisited: Research and Policy Implications," Journal of Criminal Law and Criminology 66:3 (1975), pp. 338-365.

48. Feld, "Reference of Juvenile Offenders for Adult Prosecution," 608-09. It appears that certainty of punishment is the most important factor in deterrence and that increasing the severity of punishments yields diminishing returns. See Andenaes, "General Prevention Revisited," p. 362.

49. See the chapter on environmental explanations of juvenile delinquency in Donald J. Shoemaker, Theories of Delinquency (New York: Oxford University Press, 1984).

50. For a discussion of this issue see P.C. Kratcoski, "Child Abuse and Violence Against the Family," Child Welfare 61 (September/October 1982), pp. 435-44.

51. For a discussion of the distinction between hard and soft determinism, see Matza, Delinquency and Drift, pp. 5-10.

52. The continued strength of the treatment model is evident in the preamble to the National Council of Juvenile and Family Court Judges' recommendations on serious offenders (1984). It reads in part:

While youth must be held accountable for their behavior, proposals which would materially and adversely alter the traditional individualized rehabilitative models and treatment philosophies of the juvenile justice system are unacceptable.

53. American Friend's Service Committee, Struggle For Justice (New York: Hill and Wang, 1971).

54. Andrew Von Hirsch, Doing Justice: The Choice of Punishments (New York: Hill and Wang, 1976).

55. See H.L.A Hart, Punishment and Responsibility (Oxford: Clarendon Press, 1968).

56. Singer, Just Deserts, p. 17.

57. Andrew Walkover, "The Infancy Defense in the New Juvenile Court," UCLA Law Review 31 (1984), p. 538.

58. See Feld, "Reference of Juvenile Offenders for Adult Prosecution," pp. 609-11. See also Walkover, "The Infancy Defense in the New Juvenile Court," pp. 539-43, especially notes 163-177.

59. Walkover, "The Infancy Defense in the New Juvenile Court," pp. 545, 562.

60. Von Hirsch, Doing Justice, p. 46. Von Hirsch has considered these issues more recently in Past or Future Crimes (New Brunswick, NJ: Rutgers University Press, 1985).

61. Hart, Punishment and Responsibility, p. 25; Norval Morris, "The Future of Imprisonment: Toward a Punitive Philosophy," Michigan Law Review 72:6 (May 1974), p. 1175.

62. Singer, Just Deserts, p. 27.

63. Flicker, Standards For Juvenile Justice, p. 22.

64. Donald Horowitz, The Courts and Social Policy (Washington, D.C.: Brookings Institution, 1977), p. 189. Horowitz also found that only 50 percent of juveniles are represented, reducing the effectiveness of other procedural safeguards.

65. National Council of Juvenile and Family Court Judges, "The Juvenile Court and Serious Offenders: 38 Recommendations", Juvenile and Family Court Journal (Summer 1984), p. 14.

66. Von Hirsch, Doing Justice, pp. 59-66.

67. Ibid. p. 75.

68. Ibid. p. 147.

69. Hart, Punishment and Responsibility, p. 26.

70. Flicker, Standards For Juvenile Justice, p. 22. See also David Fogel, ..."We Are The Living Proof...": The Justice Model For Corrections, (Cincinnati: Anderson, 1979), p. 194 and American Friends Service Committee, Struggle For Justice.

71. Von Hirsch, Doing Justice, pp. 99-101.

72. Barry C. Feld, "Delinquent Careers and Criminal Policy: Just Deserts and the Waiver Decision," Criminology 21:2 (May 1983), p. 200.

73. Ibid. p. 197.

74. Barry C. Feld, "Legislative Policies Toward The Serious Juvenile Offender: On The Virtues of Automatic Adulthood," Crime and Delinquency 27 (October 1981), p. 518.



75. Ibid. pp. 520-21. Although she rejects the individual responsibility model, similar concerns are expressed by M.A. Bortner in Inside a Juvenile Court: The Tarnished Ideal of Individualized Justice (New York University Press, 1982).

76. Feld, "Criminalizing Juvenile Justice," pp. 272-76.

77. Wash. Rev. Code Ann. Section 13.40.010 (2) (Supp. 1984).

78. Anne L. Schneider and Donna Schramm, An Assessment of Washington's Juvenile Justice Reform: Executive Summary (Eugene, OR: Institute of Policy Analysis, 1983), pp. 6-8.

79. For a definition of restitution and a survey of restitution strategies and issues see Anne L. Schneider ed. Guide to Juvenile Restitution (Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1985).

80. See Anne L. Schneider and Donna Schramm, An Assessment of Juvenile Justice System Reform in Washington State: Volume III, A Comparison of Intake and Sentencing Decision-Making under Rehabilitation and Justice Models of the Juvenile System (Eugene, OR: Institute of Policy Analysis, 1983), pp. 57- 58.

81. Ibid. p. 69.

**THE MODEL JUVENILE JUSTICE ACTS**

**Model Juvenile Delinquency Act  
Commentary**

**Model Disobedient Children's Act  
Commentary**

## MODEL JUVENILE DELINQUENCY ACT

(Title, enacting clause, etc.)

Section 1. *[Short Title]* This act may be cited as the Juvenile Delinquency Act.

Section 2. *[Preamble]* The legislature firmly believes that compliance with the laws of the state by the individual and the preservation of the family as a unit are fundamental to the maintenance of a stable, democratic society. For the good order of society and the protection of individual citizens, the legislature declares that children, as citizens of this state entitled to its protection, have an obligation and a responsibility to comply with the established laws. Further, should a child's own welfare or the welfare of the public be seriously threatened by the child's acts, the state has an obligation to intercede.

Parents, whose duty it is to care for and nurture their child, are also bound, as the primary educators of their child, to instill the fundamental moral tenets of the community. Thus, the legislature declares that, insofar as children first learn respect for authority within the family, the family unit should remain intact unless the welfare of the child or the protection of the public would otherwise be endangered.

Section 3. *[Purpose]*

- (A) It is the intent of the legislature that a system capable of having primary responsibility for the needs of juvenile offenders, and of being accountable to the public, as defined by this Act, be established. It is the further intent of the legislature that youth be held accountable for their offenses and that both communities and juvenile courts carry out their functions consistent with this intent. To implement these policies, it shall be the purpose of this Act to
- 1) Provide for determining whether a juvenile is delinquent;
  - 2) Hold the juvenile offender accountable for his or her delinquent acts;
  - 3) Protect the citizenry from juvenile offenders;
  - 4) Provide that the disposition of a juvenile offender be commensurate with the age and offense history of the offender, and the facts surrounding the instant offense;
  - 5) Provide due process for juveniles alleged to have committed an offense, and insure that all findings be based upon facts presented at hearings in which the constitutional rights of all interested parties are recognized and enforced;
  - 6) Provide necessary treatment, supervision, and custody for any juvenile offender;
  - 7) Provide a system of restitution to victims of juvenile offenders;
  - 8) Provide that the local community supervise a juvenile offender whenever appropriate and consistent with public safety;
  - 9) Provide that the juvenile's parents support and maintain their child, subject to their financial ability to pay, during any period in which the juvenile is removed from their custody;

- 10) Provide that youths, compelled to attend school, find therein safety from crime and other disturbances which threaten their welfare and hinder their education;
  - 11) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels; and
  - 12) Provide for a clear policy to determine which offenders shall receive correction, treatment, or both, and to determine the jurisdictional limitations of courts, institutions, and community services.
- (B) This code shall be liberally construed to effect the purpose set out above. The singular shall be construed to include the plural, and the plural the singular when consistent with the intent of this Act.

Section 4. *[Definitions]* As used in this Act:

- (A) "Adult" means any person, not a youth, eighteen (18) years of age or older, or any youth who has been transferred to adult court and convicted of a felony.
- (B) "Child" or "Youth" means any unemancipated person under eighteen (18) years of age. A "youth," however, also includes any person under the age of twenty (20) years charged with an offense which occurred prior to his or her eighteenth (18th) birthday.
- (C) "Community Safety" means that there is a threat to, and a necessity to protect, the person or property of others from a juvenile alleged to have committed an offense involving
  - 1) Physical harm, or a threat of physical harm to another person; or
  - 2) Damage to or theft of property, and
    - a) The juvenile's record reveals a pattern of behavior which has caused damage to or loss of property, and
    - b) Previous control measures have failed.
- (D) "Complaint" means a verbal or written report made to the court, its officers, or a law enforcement agency, by any person and which alleges that a child is within the jurisdiction of the court.
- (E) "Court" means the juvenile court unless otherwise indicated.
- (F) "Delinquent act" means an act which, if committed by an adult, is designated a crime under state or federal law, or any political subdivision thereof.
- (G) "Delinquent youth" means a juvenile who commits a delinquent act.
- (H) "Detention" means the temporary confinement of a juvenile pending court adjudication or disposition.
- (I) "Diversion" means the process by which a juvenile is removed from the juvenile court system prior to adjudication into a program

of community service, supervised counseling, education, medical treatment, or other program.

- (J) "Endangered" means
- 1) The juvenile is in physical, emotional, or psychological danger, or may be in such danger prior to the court's disposition; and
  - 2) No parent or other responsible adult known to the court is willing and able to provide the type and degree of supervision necessary to protect the juvenile from that danger.
- (K) "Felony" means an offense, if committed by an adult, for which a sentence to a term of imprisonment for more than one year may be imposed.
- (L) "Interested parties" means the juvenile subject to the court proceedings, the juvenile's parents or guardian, the victim of the delinquent act, the state, and any other person specifically designated by the court.
- (M) "Juvenile" means any youth seven (7) years of age or older who comes within the jurisdiction of the court.
- (N) "Juvenile justice or care agency" means any of the following: police, court, prosecutor, detention facility, attorney general, the [department of social and health services] and its contracting agencies, and other persons or public or private agencies having juveniles committed to their custody.
- (O) "Magistrate" means a public officer possessing limited judicial authority, as the governing body appointing such officer may ordain.
- (P) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a clear and serious danger to society in light of the purposes of this Act.
- (Q) "Misdemeanor" means an offense, if committed by an adult, for which a term of [insert applicable time limits from state criminal law] may be imposed.
- (R) "Offense history" includes all offenses for which the juvenile was diverted or was adjudicated delinquent prior to the alleged current offense.
- (S) "Official court file" means the legal file of the court containing the petition, motions, memoranda, briefs, findings of the court, and court orders.
- (T) "Parent" means the father or mother of a child.
- (U) "Petition" means a pleading, the filing of which initiates formal judicial proceedings in the court.

- (V) "Records" means the official court file, the social file, and records of any other juvenile justice or care agency.
- (W) "Restitution" means payment by the juvenile offender to the victim or a victims' fund through monetary consideration, pursuant to a formal court order.
- (X) "Social file" means the court file containing the reports of the probation officer, including the status and physical and emotional well-being of the child, and all records of diversion.
- (Y) "Violation" means an act or omission, which if committed by an adult, is punishable by sanctions which do not include incarceration.

### Judges, Referees, and Probation Officers

#### Section 5. *[Designation of Judges]*

- (A) Each judge shall have been an attorney licensed to practice in the state for at least five (5) years, shall have the temperament necessary to deal properly with the cases and youths likely to come before the court, and have special experience or training in juvenile causes.
- (B) Nothing in this section shall be construed to apply to the qualifications of any judge appointed prior to the effective date of this Act.

Section 6. *[Public Disclosures]* The clerk of the court shall maintain a public register available during regular office hours listing under the name of each judge all cases over which the judge has presided, in chronological order beginning January 1, 19\_\_, which shall not disclose the identity of any juveniles, but shall include the following:

- (A) The charges brought by the prosecutor;
- (B) The charges which were adjudicated;
- (C) The disposition ordered by the judge, including whether a manifest injustice was declared;
- (D) The date the disposition was ordered.

#### Section 7. *[Referees: Qualifications]*

- (A) The presiding judge may appoint referees to serve on a full-time or part-time basis. A referee shall have been admitted to practice law in this state for a period of not less than three (3) years, have demonstrated the temperament necessary to deal properly with the cases and youths likely to come before the court, and have special experience or training in juvenile causes.
- (B) Nothing in this section shall be construed to apply to the qualifications of any referee appointed prior to the effective date of this Act.

#### Section 8. *[Referees: Powers and Duties]*

- (A) The referee may
  - 1) Conduct detention hearings;

- 2) Conduct fish and game violation hearings, and traffic infraction hearings;
  - 3) Accept guilty pleas;
  - 4) Issue subpoenas; or
  - 5) Such other duties as the presiding judge or local court rule may direct not in conflict with this Act.
- (B) All hearings authorized to be heard by a referee shall proceed in the same manner as hearings before a judge. The referee shall possess all powers and perform all duties of a judge in such hearings.
- (C) Unless specifically authorized by the presiding judge or local court rule, the referee is expressly not authorized to
- 1) Conduct adjudication hearings;
  - 2) Conduct disposition hearings; or
  - 3) Entertain motions to dismiss or to suppress evidence.

Section 9. [*Referees: Review of Findings*] Upon conclusion of a hearing, the referee shall transmit to the judge all papers relating to the case, together with written findings and proposed recommendations. The proposed recommendations, when signed by the judge, are a temporary order of the court, shall be effective immediately, and shall become final ten (10) days after service of a copy of the referee's proposed recommendations and findings on the juvenile and, when available, the juvenile's parents or guardian.

Section 10. [*Referees: Notice*] Plain and concise written notice of the findings and proposed recommendations, together with copies thereof, shall be given to all interested parties. The written notice shall inform the parties of their right to apply to the court for a rehearing before the judge, and that the findings and proposed recommendations are a temporary order of the court which becomes final if a motion for a rehearing is not made within ten (10) days.

Section 11. [*Referees: Rehearing by Court*]

- (A) At any time prior to the expiration of ten (10) days after service of a copy of the referee's proposed recommendations and findings has been effected pursuant to Section 56, the court, the juvenile, or the juvenile's parents or guardian, may apply to the court for rehearing. Such motion may be directed to all or to any specified part of the proposed recommendations or findings, and shall contain a statement of the reasons such rehearing is requested.
- (B) If all of the proceedings before the referee have been taken down by an official reporter, the judge may, after reading the transcript of such proceedings, grant or deny such motion. If proceedings before the referee have not been taken down by an official reporter, such motion shall be granted as of right.
- (C) If a motion for rehearing is not granted, denied, or extended within twenty (20) days following the date of its receipt, it shall be deemed granted. All such rehearings shall be conducted *de novo* before a judge, and the findings and order of the judge shall be final and effective immediately.

Section 12. [*Probation Officers: Powers and Duties*] Subject to the limitations within this Act, a probation officer shall have general supervisory powers pursuant to court order, and shall perform the following duties:

- (A) Exercise all powers conferred by the prosecutor pursuant to Section 54. The probation officer may recommend to the prosecutor diversion or prosecution of any case and shall provide all relevant information, including any report made by the arresting officer, a record of previous diversions, and custodial history;
- (B) Arrange and supervise diversion agreements and ensure that such agreements are honored, provided that the probation officer may not prevent any juvenile who wishes to request to challenge a petition from having access to the appropriate prosecuting attorney for that purpose;
- (C) Take into custody and detain a youth pursuant to Sections 21 and 26;
- (D) Prepare pre-disposition reports and be present at the disposition hearing to respond to questions regarding such reports;
- (E) Furnish each juvenile and the juvenile's parents or guardian a written statement of the terms and conditions of probation, and instruct the juvenile regarding the same;
- (F) Supervise and assist a juvenile placed on probation, remain informed about the juvenile's conduct and condition, and ensure that all terms and conditions of the order of the court are met;
- (G) Each month submit a report concerning those juveniles under such probation officer's supervision;
- (H) Administer funds as directed by the court.

Section 13. *[Probation Officers: Qualifications and Appointment]*

- (A) The presiding judge is authorized to appoint a chief probation officer to serve in the same [judicial district], who shall have experience and an interest in the area of family issues, juvenile behavior, and the laws pertaining thereto. Such chief probation officer shall be responsible for the administration of the probation services under the direction of the court and may appoint as many deputies or assistant probation officers as required, but such deputies or assistant probation officers shall not have authority to act until their appointments have been affirmed by the court.
- (B) The term of office of the chief probation officer shall be [two years]. The term of office of each deputy or assistant probation officer shall expire with the term of the chief probation officer. Probation officers may be reappointed to consecutive terms.
- (C) Probation officers may at any time be removed for good cause shown.
- (D) In [counties or states] that provide for different methods of appointment and tenure of probation officers, such provisions shall control as to such matters, and in [counties or states] that have established or hereafter establish merit or civil service systems governing the methods of appointment and tenure of probation officers, such provisions shall be controlling.

Section 14. *[Inter-Judicial Departments]* Upon a majority agreement of court judges from different [judicial districts], the approval of the presiding judges in each [judicial district], and the approval of the chief justice of the [supreme court], two or more contiguous [judicial districts] may combine to form an inter-judicial probation department.



## JURISDICTION AND VENUE

### Section 15. *[Basis of Jurisdiction]*

- (A) The court shall have exclusive original jurisdiction in all proceedings in this state concerning the following:
- 1) Any delinquent or alleged delinquent youth;
  - 2) The treatment or commitment of an incapacitated juvenile;
  - 3) The emergency or medical treatment of a juvenile when the parents or guardian refuse to consent to such treatment;
  - 4) Any adult who falls within the contempt powers of the court;
  - 5) Any adult required to participate in joint counseling with a juvenile;
  - 6) Post-adjudicatory relief, including expungement of records;
  - 7) The Interstate Compact on Juveniles, as provided in Section 104.
- (B) The court shall have concurrent jurisdiction over any youth accused of violating the following:
- (1) Traffic statutes or ordinances;
  - (2) Municipal ordinances; or
  - (3) Fish and game regulations.
- (C) The court shall have concurrent jurisdiction over any youth above the age of eighteen (18) charged with an offense which occurred prior to his or her eighteenth birthday.

Section 16. *[Termination of Jurisdiction]* The court shall retain jurisdiction over the youth until all orders made under this Act have been fully complied with or until the youth attains the age of twenty-one (21), whichever event occurs earlier.

### Section 17. *[Venue]*

- (A) A proceeding in which a juvenile is alleged to be delinquent shall be brought in the [judicial district] in which the offense was alleged to have occurred. Upon motion of any interested party, at any time before an adjudicatory hearing or thereafter for good cause shown, the court may in its discretion transfer the proceeding to the court in either of the following [judicial districts] in the state:
- 1) Where the juvenile, or the juvenile's parents or guardian reside; or
  - 2) Where the juvenile was apprehended.
- (B) A petition filed in a [judicial district] lacking venue shall be subject to a motion to dismiss. The dismissal of a petition without prejudice for lack of venue shall not preclude refile of the case within another [judicial district] when venue exists and when there has been no adjudication on the merits.

### Section 18. *[Transfer Hearing]*

- (A) The court shall transfer a youth to adult court upon finding probable cause to believe that the youth committed one of the following offenses:
- 1) Murder, provided that the youth has attained the age of fourteen at the time the alleged murder was committed; or
  - 2) [Disposition Guidelines Commission to list felony offense, offense history, and age criteria requiring transfer].

- (B) Except as provided in paragraph (A), the court shall, upon motion of any party, hold a transfer hearing within [ ] days of the filing of a petition to determine whether it is appropriate to transfer a youth to the adult court for the commission of a felony, provided that such youth has attained the age of fourteen at the time the alleged delinquent act was committed. In determining whether or not to transfer the youth, the court shall consider among other matters
- 1) Whether there is probable cause to believe that the alleged offense was committed and that the juvenile committed it;
  - 2) The previous history of the youth, including the mental and physical well-being of the youth at the time of the offense; and
  - 3) Whether the security of the public may require that the youth continue under restraint or supervision for a period extending beyond the court's jurisdiction.
- (C) Upon conclusion of the transfer hearing, the court shall set forth its order and findings in writing. The court shall transfer jurisdiction over a juvenile for all charges arising out of the same incident to the adult court, setting a date for [arraignment] in the adult court, if it determines there is probable cause that the juvenile is not committable to an institution or agency for the mentally retarded or mentally ill.
- (D) Upon motion of any interested party, the judge who presided over the transfer hearing shall not preside over any subsequent proceedings in connection with either the adult prosecution, or, if the youth is not transferred, the hearing on petition in the court.
- (E) The transfer hearing shall stay the speedy trial requirements hereunder.

Section 19. *[Notice of Transfer]*

- (A) Before conducting a transfer hearing, the court shall give reasonable notice of the time, place, and purpose of the hearing to the juvenile, and, if they can be found, to the juvenile's parents or guardian. The notice shall state clearly that the juvenile can be prosecuted for the alleged offense as an adult.
- (B) A summons, subpoena, or other form of process may be issued and served in the same manner as for adjudicatory hearings. If after a reasonable attempt to serve the juvenile's parents or guardian, service has not been made, then the court may proceed with the transfer hearing.

Section 20. *[Juvenile in Adult Court]*

- (A) Upon transfer of a youth to the adult court, the adult court shall, after arraignment, conduct a preliminary examination and remand the defendant to the court if the adult court finds that the probable cause requirements have not been met, or if the adult court finds that the probable cause requirements have been met only for a lesser offense which is not excluded from the court's jurisdiction under Section 18(A). Absent the discovery of new evidence, all further proceedings against the youth shall be initiated in the court. If the adult court finds that the probable cause requirements have been met, then it shall proceed as required by law.
- (B) In the event a youth transferred to an adult court is convicted of an offense which is a felony, the adult court shall retain jurisdiction

over the youth for sentencing and all subsequent charges or offenses.

- (C) In the event a youth transferred to an adult court is acquitted of a felony, but is convicted of a misdemeanor, the adult court shall remand the defendant to the court for disposition, and the court shall resume jurisdiction over the youth for all subsequent charges or offenses as a juvenile, subject to the limitations of Section 18.

## CUSTODY

### Section 21. *[Grounds for Custody]*

- (A) A youth may be taken into custody
- 1) Pursuant to an order of the court under this Act;
  - 2) Pursuant to the laws of arrest;
  - 3) By a law enforcement officer or duly authorized officer of the court when probable cause exists that the youth has escaped or absconded from detention, probation, parole, furlough, a community control program, or the custody of a law enforcement agency in this or any other state.
- (B) Temporary custody shall not be deemed an arrest so far as the youth is concerned, except for the purpose of determining the constitutional validity of the custodial incident.
- (C) Any such person, as defined in Section 21(A)(3) above, taking a youth into custody has all the privileges and immunities applicable as if the person were making an arrest.

Section 22. *[Warning Notice]* A law enforcement officer authorized to take a youth into custody may issue the youth a warning notice in lieu of taking the youth into custody under the following conditions:

- (A) A sufficient number of law enforcement agencies in the [judicial district] have issued uniform guidelines for warning notices to the satisfaction of the presiding judge of the [judicial district];
- (B) The warning notice identifies the youth and describes the alleged conduct;
- (C) A copy of the warning notice is sent to the youth's parent or guardian as soon as practicable thereafter;
- (D) A copy of the warning notice is filed with the issuing law enforcement agency and the probation department to be used as the basis of further action if necessary.

Section 23. *[Procedure upon Apprehension]* Upon taking a youth into custody, with or without a court order, the official to whom the youth is delivered shall inform the youth of the reason for such custody and shall

- (A) Without unreasonable delay notify the youth's parents or guardian
- 1) That the youth has been taken into custody;
  - 2) Of the reason for which the youth has been taken into custody;
  - 3) Of the location of the youth; and
  - 4) That the parent or guardian may visit and confer with the youth;
- (B) Release the youth into the custody of the parent or guardian, or, if detention is warranted by Section 26, bring the youth to the court or to a detention facility;

- (C) Refer the matter to the prosecutor.

Section 24. [*Youth not Placed in Detention*]

- (A) A law enforcement officer may issue a citation to any youth if grounds exist for issuing an adult a citation in similar circumstances.
- (B) If the youth is taken into custody but is not placed in detention pursuant to Section 26, said youth shall sign a written promise to appear. The promise shall contain a concise statement of why the juvenile was taken into custody, and the time and place designated for appearance. Upon execution of the promise to appear, the officer shall immediately release the juvenile. The officer shall, as soon as practicable, file one notice of the citation with the prosecutor.

Section 25. [*Fingerprinting and Photographing*]

- (A) Except as provided in Section 25(B) below, no youth shall be involuntarily fingerprinted or photographed in the investigation of any violation of the law without the consent of the judge.
- (B) Fingerprints and photographs of a youth may be taken by law enforcement officers when the child is taken into custody for the commission of a felony, when there is probable cause to believe that the youth may have been involved in the commission of the act.
- (C) Youths shall be fingerprinted and photographed in the same manner as provided for adults in similar circumstances, and such fingerprints and photographs shall be circulated in the same manner as provided for adults. However, all such fingerprints and photographs shall be kept separate and apart from the files of adults.

Section 26. [*Grounds for Pre-Hearing Detention*] A youth taken into custody may be detained if there is probable cause to believe that

- (A) The juvenile is a fugitive from justice;
- (B) The juvenile has committed a felony while another case was pending;
- (C) The juvenile has committed a delinquent act and
  - 1) The juvenile will likely fail to appear for further proceedings,
  - 2) Detention is required to protect the juvenile from himself or herself,
  - 3) The juvenile is a threat to the person or property of others,
  - 4) The juvenile will intimidate witnesses or otherwise unlawfully interfere with the administration of justice, or
  - 5) There is no person available or capable of caring for the juvenile.

Section 27. [*Immediate Notice*]

- (A) In the event a youth is placed in a juvenile detention facility, the director of the facility shall notify the court by the next judicial day, and immediately provide the youth with a written statement explaining the following in plain language:
  - 1) The reason why the youth was brought into custody;
  - 2) The youth's right to a prompt detention hearing;

- 3) The youth's right to counsel, including appointed counsel if the youth cannot afford counsel;
  - 4) The youth's privilege against self-incrimination; and
  - 5) The youth's visitation privileges.
- (B) A youth may place [ ] telephone calls to his or her parents or guardian and attorney immediately after being admitted to a detention facility.

## DETENTION

### Section 28. *[Immediate Hearing]*

- (A) In any case in which a youth is detained, a detention hearing shall be held without delay by the judge or referee authorized to conduct such hearing, provided that if there be no judge or referee then available in the [judicial district], such youth shall be taken before any magistrate in the [judicial district] for the sole purpose of holding a detention hearing.
- (B) In no event shall the detention hearing be more than 36 hours (excluding Sundays and holidays) from the time the juvenile is first placed in a detention facility, except that the hearing must be held within 24 hours (excluding Sundays and holidays) when the juvenile is being detained in an adult facility pursuant to Section 42.

Section 29. *[Hearing Commenced by Filing]* The detention hearing shall not commence until the prosecutor has filed a petition pursuant to Section 52. The court shall give reasonable notice of the time, place, and purpose of the hearing to the juvenile, and, if they can be found, to the juvenile's parents or guardian, and shall appoint counsel when appropriate.

### Section 30. *[Probable Cause Determination]*

- (A) The sole purpose of a detention hearing shall be to determine whether probable cause exists that the offense charged in the petition has been committed and that the juvenile committed such offense, and whether the juvenile is to be detained pending the adjudication hearing.
- (B) If the court does not find that there is probable cause, the case shall be dismissed without prejudice and the juvenile released from detention.
- (C) The detention hearing shall be completed at one session, and for good cause shown may be adjourned for no more than one court day.

Section 31. *[Automatic Release]* In the event a detention hearing has not been held or continued within the time limits of Sections 28 or 35, the court shall release the juvenile from detention and, if a petition has been filed, dismiss the petition without prejudice.

### Section 32. *[Presence of Parents or Guardian Necessary]*

- (A) The juvenile's parents or guardian shall be present at any hearing under this Act, including the detention hearing, or if the juvenile is not in detention, at the juvenile's initial appearance. However, the court may proceed in the absence of such parents or guardian if

- reasonable effort has been made to notify them and if the juvenile and the juvenile's guardian *ad litem* or counsel are present.
- (B) At the detention hearing, or if the juvenile is not in detention, at the juvenile's initial appearance, the court shall notify the juvenile, and, if available, the juvenile's parents or guardian, of the possible consequences if the juvenile is adjudicated delinquent, and that such parent
- 1) May be required to participate in a program with the juvenile; and/or
  - 2) May be held financially responsible for any services provided to the juvenile or such parent; and
  - 3) That such parents may be heard at the disposition hearing or other hearing on their participation in programs, or on being held financially responsible.

Section 33. *[Appointment of Guardian]*

- (A) The court shall appoint a suitable person as guardian *ad litem* for the juvenile at the detention hearing or initial appearance if the court determines that
- 1) The juvenile has no parent or guardian; or
  - 2) Such appointment would be in the best interests of the juvenile.
- (B) Upon appointment of a guardian *ad litem*, the court shall continue the proceedings for a reasonable time to allow the guardian *ad litem* to become familiar with the matter, consult with counsel, and prepare for the case. The court may authorize the county to pay the guardian *ad litem* a fee out of the general fund.

Section 34. *[Rights Available]* Prior to the commencement of a detention hearing or initial appearance, the judge, referee, or magistrate shall inform the juvenile and, if available, the juvenile's parents or guardian, of the following rights:

- (A) The right to counsel, including court-appointed counsel in the event the juvenile or the juvenile's parents or guardian are unable to afford counsel;
- (B) The right to remain silent;
- (C) The right to a speedy trial;
- (D) The right to confront and cross-examine adverse witnesses;
- (E) The right to obtain witnesses or tangible evidence by compulsory process;
- (F) The right to introduce evidence;
- (G) The right against self-incrimination;
- (H) The right to have the state prove that the juvenile committed the delinquent act charged beyond a reasonable doubt.

Section 35. *[Right to Counsel]*

- (A) A juvenile shall be represented by counsel, including court-appointed counsel, at all stages of any proceedings other than proceedings for violations, as defined in Section 4(Y).
- (B) If the juvenile appears at the detention hearing or initial appearance without counsel, the court shall continue the case to enable the juvenile to obtain counsel and the time limitations of Section 28 shall be tolled.
- (C) The court shall consult with the parents or guardian and the probation officer regarding the likelihood of a conflict of interest

between the juvenile and the juvenile's parent or guardian. If a conflict is deemed likely, and it is evident that counsel for the juvenile cannot also represent the parents or guardian as a result of the conflict, the court may appoint counsel for such parent or guardian. In all cases, counsel shall be reimbursed pursuant to [state law relating to court-appointed counsel in criminal procedures].

Section 36. [*Post Hearing Detention*] Upon a finding of probable cause pursuant to Section 30, or upon an admission pursuant to Section 38, the referee, judge, or magistrate shall state on the record the [section of the criminal code] or other law which it is reasonable to believe the juvenile violated. The court shall thereupon order detention for the juvenile if

(A) The juvenile is alleged to have committed an act which, if committed by an adult, would be any of the following:

[list serious felonies]; or

(B) The juvenile is alleged to have committed an offense or materially violated the terms of a disposition order, either of which shall have warranted custody, and probable cause exists that the juvenile

- 1) Will likely fail to appear for further proceedings,
- 2) Is a threat to community safety,
- 3) Is endangered,
- 4) Will intimidate witnesses or otherwise unlawfully interfere with the administration of justice, or
- 5) Committed a felony while another case was pending.

Section 37. [*Initial Plea*] At the detention hearing, or if the juvenile is not in detention, at the juvenile's initial appearance, the juvenile shall admit or deny each charge contained in the petition or citation, unless such petition or citation is dismissed or the proceeding is otherwise terminated. The court must enter a denial in the juvenile's behalf as to any charge to which the juvenile refuses to admit or deny, or if the juvenile remains mute.

Section 38. [*Acceptance of Admission*] At any time after a petition or citation has been filed, the juvenile may appear before the court and admit the allegations of the petition or citation. The court may accept this admission as proof of the allegations if it finds, upon questioning the juvenile and the juvenile's parents or guardian, if present, that

- (A) The juvenile fully understands his or her rights, including the right to an adjudication hearing;
- (B) The juvenile fully understands the potential consequences of admitting to the allegations, including the possible specific dispositional orders;
- (C) The juvenile voluntarily, intelligently and knowingly admits to all facts necessary to constitute a basis for court action hereunder;
- (D) There is sufficient corroborating evidence to support a conclusion that the juvenile committed the act or acts to which the juvenile is making an admission;
- (E) In making the admission, the juvenile has not set forth facts which, if found to be true, constitute a defense to the allegations;
- (F) The juvenile voluntarily, intelligently, and knowingly waives the following rights:

- 1) The right to an adjudication hearing;
- 2) The right against self-incrimination;
- 3) The right to confront and cross-examine witnesses.

Section 39. *[Bifurcated Hearing]* Upon an admission or finding of delinquency the court may bifurcate the hearing and schedule a disposition hearing to be held within [ ] days.

Section 40. *[Court Imposed Payments]*

- (A) The court may, after a hearing on the matter, require the parents to pay toward the juvenile's support such amounts at such intervals as the court may direct. In determining the amount to be paid, the court shall give due regard to the cost of maintaining the juvenile and the financial resources and demands of the parent.
- (B) Unless otherwise ordered, the amounts so required to be paid shall be paid to the [Agency or Department entrusted with family related services], or the [judicial district] clerk, whichever is appropriate, for transmission to the person, institution or agency having legal custody of the juvenile.

## DETENTION FACILITIES

Section 41. *[Places of Detention]*

- (A) The county shall provide for the detention of juveniles in publicly or privately operated juvenile detention facilities to be conducted as agencies of the court, or the court may arrange for the care and custody of juveniles temporarily in private homes subject to the supervision of the court or may arrange with any institution or agency to receive for temporary care and custody juveniles under the jurisdiction of the court. However, such private individuals or agencies other than relatives of the juvenile, shall meet the licensing requirements of the [state department of health and welfare for care of youths].
- (B) A juvenile detention facility established in any judicial district may be used for the temporary detention of juveniles ordered to be detained by the court of another [judicial district] or by the court of another state. Such use shall be subject to the approval of the presiding judge of the court in which the facility is located, upon such terms and conditions as may be established by the presiding judge.

Section 42. *[Use of Existing Jail Facility]*

- (A) A juvenile in custody for a felony may be detained for up to 24 hours (excluding Sundays and holidays) in an adult jail or lockup if all of the following criteria are met:
  - 1) The initial court appearance for said juvenile is within 24 hours (excluding weekends or holidays) after being taken into custody;
  - 2) There is no existing acceptable alternative placement for the juvenile;
  - 3) The adult jail or lockup facility has been certified by the state to provide for the sight and sound separation of juveniles and incarcerated adults;



- 4) There is continuous visual supervision of juveniles incarcerated pursuant to this section; and
  - 5) The area is outside of a Metropolitan Statistical Area pursuant to the Bureau of Census's current designation.
- (B) Nothing in this section or Section 47 shall prohibit a juvenile taken into custody for a delinquent act from being held in an adult jail or lockup facility for up to 6 hours, but in no event overnight, for purposes of identification, processing or transfer to other facilities, provided that the jail or lockup facility meets the criteria of Section 42(A)(2),(3), and (4).

Section 43. *[Construction and Administration of Facilities]*

- (A) For the purpose of carrying out the provisions of this section, the county [commissioners] may enter into contracts or agreements with public or private agencies, individuals, other counties, or the [state department of health and welfare] which may include the expenditure of monies outside the county boundaries.
- (B) If the county in which the court is located has made an agreement with another governmental unit or agency located outside the county or the [judicial district] for the detention of juveniles under this Act, then any court in the [judicial district] may order a juvenile detained outside of the county or outside of the [judicial district] in the detention facility described in such agreement.
- (C) Any support payments made by parents on behalf of detained juveniles shall be applied to offset the costs to be imposed upon the county wherein the juvenile was ordered to be detained.

Section 44. *[[Board of Visitation]]* [In states where grand juries perform this function, this section may be deleted]

- (A) The presiding judge may appoint a board of four (4) reputable citizens, who shall serve without compensation, to constitute a [board of visitation], whose duty it shall be to visit the following at least twice a year:
  - 1) All detention facilities within the [judicial district];
  - 2) All homes for youths or other places where individuals are holding themselves out as caretakers of youths within the [judicial district]; and
  - 3) Other detention facilities within the state upon the request of the presiding judge.
- (B) The actual expenses of such [board] members may be paid by the county [commissioners] when members thereof are requested to visit institutions outside of the county seat, and no member of the [board] shall be required to visit any institutions outside the county seat unless the member's actual traveling expenses shall be paid aforesaid.
- (C) Such visits shall be made by not less than two members of the [board], who shall go together or make a joint report. The [board of visitors] shall report to the court from time to time the conditions of juveniles received by or under the charge of such detention facilities. Every detention facility shall permit any member of the [board of visitation] to visit and inspect the facility and all its departments without advance notice.

Section 45. *[Data to be Maintained]* Every detention facility shall record and retain for [three (3) years] the following data on each juvenile detained and make such data available for public inspection during normal business hours: name, date of birth, sex, race, offenses for which being detained, date of and authority for confinement, date of and authority for release or transfer, and where transferred or to whom released.

Section 46. *[Adequate Supervision and Care]* Once a juvenile has been adjudicated delinquent, the detention facilities shall

- (A) Provide supervision and observation of juvenile detainees sufficient to protect the physical and mental health of the detainees;
- (B) Establish programs that provide for the educational needs and moral and emotional development of all juveniles;
- (C) Establish programs to permit the juvenile's family to visit the facility for the purpose of preserving and strengthening family relationships.

Section 47. *[No Adult Contact]* No juvenile may be detained or confined in any facility where the juvenile and adult facilities are located in the same building or on the same grounds, except under the following conditions:

- (A) Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;
- (B) Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities;
- (C) Separate juvenile and adult staff, including management, security staff, and direct care staff such as recreation, education, and counseling personnel, but not including specialized services staff such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults.
- (D) In States that have established State standards or licensing requirements for secure juvenile detention facilities, the juvenile facility meets the standards and is licensed as appropriate.

Section 48. *[Segregation]*

- (A) Any detained or committed juvenile who, by conduct, endangers or evidences that he or she may endanger the safety of other detained or committed juveniles shall not be allowed to intermingle with other juveniles in the detention or commitment facility.
- (B) Alleged delinquent youth shall, as far as practicable, be kept separate from adjudicated delinquent youth.

## INITIATION OF PROCEEDINGS

Section 49. *[Commencement]* A proceeding under this Act may be commenced by

- (A) The filing of a petition in accordance with the rules of procedure of the court; or

- (B) Transfer of a petition from an adult court as provided in Section 50.

Section 50. [*Transfer from Adult Court*] If, during the pendency of a criminal charge in any adult court of this state it shall be ascertained that the defendant is a youth, that court shall forthwith transfer the youth to the court, together with all original accusatory pleadings and other papers, documents, and transcripts of any testimony relating to the case. Upon any such transfer, the court shall make an appropriate order for detention. The court shall then proceed as if a petition alleging delinquency had been filed with the court under Section 49 on the effective date of such transfer.

Section 51. [*Prosecutor's Duties*] Among other duties, the prosecutor shall perform the following:

- (A) Represent the state in any matter arising under this Act;
- (B) Directly supervise all matters relating to intake;
- (C) File a petition in court or divert the case;
- (D) Maintain for one (1) year a complete record, discoverable upon good cause shown to the court, of all such cases the prosecutor, or when applicable, the probation officer, neither files nor diverts.

Section 52. [*Contents of Petition*] A petition, which shall be verified and may be on information and belief, shall be signed by the prosecutor, or probation officer when appropriate, and shall set forth plainly the following: the title of the petition; the facts which bring the youth within the jurisdiction of the court and which establish probable cause to believe that the youth committed the act or acts alleged; the name, age, and residence address, if known, of the juvenile named in the petition; the names and residence addresses, if known, of the parents or guardian of the juvenile; the place of the juvenile's detention and the time taken into custody, in the event the juvenile is taken into custody; and the name and county of residence, if known, of any victim.

Section 53. [*State Law Supersedes*] If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's intake decision for both filed and diverted cases.

Section 54. [*Optional Delegation to Probation Officer*] The responsibilities of the prosecutor under Section 51(C) may be performed by the probation officer for any complaint alleging the commission of an offense which would not be a felony, provided that the prosecutor notifies the court of such delegation.

Section 55. [*Contents of Summons*] A summons shall be signed by the prosecutor or the probation officer, and shall contain the following:

- (A) The name of the court;
- (B) The title of the proceeding;
- (C) A brief statement of the facts which purport to bring the youth within the jurisdiction of the court;
- (D) The time and place of the hearing on the petition, which, in any case, may not be less than 24 hours from the time the summons is issued;
- (E) A demand that the persons who have physical custody of the juvenile appear personally and bring the juvenile before the court at the time and place stated in the summons, or, in the event that

- the person having legal custody over the juvenile does not have physical custody over the juvenile, then a demand shall be made to such person to appear personally;
- (F) An order by the court directing the officer serving the summons to take the juvenile into custody in the event it appears to the court that grounds for detention are met;
  - (G) An endorsed copy of the petition filed with the court.

Section 56. *[Service of Process]*

- (A) A summons shall be issued to the following:
  - 1) The juvenile, if 12 years of age or older;
  - 2) The persons having physical custody over the juvenile;
  - 3) The parents or guardian of the juvenile, if the parents or guardian do not have physical custody over the juvenile; and
  - 4) Any person whose presence the court deems necessary.
- (B) In the event the juvenile is charged with delinquency in the petition, a copy of the summons shall be served on the victims whose names appear on the petition, and shall be accompanied by a notice that such victims may be present for the juvenile's appearance before the court and are entitled to request and receive notification of future hearings before the court in regard to the particular case. The copy of the summons shall also be accompanied by a notice informing such victims of other rights available to them under this Act.
- (C) A party, other than the youth, may waive service of summons by written stipulation or by voluntary appearance at a hearing. If a youth is not present at a hearing, the juvenile's counsel or parents or guardian, may waive service of summons on behalf of the juvenile.

Section 57. *[Requisite Person Unavailable]*

- (A) In the event any person, other than the juvenile, required to be summoned hereunder cannot be found within the state, summons may be served on such person by personal service outside the state, or, if personal service cannot be effected, by registered mail, return receipt signed only by the addressee in the event the address of such person is known.
- (B) If the juvenile is before the court, the court has jurisdiction to proceed with the case notwithstanding the failure to serve summons personally upon any other person required to be served, except that no order for support as provided in Section 40 may be entered against a person unless that person is served pursuant to state civil law. If service of summons upon a party is made pursuant to this section, the court shall proceed with the case as if such party were present.

Section 58. *[Failure to Appear]* Any person summoned to bring the youth before the court and who fails to do so, or who fails to appear before the court as summoned, shall be subject to the contempt powers of the court. In either case, or if it appears to the court that summons will be ineffectual, the court may issue a warrant for the arrest of the juvenile or of the person summoned.

Section 59. [Motion to Reopen] The court shall, upon motion by any person required to be served other than the juvenile, reopen the case for full consideration, if it appears to the court at any time that service of process was not made or was defective; that the person required to be served had no reasonable opportunity to appear at the fixed time; and that such reopening is in the best interests of the juvenile.

## DIVERSION AGREEMENTS

### Section 60. [Initiation]

- (A) At any time prior to the entry of an adjudication order, when the prosecutor determines that a case is appropriate for diversion, the prosecutor shall refer such case to the probation officer. The prosecutor must reasonably believe that the facts establish *prima facie* jurisdiction.
- (B) The fact that a youth is detained prior to the filing of a petition shall not preclude the prosecutor or probation department from diverting a case. Upon diverting such a case, the prosecutor or probation department shall immediately notify, in writing, the detention facility in which the juvenile has been detained to release such juvenile.

### Section 61. [Informed Consent]

- (A) No diversion agreement shall be made unless the juvenile and the juvenile's parents or guardian are informed of the consequences of the diversion and have voluntarily and intelligently agreed to the terms and conditions of the agreement. The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.
- (B) The juvenile and the juvenile's parents or guardian shall be advised that the diversion agreement will be part of the juvenile's offense history. A signed acknowledgment of such advisement shall be obtained from the juvenile, and, if available, the juvenile's parents or guardian, and the document shall be maintained by the probation officer together with the diversion agreement. A copy of both documents shall be delivered to the prosecutor upon request.
- (C) A diversion agreement shall be in writing and signed by the juvenile, at least one of the juvenile's parents or guardian, or the juvenile's guardian if no parent is available, the probation officer and, in the event a petition has been filed, the prosecutor. The agreement shall be written in clearly understandable language and shall contain all conditions of the agreement, including a statement of the juvenile's rights relating to destruction and sealing of records.
- (D) The probation officer may refuse to enter into a diversion agreement with a juvenile at any time prior to the signing of the agreement. The probation officer shall immediately inform the prosecutor of the reasons in writing for refusing to enter into a diversion agreement, in which case the prosecutor shall file a petition.

Section 62. *[Available Programs]*

- (A) The probation officer shall take into account the availability of a suitable method, program, or procedure for the juvenile, giving due regard to the best interest of the juvenile and the community. Diversion may be provided through the probation department, or other public and private agencies, and may include, among other suitable methods, programs, or procedures, participation in community service projects, and any of the following:
- 1) Participation in community-based programs which work with the juvenile and family to maintain and strengthen the family unit so that the juvenile may be retained in the juvenile's own home;
  - 2) Participation in educational programs or supportive services designed either to help delinquents or to encourage youths to remain in school or in alternative learning situations;
  - 3) Participation in youth-initiated programs and outreach programs designed to assist youths and families; or
  - 4) Appropriate physical and medical examinations, vocational and aptitude testing, examinations for learning disabilities or emotional dysfunctions, and suitable counseling or therapy.
- (B) No diversion agreement may provide for any kind of secure confinement.
- (C) In the event resources and services for diversion are not available, have failed, are reasonably believed to fail if attempted, or are unable to meet the needs of the juvenile or family, the probation officer shall proceed with formal action, or take such action as is otherwise allowed under this Act.

Section 63. *[Length of Diversion]* A diversion agreement may not exceed a period of [six months] for a misdemeanor or one year if for a felony. A diversion agreement may include a period extending beyond the eighteenth birthday of the juvenile. If additional time is necessary for the juvenile to complete the diversion agreement, the time period limitations of this section may be extended by an additional [six months], upon agreement between the juvenile and the probation officer.

Section 64. *[Satisfaction of Decree]*

- (A) When a juvenile has complied with the express terms and conditions of the diversion agreement for the required amount of time or if earlier dismissed, the original petition may not be reinstated. However, failure to so comply may result in the petition's being filed as if the diversion agreement had never been made.
- (B) A juvenile who has satisfied the diversion agreement shall not be proceeded against in any court for any act giving rise to the diversion.

Section 65. *[Breach of Agreement]*

- (A) In the event the probation officer reasonably believes that the juvenile has materially violated the terms of a diversion agreement, the probation officer shall immediately notify the prosecutor of

- such belief, who, upon screening the allegations of breach, shall initiate proceedings against the juvenile pursuant to Section 49.
- (B) For purposes of this section, a breach of a diversion agreement is limited to a violation of the express or implied terms of the written agreement.

## THE ADJUDICATION PROCESS

### Section 66. [*Speedy-Trial Requirements*]

- (A) Unless the juvenile has admitted the allegations in the petition, an adjudication hearing shall be held within [sixty (60)] judicial days after the filing of the petition, or, if the juvenile is in detention, within [twenty-one (21)] judicial days after the juvenile is first detained by the court.
- (B) In no event shall a juvenile be detained for more than [ ] days pursuant to a continuance under Section 67.

Section 67. [*Continuance*] A petition or citation shall be dismissed without prejudice if an adjudication hearing is not held within the time limits of Section 66. However, the hearing may be continued by motion of either party and the time limits of Section 66 tolled, if

- (A) The juvenile has shown that
- 1) Properly discoverable evidence is not currently available,
  - 2) The juvenile has reasonably tried to obtain such evidence, and
  - 3) There is good cause to believe that such evidence can be obtained within [ ] calendar days;
- (B) Process cannot be completed;
- (C) A material witness is not presently available; or
- (D) The juvenile has disrupted the proceedings.

Section 68. [*Open Hearings*] All hearings, including detention, adjudication, and disposition hearings, and all hearings to declare a person in contempt of court shall be open to the general public, except where the court makes written findings of exceptional circumstances to close such hearings.

Section 69. [*Use of Criminal Procedure Rules*] When not in conflict with this Act, the following matters shall be governed by the rules of criminal procedure: adjudication by the court, appointment of counsel, consolidation of hearings, continuances, discovery, dismissal of proceedings, evidence, incapacity, probation violations, record keeping duties, rehearing, removal of and proceeding in the absence of obstreperous defendants, service of process, venue, and pre-adjudication motions.

## DISPOSITION

### Section 70. [*Pre-Disposition Report*]

- (A) Prior to the disposition hearing, the court shall order the probation officer to prepare a pre-disposition report whenever the juvenile may be placed outside of his or her home. The report shall contain information about the juvenile, the juvenile's family and environment, and other matters relevant to the disposition of the

case. The probation officer shall include in any pre-disposition report a victim impact statement which shall contain information on the financial, emotional, and medical effects of the offense on the victim or the victim's family, and the calculation of restitution pursuant to Section 85.

- (B) The court may order a mental and physical examination of the juvenile. The pre-disposition report shall include the results of any such examination.
- (C) The juvenile and the juvenile's parents or guardian shall have the right to subpoena all persons who have prepared any portion of the pre-disposition report. The prosecutor and the juvenile shall be furnished with a copy of the pre-disposition report at least two (2) court days prior to the disposition hearing.

Section 71. *[Matters Considered]* Before entering a disposition order as to a juvenile adjudicated delinquent, the court shall hold a disposition hearing, at which the court shall

- (A) Consider the facts supporting the allegation of delinquency;
- (B) Consider information and arguments offered by the parties;
- (C) Consider pre-disposition reports;
- (D) Afford the juvenile and the juvenile's parents or guardian an opportunity to speak in the juvenile's behalf;
- (E) Allow the victim or a representative of the victim, and a law enforcement officer to speak;
- (F) Determine the amount of restitution owing to the victim, if any;
- (G) Consider whether a manifest injustice would arise if a juvenile were to serve a disposition pursuant to Sections 72(A) or (B).
- (H) Consider any other relevant material;
- (I) Notify the juvenile in writing of his or her rights relating to destruction and sealing of records.

Section 72. *[Sanctions]*

- (A) Except on a finding of manifest injustice, the court shall impose on a juvenile who committed a felony a determinate disposition within the standard range provided pursuant to the guidelines established by the Disposition Guidelines Commission and as now or hereafter amended; or, in the discretion of the court, a term of probation, except as provided in Section 82(F).
- (B) Except on a finding of manifest injustice, the court shall impose on a juvenile who committed a misdemeanor a determinate disposition within the standard range provided pursuant to the guidelines established by the Disposition Guidelines Commission and as now or hereafter amended; or, in the discretion of the court, a term of probation, which may not in the aggregate exceed
  - 1)  days of confinement;
  - 2)  months of probation;
  - 3)  hours of community service; and
  - 4) a fine not to exceed \$100.
- (C) In addition to any disposition imposed herein, the court shall impose an order of restitution pursuant to Section 85.
- (D) A juvenile shall be entitled to credit for time spent in detention prior to a disposition order, and such order shall specifically state the number of days of credit for time served.



Section 73. [*Manifest Injustice*] If the court concludes upon clear and convincing evidence that a manifest injustice would arise if a juvenile were to serve a disposition pursuant to Sections 72(A) or 72(B), the court shall state its reasons in writing and impose a determinate disposition as follows:

- (A) Where the range imposes an injustice to the juvenile, the court shall impose a term of confinement or probation, or a combination thereof which is outside of the standard range.
- (B) Where the juvenile imposes a clear and present danger to the community, the court shall impose a term of confinement which exceeds the maximum term of the standard range, but in no case exceeds 200% of the maximum term in the range or the term to which an adult could be sentenced for the same offense, whichever is lesser.

Section 74. [*Order of Conditions Imposed*] When ordering a period of probation, the court may, as condition of such order, require that the juvenile do the following:

- (A) Attend school regularly, obeying its rules and regulations;
- (B) Obey all reasonable commands of the juvenile's parents or guardian;
- (C) Avoid designated places or named individuals;
- (D) Avoid injurious or vicious activities;
- (E) Cooperate with a mental health or other appropriate community facility or treatment program to which the juvenile is referred;
- (F) Meet with a probation officer when directed to do so by that officer and permit the officer to visit the juvenile at home or elsewhere;
- (G) Permit the probation officer to obtain information from any person or agency from whom the juvenile is receiving or was directed to receive diagnoses, treatment or counseling;
- (H) Permit the probation officer to obtain information from the juvenile's school;
- (I) Cooperate with the probation officer in seeking to obtain and in accepting employment, and supply records and reports of earnings to the officer upon request;
- (J) Obtain permission from the probation officer for any absence from the juvenile's residence in excess of two weeks;
- (K) Submit to a search of the juvenile, or any personal property which the juvenile owns or possesses, by the probation officer, assisted if necessary by a law enforcement officer, without the necessity of a warrant when such probation officer reasonably believes that the juvenile has violated a condition of the probation order;
- (L) Submit to testing for drug use;
- (M) Refrain from harrassing, intimidating, threatening, or otherwise interfering with the victim and such members of the victim's family or household as shall be specifically named by the court;
- (N) Perform uncompensated community service;
- (O) Comply with such other reasonable conditions as the court shall determine necessary.

Section 75. [*Supervision by Department*]

- (A) A juvenile whose disposition is to a standard range where the minimum term of confinement exceeds [ ] days shall be subject to

the supervision of the [appropriate county juvenile correction department].

- (B) If an aggregate period of confinement imposed for more than one offense exceeds [ ] days, but the term imposed for each offense is less than [ ] days, the confinement may, in the discretion of the court, be served in a juvenile facility operated by or pursuant to a contract with the state or a county.

Section 76. *[Release Date]* The Disposition Guidelines Commission may leave the release date up to the local or state facility, or may establish guidelines for such release.

Section 77. *[Program of Parole]* Following the juvenile's release, the [secretary of the appropriate juvenile corrections department] may require the juvenile to comply with a program of parole to be administered by the [appropriate juvenile corrections department] in his or her community to last no longer than [ ], and shall require a juvenile released pursuant to Section 82 to comply with such a program. After termination of the parole period, the juvenile shall be discharged from the [department's] supervision. The [secretary] shall, for the period of parole, facilitate the juvenile's reintegration into his or her community. To advance this goal the [secretary] may require the juvenile to undergo available medical or psychiatric treatment; report as directed to a parole officer; pursue a course of study or vocational training; and remain within prescribed geographical boundaries and notify the [department] of any change in his or her address.

Section 78. *[Parole Violation]* The [appropriate juvenile corrections department] may also modify parole for a violation thereof. If, after affording a juvenile all of the due process rights to which an adult would be entitled in similar circumstances, the [secretary of the appropriate juvenile corrections department] finds that a juvenile has violated a condition of parole, the [secretary] shall order one of the following which is reasonably likely to effect the purpose of parole and to protect the public:

- (A) Continued supervision under the same conditions previously imposed;
- (B) Intensified supervision with increased reporting requirements;
- (C) Additional conditions of supervision authorized by this chapter;
- (D) Reinstate the unsatisfied portion of the original disposition.

## DISPOSITION GUIDELINES COMMISSION

Section 79. *[Commission Established]*

- (A) There is established a Disposition Guidelines Commission to propose disposition guidelines to the legislature in accordance with the following:
  - 1) The guidelines are to provide predictability and fairness in disposition practices;
  - 2) The guidelines are to avoid unwarranted dispositional disparities among offenders with similar characteristics adjudicated for similar offenses; and
  - 3) The guidelines are to promote justice and accountability, community safety, and youth development and treatment.

- (B) The Commission shall be composed of the state attorney general or the attorney general's designee and the following nine members appointed by the governor, subject to confirmation by the Senate:
- 1) A [juvenile] court judge;
  - 2) A prosecuting attorney or deputy prosecuting attorney;
  - 3) A law enforcement officer;
  - 4) An administrator of juvenile court services;
  - 5) A public defender actively practicing in court;
  - 6) A [corrections official]; and
  - 7) Three other persons who have demonstrated significant interest and experience in juvenile justice.
- (C) In making the appointments, the governor shall seek the recommendations of the [association of court judges] in respect to the member who is a [juvenile] court judge; of state prosecutors in respect to the prosecuting attorney or deputy prosecuting attorney member; of the state association of sheriffs and police chiefs in respect to the member who is a law enforcement officer; of juvenile court administrators in respect to the member who is a juvenile court administrator; of the [director of the division of youth corrections] for the [corrections official]; and of the state bar association in respect to the public defender member.

Section 80. *[Chairman and Term]*

- (A) The state attorney general or the attorney general's designee shall serve as chairman of the Commission. The attorney general shall serve on the commission during the attorney general's term of office. The term of the remaining members of the commission shall be three years. The initial terms shall be determined by lot, conducted at the commission's first meeting as follows:
- 1) Three members shall serve a three year term;
  - 2) Three members shall serve a two year term; and
  - 3) Three members shall serve a one year term.
- (B) In the event of a vacancy, the governor shall designate a new member to complete the remainder of the unexpired term. Commission members shall serve without compensation but shall be reimbursed for travel expenses as provided in [applicable state law]. The commission shall meet prior to January 1, 19\_\_ and thereafter, at least once every six months.

Section 81. *[Responsibilities]*

- (A) The Commission shall
- 1) Evaluate the effectiveness of existing disposition guidelines and related statutes in implementing the policies set forth in this Act;
  - 2) Solicit comments and suggestions from the juvenile justice community concerning disposition guidelines;
  - 3) Develop and propose to the legislature no later than [November 1] of each [even-numbered] year disposition guidelines for all offenses in accordance with this section;
  - 4) Consider the present capacity of the state juvenile facilities and the projected impact of the proposed guidelines on that capacity, and
  - 5) Establish a policy with respect to early release; and

- 6) Consider and recommend plans to improve the administration of juvenile justice in the State.
- (B) The [department] shall provide the Commission with the following:
- 1) Available data on the impact of the disposition guidelines and related statutes on the [department] in its care of juvenile offenders;
  - 2) Technical and administrative assistance upon request; and
  - 3) Recommendations for modifying the disposition guidelines.

Section 82. *[Disposition Guidelines]*

- (A) The Disposition Guidelines Commission shall establish, in accordance with the purposes of this Act, the following:
- 1) Criteria for mandatory transfer pursuant to Section 18(B)(2) which shall be based on the instant offense, offense history, and age of the juvenile;
  - 2) Ranges of dispositions to be provided for adjudicated delinquent youth; and
  - 3) Exceptions to the use of probation pursuant to paragraph F(2).
- (B) Each range of disposition shall include terms of confinement and/or community supervision which shall in no case exceed the terms to which an adult may be sentenced for the same offenses. Disposition guidelines which include terms of confinement shall relate only to the length of the proposed terms and not to the nature of the security to be imposed.
- (C) All ranges applicable to juveniles adjudicated delinquent for felony offenses shall include, as the minimum limit of the range, at least [ ] days confinement in a state facility, but in no event shall the youth be held beyond age twenty-one (21). The disposition guidelines may provide that in cases where a juvenile is required to serve a term of confinement in excess of [ ] days, that a term of parole may be imposed, which may not exceed [ ] months.
- (D) All ranges applicable to juveniles adjudicated delinquent for misdemeanor offenses shall include, as a maximum limit to the range, [ ] days confinement in a county facility.
- (E) The boundaries of each range shall be determined by the Commission within the limitations set forth in this section.
- (F) An offender may be given a term of probation for any offense, unless
- 1) The offense for which the juvenile was adjudicated delinquent is [list serious crimes]; or
  - 2) [The Commission is to list other exceptions based on age and offense history].

Section 83. *[Guidelines and Report]* The attorney general shall submit guidelines to the legislature for its review no later than [November 1] of each [even-numbered year] relating to the nature of the security to be imposed on detained juveniles, based on their age, offense, and offense history, and shall report on security at juvenile facilities during the preceding two year period to the extent information is available. The attorney general shall include security status definitions in the guidelines and the report shall include the following:

- (A) The number of escapes from each juvenile facility;

- (B) The most serious offense for which each escapee has been confined;
- (C) The number and nature of offenses found to have been committed by juveniles while on escape status;
- (D) The number of authorized leaves granted;
- (E) The number of failures to comply with leave requirements;
- (F) The number and nature of offenses committed while on leave;
- (G) The number and nature of offenses committed by juveniles while in the community on minimum security status;
- (H) The number and nature of offenses committed by juveniles while on the premises of a detention facility.

Section 84. [*Status of Existing Guidelines*]

- (A) If the Commission fails to propose disposition guidelines as provided in Section 82, the existing guidelines shall remain in effect and may be adopted by the legislature or referred to the Commission for modification. If the legislature fails to adopt or refer the proposed guidelines to the Commission by [date] of the following year, the proposed guidelines shall take effect without legislative approval on [date] of that year.
- (B) If the guidelines are referred for modification, the Commission shall resubmit the proposed modifications to the legislature no later than [date]. The legislature may adopt or modify the resubmitted proposed guidelines. If the legislature fails to adopt or modify the resubmitted proposed guidelines by [date], the resubmitted proposed guidelines shall take effect without legislative approval on [date] of that year.
- (C) Guidelines approved by the legislature shall take effect [30] days after [date].

## RESTITUTION

Section 85. [*Restitution Required*] Wherever appropriate the court shall order the juvenile to make restitution to the injured party, the payment of which shall be in addition to any fine imposed. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but shall include money paid by the juvenile to the victim and shall be calculated by the probation officer in reasonably ascertainable damages.

Section 86. [*Review of Calculation*] Upon motion of any interested party, the court may review the amount of restitution calculated by the probation officer. Upon such review or in any disposition order, the amount of restitution shall be made at the sole discretion of the court upon hearing the testimony of all interested parties.

Section 87. [*Limit of Liability*] As an absolute limit against any one juvenile, or a parent, or both, payment of restitution shall not exceed, for all acts arising out of a single incident the total amount of the fair market value of lost or destroyed property; the fair market value of the property damaged; and the reasonable medical, dental, hospital, funeral, and burial expenses incurred by the injured person or his immediate family as a result of the injury.

Section 88. *[Parental Liability]*

- (A) Considering the age and circumstances of a juvenile, the court may order that the parents of the juvenile be jointly and severally liable for any order of restitution against the juvenile. A judgment of restitution against a parent may not be entered unless such parent has been afforded a reasonable opportunity for a hearing. Such hearing may be held as part of an adjudication or disposition hearing for the juvenile.
- (B) A parent shall be liable for the tortious activities of his or her child that cause injuries to property where the parent
  - 1) Knows, or has reason to know, of the child's tendency to commit wrongful acts which can be expected to cause injury to property; and
  - 2) Has an opportunity to control the child but fails to exercise reasonable means to restrain the tortious conduct.
- (C) A parent shall be presumed to know of a child's tendency to commit wrongful acts if the child has previously been adjudicated for such actions.
- (D) This section shall not be construed so as to impute liability to any foster parent or guardian, nor shall it be construed to make any parent or guardian liable for any fine imposed against the juvenile.

Section 89. *[Civil Remedies not Precluded]* Nothing in Sections 85 to 90 shall limit or replace civil remedies or defenses available to the victim, but restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the juvenile arising from the juvenile's offense.

Section 90. *[Restitution Program]* The county or state shall establish a juvenile restitution program to comply with the provisions of Section 85.

## RECORDS

Section 91. *[Open Records]*

- (A) All records other than the social file shall be open to public inspection, unless sealed or expunged pursuant to Sections 92 or 95. The social file shall be confidential and may be released only as provided in Sections 93 and 94.
- (B) Upon motion to the court, the prosecutor, defense counsel, law enforcement agencies, and juvenile and adult probation agencies may obtain the social file if the court is satisfied that such file is necessary for ongoing investigatory purposes. The social file shall remain confidential in the hands of such persons.
- (C) A diversion agreement shall be recorded in the social file as of the date the agreement was executed.

Section 92. *[Sealing of Records]*

- (A) As used in Sections 91 to 96, "seal a record" means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records and that is accessible only to the court. A record that is sealed shall be destroyed by all juvenile justice or care agencies except the court.
- (B) Upon motion to the court by any person previously subject to this Act or such person's parents or guardian, and upon reasonable

notice to all interested parties including the victim, the court may seal all records of any juvenile justice or care agency in the case under the following conditions:

- 1) Two years have elapsed from the later of
  - a) The final discharge of such person from the supervision of any agency charged with supervising juvenile offenders, or
  - b) The date of an order of the court, and
- 2) No court or criminal proceeding is pending against such person;
- 3) No proceeding is pending which involves the establishment of a diversion agreement with the person; and
- 4) The juvenile has never been convicted of [list serious felonies].

Section 93. *[Inspection and Correction]*

- (A) Upon motion to the court and reasonable notice to all interested parties, any person who reasonably believes that he or she is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may move the court for an order authorizing that person to inspect such records. The court shall grant the motion to examine records unless it finds that in the best interest of justice or of such person the records or parts of them should remain confidential.
- (B) Upon motion to the court and reasonable notice to all interested parties, any person who reasonably believes that he or she is included in the records of a juvenile justice or care agency may challenge the accuracy of any information concerning such person in the record or challenge the agency's continued possession of the record. If the court grants the motion, it shall order the record or information corrected or destroyed.

Section 94. *[Treatment And Research Inspection]*

- (A) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment, or to individuals or agencies engaged in legitimate research for educational, scientific, or public purposes. This includes records sealed pursuant to Section 92.
- (B) Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents or guardian will remain confidential.
- (C) Except as otherwise provided in this section, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system and to the adult criminal justice system unless the court explicitly orders otherwise.
- (D) Violation of this section shall be a [misdemeanor].

Section 95. *[Expungement of Records]*

- (A) As used in Sections 95 and 96, "expunge a record" means to destroy the record or file of the juvenile.
- (B) In the event a delinquency proceeding against a juvenile is terminated in favor of such juvenile, all juvenile justice and care agencies shall expunge all records other than the official court file of a juvenile in connection with a given case and not make them available to any person or public or private agency, unless any interested party including the court, upon written motion with not less than [eight] days notice to such juvenile, demonstrates to the court that the interests of justice require that such records not be expunged.
- (C) For the purposes of this section, a delinquency proceeding shall be considered terminated in favor of a juvenile if
  - 1) The petition is withdrawn;
  - 2) No petition has been filed within the applicable period of limitations;
  - 3) The petition is dismissed; or
  - 4) The juvenile has not been diverted or charged with any offense within twelve months from the date the juvenile completes a diversion agreement.
- (D) Every juvenile justice or care agency shall develop procedures for the routine destruction of all expunged records other than the official court file.

Section 96. *[Effect of Expungement]*

- (A) Whenever a record is sealed and remains sealed or is expunged, with respect to the matter in which the record was sealed or expunged, the proceedings in the case shall be treated as if they never occurred, and the person the subject of the record and his or her parent or guardian may inform any person or organization including employers, banks, credit companies, insurance companies, and schools that he or she was not taken into custody, did not appear before the court, did not enter into any diversion agreement, or was not adjudicated delinquent.
- (B) Any agency shall reply to any inquiry concerning sealed records that records are confidential and that no information can be given about the existence or nonexistence of records concerning an individual. The court shall authorize a person the subject of sealed records to inspect such records only upon such person's request.
- (C) The [Department of Motor Vehicles] shall, in its discretion, be exempt from any or all of the provisions of this section for records of a juvenile relating to adjudication or diversion for violations of Sections 97 to 103, or any municipal ordinance proscribing driving under the influence of intoxicants.
- (D) Nothing in this section may be construed to prevent the victim or members of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding, or to limit the use of a prior adjudication or diversion when otherwise permissible under state or federal law.



## ALCOHOL RELATED CHARGES

### Section 97. *[Forfeiture of Driving Privileges]*

- (A) In the event a juvenile is adjudicated delinquent pursuant to [section \_\_\_ of the criminal code relating to Driving Under the Influence of Intoxicants], the court shall order the [Motor Vehicles Department] to
- 1) Revoke or suspend the juvenile's license or permit until the juvenile attains the age of 18, or for a period of two years, whichever is longer; or
  - 2) Deny a subsequent application for a license or permit by such juvenile, until the juvenile attains the age of 18, or for a period of two years, whichever is longer.
- (B) The [Motor Vehicles Department] may not reinstate the driving privileges forfeited in this subsection except after a minimum period of [60 days] from the date of the forfeiture, and then only if
- 1) The juvenile successfully completes a course of instruction similar to that required by Section 101;
  - 2) Has demonstrated an ongoing critical need; and
  - 3) Has not previously been adjudicated or diverted for violating a restricted license issued under this section.
- (C) Nothing in this section shall prohibit the [Motor Vehicles Department] from conducting an administrative hearing pursuant to [section \_\_\_ of the administrative procedures code] although the juvenile was not adjudicated delinquent for violating [section \_\_\_ of the criminal code relating to Driving Under the Influence of Intoxicants].

### Section 98. *[Critical Need]*

- (A) "Critical need," as used in Section 97, means
- 1) Loss of a meaningful employment opportunity;
  - 2) Loss of a school opportunity; or
  - 3) Any other urgent need of the juvenile or the juvenile's immediate family, which cannot be reasonably satisfied by a member of the immediate family.
- (B) The [Motor Vehicles Department] shall promulgate such rules and regulations as are necessary to verify an ongoing critical need, and to limit the privileges to those satisfying such critical need, pursuant to the time limitations in Section 97.
- (C) A juvenile who has been previously adjudicated delinquent or diverted for violating a restricted license under this section shall not be entitled to a subsequent restricted license.

Section 99. *[Abuse of Restricted License]* Any juvenile issued a restrictive license under this section who is subsequently adjudicated or diverted for violating the restrictions imposed by such license shall be fined not less than [\$\_] or more than [\$\_], and shall immediately surrender such license to the department until the juvenile attains the age of 18, or for a period of two years, whichever is longer.

### Section 100. *[Drunk Driving Programs]*

- (A) The presiding judge and the probation officer shall establish a juvenile drunk driving program to comply with the provisions of Section 101. The probation officer shall oversee the program,

coordinate all local community-based juvenile drunk driving programs, and shall administer or supervise, at the direction of the court and to the extent practical, juveniles adjudicated or [diverted] for any of the following offenses:

[List appropriate offenses].

- (B) The drunk driving program shall include, among other elements, a mandatory drug and alcohol examination, and appropriate referrals pursuant to Sections 31 to 44 of the Disobedient Children's Act.

Section 101. *[Mandatory Programs]* In addition to any other sanctions imposed pursuant to Section 97 or to Section 72, the court shall order a juvenile adjudicated for violating Sections 97 to 103 or any municipal ordinance proscribing driving while under the influence of intoxicating alcohol or drugs, to report to the [appropriate alcohol and drug abuse program], and, at the court's discretion, to do one or more of the following:

- (A) Attend other educational classes;
- (B) Visit the victim or the victim's family, or any other victim or family of a victim of a DUII offense, provided that the victim, or if the victim is a child, the child's parent or guardian, has given prior consent for the visit;
- (C) Visit the county morgue where DUII offenders and/or their victims have been taken;
- (D) Visit the emergency room or trauma center of a local hospital where DUII offenders and/or their victims are admitted, provided that such hospital consents to the visit;
- (E) View wreckage or the scene of an accident involving a DUII offender;
- (F) Participate in other activities not in conflict with the law.

Section 102. *[Disposition for other Alcohol/Drug Offenses]* The court shall order a juvenile who has been adjudicated delinquent or diverted for violating [section \_\_ relating to alcohol or controlled substances], in addition to any other sanctions imposed pursuant to Section 72, to submit to an alcohol and drug dependency evaluation pursuant to Section 32 of the Disobedient Children's Act, and may order the juvenile to do one or more of the following:

- (A) Participate in counseling for the juvenile or the juvenile's parents;
- (B) Attend a local alcohol and drug awareness or education program;
- (C) Surrender the juvenile's license or permit for [ ] days if the juvenile used a driver's license to purchase an alcoholic beverage in violation of [section \_\_ relating to fraudulent use of license to obtain alcohol];
- (D) Pay a fine not to exceed \$100.

Section 103. *[Suspected Drug or Alcohol Involvement]*

- (A) If at any time prior to a disposition order the court has probable cause to believe that a juvenile had consumed or possessed or had intended to consume or possess drugs or alcohol in the commission of the offense charged in the petition, without regard to whether the juvenile was charged with an alcohol or drug related offense, the court shall order the juvenile to submit to a drug or alcohol evaluation pursuant to Section 32 of the Disobedient Children's Act.

- (B) If at any time prior to a disposition order the prosecutor has probable cause to believe that a juvenile had consumed or possessed or had intended to consume or possess drugs or alcohol in the commission of the offense charged in the petition, without regard to whether the juvenile was charged with an alcohol or drug related offense, the prosecutor shall refer the juvenile to the probation officer for screening for a drug or alcohol evaluation pursuant to Section 32 of the Disobedient Children's Act.

### INTERSTATE COMPACT ON JUVENILES

Section 104. *[Interstate Compact]* The contracting states solemnly agree to the following:

[State to insert Interstate Compact on Juveniles here]

## NOTES

## COMMENTARY

### Model Juvenile Delinquency Act

#### Preamble

Section 2 emphasizes the importance the Model Juvenile Delinquency Act places on preserving and maintaining the family unit--an emphasis it shares with the Standards For The Administration Of Juvenile Justice of the National Advisory Council for Juvenile Justice and Delinquency Prevention (See NAC Standards, p. xiii). It is in the family setting that children first learn respect for authority, obedience to law, and their obligations and responsibilities to society. Children should be removed from their families only when a more restrictive alternative is necessary to hold them individually responsible for their delinquent acts, assure their welfare, or protect the public.

#### Purpose Clause

Section 3 states the purposes of the Model Juvenile Delinquency Act which are to hold juveniles individually responsible for their delinquent acts and to hold the juvenile justice system accountable for its treatment of delinquent youth. (The principles of individual responsibility and system accountability are developed and explained at length in "Reforming Juvenile Justice: From Treatment to Individual Responsibility and System Accountability"). In order to achieve these goals, the Act is formal and offense-oriented. It is formal because it limits discretionary decisionmaking and expands criminal due process in juvenile courts. It is offense-oriented because it employs legal variables like offense severity and prior offense history to determine dispositions, departing from this offense orientation only when an offender's individual characteristics have a bearing on responsibility. The Act requires, for example, that older and chronic offenders be held more responsible than younger and first offenders.

Individual responsibility is pursued in the Act by linking dispositions more closely to delinquent acts and by utilizing dispositions, such as restitution, that encourage juveniles to recognize their obligations to the community and to the victims of their criminal acts. The Act's offense orientation reflects this approach, since juveniles receive sanctions because of what they have done rather than because of who they are or of what they might do in the future.

System accountability, with its emphasis on the principles of equality and proportionality, is pursued in the Act by its insistence that dispositions be limited, deserved, uniform, and justified. Ensuring that similarly-situated offenders are treated similarly and that the most serious offenders receive the most punitive sanctions requires that decisionmaking throughout the juvenile justice system be formalized to a degree not generally evident in current state juvenile codes. In particular, it requires the use of presumptive and determinate dispositions--perhaps the most distinctive feature of the Act. It also requires that the public be given a greater opportunity to scrutinize the performance of juvenile courts, which the Act achieves, for example, through its requirement that all hearings be open to the public (see Section 68).

While the Act stresses the principles of individual responsibility and system accountability, it does not neglect the need for, or importance of youth

development and treatment. It excludes, however, the need for treatment services as a variable in determining the length of a juvenile's disposition. As James Q. Wilson argues in the revised edition of Thinking About Crime (New York: Vintage Books, 1985), rehabilitation should be a benefit of programs rather than a factor determining the length of sentences (p. 256). Juveniles who might require a program of treatment beyond the duration of their presumptive and determinate dispositions cannot be confined or assigned to probation for a period of time longer than their present offense, age, and offense history justify. Instead, the Act envisions that they would be encouraged to continue in treatment programs voluntarily after they have completed the conditions and requirements of their dispositions.

### Definitions

The definitions found in Section 4 are, for the most part, standard. Three, however, merit comment, as they relate to the Act's principles of individual responsibility and system accountability.

Section 4(O) defines a "manifest injustice." It permits a juvenile court judge to depart from the presumptive and determinate disposition that the Disposition Guidelines Commission (see Sections 79 to 84) has determined should be the disposition in a particular case if the judge believes that the standard disposition would result in a manifest injustice either to the juvenile (by being excessively severe) or to the community (by being excessively lenient). Consistent with the principle of system accountability, the Act requires the juvenile court judge to state in writing the reasons for declaring a manifest injustice and imposing a determinate disposition according to the procedures spelled out in Section 73(A) and (B).

Section 4(Q) defines "offense history." The principles of individual responsibility and system accountability on which the Act is based require that all juvenile offenders be treated equally and in proportion to their criminal capacity. Criminal capacity is measured by the seriousness of the present offense, the offender's age, and the offender's offense history, including the number of prior offenses, the seriousness of prior offenses, and the recency of those offenses. Included in an offense history are not only those offenses of which the juvenile has been adjudicated delinquent, but also those offenses for which he or she has been diverted. Section 61 requires that a diversion agreement become part of a juvenile's offense history, that the juvenile and the juvenile's parents be advised of that fact, and that a signed acknowledgement of such advisement be obtained from the juvenile and the juvenile's parents. Including diverted offenses in a juvenile's offense history and allowing them to exacerbate subsequent dispositions is consistent with the Act's objectives of holding juveniles responsible for their criminal actions and of assisting them to be more responsible for their future actions.

Section 4(V) defines "restitution" (see Sections 85 to 90). Restitution can be ordered only as part of a disposition following adjudication and may not be ordered as part of any diversion agreement. (Restitution is not to be confused with unpaid community service, which may be ordered under a dispositional order or a diversion agreement). Restitution advances the Act's objective of holding juveniles responsible for their criminal actions in that it makes them confront directly the consequences of their criminal behavior, as well as the injury and losses they have caused the victims of their offenses. In addition, it offers an

alternative to institutionalization and is responsive to the legitimate claims of the victims' assistance movement.

### Judges, Referees, and Probation Officers

Consistent with the Standards For The Administration Of Juvenile Justice of the National Advisory Council for Juvenile Justice and Delinquency Prevention (see NAC Standards 1.422 and 3.123) and the recommendations of the National Council of Juvenile and Family Court Judges, Section 5 of the Act favors the increased professionalization of juvenile court judges. Because the principle of system accountability mandates strict adherence to due process requirements throughout the fact-finding process, every juvenile court judge should be an attorney licensed to practice law in the state. Section 5 is silent about how judges should be appointed, since practices vary widely among the states.

The principle of system accountability demands that the juvenile system be accountable to the public. Judges must account for their actions. Therefore, Section 6 mandates the clerk of the court to maintain a public register listing all dispositions over which the judge presided, and the charges brought, without disclosing the identity of the juvenile.

Section 7 provides for the use of referees, in order to streamline the judicial process. Because referees are to be used to expedite the judicial process rather than to provide substantive judicial relief, Section 8 limits their functions so that they are expressly not authorized to conduct adjudication hearings or to entertain motions to dismiss petitions or to suppress evidence. These limitations are consistent with NAC Standard 3.124.

Section 12 establishes probation officers as the primary supervisors of the juvenile. It empowers them to take into custody and detain a youth, to arrange and supervise diversion agreements, to prepare pre-disposition reports, to supervise and provide a juvenile and parent with the terms and conditions of probation, to administer funds as directed by the court, and to screen certain complaints delegated by the prosecutor. Section 12(A) is noteworthy in that it does not give probation officers any responsibilities relative to intake save those which the prosecutor delegates to them in complaints alleging the commission of non-felony offenses (see Section 54). Making prosecutors responsible for all intake decisions and requiring that they screen for legal sufficiency before the initiation of any proceedings against a juvenile are features consistent with system accountability and provide further illustrations of why the Act is described as formal.

### Jurisdiction and Venue

The model Juvenile Delinquency Act is concerned with the juvenile court's exclusive original jurisdiction over delinquent and alleged delinquent youth. It defines delinquency narrowly as the commission of an act which would be a crime if committed by an adult (see Section 4(F)). The Act also employs the criminal law distinction between misdemeanors and felonies.

The reason for this emphasis is that it is the area of juvenile law with which legislators appear to be least satisfied. It should not be understood, however, as denigrating the importance of other matters over which the court

exercises jurisdiction, such as dependency, neglect, and abuse. Dependent, neglected, and abused children represent a significant problem, and legislators' interest in juvenile justice should not end with improving their state's provisions for delinquency. Legislators interested in this issue should consult the 70 Recommendations on the subject prepared by the National Council of Juvenile and Family Court Judges.

The juvenile court's delinquency jurisdiction is limited by both age and mandatory transfer of some serious offenders to the adult court. The court may exercise its jurisdiction over individuals under the age of 18, or between the ages of 18 and 20 if an offense was committed while the individual was under 18 (see Section 4(B)). In any case, the court may only retain jurisdiction until the individual's twenty-first birthday (see Section 16).

Section 18(A) of the Act excludes juveniles charged with certain offenses from the court's jurisdiction after a finding of probable cause that the juvenile committed the act or acts alleged. Juveniles aged 14 or older charged with murder are excluded from the court's jurisdiction, as are juveniles whose present felony offense, offense history, and age meet certain criteria specified in advance by the Disposition Guidelines Commission. As a guide to establishing such criteria, the Commission might consult Connecticut General Statutes 46B-126-127; Minnesota Statutes Annotated 260.125 Subd. 3; South Carolina Code Annotated 20-7-430; or West Virginia Code 49-5-10. The intent of Section 18(A) is to approach the transfer decision in these cases in a manner similar to other sanctioning decisions under the Act. Offense-based presumptive transfer criteria reduce excessive judicial discretion and increase the integration between juvenile and criminal sentencing practices.

Section 18(B) provides for discretionary transfer of juveniles charged with less serious felonies. Any party may move to have the court hold a transfer hearing for a youth aged 14 or older. The court may transfer a juvenile after determining that probable cause exists to believe that the juvenile committed the act alleged, that the previous history of the youth warrants transfer, and that community safety might require that the juvenile be under restraint or supervision beyond the age of 21. The use of 14 as the minimum age of transfer is consistent with common law presumptions and current practice in several states.

Once a juvenile is transferred to an adult court and convicted of a felony in that court, the adult court retains jurisdiction over the juvenile for all subsequent offenses (see Section 20(B)). If the juvenile is acquitted of a felony, but convicted of a misdemeanor, jurisdiction returns to the juvenile court. Section 20 requires that the adult court return a juvenile to the juvenile court's jurisdiction if it finds that the probable cause requirements of a Section 18(B) transfer have not been met or if it only finds probable cause for an offense which is not excluded under a Section 18(A) transfer.

### **Custody and Detention**

Cognizant of the differences between youths and adults, the Act retains the traditional juvenile law distinction between arrest and custody. Although grounds for custody of a juvenile should be the same as grounds for arrest of an adult in identical circumstances, other grounds for custody are necessary to conform to the structure of the juvenile system. A youth can be taken into custody when probable cause exists that the youth has materially violated a court



order, or has escaped from detention or a commitment program. The court may issue a warrant on the same grounds or when the juvenile has a record of wilful failure to appear at juvenile proceedings.

If a law enforcement officer chooses not to take a youth into custody, the officer may issue a formal warning notice, provided that uniform guidelines exist for issuing such notices (Section 22). The notice would identify the youth and describe the alleged conduct. Copies of the notice would be sent to the youth's parents and placed on file with the law enforcement agency and the probation office.

A law enforcement officer who takes a youth into custody has three options. The officer may issue a citation to the youth if grounds exist to issue an adult a citation in similar circumstances (Section 24(A)). The officer may also secure the youth's written promise to appear at subsequent proceedings (Section 24(B)). Finally, the officer may detain the youth.

If a youth is detained, Section 28 requires that a detention hearing be held within 36 hours (excluding Sundays or holidays). The purpose of the hearing is to determine whether there is probable cause to believe that the youth committed the alleged act (Section 30). The youth is entitled during a detention hearing to all of the due process rights generally available to adults at a probable cause hearing (Sections 34 and 35). The juvenile's parent(s) or guardian(s) must also be present at the hearing (Sections 32 and 33). If the court finds that probable cause exists, then it shall order detention when the youth is alleged to have committed certain serious felonies (Section 36(A)); or if it is likely that the youth will not appear at further proceedings, is a threat to community safety, is endangered, will intimidate witnesses, will interfere in the administration of justice, or has committed a felony while another proceeding against the youth was pending (Section 36(B)). The Act prohibits the detention of a youth for more than 21 days pending an adjudication hearing, unless that hearing has been continued. Under no circumstances, however, may a youth be detained indefinitely (see Section 66).

Special attention is directed to Section 35, which provides juveniles with mandatory, non-waivable representation by counsel. The right to counsel is the single most important right in the Act because the presence of counsel is fundamental to every other right. The empirical and legal capacity of juveniles to waive this right is questionable. Moreover, parental consent to a juvenile's waiver of counsel is inadequate since most parents are not lawyers, are unlikely to appreciate the need for counsel, and are unable to cope with the authority of the court in a counsel waiver setting. In an offense-oriented juvenile code, it is critical to ensure procedural justice.

### Detention Facilities

The intent of Sections 41 to 48 is to regulate the facilities in which juveniles are detained. Each county should provide juvenile detention facilities for youths detained in the county, and these facilities should be considered an agency of the court. In the absence of any county detention facility, the court should be permitted to arrange for the care and custody of juveniles in private homes or other institutions which may become subject to the court's authority. These private homes or institutions should be subject to appropriate state

licensing requirements. Courts should also cooperate to provide for the detention of juveniles in a county other than that in which they appear before the court.

Section 42 regulates the use of adult jail or lockup facilities to detain juveniles. In 1974, the federal government offered a financial incentive, through the Juvenile Justice and Delinquency Prevention Act (Public Law 93-415), for states to reduce the number of juveniles detained in jails and other lockup facilities. In 1980, the JJDP Act was amended (Public Law 96-509) to permit the use of jails under special circumstances. The reason for this amendment was the financial hardship experienced by many counties, particularly in rural areas, in attempting to comply with the JJDP Act. Section 42 of the Model Act permits the use of jails for detention purposes, but restricts such use in a manner consistent with the 1980 amendments to the JJDP Act. It should be noted that neither the 1974 JJDP Act nor its 1980 amendments take account of recent architectural and structural innovations and their ability to accomplish the goals of the 1974 Act by other means.

Sections 43 to 45 deal with the general administration of detention facilities, including fiscal responsibility, independent oversight, and record-keeping duties. Section 46 specifies the level of care and supervision to be maintained in detention facilities.

Section 47 prohibits contact between adults and juveniles whenever they are detained in facilities located in the same building or on the same grounds. This section mandates total separation of facility spatial areas and program activities. It also requires separate staff, except in those positions which do not normally require direct contact with detainees. The intent of this section is to protect immature and potentially vulnerable juvenile offenders from adult inmates. Section 48 pursues a similar goal by separating adjudicated delinquent youth from alleged delinquent youth. Moreover, Section 48 provides for the segregation of dangerous or potentially dangerous juveniles from other detainees.

### Initiation of Proceedings

Section 51 enumerates the duties of the prosecutor. Section 51(B) states that the prosecutor shall directly supervise all matters relating to intake. Traditionally, juvenile codes have vested the intake process with probation officers and have required them to determine what is in the "best interest" of the juvenile. The Act, however, shifts this responsibility to the prosecutor, as it relies on the legal process to determine what is in the best interests of the juvenile and is based on the premise that those trained in determining the legal sufficiency of a complaint are best suited to handle the intake process. Section 54 allows probation officers to exercise screening powers for misdemeanors delegated to them by the prosecutor, thereby providing a mechanism for reducing costs while still recognizing that intake is a necessary responsibility of the prosecutor.

Section 52 specifies the contents of the petition alleging the youth's delinquency. Since a judicial determination of probable cause is a precondition to the formal initiation of criminal proceedings whether by way of complaint, information, or indictment, the petition must state the facts which establish probable cause to believe that the youth committed the act or acts alleged in the petition, as well as the facts which bring the youth within the court's jurisdiction. In addition to the notice functions served by probable cause statements, such statements require prosecutors to engage in prompt and thorough pre-petition

review and force them to charge juveniles more realistically and screen cases more appropriately. An expenditure of screening resources early in a case can reduce the number of unnecessary dismissals later in the process.

### Diversion Agreements

Sections 60 to 65 provide for diverting juveniles from court processing prior to adjudication into programs of community service, supervised counseling, medical treatment, or other programs. This formal diversion can occur only after the prosecutor has screened the case for legal sufficiency and is convinced that the facts establish *prima facie* jurisdiction, as dictated by the principle of system accountability (see Section 60(A)). Section 61(A) requires that the juvenile and the juvenile's parents be informed of the consequences of diversion and that they voluntarily and intelligently agree to the terms and conditions of the diversion agreement. Under the provisions of Section 35, the juvenile and the juvenile's parents must be assisted by counsel before agreeing to the diversion agreement.

Consistent with the principle of individual responsibility, diversion agreements become part of the juvenile's offense history and are used in subsequent disposition hearings to enhance the severity of the juvenile's disposition in cases where the juvenile is adjudicated delinquent. Therefore, Section 61(B) requires a signed acknowledgement by the juvenile (and, where possible, by the juvenile's parents) that the diversion agreement will be part of the juvenile's offense history. Section 61(C) further requires that the diversion agreement be written in clearly understandable language and that it contain all conditions of the agreement, including a statement of the juvenile's rights relating to destruction and sealing of records (see Sections 91 to 96).

Section 62 directs probation officers, as they arrange diversion agreements, to consider the most suitable method, program, or procedure for the juvenile, giving due regard to the best interests of the juvenile and the community. Thus, while prosecutors are responsible for determining when diversion is appropriate, probation officers are responsible for determining what type of diversion is best for the juvenile. Section 62 gives priority to community service because of its ability to promote a sense of individual responsibility in the juvenile. Section 62 also recognizes the importance of participation in various community-based programs or submission to appropriate physical and mental examinations, as well as examinations for learning disabilities and emotional dysfunctions and provision of suitable counseling and therapy. It prohibits a diversion agreement from providing for any kind of secure confinement. Section 63 limits a diversion agreement to a maximum of six months for misdemeanors and twelve months for felonies.

In the event that a juvenile breaches the terms of the diversion agreement, Section 65 specifies that the probation officer is to notify the prosecutor of the officer's belief that a violation has occurred and the prosecutor, upon screening the allegations of the breach, is to initiate proceedings against the juvenile on the original charge pursuant to Section 49.

### The Adjudication Process

Another significant feature of the principle of individual responsibility is that juveniles be brought swiftly to trial so that a clear linkage is maintained in their minds between their delinquent behavior and its legal consequences.

Section 66 of the Act, therefore, imposes "speedy-trial" requirements on juvenile courts, requiring that the adjudication hearing be held within 21 days of the filing of the petition for juveniles held in detention and within 60 days for all others.

The principle of system accountability requires that the public be given the opportunity to scrutinize the performance of juvenile courts. The principle of individual responsibility requires that juvenile offenders be held responsible for their criminal acts to the community. These requirements come together in Section 68, which mandates that all hearings on petitions alleging delinquency, including detention hearings, dispositional hearings, and contempt hearings, be open to the general public unless the court makes a written finding of exceptional circumstances to close such hearings.

Section 69 specifies that when not in conflict with other provisions of the Act, adjudication hearings shall be governed by the rules of criminal procedure. These formal requirements are mandated by the principle of system accountability. The state is intervening in the juvenile's life not because of the chancery doctrine of *parens patriae*, but because a criminal act is alleged, and therefore the juvenile is entitled to the same protections and due process provisions as adult defendants. Although Section 69 does not refer to jury trials, juveniles currently have a right to trial by jury in at least twelve states. The U.S. Supreme Court has held (403 U.S. 528) that states are not constitutionally required to provide jury trials in juvenile courts. This Act's explicit rejection of *parens patriae* as a justification for intervention, however, suggests that jury trials in juvenile courts would be good policy and raises the possibility that they might be constitutionally required under a juvenile code such as this.

### Disposition

Sections 70 to 78 address the disposition phase of delinquency proceedings. Some of the Act's disposition provisions represent traditional elements of juvenile procedure. Section 70, for example, directs the probation department to prepare pre-disposition reports prior to disposition hearings. In addition to information about the juvenile and his or her family, the report must also include a victim impact statement.

Section 71 identifies the matters to be considered at the disposition hearing, including whether a manifest injustice would arise if the juvenile were to serve a disposition pursuant to the guidelines established by the Disposition Guidelines Commission (See Section 73). A manifest injustice is a disposition that would impose an excessive penalty on the juvenile or would present a clear and serious danger to society (see Section 4(O)). A judge may declare a manifest injustice and impose a disposition outside of the standard range, provided that the reasons for so doing are stated in writing.

Section 72 is one of the most important parts of the Act. It directs the court to impose determinate dispositions established by a juvenile Disposition Guidelines Commission (see Sections 79 to 84). The intent of this section is to advance the twin goals of individual responsibility and system accountability by imposing dispositions on the basis of the offense committed by the youth rather than on clinical predictions about the youth's treatment needs or future behavior. The dispositional alternatives for misdemeanor offenses include (1) a standard range of confinement in a county facility or (2) probation combined with confinement, community service or fines. For felony offenses, the alternatives

include (1) a standard range of confinement in a state facility or (2) probation, unless probation is expressly prohibited by the Disposition Guidelines Commission for specific offenses. In addition to any other disposition, the court is directed to impose an order of restitution on both misdemeanor and felony offenders (see Sections 85 to 90).

Section 76 authorizes the Disposition Guidelines Commission, at its discretion, to establish guidelines for the early release of committed juveniles or to leave such decisions to institutional authorities. The reason for establishing an early release policy is to provide flexibility in a world of institutional overcrowding and scarce institutional resources. In light of the Act's preference for presumptive and determinate dispositions, however, caution must be exercised when establishing such a policy. It would be more consistent with the Act's intent if the Commission developed a policy that was subject to legislative and public oversight.

Sections 74, 77, and 78 are standard provisions relating to conditions of probation, types of probation or parole programs, and violations of probation or parole.

### Disposition Guidelines Commission

The establishment of a Disposition Guidelines Commission is the Act's most innovative feature. Only one state--Washington--currently utilizes a commission to set presumptive dispositions for juvenile offenses. As outlined in Section 79, the Commission is to set guidelines in accordance with the Act's pursuit of justice, accountability, equality, and proportionality. The Commission is a ten-member body chaired by the state's attorney general or his or her designee. Other members of the Commission include a juvenile court judge, a prosecuting attorney, a law enforcement officer, a juvenile court administrator, a public defender, a corrections official, and three other persons possessing an interest and expertise in juvenile justice.

The Commission is responsible for continuously evaluating disposition guidelines, soliciting the advice of experts with respect to those guidelines, updating disposition guidelines every two years, considering the impact of proposed guidelines on the state's juvenile facilities and other resources, establishing an early release policy, and periodically recommending plans to improve juvenile justice in the state (see Section 81). These responsibilities are granted to the Commission to ensure that important decisions affecting community safety and the interests of juveniles are made by a public body accountable to the legislature. These responsibilities are also granted to the Commission in order to promote the general purposes of the Act, particularly as set out in Section 3(A)(11).

Section 82 specifies the boundaries within which the Commission must work in establishing its guidelines. This section directs the Commission to establish criteria for mandatory transfer (see Section 18) and to list the circumstances under which probation is prohibited for felony offenses (see Section 72). Section 82 also establishes the upper and lower limits of the standard commitment range for misdemeanors and felonies. In setting all of these guidelines, the Commission is directed to consider only offense, offense history, and age characteristics. It is insufficient merely to distinguish between felony and misdemeanor offenders; the Commission must also distinguish among offenders

within those categories. Objective offense history and age criteria are the most just bases for such distinctions.

Although not the only alternative, the Washington commission's approach is instructive. Washington adopted a system in which points are assigned on the basis of offense seriousness, offense history and age. Washington's commission began by classifying all offenses by seriousness, resulting in a classification system ranging from Class A+ to Class E offenses. The commission next assigned points to each offense category on the basis of offender age. Finally, the commission specified the way in which a juvenile's prior offense history would function as a multiplier of the basic point level for each offense. Under the current guidelines, for example, a fifteen-year old offender would receive fifty points for committing a Class B offense like Burglary 2. If this juvenile had committed a Class C offense (e.g. Malicious Mischief 2) within one year of the burglary, an additional 25 points would be assigned to the juvenile.

### Restitution

Restitution plays a central role in the Act's dispositional scheme (see Section 72(C)). Sections 85 to 90 outline the limits of restitution orders, parental liability for restitution, and the requirement that restitution orders be supported by juvenile restitution programs.

The Act approaches restitution from an accountability perspective. It is only recently that the conceptual understanding of restitution has widened sufficiently to include more than simply victim compensation. Thus, while restitution is still ordered as a condition of probation for compensation purposes, systematic programs have been developed and implemented which view restitution as a positive element in the corrective process. In some jurisdictions, restitution is often ordered as a sole sanction for the purpose of holding juveniles accountable. Restitution is also an attractive option because it promotes accountability without relying on secure confinement.

Research on restitution is encouraging. When a programmatic approach to restitution is taken, completion of restitution orders is high and recidivism is reduced. Restitution is also successful even in the absence of counseling. Moreover, when restitution is employed as a sole sanction, juveniles are more likely to comply with restitution orders and less likely to commit new offenses while participating in the restitution program.

### Records

For the same reasons that the principles of individual responsibility and system accountability lead to the requirement of open hearings (see Section 68), they also lead to the requirement of Section 91 that all records other than the social file be open to public inspection unless sealed or expunged pursuant to Sections 92 or 95. The social file (which contains the pre-disposition report and other personal information about the juvenile and the juvenile's family, including the records of any diversion agreements) is confidential, and may be made available to prosecutors, defense counsel, or law enforcement agencies only if the court is satisfied that such information is necessary for ongoing investigatory purposes (see Section 91(B)).

The Act recognizes the significance a juvenile record can have on the future of a young person. While juveniles are to be held responsible for their criminal acts, their responsibility is not identical to that of adults. Therefore, Section 92 of the Act allows for the sealing of juvenile records, thereby providing all juveniles, save those adjudicated delinquent for committing certain serious felonies specified by the legislature, to have a fresh start if sufficient time has passed and the juvenile has avoided further trouble. Upon the request of the juvenile or the juvenile's parents, all records of a given case are to be sealed, provided that no delinquency or criminal proceeding is pending against the juvenile; that no proceeding is pending seeking the formation of a diversion agreement with the juvenile; that the juvenile has never been adjudicated delinquent of certain serious felonies specified by the legislature; and that two years have elapsed from the time when the juvenile was subject to the court's jurisdiction. Once a record is sealed, it is removed from the main file of similar records and secured in a separate file that contains only sealed records and that is accessible only to the juvenile court. A record that is sealed shall be destroyed by all juvenile justice or care agencies except the juvenile court.

Section 95 provides for the expungement of records in the event a delinquency proceeding is terminated in favor of the juvenile. Section 96 specifies that whenever a record is sealed or expunged, with respect to the matter in which the record was sealed or expunged, the proceedings in the case shall be treated as if they never occurred. The juvenile may inform anyone that he or she was not taken into custody, did not appear before the court, did not enter into any diversion agreement, or was not adjudicated delinquent. Section 96(C) exempts the appropriate department of motor vehicles from these provisions for records of a juvenile relating to any adjudication or diversion for driving under the influence of intoxicants.

# TREATMENT, CARE, AND DISCIPLINE OF DISOBEDIENT CHILDREN

(Title, enacting clause, etc.)

Section 1. *[Short Title]* This act may be cited as the Disobedient Children's Act.

Section 2. *[Purpose]* The legislature finds that within any group of people there exists a need for guidelines of acceptable behavior. We further find that it is the right and responsibility of adults to establish laws for the benefit and protection of society, and that in the same manner, the right and responsibility for establishing reasonable guidelines for the family unit belongs to the adults within that unit. We note with importance that the family unit is the fundamental resource of American life which should be nurtured and remain intact absent compelling evidence to the contrary.

We hereby intend to promote methods within the juvenile justice system for the care, treatment, and discipline of disobedient children. We find that truants, runaways, and alcohol and drug dependent youths pose a serious risk both to themselves and to the community at large. We believe that these types of youths are best handled in an informal setting where the most effective kind of supervision can be administered.

We further find that runaways pose a particularly difficult problem to the state, because, they, unlike other missing children, many times leave home on their own volition. Moreover, for those children who are abducted from their lawful home, either by a stranger, or an estranged spouse, current practices in the reporting and finding of these children are inadequate. Therefore, in order to locate and return all missing children to their lawful residences, we hereby establish a clearinghouse of information for the reporting and locating of these missing children.

Section 3. *[Definitions]* For purposes of this Act the definitions in Section 4 of the Juvenile Delinquency Act are to be followed unless it is clearly indicated otherwise. In addition, the following definitions shall apply:

- (A) "Clearinghouse" means the central repository of information on missing children.
- (B) "Detoxification Unit" means a facility, or a portion of a facility, licensed by the [department of human services] to provide detoxification services to intoxicated persons.
- (C) "Disobedient Child" means a youth who is
  - 1) Truant;
  - 2) Beyond the control of school authorities while in attendance;
  - 3) Habitually disobedient to the reasonable and lawful commands of the juvenile's parents and beyond their control;
  - 4) A runaway;
  - 5) Wilfully in a situation dangerous or injurious to the health, safety, or welfare of the juvenile or others;
  - 6) In possession of or found to have consumed intoxicating substances;
  - 7) In violation of any other act designated an offense under the law of this state or any political subdivision thereof, or under federal law, applicable only to a child.



- (D) "Intoxicated child" means a child whose mental or physical functioning is substantially impaired as a result of the use of or withdrawal from alcohol and/or other drugs.
- (E) "Missing child" means any person unemancipated and under 18 years of age who cannot be found after a law enforcement agency has received a report that such person is missing.
- (F) "NCIC" means the National Crime Information Center.
- (G) "Report" means information given to a law enforcement agency on a form used for sending information to the NCIC about a child alleged to be missing.
- (H) "Runaway" means a child who is absent from legal residence without consent.
- (I) "SCIC" means the State Crime Information Center.
- (J) "Secure detention facility" means any public or private residential facility which is designed to physically restrict the movements and activities of juveniles held in lawful custody in such facility and which is used exclusively for the temporary or short term placement in secure detention of delinquent youth and juvenile offenders, including disobedient children alleged or found to have violated a valid court order.
- (K) "Shelter home" means any facility, including but not limited to licensed group care facilities, crisis residential centers, or specialized foster family homes, but not including secure institutions or facilities as defined by the federal Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415; 42 U.S.C. Sec. 5634 et seq.) and regulations and clarifying instructions promulgated thereunder. The shelter home shall comply with the minimum standards for licensing foster homes, although the [Department] in its discretion may dispense with certain of such standards as it deems appropriate.
- (L) "Truant" means a child of compulsory school age absent from attendance during a given school year without lawful excuse.
- (M) "Valid Court Order" means an order of a court of competent jurisdiction regulating future conduct, and which is entered in a judicial proceeding that observes all of the following conditions:
- 1) The order is based on a preponderance of the evidence after a properly noticed hearing;
  - 2) The juvenile received notice of the consequences of violating such order, and such notice shall be in writing and provided to the juvenile and the juvenile's attorney and/or legal guardian and be reflected in the court record;
  - 3) The following due process requirements were met: written and timely notice of the charges and time and place of the hearing; the right to a court hearing; an explanation of the

nature and consequences of the proceeding; the right to an attorney, and the right to a court appointed attorney if the juvenile is indigent; the right to confront and cross-examine witnesses; the right to present witnesses and to have the court subpoena them if necessary; the right to a transcript or record of the proceedings; and the right to appeal to an appropriate court.

Section 4. *[Hearings Closed]* All hearings pursuant to this Act shall be separate from all other business of the court, and the general public shall be excluded from the hearings. Only such persons who the court finds have a direct interest in the case or the work of the court shall be admitted to the proceedings.

Section 5. *[Contempt Proceedings]*

- (A) Failure by a party to comply with a valid court order entered under this Act is in contempt, punishable by a fine of up to one hundred dollars (\$100) and confinement for up to seven (7) days, or both, in accordance with [general court rules relating to contempt].
- (B) A juvenile accused of violating a valid court order may be held in secure detention if there is probable cause to believe that
  - 1) The juvenile will likely fail to appear for further proceedings,
  - 2) Detention is required to protect the juvenile from himself or herself.
- (C) In no event shall the juvenile be held more than 24 hours in secure detention unless there has been a court determination that probable cause exists to believe the juvenile violated the valid court order. However, detention may not extend beyond 72 hours, exclusive of nonjudicial days, before a hearing on the violation.
- (D) Prior to and during the violation hearing the juvenile shall be entitled to the following full due process rights: written and timely notice of the charges and time and place of the hearing; the right to a court hearing; an explanation of the nature and consequences of the proceeding; the right to an attorney, and the right to a court appointed attorney if the juvenile is indigent; the right to confront and cross-examine witnesses; the right to present witnesses and to have the court subpoena them if necessary; the right to a transcript or record of the proceedings; and the right to appeal to an appropriate court.

### Jurisdiction and Venue

Section 6. *[Basis of Jurisdiction]* The court shall have exclusive original jurisdiction in all proceedings in this state concerning disobedient or alleged disobedient youth.

Section 7. *[Termination of Jurisdiction]* The court shall retain jurisdiction over the case until all orders made under this Act have been fully complied with or until the youth attains the age of eighteen (18), whichever event occurs earlier.

Section 8. *[Venue]* A proceeding in which a youth is alleged to be disobedient shall be brought in one of the following [judicial districts]:

- (A) Where the youth, or the youth's parents reside; or
- (B) Where the youth was taken into custody.

### Custody of Disobedient Children

#### Section 9. *[Grounds for Custody]*

- (A) The court may order that a youth be taken into custody if a complaint or petition shows that a youth is a disobedient child or has violated a valid court order. Absent a warrant or court order, a youth may be taken into custody by a law enforcement officer if
  - 1) A law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent;
  - 2) A law enforcement officer reasonably believes that a child is in circumstances which constitute a danger to the child's physical welfare; or
  - 3) An agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement.
- (B) Temporary custody shall not be deemed an arrest so far as the youth is concerned, except for the purpose of determining the constitutional validity thereof.
- (C) A law enforcement officer taking a youth into temporary custody has all the privileges and immunities applicable as if the officer were making an arrest.
- (D) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination.
- (E) In no event shall a disobedient child be held in a secure facility unless he or she violated a valid court order.

Section 10. *[Procedure upon Custody]* A law enforcement officer taking a disobedient child into custody shall inform the youth of the reason for such custody and, with all reasonable speed, may either

- (A) Take the youth home, informing the parent why the officer took the youth into custody, and informing both youth and parent of the nature and location of appropriate services available in their community; or
- (B) Take the youth to a shelter home, if
  - 1) It is impractical to return the youth home,
  - 2) There is no parent available to accept custody of the youth,
  - 3) The youth evidences fear or distress at the prospect of being returned home,
  - 4) The parents have alleged that the youth is beyond their lawful control, or
  - 5) The youth is wilfully in a situation dangerous or injurious to the youth's health, safety, or welfare; or
- (C) Proceed as in Sections 31 to 44; or
- (D) Take the youth to a secure detention facility if there is probable cause to believe the youth has violated a valid court order.

## Runaways

Section 11. *[Conditions of Shelter Home]* Pursuant to rules established by the [department], the shelter home director shall establish reasonable hours for residents to come and go from the shelter home. The shelter home director, where appropriate, may require a resident to be accompanied by shelter home staff members upon leaving the home, or to notify such staff of the resident's intent to leave, destination, and probable time of return home. The shelter home director shall notify the parents of the child and the appropriate law enforcement agency within four hours of the discovery of any unauthorized leaves.

### Section 12. *[Responsibilities of Department]*

- (A) The [department] shall inform all law enforcement authorities regularly of the location of the shelter homes in their [judicial districts], and shall develop and distribute to all law enforcement agencies and to each shelter home director a written statement delineating such services and rights as are available to a child and parent under this Act. The director shall give such statement to the child and parent upon admitting the child to the shelter home.
- (B) The [department] shall offer available family reconciliation services to a family when a child is placed in a shelter home. Any such placement may continue as long as the child and parent so agree.

Section 13. *[Duty to Inform Parents]* Either the [department] or the shelter home director, upon admitting a child to a shelter home shall immediately

- (A) Notify the child's parents of the child's whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement;
- (B) Notify the parent of the procedures to be followed under this section, stressing that it is of paramount concern to reconcile the parent and child; and
- (C) Return the child home at the expense of the parents to the extent of their ability to pay, with any unmet transportation expenses assumed by the [department], in the event the child and parent agree to be reunited. In the event that the child and parent do not agree to be reunited, the shelter home director shall keep the child at the shelter home at the expense of the parents to the extent of their ability to pay.

Section 14. *[Interstate Compact to Apply]* The provisions of Section 104 of the Juvenile Delinquency Act will apply if a child with a legal residence outside the state is admitted to a shelter home and refuses to return home.

### Section 15. *[Alternative Residential Placement]*

- (A) Where either a child, a parent, or shelter home director cannot agree to continued placement in the shelter home, the shelter home director shall bring the child to an alternative shelter home of the director's choosing as soon as practicable.
- (B) If a child and parent cannot agree to an alternative shelter home or to continued placement in such alternative shelter home, either the child or the parent may petition the court to approve an out-of-home placement.

Section 16. *[Child Admitted to Shelter Home]* Except as provided in Section 18, a child admitted to a shelter home shall reside in the shelter home for a period not to exceed 120 hours from the time of admittance, excluding Saturdays, Sundays, and holidays. If the parent and child are not reconciled within eighty hours from the time of admittance, including Saturdays, Sundays, and holidays, and if the shelter home director does not believe they will be reconciled within the 120 hour time period, then the director shall inform them of the following:

- (A) The availability of additional counseling services;
- (B) The right to petition for out-of-home placement and to obtain assistance in filing the petition; and
- (C) The right to request a review of such placement;

Section 17. *[Filing and Notice of Petition]*

- (A) A child or parent may petition the court to approve out-of-home placement, and the [department] shall assist the child or parent upon request in filing the petition. The petition shall ask only that the placement of a child outside the home of the parent be approved.
- (B) Upon complying with Section 15, the [department] shall file a petition to approve out-of-home placement on behalf of a child under the following conditions:
  - 1) No petition requesting approval of an out-of-home placement has been filed by either the child or parent; and
  - 2) The child has resided in the shelter home at least eighty hours including Saturdays, Sundays, and holidays.
- (C) Upon the filing of a petition under this section, the court shall
  - 1) Schedule a hearing, and advise the parties of the date thereof;
  - 2) Inform the child and parent of the legal consequences of any out-of-home placement; and
  - 3) Notify all parties of their right to present evidence at the hearing.

Section 18. *[Placement Pending Review]* Upon the filing of a petition under this section, the child shall remain in the current shelter home, or in any other residence the [department] chooses, until the court resolves the petition. The [department] may authorize emergency medical or dental care for such child. Any placement, however, may be reviewed by the court within three judicial days upon the request of any party. A person other than a parent of such child who receives a child pursuant to this section and who acts reasonably and in good faith in doing so is immune from civil or criminal liability for the act of receiving such child. Such immunity does not release such person from liability under any other law, including the laws prohibiting [child abuse].

Section 19. *[Placement Plan]* Upon the filing of a petition for out-of-home placement, the [department] shall submit a three-month placement plan to the court designed to reunite the family and resolve the family conflict, and which shall include the following:

- (A) A recommendation of where to place the child, which may include placing the child in a shelter home or in the home of a responsible adult, and shall take account of the cultural heritage or religious background of the child, when relevant;
- (B) Delineate any conditions or limitations on parental involvement, including visitation rights;

- (C) Consider the ability of the parents to contribute to the child's support, upon inquiring into their ability to make support payments.

Section 20. [*Hearing on Petition*] Within five judicial days of the filing of a petition for out-of-home placement, the court shall hold an informal, non-adversarial hearing to consider the plan submitted by the [department]. The court shall submit any order or findings in writing, including its reasons therefore. Any out-of-home placement for the child shall be for three months, and shall include the following:

- (A) The shelter home or home of a responsible adult in which the child shall be placed;
- (B) Support payments, enforceable under the provisions of Section 40 of the Juvenile Delinquency Act, to be imposed on the parents as the court deems equitable, provided that no support shall be imposed upon a parent who has both opposed the placement and continuously sought reconciliation with the child;
- (C) Parental visitation rights;
- (D) Those parental powers to be temporarily awarded to such shelter home director or responsible adult including, but not limited to, authorized medical, dental, and optical treatment;
- (E) The date of the three-month review hearing;
- (F) Any available mediation programs for reconciling the conflict.

Section 21. [*Out-Of-Home Placement*] In considering the petition, the court shall give due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the right to place reasonable rules and restrictions upon their children. The court may approve an out-of-home placement for the child only if it is established by a preponderance of the evidence that

- (A) The child or parent has reasonably tried to resolve the conflict;
- (B) The conflict cannot be resolved by community-based programs or services to the family while the child remains in the parental home;
- (C) A petition filed on behalf of a child is not based upon a dislike of reasonable rules or reasonable discipline established by the parent or is not otherwise capricious.

Section 22. [*Denial of Petition*]

- (A) If the court orders a child to remain at or return home, it shall impress upon the petitioner the legislative intent to allow out-of-home placement only when family conflict is so great that it cannot be resolved by appropriate services.
- (B) A child who, within ninety (90) calendar days of a court order directing the child to remain at or return home, fails to so comply shall be subject to contempt proceedings pursuant to Section 5.

Section 23. [*Three-Month Review Hearing*]

- (A) At the three-month review hearing, the court shall, in accordance with the goal of resolving the conflict and reuniting the family
  - 1) Discontinue the placement and order the child to return home if the court reasonably believes that the parents have sincerely tried to resolve the conflict and that the child's refusal to return home is capricious; or

- 2) Continue the out-of-home placement, and modify the placement plan as appropriate.
- (B) The order of the court for out-of-home placement may not, in any case, continue past 180 days from the date of the review hearing. The court may order the child to return home at the expiration of the placement or may make an order for the permanent placement of the child.

### Truancy

#### Section 24. *[Citation]*

- (A) A law enforcement officer or school administrator with probable cause that a child is truant or beyond the control of school officials shall issue a citation to the child and file a copy of the citation with the probation officer of the county where the child attends school. If the probation officer determines upon intake that the citation is legally sufficient, the probation officer shall investigate and keep a record of the citations issued to the child and may file the citation with the court and send a copy thereof to the prosecutor.
- (B) Filing with the court of a citation containing the names and addresses of the child, specifying the offense alleged and the time and place it was committed, has the effect of a petition giving the court jurisdiction.

Section 25. *[Notice of Expulsion]* The appropriate school administrator shall promptly notify the probation officer in writing when a child of compulsory school age is expelled from school. Upon receipt of such report, the probation officer shall investigate the matter and may proceed under this Act.

Section 26. *[Procedure Prior to Citation]* Prior to filing a citation with the court, the probation officer shall insure that the appropriate school personnel in the school district in which the child is enrolled have

- (A) Met with the child's parents to discuss the conflict, or have reasonably tried to meet with the child's parents;
- (B) Provided an opportunity to the child for educational counseling to determine whether a change in the child's instructional program would resolve the conflict or, when appropriate, shall have considered or provided program modifications;
- (C) Reasonably determined, consistent with the Code of Federal Regulations, Title 34, and [appropriate state regulations] whether a handicap may be the cause of the conflict and, if so, shall have reasonably accommodated the handicap;
- (D) Reasonably determined whether social problems may be the cause of the conflict, and if so, shall have taken reasonable action or made appropriate referrals.

Section 27. *[Filing of Citation]* Upon the filing of a citation under this section, the court shall

- (A) Schedule a hearing, and advise the juvenile, the juvenile's parents, the probation officer, the prosecutor, and the appropriate school personnel of the date thereof;
- (B) Inform the juvenile and the parent of the right to an attorney and a court appointed attorney if one cannot be afforded;

- (C) Inform the juvenile and the parent of the possible dispositional alternatives, including the sanctions on contempt pursuant to Section 5;
- (D) Notify all parties of their right to subpoena witnesses and to present evidence at the hearing;
- (E) Summon the juvenile and the juvenile's parents as provided in Sections 55 and 56 of the Juvenile Delinquency Act. If the juvenile fails to appear in response to the citation, the court may order that a law enforcement officer bring the juvenile before the court.

Section 28. *[Hearing on Citation]* Within [five (5)] judicial days of the filing of a citation under this section, the court shall hold an informal, non-adversarial hearing to consider whether the juvenile is a truant, or is beyond the control of school authorities. The court shall submit any order or findings in writing, including its reasons supporting the order. Such order shall remain in effect for a period of ninety calendar days, and a child who fails to so comply shall be subject to contempt proceedings pursuant to Section 5.

Section 29. *[Disposition]* In the event the court finds, upon a preponderance of the evidence, that the conditions of Section 24 have been met, and that the juvenile is a truant or is beyond the control of school authorities, the court shall order the juvenile to attend school regularly without further truancy, and obey the reasonable and lawful commands of school authorities. In addition, the court may

- (A) Order counseling for the juvenile and the juvenile's parents;
- (B) Order the juvenile to serve a term of community supervision not to exceed [ ] hours;
- (C) Order the juvenile to participate in a specified community service or education program sponsored by a public or private agency;
- (D) Take any other action, not in conflict with the law, designed to resolve the conflict between the juvenile and the school.

Section 30. *[Limitations on Program]* The juvenile's participation in the community service or education program shall be limited to non-school hours, and may not include overnight detention. The court may order the probation officer to pick up and deliver the juvenile to the program. To the extent practically feasible, such juvenile shall not be permitted to come or remain in contact with juveniles ordered to participate in the program as a result of having been diverted or adjudicated for delinquency.

### Juvenile Alcohol and Drug Dependency

Section 31. *[Custody of Intoxicated Child]*

- (A) A law enforcement officer taking an intoxicated child into custody shall, after issuing a citation to the youth to appear for an alcohol and drug screening before the probation officer, take such child home, there informing the parent why the officer took the child into custody. However, the officer shall take the child to a detoxification unit under the following conditions:
  - 1) The child's parents are unavailable;
  - 2) It is not in the best interests of the child to return home; or



- 3) The child is unconscious, or unable to communicate or make a rational decision as a result of the use of, or withdrawal from alcohol or other drugs.
- (B) The officer shall take the child to the nearest medical facility for appropriate care if the child needs immediate medical care unavailable at the detoxification unit.

Section 32. *[Detoxification Treatment]*

- (A) Pursuant to rules established by the [state health department], the director of the detoxification unit shall establish reasonable procedures to comply with this section. A child admitted to a detoxification unit shall be held solely for detoxification or for drug and alcohol dependency evaluation, which may be referred to as a "DAE." The unit must examine the child as soon as possible upon admission, and, when appropriate, detoxify the child or provide the child a DAE.
- (B) The detoxification unit, and any member of its staff, shall be immune from civil or criminal liability for complying in good faith with the provisions of this section.

Section 33. *[Release]*

- (A) The detoxification unit must release the child upon completion of the detoxification or DAE, whichever is later, but not to exceed 72 hours.
- (B) The detoxification unit may not release a child prior to the completion of detoxification or of a DAE, unless a parent or guardian of the child acknowledges the release in writing, and is informed of any medical risks to the child for such premature release. The detoxification unit must be reasonably satisfied that the person authorizing the release of the child is in fact the parent or guardian of the child.
- (C) The director shall immediately notify the parents of the child, if known, and the appropriate law enforcement agency, in the event the child escapes from the unit.

Section 34. *[Duty to Inform Parents]* Upon admitting a child to a detoxification unit, the director of the unit shall immediately

- (A) Notify the child's parents, if known, of the child's whereabouts, physical and emotional condition, and the circumstances surrounding the child's admission to the detoxification unit;
- (B) Notify such parent of the procedures which will be followed under this section, including the possibility of assessing against them the costs of the detoxification services and the DAE; and
- (C) Return the child home upon release at the expense of the parents to the extent of their ability to pay, with any unmet transportation expenses assumed by the [department], in the event the child and parent agree to be reunited; or
- (D) Admit the child to a shelter home at the expense of the parents to the extent of their ability to pay, in the event the child and parent do not agree to be reunited.

Section 35. *[Citation]*

- (A) Upon providing detoxification services or a DAE to a child, the director of the detoxification unit shall issue a citation to the child containing the following information:
- 1) The name, address, and phone number of the child, and of the child's parents;
  - 2) The name of the law enforcement officer taking the child into custody;
  - 3) The time and place detoxification services were received;
  - 4) A statement specifying, in the opinion of the director of the detoxification unit based on standards supplied by the [appropriate alcohol abuse department], whether the child is alcohol or drug dependent; and
  - 5) The date, time, and place of the juvenile's initial appearance.
- (B) The director of the detoxification unit may not issue a citation to a child who
- 1) Requested treatment voluntarily; and
  - 2) Was not delivered to the unit by a law enforcement officer.

Section 36. *[Written Report]*

- (A) The detoxification unit shall complete a written report concerning each child admitted to the detoxification unit, which report shall contain, if practical, the following information:
- 1) A biographical description of the child, including approximate height, weight, sex, race, color of hair and eyes, and distinguishing marks;
  - 2) A brief description of the detoxification services the child received, if any;
  - 3) The conclusions and analysis supporting the director's opinion that the child is alcohol or drug dependent;
  - 4) Recommendations whether and what kind of further treatment or programs the child should participate in; and
  - 5) An estimate of the costs of detoxification or DAE.
- (B) The costs of detoxification or evaluation shall be calculated by computing the following:
- 1) The actual cost of medical supplies or treatment materials used in the treatment; and
  - 2) A service rate fixed by the [health department] not to exceed [\$200].
- (C) The report shall be completed within four calendar days from the date the child is released from the detoxification unit. Immediately upon completing the report, the director of the detoxification unit shall file a copy of the report, together with a copy of the citation, with the probation officer of the county where the child or the child's parents resides. The director shall also deliver a copy of the report to the parents of the child.

Section 37. *[Initial Appearance]*

- (A) At the initial appearance, the court shall notify the juvenile, and if available, the juvenile's parents, of the possible consequences if the juvenile is found to be alcohol and drug dependent, and that such parent

- 1) May be required to participate in a program with the juvenile; or
  - 2) May be held financially responsible for any detoxification services received; and
  - 3) That such parent may be heard at the disposition or other hearing on their participation in programs, or on being held financially responsible.
- (B) The court shall inquire whether the juvenile will consent or refuse to submit to a DAE. If the juvenile consents to a DAE, the court shall schedule the time, and place of the DAE. If the juvenile does not consent to a DAE, the court shall schedule a hearing to determine whether probable cause exists that the juvenile is alcohol or drug dependent, and shall notify all parties of their right to subpoena witnesses and to present evidence at the hearing.
- (C) If the juvenile fails to appear in response to the citation, the officer may take the juvenile into custody and proceed according to Section 10.

Section 38. *[DAE by Probation Officer]*

- (A) Except as provided through detoxification, the probation officer shall supervise the DAE, and following the evaluation, shall
- 1) Arrange a diversion agreement pursuant to Section 60 of the Juvenile Delinquency Act, limited to the dispositional alternatives as provided in Section 42 of this Act or, if the juvenile's consent cannot be obtained;
  - 2) Refer the juvenile to appear before the court.
- (B) The probation officer shall maintain the file of all proceedings under this section. Such file shall be confidential, but shall be accessible to all interested parties including the court upon request.

Section 39. *[Alcohol and Drug Dependency Program]*

- (A) The presiding judge, the probation officer, and the county health administrator shall establish a juvenile alcohol and drug dependency program to comply with the provisions of this section. The court shall oversee the program, coordinate all local community-based juvenile alcohol and drug dependency programs, and the [county health administrator] shall oversee all procedures regarding medical evaluations and treatment of juveniles required to participate in such programs.
- (B) Juvenile participation in the program shall be limited to non-school hours, and may not involve overnight detention. The court may order the probation officer to pick up and deliver juveniles to the program. To the extent practically feasible, such juveniles shall not be permitted to come or remain in contact with juveniles ordered to participate in the program as a result of having been diverted or adjudicated for delinquency.

Section 40. *[Subpoena Power]* The juvenile and the juvenile's parents shall have the right to subpoena all persons who have prepared any portion of the detoxification report, and to cross-examine such persons at the drug and alcohol dependency hearing. Absent a court order to appear at the hearing, the director of the detoxification unit may testify by way of affidavit.

Section 41. *[Hearing on Citation]* At the hearing to determine whether there is probable cause that the juvenile is drug or alcohol dependent, or at the hearing following the DAE, the court shall hold an informal, non-adversarial hearing and

- (A) Consider whether the juvenile received detoxification services, and, if so, the extent of such services;
- (B) Consider whether the juvenile received a DAE and, if so, the results of such evaluation;
- (C) Consider whether other citations have been filed against the juvenile under this section, and, if so, the action taken by the court;
- (D) Afford the juvenile and the juvenile's parents an opportunity to speak in the juvenile's behalf; and
- (E) Consider the recommendations of the director of the detoxification unit and the probation officer.

Section 42. *[Disposition]* The court shall submit any order or findings in writing, including its reasons therefore. Upon the hearing on the citation, the court shall order the juvenile to appear for a DAE if probable cause exists that the juvenile is alcohol or drug dependent and if the juvenile has not appeared for a DAE, or if the juvenile has appeared for a DAE, the court may order the juvenile to

- (A) Serve a term of community supervision not to exceed [ ] hours;
- (B) Appear for out-patient drug and alcohol treatment at an approved and licensed treatment facility, or for in-patient treatment in the event the juvenile fails to appear for out-patient treatment as required;
- (C) Attend a juvenile alcohol and drug dependency program.
- (D) Attend other alcohol and drug education classes; or
- (E) Pay for all or part of the costs of the detoxification or evaluation.

Section 43. *[Consent to Treatment]* A child 14 years or older may request detoxification services or an alcohol and drug dependency evaluation, including treatment services for drug or alcohol abuse without the consent of the child's parents or guardian, except under the following conditions:

- (A) The parents or guardian must give consent to surgical procedures, unless the procedures are essential to preserve the child's life or health and such consent is not readily obtainable;
- (B) The parents or guardian must give consent to the administration of lawfully available controlled substances unless necessary to detoxify the child;
- (C) Such child may only be admitted to an inpatient treatment facility for detoxification services.

Section 44. *[Amendment to State Code: Responsibilities of Health Department]*

- (A) The [health department] shall, by January 1, 19\_\_, develop and submit to the appropriate standing committees of the legislature rules relating to the administration of Sections 31 to 44 of the Disobedient Children's Act which shall not conflict with any rules promulgated pursuant to [section \_\_ relating to the licensing requirements of the [department of human services], but shall include, but not be limited to, standards for
  - 1) Appropriate treatment of intoxicated youths;
  - 2) Providing an alcohol or drug dependency evaluation, including the determination whether a child is alcohol or drug dependent;

- 3) The administration and reporting requirements of detoxification units.
- (B) The [state health department] shall inform all law enforcement authorities regularly of the location of the detoxification units in their [judicial district], and shall develop and distribute to all law enforcement agencies and to each director of a detoxification unit a written statement delineating such services and rights as are available to a child and parent under this Act. The citation issued to a child admitted to the detoxification unit shall include such statement of rights.

### Missing Children

Section 45. [Clearinghouse] The department shall maintain a clearinghouse, supervised by a director who shall be employed upon the recommendation of the [commissioner of the department]. The department may issue regulations to conform to this section. The director of the clearinghouse shall establish services deemed appropriate by the department to help find missing children, and shall

- (A) Provide a centralized file, including computer equipment and a computer program which shall list and be capable of immediately retrieving and exchanging intrastate information on missing children;
- (B) Collect, process, maintain, and disseminate accurate and complete information on missing children, and distribute report forms to all law enforcement agencies;
- (C) Provide a system for regional, statewide, multi-state, and nationwide broadcasts of information on missing children, to be made by local law enforcement agencies where possible or, in the case of statewide or nationwide broadcasts, by the [bureau of criminal apprehension] upon request of a local law enforcement agency;
- (D) Communicate with the National Crime Information Center for the exchange of information on a missing child suspected of interstate travel, and exchange information regarding missing children with nationally recognized missing child and runaway service organizations, and monitor national research and publicize important developments;
- (E) Compile, maintain and make available data upon the request of law enforcement agencies and other entities deemed appropriate by the department to assist such agencies in recovering missing children, including, but not limited to, data regarding the places of refuge commonly used by runaway children;
- (F) Exchange information with the [department of education] and its school districts about missing children who may be located in the school systems;
- (G) Confirm promptly the receipt and entry of a missing child report into the clearinghouse to the parents of the missing child, and provide such parent, upon their reasonable requests, information to help them find their missing child;
- (H) Provide a statewide toll-free telephone line for the reporting of and receipt of information on missing children;
- (I) Regularly issue posters, flyers, and other forms of information containing physical and situational descriptions of missing

children, upon request by a law enforcement agency, or at the discretion of the director;

- (J) Provide and disseminate to parents, law enforcement agencies, and the [department of education], information explaining what to do if a child becomes missing, and how to prevent child abduction by strangers, casual acquaintances or non-custodial parents; and
- (K) Annually compile and make available statistical information on the numbers of missing children entered on the State Crime Information Center and, if available, information on the number located, including recommendations for more accurate and timely reports and better usage of the computer, and for the most efficient use of available resources to publicize and search for missing children.

Section 46. *[Computer Equipment and Programs]*

- (A) The [department] shall provide the clearinghouse with an SCIC. The SCIC shall include necessary computer equipment and computer programs to enter, modify, and cancel information on missing children in the NCIC computer through the SCIC. These programs must provide for search and retrieval of information using the following identifiers:
  - 1) Name and date of birth;
  - 2) Name and social security number;
  - 3) Name and driver's license number;
  - 4) Fingerprint classification;
  - 5) Vehicle license and identification number; and
  - 6) Any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.
- (B) Only law enforcement agencies shall be authorized to order missing children information entered into or retrieved through the SCIC from the NCIC.

Section 47. *[Access to Clearinghouse Information]* On the written request of a parent of a missing child, the law enforcement agency shall request from the clearinghouse information concerning the child that may aid such parent in identifying or finding the child. Such agency shall inform the parent of the results of its inquiry within [14] calendar days after the day that the written request is received.

Section 48. *[Missing Child Report]* Upon a request to locate a missing child, a law enforcement agency shall make reasonable efforts to locate the child and shall immediately complete a missing child report, which shall include, but not be limited to the following:

- (A) All relevant, descriptive information on the child, including physical descriptions, and information about the child's disappearance;
- (B) All information or evidence gathered by a preliminary investigation, if one was made;
- (C) A statement by the officer in charge setting forth that officer's assessment of the case based upon all evidence and information received; and
- (D) An explanation of the next steps to be taken by the law enforcement agency filing the report.

Section 49. *[Dissemination of Report]*

- (A) If, within 24 hours after a preliminary investigation the child is confirmed to be missing, the law enforcement agency shall transmit the report to the clearinghouse immediately, and continue investigating the matter. Subsequent information received on the child shall be transmitted to the clearinghouse as a supplement to the original entry as soon as possible.
- (B) Law enforcement agencies having direct access to the SCIC and NCIC computers shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the computers, and shall provide the clearinghouse with any information that would assist in the location or identification of any missing child.
- (C) Within 24 hours after receiving the report, the clearinghouse shall transmit the report to the NCIC and SCIC and to all law enforcement agencies
  - 1) Believed to be potentially involved;
  - 2) Having jurisdiction of the location in which the missing child lives or was last seen;
  - 3) Which the person making the report may reasonably request.

Section 50. *[Release of Dental Records]*

- (A) At the time a missing child report is being taken, the law enforcement agency shall give or mail the parent a dental release form, together with a notice that a completed dental release form will authorize the law enforcement agency to receive the child's dental records in 30 days, or immediately, if the child disappeared under suspicious circumstances. The agency shall endorse the form with the notation that a missing child report has been made in compliance with this section.
- (B) The completed dental release form shall include, but not be limited to the following:
  - 1) The name, address, and phone number of the child's dentist;
  - 2) The signature of a member of the child's family or next of kin;
  - 3) The address of the clearinghouse to which the records will be sent;
  - 4) The date the missing child report was completed; and
  - 5) A statement whether the child disappeared under suspicious circumstances.
- (C) A properly completed form along with proper endorsement is sufficient to require any dentist in this state to release dental records relating to the missing child. A dentist who releases dental records pursuant to a properly completed dental release shall be immune from civil or criminal liability for the release of those records.

Section 51. *[Delivery of Dental Form]*

- (A) A law enforcement agency shall deliver a properly completed dental form to the dentist specified no sooner than 30 days from

the completion of the missing child report, but may deliver the form immediately in the event the child disappeared under suspicious circumstances. The dental release form shall further instruct the dentist that

- 1) An active investigation seeking the location of the missing child is being conducted;
  - 2) The dental records are necessary for the exclusive purpose of furthering the investigation; and
  - 3) Such release form obligates the dentist to provide the clearinghouse with the dental records of the missing child.
- (B) As soon as practicable upon receipt of a properly completed dental form, the dentist shall deliver or mail those records possessed by the dentist to the clearinghouse, which shall, as soon as practicable thereafter, acknowledge the receipt of the dental records to the dentist. In the event the dentist is not in possession of such records, the dentist shall immediately inform the clearinghouse of such fact and of any information where the records might be found.

Section 52. [*Information from other Agencies*] Upon the request of any law enforcement agency, any city or state agency, including the [employment commission], the [department of human resources], the [department of highways and public transportation], and any other agency funded or supported by the state or a city or county government shall furnish the law enforcement agency with any information about a missing child that will assist in completing the investigation. Such information is confidential and may not be released to any other person outside of the law enforcement agency.

Section 53. [*Unidentified Bodies*]

- (A) Each law enforcement agency shall transmit information about all unidentified bodies to the clearinghouse, including all available identifying features of the unidentified body, fingerprints, dental records, any unusual physical characteristics, and a description of the clothing found on the body.
- (B) The clearinghouse shall cross-check and attempt to match unidentified bodies with missing children. Upon discovering sufficient similarities between an unidentified body and a missing child to indicate that they are the same person, the clearinghouse shall notify the appropriate law enforcement agencies, which shall attempt to positively identify the body, and complete the investigation.

Section 54. [*Coroner Check*] The law enforcement agency initiating and conducting the investigation for the missing child shall confer with the coroner or medical examiner within 45 days of the missing child report, or immediately, in the event the missing child disappeared under suspicious circumstances. Such law enforcement agency shall report promptly its findings to the clearinghouse.

Section 55. [*Coroner's Duties*]

- (A) Every county medical examiner and coroner shall furnish the clearinghouse promptly with copies of fingerprints on standardized eight inch by eight inch fingerprint cards, personal descriptions and other identifying data, including date and place of death for all unidentified deceased children.



- (B) The county medical examiner or coroner shall cause a dentist or a dental student in a registered school of dentistry in this state to examine all unidentified deceased children. The medical examiner or coroner shall forward the dental examination records to the clearinghouse on a form supplied by the clearinghouse for that purpose.
- (C) The clearinghouse shall compare the information on file with that submitted pursuant to this Section for purposes of attempting to identify the deceased. The clearinghouse shall submit the results of the comparisons to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement agency which submitted the report of the missing child.

Section 56. *[Department of Justice Duties]*

- (A) The [department of justice] shall maintain a file of information concerning missing children, containing a copy of the report and any other information that the [department of justice] finds to be relevant to assisting in the location of a missing child. The department of justice shall make such files available to the clearinghouse, and shall develop a system of cataloguing missing child reports according to a variety of characteristics to facilitate finding particular categories of reports as needed.
- (B) Upon receiving a report that a missing child has been found, the [department of justice] shall destroy all such records with respect to such child.

Section 57. *[Mental Facility Release]*

- (A) If a law enforcement agency requests information on a missing child from a [mental health facility as defined in section \_\_\_ relating to mental health], the facility director shall provide the law enforcement agency with identifying information which would aid the law enforcement agency in finding and returning the missing child to the facility.
- (B) Such information shall include the name, address, age, name of the nearest relative, and physical description of the missing child, and whether such child is, or has been since the missing child report has been filed, a resident of that facility, but, except as otherwise provided, shall not include the diagnosis, treatment or evaluation of the missing child's mental or physical health, unless such disclosure is deemed necessary by the facility director to insure the safety of the investigating officers or general public. The facility director shall be under a continuing duty to disclose such identifying information to the law enforcement agency.

Section 58. *[Courtesy Fingerprinting]*

- (A) Each law enforcement agency shall fingerprint children without charge on forms provided by the clearinghouse. The completed fingerprint forms shall be delivered to the child's parents and no copy of the fingerprint form shall be retained by the law enforcement agency.
- (B) Except as provided in Section 25 of the Juvenile Delinquency Act, in the event a law enforcement agency has obtained fingerprints of a child, it shall release the fingerprints only to the clearinghouse,

upon its request, for the express purpose of identifying a missing child.

Section 59. *[Missing School Children]* The [department of education] shall provide, by rule, and administer a program for the location of missing children who may be enrolled within the state school system, including private schools, in kindergarten through grade 12, and for the reporting of children who may be missing or who may be unlawfully removed from such schools. The [department] shall coordinate the program through the clearinghouse, and shall

- (A) Require the participation of all school districts and accredited private schools in this state;
- (B) Collect each month a list of missing school children as provided by the state clearinghouse on missing children which shall be designed to include such information as the [department] deems necessary for the identification of the missing children;
- (C) Compile from the information collected pursuant to this section a list of missing school children, to be distributed monthly by whatever manner each school district deems appropriate to all public and private schools admitting children to kindergarten through grade 12 and to include the names of all such missing children, together with such other information as the [department] deems necessary;
- (D) Notify the appropriate local, state or federal law enforcement agencies as soon as any additional information is obtained or contact is made with respect to a missing [state] school child; and
- (E) Encourage each public and private school to engage in a program whereby such schools will notify parents of their child's absence from school.

Section 60. *[Parental Duties]*

- (A) Every parent shall submit at the time the child is enrolled in school evidence of the child's age as required for the issuance of an employment certificate, or show that such age cannot be produced.
- (B) When such evidence cannot be produced, or when circumstances exist which reasonably indicate that the child may be a missing child, the superintendent of schools or the authorized representative may inquire to the clearinghouse. If such child appears to match a child registered with the clearinghouse, or one registered with the NCIC, the superintendent or the authorized representative shall immediately contact the local law enforcement agency.
- (C) No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this Section.

Section 61. *[Missing Child Found]*

- (A) As soon as practicable, but not later than twenty-four (24) hours after a law enforcement agency has found or returned a missing child, it shall notify the clearinghouse and the law enforcement agency having jurisdiction over the investigation, and such agency shall cancel the entry from the NCIC and SCIC computers.
- (B) In addition, all law enforcement agencies and medical examiners or coroners maintaining information on the found child shall

destroy all records containing information on such child, including fingerprints, and shall report to the clearinghouse that such records have been erased or destroyed. After receiving such a report, the clearinghouse shall erase all records with respect to such child and/or destroy any documents maintained pursuant to Sections 45 to 62.

Section 62. *[Penalties]*

- (A) Any person who violates any of the provisions of Sections 45 to 62 shall be fined not less than [\$50], nor more than [\$500].
- (B) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the [department] shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding [\$500], or both.

## COMMENTARY

### Model Disobedient Children's Act

The Disobedient Children's Act is intended to regulate the noncriminal misbehavior of juveniles in a way that promotes individual responsibility. It avoids using both the traditional term "status offender" and the more recent term "person (child, juvenile) in need of supervision," both of which are linked to the *parens patriae* origins of the juvenile court. The Act follows the NAC Standards pertaining to noncriminal misbehavior in attempting to limit the criteria for state intervention in the lives of individual juveniles and/or their families. Consistent with NAC Standards 2.12 and 3.122, Section 3(C) of the Act defines a disobedient child as one who is truant, beyond the control of school authorities while in attendance, habitually disobedient to the reasonable and lawful commands of his/her parents, a runaway, wilfully in a situation dangerous to him/herself or others, or in possession of, or found to have consumed intoxicating beverages. The Act emphasizes three types of noncriminal misbehavior: running away; truancy; and alcohol and drug dependency. The Act also contains provisions for missing children.

Throughout its provisions, the Act is consistent with the following criteria for intervention in cases of noncriminal misbehavior found in NAC Standards 2.222, 2.232, 3.144, and 3.153:

1. The nature and seriousness of the alleged conduct;
2. The juvenile's age and maturity; and
3. The nature and number of contacts that the juvenile and his/her family has had with the intake unit or family court.

These criteria are consistent with system accountability, and parallel the general criteria for intervention employed throughout the Model Acts. The overall intent of the Model Acts is to replace discretionary decisionmaking based on individualized evaluations of need with objective offense, offense history, and age criteria. Although the Standards for noncriminal misbehavior do not use this language specifically, the intent of the three criteria set out above is clearly identical to the principles underlying each of the Model Acts.

#### Running Away

Sections 11 to 23 of the Act establish provisions for juveniles who leave home by running away. The intent of these sections is to reconcile the differences between juveniles and their families or, in the alternative, to provide for out-of-home placement. For the most part, the Act envisions such placement as being in shelter care facilities as defined in Section 3(J). This section of the Act includes, among other facilities, licensed group care facilities, crisis residential centers, or specialized foster family homes in the definition of "shelter homes." Section 3(J) explicitly excludes from the definition secure institutions or facilities as defined in the JJDP Act and the regulations and clarifying instructions promulgated thereunder.

Sections 19 and 23(b) regulate the length of out-of-home placement for runaways or other juveniles experiencing family difficulty. Section 19 directs the court to establish an initial three-month placement plan for such juveniles. Section 23(B) authorizes the court to extend this plan for a maximum of 180 days after a review hearing. The court, however, may make an order for the permanent placement of the child if it would not be appropriate under the circumstances to return the child home after 180 days.

### Truancy

Sections 24 to 30 concern truancy, which is defined by Section 3(K) as absence by a child of compulsory school age from school without lawful excuse. Section 26 provides for means by which a juvenile's truancy can be handled without formal court processing. If such methods fail, a citation and hearing may be held pursuant to Sections 27 and 28. Although the hearing is described as informal and non-adversarial, juveniles and their parents do have a right to counsel and to confrontation if they so desire. After the hearing, the court must submit its findings and order in writing. The order remains in effect for ninety days and may include dispositions such as counseling, community supervision, and community service (see Section 29). Under Section 30, however, the disposition must be limited to non-school hours and may not include overnight detention.

### Alcohol and Drug Dependency

Sections 31 to 44 include provisions for juveniles dependent on alcohol or drugs. They mandate extensive treatment and evaluation programs and procedures. Sections 31 to 38 describe the procedures to be followed when a juvenile is taken into custody for being intoxicated. After providing a juvenile with detoxification treatment (Section 32) the director of the detoxification unit must release the juvenile and issue a citation which includes, among other information, the time and place detoxification services were provided and the date, time and place of the juvenile's initial appearance before the court (Section 35). Section 39 requires that a juvenile alcohol and drug dependency program be established to comply with the provisions of the Act. If the court finds that a juvenile is alcohol or drug dependent it may order the juvenile to serve a term of community supervision, appear for drug and alcohol treatment, attend an alcohol and drug dependency program, attend other alcohol or drug education classes, or pay the costs of any detoxification or evaluations.

### Missing Children

Although data is scarce, it appears that most missing children have run away or have been abducted by an estranged spouse rather than kidnapped by strangers. However, children face personal risk regardless of the reason they are missing from home. Sections 45 to 62 incorporate language suggested by the National Center for Missing and Exploited Children to provide for the sharing of information about missing children on both the state and national level. Sections 45 to 47, for example, establish a clearinghouse for information about missing children and provide for access to that information. Sections 48 and 49 define procedures relating to the completion and dissemination of missing child reports;

Sections 53 to 55 govern information about unidentified bodies; and Section 59 deals with missing school children. Finally, Section 61 describes the procedures to be followed when a missing child is found.

## NOTES

**SUGGESTED LEGISLATION AND CRIMINAL CODE  
AMENDMENTS**



## INCAPACITATED JUVENILES

(Title, enacting clause, etc.)

Section 1. [*Short Title*] This act may be cited as the Incapacitated Juveniles Act.

Section 2. [*Examination Required*] Whenever the court believes that a juvenile is incapacitated during any proceeding under the Juvenile Delinquency Act, the court shall order the juvenile to undergo a mental examination. In the event the court believes the juvenile is mentally ill, it shall order two qualified psychiatrists as defined in [section \_\_\_ of the criminal procedure code] to examine the juvenile. In the event the court believes that the juvenile may be mentally retarded or developmentally disabled, it may order one or two qualified psychiatrists and one certified psychologist as defined in [section \_\_\_ of the criminal procedure code] to examine the juvenile. The examination may be conducted on an out-patient basis in the event the juvenile is not in custody.

Section 3. [*Time of Report*] Upon ordering the mental examination, the court shall adjourn the proceedings until the examination reports have been filed with the court, which shall be filed within [ten days] after entry of such order. The court may extend such time limit if it finds special circumstances necessitating a longer period to complete the examination and report.

Section 4. [*Contents of Report*] Each report ordered under this Act shall state the nature and extent of the examination, the examiner's opinion whether the juvenile is incapacitated, and, if so, a detailed statement of the examiner's diagnosis, and prognosis, including reference to those aspects of the proceedings wherein the juvenile lacks capacity to understand or to assist in his or her own defense.

Section 5. [*Hearing on Report*] Upon receiving the mental reports, the court shall afford all interested parties due notice and an opportunity to be heard, and determine whether the juvenile is incapacitated. For purposes of this section only, "interested parties" shall include the juvenile, counsel for the juvenile, the juvenile's parents, the prosecutor, the probation officer, and the [appropriate personnel from the departments and offices of mental health and hygiene].

Section 6. [*Findings*] If the court finds that the juvenile is not incapacitated, it shall continue the delinquency proceedings. If the court finds that the juvenile is incapacitated, it shall schedule a probable cause hearing, giving notice to all interested parties and an opportunity to be heard. At the probable cause hearing, the court shall determine whether probable cause exists that the juvenile committed the offense charged, and review the juvenile's offense history.

Section 7. [*Commitment Periods*] If the court finds there is probable cause that the incapacitated juvenile committed a delinquent act

- (A) Which is a misdemeanor, the court shall dismiss the petition and commit the juvenile to the custody of [the appropriate mental department] for a reasonable period not to exceed [ ] days from the date of such commitment;
- (B) Which is a felony, the court shall commit the juvenile to the custody of the [department of mental health] for an initial period not to exceed [one year] from the date of such commitment.

Section 8. *[Continual Review]* The [department of mental health] shall examine any incapacitated juvenile offender within [forty-five (45)] days of commitment, again within the next [forty-five (45)] days, and thereafter, every [ninety days (90)]. It shall afford all interested parties due notice of any such review and an opportunity to be heard.

Section 9. *[Extension of Commitment]*

- (A) If the [department of mental health] finds that a juvenile committed to its custody under Section 7(B) will likely be incapacitated at the end of one year of commitment, it shall so notify the court not more than [sixty (60)] days prior to the expiration of the period. The court shall afford all interested parties due notice and an opportunity to be heard, and determine whether the juvenile is still incapacitated.
- (B) If the court finds that the juvenile is no longer incapacitated, it shall resume the proceedings against the juvenile.
- (C) If the court finds that the juvenile is still incapacitated, it shall continue commitment of the juvenile to the [department of mental health] for a period not to exceed [one (1) year].

Section 10. *[Limit of Extensions]* Extended commitments of a juvenile committed under Section 7(B) shall not continue beyond a reasonable period of time necessary to determine whether the juvenile will attain the capacity to proceed to an adjudication hearing in the foreseeable future. In no event, however, shall such extensions continue for any period longer than [three (3) years] from the time of initial commitment, or the juvenile's twentieth birthday, whichever is earlier. If a juvenile is in the custody of [the department of mental health] upon the juvenile's twentieth birthday, or for any time longer than [three (3) years] from the time of initial commitment, the [department of mental health] shall notify the court of such fact and the court shall dismiss the petition with prejudice.

Section 11. *[Permanent Incapacity]*

- (A) If, at any time after the initial period of commitment, the [department of mental health] determines there is a substantial probability that a juvenile committed under Section 7(B) in its custody will remain incapacitated for the foreseeable future, it shall file a recommendation with the court that the petition be dismissed. The juvenile may move to dismiss the petition on the same ground.
- (B) Upon the filing of such recommendation, the court shall afford all interested parties due notice and an opportunity to be heard, and determine whether there is substantial probability that the juvenile will continue to be incapacitated for the foreseeable future.
- (C) If the court dismisses the petition, it shall commit the juvenile to the [department of mental health] for a commensurate period of time to which the juvenile would have been confined pursuant to Section 72 of the Juvenile Delinquency Act had the juvenile been adjudicated of such offense. Such period of commitment may be extended subject to the limitations of Section 10.

Section 12. *[Not Incapacitated]* If the [department of mental health] determines that a juvenile under its custody is not incapacitated, and it is likely that further confinement will be imposed, it shall so notify the court. If further confinement is

not likely the [department] shall release the juvenile. The court shall afford all interested parties due notice and an opportunity to be heard, and resume the proceedings against the juvenile if it finds that the juvenile is no longer incapacitated.

Section 13. *[Waiver]* All hearings conducted under this section shall be waived unless the juvenile or the [department of mental health] requests a hearing within [10] days from the date the appropriate notice, motion, or recommendation is filed with the court, or thereafter for good cause shown.

Section 14. *[Credit for Time Committed]* Time spent by the juvenile in the custody of the [department of mental health], in a hospital or in a local detention facility shall be credited to the juvenile for any period of placement provided upon disposition.

Section 15. *[Alternative Admittance]* Any order dismissing a petition under this Act shall not preclude a petition for voluntary or involuntary care and treatment in a facility of [the appropriate office of the department of mental hygiene pursuant to the provisions of mental hygiene law]. Unless the juvenile is admitted pursuant to such a petition, the juvenile must be released.

## TEMPORARY RELEASE FROM PHYSICAL CUSTODY

(Title, enacting clause, etc.)

Section 1. *[Short Title]* This act may be cited as the Release From Physical Custody Act.

Section 2. *[No Release]* Except as provided in Sections 3, 7, and 9, a juvenile serving a term of confinement to be served under the supervision of the [department] shall not be released from custody of the [department] until at least four (4) days prior to the official release date.

Section 3. *[Authorized Leave]* A juvenile serving a term of confinement under the supervision of the [department] may be released on authorized leave from the physical custody of the [department] only if consistent with public safety and under the following conditions:

- (A) Sixty (60) percent of the minimum term of confinement has been served;
- (B) The purpose of the leave is to enable the juvenile to
  - 1) Visit the juvenile's family for the purpose of strengthening or preserving family relationships,
  - 2) Make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community, or
  - 3) Make plans for a residential placement when the juvenile's personal appearance in the community is required.

Section 4. *[Maximum Leave]* No authorized leave may exceed seven (7) consecutive days. The total of all authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty (30) days.

Section 5. *[Plan of Leave]* Prior to authorizing a leave, the [secretary] shall require the juvenile to sign a written leave plan, which shall detail

- (A) The purpose of the leave and how it is to be achieved;
- (B) The address at which the juvenile will reside;
- (C) The identity of the person responsible for supervising the juvenile during the leave;
- (D) A statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify [the secretary] immediately if the juvenile violates any specified terms and conditions.

Section 6. *[Leave Order]*

- (A) Upon authorizing a leave, the [secretary] shall issue the juvenile an authorized leave order to be carried on the juvenile at all times containing the following:
  - 1) The name of the juvenile;
  - 2) A statement that the juvenile is on leave from a designated facility;
  - 3) The time period of the leave; and
  - 4) The identity of an appropriate official of the [department] to contact when necessary.
- (B) A juvenile who violates any condition of an authorized leave plan may be taken into custody and returned to the [department] in the same manner as an adult in identical circumstances.

Section 7. *[Emergency Leave]*

- (A) The [secretary] may authorize a leave, which shall not exceed [forty-eight] hours plus travel time, to meet an emergency situation such as death or critical illness of a member of the juvenile's family.
- (B) The [secretary] may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the [department].
- (C) In cases of emergency or medical leave, the [secretary] may waive all or any portions of Sections 3(A), 4, 5, and 6.

Section 8. *[Notice to Law Enforcement Agency and Victim]*

- (A) Prior to the commencement of any authorized leave, the [secretary] shall notify the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period of the following:
  - 1) The identity of the juvenile;
  - 2) The time period of the leave;
  - 3) The residence of the juvenile during the leave; and
  - 4) The identity of the person responsible for supervising the juvenile during the leave.
- (B) Upon request, the [secretary] shall notify the juvenile's victim or the immediate family of the juvenile's victim(s) of any leave.

Section 9. *[Work Release]* Any juvenile committed to the [department] may participate in work, educational, community service, or treatment programs up to twelve (12) hours a day if approved by the [secretary]. Such a release shall not be deemed a leave of absence.

## SCHOOL SAFETY

(Title, enacting clause, etc.)

Section 1. *[Short Title]* This act may be cited as the School Safety Act.

Section 2. *[Attorney General's Report]*

- (A) Prior to January 1, 19\_\_, the Attorney General shall prepare and present to the [superintendent of public education], a report, written in easily understandable language, containing a complete summary, with statutory citations, of state penal and civil law relating to crimes committed against persons or property on school grounds. The report shall include, but not be limited to the following:
- 1) All reporting requirements relating to such crimes;
  - 2) The sanctions for failure to report;
  - 3) Standards for conduct constituting an act of violence or vandalism;
  - 4) An explanation of the procedure by which any person or the school may initiate the prosecution of offenders or seek recovery for injury or damages for such crimes;
  - 5) An explanation of parental liability for injury or property damages resulting from the intentional acts of a minor; and
  - 6) An explanation of any right to benefits as a consequence of injury or damage resulting from such crimes.
- (B) The Attorney General shall periodically, but no less than once every two years, update this report to reflect changes in the law.

Section 3. *[Notification]* Upon receipt of the report pursuant to Section 2 from the Attorney General, the [superintendent of public education] shall distribute copies of this report to all superintendents of school districts and shall request the superintendents to

- (A) Ensure that a copy of the report is posted and available on request at every school site in each district;
- (B) Include an explanation of the report and notice of its availability in the next regular communication sent by the school to each parent.

Section 4. *[School Design Standards]* The [state architect] shall, prior to [date], prescribe minimum standards for the appropriate design of school facilities and campuses to prevent the incidence and fear of school crime and violence. These standards, to be known as "school crime and violence prevention design standards," shall include, but not be limited to the following:

- (A) School and campus access control;
- (B) School and campus surveillance;
- (C) School and campus territoriality and territorial reinforcement;
- (D) School and campus building, construction or security materials, devices or practices;
- (E) Any other design standards which will reasonably prevent the incidence and fear of school crime and violence.

Section 5. *[New Construction]* The school crime and violence prevention design standards shall apply to all new school facilities and additions to existing schools whose contracts are awarded on or after those standards are prescribed. Plans for

new construction shall be reviewed by the [state architect], or a qualified architect, engineer or other professional designated by [such official], to determine whether proposed construction conforms to the standards prescribed.

**Section 6. [Existing Construction]**

- (A) Within one year after the school crime and violence prevention design standards are prescribed, the [state architect], or a qualified architect, engineer or other professional designated by [such official], shall survey and evaluate all school facilities constructed, or being constructed under contracts awarded prior to the design standards being prescribed, to determine the extent to which such facilities can be altered or reconstructed to comply with those design standards. The [official] or designee, shall specify the alterations or reconstruction to be required at each school and school campus.
- (B) Within a time specified by the [state architect], or a qualified architect, engineer or other professional designated by [such official], the school district having charge of or use of an existing school facility or campus shall alter or reconstruct the facility or campus to conform to the school crime and violence prevention standards as specified in the survey or evaluation. Such alteration or reconstruction shall be completed, in all events, within [ ] years after the design standards are prescribed.

**Section 7. [Other Standards]** The school crime and violence prevention design standards shall be in addition to any other applicable design standards including, but not limited to, those relating to construction, health, safety, physical plant, lighting, or ventilation.

**AMENDMENT To State Criminal Code:**

***Sale of Drugs on School Ground.***

Any person 18 years of age or older who unlawfully prepares for sale on or within 500 feet of school grounds or a public playground, sells, or gives away a controlled substance to any person on the grounds of, or within 500 feet of, any school providing instruction in kindergarten, or any of grades 1 through 12, inclusive, during hours in which the school is open for classes or school-related programs, or upon the ground of a public playground during the hours in which school-related programs for children are being conducted, shall be punished by imprisonment in the state prison for [ ] years.

**AMENDMENTS TO THE STATE CRIMINAL CODE**

**CRIME OF UNLAWFUL HARBORING OF A MINOR**

**Section 1. [Unlawful Harboring of a Minor]** A person commits the crime of unlawful harboring of a minor if the person provides shelter to a minor without the consent of a parent of the minor and after the person knows or has reason to know that the minor is away from the home of the parent, without the parent's permission, and the person intentionally

- (A) Fails to release the minor to a law enforcement officer after being requested to do so by the officer;
- (B) Fails to disclose the location of the minor to a law enforcement officer after being requested to do so by the officer, if the person knows the location of the minor and had either taken the minor to that location or had assisted the minor in reaching that location;
- (C) Assists the minor in avoiding or attempting to avoid the custody of the law enforcement officer.

Section 2. *[Defense]* It is a defense to a prosecution under this Act that the defendant had custody of the minor pursuant to a court order.

Section 3. *[Criminal Statutes Invoked]*

- (A) Harboring a minor is punishable as a [misdemeanor] if the offender has not been previously convicted under this section and a [serious misdemeanor] if the offender has been previously convicted under this section.
- (B) An adult responsible for involving a child in the commission of an offense may be prosecuted under existing criminal statutes including, but not limited to the following:
  - 1) Distribution of a controlled substance to a minor, as defined in [section \_\_ of the criminal code];
  - 2) Promoting prostitution as defined in [section \_\_ of the criminal code]; or
  - 3) [Complicity] of the adult in the crime of a minor, under [section \_\_ of the criminal code].

RESPONSIBILITIES OF DEPARTMENT

Section 1. *[Responsibilities]* The department shall oversee the implementation of the Juvenile Delinquency Act, and such matters as arise thereunder in connection with local government, and legislative and executive authorities. The department shall work with all such entities to ensure that the Juvenile Delinquency Act is implemented uniformly throughout the state. In addition, the department shall

- (A) Identify and evaluate resource needs in each region of the state;
- (B) Disseminate information collected to affected groups and the general public;
- (C) Educate affected entities within the juvenile justice system, local government, and the legislative branch regarding the operation of such system;
- (D) Review complaints concerning the services, policies, and procedures of those entities charged with operating the juvenile justice system;
- (E) Report any violations and misunderstandings regarding the operation of the juvenile justice system;
- (F) Request opinions from the attorney general regarding correct construction of appropriate laws; and
- (G) Submit a quarterly report to the appropriate standing committees of the legislature and to appropriate local government entities.

Section 2. *[Plan and Procedures]* The department shall, by January 1, 19\_\_, develop and submit to the appropriate standing committees of the legislature a plan and procedures, in cooperation with the [statewide advisory committee], to

ensure the full implementation of the Juvenile Delinquency Act, which shall include, but not be limited to the following procedures:

- (A) Defining and delineating the role of the department and juvenile court with regard to the execution of the shelter home process;
- (B) Designating department staff responsible for family reconciliation services;
- (C) Allowing for reports on violations and misunderstandings regarding the juvenile justice system;
- (D) Assuring enforcement of contempt proceedings in accordance with Section 5 of the Disobedient Children's Act; and
- (E) Continuing the education of all individuals in the juvenile justice system as well as members of the legislative and executive branches of government.



## NOTES

**COMPARISON OF STATE JUVENILE CODES**

## Introduction to State Code Comparison

Benedict J. Koller  
Project Director  
American Legislative Exchange Council

One of the major activities undertaken preparatory to the drafting of the model code was a comparison of the fifty state juvenile codes. The purpose of the comparison is to present an analysis of current legislation used in delinquency and status offense matters in the various states.

This comparison will be useful to state legislators as they study changes to their state's juvenile code. A greater awareness of juvenile justice issues and how they are handled in other states will enable legislators to formulate revisions regarding treatment of delinquents and disobedient youth. A discussion of the general direction of juvenile code reform can be found in Christopher Manfredi's opening chapter entitled "Reforming Juvenile Justice," especially on pages 7 and 8.

The methodology utilized in compiling this comparison included extensive research into the fifty state codes and a survey of District Attorneys in each of the states. The survey and research data covered only the juvenile codes of the fifty states and did not cover court rules, attorney general opinions, or executive orders. The comparison only covers legislation through June, 1986. The reader may therefore want to supplement this information with an annotated examination of actual state practices.

COURT STRUCTURE		
I. Juvenile Court is Division of General Trial Court		
A. Family Law Court		
1. All matters		
2. All matters except divorce		
B. Juvenile Court		
C. Probate Court		
II. Juvenile Court is Inferior State Court JURISDICTION-DELINQUENCY		
I. Definition of Delinquency		
A. No separate classification for "status offenses"		
B. A separate classification for status offenses and restrictions in dispositions		
II. Minimum Jurisdictional Age		
A. 6 years		
B. 7 years		
C. 10 years		
D. 12 years		
E. Either common law presumption of 7 or not specified		
		• ALABAMA
		• ALASKA
		• ARIZONA
		• ARKANSAS
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		• SOUTH CAROLINA
		• SOUTH DAKOTA
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		• TEXAS
		• UTAH
		• VERMONT
		• VIRGINIA
		• WASHINGTON
		• WEST VIRGINIA
		• WISCONSIN
		• WYOMING



VII. Location Where Juvenile is Tried	A. No statutory provision	B. County where offense occurred (mandatory)	C. County where offense occurred (discretionary)	III. Traffic Offenses by Juveniles	A. Exclusively Juvenile Court	B. Traffic Court	JURISDICTION — STATUS OFFENSES	I. States Specifically Providing for Transfer as a Status Offense	II. States Specifically Providing for Running Away as a Status Offense	PRE-ADJUDICATION AND ADJUDICATION PROCESS	I. Initial Appearance for Detained Juveniles	A. Detention hearing	B. Bail available at detention hearing	C. Secure or non-secure custody determined by order of court
• ALABAMA														
• ALASKA														
• ARIZONA														
• ARKANSAS														
• CALIFORNIA														
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• WISCONSIN														
• WYOMING														



V. Conditions of Release from Detention		
A. Right to Bail		
1. As a matter of right		
a. In all cases		
b. In felony cases		
2. At discretion of court		
3. Bail prohibited		
4. No mention		
B. Non-bail conditions		
1. Requires promise to bring juvenile before the court		
2. No mention of conditions		
3. Inmate official may impose conditions		
4. Other conditions may be imposed by court		
IV. Appeal of Detention Hearing		
A. Provides for appeal		
B. Only available after "Final Orders" of the court		
C. No mention		
		• ALABAMA
		• ALASKA
		• ARIZONA
		• ARKANSAS
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		• DELAWARE
		• FLORIDA
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		• VERMONT
		• VIRGINIA
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		• WYOMING





III. Probable Cause Hearing to Determine Whether Proceedings Should Continue		
A. Provides for a hearing		
B. No mention		29
C. Requires finding only if there is a transfer hearing		
D. For transfer and detention hearings		
E. Requires finding only if there is a detention hearing		
IX. Plea Bargaining		
A. No provision		30
B. No plea required		
C. Informal Adjustment		
X. Admissions		
A. No mention of requirements		
B. Knowing and intelligent waiver		
XI. Rights before Adjudication		
A. Public Trial		
1. Delendant enjoys right if requested		
2. Court may exclude people in best interest of the child		
3. May be excluded		

- ALABAMA
- ALASKA
- ARIZONA
- ARKANSAS
- CALIFORNIA
- COLORADO
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- TEXAS
- UTAH
- VERMONT
- VIRGINIA
- WASHINGTON
- WEST VIRGINIA
- WISCONSIN
- WYOMING



E. Right to Counsel		
1. No mention		• ALABAMA
2. Right to counsel		• ALASKA
		• ARIZONA
		• ARKANSAS
		• CALIFORNIA
		• COLORADO
		• CONNECTICUT
		• DELAWARE
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		• WASHINGTON
		• WEST VIRGINIA
		• WISCONSIN
		• WYOMING
F. Right against Self-Incrimination		
1. Unqualified right		•
2. With respect to any allegation		•
3. No mention		•
G. Impartial Facilitator		
1. Judge not to see social report until after adjudication		•
2. Judge may see before adjudication		•
3. Judge at transfer hearing may not sit over subsequent hearing		•
4. Neither court nor staff may present evidence		•
H. Verbatim Transcript		
1. Right to transcript		•
2. No right		•
3. Within Judge's discretion		•
4. No mention		•













XXIV. May Counsel or Juvenile Be Allowed To Examine Police Records, Prior Arrests and Prior Convictions			
A. Not open to inspection without Judge's consent	B. Open to inspection	C. No mention	
			• ALABAMA
			• ALASKA
			• ARIZONA
			• ARKANSAS
			• CALIFORNIA
			• COLORADO
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			• DELAWARE
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			• RHODE ISLAND
			• SOUTH CAROLINA
			• SOUTH DAKOTA
			• TENNESSEE
			• TEXAS
			• UTAH
			• VERMONT
			• VIRGINIA
			• WASHINGTON
			• WEST VIRGINIA
			• WISCONSIN
			• WYOMING

## Endnotes

1. Children's Court.
2. Males.
3. Females.
4. Up to 25. See Welfare and Institutions Code Section 607(B).
5. Minimum age requirement varies with the seriousness of offense.
6. See ORS 419.533.
7. Child requests.
8. Prosecutor has authority to charge 15-18 year olds directly to Adult Court, plus 14 year olds who commit first and second degree murder or rape.
9. Murder, rape, robbery.
10. Murder.
11. Transfer to adult court may only occur for felonies. Transfer is mandatory for a capital felony (first degree murder).
12. Two prior adjudications for assault-type crimes.
13. Murder and rape.
14. Capital crimes.
15. Murder.
16. Required.
17. See ORS 419.533 (1)(c) and (d).
18. After hearing, disposition may be transferred to place where juvenile resides.
19. Traffic offenders 16 or over may be prosecuted in Traffic Court if the Juvenile Court waives jurisdiction.
20. Depends upon juvenile's possession or not of valid driver's permit or license.
21. Truancy and running away, although not specifically designated status offenses, are specifically listed as grounds under which the juvenile court can acquire jurisdiction. See MCL 712.2(a) and (a)4.

22. AS 47.10.141 addresses "runaways" and does not categorize the conduct as a status offense. Runaways are considered children in need of aid in Alaska.
23. Maryland law requires that a detention hearing be held no later than the next court day.
24. When taken into custody without a warrant.
25. With warrant.
26. Juvenile may be detained up to 84 hours before a hearing.
27. Regulated by court rule.
28. May be waived by child.
29. Youth may request evidence of *prima facie* case.
30. A plea is required in a plea bargain and is governed by Rule 3 of the Colorado Rules of Juvenile Procedure.
31. Juvenile proceedings are closed.
32. See case law.
33. Juvenile trials are conducted without a jury.
34. Judge's discretion.
35. MCL 712.A.12 requires notice of the hearings to be served on the parents. See also MCR 5.907 and 5.908.
36. 15 or older.
37. Under 14.
38. See ORS 419.584.
39. If age 14 and a felony.
40. Welfare and Institutions Code Section 204--DOJ not prohibited from transmitting prints and photographs.
41. Upon a state's request.
42. As governed by law. See MCR 5.910.
43. Court order required.
44. Commitment to psychiatric treatment facility only after probable cause hearing.
45. Under rules of procedure is a matter of right.

## NOTES

**THE NATIONAL OPINION SURVEY:**

**THE DATA**

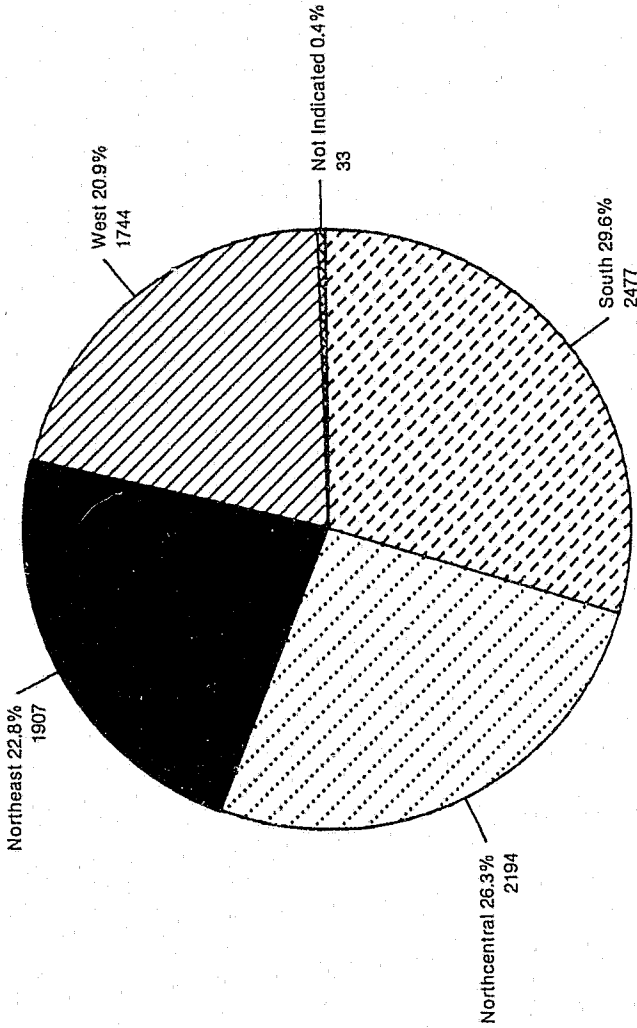
## The National Survey

The national opinion survey of juvenile justice and youth-serving professionals was one of three major research components of the Juvenile Justice Reform Project. The survey was conducted between December 1985 and March 1986. Questionnaires were administered by mail to all professionals whose names appear on mailing lists of the National Criminal Justice Reference Service (NCJRS). The returned questionnaires yielded a sample of 8,355 responses--a response rate of 22.2 percent. Twelve distinct professional groups are represented in the sample. In addition, the sample is nationally distributed, with each State's proportion of the sample approximating closely its proportion of the U.S. population.

The purpose of the survey was to ascertain--for the benefit of legislators--pockets of resistance to, or support for the general orientation and specific policy elements embodied in the Model Acts. To achieve this end, the survey instrument consisted of 74 substantive questions, 39 of which concerned attitudes toward reform and policy preferences. The questionnaire also contained items about the seriousness of juvenile crime and organizational performance. The data presented here are from the seriousness, attitude, policy preference, and organizational performance sections of the questionnaire. The response to these items of members of four professional groups are highlighted: judges and attorneys ("legal," N=792); probation (N=679); social services (N=594); and law enforcement (N=3331). The responses of the remainder of the sample are also included (N=2722).

As one might expect, respondents to the questionnaire believe that juvenile crime is a serious problem, is becoming more serious, and has been dealt with poorly. The findings of the survey do not suggest that this concern about juvenile crime or dissatisfaction with current strategies translates into unequivocal support for the approach taken in the Model Acts. There is more support for that approach, however, than for more traditional strategies. Moreover, respondents tend to support the Model Acts' approach more strongly as their perception of the seriousness of juvenile crime increases and satisfaction with current strategies decreases. Law enforcement and social service respondents are also more supportive than legal professionals and probation respondents. One explanation for this finding is that the changes mandated in the Model Acts would have greater impact on judges, attorneys, and probation officials than other professionals.

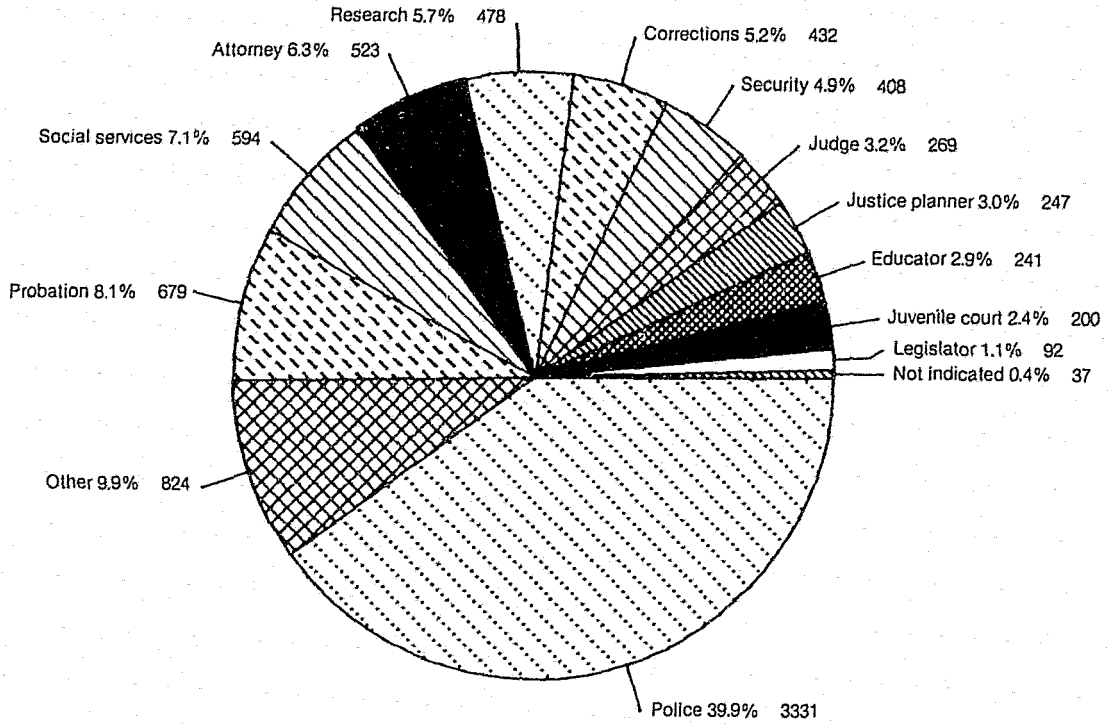
# Breakdown By Region



N = 8355



# Breakdown By Profession



N = 8355

Variables

SER1            How serious a problem do you think juvenile crime is?

	Not Serious				Very Serious	
	1-2	3-4	5-6	7-8	9-10	NI
Sample	0.3	2.3	10.1	46.5	39.3	1.6
Legal	0.6	5.0	15.6	41.9	35.0	1.8
Probation	0.0	2.5	9.4	48.1	38.5	1.3
Social svcs	0.8	2.7	9.4	46.5	39.5	1.0
Police	0.0	1.1	7.9	48.9	40.6	1.5
Other	0.4	2.8	11.6	44.5	38.9	1.7

SER2            Do you feel that juvenile crime is becoming more or less serious?

	Less Serious				More Serious	
	1-2	3-4	5-6	7-8	9-10	NI
Sample	0.4	3.5	17.1	38.3	38.9	1.7
Legal	1.2	4.7	27.3	34.6	29.9	2.4
Probation	0.0	4.0	18.7	39.3	36.9	1.0
Social svcs	1.0	4.3	17.7	35.9	39.7	1.3
Police	0.1	1.5	13.1	39.9	43.9	1.5
Other	0.5	5.2	18.8	37.7	35.9	1.8

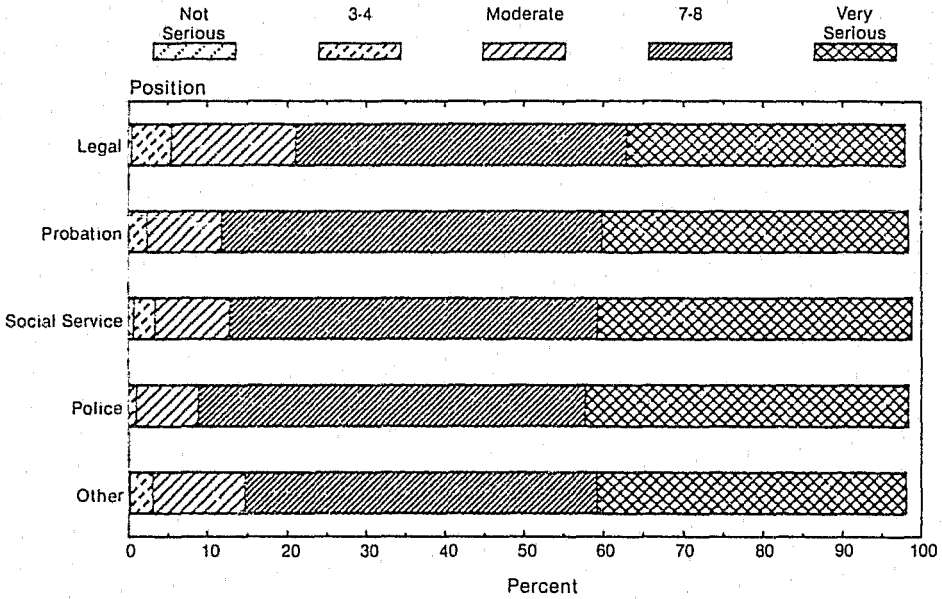
SER3            In comparison with other social problems, how well do you think juvenile crime has been dealt with?

	Poorly				Well	
	1-2	3-4	5-6	7-8	9-10	NI
Sample	23.4	43.6	21.6	8.1	1.3	2.0
Legal	19.7	39.9	25.5	10.6	1.4	2.9
Probation	18.1	38.4	25.8	13.5	1.8	2.4
Social svcs	21.2	41.1	24.7	9.4	1.8	1.7
Police	26.1	46.2	19.0	5.9	1.2	1.7
Other	22.9	43.5	21.9	8.5	1.1	2.1

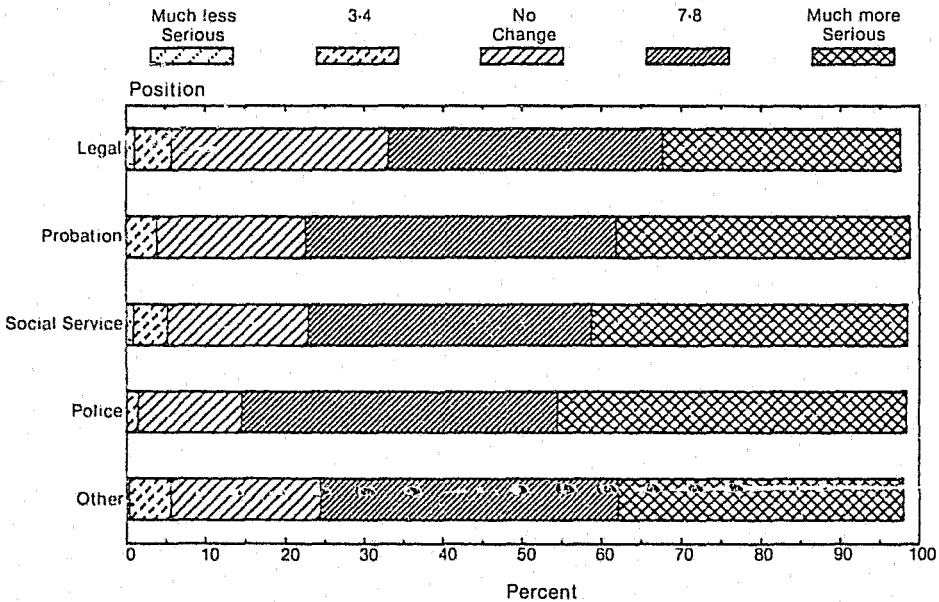
ATT1            The presence of legal counsel representing the juvenile improves the quality of juvenile justice.

	Disagree		Agree	
	1-2	3-4	5-6	NI
Sample	23.4	43.6	33.3	1.1
Legal	13.3	31.7	53.4	1.5
Probation	19.6	41.7	37.7	1.0
Social svcs	14.7	40.8	43.3	1.3
Police	31.5	45.5	21.9	1.1
Other	19.5	41.9	37.8	0.9

## How serious a problem do you think juvenile crime is?



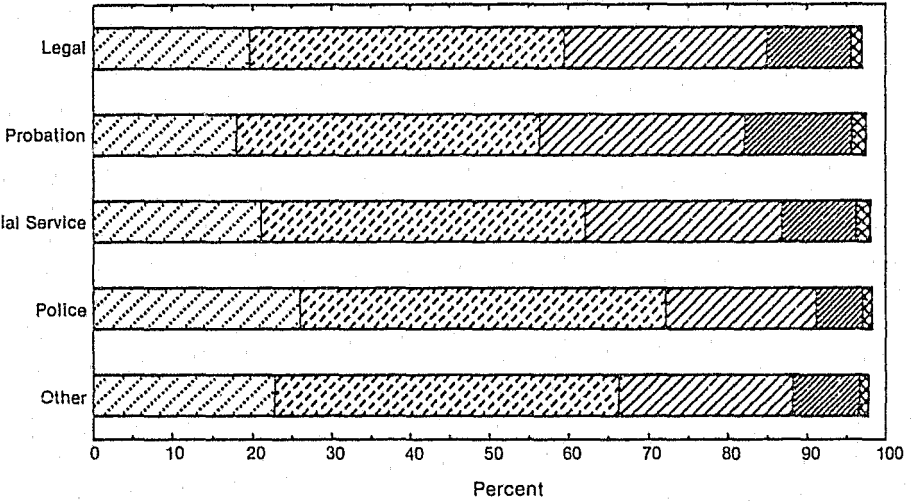
## Do you feel that juvenile crime is more or less serious?



# How well do you think juvenile crime has been dealt with?

Poorly      3-4      Fair      7-8      Well

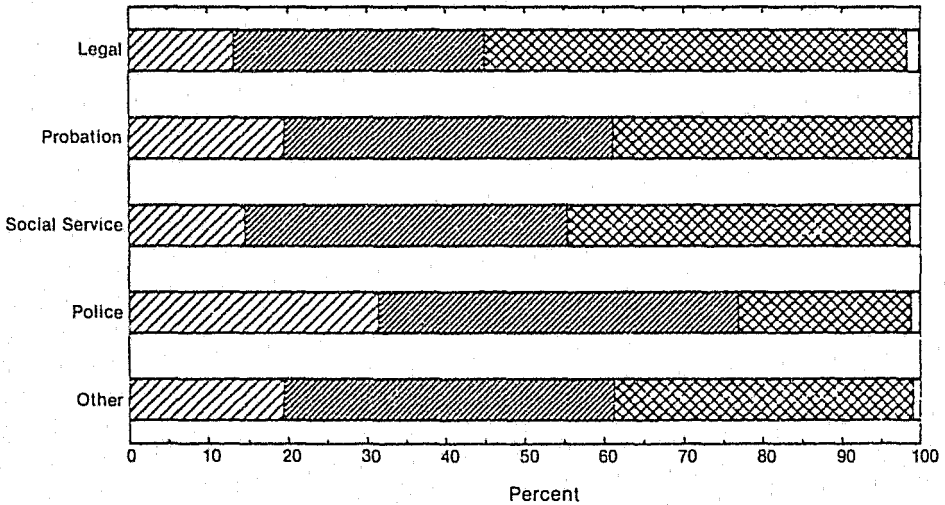
Position



## Attitude 1

Disagree      Moderate      Agree      Not Indicated

Position



ATT2            The primary function of the juvenile court is to help children.

	Disagree		Agree	
	1-2	3-4	5-6	NI
Sample	15.7	35.4	48.3	0.7
Legal	14.8	34.6	49.6	0.6
Probation	14.3	37.3	47.8	0.6
Social svcs	12.1	33.5	53.9	0.5
Police	15.9	34.5	49.0	0.6
Other	16.9	36.4	46.0	0.7

ATT3            Punishment is an inappropriate element of juvenile justice.

	Disagree		Agree	
	1-2	3-4	5-6	NI
Sample	63.8	19.6	16.0	0.6
Legal	66.8	16.1	16.6	0.4
Probation	63.6	18.9	17.1	0.4
Social svcs	47.8	30.8	20.7	0.7
Police	71.6	13.9	14.2	0.4
Other	57.8	25.0	16.5	0.7

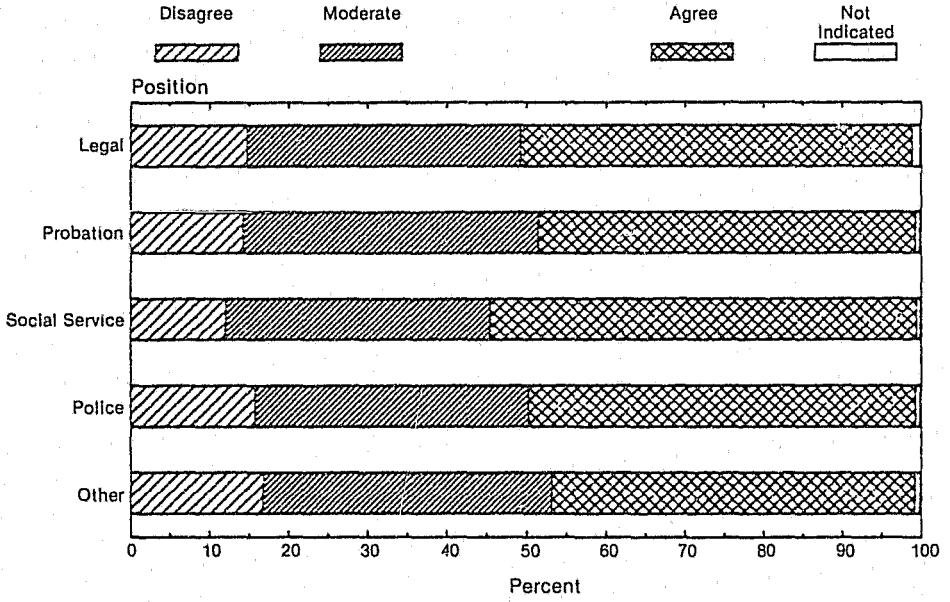
ATT4            The system's concern for the juvenile's constitutional rights increases his respect for the juvenile court.

	Disagree		Agree	
	1-2	3-4	5-6	NI
Sample	52.1	31.3	15.0	0.6
Legal	43.7	32.6	22.8	1.0
Probation	49.5	33.7	16.7	0.1
Social svcs	43.8	36.2	19.0	1.0
Police	62.7	28.3	8.8	0.3
Other	44.7	35.6	18.9	0.8

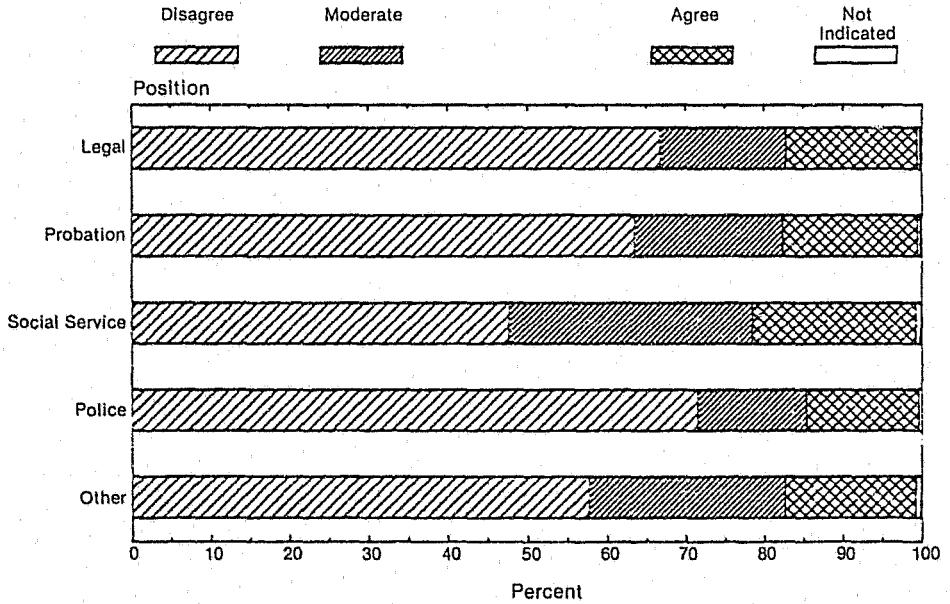
ATT5            The courtroom experience is an effective deterrent to juvenile delinquency.

	Disagree		Agree	
	1-2	3-4	5-6	NI
Sample	47.0	40.9	11.6	0.4
Legal	39.0	44.4	16.0	0.6
Probation	40.5	48.1	10.8	0.6
Social svcs	48.2	40.6	11.0	0.3
Police	50.5	37.3	11.8	0.3
Other	46.4	42.6	10.6	0.4

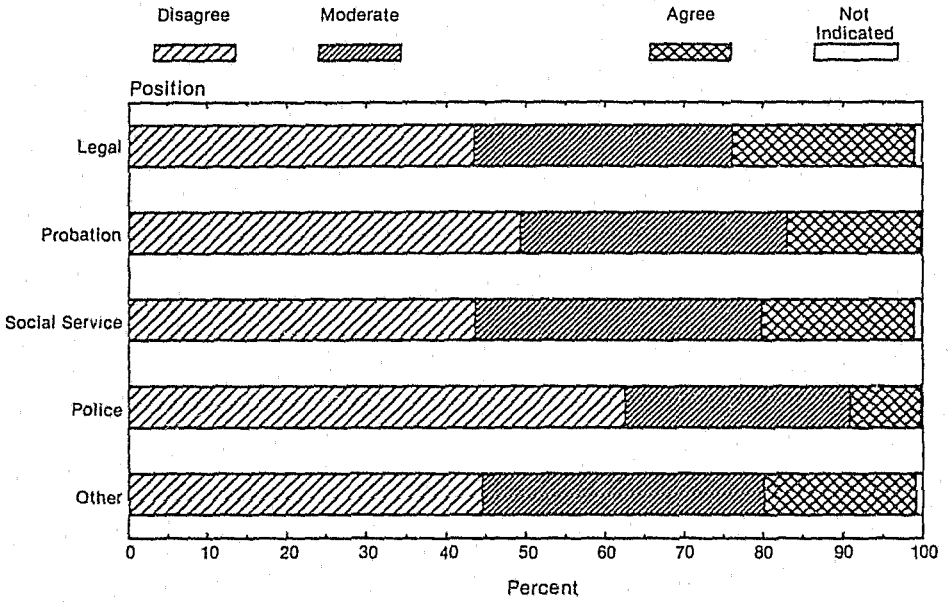
## Attitude 2



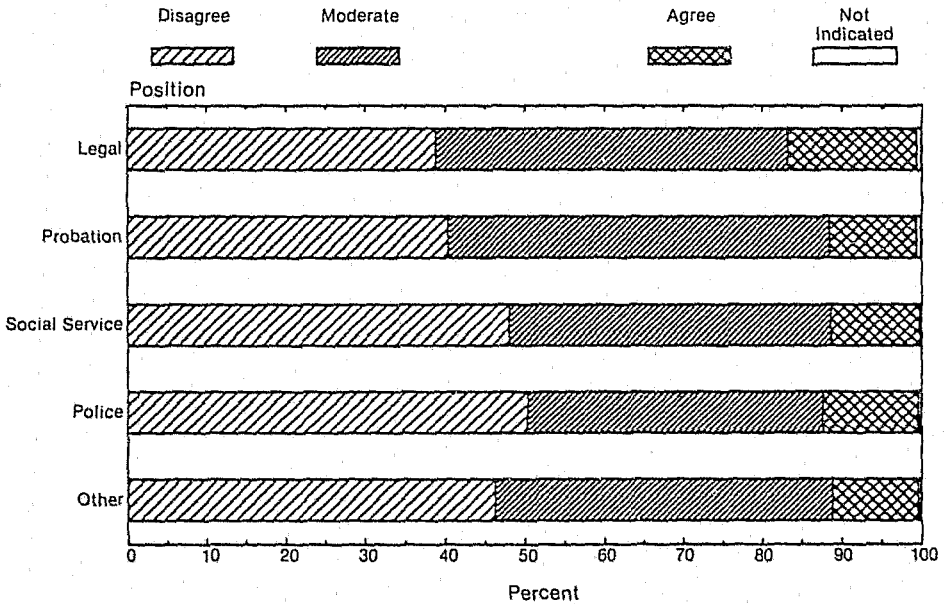
## Attitude 3



### Attitude 4



### Attitude 5



ATT6 The primary function of the juvenile court is to protect society.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	23.9	40.5	34.9	0.6
Legal	23.0	46.2	30.3	0.5
Probation	14.2	40.9	44.2	0.7
Social svcs	28.1	45.1	26.5	0.3
Police	26.3	35.5	37.7	0.5
Other	22.9	43.8	32.4	0.9

ATT7 Parents are doing a good job raising their children.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	42.8	48.5	7.3	1.4
Legal	39.7	51.4	6.8	2.0
Probation	40.8	49.3	8.1	1.8
Social svcs	39.0	51.0	8.8	1.2
Police	44.5	48.1	6.5	0.9
Other	42.7	47.9	7.8	1.6

ATT8 The state has a right to intervene in the lives of children before a crime is committed.

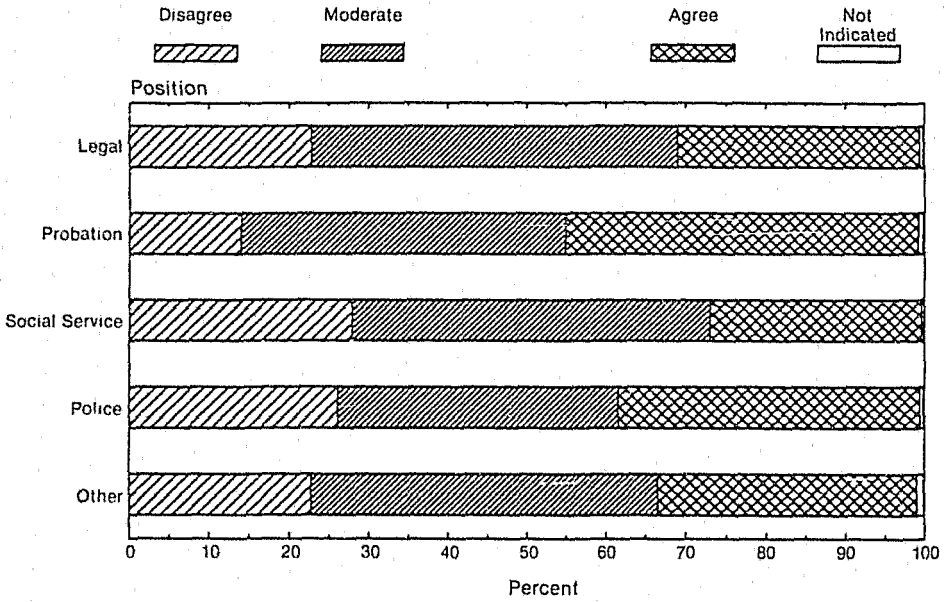
	Disagree 1-2	3-4	Agree 5-6	NI
Sample	24.7	35.6	38.1	1.5
Legal	29.8	31.4	36.3	2.4
Probation	26.2	37.8	34.7	1.2
Social svcs	26.4	32.5	39.2	1.9
Police	19.3	36.6	43.3	0.7
Other	28.9	35.9	33.1	2.1

ATT9 Increased funding of social services reduces the juvenile crime rate.

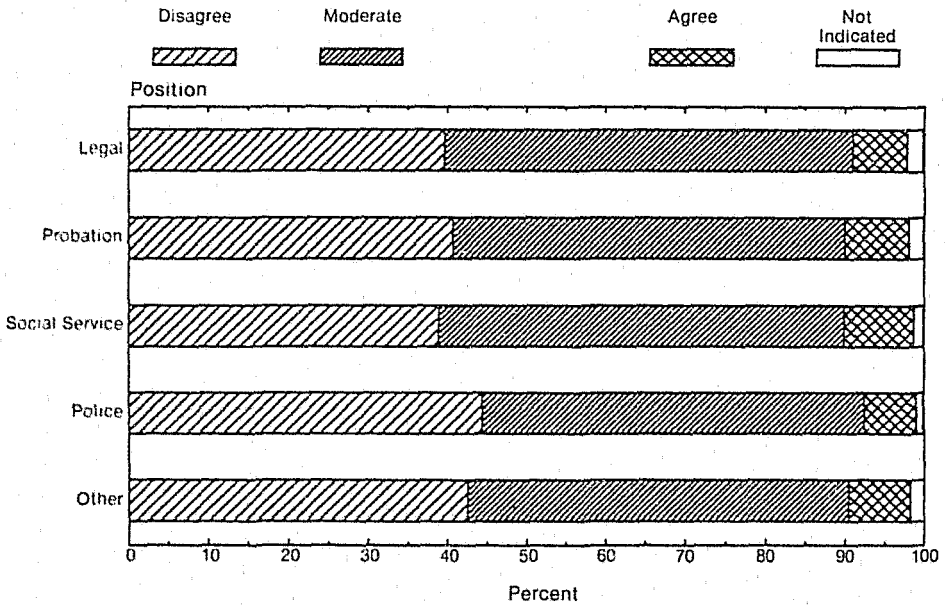
	Disagree 1-2	3-4	Agree 5-6	NI
Sample	43.5	39.3	16.0	1.1
Legal	38.4	40.4	19.6	1.6
Probation	34.9	41.6	22.6	0.7
Social svcs	26.9	47.5	33.8	1.7
Police	54.8	36.5	8.0	0.8
Other	37.4	42.3	19.0	1.2



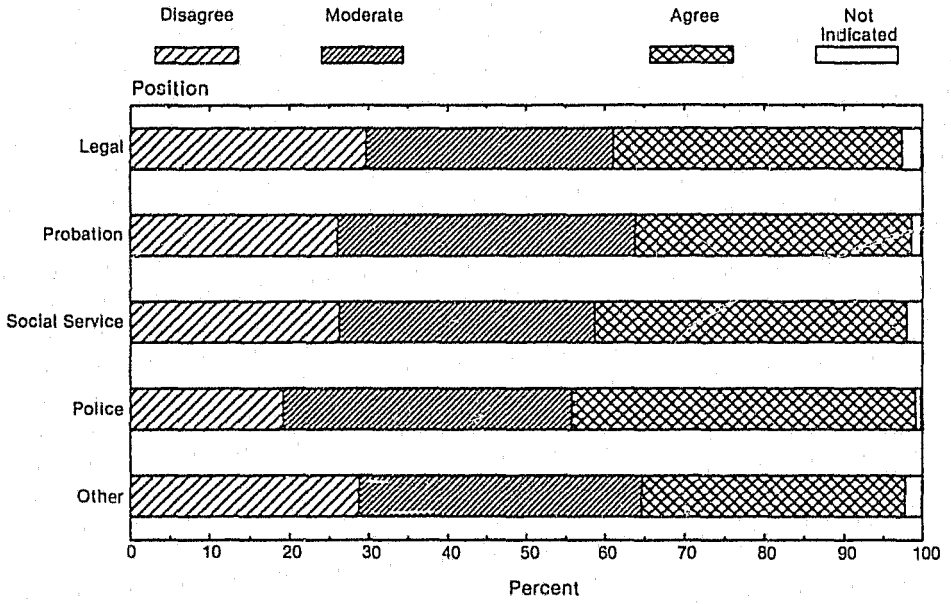
### Attitude 6



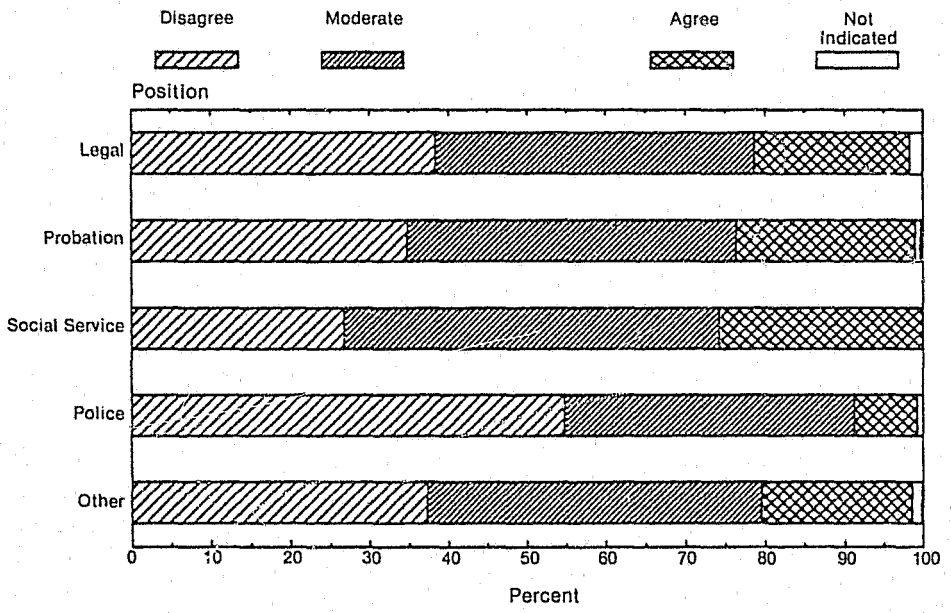
### Attitude 7



### Attitude 8



### Attitude 9



ATT10

Juveniles charged with serious offenses should have a right to trial by a jury of adults in the juvenile court.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	31.7	26.5	40.8	1.1
Legal	45.0	21.6	32.3	1.0
Probation	41.6	22.9	33.7	1.8
Social svcs	29.8	30.8	38.2	1.2
Police	31.4	26.1	41.9	0.5
Other	26.6	28.1	43.9	1.4

ATT11

To help a child in trouble it is sometimes necessary to bend the rules.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	24.5	39.8	34.6	1.1
Legal	32.8	36.6	28.5	2.0
Probation	27.2	41.8	29.6	1.3
Social svcs	21.8	35.1	41.7	1.3
Police	23.4	41.0	34.8	0.7
Other	23.4	39.8	35.6	1.2

ATT12

The courtroom experience does the juvenile more harm than good.

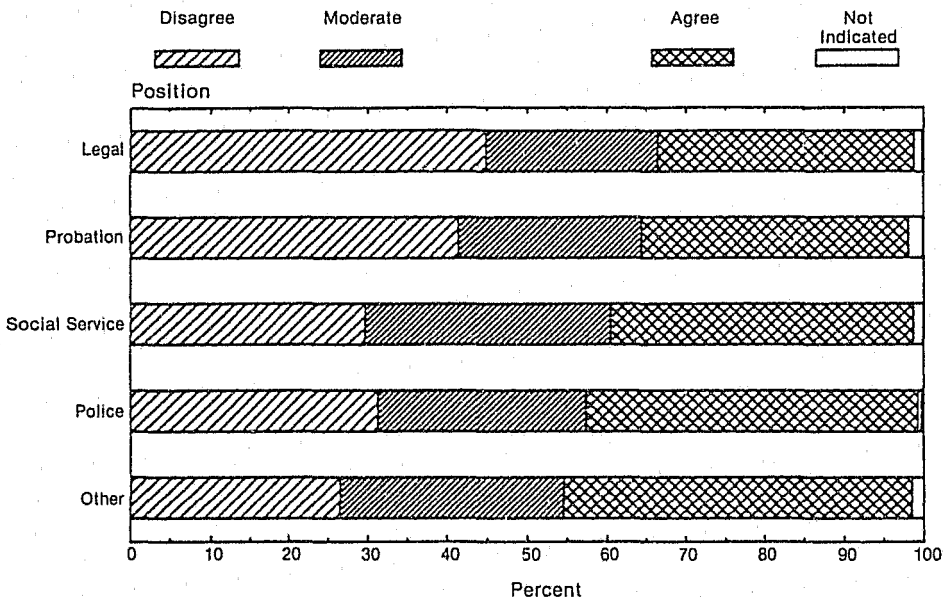
	Disagree 1-2	3-4	Agree 5-6	NI
Sample	53.6	35.0	10.2	1.2
Legal	59.2	29.6	9.5	1.6
Probation	58.9	34.2	6.3	0.6
Social svcs	42.1	45.9	10.6	1.3
Police	58.1	30.5	10.7	0.8
Other	47.9	39.8	10.7	1.6

ATT13

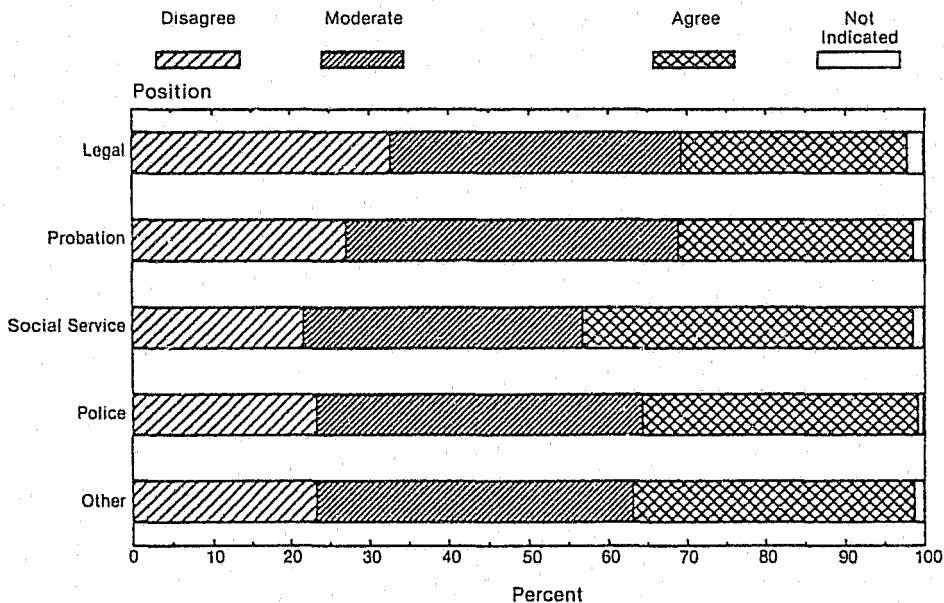
The juvenile court puts too much emphasis on rehabilitation.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	36.7	38.6	23.9	0.7
Legal	47.7	34.2	17.3	0.8
Probation	43.3	37.0	19.3	0.4
Social svcs	61.3	27.8	10.2	0.7
Police	22.5	43.0	34.0	0.5
Other	43.5	37.4	18.1	1.0

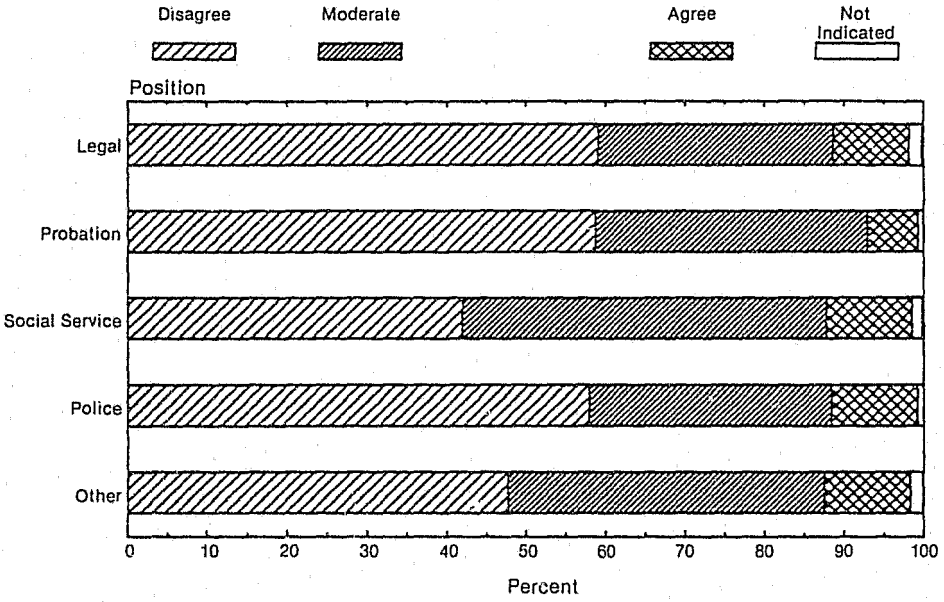
### Attitude 10



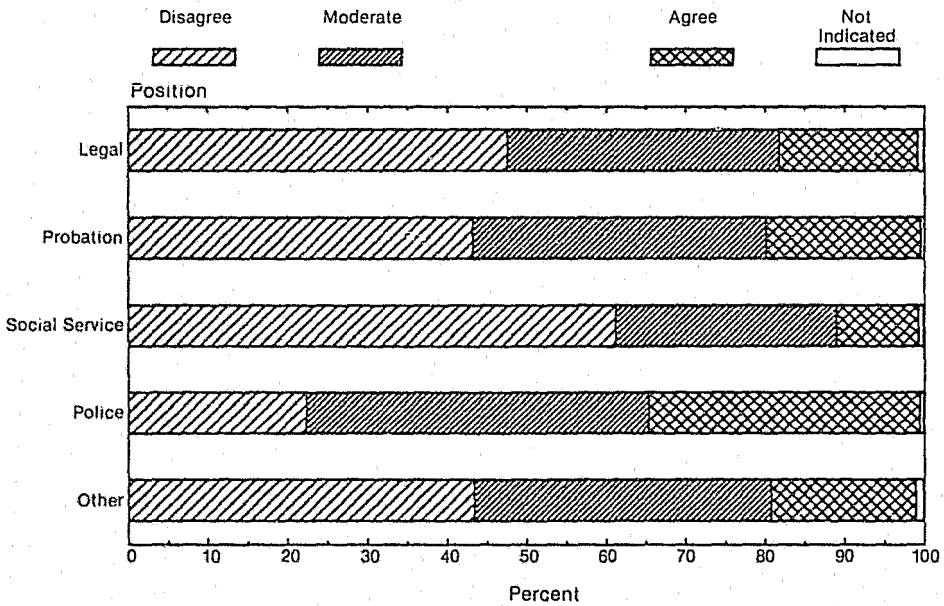
### Attitude 11



### Attitude 12



### Attitude 13



ATT14

Programs that substitute for court proceedings are successful.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	17.3	53.4	25.6	3.7
Legal	17.1	51.0	26.4	5.6
Probation	11.7	52.8	33.5	2.2
Social svcs	9.3	50.0	36.7	4.0
Police	21.3	55.6	20.9	2.3
Other	15.7	52.7	26.6	5.0

ATT15

Some juvenile offenses should require automatic transfer to adult courts.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	13.2	12.8	73.4	0.6
Legal	24.1	14.8	60.6	0.5
Probation	18.4	12.3	68.2	1.0
Social svcs	21.0	19.2	59.1	0.7
Police	4.7	8.9	86.1	0.3
Other	17.0	15.5	66.6	0.8

ATT16

The child's welfare is more important than the nature of his offense.

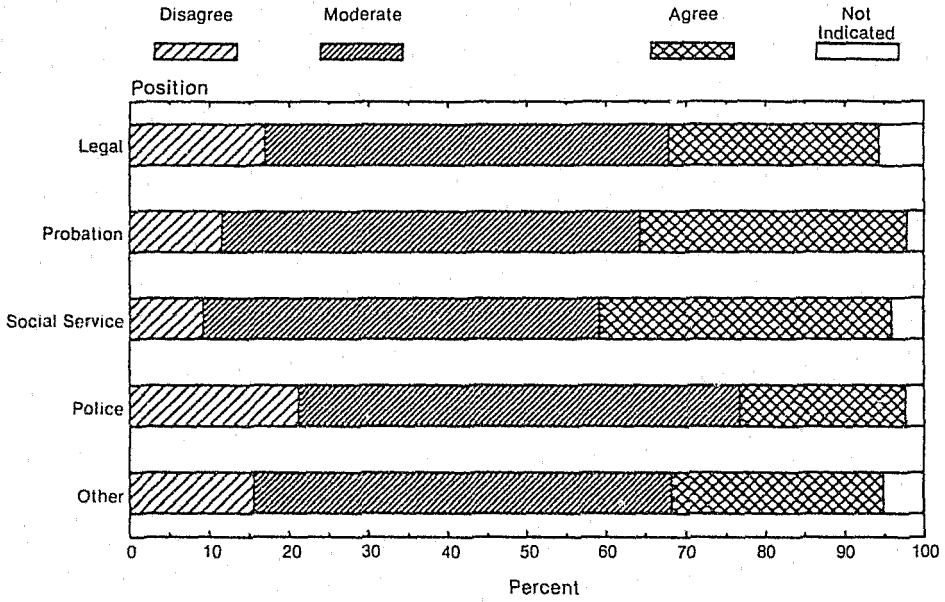
	Disagree 1-2	3-4	Agree 5-6	NI
Sample	46.2	38.8	13.9	1.0
Legal	46.3	38.5	14.3	0.9
Probation	44.6	39.2	15.6	0.6
Social svcs	32.1	47.5	19.7	0.7
Police	51.2	36.6	11.4	0.7
Other	43.8	39.5	15.3	1.3

ATT17

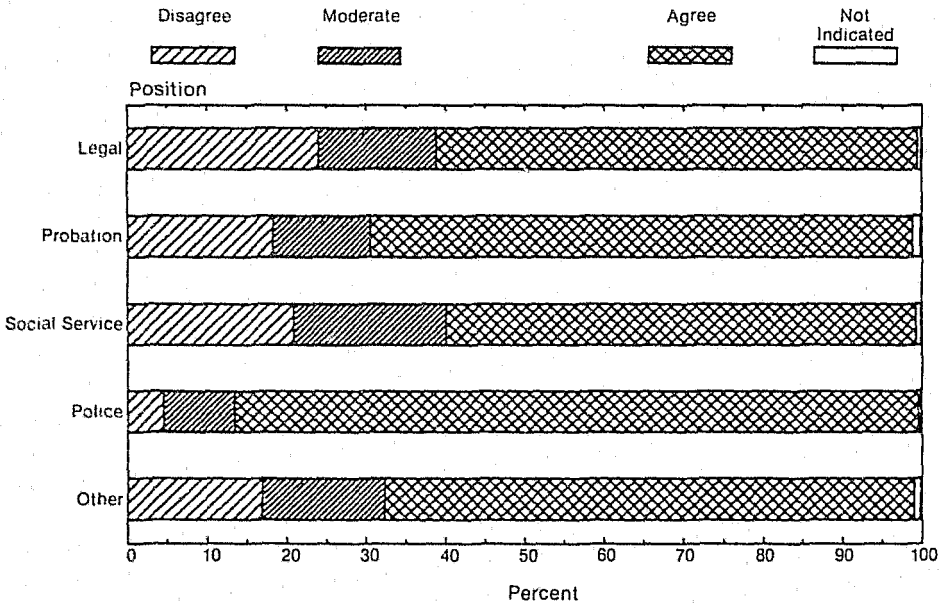
Social services and counseling are the best responses to juvenile crime.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	39.9	47.1	11.9	1.1
Legal	43.7	42.9	12.5	0.9
Probation	30.3	55.4	12.8	1.5
Social svcs	20.8	54.6	23.4	1.0
Police	50.0	42.5	7.0	0.6
Other	33.6	50.3	14.7	1.5

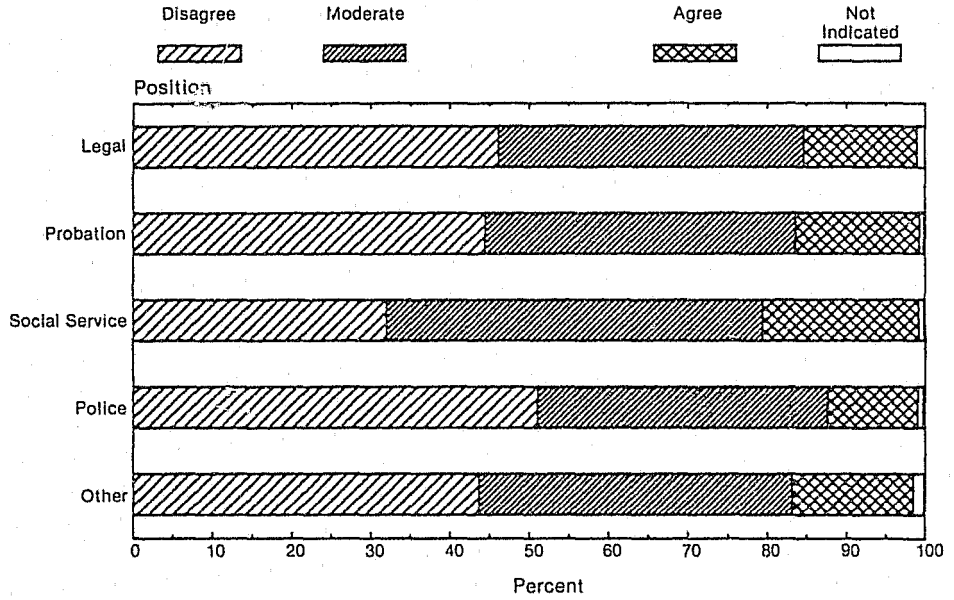
### Attitude 14



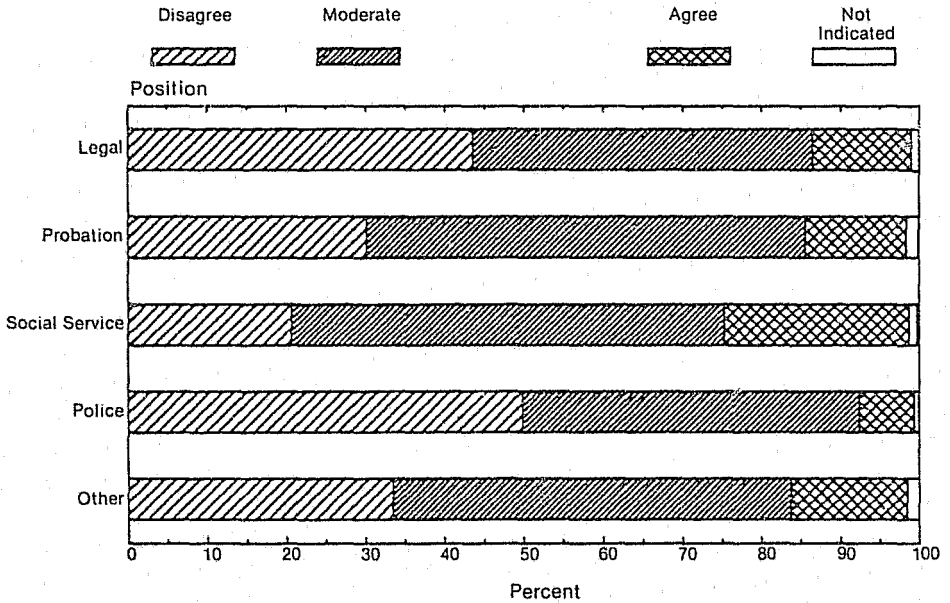
### Attitude 15



### Attitude 16



### Attitude 17





ATT18

The courtroom relationship between the state and the child is necessarily adversarial.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	28.4	48.5	21.7	1.4
Legal	26.6	39.6	32.6	1.1
Probation	27.7	50.1	20.9	1.3
Social svcs	36.7	42.6	19.2	1.5
Police	24.9	54.4	19.5	1.2
Other	31.3	45.1	22.0	1.7

ATT19

The juvenile court does not sufficiently protect the constitutional rights of juvenile offenders.

	Disagree 1-2	3-4	Agree 5-6	NI
Sample	67.9	21.2	10.0	1.0
Legal	70.8	15.5	13.1	0.6
Probation	72.5	19.4	7.4	0.7
Social svcs	46.9	36.7	14.0	2.4
Police	80.6	14.0	5.0	0.4
Other	55.9	28.0	14.7	1.4

ATT20

Juvenile crime is more the responsibility of society than of the individual offender.

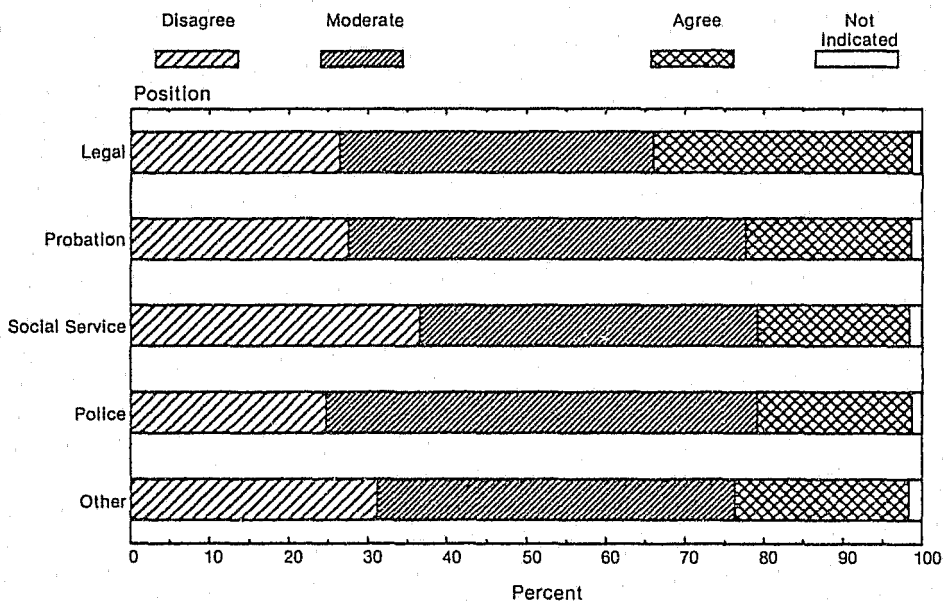
	Disagree 1-2	3-4	Agree 5-6	NI
Sample	60.1	26.0	12.8	1.1
Legal	64.9	25.0	9.2	0.9
Probation	61.5	24.0	13.6	0.9
Social svcs	47.5	34.4	16.4	1.9
Police	65.9	23.3	10.1	0.6
Other	54.2	28.3	15.8	1.7

PREF1

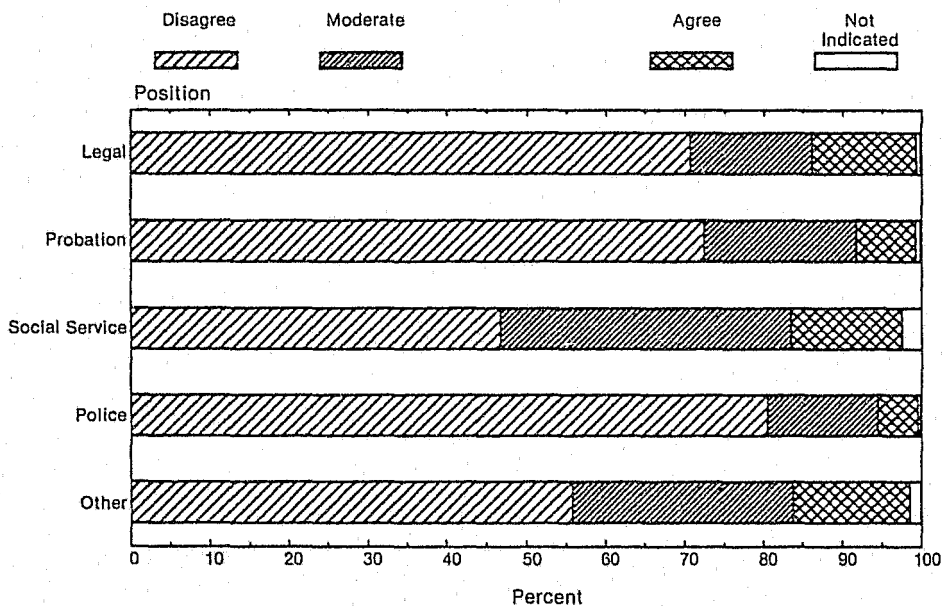
Retain juvenile court jurisdiction over neglected and abused children.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	6.4	16.3	76.4	0.8
Legal	4.9	15.9	78.2	1.0
Probation	10.2	17.7	71.8	0.4
Social svcs	6.7	14.7	78.0	0.7
Police	3.5	14.6	81.5	0.4
Other	9.2	18.2	71.2	1.2

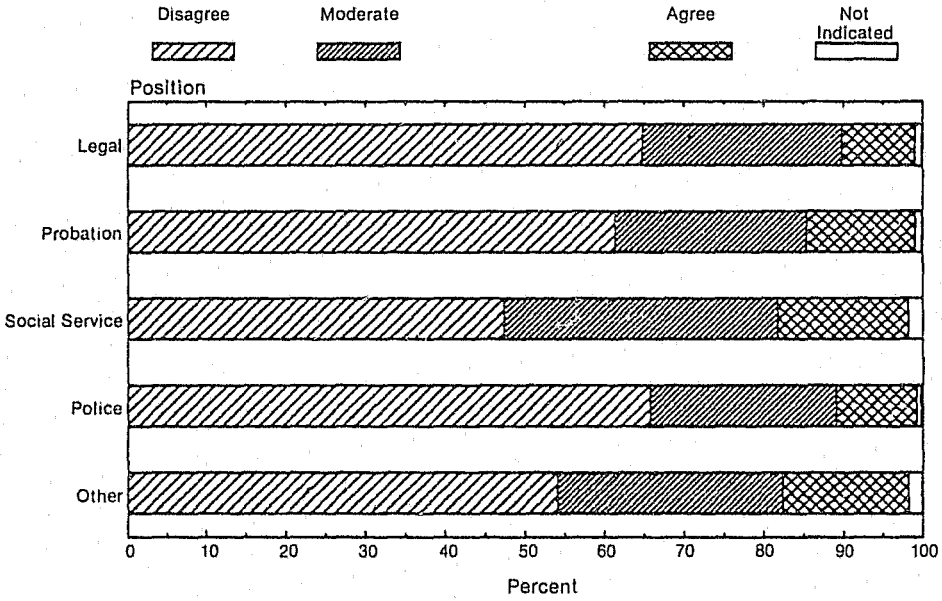
### Attitude 18



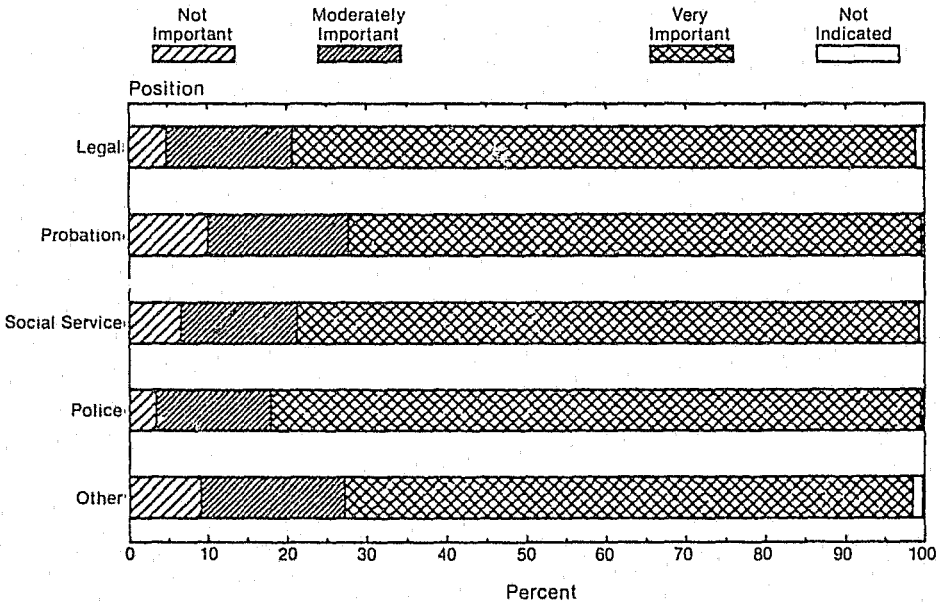
### Attitude 19



### Attitude 20



### Policy Preference 1



PREF2 Include prosecutor participation in all decisions after initial apprehension.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	13.6	37.1	48.0	1.2
Legal	16.4	36.0	46.6	1.0
Probation	23.3	41.6	34.3	0.7
Social svcs	20.7	45.6	32.1	1.5
Police	7.7	30.8	60.9	0.6
Other	15.9	41.8	40.4	1.9

PREF3 Eliminate indeterminate sentences.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	28.8	39.8	29.9	1.7
Legal	43.6	32.6	21.8	2.0
Probation	40.0	36.3	22.4	1.3
Social svcs	30.6	35.5	31.0	2.9
Police	22.5	44.4	32.0	1.2
Other	28.6	38.4	31.2	1.8

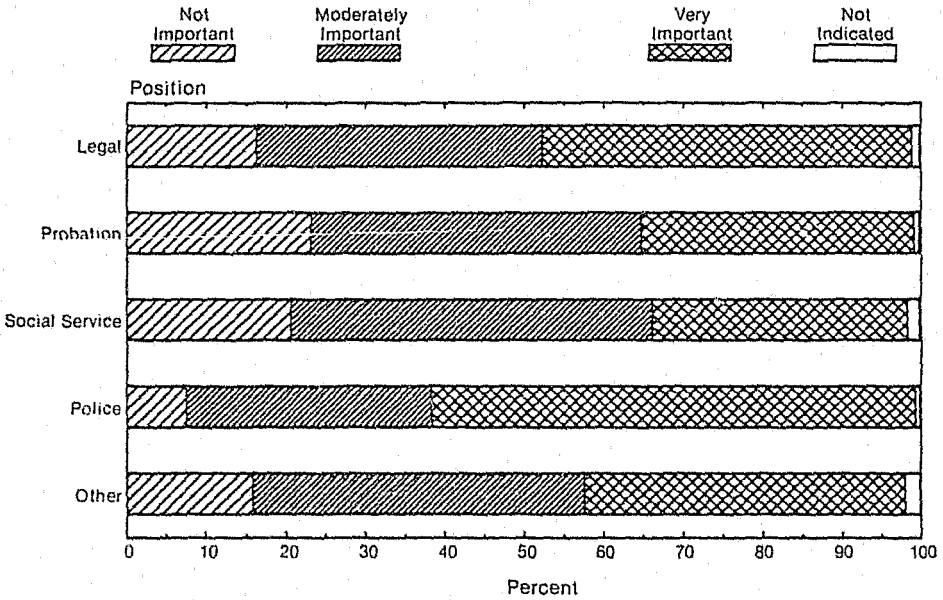
PREF4 Divert misdemeanants from the courtroom experience to community service.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	17.9	41.1	40.0	1.0
Legal	19.8	47.0	31.4	1.9
Probation	18.5	39.6	41.0	0.9
Social svcs	8.7	34.6	55.2	1.5
Police	23.3	45.1	30.8	0.7
Other	12.7	36.7	49.7	1.0

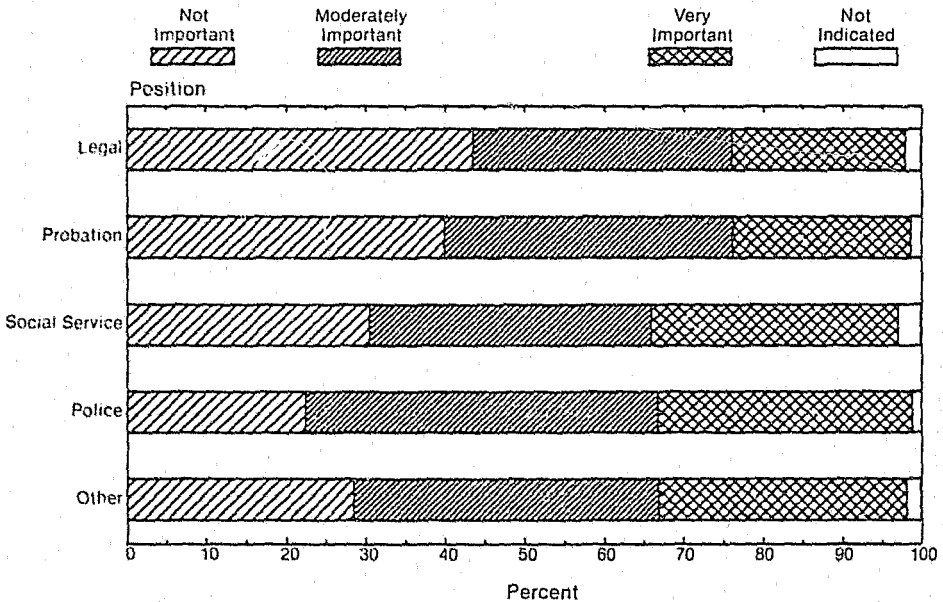
PREF5 Remove status offenders from juvenile court jurisdiction.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	29.4	28.5	40.6	1.0
Legal	37.8	29.5	31.8	0.9
Probation	23.0	27.3	49.3	0.3
Social svcs	27.3	21.7	49.9	1.2
Police	37.1	30.1	32.0	0.9
Other	21.5	28.3	49.0	1.2

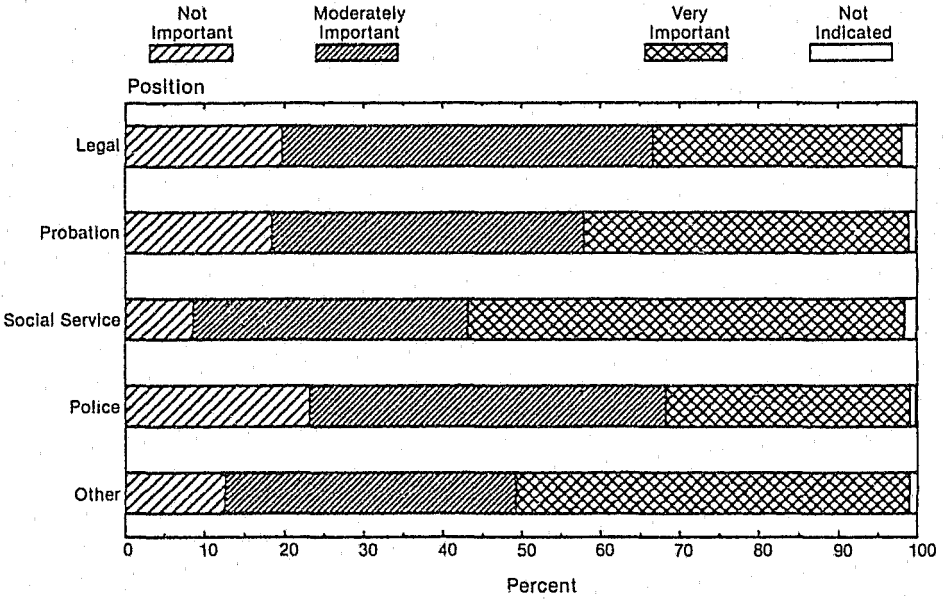
## Policy Preference 2



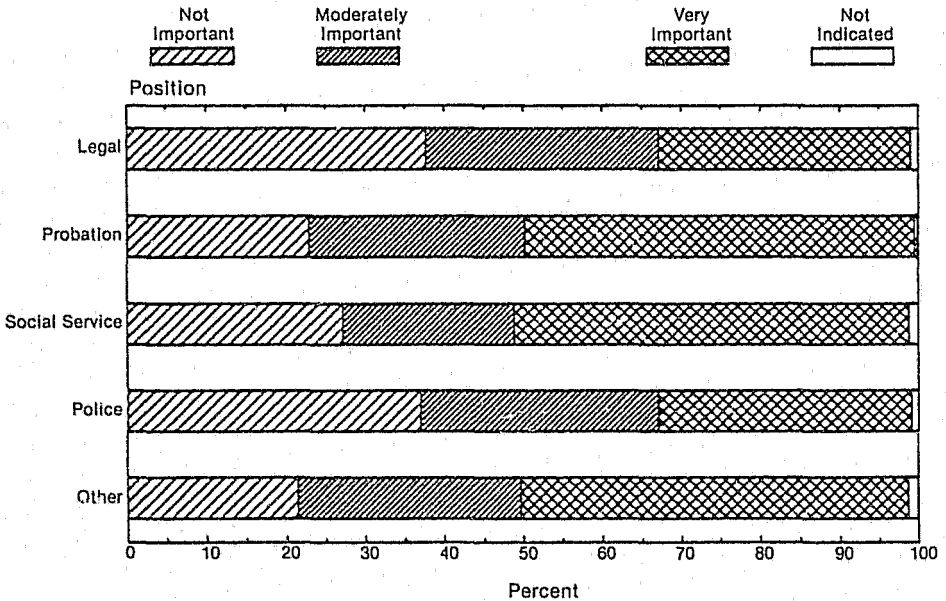
## Policy Preference 3



### Policy Preference 4



### Policy Preference 5



PREF6

Limit the discretion exercised by judges in sentencing decisions.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	34.1	34.1	30.7	1.2
Legal	63.5	22.3	13.0	1.1
Probation	45.9	31.5	21.5	1.0
Social svcs	31.3	44.5	32.2	2.0
Police	27.7	34.5	37.0	0.7
Other	31.3	37.2	30.0	1.5

PREF7

Provide more severe sanctions for crimes committed within schools.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	13.5	38.1	47.6	0.8
Legal	23.9	39.0	36.5	0.6
Probation	19.1	43.5	47.0	0.4
Social svcs	19.2	49.8	29.4	1.5
Police	5.8	34.1	59.7	0.5
Other	17.1	38.8	43.0	1.1

PREF8

Use explicit criteria to guide all decisions after apprehension.

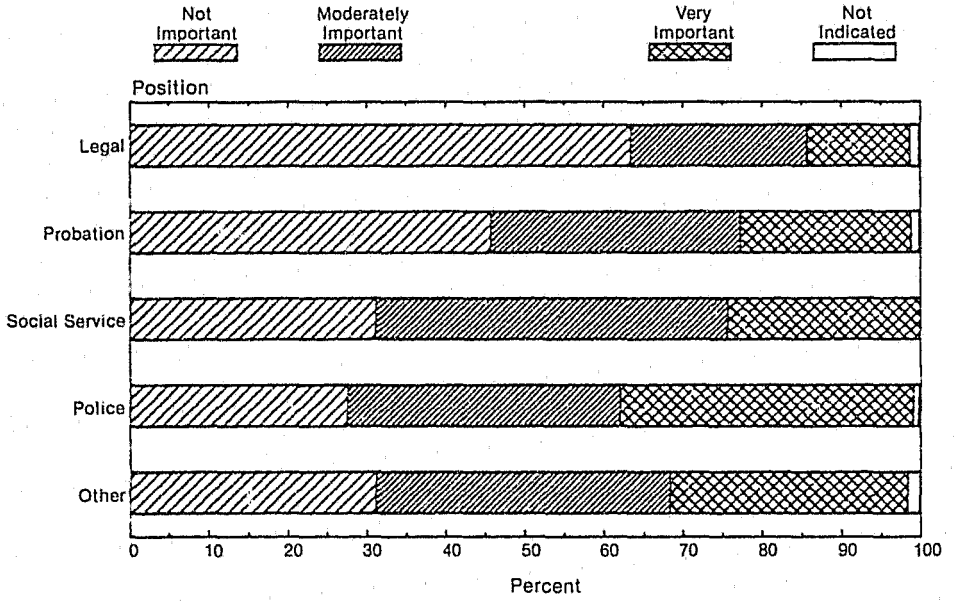
	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	18.9	40.9	39.1	1.0
Legal	33.7	40.6	24.2	1.4
Probation	23.4	43.5	31.0	1.2
Social svcs	19.2	38.2	40.6	2.0
Police	15.9	43.0	40.4	0.6
Other	17.0	38.9	43.1	1.0

PREF9

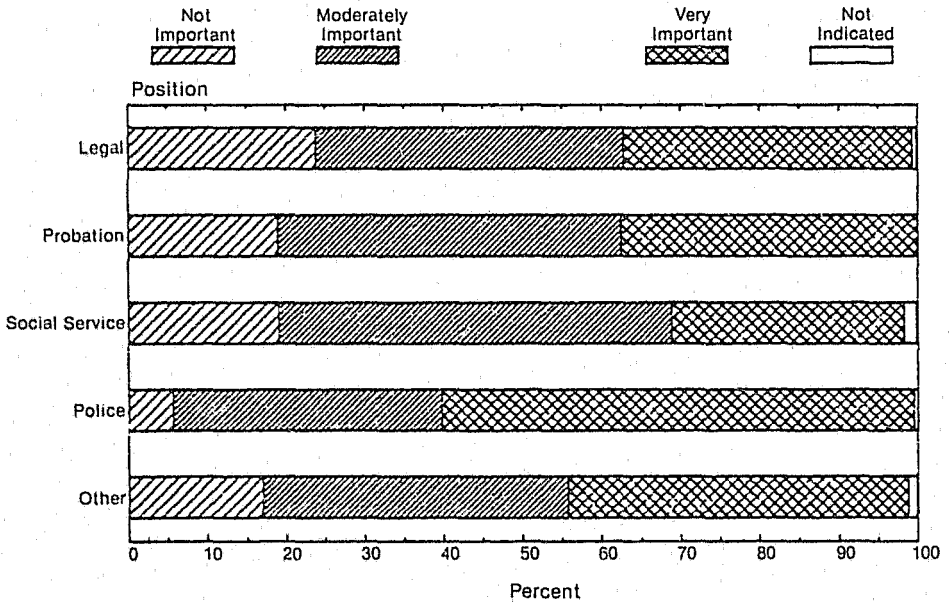
Require victim impact statements before sentencing.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	9.3	28.7	60.9	1.1
Legal	20.0	33.6	45.8	0.6
Probation	7.8	27.0	64.9	0.3
Social svcs	10.1	38.7	49.1	2.0
Police	5.5	23.7	70.0	0.7
Other	10.9	31.5	56.2	1.5

### Policy Preference 6

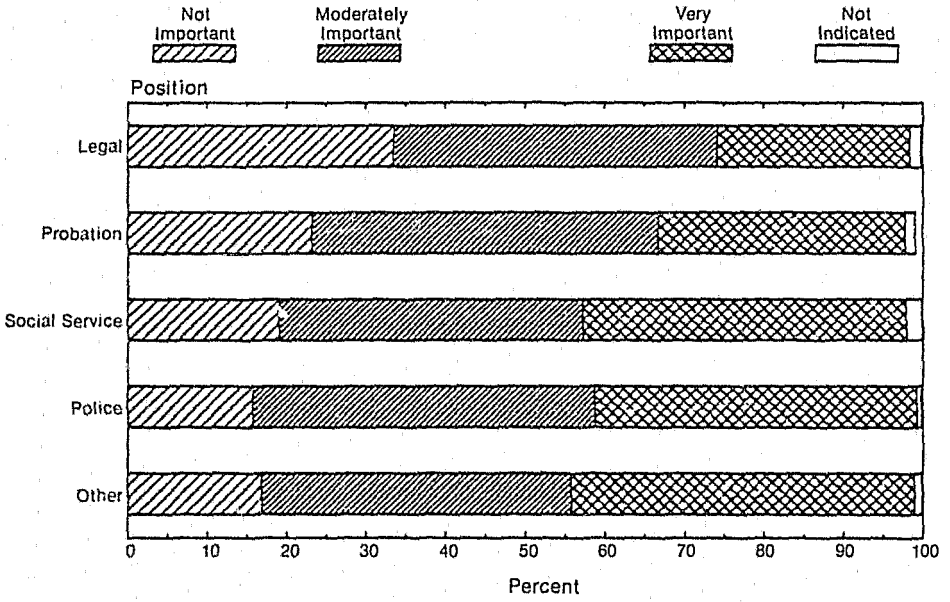


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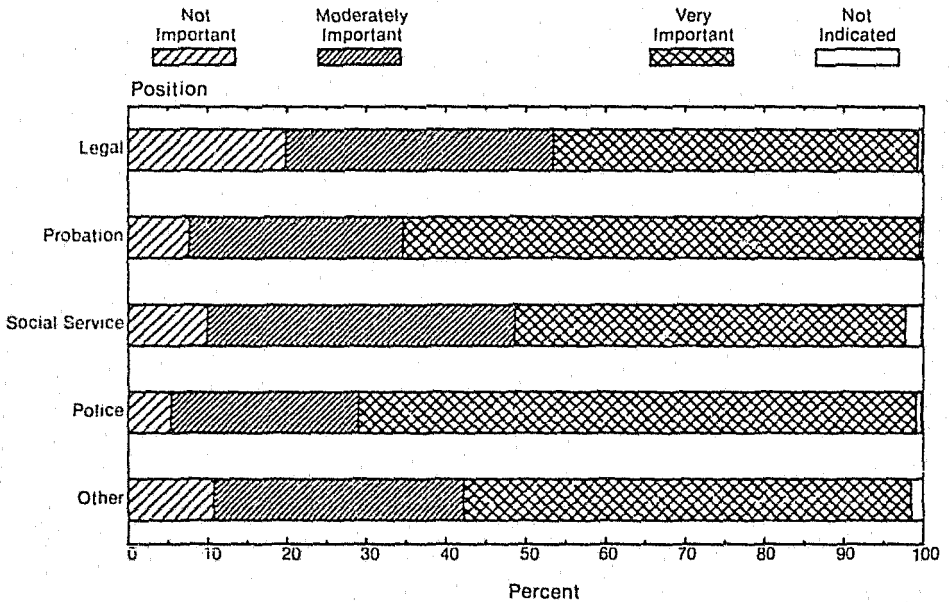




### Policy Preference 8



### Policy Preference 9



PREF10 Use resitution to the victim as a sole sanction for minor property offenses.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	32.6	40.9	25.6	0.9
Legal	54.0	33.9	11.5	0.6
Probation	34.5	44.3	20.8	0.4
Social svcs	25.9	44.8	27.4	1.9
Police	33.4	42.0	24.0	0.6
Other	26.7	40.2	32.0	1.1

PREF11 Use detention facilities for rehabilitation purposes.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	25.6	39.9	33.3	1.2
Legal	23.9	38.5	36.1	1.5
Probation	25.5	38.7	35.2	0.6
Social svcs	31.7	32.3	34.1	1.9
Police	19.7	44.1	35.3	0.8
Other	31.4	37.4	29.7	1.5

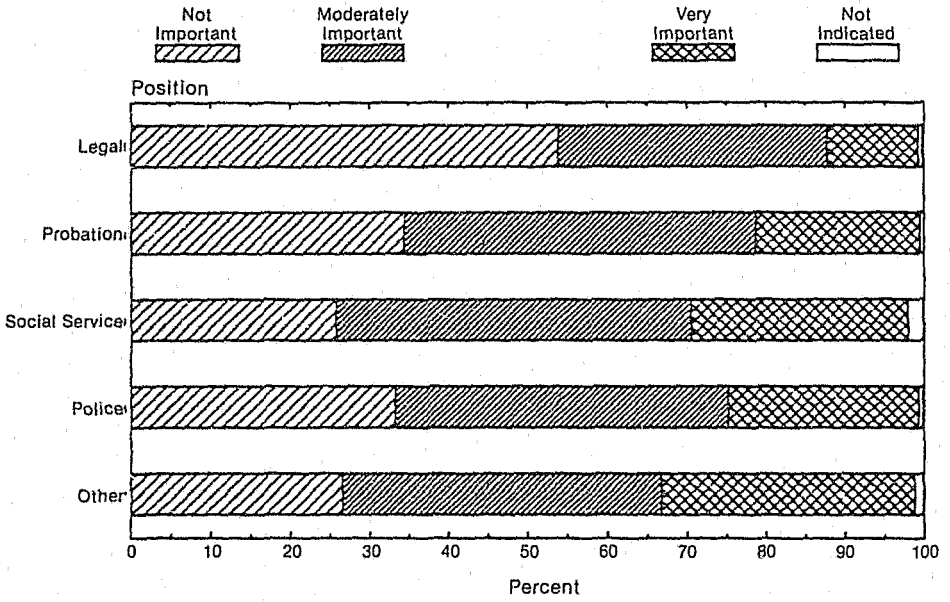
PREF12 Permit school principals access to the juvenile court legal records of their students.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	42.0	26.3	30.5	1.1
Legal	42.6	24.1	32.1	1.3
Probation	50.8	26.8	21.8	0.6
Social svcs	62.6	22.7	12.9	1.7
Police	32.9	27.9	38.5	0.8
Other	45.9	25.9	26.8	1.4

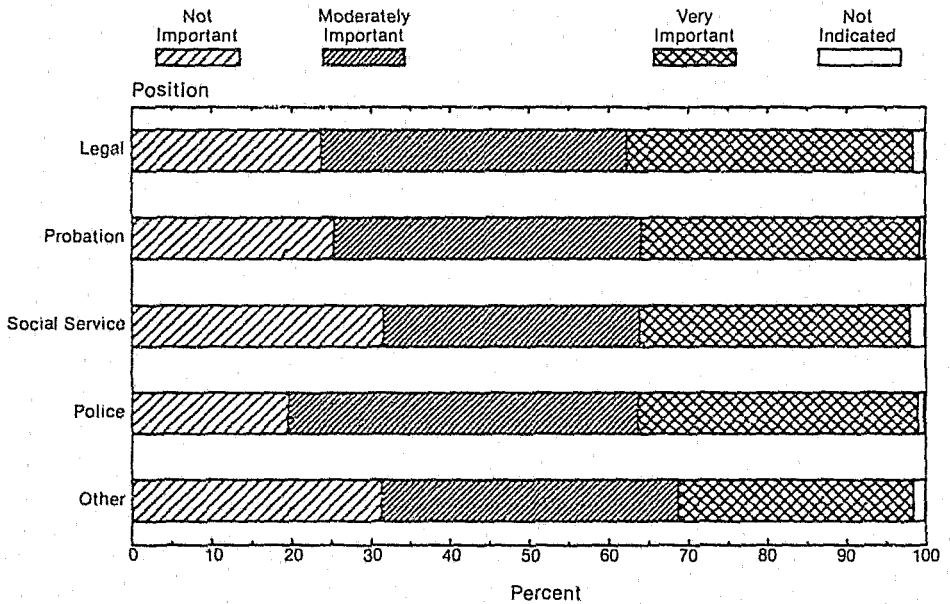
PREF13 Allow juveniles to request trial by jury in the juvenile court.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	42.2	29.6	27.4	0.9
Legal	57.0	18.6	23.6	0.8
Probation	36.0	26.3	27.1	0.6
Social svcs	31.0	34.9	31.7	2.5
Police	46.2	29.2	24.1	0.5
Other	35.0	32.6	31.3	1.0

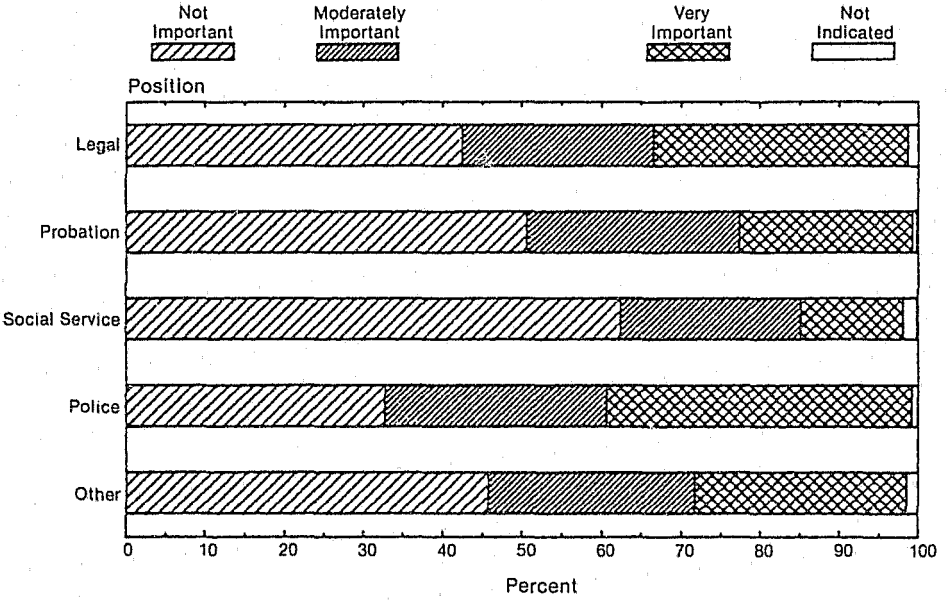
## Policy Preference 10



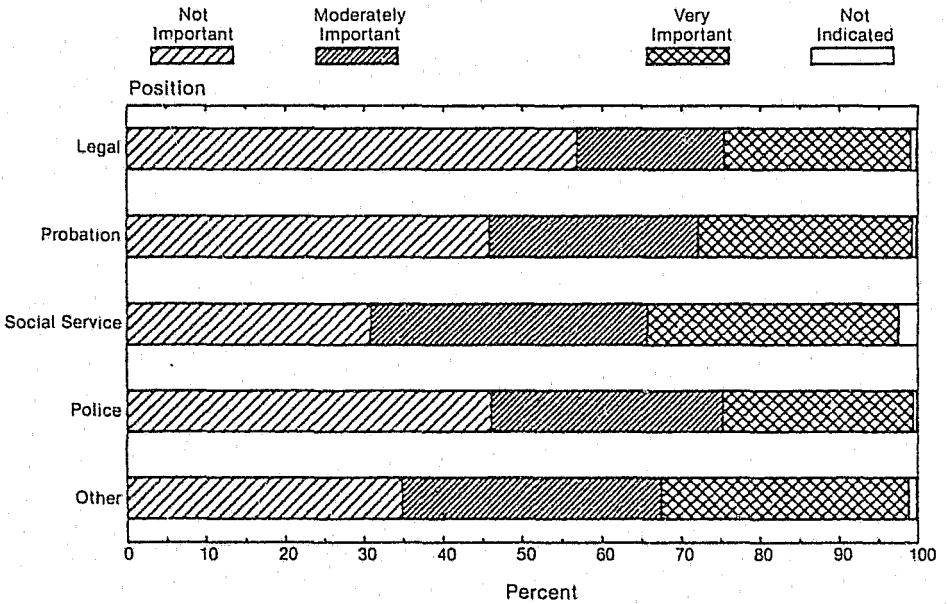
## Policy Preference 11



### Policy Preference 12



### Policy Preference 13



PREF14 Set mandatory minimum penalties for certain offenses.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	20.3	24.2	54.8	0.8
Legal	44.6	23.9	30.6	1.0
Probation	28.2	27.1	44.5	0.1
Social svcs	24.9	29.5	43.8	1.9
Police	9.2	21.1	69.3	0.5
Other	23.3	26.1	49.5	1.0

PREF15 Remove obstacles to the adult criminal justice system's confidential access to juvenile records.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	18.4	21.4	58.9	1.2
Legal	30.3	22.1	46.8	0.9
Probation	16.9	18.4	64.2	0.4
Social svcs	31.0	26.8	39.8	2.5
Police	10.5	18.9	69.9	0.7
Other	22.2	23.7	52.2	1.8

PREF16 Establish and maintain secure detention facilities for violent juvenile offenders.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	1.3	7.9	90.1	0.7
Legal	1.9	12.3	85.1	0.8
Probation	0.4	5.9	93.5	0.1
Social svcs	3.7	13.3	81.3	1.7
Police	0.3	3.4	95.9	0.4
Other	1.9	11.2	86.1	0.8

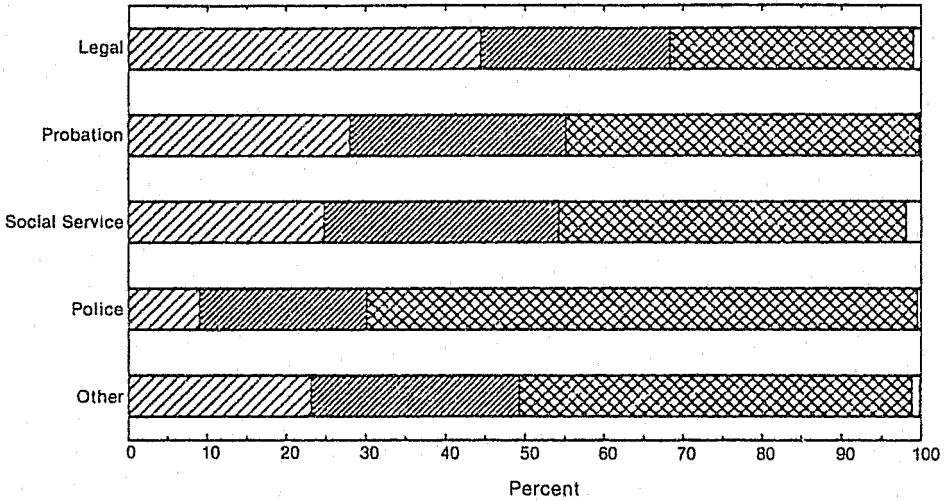
PREF17 Expand juvenile court jurisdiction over status offenders.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	44.7	29.3	25.1	1.0
Legal	48.5	29.4	20.8	1.3
Probation	56.5	23.3	19.0	1.2
Social svcs	53.2	25.8	20.0	1.0
Police	31.9	32.8	34.7	0.6
Other	53.7	27.1	18.0	1.2

### Policy Preference 14



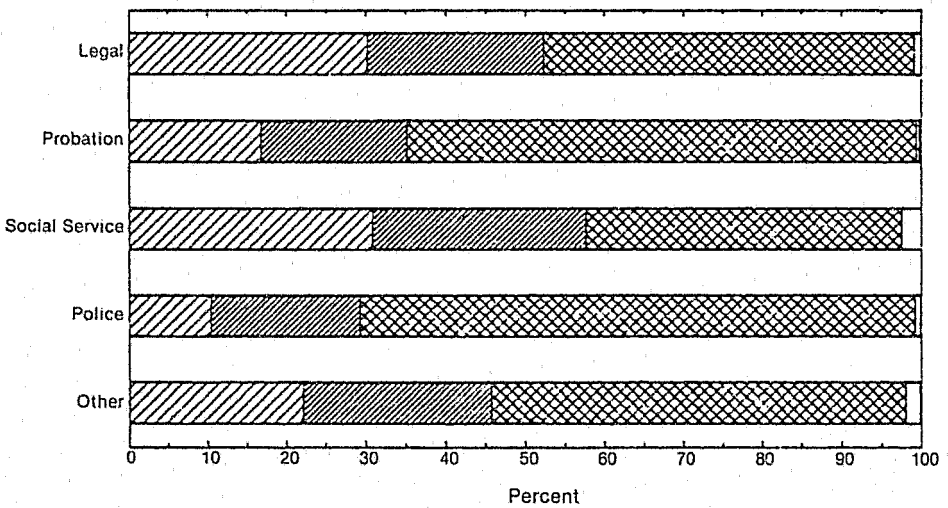
Position



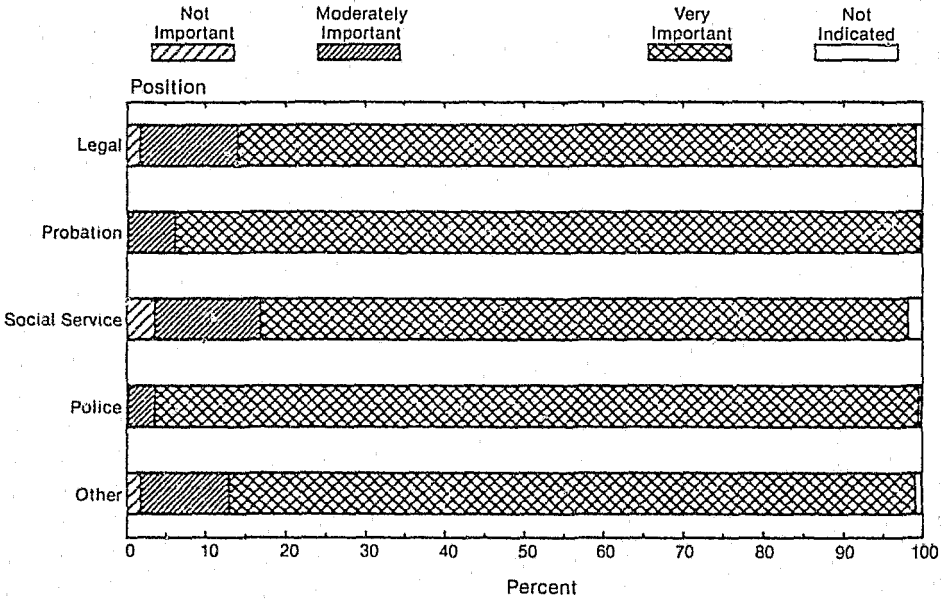
### Policy Preference 15



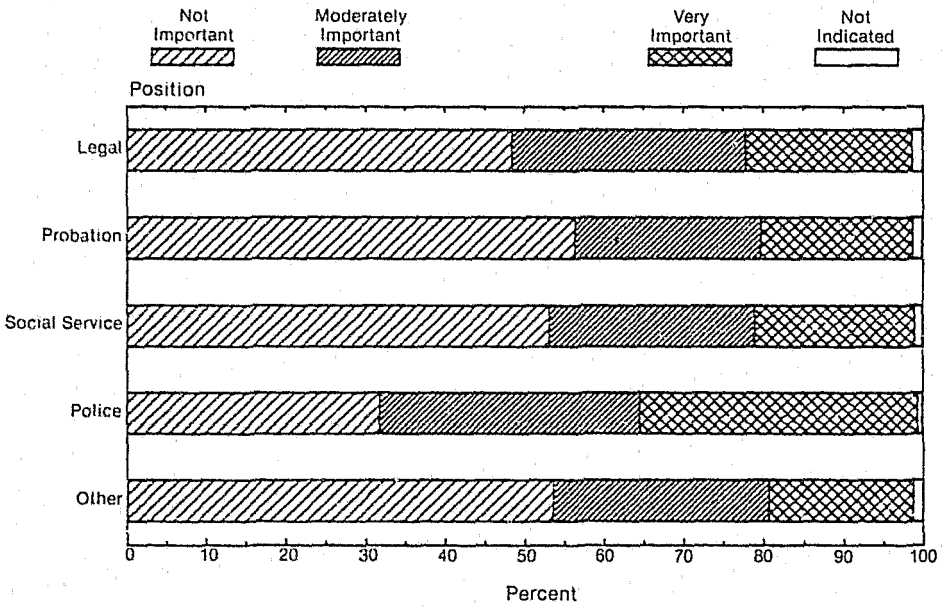
Position



### Policy Preference 16



### Policy Preference 17



PREF18 Establish collaborative programs among judges, lawyers, educators, law enforcement, and probation officers.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	3.3	19.4	76.4	0.9
Legal	8.4	25.1	65.3	1.1
Probation	1.5	13.4	84.6	0.4
Social svcs	3.6	9.8	84.9	1.9
Police	2.9	22.2	74.6	0.4
Other	2.7	18.1	78.1	1.2

PREF19 Establish more prevention programs within schools and the juvenile justice system.

	Unimportant 1-2	3-4	Very Important 5-6	NI
Sample	3.5	19.4	76.1	1.0
Legal	5.6	23.8	69.0	1.6
Probation	2.7	14.7	82.1	0.6
Social svcs	2.0	10.1	86.7	1.2
Police	3.9	23.3	72.1	0.7
Other	2.9	16.7	79.1	1.2

OPERF1 Organizational performance: Police

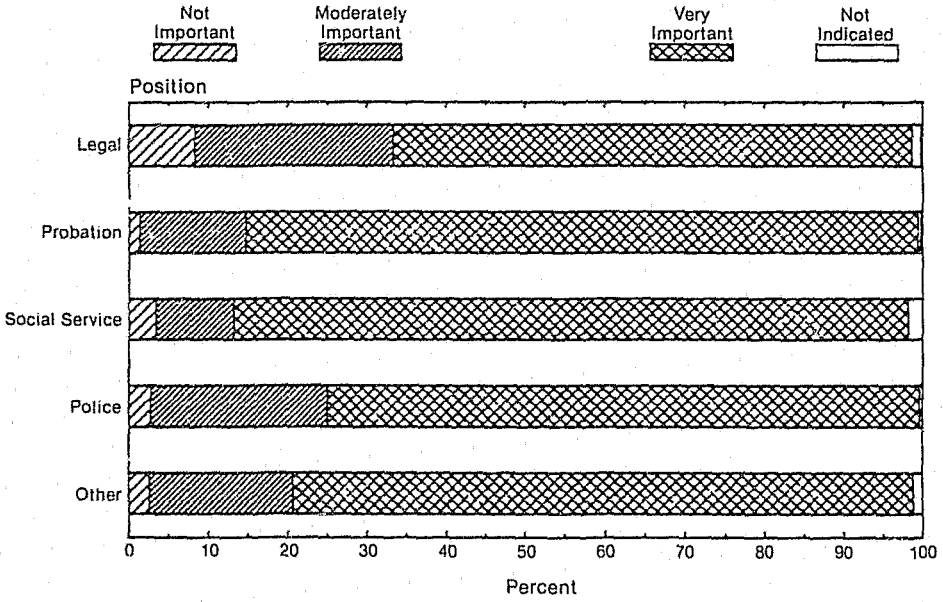
	Poor 1-2	Fair 3-4	Good 5-6	NI
Sample	10.5	47.9	40.1	1.6
Legal	12.8	49.6	36.3	1.3
Probation	10.8	47.1	41.1	1.0
Social svcs	14.7	49.7	33.1	2.5
Police	6.1	43.0	50.3	0.6
Other	13.9	52.8	30.6	2.7

OPERF2 Organizational performance: Juvenile courts

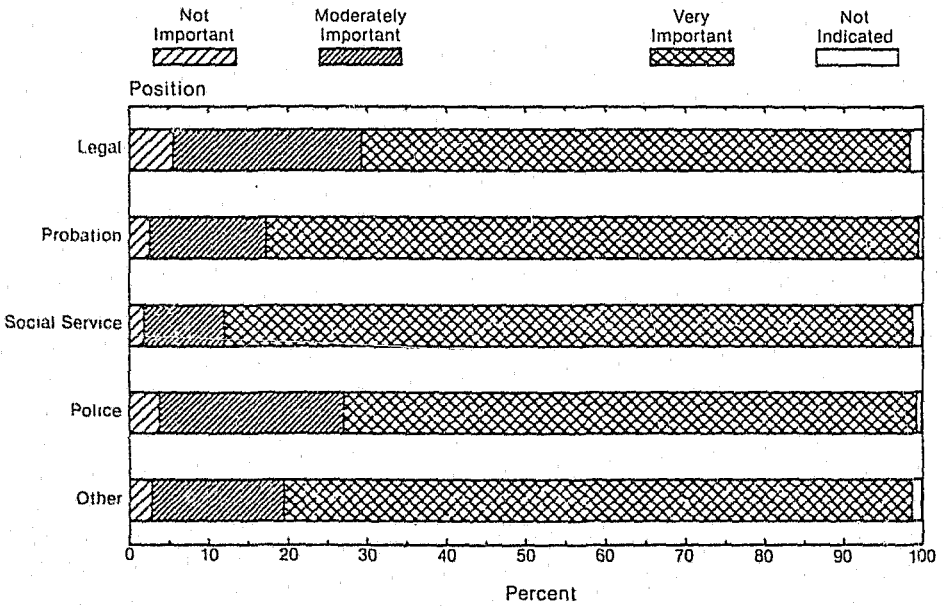
	Poor 1-2	Fair 3-4	Good 5-6	NI
Sample	24.8	50.6	22.8	1.8
Legal	16.6	47.6	34.2	1.5
Probation	15.2	44.3	39.5	1.0
Social svcs	18.2	51.4	27.8	2.7
Police	32.0	50.4	16.8	0.8
Other	22.3	53.0	21.7	3.0



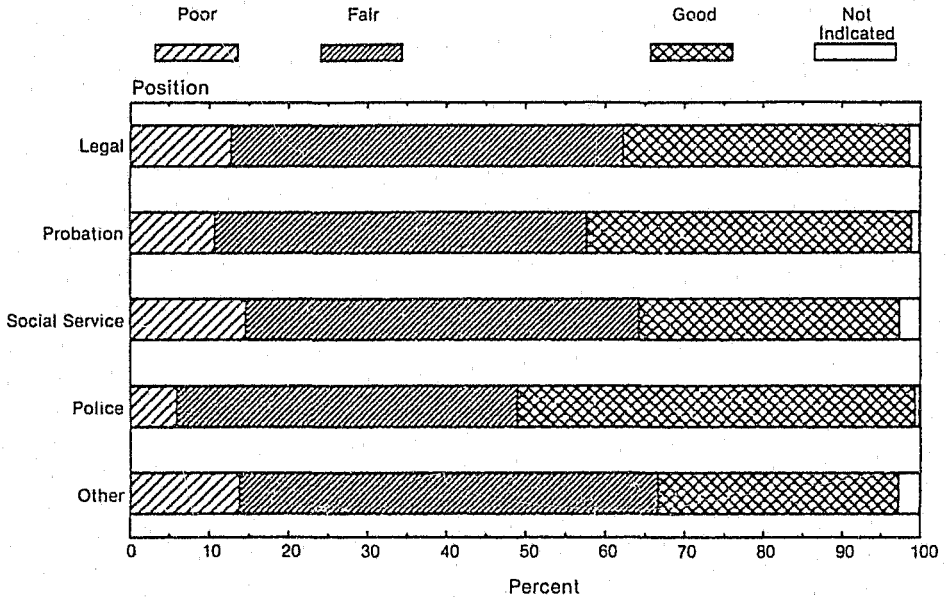
### Policy Preference 18



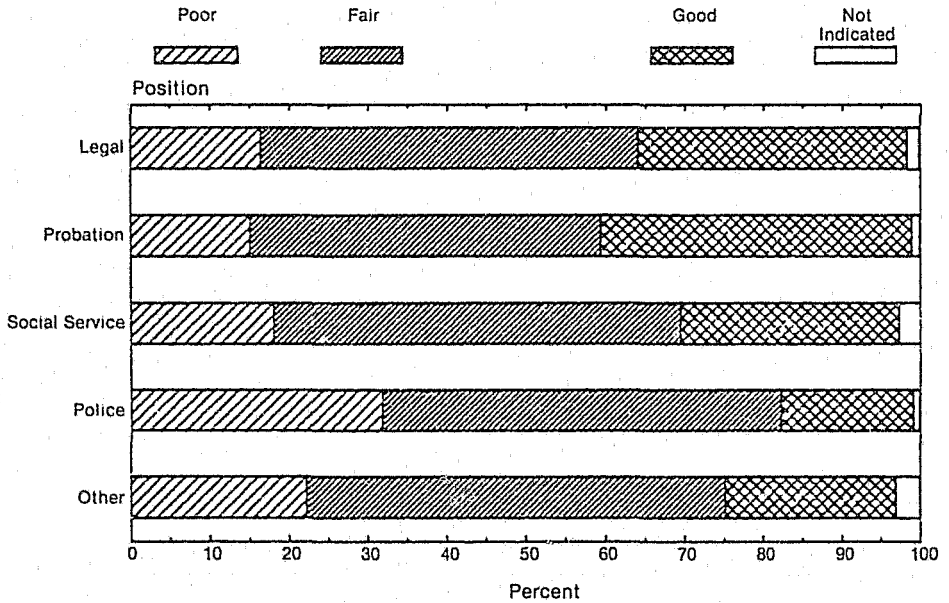
### Policy Preference 19



## Organizational Performance: Police



## Organizational Performance: Juvenile Courts



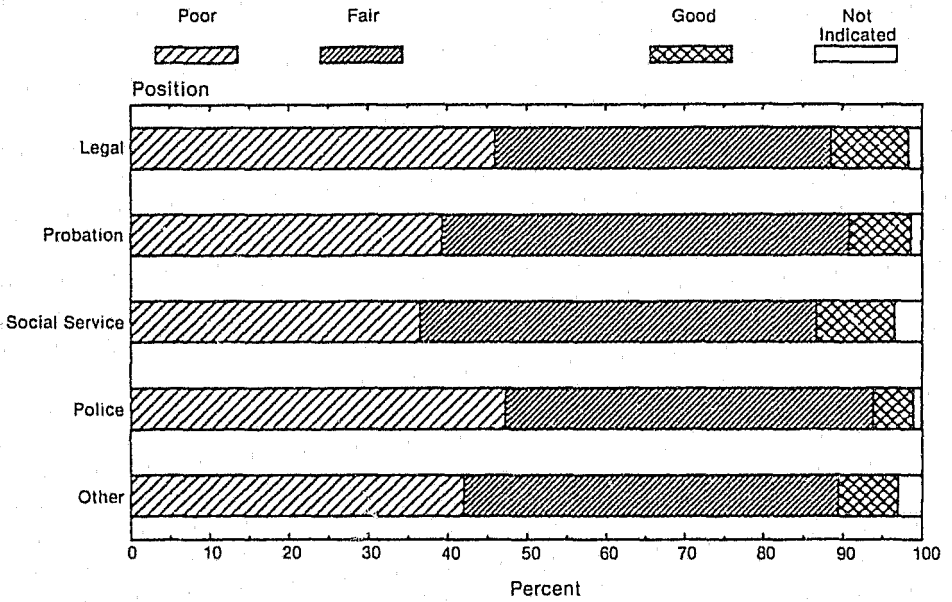
OPERF3		Organizational performance: Legislature			
	Poor 1-2	Fair 3-4	Good 5-6	NI	
Sample	44.0	47.2	6.8	2.0	
Legal	46.1	42.6	9.7	1.6	
Probation	39.5	51.5	7.7	1.3	
Social svcs	36.7	50.2	9.8	3.4	
Police	47.4	46.6	5.0	1.0	
Other	42.2	47.4	7.5	2.9	

OPERF4		Organizational performance: Youth organizations			
	Poor 1-2	Fair 3-4	Good 5-6	NI	
Sample	20.3	55.9	21.2	2.5	
Legal	22.4	56.6	17.4	3.7	
Probation	23.2	56.0	19.1	1.6	
Social svcs	17.0	52.2	27.6	3.2	
Police	22.7	56.3	19.6	1.2	
Other	16.9	56.1	23.2	3.7	

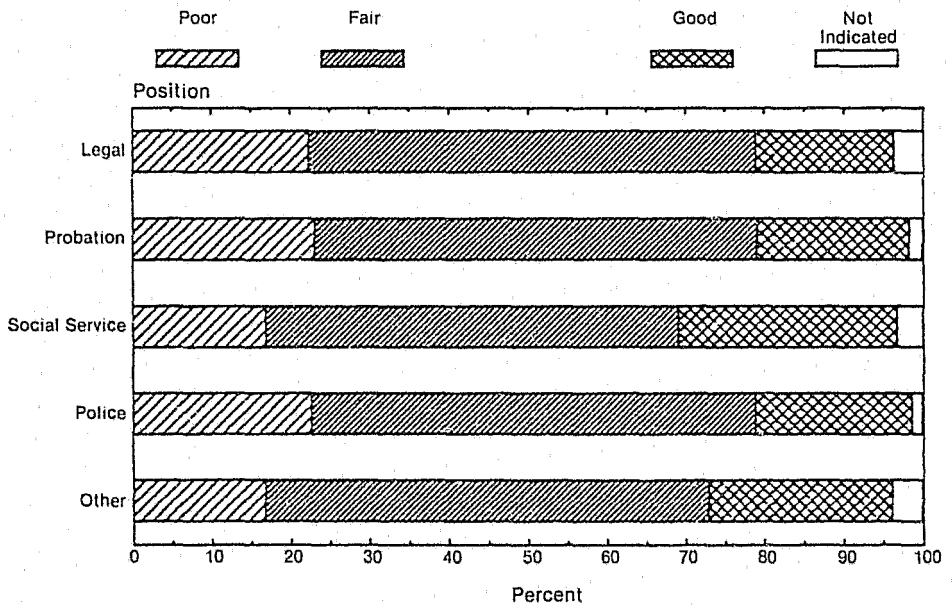
OPERF6		Organizational performance: Schools			
	Poor 1-2	Fair 3-4	Good 5-6	NI	
Sample	37.4	50.6	10.1	1.9	
Legal	37.9	52.7	7.5	1.9	
Probation	38.8	51.6	8.7	1.0	
Social svcs	39.0	50.4	7.9	2.7	
Police	35.2	51.0	13.0	0.8	
Other	39.0	49.4	8.4	3.0	

OPERF7		Organizational performance: Social services			
	Poor 1-2	Fair 3-4	Good 5-6	NI	
Sample	32.8	53.0	11.9	2.2	
Legal	33.2	51.2	13.5	2.0	
Probation	32.2	53.5	13.0	1.3	
Social svcs	22.9	52.5	21.4	3.2	
Police	38.3	50.5	10.2	1.1	
Other	28.8	56.4	11.4	3.4	

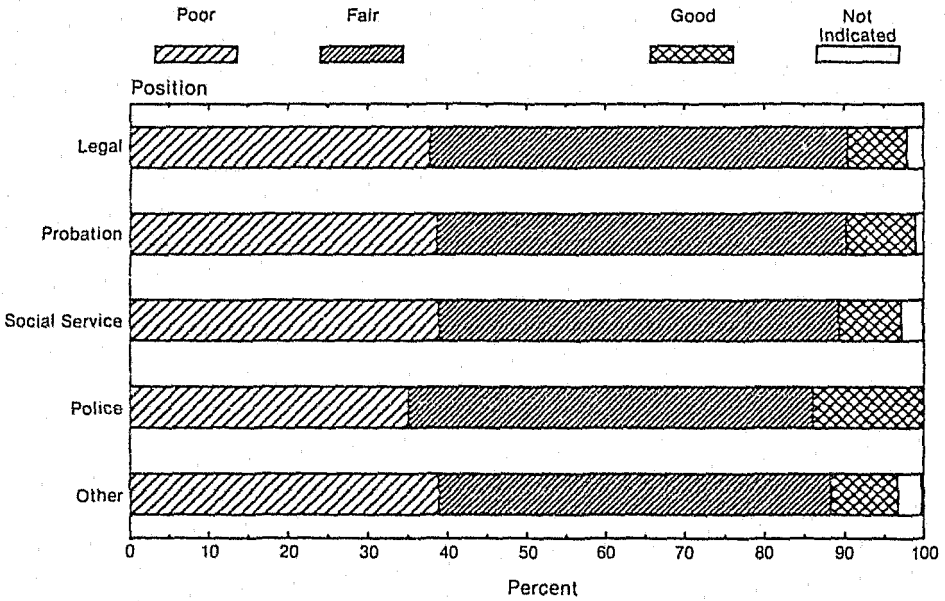
## Organizational Performance: Legislature



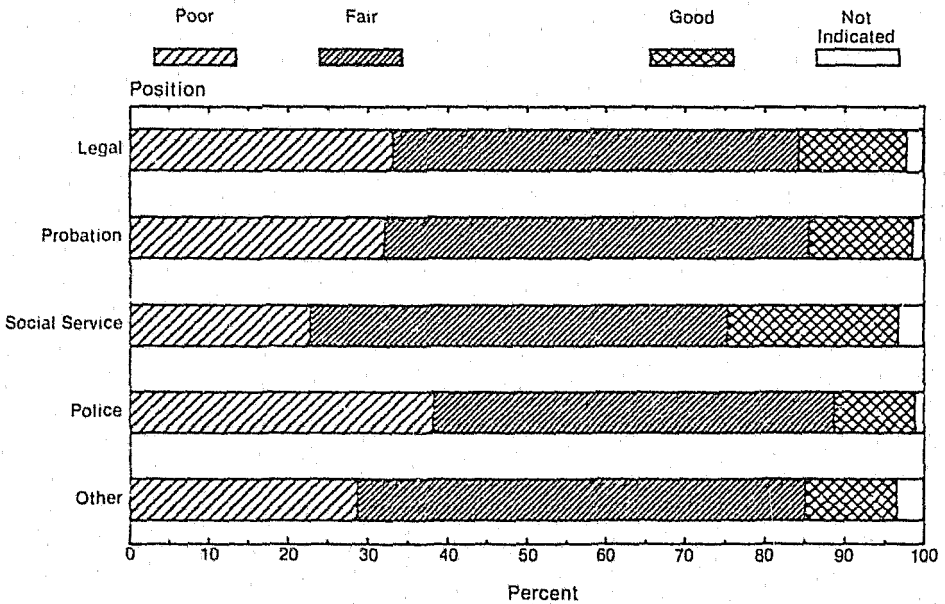
## Organizational Performance: Youth Organizations



## Organizational Performance: Schools



## Organizational Performance: Social Services



## **ANNOTATED BIBLIOGRAPHY**

## ANNOTATED BIBLIOGRAPHY

The purpose of this annotated bibliography is to introduce legislators and their staffs to a variety of scholarly and policy-oriented literature pertinent to juvenile justice reform. The bibliography was compiled by consulting various reference material, including the Social Sciences Index, the Index of Legal Periodicals, Criminal Justice Abstracts, abstracts provided in publications of the National Criminal Justice Reference Service, and the cumulative indexes of several scholarly journals in the criminal and juvenile justice fields. In addition to material related to the general philosophy and specific elements of the Model Acts, the bibliography also includes material on areas not expressly covered in the Acts, such as child abuse, neglect, and the causes and prevention of juvenile crime. To guide legislators and their staffs, the bibliography is divided into four categories: (1) general textbooks and historical material; (2) the causes, scope, and measurement of delinquency; (3) program reforms and innovations; and (4) system reforms.

### General and Historical

Empey, Lamar T. American Delinquency: Its Meaning and Construction (2nd Edition). Homewood, Illinois: The Dorsey Press, 1982.

A comprehensive text divided into five parts. The first part deals with the historical origins of the concepts of childhood and delinquency. The second part discusses the nature and extent of delinquency. Part Three describes five explanations of delinquency. The fourth part considers traditional approaches to juvenile justice, while the final part explores new trends in juvenile justice.

Fox, Sanford J., "Juvenile Justice Reform: An Historical Perspective," Stanford Law Review 22 (June 1970):1187-1239.

The purpose of this article is to examine the Gault (387 U.S. 1) case in light of two other important juvenile justice reforms: the opening of the New York House of Refuge in 1825 and the establishment of the juvenile court in 1899. The author challenges the conventional interpretation of these earlier developments, arguing that they were not so revolutionary or progressive as generally believed. The Gault reforms are judged favorably, but the author warns that their promise will only be fulfilled if the bar pursues them zealously.

Hahn, Paul H. The Juvenile Offender and the Law 3rd Edition. Cincinnati, OH: Anderson Publishing, 1984.

This is the most recent edition of a textbook first published in 1971. The book contains fifteen chapters divided into three sections. Chapters One to Four concern the control of youthful behavior; classification of juvenile offenders; causation; and development and delinquency. Chapters Five to Ten deal with the relationship between delinquency and the family; affluence; drugs; alcohol; sex; and schools. The final five chapters address more recent innovations, including diversion; secure detention of violent offenders; and the changing character of institutionalization. The book also contains two appendices on the constitutional rights of juveniles and on standards for juvenile detention facilities.

Lefstein, Norman; Stapleton, Vaughan and Teitelbaum, Lee., "In Search of Juvenile Justice: Gault and its Implementation," Law and Society Review 3 (May 1969):491-562.

In this early study, the authors assess the implementation of the Gault reforms in three metropolitan juvenile courts. Three key requirements are examined: right to counsel, the privilege against self-incrimination, and the right to confrontation. Full compliance with these requirements was rare. Courts presided over by judges with long tenure on the juvenile court, or within jurisdictions which put less emphasis on legalistic approaches, tended to circumvent the reforms.

Lemert, Edwin M. Social Action and Legal Change: Revolution Within The Juvenile Court. Chicago: Aldine Publishing Company, 1970.

This book presents a study of the process leading to the revision of California's Welfare and Institutions Code in 1961. The purpose of the book is to determine the sociological reasons for the success of some reform movements rather than others. The study reveals the number of different constituencies whose interests must be balanced in juvenile justice reform. The study also shows how the local or regional nature of juvenile courts impedes external attempts at reform.

Matza, David. Delinquency and Drift. New York: John Wiley and Sons, Inc., 1964.

The author's premise is that children between certain ages drift in and out of delinquent behavior. This age-group is treated as a subculture, and delinquency is defined as a subcultural phenomenon characterized by personal irresponsibility. The basis of this phenomenon is the neutralization of moral bonds connecting individuals to legal norms at a certain age. The author suggests that juvenile justice practices may increase neutralization.

McCarthy, Francis Barry and Carr, James G. Juvenile Law and its Processes: Cases and Materials. Indianapolis, IN: Bobbs-Merrill, 1980.

This textbook considers the historical and legal background of juvenile law, and suggests issues which may become pertinent during the 1980's and later. The book is organized around the three traditional jurisdictional categories of the juvenile court: delinquency; status offenses; and neglect, dependency, and abuse. For each category, the book examines how the juvenile court's jurisdiction is defined; how this jurisdiction is established; and how it is implemented.

Mennel, Robert M. Thorns and Thistles: Juvenile Delinquents in the United States 1825-1940. Hanover, NH: The University Press of New England, 1973.

This book considers approaches to juvenile crime from the House of Refuge Movement to modern theories of juvenile delinquency. The author attributes the evolution of these approaches to the growing ineffectiveness of families as agents of social control. Juvenile courts were developed in order to avoid the perceived cruelty of jails while ensuring that unsuitable behavior would be corrected and reformed.



Olson-Raymer, Gayle, "The Role of the Federal Government in Juvenile Delinquency Prevention: Historical and Contemporary Perspectives," Journal of Criminal Law and Criminology 74 (Summer 1983):578-600.

Analyzing the historical trends of federal participation in delinquency prevention, the author fears that we are entering a period of retrenchment. Olson-Raymer suggests that federal efforts be shifted from prevention programs based on individual treatment to programs emphasizing schools, families, communities, and peer groups.

Platt, Anthony M. The Child Savers: The Invention of Delinquency. Chicago: University of Chicago Press, 1969.

One of the first "revisionist" interpretations of the history of the juvenile court. Platt argues that the motives of the juvenile court movement were neither benign nor designed to protect children from the harsh realities of the criminal justice system. Instead, he asserts that the movement was motivated by a desire to control the poor, as well as recent immigrants to the United States. The movement sought, therefore, to extend social control over activities associated with poverty and cultural differences. As a result, new categories of misbehavior were invented in order to extend control.

Rosenheim, Margaret K. ed. Pursuing Justice For The Child. Chicago: University of Chicago Press, 1976.

A collection of papers organized around the themes of justice for children in general, for delinquent children, for nondelinquent children, and comparative juvenile justice. The book accepts the assumptions of the traditional treatment model.

Rothman, David J. The Discovery of the Asylum: Social Order and Disorder in the New Republic. Boston: Little, Brown and Company, 1971.

A study of the ideological underpinnings of the Jacksonian Period and the social reforms undertaken during it. The desire to control juvenile misbehavior systematically and through state intervention originated during this period. This was to be accomplished by isolating children from the adverse social conditions causing their delinquency. The tools of this policy were houses of refuge and reformatories where discipline was strict and routine was rigidly followed.

Rothman, David J. Conscience and Convenience: The Asylum and its Alternatives in Progressive America. Boston: Little, Brown, 1980.

An extension of Rothman's earlier work, covering the Progressive Era. Three chapters are devoted to the development of the juvenile court. Rothman demonstrates how reformers abandoned uniform discipline and routine in favor of individualized treatment. This led to the creation of juvenile courts and industrial schools. The importance of informal procedures and judges' personalities, along with the failings of industrial schools, are documented.

Ryerson, Ellen. The Best-Laid Plans. New York: Hill and Wang, 1978.

The subject of this book is the conception, assumptions, and fate of American juvenile courts. The author also considers the relationship of juvenile courts to

general perceptions of, and approaches to social problems. The book covers the court's origins and ideals; its legal setting; the practice of individualized justice; and the role of psychology and sociology. The final chapter discusses the importance of Supreme Court decisions between 1967 and 1974.

Sherraden, Michael W. and Downs, Susan Whitelaw, "Institutions and Juvenile Delinquency in Historical Perspective," Children and Youth Services Review 6:3 (1984):155-172.

An examination of juvenile institutionalization rates in the United States between 1820 and 1970. These rates rose most rapidly in the latter half of the nineteenth century and during the 1950's and 1960's. These increases are attributed to changes in the youth labor market. The study suggests the need for alternatives to a declining labor market for youths.

Shichor, David and Kelly, Delos H. eds. Critical Issues in Juvenile Delinquency. Lexington, Mass.: D.C. Heath and Company, 1980.

A collection of sixteen papers, covering a wide range of juvenile justice issues. Topics include rural delinquency, female delinquency, links between delinquency, families, and schools, violent juveniles, and the evaluation of juvenile justice legislation.

Shireman, Charles, "The Juvenile Justice System: Structure, Problems and Prospects," in Fogel, David and Hudson, Joe eds. Justice as Fairness: Perspectives on the Justice Model. Cincinnati, OH: Anderson Publishing, 1981.

A review of the juvenile justice system as of 1981. Topics covered include police work, detention, adjudication, juvenile correctional institutions, and probation. There are separate sections on the meaning of "justice" in the juvenile justice system and on recent reform initiatives (including decriminalization of status offenses, diversion, due process, and limiting discretion). In addition, the author devotes a section to a review of the Twentieth Century Fund and IJA-ABA sentencing standards.

Siegal, Larry J. and Senna, Joseph J. Juvenile Delinquency: Theory, Practice, and Law. St. Paul, MN: West Publishing, 1981.

This textbook is divided into seven major sections. The first section contains chapters on the concept of delinquency, measures of official delinquency, and unofficial measures of delinquency. Part Two deals with five theories of delinquency. The third section considers environmental influences on delinquency, including gangs, schools, and the family. The fourth section contains chapters on the juvenile justice system, its history, and the legal rights of juveniles. Part Five examines police work with juveniles, court processing, and juvenile trials. Part Six considers juvenile corrections, while the seventh and final section examines children's rights.

Sutton, John R. "The Juvenile Court and Social Welfare: Dynamics of Progressive Reform," Law and Society Review 19:1 (1985):107-45.

A study of the juvenile court's origin in Illinois and diffusion to other states. The author argues that the juvenile court was not a substantive reform, but extended

conventional control through the new Progressive vocabulary. An examination of state statutes is employed to demonstrate the ambiguity of the juvenile court in legal terms, while diffusion analysis shows the weaknesses of conventional explanations of the institutionalization of the court.

Thornton, William E. Jr.; James, Jennifer and Doerner, William G. Delinquency and Justice. Glenview, Illinois: Scott, Foresman and Company, 1982.

The stated objective of this textbook is to provide an overview of the extent, causes, nature, and control of juvenile crime in the United States. The authors' approach is predominantly sociological, although they do concern themselves with the administration and operation of the juvenile justice system. The book contains sixteen chapters organized into five sections. The first section has two chapters on the definition and measurement of delinquency. The second section contains four chapters on causation. A third section consists of five chapters on the characteristics of delinquency and delinquents. The fourth section contains four chapters on delinquency and the justice system. The final section contains a single chapter on delinquency and the future.

### Scope, Measurement, and Causes of Juvenile Crime

Ball, Richard A., "Development of Basic Norm Violation: Neutralization and Self-Concept Within a Male Cohort," Criminology 21 (February 1983):75-94.

The author studied 398 white working-class boys at the sixth grade level and 391 of the same boys at the ninth grade level. He found a sharp increase in the violation of basic social norms over the three-year period on the basis of self-report data. The study attributes this finding to a decreasing influence of those norms on the boys' behavior and to the intervening impact of self-concept on their attitudes and behavior.

Bernard, Thomas J., "Control Criticisms of Strain Theories: An Assessment of Theoretical and Empirical Adequacy," Journal of Research in Crime and Delinquency 21:4 (1984):353-72.

Strain theories of delinquency hypothesize that delinquency is caused by conflicts between social expectation and individual achievement. This article asserts that these theories have been abandoned prematurely. The author suggests that strain theories are especially applicable to serious gang violence. Conventional approaches to delinquency are criticized as too broad to include adequate consideration of this small group of juveniles. Empirical studies of gangs undertaken in isolation from broader studies are said to support strain theories.

Brundage, John M., "Predicting Recidivism: One Court's Experience," Juvenile and Family Court Journal 35:3 (1984):15-21.

A juvenile court with high recidivism rates undertook a project to determine the variables most predictive of recidivism. Analysis of 7,000 referrals to the court revealed the following variables as valid predictors: type of first offense committed; previous offense record; sex of the offender; quality of home life; school behavior and truancy records; and contact with delinquent siblings or

friends. Recidivism probabilities were higher among felony and status offenders than among misdemeanants. The court used this information in subsequent disposition proceedings to identify high risk juveniles and assign them more intensive supervision. A survey of recidivism rates since the introduction of the project indicates substantial reductions in recidivism and costs.

Canter, Rachele J., "Family Correlates of Male and Female Delinquency," Criminology 20 (August 1982):149-167.

Using self-reported delinquent behavior data from a national sample of 1725 adolescents, the author attempted to discern whether girls reported stronger family bonds and lower delinquency than boys. Sex differences in levels of reported delinquency were observed, but no such differences in family bonds were discovered. Family bonds are correlated with delinquency at comparable rates for boys and girls. Indeed, in many cases family bonds are correlated more strongly among males than females.

Cernkovich, Stephen A., "Evaluating Two Models of Delinquency Causation: Structural Theory and Control Theory," Criminology 16 (November 1978):335-352.

The author criticizes structural theories and control theories for their narrow focus on lower-class and middle-class delinquency. Using a sample of 412 male high school students, this study tests the utility of the two theories. Three major findings emerge: both theories explain significant but small variations in delinquency; control theory accounts for the most unique variations in delinquent behavior; and the two models in combination explain more than either model separately.

Cernkovich, Stephen A. and Giordano, Peggy C., "Delinquency, Opportunity and Gender," Journal of Criminal Law and Criminology 70 (Summer 1979):145-151.

Blocked opportunity is one causal explanation of delinquency. This study attempts to test this proposition using self-report data from 1355 male and female high school students. In general, blocked opportunity was found to be more predictive of delinquency than other variables examined in the study. Gender-based blocked opportunity, however, was completely unrelated to delinquency. In addition, blocked opportunity had a more significant impact on future delinquency for whites than non-whites.

Cott, Allan, "The Etiology of Learning Disabilities, Drug Abuse and Juvenile Delinquency," in Leonard J. Hippchen ed., Ecologic-Biochemical Approaches to Treatment of Delinquents and Criminals. New York: Von Nostrand Reinhold Company, 1978.

A review of research relating learning disabilities to drug abuse and juvenile delinquency. From his clinical experience, the author concludes that learning-disabled children often turn to drug abuse and delinquent activity in order to compensate for academic and interpersonal failures in school. The author recommends more effective school programs, particularly to reduce dropout rates.

Duxbury, Elaine B., "Violence By Youth; Violence Against Youth," American Behavioral Scientist 23:5 (May/June 1980):667-680.

This article reviews research on violence committed by and against youths. Studies indicate that such violence appears to have peaked in 1975 and was decreasing in 1980. The author also uses this research in an attempt to identify the type of juvenile who commits violence, what types of violence are committed, where it is committed, and how it is committed.

Elliott, Delbert S. and Ageton, Suzanne S., "Reconciling Race and Class Differences in Self-Reported and Official Estimates of Delinquency," American Sociological Review 45 (February 1980):95-110.

An important issue in delinquency research is the relative accuracy of official police and arrest records compared to self-reported estimates of delinquent behavior. One area where differences are significant is the incidence of race, class, sex, and age differences indicated by the two measures. Self-report data reveal a much smaller difference along these variables than official data. This study argues that the discrepancy is generated by weaknesses in the methods used to collect and measure self-report data. Biases in the processing of offenders only explains part of the discrepancy. The authors conclude that self-report measurement techniques should be developed that are more sensitive to different levels and types of delinquent behavior.

Empey, Lamar T. and Lubeck, Steven G. Explaining Delinquency. Lexington, Mass.: D.C. Heath and Co., 1971.

Using a sample of juveniles from Los Angeles and Utah, the authors test the proposition that official delinquency is a lower-class phenomenon. Membership in this class is understood as leading to law-violating behavior and official reprobation. The results of the study confirmed many propositions of the theory individually, but failed to confirm the overall causal sequence. As a result, the authors reformulate the theory into several alternative models.

Farnworth, Margaret, "Male-Female Differences in Delinquency in a Minority-Group Sample," Journal of Research in Crime and Delinquency 21:3 (1984):191-212.

Using self-report data, this study explores sex differentials in delinquency among 99 black boys and girls from low-income families. The study indicates the need for separate models of male and female delinquency for property offenses and nonvictimizing offenses. Past research is criticized for underestimating the effect of sex by ignoring its interactive impact. In the study, sex is strongly related to violent offenses, but not to status offenses. Social ties are also found to be important for explaining status offenses. In general, the study finds some support for social control theory in the case of low-income blacks, particularly in explaining status offenses.

Gove, Walter R. and Crutchfield, Robert D. "The Family and Juvenile Delinquency," The Sociological Quarterly 23 (Summer 1982):301-19.

Focusing on parental perceptions, this study tests the effects of "family variables" on delinquency. The study's major finding is that parental feelings toward the

child have an impact on delinquency. The authors conclude that "ineffectual family functioning" is significantly related to delinquency.

Greenwood, Peter W.; Lipson, Albert J.; Abrahams, Allan; and Zimring, Franklin. Youth Crime and Juvenile Justice in California. Santa Monica, CA: Rand, 1983.

In this report commissioned by the California State Assembly, the authors investigate the scope of serious juvenile crime; the ability of the juvenile justice system to deal with it; and future policy options. The report indicates that the rate of serious juvenile crime in California stabilized between 1978 and 1983. During approximately the same period, dispositions for these crimes became increasingly punitive. The study also found that no method of rehabilitation is generally superior to any other, and that prescriptive sentencing guidelines are the most useful type of sentencing reform.

Greenwood, Peter W. and Zimring, Franklin E. One More Chance: The Pursuit of Promising Intervention Strategies for Chronic Juvenile Offenders. Santa Monica, CA: Rand, 1985.

The authors examine several programs for reducing the criminality of chronic juvenile offenders. The study includes analyses of predictors of chronic criminal behavior, the accuracy of risk assessment, the legal framework of rehabilitation programs, and the comparative effectiveness of early intervention and selective incapacitation. The study's major conclusion is that effective rehabilitation programs face a difficult obstacle because chronic juvenile offenders exhibit numerous behavioral and other problems. No single treatment approach can address all of these problems. Thus, no single approach to intervention is likely to be significantly better than any other approach on a consistent basis.

Grimmell, Richard M. Jr. and Chambers, Cheryl A., "Broken Homes and Middle-Class Delinquency: A Comparison," Criminology 17 (November 1979):395-400.

A research note reporting the results of a study examining the relationship between broken homes and middle-class delinquency, using official data. The note compares its findings to a previous study that used self-report data. Neither study reveals a significant relationship between broken homes and middle-class delinquency.

Hamparian, Donna Martin, Schuster, Richard, Dinitz, Simon and Conrad, John P. The Violent Few: A Study of Dangerous Juvenile Offenders. Lexington, Mass.: D.C. Heath and Co., 1978.

The authors studied a birth cohort of 811 juveniles in Columbus, Ohio. The study attempts to test empirically five propositions concerning chronic offenders, such as their career patterns and length; the seriousness of violent juvenile crime; and the termination of delinquent careers. Findings of the study include the following: (1) one-third of the cohort could be considered chronic offenders; (2) the racial composition of chronic offenders is almost equally divided between blacks and whites; (3) the relationship between the age at which careers begin and length of careers is unclear; (4) linear progression toward more serious criminal activity is characteristic of only an unpredictable minority; and (5) chronic

offenders tend to terminate their careers later in adolescence than other delinquent youth.

Hanson, Richard A. and Mullis, Ronald L., "Moral Reasoning in Offender and Nonoffender Youth," Journal of Genetic Psychology 144 (June 1984):295-96.

The authors conducted experiments to determine whether differences in the capacity for moral reasoning exist between delinquents and nondelinquents or between males and females. Their research revealed significant differences between delinquents and nondelinquents. There was no appreciable difference between males and females.

Hepburn, John R., "The Impact of Police Intervention upon Juvenile Delinquents," Criminology 15 (August 1977):235-262.

Using a sample of 106 non-delinquent males and 119 officially delinquent juveniles, the author tests the impact of police intervention on juveniles' self-perceptions and role expectations. The study examines the effect of the frequency and severity of official delinquency and severity of disposition on the juvenile's self-satisfaction; delinquent identification; commitment to delinquent peers and future delinquency; and attitudes toward police. The study finds that when socioeconomic status and delinquent behavior are controlled, police intervention has little impact on the juvenile. A more important factor is the juvenile's experience in delinquency involvement.

Hippchen, Leonard J., "The Need for a New Approach to the Delinquent-Criminal Problem," in Leonard J. Hippchen ed. Ecologic-Biochemical Approaches to Treatment of Delinquents and Criminals New York: Von Nostrand Reinhold Company, 1978.

The author argues for a new approach to delinquency in light of trends toward increasing crime rates, the inability to treat antisocial behavior effectively, and the inadequate identification of causal factors underlying crime. Biochemistry is offered as an alternative, offering contributions to criminological theory, treatment of institutionalized offenders, detection and diversion programs, and prevention.

Hirschi, Travis. Causes of Delinquency. Berkeley: University of California Press, 1969.

Strain and cultural deviance theories of delinquency assume that delinquents are either victims of circumstances beyond their control or members of a subculture whose norms can be neither understood nor judged by society as a whole. This book challenges these assumptions, asserting that the delinquent is characterized by his lack of attachment to the aspirations and moral beliefs binding most people to life within the law. In particular, the author investigates attachments to parents, school, and peers. Hirschi's theory is generally described as social control theory.

Hirschi, Travis and Hindelang, Michael J., "Intelligence and Delinquency: A Revisionist Review," American Sociological Review 42 (August 1977):571-587.

This study reviews the recent literature on the relationship between IQ and delinquent behavior. The article challenges the widely held view that this relationship is either weak or non-existent. Using available data, the authors show that IQ has an effect on delinquent behavior through its impact on school performance. The authors also argue that this relationship exists independently of race and class. However, the study also indicates that IQ has little direct impact on delinquency.

Jensen, Gary F. and Erickson, Maynard L., "The Religious Factor and Delinquency: Another Look at the Hellfire Hypothesis," in Robert Wuthnow ed., The Religious Dimension. New York: Academic Press, 1979.

A debate exists in criminology concerning the importance of religion as a predictor of delinquent behavior. Generally, religiosity has been dismissed as a good predictor. Some recent studies, however, give more emphasis to religion. This study attempts to test empirically the significance of religion through a survey of students at three small high schools in southern Arizona and at three metropolitan schools in Tuscon. The research yielded significant correlations between delinquency and church attendance, participation in church youth activities and religious affiliation. The study concludes that while religious attachment as a whole does not predict delinquency as well as other institutional attachments, it is important for specific types of offenses, particularly "victimless" crimes.

Keilitz, Ingo, Zaremba, Barbara A. and Broder, Paul K., "Learning Disabilities and Juvenile Delinquency," in Leonard D. Savitz and Norman Johnson eds., Contemporary Criminology. New York: Wiley, 1982.

The goals of this study are to determine whether adjudicated delinquent juveniles are more likely than non-delinquents to have learning disabilities and to test several hypotheses which purport to explain linkages between juvenile delinquency and learning disabilities. While the authors do find a higher prevalence of learning disabilities among delinquents, they find little support for current explanations of this phenomenon. The two most popular hypotheses posit either that learning disabilities lead to school failure and consequently delinquency, or that they make children more susceptible to delinquent acts. Neither the school failure nor susceptibility hypotheses are supported by the study.

Kornhauser, Ruth Rosner. Social Sources of Delinquency: An Appraisal of Analytic Models. Chicago: University of Chicago Press, 1978.

This book contrasts social disorganization theories of delinquency with cultural deviance models. Two types of social disorganization theories--control models and strain models--are examined. The author rejects cultural deviance and social strain explanations, arguing that social control models are more accurate.



Lab, Steven P., "Patterns in Juvenile Misbehavior," Crime and Delinquency 30:2 (April 1984):293-308.

The author investigated the career pattern of juveniles in three birth cohorts. The identification of clear patterns was found to be difficult, but the research revealed the dominance of minor offenses and short careers.

Lewis, Dorothy Omow ed. Vulnerabilities To Delinquency. New York: Spectrum Publications, 1981.

This collection of papers examines the medical aspects of delinquency. The volume is divided into three parts. Part One considers neuropsychiatric factors of delinquency, including psychotic disorders; reading disabilities; and the neuropsychiatric status of violent male delinquents. Part Two studies physiologic factors, among which are nutrition; the learning of moral reasoning; and the role of parents. Finally, Part Three examines social factors such as race and treatment programs.

Lyerly, Robert Richard and Skipper, James K. Jr., "Differential Rates of Rural-Urban Delinquency: A Social Control Approach," Criminology 19:3 (November 1981):385-99.

This study attempts to use social control theory to explain the lower frequency of delinquent behavior in rural areas. Residents of rural and urban juvenile detention centers completed questionnaires concerning their degree of delinquent behavior and their attachments to family, church, school, peers, and formal authority. Delinquent activity was negatively correlated to these attachments.

McCarthy, John and Hoge, Dean, "The Dynamics of Self-Esteem and Delinquency," American Journal of Sociology 90:2 (1984):396-410.

This study evaluates the relationship between self-esteem and delinquency among a sample of 1,965 high school students. Self-esteem had very little impact on self-reported delinquency. There was a modest impact of delinquency on self-esteem, with increased delinquency resulting in lower self-esteem.

Menard, Scott and Morse, Barbara J., "A Structuralist Critique of the IQ-Delinquency Hypothesis: Theory and Evidence," American Journal of Sociology 89:6 (1984):1347-78.

Structuralism views delinquency as a consequence of institutional practices rather than individual characteristics. From this perspective, the association of IQ with delinquent behavior is the result of institutions' using IQ as the basis for differential treatment. The theory is tested using a subsample of 257 students from a total sample of 2,724 students. In this study, the structuralist model variables explain 20% of the variance in delinquency, while IQ-delinquency variables explain less than 5% of the variance.

Miller, Walter B. Violence By Youth Gangs and Youth Groups as a Crime Problem in Major American Cities. Washington, D.C.: U.S. Government Printing Office, 1975.

This study surveyed youth gang activity in 11 of the 15 largest metropolitan areas in the country. The criteria used to identify gangs were (in order of importance):

identifiable leadership; a claim to control territory; continuing and recurrent interaction among group members; an internal organization characterized by functional role-divisions and chain of command; and violent or criminal behavior as a major activity. Gang activity in major cities accounted for up to 25 percent of juvenile homicides, 33 percent of juvenile arrests for violent crimes, and violence within schools. Trend analysis indicated that there would be no significant decrease in violent crimes committed by gang members.

Murray, Charles A. The Link Between Learning Disabilities and Juvenile Delinquency: Current Theory and Knowledge. Washington, D.C.: U.S. Government Printing Office, 1976.

This report reviews existing research on learning disabilities and delinquency. The report surveys existing literature, theoretical developments, and practical applications of theory. The report concludes that no causal link between learning disabilities and delinquency had been established in studies conducted through 1976. The report recommends that research continue, but that broad program applications of existing theory be avoided.

Offer, Daniel, Marohn, Richard C. and Ostrov, Eric. The Psychological World of the Juvenile Delinquent. New York: Basic Books, 1979.

The results of a five-year psychological study of disturbed juvenile delinquents conducted at the Illinois State Psychiatric Institute. The authors discovered four types of delinquents: the impulsive, the narcissistic, the depressed borderline, and the empty borderline. The book presents a case study of each of these types.

Offord, D.R., Poushinsky, Mary F. and Sullivan, Kathryn, "School Performance, IQ and Delinquency," British Journal of Criminology 18 (April 1978):110-127.

In a study of 73 male probands and their families, the authors found little correlation between delinquency, school performance and IQ. In addition, there were no intra-family differences in IQ and school performance among delinquent probands and their non-delinquent siblings. The authors suggest that adverse family conditions, and the individual juvenile's reaction to them, are most strongly related to anti-social behavior.

Rankin, Joseph H., "The Family Context of Delinquency," Social Problems 30:4 (April 1983):466-79.

This article studies the relationship between broken homes and delinquency. The author distinguishes between broken and intact homes as well as among types of broken homes. He finds that certain types of delinquent acts and noncriminal misbehavior, such as auto theft, running away, and truancy, are related to a specific type of broken home.

Rankin, Joseph H. and Wells, L. Edward, "From Status to Delinquent Offenses: Escalation?," Journal of Criminal Justice 13:2 (1985):171-80.

This study examines the accuracy of "career escalation" models of juvenile delinquency. Using data from a 1966-1970 study, the author finds that only 32% of status offenders graduated to more serious crimes. The article concludes that

prevention strategies based on simple escalation models will be largely ineffective.

Rojeck, Dean G. and Erickson, Maynard L., "Delinquent Careers: A Test of the Career Escalation Model," Criminology 20 (May 1982):5-28.

Conventional approaches to status offenders assume a linear progression of delinquent careers from less serious to more serious offenses. This study tests the escalation model with a sample of 1200 juveniles. The authors found career patterns to be relatively random. Juveniles tended not to specialize in any one type of crime. The findings of the study have important implications for the design of crime prevention strategies. Specifically, the study indicates that the model upon which current strategies are based is overly simplistic.

Rowe, David C. and Osgood, D. Wayne, "Heredity and Sociological Theories of Delinquency: A Reconsideration," American Sociological Review 49:4 (1984):526-40.

This article attempts to combine modern genetic theory with sociological theory in order to construct a theory of delinquency. The utility of this model is demonstrated through a study of the covariation between twins' delinquent behavior and association with delinquent peers. While genetic factors do not directly cause delinquency, individual differences in genes can be the source of causal sequences leading to delinquency.

Schauss, Alexander. Diet, Crime and Delinquency. Berkeley, CA: Parker House, 1980.

The assertion of this study is that diet can disrupt normal behavior patterns. The author investigates the linkages between delinquent behavior and low blood sugar levels, lead toxicity, food additives, alcohol and drug use, food allergies, nutrition and exercise, and poor lighting. The author concludes that dietary improvement may be one of the most positive delinquency prevention programs available.

Shoemaker, Donald J. Theories of Delinquency. New York: Oxford University Press, 1984.

A textbook summarizing and analyzing the major causal theories of delinquency. The author divides these theories into four broad categories: biological, psychological, sociological, and radical. An extensive bibliography follows each chapter.

Smith, C.P.; Alexander, P.S. et al. National Assessment of Serious Juvenile Crime and the Juvenile Justice System: The Need for a Rational Response. Sacramento, CA: American Justice Institute National Juvenile Justice System Assessment Center, 1979.

This series of four volumes examines the impact of serious juvenile crime. In addition to the Executive Summary contained in Volume 1, the other volumes deal with definitions, characteristics of offenders, and substance abuse (Volume 2); legislation, jurisdiction, program interventions, and confidentiality (Volume 3); and economic impact (Volume 4).

Sorrells, James Jr., "What Can Be Done About Juvenile Homicide?" Crime and Delinquency 26:2 (April 1980):152-161.

This article claims that juvenile homicide is committed by youths from communities where life is not valued highly. Juvenile murderers are also products of violent families and possess several psychological disorders. The author suggests five strategies: guide intervention with research and planning; coordinate efforts in high-risk communities; screen all children entering custody for emotional problems; make correctional programs relevant to emotional problems; and evaluate families thoroughly.

Steffensmeier, Darrel J. and Steffensmeier, Renee Hoffman, "Trends in Female Delinquency," Criminology 18 (May 1980):62-85.

This study utilizes the Uniform Crime reports, supplemented by juvenile court, self-report, and field data, to measure changes in the criminal activity of adolescent females. Its findings show increased activity in larceny, liquor law violations, and running away. No increase in violent offenses or gang-related offenses were noticeable. The study concludes that female delinquency remained relatively stable during the 1970's.

Strasburg, Paul A. Violent Delinquents. New York: Monarch, 1978.

The author conducted a one-year study of juvenile violence. The study included discussions with juvenile justice professionals; observation of programs and projects dealing with violent juveniles, and an analysis of 500 court records in three urban counties in New York. The book discusses the problem's scope; characteristics of violent delinquents; official responses; treatment; and prevention strategies such as preventive treatment, incapacitation, deterrence, and target hardening.

Vachss, Andrew H. and Bakal, Yitzhak. The Life-Style Violent Juvenile. Lexington, Mass.: D.C. Heath and Company, 1979.

A study of the characteristics which distinguish life-style violent juveniles from other juvenile offenders, as well as the policy implications of these distinctions. This category of offenders is unique in its distortion of societal values, its commitment to immediate gratification, and its alienation from social structures and institutions. These offenders also possess a limited capacity to think in terms of the future, rendering it difficult to convince them to resist temptation in order to avoid later punishment. The authors propose dealing with these offenders in secure institutions without sacrificing rehabilitation.

Wilkinson, Karen, "The Broken Family and Juvenile Delinquency: Scientific Explanation or Ideology?", Social Problems 21 (June 1974):726-739.

Reviewing research on the relationship between broken families and delinquency, the author finds that concern with this variable has fluctuated over the years. She argues that this is due not to the impact of empirical evidence, but to ideological conditions and cultural change. As traditional views of the family are eclipsed, the broken family is viewed as a less important explanatory variable. If the concept of family break-up is to be useful, it must be refined to reflect changing ideology and cultural norms.

Wolfgang, Marvin E.; Figlio, Robert M. and Sellin, Thorsten. Delinquency in a Birth Cohort. Chicago: University of Chicago Press, 1972.

A longitudinal study of delinquent activity among a birth cohort of 10,000 boys born in Philadelphia in 1945. Of the entire cohort, 35 percent committed a total of 10,214 delinquent acts between the ages of 7 and 17. Nonwhites and lower socioeconomic status boys had higher rates. The most striking difference is between one-time offenders and recidivists.

Zimring, Franklin, "American Youth Violence: Issues and Trends," in Morris, Norval and Tonry, Michael eds. Crime and Justice: An Annual Review of Research. Chicago: University of Chicago Press, 1979.

Violent youth crime increased more rapidly than the juvenile population during the 1960's. Data from the 1970's indicate that this trend has stabilized. Three key issues are identified: the concentration of youth violence and the ability to predict it; the relationship between responses to youth violence and its incidence; and the extent to which trends in youth violence indicate future rates of violent crime. Current data on these issues are found to be insufficient. The author concludes with a consideration of the gap between public perceptions of violent youth crime and recent trends.

Zimring, Franklin E., "Youth Homicide in New York: A Preliminary Analysis," Journal of Legal Studies 13:1 (1984):81-99.

This article analyzes homicide rates by persons under age 20 in New York City between 1973 and 1980. Rates for persons aged 16 to 19 were three times higher than for persons younger than 16. Homicide arrests of juveniles under 16 increased dramatically between 1970 and 1973; declined from 1973 to 1976; and stabilized after 1976. Similar patterns are not apparent for the 16 to 19 year-old group. Data also indicate that as juveniles become older the proportion of robberies that result in homicide increases.

### Program Reform

Armstrong, Troy, Hofford, Merry, Maloney, Dennis, Remington, Calvin, and Steenson, David. Restitution: A Guidebook for Juvenile Justice Practitioners. Reno, Nevada: National Council of Juvenile and Family Court Judges, 1983.

This guidebook covers most aspects of restitution. Chapter 1 presents an overview of various approaches to restitution-based juvenile justice. Chapter 2 explores the reasons why restitution is an important policy instrument. Chapter 3 examines the part that restitution can play in rehabilitation. Chapter 4 presents the essential principles of restitution. Finally, Chapter 5 outlines the principal elements of a well-designed restitution program.

Bakal, Yitzhak and Polsky, Howard W. Reforming Corrections For Juvenile Offenders. Lexington, Mass.: D.C. Heath and Company, 1979.

An intensive study of Massachusetts's shift from an institution-based youth services system to a community-based system. The study is divided into four

sections. The first section presents an overview of juvenile corrections and the rationale for deinstitutionalization. The second section examines the new programs instituted in Massachusetts, including the state's attempt to solve the difficult problems presented by violent offenders. Section Three deals with issues of staff training and program monitoring. The final section presents theoretical considerations and the authors' conclusions.

Bartollas, Clemens and Sieverdes, Christopher, "Juvenile Correctional Institutions: A Policy Statement," Federal Probation 46 (September 1982):22-26.

Although the authors oppose the use of juvenile institutions, they propose several policy directions for improving these facilities. They argue for increased research, higher staff quality, normalized settings, voluntary treatment, aftercare, and implementation of a "logical consequences" model of treatment.

Blew, C.H. and Rosenblum, R. Community Arbitration Project--Anne Arundel County, Maryland. Cambridge, MA: ABT Associates, Inc., 1979.

This monograph describes a voluntary juvenile diversion program that utilized community arbitration. The goals of the program were to reduce juvenile court caseloads and to engage juveniles in useful activities. The program processed cases promptly; involved victims; assured due process; and emphasized restitution, counseling and special education.

Bumstead, Keith, "Managing the Complex Components of Juvenile Restitution: An Automated System Helps to Administer Information," State Court Journal 9:2 (1985):6-9, 15-17.

This article considers the use of automated management information systems in support of juvenile restitution programs. Benefits include orderly collection, storage, manipulation and reporting of information. An automated system will not, however, guarantee effective management. Operating costs are not likely to be lower, but future cost increases may be avoided and operations may become more efficient.

Clifford, M. Amos, "Turning Tough Points: Delinquency Prevention Helps Troubled Youths," Corrections Today 47:1 (February 1985):14-16.

This article describes a delinquency prevention project located in Visalia, California. The project focuses on chronic family conflict, vandalism, petty theft, substance abuse, and other behavioral problems. Referrals to the program are largely through a juvenile diversion project. The program emphasizes family therapy, including parenting classes and assistance to schools in developing prevention programs.

Coates, Robert B. "Community-Based Services For Juvenile Delinquents: Concept and Implications for Practice," Journal of Social Issues 37:3 (1981):87-101.

The argument of this study is that current community-based services for juvenile offenders are not significantly different from the institutional approaches they are intended to replace. The adequate development of these services has the following prerequisites: sharper definitions of the concept of community-based;

better articulation of the principles these programs should follow and promote; and the resolution of professional and territorial conflicts.

Conrad, John P. "Can Juvenile Justice Survive," Crime and Delinquency 27:4 (October 1981):544-54.

The author directed Project MIJIT, funded by the Office of Juvenile Justice and Delinquency Prevention. The acronym stands for Major Issues in Juvenile Justice Information and Training. The project focused its efforts on four issues: grants-in-aid for local delinquency prevention and control systems; juvenile court services; out-of-state placements; and juveniles in adult courts. The article summarizes the major findings of studies carried out under the project's auspices in each of these areas.

Empey, Lamar T. and Erickson, Maynard L. The Provo Experiment. Lexington, Mass.: D.C. Heath and Co., 1972.

The Provo Experiment in Delinquency Rehabilitation was an attempt to introduce and evaluate a community alternative to institutionalization for serious juvenile offenders. The experiment was conducted and data collected over a ten-year period. The program consisted of two phases. The first phase emphasized peer group interaction and work as tools of rehabilitation. The second phase provided follow-up aid for boys released from Phase One. In comparison with a control group, the experimental group evidenced reductions in both offense and offender rates.

Empey, Lamar T. and Lubeck, Steven G. The Silverlake Experiment. Chicago: Aldine Publishing Co., 1971.

This book reports a field experiment designed to evaluate the effectiveness of a specific delinquency prevention program. The researchers began by reviewing delinquency theories and deriving an intervention strategy from them. This strategy was implemented and its results monitored. Implementation was evaluated along the following dimensions: consistency of operation with theoretical design, relation to external systems, critical incidents, runaways, and program failures. Program effectiveness is measured by recidivism rates. The authors derive three sets of implications for delinquency theory, intervention, and field experimentation.

Falkin, Gregory P. Reducing Delinquency: A Strategic Planning Approach. Lexington, Mass.: D.C. Heath and Co., 1979.

The premise of this book is that strategic planning, rather than incremental adjustment, is the best approach to delinquency prevention. The author develops such a plan using several techniques of policy analysis. His major contention is that proactive strategies are preferable to reactive strategies for reasons of both justice and cost effectiveness.

Fishbein, Paula, Hamparian, Donna, and Davis, Joseph M. Restitution Programming for Juvenile Offenders: Its Use for Serious Juvenile Offenders in Ohio. Cleveland, OH: Federation for Community Planning, 1984.

This report evaluates restitution as an alternative for dealing with serious juvenile offenders in Ohio. Three restitution programs directed toward such offenders are examined. The experiences of these programs suggest that properly controlled and supervised restitution is a viable response to serious juvenile offenders. Benefits include accountability, identification of skill deficits, and an opportunity to enhance social and work skills. Success appears to depend on several factors, including program flexibility; a wide range of available services; a continuum of service availability; early diagnosis and individualized treatment; intensive control and supervision; and community reintegration.

Jackson, Patrick G., "Some Effects of Parole Supervision on Recidivism," British Journal of Criminology 23:1 (January 1983):17-34.

A study of the impact of active social control, in the form of parole supervision, on crime rates. The study employs a sample of parolees from the California Youth Authority. A major finding is that the influence of parole differs among categories of parolees, leading to difficulties in assessing the public risk involved in early discharge.

Jackson, Patrick G. The Paradox of Control: Parole Supervision of Youthful Offenders. New York: Praeger, 1983.

A study of the effectiveness of parole, using a sample of parolees from the California Youth Authority. Two major findings are that parole does not necessarily reduce crime and that it can, under certain circumstances, exacerbate the problem. The author concludes that new release programs must be developed as alternatives to parole.

Klein, M. and Teilman, K.S. Pivotal Ingredients of Police Juvenile Diversion Programs--Final Report. Washington, D.C.: Government Printing Office, 1976.

A report of a study conducted to determine the impact of a diversion program on referral rates, program development, diversion rates, and differences between diverted and referred youths. The study utilized interviews with juvenile officers and analyses of case file data. Interview subjects were asked about program structure, community involvement, perceptions of referral agencies, and impact of evaluators. Case data was analyzed to determine referral patterns.

Klein, Malcolm W., "Labeling, Deterrence, and Recidivism: A Study of Police Dispositions of Juvenile Offenders," Social Problems 22 (December 1974):292-303.

A study of 49 police agencies in Los Angeles County, focusing on diversion rates. Differences in diversion rates did not produce different recidivism rates. The sole exception involved different policies for diverting first offenders and multiple offenders. High diversion agencies produced lower recidivism rates for first offenders than for multiple offenders. This difference did not occur in low



diversion departments. The author concludes that this finding supports both labeling theory and deterrence approaches.

Klein, Malcolm W., "Deinstitutionalization and Diversion of Juvenile Offenders: A Litany of Impediments," in Morris, Norval and Tonry, Michael eds. Crime and Justice: An Annual Review of Research. Chicago: University of Chicago Press, 1979.

The author indicates that diversion and deinstitutionalization have been legislatively mandated, theoretically justified, and responsive to professional desires. In spite of this, neither program has been established according to its premises nor been meaningfully evaluated. Five impediments to effective implementation are identified: inarticulate theoretical rationales; poor client targeting; inadequate delivery of appropriate services; professional resistance; and poor choice of program location.

Korbin, Solomon and Klein, Malcolm W. Community Treatment of Juvenile Offenders: The DSO Experiments. Beverly Hills, CA: Sage Publications, 1983.

An evaluation of the deinstitutionalization of status offenders (DSO) program undertaken by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The report examines the mandate given to OJJDP and its context, the program models used, and the results of the program. The program revealed several findings concerning status offender deinstitutionalization. First, the "pure" status offender is almost non-existent. Secondly, the approach of many programs conflicts with the goals of the children's rights movement of which DSO is a part. Finally, alternative services for status offenders are not necessarily productive, but residential programs may be effective for high risk offenders.

Krisberg, Barry, Litsky, Paul, and Schwartz, Ira, "Youth in Confinement: Justice By Geography," Journal of Research in Crime and Delinquency 21:2 (May 1984):153-81.

This study examines variations in the use of juvenile correctional facilities, as well as conditions of confinement across jurisdictions. Data for the study were drawn from reports prepared by the U.S. Census Bureau in 1979. They include data from 1136 public facilities. Significant variations among the states were found in admission rates, lengths of confinement, confinement of youth in adult facilities, expenditures per youth, youth/staff ratios, facility security, access to community services, and crowding. There were also strong differences among regions. Variations are not explained by differential rates of serious and violent juvenile crime. Administrative and organizational factors appear to be the best explanation.

Lemert, Edwin M., "Diversion in Juvenile Justice: What Hath Been Wrought," Journal of Research in Crime and Delinquency 18:1 (January 1981):34-46.

A discussion of the origins, meaning, and future of diversion. The author argues that the diversion movement has been coopted by law enforcement, leading to changes in the purposes of diversion and to the extension of police power over youths.

Lerman, Paul, "Trends and Issues in the Deinstitutionalization of Youths in Trouble," Crime and Delinquency 26:3 (July 1980):281-98.

This article discusses deinstitutionalization in three service categories: juvenile corrections, child welfare, and mental health. A number of factors leading to this change are examined. The article concludes with a discussion of the least restrictive support and service option.

Lerman, Paul, "Child Welfare, The Private Sector, and Community-Based Corrections," Crime and Delinquency 30:1 (January 1984):5-38.

This paper examines several variables which explain the emergence of community-based corrections during the past decade. Among the phenomena explained are the domination of community alternatives by the private sector and the relationship among community alternatives, child welfare systems, and juvenile justice systems.

Lipsey, Mark W., "Is Delinquency Prevention a Cost-Effective Strategy? A California Perspective," Journal of Research in Crime and Delinquency 21:4 (November 1984):279-302.

In this study of the Los Angeles County delinquency prevention program, the author assesses the cost-effectiveness of prevention. Cost-effectiveness is defined as savings to law enforcement, juvenile justice systems, and victims which exceed the costs of the program. A favorable cost-benefit ratio is dependent on the delinquency risk of the program's clients, the program's success rate, and the costs of the program. Programs can be cost-effective when clients possess a high delinquency risk, when a moderately high level of success is sustained, and when program costs are contained.

Lukin, Penny R., "Recidivism and Changes Made by Delinquents During Residential Treatment," Journal of Research in Crime and Delinquency 18:1 (January 1981):101-12.

A study of the relationship between recidivism among juvenile offenders and changes in their behavior during residential treatment. The study's major finding is that personality factors may have as much to do with recidivism as does the effect of treatment intervention.

Mahoney, Anne Rankin, "Family Participation For Juvenile Offenders in Deinstitutionalization Programs," Journal of Social Issues 37:3 (1981):133-44.

This article reviews the literature on the effect of deinstitutionalization on families. Significantly, the author found few studies of this issue. She concludes that deinstitutionalization may impose burdens on families whose consequences outweigh the initial cost savings of deinstitutionalization.

Mann, D. Intervening with Convicted Serious Juvenile Offenders. Santa Monica, CA: Rand Corporation, 1976.

This monograph identifies four types of intervention strategies and assesses their effectiveness. These strategies include behavior modification and psychotherapy; group therapy; schooling; and vocational training. Data were inadequate to judge

the relative efficacy of these strategies, and no single strategy proved highly successful. The most successful programs were characterized by client choice and involvement, availability of numerous treatment techniques, utilization of learning theory, and an ability to learn from failures.

McEwen, Craig A. Designing Correctional Organizations for Youths: Dilemmas of Subcultural Development. Cambridge, MA: Ballinger, 1978.

This is the fourth volume in a series of studies on Massachusetts' reform of its juvenile corrections system. The volume investigates the relationship between the organizational and population characteristics of institutions and the social structure, subculture, and behavior of inmates. It also examines why one organizational structure is selected rather than another. The author's aim is to use these data to design correctional organizations.

Miller, Alden D., Ohlin, Lloyd E., and Coates, Robert B. A Theory of Social Reform: Correctional Change Processes in Two States. Cambridge, Mass.: Ballinger Publishing Co., 1977.

A comparative study of juvenile justice reform in Wisconsin and Massachusetts. The study is used primarily as a vehicle for testing four sociological theories of social change. Particular attention is paid to the political dynamics of reform and to the intervention of interest groups.

Morris, Norval, "The Future of Imprisonment: Toward a Punitive Philosophy," Michigan Law Review 72:6 (May 1974):1161-80.

The premise of this article is that the proper objectives of imprisonment are retribution, deterrence, and incapacitation. Attempts to pursue reformatory goals do not provide clemency, justice, or social utility. A distinction is drawn between the purposes of imprisonment and the rehabilitation opportunities it presents. The author's framework yields several policy implications: the use of imprisonment should be limited, sentences should be based on past acts rather than on predictions about future behavior, and the amount of punishment must be limited by the concept of desert.

Murphy, Edward M., "Handling Violent Juveniles: A Look at the Boston Offender Project," Corrections Today 47:1 (February 1985):26-28,30.

The objectives of the Boston Offender Project are to reduce recidivism among violent juveniles, to enhance public protection by increasing accountability for major violators, and to improve the reintegration of offenders into the community. The project consists of five elements: frequent diagnostic assessments; more experienced caseworkers with smaller caseloads; secure programs; non-secure residential programs; and more extensive aftercare. Treatment takes place in three phases: secure treatment in a locked facility; non-secure residential care; and aftercare tracking.

Murray, Charles A. and Cox, Louis A. Jr. Beyond Probation. Beverly Hills, CA: Sage Publications, 1979.

A study of the impact of traditional institutional sanctions and noninstitutional sanctions (other than probation) on 317 chronic juvenile offenders in Chicago. The authors argue that cessation of criminal activity is not an accurate measure of

program effectiveness. As an alternative, they employ the concept of "suppression." This refers to a reduction in the rate of arrests rather than a complete absence of arrests. The authors conclude that suppression was both significant and generalized across the sample. The major implication of this finding, according to the authors, is that juvenile crime might be reduced without eliminating its causes.

Palmer, Ted and Lewis, Roy V. An Evaluation of Juvenile Diversion. Cambridge, Mass.: Oelgeschlager, Gunn, and Hain, 1980.

The authors studied juvenile diversion programs carried out by the California Youth Authority. The research focused on whether youths are actually diverted, whether diversion reduces recidivism, and whether diversion is cost effective. As a result of the study, several guidelines for diversion programs are offered.

Pink, William T. "Schools, Youth, and Justice," Crime and Delinquency 30:3 (July 1984):439-61.

This article asserts that school-effectiveness is the most cost-effective delinquency prevention strategy. Prevailing organizational and instructional practices in schools are criticized because they do not prepare students in non-academic streams for success either in school or 'he work environment. Five criteria of school-effectiveness are defined: strong administrative leadership; high expectations for student achievement; orderly atmospheres conducive to learning; emphasis on basic skill acquisition; and frequent monitoring of pupil progress. The author argues that effective schools improve service delivery to those youth most likely to become delinquent, thus enhancing prevention.

Polk, Kenneth, "The New Marginal Youth," Crime and Delinquency 30:3 (July 1984):462-80.

This article begins with the premise that schools are critically important when considering policy for delinquency prevention and control. Several school-related processes are identified as contributing to youth alienation. These include segregation of young people, extension of economic dependence, passivity of students in the educational process, and denial of basic rights. Most students escape alienation through the integrating power of academic success. Marginal youth are those who fail to participate in this dynamic and who face limited career opportunities as a result. Policies are advocated which would engage this group in useful paid work while integrating it into school and community life.

Reckless, Walter C. and Dinitz, Simon. The Prevention of Juvenile Delinquency. Columbus, Ohio: Ohio State University Press, 1972.

This book assesses an experimental in-school delinquency prevention program. The experiment was conducted in the seventh grade of all inner-city junior high schools in Columbus, Ohio over three years. A total of 1726 boys in experimental, control, and comparison groups were followed over four years to assess the program's outcome. The most significant finding was the absence of differences among experimental, control, and comparison groups with respect to school performance and police contact after exposure to the program.

Rettig, Richard Pearson, "Considering The Use and Usefulness of Juvenile Detention: Operationalizing Social Theory," Adolescence 15:58 (Summer 1980):443-59.

The central question of this article is whether juvenile detention is compatible with the individual casework approach to delinquency prevention. The author argues that detention can be a useful tool. The key variable in determining the utility of detention is not duration, but the type of detention.

Romig, Dennis A. Justice For Our Children. Lexington, Mass.: D.C. Heath and Co., 1978.

This book accepts both rehabilitation and institutionalization as legitimate elements of the juvenile justice system. Justice is defined as providing juvenile offenders with effective rehabilitation programs during institutionalization. Rehabilitation strategies are classified as either program or system interventions. The author evaluates how well the juvenile justice system achieves justice by reviewing the effectiveness of these interventions.

Rothstein, Natalie, "Teen Court: More Than Just a Jury of Peers," Corrections Today 47:1 (February 1985):18,20,22.

In this article the author describes a restitution and accountability program in Odessa, Texas. The program utilizes a "teen court." Teenagers constitute jurors, bailiffs and attorneys. An adult volunteer serves as judge. Referrals to the court consist of juveniles who have pled guilty to Class C and lower misdemeanors in juvenile court. Sentences are for community service or jury duty in the teen court. The purpose of the program is to involve first offenders in a positive way with the judicial system.

Schneider, Anne L. and Schneider, Peter R., "A Comparison of Programmatic and 'ad hoc' Restitution in Juvenile Courts," Justice Quarterly 1:4 (1984):529-547.

The authors identify two types of approaches to restitution. Programmatic approaches possess a relatively elaborate structure for implementing and monitoring restitution requirements. Ad hoc approaches are characterized by infrequent restitution orders and little support structure. Programmatic approaches produce higher success rates for restitution orders, which in turn has a larger impact on reduced recidivism.

Schneider, Anne L. and Schneider, Peter R., "The Impact of Restitution on Recidivism of Juvenile Offenders: An Experiment in Clayton County, Georgia," Criminal Justice Review 10:1 (1985):1-10.

A study of the effects of restitution on recidivism rates. Four treatment strategies are examined: restitution; counseling; restitution combined with counseling; and normal probation or incarceration. Juveniles required to make restitution to victims had lower recidivism rates than those given traditional dispositions. Restitution also succeeded in the absence of counseling.

Schneider, Peter R.; Griffith, William R. and Schneider, Anne L., "Juvenile Restitution As A Sole Sanction or Condition of Probation: An Empirical Analysis," Journal of Research in Crime and Delinquency 19:1 (January 1982):47-65.

An empirical analysis of 10,000 juvenile court cases in which restitution was ordered as either the sole sanction or as a condition of probation. Offenders falling into these two categories were compared with respect to compliance and recidivism. The major finding of the study is that when restitution is used as a sole sanction a juvenile is more likely to comply with the order and less likely to commit new offenses during the life of the restitution project.

Schuchter, A. Child Abuse Intervention--Prescriptive Package. Gaithersburg, MD: International Association of Chiefs of Police, 1976.

Guidelines for implementing a community-based child abuse program. The model system utilizes existing public health and hospital professionals. The principal concerns of the guidelines are providing prompt medical attention to the child and due process protections for both the child and the alleged assailant.

Shepard, J.R. and Rothenberger, D.M. Police-Juvenile Diversion-- An Alternative to Prosecution. East Lansing, MI: Michigan Department of State Police, 1978.

This report reviews the literature on police-juvenile diversion and examines thirteen operating programs. The report is divided into four sections. One section is devoted to the history of diversion, its rationale, and hazards. Another section covers criteria used in diversion, parent-youth conferences, procedures, and written police policy. A third section considers the legal basis for diversion, due process, and record keeping. The final section examines program types and components, referral sources, and funding.

Spergel, Irving A., Lynch, James P., Reamer, Frederic G. and Korbelik, John, "Response of Organization and Community to a Deinstitutionalization Strategy," Crime and Delinquency 28:3 (July 1982):426-49.

Report of a state-wide program in Illinois to deinstitutionalize status offenders. The program did remove substantial numbers of status offenders from detention, but more were institutionalized than predicted. This is attributed to weaknesses in the community structure and to organizational self-interest.

Swank, William G., "Home Supervision: Probation Really Works," Federal Probation 43 (December 1979):50-52.

This article reports the methods used by one successful probation program. The program is organized around constant surveillance of probands and arrest for those who violate the conditions of their probation. The program requires probation officers to be actively involved in the field.

Vanagunas, Stanley, "Police Diversion of Juvenile Offenders: An Ambiguous State of the Art," Federal Probation 43 (September 1979):48-52.

The author conducted a study of 34 police forces to determine their attitude toward diversion. He found that some agencies disclaim responsibility for

diversion, that they do not view diversion in the context of rehabilitation and that diversion is not a priority issue with them.

Vintner, Robert D., "Trends in State Corrections: Juveniles and the Young Offender," Crime and Delinquency 25:2 (April 1979):145-61.

This article studies the relationship between institutionalization rates and juvenile crime. The study reveals little correlation between crime rates and the rate of juvenile institutionalization. The study also reveals that policies toward detention do not promote a rational assignment of juvenile offenders to institutions. There is also a tendency to place violent offenders, misdemeanants, and status offenders together.

Wiederanders, Mark R., "Some Myths About The Employment Problems of Young Offenders," Federal Probation 45 (December 1981):9-12.

This article explores problems surrounding the employability of young offenders. In addition to technical skills, this group also needs "job survival" skills. Conventional wisdom assumes that young offenders need help most with finding jobs. Thus, job survival skills training emphasizes job search and application techniques. The major problem faced by many young offenders, however, is not finding jobs but retaining them.

### System Reform

Ageton, Suzanne S. and Elliott, Delbert S., "The Effects of Legal Processing on Delinquent Orientations," Social Problems 22 (October 1974):87-100.

This study is a test of labeling theory. Using a sample of 2617 juveniles who were studied over a four-year period, the authors found a statistically significant, although weak, correlation between contact with the juvenile justice system and a greater orientation toward delinquent behavior. The group in which this relationship was strongest was white males.

Bay, Kathleen Ford, "Juvenile Justice in California: Changing Concepts?," American Journal of Criminal Law 7 (1979):171-191.

This article examines (1) criticisms levelled against juvenile justice in California, (2) the historical foundation of juvenile justice in the state, and (3) statutory changes. The author argues that the addition of language to the Welfare and Institutions Code concerning the protection of society from juveniles has not changed attitudes within the system. Juvenile courts continue to function with protection of the juvenile, rather than society, as their principal aim.

Beach, Christine. Truancy and Student Delinquency. New York: Office of the Coordinator of Criminal Justice, Office of the Mayor, City of New York, 1983.

A report on the effect of student discipline policies on truancy and misbehavior in schools. Three schools are studied. Discipline policies are classified as "open" or "closed," depending on the extent to which school administrators consulted teachers, students, parents, and community representatives at the formulation and

enforcement stages of the policy process. In general, the report concludes that these policies are designed by administrators; that rules are unclear and not communicated to students and parents; and that enforcement procedures are applied inconsistently. Recommendations include: writing policies in clear language and distributing them more widely; opening the decisionmaking process; implementing uniform enforcement policies; and involving others in enforcement. Early intervention to prevent chronic truancy is also recommended.

Binder, Arnold, "The Juvenile Justice System: Where Pretence and Reality Clash," American Behavioral Scientist 22:6 (July/August 1979):621-52.

The author argues that the reality of the juvenile justice system is far removed from its claim to provide individualized justice. This gap between reality and pretence is a trend that is becoming stronger. The article asserts that if this trend continues, the result will be a return to conditions characteristic of the era before the establishment of a separate juvenile jurisdiction.

Binder, Arnold and Geis, Gilbert, "Ad populum argumentation in Criminology: Juvenile Diversion as Rhetoric," Crime and Delinquency 30:2 (April 1984):309-33.

This article seeks to defend juvenile diversion against a growing body of critical literature in sociology. The authors identify the positions taken by psychologists, lawyers, and sociologists. They argue that the criticisms of sociology are more often rhetoric than logical argumentation. The most serious consequence is that sociologists are forfeiting their influence in this social process.

Blomberg, Thomas G. Social Control and the Proliferation of Juvenile Court Services. San Francisco: R & E Research Associates, 1978.

Defenders of traditional approaches to juvenile justice argue that the system must possess adequate resources if it is to achieve its goals of individualized treatment and rehabilitation. This monograph studies the evolution of a California county juvenile court from a simple organization to a full-service system. One major finding is that increased services for youth produce increased control over their activities--contrary to the aims of reformers.

Blomberg, Thomas G. "Diversion's Disparate Results and Unresolved Questions: An integrative Evaluation Perspective," Journal of Research in Crime and Delinquency 20:1 (January 1983):24-38.

Diversion is associated with the 1967 President's Commission on juvenile delinquency. This article explores the evolution of the literature on diversion. Early work tended to support diversion, while later studies have become more critical. The author argues that an evaluation of diversion can be undertaken only if its positive and negative outcomes for specific groups of juveniles is assessed.

Boisvert, Maurice J. and Wells, Robert, "Toward a Rational Policy on Status Offenders," Social Work 25:3 (May 1980):230-34.

In a study of juvenile offenders in Massachusetts, the authors collected data which support divestiture of juvenile court jurisdiction over status offenses. They point out, however, that cost savings realized through reduced caseload and



expenditures could be negated by increased expenditures on the child welfare system.

Bookin-Weiner, Hedy, "Assuming Responsibility: Legalizing Preadjudicatory Juvenile Detention," Crime and Delinquency 30:1 (January 1984):39-68.

This article investigates the use of bail for juvenile offenders. The central question of the study is whether the introduction of due process criteria into decisions concerning juvenile detention reduces excessive or biased detention. The author found that, in the case of bail, the introduction of due process does not advance the juvenile's right to fair and non-excessive detention. The principal explanation offered by the author is the tension between due process and the dominant concepts guiding the juvenile court.

Bortner, M.A. Inside a Juvenile Court: The Tarnished Ideal of Individualized Justice. New York: New York University Press, 1982.

A study of the organizational structure erected in order to implement individualized justice for juveniles. Particular emphasis is placed on the level of discretion possessed by juvenile court judges. The author points out many of the dysfunctional aspects of discretionary decisionmaking. One of the most important problems is that large caseloads and time limitations transform individualized justice into stereotypical justice.

Bortner, M.A., "Traditional Rhetoric, Organizational Realities: Remand of Juveniles to Adult Court," Crime and Delinquency 32 (1986):53-73.

This article examines transfer practices in a large metropolitan county. Over a four-year period, the rate at which juveniles were transferred to adult courts tripled. During the same period, the rate of delinquency referrals remained stable. The author found that transferred juveniles are not uniquely dangerous or chronic offenders. She also found that transfer has little impact on public safety. The author attributes the high rate of transfer to political pressure experienced by legislators and to organizational factors within juvenile courts.

Braithwaite, Lloyd and Shore, Allen, "Treatment Rhetoric Versus Waiver Decisions," Journal of Criminal Law and Criminology 72:4 (1981):1867-91.

This article summarizes the treatment paradigm at the core of American juvenile justice and considers how that paradigm has been eroded. The authors respond to recent developments by arguing for more individualized treatment, particularly in decisions concerning the transfer of juveniles to adult courts. The authors' position is based on the view that juvenile crime is a product of the problems resulting from fundamental flaws in the social structure.

Carter, Robert M. and Klein, Malcolm W. eds. Back on the Street: The Diversion of Juvenile Offenders. Englewood Cliffs, NJ: Prentice-Hall Inc., 1976.

A collection of studies concerning diversion. The papers are divided into five sections: issues and views; labeling; police discretion; selected programs; and evaluation and empirical data. The editors list six assumptions underlying support for diversion. These include evils of the system, overloads, labels and stigmatization, system ineffectiveness, and community responsibility. The

purpose of the volume is to provide an understanding of the conceptual and practical foundations of diversion. The authors argue that this is necessary to prevent diversion from becoming a mere social fad.

Carter, Sue, "Chapter 39, The Florida Juvenile Justice Act: From Juvenile To Adult with the Stroke of a Pen," Florida State University Law Review 11:4 (1984):922-47.

A descriptive analysis of the transfer provisions in Florida's 1981 Juvenile Justice Act. The Act permits transfer of juveniles to adult courts in four ways: judicial waiver (requires due process); by information (no due process hearing required); indictment of the juvenile by a grand jury; and on the juvenile's own motion. Transferred juveniles found guilty in adult courts may receive juvenile or adult sanctions. Juvenile sanctions are usually applied unless the offender is charged with a violent crime.

Chein, David B. and Hudson, Joe, "Discretion in Juvenile Justice," in Fogel, David and Hudson, Joe eds. Justice as Fairness: Perspectives on the Justice Model. Cincinnati, OH: Anderson Publishing, 1981.

This paper reviews existing research on the criteria used by justice system officials to make disposition and adjudication decisions. The criteria examined include sex, race, age, socioeconomic status, family environment, offense and offense history, and attitude. Current studies reveal no consistent pattern in how these criteria are used.

Clarke, Stevens H. and Koch, Gary G. "Juvenile Court: Therapy and Crime control, and Do Lawyers Make a Difference," Law and Society Review 14:2 (Winter, 1980):263-308.

This article reports a study of two juvenile courts in North Carolina. The authors discovered two trends: a reduction in the number of less serious cases processed and a more punitive approach to cases actually adjudicated. The study also revealed that the two most important factors influencing disposition decisions are prior record and seriousness of the present offense. A further finding was that disposition decisions are not significantly affected by the participation of counsel.

Clarke, Stevens, Ringwalt, Christopher and Ciminello, Andrea. Perspectives on Juvenile Status Offenders: A Report to the North Carolina Governor's Crime Commission. Chapel Hill, NC: Institute of Government, University of North Carolina, 1985.

An evaluation of the approaches taken by North Carolina courts to status offenders. The study is based on court records of first offenders and on interviews with court, school, and social services personnel. Each offender's record was followed for 20 months. Results indicate that prediction and prevention efforts can be evaluated in less than one year. The study also identified age at first contact, sex, and family situation as the only variables significantly related to total court contacts.

Coates, Robert B. "Deinstitutionalization and the Serious Juvenile Offender: Some Policy Considerations," Crime and Delinquency 27 (October 1981):477-86.

This article concerns deinstitutionalization as a policy response to status offenses and other minor offenses. Its major assertion is that deinstitutionalization is a valid alternative only where a rigorous distinction exists between violent offenders and other juvenile offenders. Deinstitutionalization must also be accompanied by programmatic changes in the processing of violent and serious juvenile offenders.

Comment, "Juvenile Justice Reform in New Jersey," Seton Hall Law Review 12 (1982):819-834.

In this article the author criticizes the 1982 Juvenile Justice Code of New Jersey. Although the author agrees that the changes represent an improvement, she argues that the Code remains flawed. Of critical importance is the vagueness of guidelines, the number of juveniles transferred to adult court, and the absence of full constitutional rights. She argues that the new code will add more juveniles to already over-crowded penal institutions. She suggests that new social programs, such as mental health and recreation facilities, be implemented as preventive measures.

Comment, "Waiver of Juvenile Court Jurisdiction Under the Juvenile Justice Act of 1977," Gonzaga Law Review 14 (1979):369-388.

This article deals with changes to waiver proceedings in Washington under the 1977 Juvenile Justice Act. The Act incorporated developments from case law into a statutory provision. One major change was the requirement that transfer hearings always be held in certain cases. A second change was to permit the defense to initiate a transfer hearing. The Act, however, failed to specify clearly the criteria to be used when deciding the issue of waiver.

Conti, Samuel D. An Assessment of the Juvenile Justice System in Philadelphia. Williamsburg, VA: National Center For State Courts, 1984.

Report of an analysis of the Philadelphia juvenile justice system undertaken for the Youth Services Coordinating Commission of that city. The analysis covers formal organization and structure, delinquency procedures, records management, and a legal review of the system. System personnel were interviewed, and the records from a random sample of 612 juvenile delinquency cases were analyzed. The major conclusion of the study is that Philadelphia's juvenile justice system lacks system-wide coordination and management. Specific recommendations include making greater use of non-secure detention and using emergency shelters more frequently.

Davis, Samuel M. Rights of Juveniles: The Juvenile Justice System. New York: Clark Boardman Company, Ltd., 1983.

This book is a compendium and discussion of current statutes and case law involving juvenile rights. The book is updated annually and is intended as a guidebook for lawyers. The volume includes the Uniform Juvenile Court Act of 1968 and a summary of state statutes. An extensive list of court decisions relating

to juvenile justice and the juvenile justice system is appended, as well as a bibliography.

Decker, Scott H. ed. Juvenile Justice Policy: Analyzing Trends and Outcomes. Beverly Hills, CA: Sage, 1984.

A collection of papers on contemporary issues in juvenile justice policy. Topics covered include: national juvenile justice policy; program evaluation techniques; court jurisdiction over status offenders; runaways; net widening; and juvenile diversion.

Decker, Scott H., "A Systemic Analysis of Diversion: Net Widening and Beyond," Journal of Criminal Justice 13:3 (1985):207-16.

An analysis of the impact of a diversion program on juvenile court referrals. Data is compared for preprogram and program years to determine the program's effect on police referral. The study concludes that referrals for all offenses increased substantially during the program years. This is attributed to the values held by police. Diversion programs are also criticized for permitting abuses of discretion.

Denno, Deborah J., "Impact of a Youth Service Center: Does Diversion Work," Criminology 18:3 (November 1980):347-362.

In this study of a youth service center in Philadelphia, the author investigates the impact of diversion on arrest rates. The study indicates that arrest rates for clients of the center declined. However, the influence of several intervening variables makes it impossible for the author to attribute these declining rates to the diversion program.

Erickson, Maynard L., Stafford, Mark C., and Galliher, James M., "The Normative Erosion Hypothesis: The Latent Consequences of Juvenile Justice Practices," Sociological Quarterly 25 (Summer 1984):373-84.

This article reports a study which tested the hypothesis that nonpunitive reactions to delinquency erode offenders' normative evaluations of delinquency. The study was conducted with survey data from Arizona high school students. The authors found that juveniles referred to nonpunitive courts perceived delinquency as less serious than juveniles who had no referrals. The study also showed that a perceived threat of punishment is positively correlated to a youth's perception of the seriousness of his or her acts.

Fabricant, Michael. Juveniles in the Family Courts. Lexington, Mass.: D.C. Heath and Co., 1983.

In 1979 the state of New York passed legislation expanding the category of juvenile offenses designated as serious. The legislation also removed these offenses from the jurisdiction of the Family Court. This book considers the implications of this reform, arguing that it is representative of a general movement whose aim is to secure procedural rights for juvenile delinquents and status offenders. The majority of the book is a study of the impact of procedural due process on the court's performance and on public perceptions of its decisionmaking.

Feld, Barry C., "Legislative Policies Toward The Serious Juvenile Offender: On The Virtues of Automatic Adulthood," Crime and Delinquency 27 (October 1981):497-521.

This article critically examines prevailing waiver processes in which juvenile court judges are asked to make individualized clinical predictions about a juvenile's dangerousness and amenability to treatment. The author asserts that, as currently practiced, predictive methods are inaccurate and lead to abuse of discretion, inconsistency, and discrimination. The article contends, however, that offense and offense history characteristics can reliably select for waiver those juveniles who might require longer incarceration than is available in the juvenile system. The author argues in favor of legislatively excluding these youths from the juvenile court's jurisdiction.

Feld, Barry C., "Delinquent Careers and Criminal Policy: Just Deserts and the Waiver Decision," Criminology 21:2 (May 1983):195-212.

This article criticizes traditional approaches to waiver based on dangerousness and amenability to treatment. The author argues that there is no clinical basis upon which to evaluate juveniles according to these criteria. Objective offense and offense history characteristics, however, are variables for which juveniles can be held responsible and are the best indicators of future violations. The article concludes by arguing that legislative waiver, in which actuarial methods are combined with just deserts principles, is the best approach to determining which juveniles will be prosecuted as adults.

Feld, Barry C., "Criminalizing Juvenile Justice: Rules of Procedure for the Juvenile Court," Minnesota Law Review 69:2 (December 1984):141-276.

In this article, the author criticizes state legislators for criminalizing juvenile justice without ensuring that the same level of procedural due process available in the adult criminal justice system is available in juvenile courts. Of critical importance is the continued discretion granted to juvenile court judges. The author argues that this is harmful in a system which is becoming increasingly punitive. He further argues that unless appropriate procedural safeguards accompany this recent trend toward criminalization, it will be difficult to justify the juvenile court's existence. It is in this area where state legislators are failing the most.

Flicker, Barbara Danziger. Standards For Juvenile Justice: A Summary and Analysis. Cambridge, Mass.: Ballinger Publishing Co., 1977.

The IJA and ABA collaborated over a five-year period to produce an ambitious, multi-volume set of model standards to guide juvenile justice legislation. This volume summarizes and analyzes those standards. The standards are noteworthy in two respects. First, they reject the traditional medical model of individualized justice. Secondly, they extend the rights of juveniles to a point well beyond current Supreme Court requirements. As a result, the standards recommend a high degree of procedural formality and strict dispositional criteria in the form of equal, proportionate, and determinate sanctions. The standards also recommend reductions in judicial discretion, deinstitutionalization of less serious offenders, a larger role for prosecution and defense attorneys, and greater predictability throughout the system.

Geraghty, Diane, "Juvenile Discovery: A Developing Trend and a Word of Caution," Pepperdine Law Review 7 (1980):897-921.

This article examines the trend toward acceptance of pretrial discovery in juvenile court proceedings. The author summarizes the use of discovery in juvenile proceedings and devotes particular attention to whether civil or criminal techniques should serve as the basis for pretrial discovery. The article focuses on depositions and comments on how appropriate they might be in a model of juvenile discovery. The author concludes that courts and legislatures should concentrate their efforts on implementing criminal discovery for delinquency proceedings rather than on experimenting with civil discovery.

Gibbs, Leonard, "The Effects of Juvenile Legal Procedures on Juvenile Offenders' Self-Attitudes," Journal of Research in Crime and Delinquency 11 (January 1974):51-55.

A study of the effect of formal legal processing on juveniles' self-attitudes. The study group consisted of 21 male offenders. Their self-attitude scores were compared to 56 non-delinquents. The study's conclusions fail to support the link between legal processing and a greater self-understanding as delinquent.

Gillespie, L. Kay and Norman, Michael D., "Does Certification Mean Prison: Some Preliminary Findings From Utah," Juvenile and Family Court Journal 35:3 (1984):23-34.

This study explores the use of prosecutorial discretion to certify juvenile offenders to adult courts in Utah. Certification is not extensively used in Utah. The study examines the dispositions received in 45 cases that were certified in order to determine how well the goal of public protection is served by certification. The authors evaluate certification negatively, since 53% of those certified in the sample were neither removed from society nor imprisoned for any length of time.

Giordano, Peggy C., "The Sense of Injustice?: An Analysis of Juveniles' Reactions to the Justice System," Criminology 14 (May 1976):93-112.

This study analyzes the performance of the police, juvenile probation services, and the juvenile court from the perspective of juvenile offenders. The author found that positive attitudes toward these organizations increased as the juvenile became more experienced with the system. At the same time, there was a negative relationship between experience and juveniles' evaluations of the performance of those agencies.

Glassner, Barry, Ksander, Margaret, Berg, Bruce and Johnson, Bruce D., "A Note on the Deterrent Effect of Juvenile vs. Adult Jurisdiction," Social Problems 31:2 (December 1983):219-21.

A short note on research in progress. Preliminary findings indicate that juveniles tend to be deterred from crime when they come under the jurisdiction of adult courts. This is attributed to juvenile perceptions of the harshness of adult sanctions.

Guggenheim, Martin, "Incorrigibility Laws: The State's Role in Resolving Intrafamily Conflict," Criminal Justice Ethics 4:1 (1985):11-19.

This essay criticizes the role of the state in regulating everyday disputes between parents and children. Incorporability laws are critiqued for extending jurisdiction over disputes that should not be brought into the courts.

Hellum, Frank, "Juvenile Justice: The Second Revolution," Crime and Delinquency 25:3 (July 1979):299-317.

This article identifies the diversion of status offenders and the introduction of more punitive responses to serious offenses as the most important trends in current reform. These institutional changes and federal and state initiatives are discussed. The author constructs a modified system to accommodate these changes.

Hufstедler, Shirley M., "Should We Give Up Reform", Crime and Delinquency 30:2 (July 1984):415-22.

The author, a former judge and U.S. Secretary of Education, reviews the history of juvenile justice and the tensions among punishment, incapacitation, and reform. She urges rededication to the ideal of rehabilitation. In addition, she supports divestiture of jurisdiction over status offenders, some punishment for first offenders, and resistance to the removal of discretion from juvenile judges. In general, the author's program of reform emphasizes community-based alternatives to incarceration.

Jensen, Gary F., "Labeling and Identity: Toward a Reconciliation of Divergent Findings," Criminology 18 (May 1980):121-129.

This article is a response to studies which criticize the literature linking labeling and juvenile self-concepts. The author reanalyzes data from his previous studies and uncovers a relationship among official labeling, self-reported delinquency, and delinquent self-images. He finds that self-reported delinquency is more strongly related to such images than official labels.

Kaufman, Irving R., "The Child in Trouble: The Long and Difficult Road to Reforming the Crazy-Quilt Juvenile Justice System," Washington University Law Quarterly 60 (1982):743-777.

The author outlines a comprehensive approach for reforming the juvenile justice system. He argues that reform must be based on the fundamental premise that prescribing treatment or services for juveniles is not necessarily beneficial. He further asserts that institutionalization, which is much closer to punishment than treatment, should not disguise itself as rehabilitation. He proposes that a coordinating organization be established in order to assign juvenile cases to trained personnel whose focus would be rehabilitation of the family.

King, J.L. Comparative Analysis of Juvenile Codes. Champaign, IL: University of Illinois Community Research Forum, 1980.

The juvenile codes in the 56 states and territories are compared and presented in extensive tables. The comparison emphasizes deinstitutionalization and separation of juveniles from adults. Other categories include juvenile court

structure, waiver, maximum age of jurisdiction, place of detention, time and petition requirements, and disposition.

Kowalski, Gregory S. and Rickicki, John P., "Determinants of Juvenile Postadjudication Dispositions," Journal of Research in Crime and Delinquency 19:1 (January 1982):66-83.

This article examines the factors which influence the postadjudication dispositions of juveniles. The most significant variables were found to be number of past offenses, age, committing offense and a behavior rating. Race and IQ were not found to be statistically significant when other variables were controlled.

Leddy, Daniel, "Families in Need of Supervision," Criminal Justice Ethics 4:1 (1985):19-38.

This essay proposes a "family in need of supervision" (FINS) law in order to reconcile the fundamental right of parents to discipline their children with the state's interest in intervening in serious parent-child disputes. Such a law would do away with the concept of fault in these disputes. Matters coming under the law's jurisdiction would include disputes about the child's remaining at home, school attendance, entering treatment, and other problems affecting the child's welfare or constitutional rights.

Mahoney, Anne Rankin, "Time and Process in Juvenile Court," Justice System Journal 10:1 (1985):37-55.

This study investigates court delay in juvenile courts. Data was gathered from court records involving 710 delinquency petitions in a suburban juvenile court. The time between apprehension and filing averaged 75 days, while the average period between filing and adjudication was 158 days. The author was unable to discern a clear reason for these delays.

McCarthy, Francis B., "Delinquency Dispositions Under the Juvenile Justice Standards: The Consequences of a Change of Rational," New York University Law Review 52 (1977):1093-1135.

This article considers the potential impact of the IJA-ABA's delinquency disposition standards if adopted by state legislatures. The principal feature of the standards is that they advocate effective punishment of juvenile offenders as the aim of juvenile justice. The standards also recognize the importance of widening the protective net of procedural safeguards for juveniles charged with delinquency. The author argues that the similarity of the standards to adult criminal sentences reduces the need for a separate delinquency jurisdiction. He concludes that the inevitable consequence of the standards is abolition of the juvenile court's jurisdiction over criminal acts.

McCulloch, R.W. Comparative Analysis of Juvenile Justice Standards and the JJDP Act (4 volumes). Sacramento, CA: American Justice Institute National Juvenile Justice System Assessment Center, 1981.

These four volumes compare national standards for juvenile justice to the 1974 Juvenile Justice and Delinquency Prevention (JJDP) Act. The standards proposed by four groups are analyzed: the National Advisory Committee for Juvenile Justice and Delinquency Prevention; the Task Force on Juvenile Justice and



Delinquency Prevention of the National Advisory Committee on Criminal Justice Standards and Goals; the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project; and the American Correctional Association's Commission on Accreditation for Corrections. Topics analyzed include delinquency prevention and diversion; separation of juveniles from incarcerated adults; and community-based alternatives to incarceration.

Nathan, Winifred, "Whose Rights Are They? The Supreme Court and the Rights of Juveniles," Children and Youth Services Review 6:4 (1984):329-44.

A review of U.S. Supreme Court decisions concerning juvenile rights. The author argues that the period between 1923 and 1972 was characterized by the expansion of juvenile rights in order to diminish state control. A 1972 decision in Wisconsin v. Yoder, however, refused to set similar limits on parental control. Schall v. Martin (1984) is criticized for curtailing the rights of juveniles.

Petersilia, Joan, "Juvenile Record Use in Adult Court Proceedings: A Survey of Prosecutors," Journal of Criminal Law and Criminology. 72:4 (Winter 1981):1746-71.

This study investigates the impact of juvenile records on decisionmaking by prosecutors. The study is based on a survey of the largest prosecutors' offices in each state. A major finding is that information is shared between juvenile and adult justice systems sporadically and according to local policy. Generally, the survey revealed that prosecutors in adult courts have little knowledge of the juvenile court records of young adult offenders.

Prescott, Dana E. and Kundin, Cynthia L., "Toward A Model Parental Liability Act," California Western Law Review 20 (:):187-

The authors propose a model parental liability act designed to clarify ambiguities found in prevailing acts. The authors also examine the constitutionality of such acts. They find that most parents challenge the acts for interfering in their right to raise their children as they choose and for violating due process. With the exception of one case, however, courts have rejected these arguments and upheld the constitutionality of parental liability acts.

Rausch, Sharla, "Court Processing Versus Diversion of Status Offenders: A Test of Deterrence and Labeling Theories," Journal of Research in Crime and Delinquency. 20:1 (January 1983):39-54.

Labeling theory asserts that court processing stigmatizes juveniles, leading to further delinquency. Deterrence theory claims that the court experience deters children from future delinquency. The author tests the applicability of these theories to status offenses. She finds that there is no reason to prefer either court processing or diversion insofar as their impact on recidivism is concerned.

Reich, Jay A., "The Juvenile Justice Act of 1977: A Prosecutor's Perspective," Gonzaga Law Review 14 (1979):337-358.

This article argues that the 1977 Washington State Juvenile Justice Act had its greatest impact on prosecutors. Prior to the 1977 Act, prosecutors were not mentioned in Washington's juvenile code. The 1977 shift from social development to accountability created a new role for county prosecutors. The Act

made them responsible for both screening and prosecuting all cases. Prosecutors retained significant discretion with respect to labelling acts and determining charges. In at least one county, the Act increased the number of criminal referrals and formal filings to the juvenile court.

Rojeck, Dean G. and Erickson, Maynard L., "Reforming The Juvenile Justice System: The Diversion of Status Offenders," Law and Society Review 16:2 (1981-82):241-64.

A major trend in juvenile justice reform is the diversion of status offenders in order to protect them from the stigma of the adjudication process. The findings of this study challenge the assumptions upon which diversion is based. The authors argue that alternatives to court processing are not necessarily better equipped to process status offenders than the juvenile court.

Rubin, H. Ted, "The Emerging Prosecutor Dominance of the Juvenile Court Intake Process," Crime and Delinquency 26:3 (July 1980):299-318.

This article traces the consequences of the Gault decision and its impact on the role of lawyers. The author argues that this led to an erosion of probation officers' discretionary and informal decisionmaking at intake. Consequently, legislators are now introducing prosecutors into the intake phase. This is further evidence of the replacement of the traditional model with a legal process model of juvenile justice.

Rubin, H. Ted, "Retain The Juvenile Court?: Legislative Developments, Reform Directions, and the Call For Abolition," Crime and Delinquency 25:3 (July 1979):281-98.

Current reforms in the juvenile justice system have led to calls for its abolition. This article asserts that this would create many problems. The reason for this is that misdemeanor courts would absorb most juvenile offenders. These courts already have enough weaknesses, which would be exacerbated by the increased workload.

Schack, Elizabeth T. and Nessen, Hermine. The Experiment That Failed: The New York Juvenile Offender Law--A Study Report. New York: Citizens' Committee For Children Of New York, Inc., 1984.

A critical analysis of New York's 1978 juvenile offender law. The law defined 15 serious offenses as requiring juveniles to be prosecuted in adult courts. Implementation of the law is assessed through data on 5,582 juvenile offender cases. This assessment finds the law to have been complicated, cumbersome, and expensive. Moreover, only 4.2% of all juveniles processed under the new law received sentences more severe than what they could have received in the juvenile court.

Schwartz, Ira M., Jackson-Beek, Marilyn, and Anderson, Roger, "The 'Hidden' System of Juvenile Control," Crime and Delinquency 30:3 (July 1984):371-85.

Deinstitutionalization has been criticized for simply transferring youths from the juvenile correctional system to other institutional systems. This article examines this phenomenon through a study of juveniles institutionalized in the mental

health and chemical dependency systems in Minnesota. Findings of the study support the claims of critics. Policy questions raised include issues of health care costs, procedural safeguards, private/public distinctions, and movement of juveniles among systems.

Singer, Richard G. Just Deserts: Sentencing Based on Equality and Desert. Cambridge, Mass.: Ballinger Publishing Company, 1979.

The purpose of this book is to articulate and defend a model of sentencing based on the concept of "just deserts." The central principles of this concept are equality and proportionality. Individuals must receive sanctions which are proportionate to the seriousness of their offense. Offenses of equal seriousness must also carry sanctions of equal severity. The author discusses the function of aggravating and mitigating circumstances. The book includes a summary of sentencing reform in each of the states as of 1979.

Singer, Simon I. Relocating Juvenile Crime: The Shift From Juvenile to Criminal Justice. Albany, NY: Nelson A. Rockefeller Institute of Government, State University of New York, 1985.

This report examines the impact of New York State's Juvenile Offender Law, which excludes juveniles charged with the most serious offenses from juvenile court jurisdiction. The law was poorly implemented in its first year (1978), but has been used more frequently since. Arrests have remained constant and convictions have increased. The probability that a juvenile will be incarcerated has decreased as more offenders receive probation.

Sprowls, James T. Discretion and Lawlessness: Compliance in the Juvenile Court. Lexington, Mass.: D.C. Heath and Company, 1980.

In a study of the Pennsylvania Juvenile Court, the author examines several hypotheses related to the tension between judicial discretion and compliance with statutory requirements. The author found that noncompliance with these requirements was pervasive, implying that juvenile procedure has remained relatively unchanged. The author recommends the establishment of greater oversight of juvenile court practices.

Susmann, Alan, "Practitioner's Guide to Changes in Juvenile Law and Procedure," Criminal Law Bulletin (July/August 1978):311-42.

This guide to changes in juvenile law in several states as of 1978 covers topics such as transfer, fines and restitution, parental responsibility, fingerprinting, court and police records, rights of the victim, and prosecution by district attorneys. The author's general conclusion is that legislative changes are aimed at reducing dispositional and correctional discretion.

Teitelbaum, Lee E. and Gough, Aidan R. Beyond Control: Status Offenders in the Juvenile Court. Cambridge, Mass.: Ballinger Publishing Company, 1977.

A collection of papers on issues surrounding status offenders or persons in need of supervision (PINS). Topics covered include PINS and parents, sex-based discrimination, PINS jurisdiction and the rule of law, and divestiture of juvenile court jurisdiction over status offenders.

Twentieth Century Fund Task Force. Confronting Youth Crime. New York: Holmes and Meier Publishers, Inc., 1978.

The Twentieth Century Fund organized a task force to formulate a sentencing policy for young offenders. The task force determined that sentences should recognize the culpability of young offenders and should use proportionality as a guide for distributing sentences among offenders. The task force also emphasized that the immaturity of young offenders justified a lower standard of responsibility.

Von Hirsch, Andrew. Doing Justice: The Choice of Punishments. New York: Hill and Wang, 1976.

Report of the Committee for the Study of Incarceration. The Committee was concerned with two issues: the general justification of punishment and the allocation of sanctions. It rejected rehabilitation as the principal general justification of punishment, preferring instead the notion of desert. Allocations of sanctions, it concluded, should be based on the principle of commensurate desert, that is, severity of sanctions should be proportionate to the seriousness of the crime. Seriousness of the crime is defined according to actual or potential harm and culpability. The Committee also proposed a scale of penalties which limits judicial discretion and reduces the sanction for most crimes to five years. The views of other committee members appear in an appendix.

Walkover, Andrew, "The Infancy Defense in the New Juvenile Court," UCLA Law Review 31 (1984):503-562.

This article argues that the recent emphasis on classic principles of justice in juvenile codes requires that the common law infancy defense become a part of delinquency proceedings. The therapeutic model of juvenile justice rendered this defense redundant, since it created an almost irrefutable presumption of incapacity for all juveniles. The author argues that the capacity for culpability in pre-adolescents cannot be presumed, but that adolescents generally possess such capacity, although not to the same degree as mature adults. Since juvenile codes now recognize criminal culpability in juveniles, the article concludes that the infancy defense must be included as part of legislative reform.

Weiss, Joseph G. Jurisdiction and the Elusive Status Offender: A Comparison of Involvement in Delinquent Behavior and Status Offenses. Washington, D.C.: U.S. Government Printing Office, 1980.

An important policy debate surrounds the issue of juvenile court jurisdiction over status offenders. The key aspect of this debate is whether status offense activity is predictive of delinquent behavior. If non-criminal misbehavior progresses into criminal activity, it is argued, then jurisdiction should be retained. This study analyzes the link between status offenses and delinquent behavior. Its major finding, based on self-report data, is that juvenile offenders tend to commit both status offenses and delinquent acts, rendering the status offender/delinquent dichotomy less useful for policy purposes. A better distinction is that between petty offenders and offenders who offend more frequently and who commit more serious property and violent crimes.