



Juvenile Justice Processing Study

Volume I

Juvenile Justice Case Processing

130477

MARIO M. CUOMO

Governor
State of New York

JOHN J. POKLEMBA

Director of Criminal Justice
and Commissioner
Division of Criminal Justice Services

DIVISION OF
**CRIMINAL
JUSTICE
SERVICES**



Robert M. Schlesinger
Project Director

Sharon E. Lansing

Richard J. Toon

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JOHN J. POKLEMBIA
Director of Criminal Justice and Commissioner
Division of Criminal Justice Services

Barry C. Sample
Executive Deputy Commissioner
Office of Justice Systems Analysis

Richard J. Dehais
Bureau Chief
Bureau of Program & Policy Analysis

Robert M. Schlesinger
Project Director

Sharon E. Lansing
Richard J. Toon
Project Associates

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New York State Division of Criminal Justice Services
Executive Park Tower
Stuyvesant Plaza
Albany, New York 12203

Advisory Panel

Ralph Fedullo
Advisory Panel Chair
Executive Director
St. Anne Institute

Lieutenant Arthur Doyle
Youth Services
New York City Police Department

Newell Eaton
Director of Planning and
Executive Support
New York State Division for Youth

Barry B. Edison
Director
New York City Juvenile
Justice Information Services

Janet Fink
Assistant Attorney-in-Charge
Juvenile Rights Division
New York City Legal Aid Society

The Honorable G. Douglas Grisct
Former President of the New York State
Family Court Judge's Association
Schenectady County Family Court

Patricia Henry
Director of Program Planning
New York City Deputy Mayor's
Office of Public Safety

Roy Mahon
Deputy Bureau Chief
Nassau County Attorney's Office

Joseph Pilato
Senior Deputy County Attorney
Monroe County Attorney's Office

Lois Raff
Special Assistant District Attorney
for Legislation and Policy
Kings County District Attorney's Office

Gretchen Rauch
Assistant Commissioner for Family Court Services
New York City Department of Probation

Peter Reinharz
Division Chief of the
Family Court Division
New York City Corporation Counsel

Patricia Resch
Deputy Director
Dutchess County Probation Department

Flora Rothman
Chair
Family Court Panel -- Fund for Modern Courts

Elizabeth T. Schack
Staff Associate for Juvenile Justice
Citizens' Committee for Children
of New York, Inc.

David Singer
Probation Program Administrator
New York State Department of Probation
and Correctional Alternatives

Merril Sobie
Professor of Law
Pace University Law School

Terrence Thornberry
Professor of Criminal Justice
State University of New York at Albany

Lucia B. Whisenand
Chair
Juvenile Justice and Child Welfare Committee
New York State Bar Association

Project Staff

Project Director

Robert M. Schlesinger

Project Associates

Sharon E. Lansing
Richard J. Toon

Administrative Assistants and Report Designers

Dawn Maynus
Carol Stumpf

Computer and Technical Assistance

James Gilmer
Hari Shiledar Baxi

Research Assistants

Beth Bjerregaard
Rosemary Gray
Jennifer Knobe

Data Collectors

Diana Canales
Dorothy Clements
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Gail Dammen
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Shirley Gabel
Robert Hammond
Sharmine Hopkins
Peter Hraba
Zenobia Huff
Michael Jurena
Terrance Lavy
Michael Lowery
James Lyons
Angela Malacari
Sydnee Joy Mayer
Theresa Pirello
Jennifer Probitsky
Dora Richardson
Mary Riggi

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Executive Summary

Juvenile justice system policymakers, practitioners and youth advocacy groups have debated the merits of various reform proposals for years without sufficient data to adequately evaluate existing laws, policies and practices. The Division of Criminal Justice Services undertook this descriptive study of juvenile delinquency processing in New York State to provide the information needed to understand the processing of alleged juvenile delinquents in the State.

Volume I of the *Juvenile Justice Processing Study* reports the findings of an empirical study that involved the examination of about twelve thousand Juvenile Delinquency (JD) cases processed during 1987 in 11 counties across New York State. Family court cases involving children who were seven through 15 years of age at the time of the alleged offenses were tracked from probation intake to disposition. Cases of children 13 through 15 years of age arrested under the Juvenile Offender (JO) Law, which accounted for 4 percent of all juvenile police referrals in 1987, were not examined in this study. The findings are presented along with information from scores of interviews conducted in each of the study sites with probation officers, police, law guardians, presentment agency attorneys and judges to gain a better understanding of how the juvenile justice system works. The study sites included the five counties of New York City, as well as Nassau County, Erie County (Buffalo), Monroe County (Rochester), Albany County, Dutchess County (Poughkeepsie) and Clinton County (Plattsburgh). New York City cases differed dramatically from those in other sites in regard to both seriousness of offenses and processing styles.

It is hoped that this snap-shot of juvenile justice processing will provide practitioners and policymakers with information to assist them in the improvement of community safety, the protection of legal rights of juveniles and the enhancement of treatment resources.

Juvenile Justice System Goals

The one hundred and fifty year history of the New York State juvenile justice system has been marked by an emphasis on the treatment needs of juveniles. However, in the mid-1970s, a new provision stated that the "need for the protection of the community" should be considered along with "the needs and best interests of the respondent [juvenile]." Other laws reflecting community protection concerns have since been added, creating additional sanctions for certain serious cases based upon the age of the alleged JD. The 1978 Juvenile Offender Law was the most radical departure from the traditional goals of juvenile justice. This statute removed the jurisdiction of certain JD cases to the adult criminal justice system and authorized more severe sanctions. The current juvenile justice system has a broad mission with decisionmakers exercising wide discretion in balancing the traditional goal of treatment with the additional goal of community protection.

Arrest Processing

When juveniles are taken into custody for the alleged commission of offenses, the police have broad discretion in determining how they will be handled. Cases can be diverted from the formal system or they can be referred for further legal processing.

Record keeping policies made it impossible to track juveniles from the point of arrest. The findings below were based on analyses of aggregate statewide arrest data for 1983 through 1989 from the State's Uniform Crime Reporting (UCR) System and aggregate diversion data for 1987 from selected study sites.

While juveniles aged seven through 15 accounted for a small percentage of all arrests, they accounted for a relatively larger percentage of arrests for property offenses.

- While juveniles represented 13 percent of the State's population aged seven and older, they accounted for only 6 percent of all arrests statewide during 1987.
- Juveniles accounted for 21 percent of the arrests for property offenses, 8 percent of the violent offense arrests and 2 percent of the drug arrests in 1987.
- Approximately one-third of the arson arrests and more than one-quarter of the fraud and unauthorized use of motor vehicle arrests in 1987 involved juveniles, but only 3 percent or less of all arrests for murder or forgery.

After a period of relative stability, juvenile arrests declined from 1987 through 1989. However, arrests for violent offenses and drug offenses increased substantially during this two-year period.

- Statewide, juvenile arrests were relatively stable from 1983 through 1987, but dropped 34 percent during 1988 and 1989. This decrease can be attributed to a decline in New York City arrests for property offenses involving fraud; a change in enforcement policies for fraud offenses shifted some police resources away from monitoring transit theft (e.g., turnstile jumping). As a result, New York City arrests decreased 33 percent during these two years, while the rest of the State experienced a 5 percent increase in arrests.
- Over one-half of the juvenile arrests from 1983 through 1988 occurred in New York City. In 1989, however, New York City reported fewer arrests than the rest of the State.
- During 1988 and 1989, New York City arrests for violent offenses rose 46 percent; a 25 percent increase was reported in the rest of the State.
- Drug arrests climbed 52 percent in New York City during 1988 and 29 percent outside New York City. Drug arrests stabilized in New York City during 1989, decreasing less than one percent; however, the rest of the State reported an 11 percent increase.

Despite a decrease in New York City juvenile arrests during 1988 and 1989, there was a substantial increase in referrals to probation intake.

- Arrest statistics were misleading indicators of caseload volumes for subsequent processing stages – probation intake, the presentment agency and family court.
- Even though New York City arrests decreased 21 percent during 1988, police referrals increased 28 percent. This upward trend in police referrals continued with an additional 12 percent increase in referrals during 1989, even though arrests declined another 15 percent. The growth in serious arrest offenses was largely responsible for the increase in New York City delinquency referrals.
- Outside New York City, police referrals increased more rapidly than arrests during 1988 (8 percent versus 2 percent, respectively). During 1989, the growth in both police referrals and arrests was the same (3 percent).

Juvenile arrests were often diverted by the police.

- The Rochester City Police Department and the police agencies in New York City diverted approximately two-thirds of all juvenile arrests in 1987 (63 percent and 67 percent, respectively).
- In New York City, the police diverted 91 percent of the misdemeanor arrests; agency policy, however, did not allow any felony arrests to be diverted. (Data were not available from the Rochester City Police Department by offense classification.)
- Two-thirds of New York City misdemeanor drug arrests and all felony drug arrests were referred; 67 percent of the arrests involved the sale of drugs. In contrast, the overwhelming number of non-New York City drug arrests were diverted; approximately two-thirds of these arrests involved drug possession rather than drug sales.
- There are no State statutes or rules to guide police diversion decisionmaking. The New York City Police Department was the only police agency studied to have formal written policies on diversion.

Probation Intake Processing

At probation intake, cases referred by the police are either adjusted or sent forward to the presentment agency for possible petitioning. A wide array of services for juveniles was generally available in most sites to assist in the adjustment of cases. These services were provided either directly or through referrals to social service agencies. While discretion to adjust or refer cases is limited by a combination of State laws, rules and regulations, these restrictions, in practice, apply to relatively few cases. The study found that the only major limitation on probation intake discretion was complainant cooperation. By statute, probation must refer cases to the presentment agency when complainants do not appear at intake or insist upon referral to the presentment agency.

New York City intake cases were more serious overall than cases in other study sites.

- More than 75 percent of the New York City intake cases involved felony arrests; elsewhere, percentages ranged from 29 percent to 37 percent.
- In New York City, 40 percent of the cases were for violent arrest offenses – assault, robbery and sex offenses – compared to less than 25 percent in other sites.

- Twelve percent of the New York City intake cases were for drug offenses compared to 2 percent or less elsewhere.
- The difference in overall case seriousness between New York City and other study sites is explained, in part, by the New York City Police Department policy of referring all felony arrests to intake while diverting the vast majority of misdemeanor arrests.

Less than one-half of the intake cases across study sites had records of prior JD police referrals.

- The percentage of cases with prior JD police referrals ranged from 26 percent in Clinton County to 50 percent in Albany County. Elsewhere, 30 percent of the cases in Dutchess County had priors, 36 percent in Erie County, 41 percent in New York City and 45 percent in Monroe County.
- In Albany County, 13 percent of the intake cases had at least four prior JD police referrals. Except for Clinton County which had no cases with four or more priors, comparable percentages for other sites ranged from 4 percent to 8 percent.
- While the offense seriousness of intake cases was much higher in New York City than elsewhere, some of the other sites had more prior police referrals per case. This may be explained by the New York City Police Department policy of diverting almost all misdemeanor cases, while sites with less serious cases may have diverted fewer cases at arrest.

The New York City intake cohort was more likely to be male and older than the intake cohorts in other study sites.

- Males represented 90 percent of the New York City cases; percentages ranged from 76 percent to 81 percent in other sites.
- In New York City, 72 percent of the cases involved juveniles 14 or 15 years of age. Elsewhere this age group accounted for 57 percent to 63 percent of cases at intake.

Minorities comprised a disproportionate percentage of intake cases.

- In Albany County, minorities represented 8 percent of the population, yet accounted for four times that percentage (32 percent) of intake cases. Elsewhere, minorities were overrepresented at intake by more than

three times in Monroe County and by more than two times in New York City. In Clinton County, the percentages of minorities in both the intake the general populations were similar. Race/ethnicity data were missing in a substantial number of intake cases in Erie and Dutchess counties.

The percentage of probation intake cases referred to presentment agencies varied widely across study sites.

- Eighty-nine percent of the intake cases in New York City were referred to the presentment agency, 65 percent in Albany County, 58 percent in Monroe County, 51 percent in Dutchess County, 34 percent in Erie County and 26 percent in Clinton County.

Probation intake had extensive discretion to adjust or refer cases in several study sites. The only major statutory limitation on intake discretion was complainant cooperation.

- Statutory prohibitions against adjustments based on legal case characteristics, including offense seriousness and prior records, applied to 5 percent or less of the intake cases across study sites.
- Probation intake had discretion to adjust or refer most cases in all but two sites – New York City and Albany County. In New York City, the non-appearance of complainants largely explained the high percentage of intake cases referred to the presentment agency. In Albany County, local policies allowed police agencies to act as the complainants on all JD cases. This practice may explain why the percentage of probation intake referrals in Albany County was the highest of all non-New York City study sites.

Adjustment services varied across study sites.

- Adjustment services ranged from little more than warnings of subsequent prosecution should the child be rearrested to extensive periods of counseling and community referral. In Erie County there was no case supervision or program monitoring. This situation was similar in New York City. By contrast, in Nassau, Clinton, Monroe, Albany and Dutchess counties, adjusted cases were monitored in the same way as cases receiving probation dispositions.

Presentment Agency Processing

The term "presentment agency" refers to a county attorney's, corporation counsel's or district attorney's office. While the presentment agency has total discretion when determining whether to decline to prosecute or to bring cases to court, presentment agency staff stated that these decisions are usually based on legal sufficiency. For cases that go to court, the presentment agency determines the allegations that will be charged against juveniles in delinquency petitions.

The percentage of cases presentment agencies declined to prosecute varied across sites. Legal insufficiency was the primary reason for case declinations in all sites.

- The presentment agency in New York City declined to prosecute 35 percent of the 1987 JD cases referred by probation intake. Elsewhere, 18 percent of the cases were declined in Dutchess and Clinton counties, 14 percent in Monroe County, 13 percent in Erie County and 7 percent in Albany County.
- Presentment agency personnel in New York City said that legal insufficiency, particularly poor cooperation from complainants, was the main reason for the relatively high percentage of cases that were declined to prosecute. Presentment agency staff elsewhere also cited legal insufficiency as the primary reason for case declination.

Family Court Processing: Fact-Finding

The JD court process is a two-phase system – fact-finding and post-fact-finding. Matters dealt with during the first phase include the appointment of counsel, the determination whether or not a court remanded detention is necessary, pre-trial negotiations and whether or not presentment agency allegations can be established. If allegations are not established, the case is dismissed. The JD fact-finding process shares many characteristics of adult court processing, including motion practice and plea-bargaining.

The New York City and Monroe County legal environments were distinct from other study sites, marked by greater amounts of motion practice and higher percentages of trials.

- The extent of motion practice is a barometer to measure how legally active a site's law guardian representation is. In two sites – New York City and Monroe County – practitioners said that motions were made and motion

hearings were held routinely. In other sites, however, practitioners said that such practice was much less common.

- Approximately 11 percent of the New York City and Monroe County petitions were concluded by trial. Elsewhere, the percentage of cases concluded by trial ranged from 1 percent to 5 percent.

In several sites, the processing of most cases from petition filing to initial appearance exceeded the 10 day statutory limit.

- By statute, absent good cause shown, the initial appearance of the respondent in court must occur within 10 days (three days for a detention case) after the filing of the petition. The matters dealt with during the initial appearance include appointment of counsel and determination of whether court remanded detention is necessary. In three sites, less than one-quarter of the cases were processed within that time-frame. The median number of days for case processing across non-New York City sites ranged from seven to 22 days. While initial appearance dates were not available for New York City cases, practitioners said that all initial appearances for non-warrant cases occurred within three days.

Allegations were established in most petitioned cases in all study sites.

- Allegations were established in 51 percent of the Erie County petitions, 59 percent in New York City, 63 percent in Nassau County, 66 percent in Dutchess County, 76 percent in Albany County and 84 percent in Clinton County.

The overall seriousness of New York City petition charges was reduced substantially at adjudication compared to other sites.

- Although New York City petitions entered fact-finding with the most serious charges, Clinton County, Dutchess County and Albany County petitions resulted in more serious adjudications overall.
- New York City practitioners suggested that charge reductions largely resulted from mutual accommodation between law guardians and presentment agency attorneys during an active plea-bargaining process.

Family Court Processing: Post-Fact-Finding

The second phase of court processing – post-fact-finding – exemplifies the dual mission of the court. During this phase, the court exercises broad discretion. A family court judge may dismiss a case after determining that, despite establishment of the allegation, the juvenile is not in need of supervision, treatment or confinement. Otherwise, a finding of juvenile delinquency will be entered against the juvenile. After a JD finding, the court orders one of several dispositions which include conditional discharge, probation or placement.

Dismissals occurred in up to one-third of the cases in which allegations were established.

- Seven percent of the cases in Nassau County to 35 percent of the cases in Erie County in which allegations were *established* were *dismissed*. In Albany County, 8 percent of these cases were dismissed, 10 percent in Clinton County, 16 percent in Dutchess County and 29 percent in New York City.

Most of the probation intake cases in each study site did not result in JD findings.

- JD finding percentages for the intake cohort ranged from 11 percent in Erie County to 38 percent in Albany County. Elsewhere, JD findings were ordered in 16 percent of the Clinton County intake cohort cases, 23 percent of the Dutchess County cases and 24 percent of the New York City cases.

Legal factors were more often related to JD finding outcomes than demographic factors.

- The likelihood of a case resulting in a JD finding was greater for cases with prior records in each of the five sites where data were available from intake to disposition. Data were not available at all processing points in Monroe County and Nassau County.
- The probability of a JD finding outcome increased with the seriousness of the arrest offense in three of the five sites. Cases involving felony offenses were more likely to be referred than those involving only misdemeanor offenses.
- Males were more likely to receive JD findings in three of the five study sites.
- The probability of a JD finding outcome increased with age in two of the five sites.

- Offense type – violent versus property – was not related to JD finding outcomes in any of the study sites. Nor was there a relationship between race/ethnicity and JD finding outcomes in either of the two sites where this could be measured – New York City and Albany County. Race/ethnicity data were not available for all processing points in other sites.

Probation dispositions were ordered much more frequently than placement dispositions in all sites, except New York City where probation and placement disposition percentages were not meaningfully different.

- The percentage of JD findings that resulted in probation dispositions ranged from 46 percent in New York City to 63 percent in Erie County.
- The percentage of JD findings that resulted in placements ranged from 27 percent in Nassau County to 43 percent in New York City and Dutchess County.

Cases involving juveniles with records of prior JD police referrals were dealt with more severely by probation intake and the family court than those with no prior records.

- The likelihood of case referral by probation intake to the presentment agency increased as the number of prior JD police referrals increased. In most sites, less than one-half of the cases with no prior records were referred compared to two-thirds or more of the cases with two or more prior records.
- The probability of petitions resulting in JD findings was greater for cases with prior records than for those without in the four sites where this could be measured. In New York City, for example, 34 percent of the petitions with no prior record resulted in JD findings compared to 52 percent or higher for those with two or more prior records.
- When prior records were present, the likelihood of placement was greater after a JD finding in three of the four sites where this could be measured. Placement dispositions were made in 17 percent to 39 percent of the cases with no prior records. In contrast, the percentage of JD finding cases resulting in placement with three prior records ranged from 55 percent to 67 percent across study sites.

Outcomes of felony cases were generally more severe than those of cases involving only misdemeanor offenses.

- Intake cases involving felony offenses were more likely to be referred to presentment agencies for petitioning than those involving only misdemeanor offenses in five of the six study sites. In Albany County, for example, 85 percent of the felony cases were referred compared to 53 percent of the misdemeanor cases.
- The likelihood of petitions resulting in JD findings was greater for felony petitions than misdemeanor petitions in three of the five study sites where this could be measured. Forty-four percent to 84 percent of the felony petitions resulted in JD findings compared to 30 percent to 50 percent of the misdemeanor petitions.
- The probability of placement was greater after a JD finding for cases involving felony adjudications than for those with misdemeanor adjudications in two of the three sites where this could be measured. In Nassau County, for example, 40 percent of the felony JD finding cases received placement dispositions in contrast to 20 percent of the misdemeanor JD finding cases.

Introduction

This Volume presents the findings of New York's first statewide examination of juvenile justice processing in more than a decade. The objective of this study is to provide a snap-shot of juvenile justice processing that will assist practitioners and policy makers in the improvement of community safety, the protection of the legal rights of juveniles and the enhancement of treatment resources.

Information on juvenile justice processing has traditionally been scarce in New York State. Law enforcement officials, juvenile justice system policymakers, service providers and youth advocacy groups have debated the merits of various juvenile justice proposals for years without data to sufficiently evaluate existing programs and laws. In order to address this void, Governor Cuomo called for a juvenile justice processing study in his 1988 State of the State message. In the Spring of 1988, the State's Juvenile Justice Advisory Group awarded a grant to the New York State Division of Criminal Justice Services (DCJS) for the development of this report.¹

This two-year study involved the analysis of information gathered from thousands of case records and scores of interviews with practitioners in 11 counties across New York State. These sites included the five counties of New York City, Monroe County (Rochester), Erie County (Buffalo), Nassau County, Dutchess County (Poughkeepsie), Albany County and Clinton County (Plattsburgh). Practitioners interviewed represented participants from each significant stage of the juvenile justice process.

This study defines the juvenile justice system as the system that processes Juvenile Delinquency (JD) cases. JD cases involve children seven through 15 years of age at the time of the alleged offense who are processed within the family court system. The adult criminal justice system processed a small percentage of youths 13 through 15 years, who were charged with certain serious offenses and classified as Juvenile Offenders (JO). This study does not focus on JO cases nor does it consider the wide array of non-JD matters that come before the family court, including persons in need of supervision (PINS), neglect, abuse, custody, paternity, adoption, and family offenses.² It must be noted, however, that there have been general increases in almost all types of family court matters, particularly an explosion of neglect and abuse petitions. For example, the collective number of neglect and abuse petitions tripled statewide between 1984

and 1988 (NYSBA, 1989:1). Even more troublesome than the increased burden on the family court system is the future of the troubled children that the court serves. The spiraling number of cases may portend increases for many societal problems, including juvenile delinquency and adult criminal activities.³

Background to the New York State Juvenile Justice System⁴

Overview

Current juvenile delinquency processing is the product of over one hundred and fifty years of experience in New York State, which pioneered juvenile justice legislation and processing practices on many occasions during this time. For example, the law of 1825 establishing the New York House of Refuge was among the first in the nation to include a definition of juvenile delinquency.

The establishment of the Manhattan Children's Court in 1902 can be seen as another landmark, but it can also be seen as the culmination of a process begun some 75 years earlier rather than as a radical new departure. In any event, the Manhattan Children's Court, was the first jurisdiction in the country to house such a court in a separate building. However, it was not until 1924, with the passing of the Children's Court Act, that the Children's Court became administratively independent from the magistrate's criminal court.

Another significant landmark was the passing of the New York State Family Court Act in 1962. The aim of the 1962 Family Court Act was to provide unified jurisdiction to the Children's Court over cases dealing with family matters. The act also stipulated the appointment of law guardians to represent children, some years before counsel were found to be constitutionally required by the Supreme Court.⁵ Corresponding to the increased use of defense counsel was the growing reliance upon specialized counsels (initially the police and then Corporation Counsel in New York City and several county attorneys elsewhere in the state) to prosecute juvenile delinquency cases.

In 1983, with the advent of Family Court Act Article 3, additional reforms were made to the juvenile delinquency process. The aim of the new article was to further standardize juvenile justice across the state's 57 counties and the five boroughs of New York City, by designating procedures and responsibilities for the system's actors (notably, police, detention agencies, probation and the presentment agency). Among its most significant stipulations are the following: the local probation intake unit should screen juvenile delinquency cases for adjustment or referral to the presentment agency; and only a presentment agency may originate a delinquency case in court. Thus, a private citizen or the police could no longer present the court with a delinquency case, and records of cases favorably terminated (e.g., adjusted, dismissed) must be sealed by the police, probation service, presentment agency and court, and not made available to any individual or agency.

Historical Themes

While the history of the New York State juvenile justice system has undergone steady changes, certain themes have remained constant. First, the same New York State courts that have dealt with juvenile delinquency cases have always handled an array of other matters involving children, including status offenses – which are now called Persons in Need of Supervision (PINS), and cases involving parental neglect. These categories, however, and the construction of different processing systems for each, are fundamentally different from the early practice of not distinguishing children by type of problem. The aim now, however, is to separate children defined as merely “troubled” – particularly PINS (i.e., children accused of non-criminal “acting out” behaviors) – and protect them from contact with youth allegedly involved in criminal activity. Moreover, relatively recent legislation encouraging the diversion of PINS⁶ and the emphasis on discretionary diversion of alleged delinquents⁷ has made the family court, first established to prevent exposure of children to the criminal justice system, itself an institution from which children are diverted.

A second feature of the New York State juvenile justice system is the establishment of 16 as the age of adult criminal responsibility. Sixteen years of age was used as the age of criminal responsibility since the 1840s, but comprehensive codification did not come until 1909. Legislation stated that children above seven years of age and under 16 years of age who had committed non-capital offenses were not guilty of a crime but of juvenile delinquency. In 1948, legislation extended the age provisions for adult criminal responsibility to juveniles under 15 years of age who were accused of murder. This age of adult jurisdiction remained unchanged until the Juvenile Offender Law of 1978, which required persons between 13 and 15 years of age to be tried as an adult in the criminal court if arrested for certain serious felony offenses.

Third, the courts in New York State have always afforded some “privacy” to cases involving juveniles. Traditionally, these protections were manifested through the confidentiality of court proceedings. It was only relatively recently that privacy concerns resulted in restrictions on access to records. A description of the New York City Children’s Court in 1953, before the modern family court gave some protection to the records of delinquency proceedings, shows how many agencies were authorized to have access to delinquency information:

These include representatives of other courts in the city and of the FBI, Civil Service, the Army, Red Cross, Travelers Aid, and voluntary social agencies. Police precincts send officers to the Court to examine docket books and to copy disposition data on arrest cases. The Hack [Taxi] License Bureau . . . sends its representatives to look at petitions. If the case is not over ten years old, and if they wish details, these agencies may also turn to records in the Probation Department In addition, Department of Welfare investigators regularly read Probation Department Case records . . . (Kahn, 1953:59).

Although laws relating to access to records are now much more stringent than they used to be, the tradition of limiting public access to proceedings has largely remained constant. These issues are explored more fully in Volume II of this study.

A fourth theme is the institutionalization of juvenile justice and the development of specialists in each aspect of the process. One of the most distinctive features of the system during the Progressive era was the growth of professionalism (e.g., probation officers were introduced in New York City in 1911) and State institutionalization (e.g., the opening of State Training Schools, such as the school for girls at Hudson in 1902). As years went by the system developed several specializations, including: police officers specializing in juvenile issues; intake, investigation, and supervision probation officers; court psychiatric and psychological personnel; lawyers specializing in the prosecution or defense of juvenile cases; and juvenile detention and placement workers. In addition, individual specializations have been organized into groups, including presentment agencies, legal aid offices, and private and public agencies running detention and placement facilities. The current system is, thus, a complex one of both state and local responsibility and public and private agencies, the precise mix of which differs from jurisdiction to jurisdiction. Such local differences are described in detail in the chapters that follow.

A fifth feature is the tension between the informal and the formal legal aspects of the court. The juvenile justice system in New York State did not develop inexorably in the direction of due process from relatively informal beginnings. By the 1920s New York State had what we would recognize today as a fairly formal juvenile justice legal system. The 1922 Children's Court Act established children's courts throughout the state and full due process standards were applied as they are today. However, in 1932, the New York State Court of Appeals decided in *People v. Lewis* that standards of due process in juvenile proceedings were less rigorous than in adult criminal proceedings, and that judges need consider only the preponderance of the evidence in juvenile proceedings.⁸ Merrill Sobie, the chief architect of the current Family Court Act, remarks:

Lewis thus marks the end of an era in which criminal procedural standards applied to delinquency proceedings and the beginning of the more informal "parens patriae" system. Based upon the "civil" nature of delinquency proceedings and the benign purpose of rehabilitation through a consideration of the needs and best interests of the child, *Lewis* was to govern delinquency proceedings until the 1962 Family Court Act and the juvenile "due process" revolution which followed the 1967 *Gault* decision (Sobie, 1987:265).

A description of JD proceedings during the 1950s illustrates the informal juvenile justice process during the post-*Lewis*, pre-1962 period:

At the first hearing . . . the judge usually explains the allegations, cites the family's right to counsel and/or to call

witnesses and then proceeds to "hear and determine the facts, rendering a decision thereon." The judge usually adjudicates the case at the first hearing but may ask for Probation Department investigations prior to adjudication and sometimes does so (Kahn, 1953:37).

Today, as a result of the enactment of the 1962 and 1983 Family Court Acts, children cannot waive counsel; presentment agency counsel "prosecute" cases against juveniles; the "adjudication phase" and the "dispositional phase" of a case are separate and have different standards of proof; and probation investigations are required by statute.

A sixth theme in the history of juvenile justice in New York State is the treatment goal and the focus on the needs of the juvenile. Due process had come to the fore at various times, but the central "child saving" notion of the early reformers has remained important. However, a new goal was added by statute with the passing of the Juvenile Justice Reform Act of 1976, which said for the first time that the "need for the protection of the community" should be considered along with "the needs and best interests of the respondent [juvenile]." This ideal was most decidedly expressed by the addition of the 1976 Designated Felony provision. This provision created a new category of delinquency cases, categorized by the age of the child and the seriousness of the alleged offense. The Act removed some of probation's discretion to adjust designated felony cases and allowed more severe penalties if the court found such acts were committed. Also, the notion of "criminalization" was attached to designated felony proceedings, because district attorneys were given the power to prosecute designated felony offense cases.

The criminalization of certain juvenile activity was actually realized, two years later, when the New York State Legislature enacted the Juvenile Offender Law. The JO law provided the adult criminal justice system with the original jurisdiction to process many of the serious offenses that were previously categorized as designated felony cases. The JO law made the same standard of criminal responsibility applicable to alleged Juvenile Offenders as applied to adults alleged to have committed criminal acts. New York State differs from almost all other states which provide the respective juvenile court with the original jurisdiction over all juvenile "criminal" matters, while providing the ability to "waive up" the most serious juvenile cases to the adult system. The JO law created an opposite approach, whereby cases starting out as JOs in the adult court may be "removed" to the family court for JD processing.

In summary, the current New York State juvenile justice system is an amalgam of themes, carrying a constant tension between treatment and community protection. This tension is notably crystallized in the present purpose clause of the Family Court Act:

. . . In any proceeding under this article, the court shall consider the needs and best interest of the respondent [juvenile] as well as the need for protection of the community (FCA §301.1).

The broadness of this wording has created a dual and broadly interpretable mission for the juvenile justice system. How do we balance the two concerns? What are the needs and best interests of the juvenile? What does community protection mean? Diametrically opposed answers to these questions can be equally defensible within such a broad framework. Thus, a child with overriding treatment needs can be placed regardless of the mildness of his criminal activity, while a felony adjudication may be dismissed, because the child is not found to require supervision, treatment or confinement.

The allowance for varying interpretations and practices reflect two ideas. First, there is no societal consensus concerning the treatment of troubled adolescents. Second, the intent of the Legislature is to allow for the creation of local standards by providing the jurisdictions with enormous discretion in decision making.⁹

These notions are fundamental to understanding the juvenile justice system and are encountered in every chapter that follows. Although the same laws apply in all sites studied, local practices, philosophies and traditions have resulted in widely differing processing styles and beliefs, each within the confines of the court's mission and purpose.

Organization of the Report

The chapters of this report are briefly summarized below (Figure 1.1). Chapter Two deals with the police processing of juveniles alleged to have committed offenses and illustrates the police decision to divert or refer cases for further processing. Cases not diverted must be sent to probation intake for processing as JDs or to the adult system for processing as JOs. Criteria for making jurisdictional decisions are statutorily set, and include the age of the child and the offense alleged.

Chapter Three examines probation intake. Intake determines if cases should be sent forward to the presentment agency for possible family court processing. Probation intake may also perform a wide range of social service functions for the juvenile, either directly or through referrals to other agencies.

Chapter Four examines the presentment agency screening process. The term "presentment agency" refers to a county attorney, corporation counsel or district attorney. The presentment agency has two major responsibilities during screening. First, it makes a determination whether to decline to prosecute or to bring cases to court. Second, for cases that go to court, the presentment agency determines the allegations that will be charged against the juvenile. The presentment agency will also represent the allegations against the juvenile in court.

The JD court process is conducted in two phases and is examined in Chapters Five and Six. During the first phase, fact-finding, the court determines whether charges are established. During the second phase, post-fact-finding, the court determines whether the adjudicated juveniles are in need of supervision, treatment or confinement. If so, JD findings are entered against these juveniles, and their cases result in one of several dispositions, which may include confinement to a State facility. If JD findings are not made, cases are dismissed.

The report shows that despite the many processing stages through which cases may progress, in practice, few cases result in JD findings. This is because decision makers may terminate cases at every point of the process. Many of the decisions to close or send forward are discretionary, with no laws or regulations to guide these decisions. For these reasons, this study emphasizes decisions affecting the completion of cases.

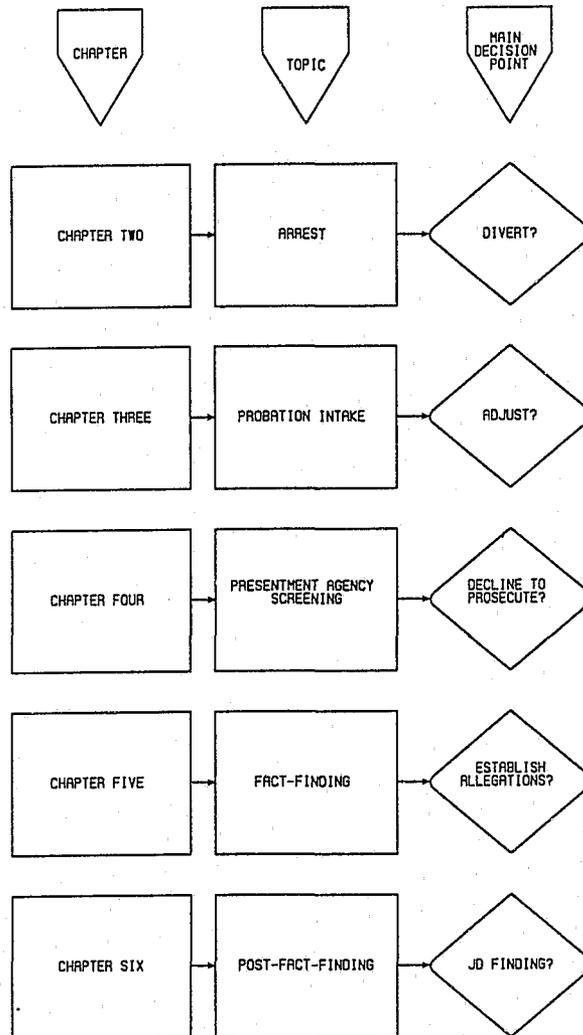


Figure 1.1

Research Methods¹⁰

JD cases referred by the police for further processing were tracked, when possible, from probation intake to disposition. Probation intake was selected as the starting point for the statistical cohort because it was the first stage in the juvenile justice process where record keeping was centralized within each study site. The lack of centralized record keeping for the numerous police agencies operating within most of the study sites and the widely different forms of records kept across agencies made the collection of case-level data from the police not feasible. Aggregate arrest data is, however, presented in Chapter Two.

Site Selection

The five New York City boroughs (Bronx, Kings, New York, Queens and Richmond) and the counties of Nassau, Erie, Monroe, Albany, Dutchess and Clinton were the sites selected for this study. The inclusion of New York City in the study was imperative, since three-fifths of the JD arrests reported statewide in 1987 occurred in New York City. The sites outside New York City were selected to represent a demographic and socioeconomic cross-section of non-New York City counties. Selection criteria for the non-New York City study sites included population size and density, racial/ethnic composition, per capita income, high school dropout rates and geographic location. The sites chosen for this study represent a range of geographically and demographically diverse jurisdictions (Table 1.1 and Figure 1.2) and represent a cross-section of the counties in New York State with populations over 75,000.

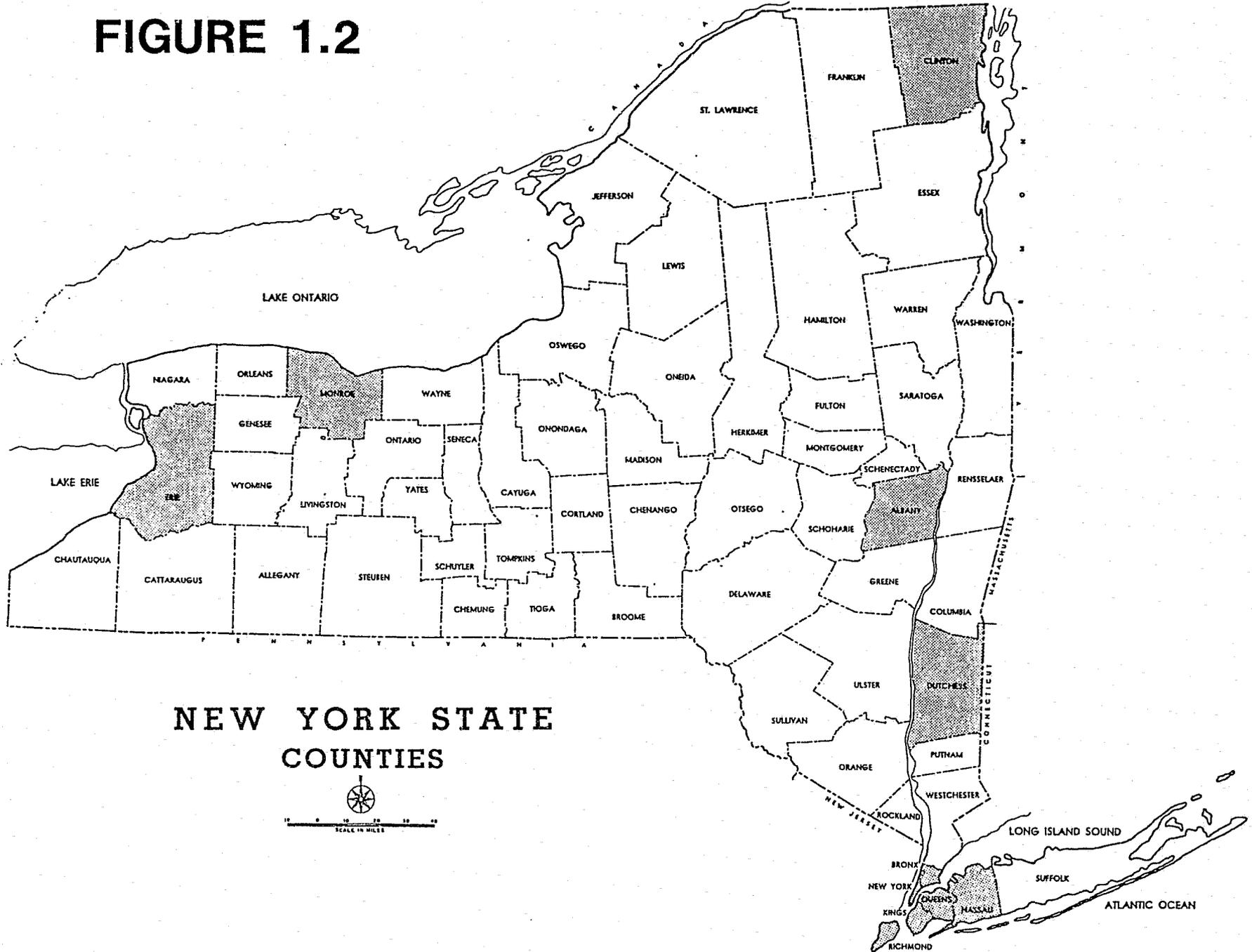
Table 1.1. Juvenile Justice Processing Study Sites

Site	1985 Population	1980 Population Per Sq. Mile	1980 Non-White Pop. (%)	1985 ^a High School Drop Out (%)	1984 Per Capita Income
Albany County	285,909	546	8%	4%	\$14,360
Clinton County	81,571	77	5	5	9,381
Dutchess County	245,055	304	10	4	14,040
Erie County	971,386	970	12	3	12,626
Monroe County	704,876	1,059	13	4	14,759
Nassau County	1,321,582	4,605	9	2	20,101
New York City					
Bronx County	1,184,154	27,832	53	12	10,577
Kings County	2,283,395	31,871	44	9	11,585
New York County	1,428,285	64,922	41	15	20,424
Queens County	1,933,044	17,512	29	7	14,827
Richmond County	373,871	5,968	11	6	14,894

^a Resident's aged 25 and older.

Source: DCJS County Profiles.

FIGURE 1.2



**NEW YORK STATE
COUNTIES**



Cohort Sample

While the police referred most JD cases to probation intake, a small percentage of cases were referred directly to the presentment agency or family court (i.e., intake bypass cases). A cohort of intake and intake bypass cases opened during 1987 was selected because a substantial number of subsequent cases were still open when data collection was undertaken for this study. The study cohort comprises a census of New York City, Nassau County, Albany County, Dutchess County and Clinton County cases and a random sample of Erie County and Monroe County cases (80 percent and 85 percent, respectively).

It must be noted that although there has been a substantial increase (44 percent) in New York City probation intake cases from 1987 to 1989, preliminary analysis showed that the percentage of cases at each processing stage did not alter dramatically. Thus, an examination of 1987 data is generally representative of case processing in 1989.¹¹

Data Analysis

Analyses presented throughout this report are limited to the examination of proportional distributions and bivariate relationships. The unit of count throughout this report is case-based – not juvenile-based – therefore, demographic analyses include multiple counts of juveniles referred by police more than once during 1987. The statistical measures used to analyze these data include percentages, measures of central tendency and Kendall's rank correlation coefficients (i.e., tau values). Interpretations of the data are based on percentage distribution patterns and these statistical tests. It is important to note, however, that all samples are subject to sampling error. The sampling error varies with the size of the sample from which inferences are made. The error range decreases as the sample size increases. As a result, small percentage differences (e.g., 3 percent) are statistically significant ($p < .05$) in large samples while comparable percentage differences in smaller samples are not. Because the number of cases included in the analyses conducted at each processing stage decreased with each successive stage, this problem is most apparent, for example, in the post-fact-finding analyses where sample sizes at disposition in some study sites were very small. Although percentage differences in the disposition sample suggested relationships, sample sizes were often too small to draw statistically reliable conclusions about these relationships. In Dutchess County, for example, where 83 cases reached disposition, 45 percent of the cases involving males with JD findings resulted in placement but only 33 percent of those involving females. While the difference between these percentages is substantial, the difference was not statistically significant. In order to

control, to some degree, for the sensitivity of statistical measures to sample size when examining bivariate relationships, only relationships in which tau values were statistically significant and equaled or exceeded $\pm .10$ were considered substantively meaningful and highlighted in the text.¹²

It is also important to note that causal inferences cannot be drawn from bivariate relationships that are found to be statistically significant. For example, a statistically significant relationship between intake outcome and race/ethnicity does not necessarily mean that decisions to adjust or refer cases were influenced by the race/ethnicity of children. If other factors excluded from this bivariate analysis such as seriousness of the current offense or prior JD record were also examined in conjunction with race/ethnicity in a multivariate analyses, the relationship of race/ethnicity to intake outcome might prove to be spurious. Multivariate analyses, which examine the strength and importance of relationships among three or more variables, were not within the scope of this descriptive study.

Practitioner Interviews

Project staff interviewed scores of practitioners for this study. In general, supervising judges, probation directors, and presentment agency and law guardian association supervisors, were interviewed at each study site. In New York City, the primary focus for the interviews was in Queens and New York counties. Also, police agency representatives from most of the major police agencies were interviewed, as were local detention and placement personnel.

Notes

1. For other juvenile justice studies, see *Family Court . . . The System That Fails All* (New York Senate Research Service, 1977) for the last multi-county (Albany, Dutchess, Erie, Fulton, Nassau, Onondaga, Schenectady and Tompkins counties) study of New York State juvenile justice processing. Also, see Weisbrod et. al., *Family Court Disposition Study*, Vera Institute, 1981, for a notable research study on the New York City juvenile justice process. Also, see Prescott, *The Child Savers*, Touchstone, 1981 and Kramer, *At a Tender Age*, Holt, 1988 for descriptive examinations of the New York City juvenile justice system. Volume II of the Juvenile Justice Processing Study presents a discussion concerning researcher access to juvenile delinquency proceedings and records.
2. See Chapter Two for a description of PINS cases. See Family Court Act for a description of other types of Family Court matters.
3. See, for instance, David Sandberg, *The Child Abuse-Delinquency Connection*, Lexington Books, Lexington, Massachusetts, 1989.
4. Information in this section comes from Merril Sobie, *The Creation of Juvenile Justice: A History of New York's Children's Laws*, New York State Bar Association, 1987; Edmund F. McGarrell, *Juvenile Correctional Reform: Two Decades of Policy and Procedural Change*, State University of New York Press, 1988; and Alfred J. Kahn, *A Court for Children: A Study of the New York City Children's Court*, Columbia University Press, 1953.
5. *In Re Gault*, 387 U.S. 1, 25 (1967).
6. See Article 7 of the Family Court Act, enacted in 1982.
7. For example, see FCA 308.1 which outlines the probation intake function.
8. *People v. Lewis*, 260 N.Y. 171 (1932).
9. See, for instance, the practice commentary to FCA 308.1 outlining the responsibilities of probation intake (Sobie, 1983:320).
10. See Appendix 1 for a detailed description of methods.
11. New York City Juvenile Justice Information Services (JJIS) data show that in New York City, the probation intake adjustment percentage was 10 percent in 1987 and 4 percent in 1989. The presentment agency declination percentage was 35 percent in 1987 and 40 percent in 1989. The percentage of cases where

allegations were established was 59 percent in 1987 and 52 percent in 1989.

12. It could be argued that it is inappropriate to use tests of statistical significance on data from study sites where the site cohort is the full population of 1987 cases. This would be true if the only objective of the study was to describe that population. Statistical tests are applied to population parameters in this study to distinguish differences that could have arisen by chance from differences that were unlikely to have arisen by chance. See Blalock, 1979 pp. 241-243 for a discussion of treating population parameters as if they were sample statistics.

The Arrest

Introduction

This chapter deals with issues relating to the police arrest of alleged Juvenile Delinquents and Juvenile Offenders. Juvenile Delinquency (JD) cases involve children seven through 15 years of age at the time of the alleged act, who are processed in the juvenile justice system (Family Court Act [FCA] §301.2[1]). Juvenile Offender (JO) cases involve children 13 through 15 years of age at the time of the alleged act who, after committing a specified serious offense, are processed in the adult system (Criminal Procedure Law [CPL] §1.20[42]).

This chapter will follow the processing of all JO and JD cases until a determination is made whether cases are to be processed by the juvenile justice system or by the adult justice system. From this decision point the chapter (and the remainder of this report) will follow only those cases referred for processing in the juvenile justice system (i.e., probation intake through family court processing). Data will be presented giving an overview of juvenile arrests. Police case processing will also be discussed, in particular, the police decision to refer cases for further processing.

Overview of Police Role with Juveniles

The goals of police intervention with juveniles are broad and involve law enforcement, delinquency prevention, and social service intervention. This wide range of concerns, including care and protection, has also led to the police having discretion over a broad array of non-criminal behaviors by juveniles including truancy, drunkenness, and running away. In addition, many of the officers specializing in working with juveniles also work with children who are themselves victims. This dual focus, on alleged criminal and non-criminal behavior by children, is crucial to understanding police practices in New York State.

Although the scope of police work with juveniles is very different than with adults, the police authority to arrest and process a juvenile is virtually the same as it is for adults, following provisions of New York State laws. Notable exceptions include: the police must make a serious attempt to notify a parent or guardian as soon as possible

after arresting a juvenile; and juveniles should be questioned in areas designated specifically for that purpose or in their homes "upon the consent of a parent."

Besides the statutory differences between adult and juvenile treatment by the police, the police have wide discretion to dispose of juvenile cases, before or after arrest, without referring them for further processing.

Definitions

In addition to differences between the processing of adults and juveniles, the terms used for the processing of juveniles are not fully analogous to those used with adults. It is necessary, therefore, to introduce operational definitions of key terms before we proceed.

The Family Court Act does not specifically define juvenile arrest although police authority to take an alleged JD into custody is stipulated in FCA §305.2. However, the term arrest is widely used in literature on juvenile justice and is included here. FCA §305.2, amended in 1987, stipulates the police responsibility when questioning an alleged JD. While there is no similar provision in the CPL, police personnel have stated that the procedures for the arrest processing of JOs follows FCA §305.2.

A person is arrested whenever that person is in police custody – whether "seized" at the crime or "seized" elsewhere and taken to the station. A person is in police custody when a reasonable person, innocent of any crime, would believe he or she is no longer free to leave.¹ However, a person can be in the presence of police, even answering questions on the street while being briefly detained or be detained at the station voluntarily, and not be arrested or in custody. Momentary street detentions do not involve the same liberty restriction as custodial detention, which most closely approximates the traditional notion of arrest.²

Offense means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this State or its political subdivisions (Penal Law (PL) §10.00[1]). **Violation** means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment in excess of fifteen days cannot be imposed (PL §10.00[2]).

Crime³ is a subcategory of offense. **Crime** means a misdemeanor or a felony (CPL §10.00[6]). A **misdemeanor** means an offense other than a traffic infraction for which a sentence in excess of fifteen days may be imposed, but for which a sentence to a term of imprisonment in excess of one year cannot be imposed (PL §10.00[4]). **Felony** means an offense for which a sentence to a term of imprisonment in excess of one year may be imposed (PL §10.00[5]). **Designated felony** acts are certain specified serious crimes under the jurisdiction of the juvenile justice system (FCA §301.2[8]).

In addition to violations, non-criminal cases also include Persons in Need of Supervision (PINS). Courts limit the definition of a PINS as a child less than sixteen years of age who does not attend school

regularly or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of his or her parent or other lawful authority or who violates the provisions of Penal Law §221.05 (i.e., possession of marijuana).⁴

Criminal cases may be referred to either the juvenile intake unit of the local probation department (for JD cases) or to the district attorney for arraignment in the adult criminal court (for JO cases). The term **diversion** is used here to denote those arrested criminal cases not referred to either probation intake or the district attorney for processing in the criminal court. This is done in order to limit a child's contact with the juvenile justice system. In addition, there are an unknown number of informal diversions which denote a juvenile's police contacts regarding incidents but which do not culminate in an arrest.

Since neither the family court nor the criminal court has jurisdiction over a juvenile accused of a violation offense, the term **referable** is used to denote only those cases that might be sent for further system action.⁵

Overview of Arrest Processing

The remainder of this chapter focuses on police contacts with juveniles that could be referred for further case processing (i.e., as a JD or JO). The key elements of the processing of this population, shown in Figure 2.1, are discussed in this section.

The role of the police begins with the suspicion that a child committed a criminal offense. This comes to the attention of the police through their own investigation or observation or through a complaint by a member of the public. Once the police have reasonable cause to believe that a youth committed an alleged crime, and an arrest is made, they then decide if the case is suitable for diversion or referral for further system processing.

Most police personnel interviewed in the study sites stressed that they proceed with the investigation of a juvenile case as if making a referral, even if the case is certain for diversion. This means that they attempt to follow the relevant section of the Family Court Act or Criminal Procedure Law dealing with the powers of the police to take a juvenile into custody; to question a juvenile; and, if appropriate, arrest, detain, or release the juvenile. FCA §305.2 requires that the parent or guardian be notified before the child is questioned. While there is no *per se* statutory rule

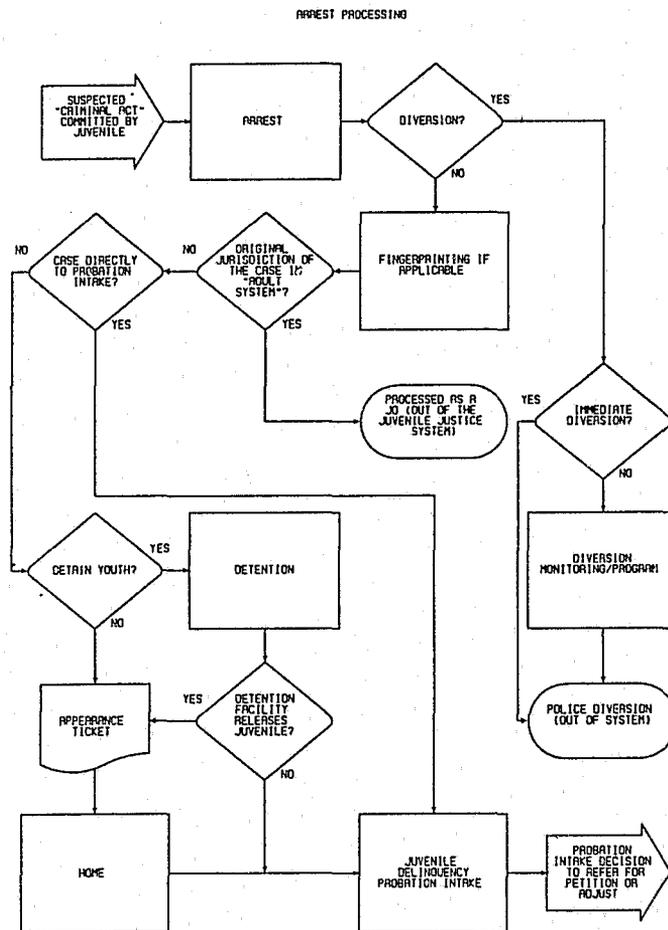


Figure 2.1

requiring the presence of the child's parents prior to police questioning, as a general rule, the presence or absence of a parent at the time of questioning is a factor which the court must consider in determining whether a child's statement is admissible.⁶ According to the police officers interviewed, children are often questioned with the parents or guardians present.

The procedures the police follow in dealing with juveniles were substantially the same in all study sites. The police attempt to secure a statement from the child with his parents present at the interview. The juvenile is read the Miranda warning and informed of his rights. The child signs and initials each line of any statement that is taken and the parent co-signs. In a case which will be referred for further processing, the child will be detained at a juvenile detention facility, sent home with his parent or guardian, or taken directly to court if it is open. Police practices for diverted cases are more varied. Some departments hold the case open for a certain amount of time and only dispose of the case if the child is behaving well, while other departments dispose of the case immediately.

If the case is not diverted, depending on the child's age at the time of the alleged act and the seriousness of the alleged offense, the case must either be sent to the adult criminal court system or referred to the intake unit of the local probation department. Probation intake then determines whether the case should be forwarded for additional processing (see Chapter Three). Cases sent to the adult system may later be sent back (removed) from criminal court to the juvenile justice system (see Chapter Five).

Juvenile Arrest Statistics

There is no way to measure accurately the proportion of crime for which juveniles are actually responsible. Many crimes are never reported to law enforcement agencies, and those crime events that are reported often do not result in arrests. Arrest data do provide some measure of the volume and distribution of alleged criminal activity across offenses, age groups and gender for juveniles who come into contact with the police. However, because reporting practices vary across law enforcement agencies, arrests for violations and non-referred felony and misdemeanor arrests may not be reported to the State Uniform Crime Reporting (UCR) Program (see below). For instance, some police agencies report as arrests to UCR only those cases that are referred for further processing, while other study sites appear to report referred cases, diverted cases, and violations. This means that for certain jurisdictions there may be substantial undercounting of arrests. Caution should be exercised when interpreting the total number of arrests for State and regional analysis. These data are, however, reliable indicators of trends in arrest activity.

The UCR Program remains the sole source for comprehensive arrest statistics. Arrests are reported to this program on a monthly basis by all law enforcement agencies in the State. The Division of Criminal Justice Services, which manages the State's UCR Program, in turn, reports these arrest statistics to the Federal Bureau of Investigation which manages the national UCR Program.

Because of existing reporting practices, UCR data include all arrests (i.e., JD, JO, and violations). It should be noted that a juvenile can only be "arrested" for a misdemeanor or felony offense.⁷ However, for statistical purposes we will describe the police action, leading to the recording of a UCR violation offense, as an arrest.

Offense classifications used by the UCR Program were initially developed in 1929 (Department of Justice, 1988:1). Unfortunately, UCR offense classifications were not designed to measure the seriousness of reported offenses (i.e., felony, misdemeanor, or violation offenses). The ability to examine the seriousness of these arrest offenses is thus restricted. Nevertheless, inferences can be drawn by examinations of certain UCR offense classifications.

In this section, statistics will be presented to show the volume of juvenile arrests, juvenile arrest rates and the characteristics of arrested juveniles.⁸ Trends for arrests and arrest rates are presented for 1983 (the inception of Article 3 of the Family Court Act) through 1989. The presentation of statistics related to the characteristics of arrested juveniles is limited to 1987. Although the primary focus of this report is the examination of juvenile delinquency processing during 1987, it was important to show the substantial increases in the number of drug and violent offenses during 1988 and 1989. The change in arrests for these offenses seems to be the driving force behind the dramatic increase in referrals to post-arrest processing (see below).

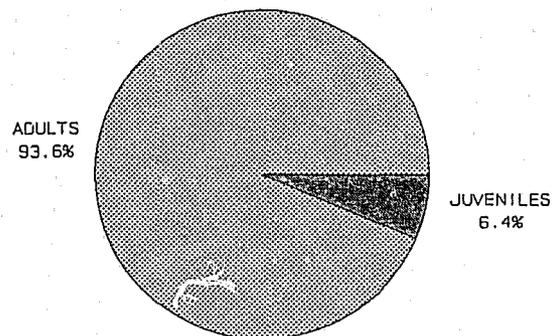
Profile of Juvenile Arrest Offenses

Juveniles aged seven to 15 accounted for a relatively small proportion of arrests.

In New York State juveniles accounted for 6.4 percent of the arrests statewide in 1987 (Figure 2.2).

Nationwide, juveniles seven to 15 years of age accounted for a larger proportion of arrests - 8.2 percent during 1987 (Department of Justice, 1988:174).

ARRESTS 1987



SOURCE: DCJS UCR

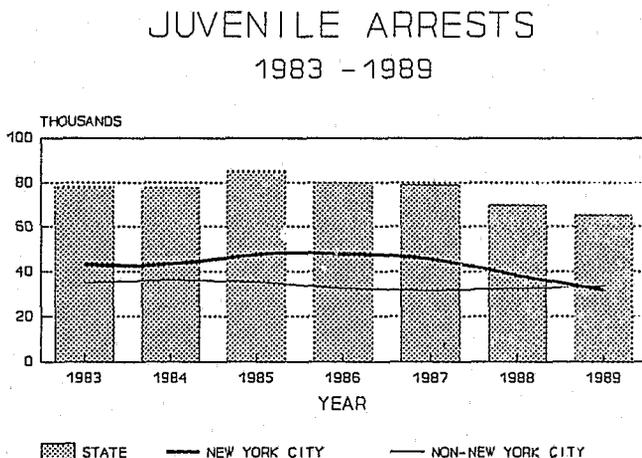
Figure 2.2

Trends in the volume of juvenile arrests statewide from 1983 to 1989 were driven by changes in New York City arrests (Figure 2.3).

Statewide, juvenile arrests were relatively stable from 1983 through 1987, but dropped 34 percent during 1988 and 1989. This decrease can be attributed to a decline in New York City arrests for property offenses involving fraud; a change in enforcement policies for fraud offenses shifted some police resources away from monitoring transit theft (e.g., turnstile jumping).

The number of juvenile arrests outside New York City remained relatively stable from 1983 through 1989.

Over one-half of the juvenile arrests from 1983 through 1988 occurred in New York City. In 1989, however, New York City reported fewer arrests than the rest of the State (31,940 versus 33,334).



SOURCE: DCJS UCR (INCLUDES VIOLATIONS. VIOLATIONS CANNOT BE PROCESSED IN FAMILY COURT.)

Figure 2.3

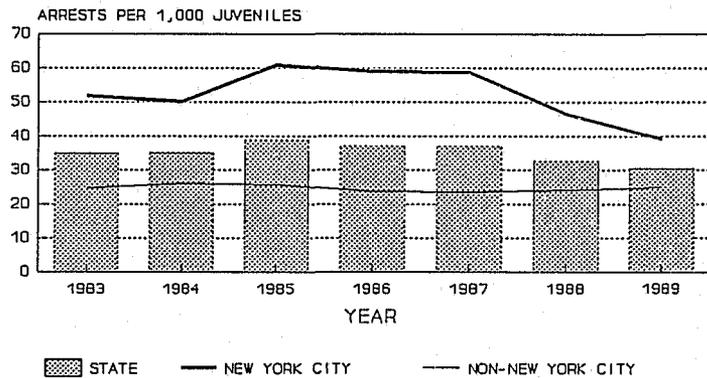
Statewide trends from 1983 to 1989 for juvenile arrest rates (per 1,000 of the seven to 15 year old population) can be attributed to fluctuations in New York City arrests (Figure 2.4).

New York City had the highest juvenile arrest rates from 1983 through 1989.

Fluctuations in the State's juvenile arrest rates from 1983 to 1989 were mirrored by similar changes in New York City rates. The juvenile arrest rates for the rest of the State were relatively stable throughout this period.

In 1989 the arrest rate for New York City was 39.3 per 1,000 juveniles, while the arrest rate for the rest of the State (24.9) was roughly two-thirds that of New York City.

JUVENILE ARREST RATES 1983 - 1989



SOURCE: DCJS UCR (INCLUDES VIOLATIONS. VIOLATIONS CANNOT BE PROCESSED IN FAMILY COURT.), NPA

Figure 2.4

Juvenile arrests for violent and drug offenses increased substantially in New York State during 1988 and 1989 (Table 2.1 and Figure 2.5).

Arrests for violent offenses increased 39 percent, rising from 9,666 in 1987 to 13,419 in 1989. Drug offenses rose 44 percent during 1988 and 2 percent during 1989. See Appendix 2.2 for offenses included in each offense type.

Increases in arrests for violent and drug offenses during 1988 and 1989 were generally greater in New York City than the rest of the State (Table 2.1 and Figure 2.5).

During 1988 and 1989, New York City arrests for violent offenses rose 46 percent; a 25 percent increase was reported in the rest of the State.

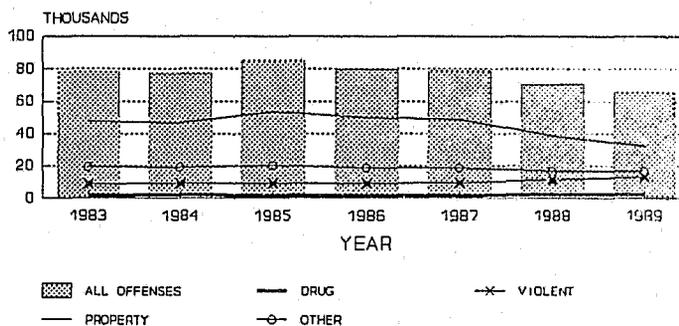
Drug arrests climbed 52 percent in New York City during 1988 and 29 percent outside New York City. Drug arrests stabilized in New York City during 1989, decreasing less than 1 percent, while the rest of the State reported an 11 percent increase in drug arrests.

The number of juvenile arrests for murder in New York City rose 129 percent from 24 in 1987 to 55 in 1988 and stabilized in 1989 with 56 murders (Appendix 2.2). For the rest of the State, there were nine arrests for murder in 1987 and in 1988, and six in 1989.

Juvenile arrests for property offenses accounted for well over one-half of all juvenile arrests in New York State from 1983 through 1989 (Table 2.1 and Figure 2.5).

Juvenile arrests for property offenses decreased dramatically during 1988 and 1989. However, the 34 percent decline statewide during this two-year period can be attributed to a substantial reduction in

**JUVENILE ARRESTS
OFFENSE TYPES
1983 - 1989**



SOURCE: DCJS UCR (INCLUDES VIOLATIONS. VIOLATIONS CANNOT BE PROCESSED IN FAMILY COURT.)

Figure 2.5

Table 2.1. Juvenile Arrests^a and Arrest Rates^b by Region and UCR Offense Type^c for 1983-1989

	1983		1984		1985		1986		1987		1988		1989	
	Arrests Per 1,000	No. of Arrests												
New York State														
Violent	4.1	9,314	4.2	9,401	4.3	9,429	4.3	9,219	4.5	9,666	5.4	11,544	6.1	13,419
Property	21.1	47,533	21.1	46,671	24.3	53,398	23.1	50,100	22.7	48,820	18.1	38,892	15.0	32,348
Drugs	0.8	1,828	0.9	2,051	0.9	1,963	0.7	1,618	0.8	1,817	1.2	2,651	1.3	2,712
Other	8.7	19,531	8.8	19,464	9.3	20,424	8.7	18,901	8.8	18,836	7.9	16,956	7.8	16,795
Total	34.8	78,206	35.1	77,587	38.8	85,214	36.9	79,838	36.9	79,139	32.6	70,043	30.3	65,274
New York City														
Violent	7.4	6,120	7.3	5,984	7.0	5,738	7.1	5,690	7.8	6,322	9.7	7,828	11.4	9,245
Property	32.3	26,854	30.5	25,064	40.3	32,963	38.9	31,349	37.2	30,072	24.4	19,803	15.9	12,947
Drugs	1.2	1,009	1.5	1,196	1.6	1,283	1.3	1,056	1.6	1,329	2.5	2,024	2.5	2,016
Other	11.0	9,126	11.0	9,058	12.0	9,854	11.7	9,416	12.1	9,757	10.0	8,072	9.5	7,732
Total	51.9	43,109	50.2	41,302	60.9	49,838	59.0	47,511	58.8	47,480	46.6	37,727	39.3	31,940
Rest of State														
Violent	2.3	3,194	2.5	3,417	2.7	3,691	2.6	3,529	2.5	3,344	2.8	3,716	3.1	4,174
Property	14.6	20,679	15.5	21,607	14.8	20,435	13.8	18,751	14.0	18,748	14.3	19,089	14.5	19,401
Drugs	0.6	819	0.6	855	0.5	680	0.4	562	0.4	488	0.5	627	0.5	696
Other	7.3	10,405	7.5	10,406	7.7	10,570	7.0	9,485	6.8	9,079	6.6	8,884	6.8	9,063
Total	24.7	35,097	26.1	36,285	25.7	35,376	23.8	32,327	23.6	31,659	24.1	32,316	24.9	33,334

^a UCR arrest data include violation offenses. The family court, however, has no jurisdiction over violation offenses.

^b See Appendix 2.1 for juvenile population data.

^c See Appendix 2.2 for offenses included in each offense type.

Source: NYS Division of Criminal Justice Services, Uniform Crime Reporting (UCR) System and the National Planning Association, Inc.

New York City juvenile arrests for fraud offenses which dropped from 22,047 in 1987 to 3,759 in 1989 – an 83 percent decrease (Appendix 2.2). New York City officials explained that this resulted from a shift in some police resources away from the monitoring of potential transit theft incidents (e.g., turnstile jumping).

The percentage of arrests accounted for by juveniles during 1987 varied widely across offenses and offense types (Table 2.2).

Juveniles accounted for 21 percent of the arrests for property offenses, 8 percent of the violent offense arrests and 2 percent of the drug arrests in 1987.

In 1987, juveniles represented a relatively large proportion of those arrested for offenses such as fraud (41.2 percent), arson (27.7 percent) and unauthorized use of a motor vehicle (24.9 percent).

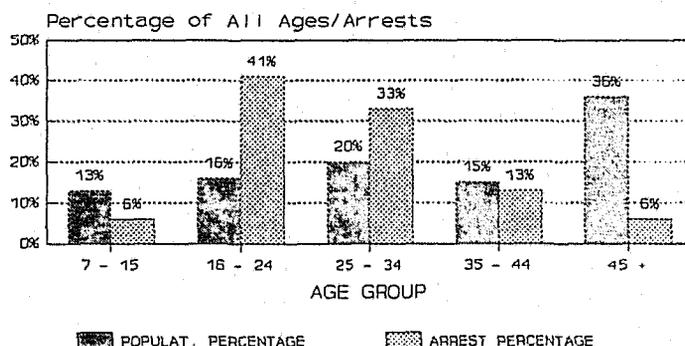
Juveniles represented a small proportion of those arrested for offenses such as disorderly conduct (3.9 percent), possession of burglary tools (3.2 percent) and drug sale (2.2 percent).

Characteristics of Arrested Juveniles⁹

Juveniles aged seven to 15 were underrepresented by age among those arrested.

While juveniles aged seven to 15 represented 13 percent of the State's "arrestable" population (i.e., those aged seven and older), they accounted for only 6 percent of those arrested statewide during 1987 (Figure 2.6).

NEW YORK STATE POPULATION DISTRIBUTION
AGE AND ARREST PERCENTAGES
1987



SOURCE: DCJS UCR (INCLUDES VIOLATIONS. VIOLATIONS CANNOT BE PROCESSED IN FAMILY COURT.)

Figure 2.6

Table 2.2. Percentage of Arrests for UCR Offenses and Offense Types Accounted for by Juveniles in 1987

UCR Offense	1987	UCR Offense Types	1987
Fraud	41.2%	Property	21%
Arson	27.7	Violent	8
Criminal Mischief	25.5	Drug	2
Unauthorized Use of Motor Vehicle	24.9	Other	3
Burglary	15.1		
Larceny	13.5	All UCR Offenses	6
Sex Offenses (except Forcible Rape)	12.6		
Offenses against Public Order	11.8		
Robbery	10.7		
Motor Vehicle Theft	10.3		
Loitering	10.1		
Public Intoxication	9.8		
Extortion	9.8		
Simple Assault	8.8		
Stolen Property	7.9		
Dangerous Weapons	7.6		
Forcible Rape	7.2		
Other F/P Offenses	6.5		
Coercion	6.4		
Aggravated Assault	5.8		
Offenses against Family	4.8		
Disorderly Conduct	3.9		
Possession of Burglars' Tools	3.2		
Non-negligent Manslaughter	2.3		
Drug Sale	2.2		
Embezzlement	2.2		
Murder	2.1		
Kidnapping	2.0		
Other	1.9		
Liquor Law	1.5		
Forgery	1.6		
Drug Possession	1.2		
Negligent Manslaughter	1.0		
Bribery	0.2		
Gambling	0.2		
Prostitution	0.1		
DWI	0.0		
All UCR Offenses	6.4%		

Note: See Appendix 2.2 for the actual number of juveniles arrested for these UCR offenses and the offenses included under each offense type.

Note: UCR arrest data include violation offenses. The family court, however, has no jurisdiction over violation offenses.

Source: DCJS UCR.

The likelihood of juveniles being arrested increased with age.

In 1987, juveniles seven to nine years of age represented 33 percent of the seven to 15 year old population, but only 5 percent of those arrested in this age group during 1987 (Table 2.3). Conversely, juveniles 15 years of age represented only 12 percent of the seven to 15 year old population, but 37 percent of those arrested in this age group.

Juveniles 14 to 15 years of age accounted for over three-fifths (63 percent) of juvenile arrests (Table 2.3). One-third (32 percent) of the juveniles arrested were 10 to 13 years of age and 5 percent were seven to nine years of age.

The likelihood of juveniles being arrested increased with age across all types of offenses (Table 2.3). The contrast in proportions was most striking for drug arrests. Juveniles 13 years of age or younger were much less likely to be arrested for this type of offense than those 14 or 15 years of age. Moreover, the proportion of 15 year olds (59 percent) was double that of 14 year olds (28 percent).

Juveniles arrested in New York City were, on the average, slightly older than juveniles arrested across the rest of the State.

Table 2.3. Demographic Characteristics of Arrested Juveniles by Region, 1987

		NEW YORK STATE				
		UCR OFFENSE CATEGORIES				
	NYS Population Aged 7-15 1987 %	Total %	Violent Offenses %	Property Offenses %	Drug Offenses %	Other Offenses %
Sex						
Male	51	81	84	80	90	81
Female	49	19	16	20	10	19
Age						
7-9	33	5	4	5	1	7
10-12	34	16	16	17	4	16
13	11	16	17	16	8	16
14	11	26	26	26	28	25
15	12	37	37	36	59	36
	(N=2,146,832)	(N=79,139)	(N=9,666)	(N=48,820)	(N=1,817)	(N=18,836)

(continued on opposite page)

Table 2.3. Demographic Characteristics of Arrested Juveniles by Region, 1987 (continued)

NEW YORK CITY

UCR OFFENSE CATEGORIES

	NYS Population Aged 7-15 1987 %	UCR OFFENSE CATEGORIES				
		Total %	Violent Offenses %	Property Offenses %	Drug Offenses %	Other Offenses %
Sex						
Male	51	81	86	79	92	85
Female	50	19	14	21	8	15
Age						
7-9	33	3	3	3	1	4
10-12	33	14	15	14	3	13
13	11	16	17	16	8	16
14	11	28	27	28	28	27
15	12	40	38	39	60	40
	(N=855,282)	(N=47,480)	(N=6,322)	(N=30,072)	(N=1,329)	(N=9,757)

REST OF STATE

UCR OFFENSE CATEGORIES

	NYS Population Aged 7-15 1987 %	UCR OFFENSE CATEGORIES				
		Total %	Violent Offenses %	Property Offenses %	Drug Offenses %	Other Offenses %
Sex						
Male	51	81	81	82	86	77
Female	49	19	19	18	14	23
Age						
7-9	32	8	7	8	2	10
10-12	35	20	19	21	6	19
13	11	17	16	17	8	16
14	11	24	25	24	27	24
15	11	32	33	31	57	31
	(N=1,291,550)	(N=31,659)	(N=3,344)	(N=18,748)	(N=488)	(N=9,079)

Source: DCJS UCR. UCR arrest data include violation offenses. The family court, however, has no jurisdiction over violation offenses.

Population Source: NPA Data Services, Inc.

Males were much more likely to be arrested than females.

While males represented 51 percent of the 1987 juvenile population, they accounted for 81 percent of arrested juveniles. Conversely, females represented 49 percent of the juvenile population but only 19 percent of arrested juveniles (Table 2.3).

Males were more likely to be arrested than females for all types of offenses, i.e., violent, property, drug and "other" offenses (Table 2.3).

The likelihood of being arrested increased with age for both males and females.

The proportions of males and females arrested within each age category remained relatively constant across age categories, indicating that males and females experienced similar proportional increases in the likelihood of arrest as age increased (Table 2.3).

Juvenile Diversion: Historical and National Overview

The concept of diversion has long been associated with the goal of rehabilitation. In 1967, the President's Commission on Law Enforcement and the Administration of Justice outlined many of the reasons for using pre-adjudicatory dispositions.

The primacy of the rehabilitative goal in dealing with juveniles, the limited effectiveness of the formal processes of the juvenile justice system, the labeling inherent in adjudicating children delinquent, the inability of the formal system to reach the influences – family, school, labor market, recreational opportunities – that shape the life of a youngster, the limited disposition options available to the juvenile judge, the limitations of personal and diagnostic treatment facilities, the lack of community support – all of these factors give pre-judicial dispositions an especially important role with respect to juveniles (President's Commission on Law Enforcement and the Administration of Justice, 1967:82).

Police diversion is thus considered a unique opportunity to intervene with certain juveniles who might face the counterproductive effects of formal court processing. The President's Commission concluded, that because so many criminal cases involving juveniles are of a relatively trivial nature, police should minimize court involvement.

Court referral by the police should be restricted to those cases involving serious criminal conduct or repeated misconduct of a more than trivial nature (President's Commission on Law Enforcement and the Administration of Justice, 1967:83).

In 1973, the National Advisory Commission on Criminal Justice Standards also advocated the use of diversion by the police in cases which by any standards would be considered too trivial for court intervention.

Every police agency, where permitted by law, immediately should divert from the criminal and juvenile justice system any individual who comes to the attention of the police, and for whom the purpose of the criminal or juvenile justice process would be inappropriate, or in whose case other resources would be more appropriate (National Advisory Commission on Criminal Justice, 1973:80).

In 1977, the Institute of Judicial Administration (IJA) and the American Bar Association (ABA) issued a series of standards related to alleged juvenile crime offenders. The IJA/ABA report suggested that police agencies should refer children to the court only if a serious criminal offense was allegedly committed, if there was a history of repeated criminal conduct, or if a less serious act was involved but no appropriate less-restrictive alternative was available, such as short-term mediation, crisis intervention, or voluntary referral to community agencies (IJA/ABA, 1977:72).

While there has been a tradition of police diversion, several arguments are made against its use. Diversions abridge rights and coerce treatment by offering the formal adjudicatory system as the only alternative. Treatment offered in diversion is often informal, therefore, ineffective services go undetected because of inadequate monitoring; given the discretionary nature of diversion, the system lacks accountability and creates the impression that the system trivializes the plight of the victim.

This last argument has led many states to evaluate local police diversion policies and practices. For example, a study of the Michigan police found,

The activities of the police are invisible in the sense that the average police officer is assigned to the field and spends his day largely outside the observation of his supervisors. He also conducts his activities without accountability to the public for many of the decisions he is routinely asked to make . . . the exercise of discretion is also personal to the officer making the decision. It is the personal nature of the

decision that alarms many police administrators and critics of the police (Shepard and Rothenberger, 1980:10).

The Michigan study reported that while 93 percent of the police agencies in the state practiced diversion, only 12 percent of those responding incorporated diversion into formal written policies (Shepard and Rothenberger, 1980:7). Given a general absence of rule-based diversion decision-making, many studies have explored the factors actually used by the police. Vito and Wilson (1985) summarized the findings of several studies and found that the key factors in the diversion decision were the child's character and demeanor. Secondary factors included the victim's attitude, the socioeconomic status of the alleged offender, the size of the alleged offending group, and the seriousness of the offense (Vito and Wilson, 1985:29-35).

The IJA/ABA standards, while supporting diversion, are also critical of discretionary decision-making and recommend that police agencies "formulate administrative policies structuring the discretion of and providing guidance to individual officers in the handling of juvenile problems" (IJA/ABA, 1977:72).

Juvenile Diversion: New York State Practices

In New York State, by contrast, there are no statutory provisions or State guidelines regulating police-juvenile diversion decision-making. Police officers interviewed outside New York City reported that they had no official criteria for this decision, but the comments of a police officer in Nassau County were typical of the elements considered important.

The criteria we use include: the seriousness of the case, his prior record, the kid's attitude, and the attitude of the complainant. In Nassau we have different levels or steps that will result in different actions. If it's a first time case we will try to work with the family and the kid to resolve the problem. If it's more serious, we will probably refer the case to court.

In New York City, by contrast, local regulations significantly circumscribe diversion discretion. The New York City Police Department (NYPD) precludes from diversion all alleged offenses involving felonies, unlawful assembly, jostling, prostitution or weapons. Referral to the Youth Aid Division happens only *after* a youngster has been diverted by the arresting officer and/or desk officer. These formal criteria determine decision-making because most officers making the diversion decision in New York City are not experienced in juvenile issues. In other police departments, juvenile officers are usually involved in the investigation and arrest of juveniles and make the decision to refer or divert.

Since only New York City has formalized criteria, the actual decision to divert or refer to court is usually made on a case-by-case basis. Significant exceptions in the study sites were the New York State Police and Poughkeepsie City Police, which do not divert any cases but refer all delinquency offenses to the local probation intake unit. In addition, New York City police allow diversion only on certain misdemeanor cases. Other police departments have other variations based on local regulation and customary practice. The net result is that there are considerable differences from location to location.

Current statewide reporting mechanisms make it impossible to report accurately the proportion of criminal arrests diverted from further legal processing. However, it is clear from discussions with practitioners and available local police data sources presented below, that an overwhelming majority of referable cases are not processed further than the police.

Diversion takes many forms, from no more than an oral warning to the child and a letter to the parent, to enrollment in a community-based program and regular meetings with a police juvenile officer. An officer in the Town of Poughkeepsie described diversion work in his area of Dutchess County,

The way we work with a child would be - in the case of a town student for whom it was an isolated incident - to work to improve school grades. We would contact the school, of course. Sometimes there would be no delinquency charge but a PINS [petition] related to truancy. We would then be in touch with the school, and with Mom, and expect the child to improve his/her behavioral problem.

The [possible] charge can be an important lever over the child's head, and we would work with the local Youth Services Unit to get the child short-term counseling, mental health referrals, and so on.

The Rochester Police Department in Monroe County and the Police Juvenile Aid Bureau in Nassau County have their own diversion programs aimed specifically at diverted delinquency cases. Many of their less serious apprehensions are for shoplifting; so, shoplifting seminars for first offenders are a major part of their work. For more serious offenses or for children who appear to the juvenile officers to be beginning a pattern of offenses, there are trips to local correctional institutions (in Monroe County, for instance, to Attica). In addition, virtually all police departments make referrals to local community-based service programs for those who need them, although many children receive no services at all. In New York City, for example, in 1987, over one-third of Juvenile Reports received no services.¹⁰ Often the police will mediate some form of restitution either as cash or community work, but most departments do not handle money transactions between parties.

The availability of programs varies widely from site to site and town to town. They typically include such services as counseling, drug treatment, and recreational programs. These programs are rarely targeted solely for at-risk JDs. Availability is more a function

of local community resources than the needs of the particular client group.

Juvenile and Case Characteristics for Diverted Cases

There is a lack of comprehensive State and local reporting on police diversions. Detailed diversion data for 1987 is only available for our studied sites from NYPD and the Rochester Police Department. See below for New York State and New York City aggregate referral data culled from JO arraignment and JD probation intake numbers.

Rochester Police Department Diversions

The Rochester Police Department runs a Family and Victims' Services Section that "combines diversion services to youth who have come into contact with the department, with services to youth who have been victims of crime" (Rochester Police Department, 1988:1). Combining services to victims and victimizers may seem odd from a law enforcement perspective, but the prime objective is the provision of needed services, regardless of how the cases come to the attention of the police.

In 1987, the Section made 1,767 arrests for juvenile cases that could go forward for additional processing. Table 2.4 summarizes the number of cases diverted from or referred to court by ethnicity, sex, and age. Sixty-three percent of the contacts were diverted, leaving only 37 percent referred to probation intake or to criminal court. A smaller percentage of blacks (60 percent) were diverted than any other ethnic group and a smaller percentage of females were diverted (57 percent) than males (64 percent). Finally, younger children were more likely to be diverted than older children - 89 percent of those ten years of age or younger were diverted, compared with 52 percent of those children 14 and 15 years old. Children 16 years of age are included because the alleged incidents occurred before their sixteenth birthday and the diversions occurred after.

The Rochester Police Department report does not give details on the type of offenses involved or the history of contacts; therefore, it is impossible from these data to account for the differences shown in Table 2.4. What is clear is that most children, except in the over-16 years of age sub-category, are diverted from further processing.

A six-month follow-up study of recidivism was done on all diverted cases (1,105) in 1987, with the results presented in the Rochester Police Department report. Seventy-five percent were found to have had no repeat contact with the Rochester Police Department. Some 25 percent of the diverted youngsters attended shoplifting seminars run by the Rochester Police Department. A six-month follow-up of the recidivism rate of this group showed that 84

Table 2.4. Rochester PD Arrests: Diversions versus Referrals, 1987

	Diversions	Referrals	
	%	%	(N)
Ethnicity			
Black	60	40	(1,159)
White	66	34	(440)
Hispanic	67	33	(151)
Asian	71	29	(17)
Sex			
Male	64	36	(1,318)
Female	57	43	(449)
Age			
10 and under	89	11	(209)
11-13	71	29	(634)
14-15	52	48	(832)
16	34	66	(92)
Total	63	37	(1,767)

Source: Rochester PD.

percent did not have a contact with the police following participation in the seminars. Although these recidivism rates are quite impressive, data are not available to compare them with juveniles referred for court action or with diverted juveniles not participating in special programs.

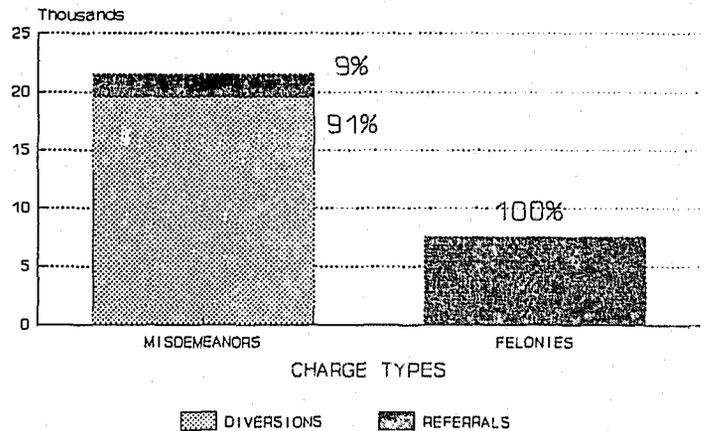
New York City Police Department Diversions

Figure 2.7 shows that of 28,996 New York City juvenile criminal arrests in 1987, the vast majority (91 percent) of misdemeanors were diverted. Overall, two-thirds of the arrests were diverted. No felony arrests were diverted. Each misdemeanor charge category is shown in Table 2.5. The category "other related to theft" (e.g., acts such as turnstile jumping) represented the majority of all misdemeanor arrests (62 percent). Virtually all these arrests were diverted. By contrast, "dangerous drugs" and "dangerous weapons" were together less than 4 percent of contacts, and yet, in both cases, over 68 percent were referred. This suggests that offense type was related to the likelihood of diversion.

Police Diversions of Juvenile Drug Arrests

It appears that the overwhelming majority of non-New York City juvenile drug arrests were diverted in 1987. There were 488 juvenile drug arrests reported in non-New York City counties in 1987 (see Table 2.1). However, as data in Chapter Three indicate, there were only 20 drug offense cases reported by probation intake in the study sites. Although the study cohort does not represent all non-New York City counties, it does represent several of the largest counties, including Monroe County and Erie County. It must be noted, however, that 71 percent of non-New York City drug offense arrests represented drug possession arrests and not drug sale arrests (Appendix 2.2).

NEW YORK CITY 1987 ARRESTS POLICE DECISION



SOURCE: NYPD

Figure 2.7

Table 2.5. New York City Juvenile Misdemeanor Arrests: Referrals versus Diversions, 1987

1987 MISDEMEANOR ARRESTS BY NYPD			
	Referrals %	Diversions %	Arrests (N)
NYC PD Categories			
Oth Relat to Theft	<1	100	12,185
Petit Larceny	12	88	2,600
Crim Misch/Rel Off	20	80	2,161
Crim Trespass	5	95	1,390
Assault 3 and Related	25	75	997
Dangerous Drugs	69	31	474
Offenses Ag Person	27	73	411
Unauth Use of Vehic	11	89	304
Poss of Stolen Prop	30	70	221
Dangerous Weapons	68	32	187
Sex Crimes	47	53	93
Offenses Ag Pub Admin	59	41	85
Oth State Laws (N/PL)	12	88	77
Loit for Drug Purp	8	92	66
Off Ag Pub Order	26	74	61
Pet Larc of Mot Vehic	33	67	46
N.Y.C. Health Code	0	100	28
Off Agnst Pub Safety	0	100	26
Administrative Code	4	96	23
Fraudulent Accosting	100	0	8
Prost and Rel Offense	100	0	7
Vehic and Traffic Law	0	100	6
Disord Conduct/Aggrav	0	100	4
Gambling	67	33	3
Offenses Invol Fraud	33	67	3
Vehic and Traf Law	100	0	3
Anticap Offenses	67	33	3
Alch Bev Control Law	0	100	3
Fortune Telling	0	100	2
Intox and Imp Drv	0	100	1
Burglars Tools	0	100	1
Total Misdemeanors	9	91	21,479

Source: NYPD Crime Analysis Unit.

Juvenile Referral Statistics

The following statistics are a composite of data from two sources. The JO figures were provided by the New York State Division of Criminal Justice Services' Computerized Criminal History (CCH) data base. The JD figures were provided by the New York State Division of Probation and Correctional Alternatives. The referral numbers presented below are the sum of figures provided by these systems.

After a substantial two-year decline statewide, juvenile referrals rose dramatically during 1988 and 1989 (Figure 2.8).

Statewide, referrals began a two-year decline in 1986; however, referrals statewide rose from 26,417 in 1987 to 30,529 in 1988 and to 32,701 in 1989 – an overall increase of 24 percent.

The 1988 and 1989 increase in New York City referrals was largely responsible for the increase in referrals statewide (Figure 2.8).

The increase in the number of referrals for New York City during 1988 and 1989 (4,322) was more than double that reported for the rest of the State (1,962).

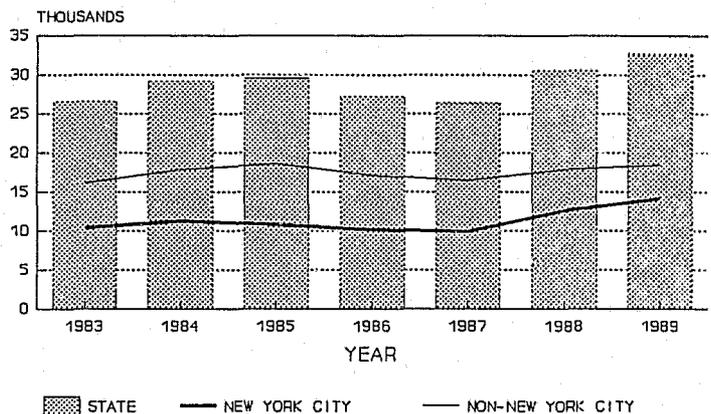
A decrease in juvenile arrests is not indicative of a decrease in referrals.

Although juvenile arrests in New York City declined 33 percent from 1987 to 1989, police referrals increased 44 percent (Figure 2.8). The growth in serious arrest offenses was largely responsible for the increase in New York City delinquency referrals.

Outside New York City, police referrals increased more rapidly than arrests during 1988 (8 percent versus 2 percent, respectively). During 1989, the growth in police referrals and arrests was the same (3 percent).

These statistics show that arrest numbers are misleading indicators for resources needed by probation intake units, presentment agencies and family courts to deal with increased case loads.

JUVENILE REFERRALS 1983 - 1989



SOURCE: DCJS CCH, DPCA

Figure 2.8

An increase in the seriousness of arrest offenses was largely responsible for the increase in New York City juvenile delinquency referrals.

Juvenile arrests for misdemeanors accounted for three-quarters of all juvenile arrests in New York City during 1987. A dramatic drop in New York City misdemeanor arrests (i.e., fraud offenses) masked the substantial percentage increase in the relatively small number of felony arrests during 1988 and 1989. The increased seriousness of New York City arrests became apparent with referral statistics because NYPD refers all juveniles arrested for felony offenses and diverts the overwhelming majority of those arrested for misdemeanors (Figure 2.7).

Unfortunately, no data were available to determine if an increase in felony arrests was also responsible for the increase in juvenile delinquency referrals across the rest of the State.

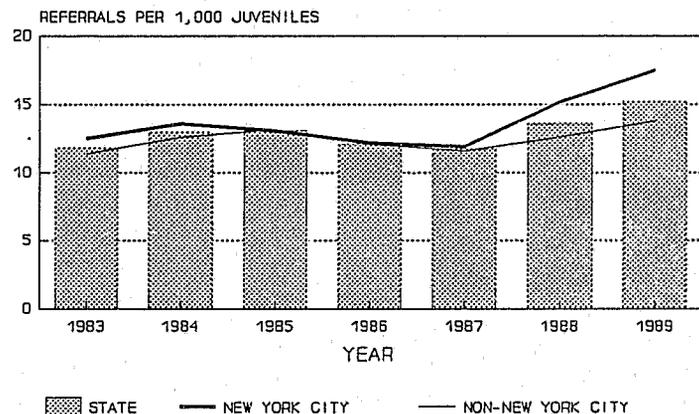
Increases in referral rates (per 1,000 population seven to 15) were found in both New York City and the rest of the State (Figure 2.9).

After a two-year statewide decline in referral rates that began in 1986, rates rose substantially in 1988 and 1989.

From 1985 through 1987, the referral rates for New York City (13.1, 12.2 and 11.9, respectively) and the rest of the State (13.2, 12.1 and 11.6, respectively) were very similar.

While referral rates for both New York City and the rest of the State rose in 1988 and 1989, the sharp increase in statewide referral rates was due largely to substantial increases in New York City referrals. New York City referral rates rose to 15.2 in 1988 and to 17.5 in 1989. Referral rates for the rest of the State rose to 12.6 in 1988 and to 13.8 in 1989.

JUVENILE REFERRAL RATES 1983 - 1989



SOURCE: CCJS CCH, DPCA, NPA

Figure 2.9

Other Police Practices After Arrest

For the minority of children not diverted, the police must make several determinations before referral for further processing. The police must determine if the juvenile can be photographed and fingerprinted; if the youth will be processed initially as a juvenile or an adult; and if the juvenile should be taken directly to court, transferred to a detention center, or released to appear at court later.

Fingerprinting of Juveniles

All alleged JDs and JOs must be fingerprinted by the police if they are 11 years of age or older and charged with an A or B felony or 13 years of age or older and charged with an A, B, or C felony (FCA §306.1). In addition, they may also be photographed. FCA §306.1 and §306.2 stipulate that fingerprints and photographs of alleged JDs must be kept "separate and apart from files of adults" and "shall be kept confidential." The Criminal Procedure Law does not make specific reference to the maintenance of JO fingerprints.

All fingerprints must be sent to the New York State Division of Criminal Justice Services (DCJS), the State's central repository of fingerprint information (CPL §160.20). Figure 2.10 shows the percentage, where available, of JD fingerprintable cases in each study site. Only New York City had a significant percentage of fingerprintable cases.

Most police personnel interviewed said that fingerprints are taken when required. However, Poughkeepsie City Police, at the time of the field interview, reported that they did not have fingerprinting equipment available for juveniles, but that they photographed, for identification purposes only, all children they contacted. Also, the New York City Juvenile Justice Information Services (JJIS) produced a list of 1987 JD cases that should have been in the DCJS fingerprint file. It was found that only 77 percent of the 639 juveniles involved, subsequently adjudicated with a fingerprintable finding, were actually fingerprinted by NYPD and had their fingerprints transmitted to DCJS in accordance with the law.¹¹

Several police officers mentioned that the limitations on who could be fingerprinted, as stipulated in the Family Court Act, made it difficult for them to identify juveniles. A police officer from Nassau County remarked on the difficulty of identifying juveniles and commented on the use of school yearbooks as an ad hoc solution.

JUVENILE DELINQUENCY REFERRALS
PERCENTAGE FINGERPRINTABLE
1987

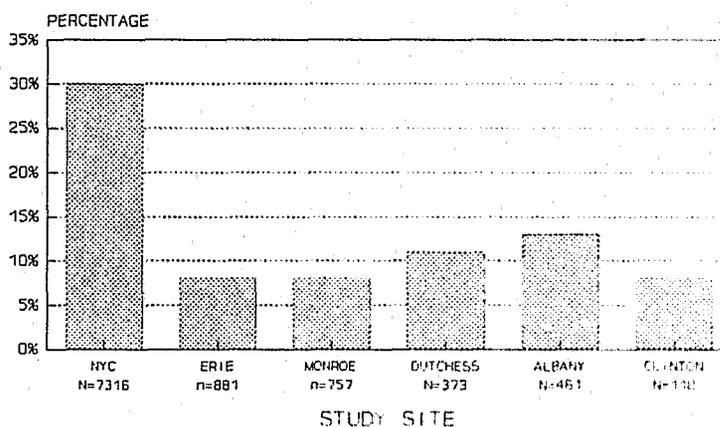


Figure 2.10

There is a major problem of identification of people from New York City. If they say they are fifteen and we can't disprove it, then we have to treat them as fifteen. This happens even when you know they are older. These people from New York know the system like they were lawyers. It happens with [petit larceny arrests at] all the shopping malls down here. If I can't identify them I say, "O.K., you are going to the [detention] shelter," and often they don't want to be locked up. If we could fingerprint them locally for identification purposes, we could do a quick local check. The state system is more of a problem because we have to wait to get them back [the fingerprints]. Then we have to get a judge to hold them until the prints come back. This is all time and expense, and very frustrating.

. . . To go back to identification issues; we only take fingerprints where it is allowed by law and we only take photographs where we are allowed to take photographs. What we do is end up relying on school yearbooks for identification and age determination purposes.

For a further discussion of fingerprinting, see Volume II.

Detention

Following an arrest, the police must decide whether the child should be taken directly to court, released or detained. Criminal Procedure Law Article 140 outlines the police responsibility after arresting a person without a warrant, including the arrest of an alleged JO. The alleged JO must be brought directly to court, unless the court is closed, in which case the juvenile is taken directly to the local detention facility. The child is then taken to arraignment when the criminal court opens.

The Family Court Act outlines police responsibilities in §305.2 (4)-(6) for alleged JDs. Section 320.5 (3) stipulates the reasons the judge may use when making the determination to detain an alleged JD: that there is a substantial probability that the juvenile will not appear in court on the return date or there is a serious risk that he may commit a crime before the return date. It should be noted, however, that the police make their decision before a court hearing and may take a variety of other factors into consideration.

If the family court is open, the alleged JD could be taken there directly for what is called a "walk-through," but this happens rarely (see below). Family Courts are not open weekends, evenings, and public holidays. A "walk-through" occurs when the police refer the case to the local probation intake unit immediately after arrest. The intake unit and the presentment agency may also agree to process a case through to an initial hearing on the same day. For example, a police juvenile officer in Dutchess County said,

Sometimes, because of the seriousness of the charge we ask for a walk-through, so that we can get the child into court and on to detention, but usually we would issue an appearance ticket for an appearance before Probation. I would do this if I felt the kid needed it.

The usual practice for alleged JDs is for the police to issue an appearance ticket as specified by FCA §307.1. There are no provisions in the Criminal Procedure Law for issuing appearance tickets to JOs. The ticket is given to the child and the parent or "other person legally responsible," directing them to appear at the local probation department for family court intake. If the alleged offense is a designated felony, the appearance date should be no more than 72 hours from the issuance of the appearance ticket, excluding days when the court is closed. Otherwise, it should be no more than 14 days from the issuance of the appearance ticket. This is to ensure a minimum of time between arrest and intake on serious charges.

The police and probation departments have had some difficulties meeting these time frames and various operational procedures have developed. In Monroe County, for example, where most police departments issue appearance tickets, they leave the family court return dates blank. The local probation intake unit contacts the child and family later to arrange an intake interview, after receiving the required information from the police. In Clinton County, according to probation department personnel, the Plattsburgh Police Department will sometimes release a child to a parent, immediately take the papers to the probation intake unit and allow probation to issue an appearance ticket. Because there are no provisions in the CPL for issuing appearance tickets to JOs, JOs are always detained if not immediately arraigned in criminal court.

Under certain circumstances, the police transport alleged JDs to a detention facility rather than issue an appearance ticket. The children are then detained until the next court date, which is usually the next day or the following Monday morning if they have been kept over a weekend. The circumstances in which the police use detention were described by a police juvenile officer in Nassau County, as follows:

If the parent or guardian refuse to take custody; if the kid is from another county and we can't identify him; if the case is a DF [designated felony] or a JO; also, any case with child involvement may then require the [detention] shelter for the child's safety.

An officer in Dutchess County commented:

We would use it when the kid is on a crime spree. If so, the child would go to Highland secure detention run by DFY [N.Y. State Division for Youth]. But, normally, we issue an appearance ticket for a later court appearance. For kids on lesser charges, for example, shoplifting, they might go into non-secure detention run by DSS [Department of Social Services].

New York City police are expected to comply with the following criteria, as stipulated in the NYPD Patrol Guide (Procedure Number 111-4, 1987), when determining the suitability of issuing an appearance ticket to an alleged JD:

[The] juvenile will not be released if:

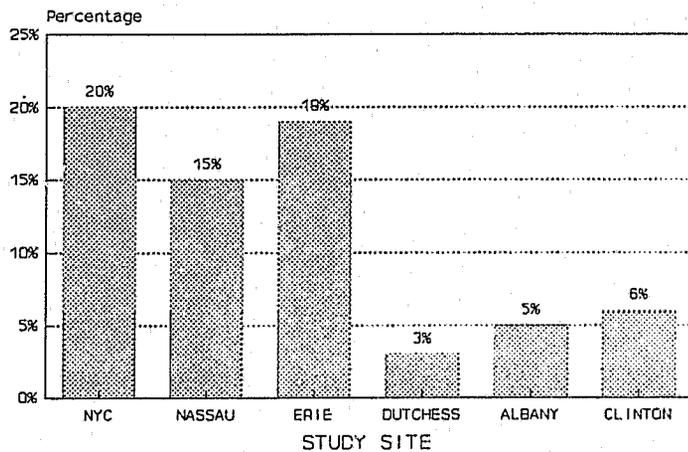
- a. Applicant [parent/guardian, lawful custodian, or reasonably responsible adult] is not capable of providing adequate supervision.
- b. Juvenile is wanted on a warrant.
- c. Health and morals of juvenile would be endangered if released.
- d. Juvenile is not likely to appear on return date.
- e. Juvenile's release would be dangerous to the community.
- f. Classified as a "JO."
- g. Juvenile is a "Designated Felon" and the family court is in session.

It is clear that items included here as reasons for detention are broader than those stipulated by the Family Court Act for court-ordered remand to detention. Item "g" above refers to FCA §305.2(5), which says that if the case is an alleged designated felony and the family court is open, "[t]he officer shall forthwith take the child directly to such family court." The aim is to have serious cases appear at probation intake as soon as possible. All the items mentioned above work in roughly the same way –if the family court is in session, the child should be delivered to the local probation intake unit that either performs a "walk-through" or issues an appearance ticket.

The relative seriousness of New York City cases together with the police department's restrictive release policy result in one-fifth of all children being detained immediately following arrest (Figure 2.11)¹². In addition, more than one-half of New York City detention admissions resulting from police arrests were released before or at their first appearance in court.

The detention facility can also issue appearance tickets to JDs (FCA §307.1[1]). A small number of alleged JDs are released from the New York City secure detention facility by the issue of appearance tickets. The detention facility staff release children before taking them to court, only when they classify the child as a "good risk" of returning on the appearance ticket date and can be released to a parent or guardian. Other detention agencies in the studied sites could issue appearance tickets, but report they rarely do.

PERCENTAGE OF REFERRALS DETAINED
1987



SOURCE: DFY

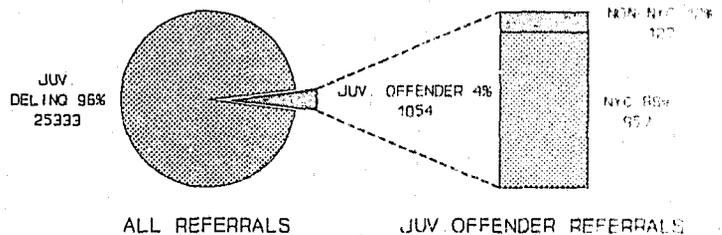
Figure 2.11

Jurisdiction

The seriousness of the charge and a child's age at the time of the alleged incident statutorily determine if the case is to be processed as a JO or a JD. This determination is initially made by the police agency. JO charges involve children with the most serious felony charges (Table 2.6). Figure 2.12 shows the number of arrests in 1987 for JO offenses. Eighty-eight percent of all JO referrals were made in New York City.

Unlike the processing of a JD case, a case involving a JO charge is arraigned and processed by the adult criminal courts. JOs, therefore, as far as court processing is concerned are out of the *juvenile* justice system, although alleged JOs must still be questioned according to the procedures described above and, if detained, must be kept in a juvenile detention facility. Also, at the court's discretion following arraignment, the case may be removed to the family court for processing as a JD (see Chapter Five). The remainder of this report will focus only on those cases that are processed as JDs.

JUVENILE REFERRALS 1987



SOURCE: DPCA, DCJS DCH

Figure 2.12

Table 2.6. Juvenile Offender Categories

Charges and Degrees	Penal Code	JO Age
Murder 2 ^o	125.25 (1) (2)	13,14,15
Murder 2 ^o	125.25 (3)	14,15
Kidnapping 1 ^o	135.25	14,15
Arson 1 ^o	150.20	14,15
Assault 1 ^o	120.10 (1) (2)	14,15
Manslaughter 1 ^o	125.20	14,15
Rape 1 ^o	130.35 (1) (2)	14,15
Sodomy 1 ^o	130.50 (1) (2)	14,15
Aggravated Sexual Abuse	130.70	14,15
Arson 2 ^o	150.15	14,15
Robbery 1 ^o	160.15	14,15
Attempted Murder 2 ^o	110/125.25	14,15
Attempted Kidnapping 1 ^o	110/135.25	14,15
Burglary 1 ^o	140.30	14,15
Burglary 2 ^o	140.25 (1)	14,15
Robbery 2 ^o	160.10 (2)	14,15

Source: CPL §1.20(42).

Referral To Probation Intake for JD Processing

Whenever an alleged JD is referred for processing, information is collated and given to the intake unit of the local probation department.¹³ The information is virtually the same in all study sites and includes a copy of current arrest papers, statements and depositions, complainant report, recommendations on court action, and prior juvenile police records. This enables the probation intake unit to make its decision to adjust the case or refer it to the presentment agency for petition (see Chapter Three). This set of documents may also serve as the basis from which a delinquency petition to the family court is drawn by the presentment agency (see Chapter Four).

The information included about a juvenile's prior cases, however, varies by jurisdiction. In New York City, for example, information excludes prior arrests diverted by the police. This is a consequence of the *Cuevas* Federal Court stipulation that put restrictions on the dissemination of New York City police diversion data.¹⁴ For a discussion of the *Cuevas* case and access to police department diversion data, see Volume II. Also, following FCA §375.1 and §375.2, the police are precluded from disseminating records of arrests that are sealed. For a discussion of the Family Court Act sealing provisions, see Volume II.

In other study sites, where the *Cuevas* stipulation has no authority, all of the larger police agencies that maintain juvenile contact information, except the Albany Police Department, inform probation intake of prior arrests that are diverted.

Many practitioners use informal mechanisms to gather information on prior contact with the police. Even if information is missing from the police package or is inadequate, telephone calls or personal contacts can fill in the gaps. As a county attorney in Monroe County said:

What I do is check the quality of the police report and the victim deposition to make sure there is a probable cause for an arrest. Often the State Police information does not fulfill this standard. It happens with other [police] agencies too, but usually with officers not assigned to handle juvenile cases. . . . Often the problems can be cleared up by speaking to the appropriate Juvenile Officer, rather than the arresting officer himself, who may be out somewhere else or off duty.

The result is that the police function as a major gatekeeper to the juvenile justice system. The police initiate all JD cases and provide the basic information for probation intake to begin their work.

Summary of Findings

1. **UCR data on juvenile arrests are reported inconsistently by police agencies.**

Because reporting practices vary across law enforcement agencies, some juvenile arrests may not be reported to the State UCR Program. For instance, some police agencies report as arrests only those cases referred for further processing, while other study sites appear to report referred cases, diverted cases, and violations.

The failure of law enforcement agencies to report juvenile arrest activity consistently undermines the integrity of UCR data. Although care should be taken when interpreting absolute numbers, year-to-year changes and trends over time are reliable.

2. **There have been major increases in reported violent felony and drug arrests involving juveniles.**

During 1988 and 1989, arrests for violent offenses increased statewide by 39 percent. New York City experienced a greater increase in arrests for violent offenses than the rest of the State (46 percent compared to 25 percent). Of particular interest is the increase in arrests for murder in New York City, from 24 in 1987 to 55 during 1988 and 56 in 1989 (an increase of 133 percent), while juvenile arrests for murder in the rest of the State declined from nine in both 1987 and 1988 to six in 1989.

Arrests statewide for drug offenses also increased 44 percent during 1988 and 2 percent in 1989. Arrests statewide for drug sales were driven by New York City arrests which increased 59 percent during 1988 and 7 percent during 1989, while there was little change in the rest of the State. However, each region experienced a 41 percent increase in arrests for the possession of drugs during 1988; these arrests dropped 15 percent in New York City during 1989 but climbed another 13 percent outside New York City.

3. **While overall arrests continue to decline, serious offense arrests are increasing.**

Misdemeanor offenses remain the overwhelming majority of arrests; however, they have been decreasing and the numbers and proportion of serious cases have significantly increased. Although the number of JO cases have increased, they still comprise only 4 percent of all referred cases.

4. There are no formal State guidelines or criteria for determining diversions. There are few formal internal police diversion guidelines.

The police have the greatest discretion of any organization in the juvenile justice system. There is no State voice in the creation of local diversion policies and there is little input from other agencies (e.g., presentment agencies, probation departments) in the creation of intra-jurisdiction police diversion policies. The post-arrest juvenile justice system has no control in the establishment of, or knowledge about, the full universe of JD cases.

5. Juveniles are often diverted from the formal JD process by police agencies.

The Rochester City Police Department and the New York City Police Department diverted approximately two-thirds (63 percent and 67 percent, respectively) of all juvenile arrests in 1987 that could have been referred. It appears that the overwhelming majority of non-New York City drug arrests were diverted in 1987. There were 488 juvenile drug arrests outside of New York City. However, there were only 20 drug offense cases reported by probation intake in the study sites. It must be noted that over 78 percent of the juveniles drug offense arrests outside of New York City involved drug possession and not sales.

6. Levels of police agency diversion services differ between counties.

Although diversion mechanisms are almost universally available to police agencies, there is little consistency in types and levels of programs provided – if any. Also, unlike the post-arrest juvenile justice system, police agencies have little recourse (e.g., filing a violation) if a referable child fails to follow the diversion plan. Police agencies have difficulty (because the loss of time may have impacted on the legal sufficiency of the case) referring failed diversions for further processing.

Notes

1. See *People v. Yukl* 25 N.Y. 2d 585 (1969).
2. See *Dunaway v. New York*, 441 U.S. 200 (1979). See *Matter of Martin S.*, 104 Misc. 2d 1036, 429 N.Y.S.2d 1009 (N.Y. Family Ct., Richmond Co. 1980).
3. Alleged JDs are not accused of committing a "crime" (FCA §301.2[1]). However, the term "crime" is used in this report to denote an act committed by an alleged JO and an act committed by an alleged JD that would constitute a crime if committed by an adult.
4. See FCA §712(a); see *In the Matter of Patricia A.*, 31 N.Y.2d 83, 335 N.Y.S.2d 33 (1982).
5. JD actions may only be brought against a person over seven and less than 16 years of age, accused of committing an act that would constitute a crime if committed by an adult (FCA §301.2[1]). Violations are not included in the definition of a crime. JO Offenses (CPL §1.20[42]) do not include violation offenses.
6. See *In the Matter of Brian P.T.*, 58 A.D.2d 868, 396 N.Y.S.2d 873 (2d Dept. 1977); *In the Matter of Lawrence W.*, 77 A.D.2d 570, 429 N.Y.S.2d 731 (2d Dept. 1980); *In the Matter of Albert R.*, 121 Misc.2d 636, 468 N.Y.S.2d 825 (N.Y. Family Ct., Queens Co. 1983); see also *People v. Castro*, 118 Misc.2d 868, 462 N.Y.S.2d 369 (N.Y. Supreme Ct., Queens Co. 1983).
7. *In the Matter of Michael G.*, 99 Misc.2d 699, 416 N.Y.S.2d 1016, (N.Y. Family Ct., Rockland Co. 1979).
8. Arrest rates are calculated with population estimates provided by the National Planning Association, Inc. (NPA). See Appendix 2.1 for population projections.
9. The UCR System maintains aggregate race and ethnicity data on juveniles seven to 17 years of age. The aggregate form in which it is collected does not permit its use in this analysis for seven to 15 year olds.
10. Juvenile Reports are an NYPD reporting category denoting criminal and non-criminal behavior by juveniles. In addition to alleged JD offenses, these include: violations, Person in Need of Supervision, and such behavior as under the influence of dangerous drugs, found in a house of prostitution, unlawfully present in licensed premises, stranded, runaway, and missing.

11. See Volume II for discussion of fingerprinting purging statutes and compliance.
12. Monroe County data is not presented here because of conflicts between Monroe County probation data and DFY data. Monroe County probation data (20 percent sample) indicate that about 20 percent of all 1987 JD intake cases were brought in from the detention facility. DFY data shows more than 35 percent.
13. In certain circumstances, however, cases bypass probation intake and go directly to the presentment agency, even though this is not the intention of the Family Court Act (see Chapter Three).
14. *Cuevas v. Leary*, 70 Civ. 2017 (S.D.N.Y. 1972).

Probation Intake

Introduction

The previous chapter examined police processing of alleged JDs and JOs. JOs made up 4 percent and JDs made up 96 percent of juvenile arrests sent for further processing in 1987. Probation intake is the next step for JDs in the juvenile justice process and the focus of this chapter.

The Family Court Act specifies that rules of the court shall authorize and determine the circumstances under which the probation service may confer with any person seeking to have a juvenile delinquency petition filed, the juvenile and other interested persons concerning the advisability of requesting that a petition be filed (FCA §308.1[1]). The relevant rules of court require probation to conduct preliminary conferences when the juvenile, complainant or victim or other interested persons appear at a probation service pursuant to FCA §§305.2(4)(a), 307.1 or 320.6.¹ It should be noted, however, that the rules of court do not insist that a preliminary conference be held on a non-appearance ticket case. However, practices generally apply this standard to all cases. This preliminary conference is known as the "intake conference" or "probation intake."

The purpose of intake has changed little over the last 30 years. For example, in 1964 it was described as:

... [U]nique because it permits the court to screen its own [cases] not just on jurisdictional grounds, but, within some limits, upon social grounds as well. It can cull out cases which should not be dignified with further court process (Waalkes, 1964:123).

Marion Katzive pointed to the central importance of mediation in intake in *A Caseworker's Guide to The New York State Juvenile Justice System* (New York, Vera Institute of Justice, 1976:17):

Intake is a mediation process in which a probation officer tries to arrange a settlement between the petitioner (complainant) and the youngster. The objective of the intake process is to screen out cases that can be settled without judicial action. The process of settling a matter without court referral is known as adjustment.

Putting this Chapter in Context

In the previous chapters we found . . .

- A high percentage of arrested juveniles were diverted by the police. For instance, the New York City Police Department and the Monroe County Police Department diverted between 60 percent and 70 percent of all juvenile arrests in 1987. In New York City, 91 percent of misdemeanor arrests were diverted. Felony arrests were not diverted in New York City.
- Almost all (96 percent) of the police referrals were sent to the juvenile justice system. Only four percent of the referrals were statutorily mandated to be sent to the adult system for Juvenile Offender processing.

Adjustment occurs when both the probation officer and petitioner are satisfied that a youngster does not in fact need court supervision or that the youngster can get the treatment he needs from an agency outside the court. In either case, the petitioner must agree to drop the charges.

The role of intake is thus to remove cases by adjustment that are either too trivial or inappropriate for court intervention and, if possible, provide mediation, supervision, and services during the adjustment process.² Adjusted cases may involve referral to local community-based agencies, supervision by probation intake staff, and restitution. The precise form the intake adjustment process takes varies from case to case and county to county. As Merrill Sobie comments:

Examples range from warning the child that subsequent allegations of criminal behavior may result in prosecution to multiple counseling sessions or referral to a community agency. The possibilities are contingent largely upon available community resources and probation department policies; indeed the absence of a statutory definition [of adjustment] reflects a legislative intent that the probation service and court adapt the adjustment process to meet local needs and conditions (Sobie, 1983:320).

Probation intake is described in detail below. In addition, throughout this chapter statistical characteristics of 1987 probation intake cases are examined. Profiles of alleged JDs and their offenses are presented, as well as intake processing activity. Data from a three-month study of probation intake cases processed during the summer of 1989 are used to show certain socioeconomic characteristics not available from 1987 records.

The 1987 cohort is comprised of JD cases referred by the police for further juvenile justice processing. A subset of this cohort is used for the intake analyses. Cases that bypassed probation intake are excluded. Bypass cases were not opened by probation intake because the cases were referred by the police directly to the presentment agency or the family court without notification given to probation intake.

The 1987 intake analyses focused on six of the seven study sites – New York City and Erie, Monroe, Albany, Dutchess and Clinton counties – because probation intake data were not accessible in Nassau County. A census of 1987 JD intake cases was obtained from New York City, and Albany, Dutchess and Clinton counties, while cases were randomly sampled in Monroe County and Erie County (85 percent and 80 percent, respectively). See Appendix 1 for a full discussion of the project's sampling methodology.

Overview of Probation Intake

In the New York State adult criminal justice system, police have direct access to the local district attorney. In the juvenile justice system, by contrast, basically, a case may progress from probation intake to the presentment agency and to the court—the progression is identical regardless of whether the child is detained, taken directly to court or released upon issuance of an appearance ticket (Sobie, 1983:312). The main function of probation intake is to determine whether cases should be referred to the presentment agency for petition or whether they should be adjusted. Presentment agencies are the local agencies or authorities responsible for presenting JD petitions for prosecution (FCA §301.2[12]).³ For those cases that result in petitions, local intake officers may also provide detention recommendations to the court.

Objections to the role of probation intake are similar to those made against police diversion (see Chapter Two). It can be argued that intake coerces treatment by offering the adjudicatory system as the only alternative; treatment offered in intake may be informal, and therefore, ineffective services may go undetected because of inadequate monitoring; and, given the discretionary nature of intake decision making, the system lacks accountability.⁴

As Ted Rubin noted in his study of juvenile justice system processing, states have taken several approaches to intake. In Massachusetts, for example:

[The state] has virtually no intake procedure. Police prepare a complaint and deliver it to the clerk of the court At the judicial hearing, the judge determines whether the case should be dismissed, referred out, or flow further into the court's formal proceedings. The probation department enters the process following plea or adjudication to conduct a social study (Rubin, 1985:166).

In Pennsylvania, the responsibility for intake is placed with a judicially-appointed probation department. Prosecutors there have no authority to participate in the intake process (Rubin, 1986:166).

Prosecutors receive cases directly from police agencies in only Washington, Colorado, Indiana, Minnesota, and South Dakota (NCJJ, 1989). The National District Attorneys Association (NDAA) expressed their support for this model in its standards for juvenile delinquency prosecution:

The prosecutor should have the exclusive right to screen facts from the police and other sources to determine whether those facts are legally sufficient for prosecution. If it is determined that the facts are legally sufficient, the prosecutor should determine whether a juvenile is to be transferred to adult court, charged in juvenile court or diverted from formal adjudication (NDAA, 1988:2).

Variations on this approach augment prosecutor decision making with social evaluations created by the court or probation. In other

cases, probation or court intake may be restricted to decisions on less serious cases (Rubin, 1980:308). Even where intake is performed by probation or the court, several states give the prosecutor veto power:

The Florida model . . . offers a new balance between the social services intake function and an accentuated prosecutor function. Florida's probation officials are executive branch employees. They review [police] referrals, passing on to the prosecutor all cases with recommendations as to the need for judicial consideration. . . . With or without an appeal, the prosecutor may overrule the intake officer. (Rubin, 1985:66).

In 1977, the Institute of Judicial Administration-American Bar Association (IJA/ABA) Juvenile Justice Standards Project adopted similar language and recommended that the prosecutor's office approve any intake rejection. Rubin expected the Florida and IJA/ABA model to become more prevalent, because:

The prosecutor's authority in the juvenile intake process is likely to develop into a controlling one, stimulated by the prosecutor's public protection image, the increased interest in handling juveniles according to offense and prior record, and diminished confidence in the ideal of rehabilitation (Rubin, 1980:322).

In a recent discussion with project staff, Rubin said that there has been a continuing national trend to broaden prosecutor authority, although his earlier prediction has not been fully realized.⁵ In New York State, for instance, while probation still maintains a great deal of discretion, the court and, in some circumstances, the prosecutor must grant approval before certain serious offenses can be adjusted. In addition, New York State allows the prosecutor (i.e., presentment agency) to decline to go forward with any case that is referred by probation (FCA §310.1).

Limitations on Intake Discretion in New York State

In New York State, discretion in intake decision making is limited by a combination of State laws, State rules and regulations, and local policies (Table 3.1).

The rules of court establish a framework for decision making and present criteria that probation officers should follow. Factors include the age of the juvenile and the seriousness of the offense. These are factors to be considered, not mandated criteria.

The New York State Division of Probation and Correctional Alternatives (DPCA) has also promulgated a series of rules requiring referrals to the presentment agency on certain cases. However, such adjustments could still be made with the approval of local probation directors. Local agencies have also created their own guidelines, policies and procedures; these will be discussed below.

Table 3.1. Types of Limitation on Probation Intake's Ability to Adjust

Type	Description	Permission To Adjust Required By
State laws Family Court Act ^a	Based on legal and juvenile or complainant actions	Court and, in some circumstances, the presentment agency
State rules Rules of court ^b	Criteria on minimum factors to be used in adjustment decision	Not discussed but criteria are broad and not easily monitored
State rules Division of Probation and Correctional Alternatives ^c	Limitations based on legal factors in case/priors	Local probation director
Local practices	Various local provisions and policies	Usually intake supervisor or probation director

^a FCA §308.1.

^b Uniform Rules of the Family Court Part 205.

^c New York State Rules and Regulations (NYCRR Subtitle H - Division of Probation and Correctional Alternatives.

While the rules of court and the DPCA rules and regulations provide a framework for decision making, only the Family Court Act removes discretion from local probation agencies. Before 1975, intake probation officers had unlimited discretion to adjust cases. Thus "carried to its extreme, although extremely rare, it was possible to divert⁶ [adjust] such serious acts as rape and homicide" (Lindner, 1981:55).

In 1975, legislation required written approval of the local probation director before certain serious felony offenses could be adjusted. While the law removed some discretion, local probation agencies still retained ultimate discretionary authority.

Local agency discretion was first limited with the 1976 Juvenile Justice Reform Act. The Act required written approval from the court before probation could adjust a designated felony case. In 1978, probation agencies were further precluded from adjusting certain non-designated felony cases when there had been a previous adjustment of a case with one of several specified offenses. These cases could only be adjusted with the written approval of the court or the presentment agency.

Under current law, the Family Court Act limits or prohibits adjustment in several ways. First, FCA §308.1(3) prohibits probation from adjusting an alleged designated felony offense without the approval of the court. Second, FCA §308.1(4) prohibits adjustment

based on a combination of current specified non-designated felony offenses, prior specified non-designated felony offenses, and the adjustment of the prior offense, without the approval of the court and the presentment agency. FCA §308.1(4) states (*italics are added*):

The probation service *shall not adjust* a case in which the child has allegedly committed a *delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivision one of section 130.25, (rape in the third degree), subdivision one of section 130.40, (sodomy in the third degree), subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a weapon in the first degree) of the penal law where a child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.*⁷

Third, probation must refer a case if either the complainant or the juvenile do not appear at intake or within the statutory extension of seven days beyond the return date of the appearance ticket [FCA §307.2(1) and (2)]. Fourth, probation must also refer a case when any person insists upon referral to the presentment agency (FCA §308.1[8]). Practitioners in the study site have defined "person" as the juvenile, his representative, or the complainant.

In 1987, the percentage of cases in which probation lacked full adjustment discretion ranged from 9 percent in Erie County to 58 percent in Albany County (Table 3.2). The relatively high Albany percentage can be explained mainly by the active role the police play as complainants on most JD cases (see below). Complainant insistence was also the primary reason for "no discretion" referrals in Monroe and Dutchess counties (see Appendix 3.1). Data on "no discretion" reasons were not available for the New York City 1987 cohort. However, a separate analysis of data collected in Queens County and Richmond County for a three-month period during the Summer of 1989 found that juvenile or complainant insistence and juvenile or complainant non-appearance removed discretion on 65 percent of Queens County intakes and 79 percent of Richmond County intakes (see Appendix 3.2).

Discretion was limited in only 3 percent of New York City cases in 1987 because of the characteristics of the current offense and prior offenses (Table 3.3). In general, current and prior offense characteristics limited discretion on very few cases in 1987, ranging from only 3 percent of the intakes in New York City, Erie and Dutchess counties; to 4 percent in Monroe County; and to 5 percent in Albany

Table 3.2. Discretion Status of Intake Cases Outside New York City^a

Discretion Status	Large Urban Counties		Mid-Size Urban Counties		Rural County
	Erie ^b %	Monroe %	Albany %	Dutchess %	Clinton %
Lacking Full Discretion	9	27	58	28	10
No Discretion ^c	7	23	53	25	6
Limited Discretion ^d	3	3	2	2	4
Both ^e	<1	1	4	1	0
Full Discretion	91	73	42	72	91
	(n=865)	(n=763)	(N=463)	(N=367)	(N=106)

^a New York City computerized files did not contain data on reasons why cases were not adjusted.

^b Discretion status data were missing in 25 percent of the Erie County cases.

^c Cases referred because of juvenile or complainant insistence or non-appearance. Approval to adjust cannot be provided by either the court or presentment agency in these situations.

^d Requires court and, in some circumstances, presentment agency approval to adjust (see Table 3.3).

^e Cases in which both *no discretion* and *limited discretion* apply.

Note: Percentages may not sum to 100 percent due to rounding.

Table 3.3. Reasons for Limited Discretion in Intake Cases

Reason for Limited Discretion	New York City ^c %	Large Urban Counties		Mid-Size Urban Counties		Rural County
		Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Reason for Limited Discretion	3	3	4	5	3	4
Designated Felony ^a	2	1	1	2	1	2
FCA §308.1(4) ^b	1	2	2	3	3	2
	(N=8,464)	(n=930)	(n=777)	(N=459)	(N=374)	(N=104)

^a Adjustments can be made with the approval of the court.

^b Adjustments can be made with the approval of the court and the presentment agency.

^c New York City computerized files did not contain charge subdivisions which are required to identify some FCA §308.1(4) cases and designated felony cases. All cases with Penal Law codes requiring offense subdivisions to determine inclusion in either of these two categories were assumed to have the qualifying subdivisions in order to measure the upper range of possible FCA §308.1(4) and designated felony cases for New York City. No additional FCA §308.1(4) cases were identified. The additional percentage of possible designated felony cases was less than one percent (35 cases).

County. The relatively low New York City percentage (1 percent) of FCA §308.1(4) cases is explained by probation's overall low probability of case adjustment. FCA §308.1(4) places restrictions on intake's adjustment of a second case, therefore, FCA §308.1(4) situations would apply infrequently in New York City.

Overview of the Intake Process

The main elements of the intake process, which as the next section shows, has a number of practical variations (Figure 3.1).

Each intake conference is held by a probation intake worker with the child and parent, guardian or other responsible adult. Counsel for the child may also attend the conference. Separate interviews are held with the complainant or victim and, often, the police officer. The probation officer gathers information on the case and the child's social history to determine whether the case should be adjusted or referred to the presentment agency. Probation may also gather information to make a detention recommendation to the court, if the case is petitioned.

Cases that are not referred to the presentment agency for petition may be adjusted immediately or held open for a period of time. The Family Court Act stipulates that efforts to adjust a case may not exceed two months without the court's permission and a maximum of four months with the court's permission (FCA §308.1[9]).

If the adjustment process is unsuccessful the case may still be referred to the presentment agency. In addition, the voluntary nature of adjustment means that if the complainant or the juvenile refuses the adjustment process the case must be referred to the presentment agency (FCA §308.1[8]), although adjustment may be attempted again after referral (FCA §320.6).

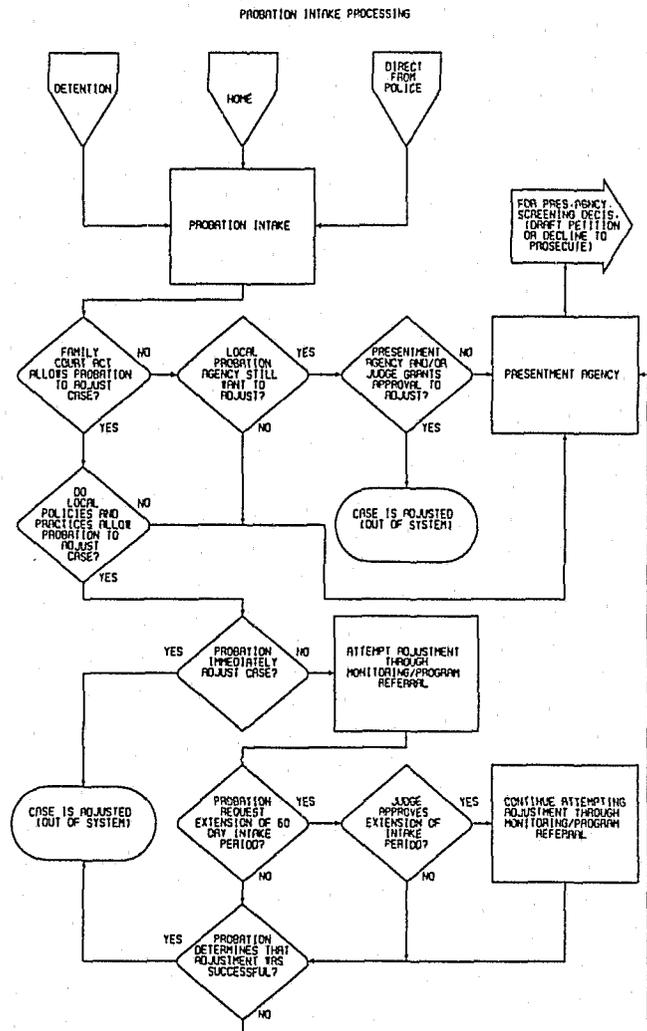


Figure 3.1

Probation Intake's Receipt of Case

Cases arrive at intake through one of three possible routes: from a detention center; from the child's residence, as a result of an appearance ticket given to a child and his parent or guardian; or directly from police custody (Figure 3.1).⁸

The number of days from arrest to the probation intake interview varied across sites (Table 3.4). Dutchess County had the longest average time between arrest and interview dates (20 days). Albany County averaged the fewest days (10 days). The lower average days in Albany County may reflect the practice of immediate referral for petition on those cases that the police insist go forward (see below). The high average time in Monroe County (17 days) may be a result of a policy of probation setting interview dates, rather than the date being set by the police when an appearance ticket is issued.

Table 3.4. Arrest to Intake Interview^a Processing Times for Intake Cases

	New York City %	Large Urban Counties		Mid-Size Urban Counties		Rural County
		Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Processing Time^b						
Less than Two Days	18	1	16	5	1	5
Two to Seven Days	15	17	11	53	33	28
Eight to 14 Days	42	53	27	27	26	53
15 to 21 Days	19	16	26	12	12	9
22 to 28 Days	3	6	10	1	8	1
29 to 60 Days	3	6	9	1	15	0
61 Days or More	<1	2	2	1	5	3
MEAN	11 days	16 days	17 days	10 days	20 days	13 days
St Dev	10 days	21 days	23 days	19 days	28 days	15 days
MEDIAN	10 days	11 days	14 days	7 days	11 days	10 days
	(N=8,469)	(n=844)	(n=641)	(N=434)	(N=347)	(N=88)

^a The intake interview dates in non-New York City data are the dates on which interviews were actually held. The intake interview dates in New York City data reflect the first scheduled interview dates; data were not available for rescheduled interview dates. When cases were closed prior to interviews, the close dates were used in place of interview dates.

^b More than five percent of the arrest or intake interview dates were missing in the following study sites: Erie County (10 percent), Monroe County (18 percent), Albany County (7 percent), Dutchess County (8 percent) and Clinton County (17 percent).

In all situations, the police provide information to local probation intake units. As discussed in Chapter Two, this information usually includes the complaint, officer and witness depositions; charge information and prior police contact information. The amount of information on prior police contacts, however, varies from department to department. If information is missing from the police package or is inadequate, it can often be obtained through telephone calls or personal contact. As the Monroe County "Juvenile Delinquency Instruction Manual" states:

Each police department has its own way of handling JD complaints. In most cases it is best to ask for the designated "juvenile" officer if you have a question (1989:1-2).

Some police departments also give an adjustment or referral recommendation to the local probation intake unit. Police input to probation intake units regarding adjustment or referral recommendations varies greatly, depending upon the practices of local departments and individual officers. Agencies that process relatively few juvenile arrests, such as the New York State Police and smaller agencies, generally are less likely than other agencies to have procedures in place for making recommendations. A recommendation may be no more than an indication of whether or not they have an objection to adjustment. In effect, because they very rarely object to adjustment, New York City police give no practical recommendations to probation concerning adjustment.

In Albany County, by contrast, police agencies recommend adjustment or referral for each case. The Albany County Probation Department always follows the police recommendation and sometimes even cancels the intake conference when the police advise immediate referral. This is explained by the unique role that Albany County police agencies play in JD cases. Because of local policies set after the enactment of Article 3, these police agencies act as the complainant on all JD cases. Consequently, they play a more powerful role than police in other study sites because they can insist upon referral for any JD case (FCA §308.1[8]). No other police department studied plays this role on all cases, although whenever it is the complainant (e.g., victimless offenses), it may exercise similar authority.

In Nassau County, the probation intake supervisor indicated that the police do not always make an adjustment/referral recommendation:

On the back of the rap sheet the police used to write a lot of useful information, but they do that less these days. Sometimes they will indicate that they want the case to be referred - to go the whole route. Usually, though, they have no objections to our adjusting cases.

The police may give detailed service advice to probation. As a probation officer in Dutchess County stated:

We have good working rapport with the police and very often take their recommendations. For example, they may suggest counseling. In fact the police usually give recommendations on diversions [i.e., cases they recommend for adjustment]. The way it works is that all diversions [adjustment] from the City of Poughkeepsie are referred here, and we normally follow what they suggest.

The supervisor of probation intake in Erie County reported that the department deals with JD cases sent from any of 34 local police departments. The bulk of police referrals, however, are made by the Buffalo Police Department. Some departments make recommendations on referral or adjustment, and some include extra information about a child's need for services.

The situation in Monroe County is similar to that of Erie County. Most police referrals in Monroe County come from the Rochester Police Department, although probation intake also deals with a large number of other police departments.

Clinton County probation intake receives the bulk of its referrals from the New York State Police and the Plattsburgh Police Department. It rarely receives recommendations from the State Police, but receives considerable input from the Plattsburgh Police Department.

In summary, the information provided to probation intake by police agencies regarding arrest incidents is generally the same across agencies. Whether recommendations are made by the police regarding the adjustment or referral of cases varies, depending on local practices and the number of juvenile arrests processed.

Intake Models

The rules of the court and the Rules and Regulations of the New York State Division of Probation and Correctional Alternatives (DPCA) are written assuming that all cases will have intake conferences, and that they include interviews with juveniles, complainants, and other interested parties.

Figures 3.2 through 3.5 show the various approaches taken to intake in the seven study sites. Intake conferences are held on all cases in most sites. However, some sites provide "sifting" mechanisms to determine whether interviews with all parties are necessary. Practitioners report that intake conferences are not held for many detention cases in Albany County and Erie County. In Albany County, a detention case might result in a perfunctory notification to probation, while in Erie County a detention case may bypass any notification to probation.

In some sites, even though probation holds intake conferences, cases may be sifted to determine whether full interviews with all parties are necessary and if further adjustment evaluations are needed. Thus, sifting may result in "information only" or abbreviated conferences without extensive consideration of all possible factors related to adjustment. As Table 3.5 shows, interviews to evaluate adjustment suitability were conducted for most cases in Erie, Monroe and Dutchess counties (94 percent, 90 percent, and 90 percent, respectively). In contrast, Albany and Clinton counties conducted information only interviews for a substantial percentage of cases (59 percent and 28 percent, respectively). Thus, a full evaluation of adjustment was not made prior to referral. Rarely were juveniles directed not to appear (from zero percent in Albany County to 2 percent in Clinton County). Although New York City data were not available for this analysis, practitioners indicate that juveniles are always directed to appear, and that all juveniles who are interviewed are evaluated for services.

Table 3.5. Initial Interview Status for Intake Cases in Study Sites Outside New York City^a

	Large Urban Counties		Mid-Size Urban Counties		Rural County
	Erie ^b %	Monroe %	Albany %	Dutchess %	Clinton %
Juvenile Interviewed to Evaluate Suitability for Adjustment Services					
Yes – Evaluated for Services	94	90	40	90	65
No – Informational Only	1	2	59	0	28
No – Directed to Not Appear	<1	1	0	1	2
No – Failed to Appear	4	6	1	8	4
Other	<1	1	<1	1	1
	(n=802)	(n=750)	(N=458)	(N=358)	(N=104)

^a New York City computerized files did not contain data on interview status.

^b Interview status data were missing in 15 percent of the Erie County intake cases.

In sites where sifting operates, it is clear that the juvenile's current charge and past record predominate when determining whether the case can be considered for adjustment. In Dutchess County, for example, the sifter is a para-legal who reviews cases for adjustment eligibility. If the case meets the eligibility requirements, the sifter would refer the case to an "adjustment probation officer." The adjustment probation officer then reviews additional factors relating to the child's social history before making the decision to attempt adjustment. If an adjustment attempt were made, the probation officer would supervise the adjustment process.

PRELIMINARY SIFTING PROBATION INTAKE MODEL
(ALBANY, NASSAU, DUTCHESS AND CLINTON COUNTIES)

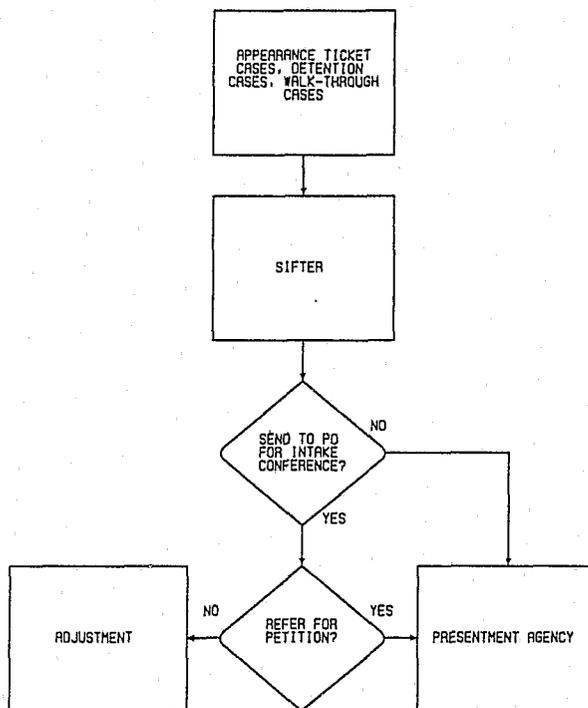


Figure 3.2

New York City and Monroe County probation intake have the simplest approach. All alleged delinquencies come directly to intake probation officers who determine intake outcome after conducting interviews with the parties. The advantage to this approach is that it fulfills the intention of State regulations; it gives an opportunity to see if there are social reasons to adjust a case that could override the legal reasons to refer it; and it collects social information that could be of importance later in a case. The disadvantage is that it is labor intensive, given the increasing number of cases (particularly in New York City). As presented above, some cases are either ineligible for adjustment (at least without court, and in some circumstance, presentment agency approval) or are unlikely to be adjusted according to internal agency policies and practices due to the seriousness of the charge.

FULL CONFERENCE PROBATION INTAKE MODEL
(NEW YORK CITY)

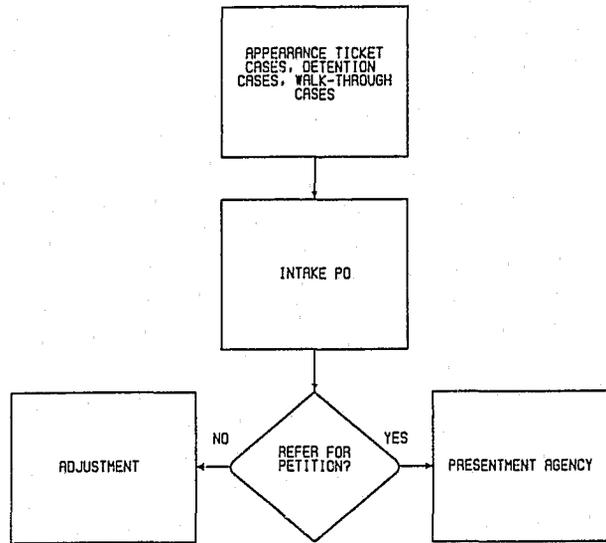


Figure 3.3

Unlike New York City, the Monroe County Probation Department makes an operational distinction between cases coming in as a result of an appearance ticket and cases coming in from detention or directly from police custody. The cases that are brought directly by the police and require immediate processing are known as "walk-throughs." In Monroe County, the majority of police departments issue appearance tickets without a date or time included so that probation can arrange the conference. One disadvantage of this approach is that cases take relatively long to process from arrest to intake interview (Table 3.4). For appearance ticket cases, interviews are arranged away from the family court building, at a date and time set by the intake probation officer. Serious cases are likely to result in detention or immediate referral by the police to probation intake. These cases are more likely to be referred to the presentment agency and are dealt with by intake officers stationed in the family court building.

BIFURCATED PROBATION INTAKE MODEL
(MONROE COUNTY)

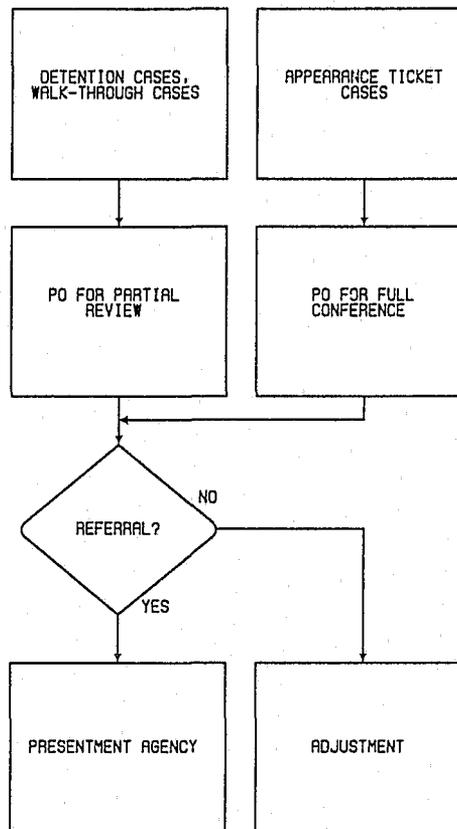


Figure 3.4

In Erie and Albany counties, appearance ticket and walk-through cases are also seen first by probation intake officers. Some cases, however, bypass probation notification and are referred directly to the presentment agency. This happens most often in Erie County where 5 percent of the cases bypassed probation in 1987; 3 percent of the cases in Clinton County bypassed probation, 2 percent in Dutchess County, and 1 percent in Albany County. These are usually detention cases that probation has determined warrant the immediate attention of the presentment agency. The county attorney then determines whether to draft a petition, decline to prosecute, or more rarely, refer it back to probation for adjustment.

The advantage from the county attorney's perspective is that early receipt of a detention case gives them some extra time to prepare the petition. However, the Family Court Act expressly states that, "[t]he fact that a child is detained prior to the filing of a petition shall not preclude the probation service from adjusting a case" (FCA §308.1[5]). Merrill Sobie in his commentary on the Family Court Act points out, "[d]etention, which may be predicated solely upon the unavailability of the child's parents or guardian at the time of arrest, should not frustrate adjustment possibilities." (Sobie, 1983:322). Practitioners may argue that their approach does not contravene the intent of the Family Court Act when probation is notified prior to presentment agency referral to court. In Albany County, for instance, cases are frequently sent directly to the presentment agency, but probation is notified of the case prior to petitioning. In addition, in Albany County, a child's chance of adjustment is unlikely to be diminished by being detained because the police are always the complainant and usually recommend referral to the presentment agency.

Dutchess, Nassau and Clinton counties use case sifters, who review all materials coming in from the police. In cases which probation decide not to attempt adjustment, children and parents or other responsible adults are usually contacted and told that the case will be referred and the intake conference may be cancelled or only a brief information only conference held. While the use of a case sifter may avoid unnecessary screenings based on legal factors, social factors that might suggest a recommendation of adjustment to the court or presentment agency cannot be examined without a full intake screening.

DETENTION BYPASS PROBATION INTAKE MODEL
(ERIE COUNTY)

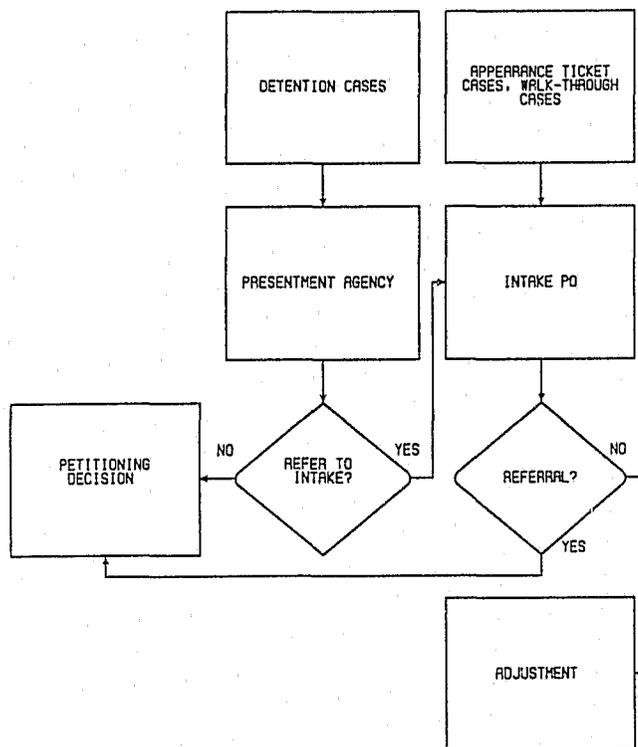


Figure 3.5

Demographic Characteristics of Intake Cases

Older juveniles accounted for most intake cases (Table 3.6).

Well over one-half of the juveniles were 14 years of age and older at intake. This age group accounted for 74 percent of the New York City intake cases. The percentage of cases for those aged 14 and older increased with the level of urbanization (Figure 3.6).

1987 PROBATION INTAKE CASES
JUVENILES 14 YEARS OF AGE AND ABOVE

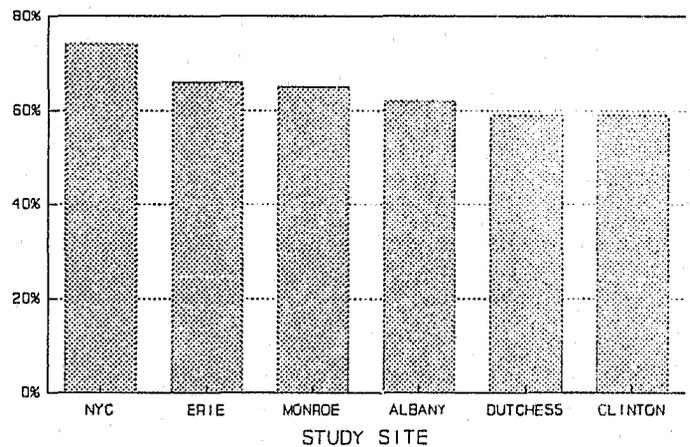


Figure 3.6

Table 3.6. Demographic Characteristics of Intake Cases

	Large Urban Counties		Mid-Size Urban Counties		Rural County	
	New York City %	Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Sex	(N=8,621)	(n=938)	(n=778)	(N=464)	(N=376)	(N=106)
Male	90%	77%	81%	78%	79%	76%
Female	10	23	19	22	22	24
Age at Intake	(N=8,633)	(n=915)	(n=777)	(N=465)	(N=367)	(N=104)
7 to 9	1%	2%	3%	4%	3%	4%
10	1	2	2	3	5	4
11	3	4	4	4	6	7
12	6	9	9	10	8	11
13	15	16	16	18	19	16
14	28	25	31	24	22	26
15	44	38	32	38	35	31
16+	2	3	2	1	2	2
Average Age	14 yrs	14 yrs	14 yrs	14 yrs	13 yrs	13 yrs
Race/Ethnicity^a	(N=8,212)	-	(n=771)	(N=461)	-	(N=98)
White	11%	-	37	67%	-	97%
Black	59	-	54	31	-	0
Hispanic	28	-	8	2	-	1
Other	1	-	1	<1	-	2

^a More than five percent of the race/ethnicity data were missing in the following sites: Erie County (43 percent), Dutchess County (36 percent), and Clinton County (8 percent). When more than 25 percent of the data were missing in a site, data presentations were excluded.

Males accounted for the overwhelming majority of intake cases (Table 3.6).

Males represented more than three-quarters of intake cases at study sites outside New York City and 90 percent of the New York City cases (Figure 3.7).

Minorities were over-represented at intake in three of the four sites where race/ethnicity data were available (Table 3.6).

Census data for 1980 show that 39 percent of the overall New York City population were non-white, 12 percent in Erie County were non-white, 13 percent in Monroe County, 10 percent in Dutchess County, 8 percent in Albany County, and 5 percent in Clinton County (DCJS, 1986).

In three of the four sites where data were available, the percentage of intake cases involving minorities was disproportionate to their representation in the population. In Albany County, where minorities represented 8 percent of the population, minorities accounted for four times that percentage (32 percent) of cases at intake. In Monroe County, where minorities represented 13 percent of the population, they accounted for over three times that percentage (42 percent) of cases at intake. In New York, where 39 percent of the population was represented by minorities, they accounted for over two times that percentage (88 percent) of cases at intake. The percentages of minorities at intake and in the general population were similar in Clinton County.

Erie and Dutchess counties were excluded from this analysis because of the substantial percentage of race/ethnicity data missing at each site (43 percent and 36 percent, respectively).

1987 PROBATION INTAKE CASES
PERCENTAGE MALE

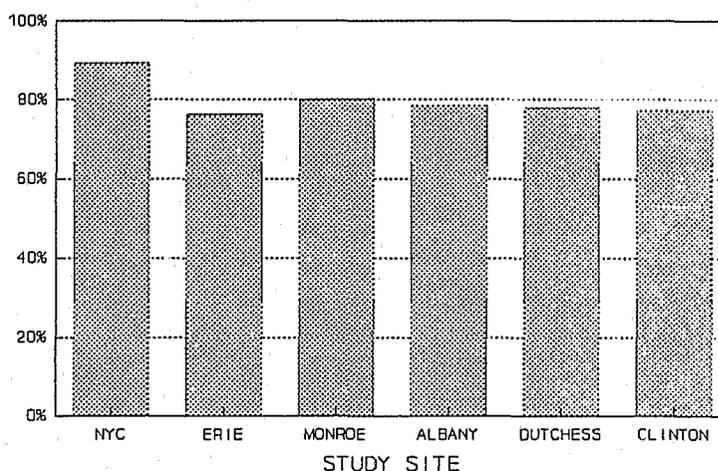


Figure 3.7

Practitioners' Perceptions of Juvenile Drug Use

In 1989, a staff person of the New York State Division of Substance Abuse Services visited several of this report's study sites. He interviewed various agency personnel to assess practitioners' views of drug use among the alleged juvenile delinquency population and how the system was responding to them.

In Albany and Erie counties, probation officers state that juveniles are not users, even though, it is believed they often come from family backgrounds where there is substance abuse. In the relatively rare instance of intake for possession of drugs, the most common was for marijuana. Practitioners in Monroe County, however, believe that a majority of the children who come to the attention of the authorities are involved with alcohol and other drugs.

In Queens County there are many alleged serious drug sale referrals for crack cocaine. Again, probation intake staff report that some children referred to them are drug sellers but not users; however, there is some debate among staff on this issue.

No study site uses formal mechanisms for identifying substance abuse, and there is no systematic questioning or record keeping of substance abuse by juveniles referred to intake. Thus, substance abuse problems may often go unrecorded, undetected, and untreated.

Socioeconomic Profile for JD Intake Cases Opened from June 1 Through August 31, 1989

The socioeconomic data presented below were collected by probation officers during the intake interviews for each juvenile delinquency case opened from June 1 through August 31, 1990 at selected study sites. These data were collected, in part, to serve as proxies for data not always available in the official records of the 1987 intake cohort. Unfortunately, it was not possible to collect these data at each of the cohort sites presented in this chapter. In New York City, data were collected in only two of the five boroughs - Queens and Richmond. Data were also collected in Erie, Dutchess and Clinton counties. Data are not presented for Albany County because full interviews were not conducted for majority of JD cases due to the immediate referral of these cases to the presentment agency. Finally, Monroe County declined to participate in this aspect of the study.

Only JD cases in which interviews were conducted were included in this analysis. Interviews were not conducted for a substantial percentage of cases at each of the five study sites (Table 3.7). While findings should be interpreted with some caution given the absence of these data and the limited period for data collection, the data serve as indicators of the socioeconomic background of juveniles processed by probation intake.

Table 3.7. Initial Interview Status for Intake Cases Opened from June 1 to August 31, 1989 at Selected Study Sites

	New York City				
	Queens %	Richmond %	Eric %	Dutchess %	Clinton %
Juvenile Interviewed					
Yes	77	85	89	82	77
No	23	15	11	18	23
	(n=426)	(N=96)	(N=288)	(N=125)	(N=95)

The marital status of juveniles' parents was related to the level of urbanization.

Outside New York City, the percentage of parents who were married increased as the level of urbanization decreased. In Erie County, parents were married in 28 percent of the JD cases, 42 percent in Dutchess County, and 50 percent in Clinton County. In New York City, parents were more likely to be married in Queens County than in Richmond County (35 percent vs. 27 percent, respectively). Conversely, the percentage of unmarried parents tended to decrease as the level of urbanization decreased - from 34 percent in Richmond County to 4 percent in Clinton County.

Juveniles in urban study sites were more likely to reside in single parent households, while those in the urban-rural and rural study sites were more likely to reside in two-parent households.

In approximately 33 percent of the JD cases in Queens, Richmond and Erie Counties, juveniles resided in two-parent households (i.e., both parents or parent and step-parent). This percentage increased to 45 percent in Dutchess County and to 55 percent in Clinton County. Conversely, in approximately one-half of the JD cases in urban sites, juveniles resided in single-parent households. This percentage decreased to 42 and 45 percent in Dutchess and Clinton counties, respectively.

In the majority of JD cases, juveniles had resided with at least one of their natural parents since birth. Percentages ranged from 82 percent in Dutchess County to 90 percent in Erie County.

As the level of urbanization increased, full or part-time employment was less likely to be a source of household income.

Full or part-time employment was a source of household income in only 56 percent of the JD cases in Richmond County. This percentage increased to 69 percent in Queens County, to 75 percent in Erie County, to 85 percent in Dutchess County and to 93 percent in Clinton County. In contrast, public assistance was a source of household income in only 8 percent of the cases in Clinton County, but rose to 15 percent in Dutchess County, to 27 and 29 percent in Queens and Erie counties, respectively, and to 47 percent in Richmond County.

Table 3.8. Socioeconomic Characteristics Reported During Initial Interviews for Intake Cases Opened from June 1 to August 31, 1989

	New York City		Large Urban County	Mid-Size Urban County	Rural County
	Queens (n=293)	Richmond (N=71)	Erie (N=243)	Dutchess (N=103)	Clinton (N=26)
Parents' Marital Status^a					
Married	35%	27%	28%	42%	50%
Separated	19	25	14	15	4
Divorced	11	10	30	21	42
Widowed	6	4	3	4	0
Never Married	29	34	25	18	4
	(n=323)	(N=80)	(N=253)	(N=103)	(N=27)
Adults With Whom Juvenile Resides					
Mother and Father	29%	25%	28%	38%	48%
Mother and Stepfather	4	5	6	8	7
Father and Stepmother	1	3	<1	0	0
Mother Only	50	51	56	37	30
Father Only	4	5	4	5	15
Other Relatives	5	6	3	6	0
Foster Home, Group Home or Institution	4	4	3	4	0
Other	3	1	<1	3	0
	(n=311)	(N=69)	(N=248)	(N=95)	(N=23)
Length of Residence With Parents^b					
Since Birth	84%	88%	90%	82%	87%
Less than Life	16	12	11	18	13
	(n=297)	(N=68)	(N=239)	(N=101)	(N=26)
Source of Household Income^c					
Full-Time Employment	65%	43%	61%	78%	85%
Part-Time Employment	4	13	14	7	8
Social Security	4	4	6	3	0
Disability	1	0	5	5	0
Pension	1	0	1	0	0
Unemployment Benefits	0	0	2	1	8
Public Assistance	27	47	29	15	8
Other	4	2	13	4	19

^a More than five percent of the marital status data were missing in the following study sites: Queens County (10 percent) and Richmond County (13 percent).

^b More than five percent of the length of residence data were missing in the following study sites: Richmond County (16 percent), Dutchess County (8 percent) and Clinton County (15 percent).

^c This is a multiple response item - columns may sum to more than 100 percent. More than five percent of the income data were missing in the following study sites: Queens County (10 percent), Richmond County (17 percent) and Erie County (6 percent).

Offense Characteristics of Intake Cases

Intake cases in New York City contained a greater proportion of serious offenses than other study sites (Table 3.9).

In New York City over three-quarters of intake cases were for felonies; 54 percent were for C or D felonies. Misdemeanors were the top charges in the majority of cases at all other study sites -- ranging from 63 percent in Albany County to 71 percent in Erie and Monroe counties (Figure 3.8). The New York City numbers are explained in part by the New York City Police Department policy of referring all felony arrests to probation intake and diverting the vast majority of misdemeanor arrests.

The average seriousness score ranged from 2.6 (i.e., equated to between an A misdemeanor and an E felony) in Erie and Monroe counties, to 3.9 (i.e., equated to a little less than a D felony) in New York City.

1987 PROBATION INTAKE CASES
PERCENTAGE FELONY

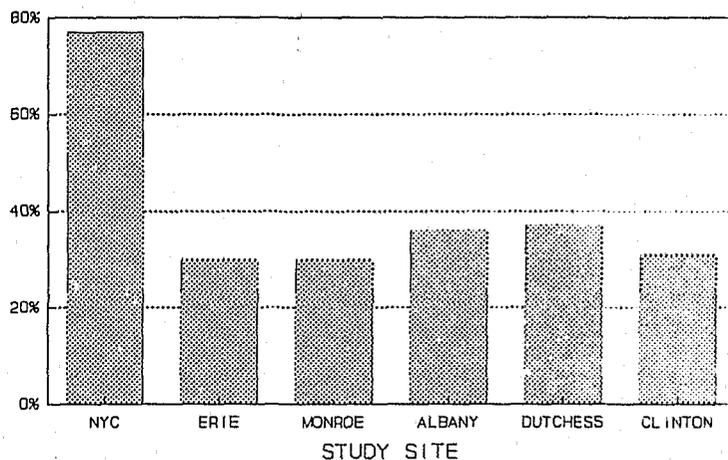


Figure 3.8

Table 3.9. Arrest Offense Categories and Classifications for Intake Cases

Arrest Offense Category & Class	New York City % (N=8,464)	Large Urban Counties		Mid-Size Urban Counties		Rural County
		Erie % (n=930)	Monroe % (n=775)	Albany % (N=459)	Dutchess % (N=374)	Clinton % (N=104)
Felony Offenses	77	29	29	37	36	32
A	1	0	0	0	0	1
B	12	2	2	3	2	2
C	20	8	8	12	12	7
D	34	13	13	16	16	21
E	11	6	6	6	7	1
Misdemeanor Offenses	23	71	71	63	64	68
A	21	66	65	59	57	64
B	2	4	5	5	7	4
Average Offense Seriousness Score^a	3.9 score	2.6 score	2.6 score	2.8 score	2.7 score	2.7

^a B Misdemeanor = 1, A Misdemeanor = 2, E Felony = 3, D Felony = 4, C Felony = 5, B Felony = 6, A Felony = 7.

Intake cases in New York City were for more violent offenses than in other study sites (Table 3.10).

In general, more urban sites had higher percentages of violent offenses (i.e., assault, robbery, and sex offenses). In New York City, 40 percent of intake cases were for violent offenses. In Erie, Monroe, and Albany counties, percentages of violent cases were somewhat lower (18 percent, 23 percent and 24 percent, respectively). Dutchess and Clinton counties had the lowest percentages of violent cases (12 percent and 11 percent, respectively) (Figure 3.9).

1987 PROBATION INTAKE CASES PERCENTAGE BY OFFENSE TYPE

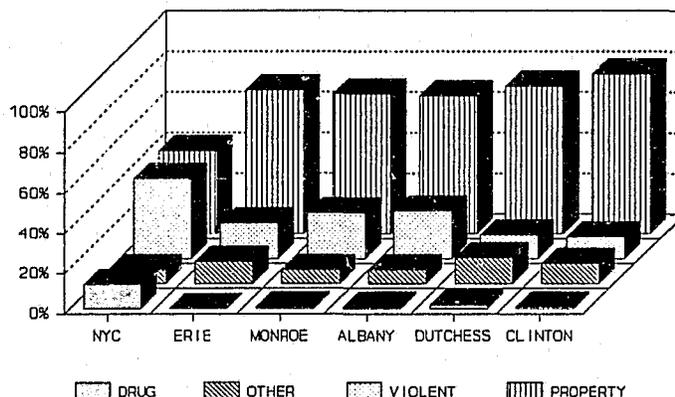


Figure 3.9

Outside New York City, most intake cases were for property crimes (Table 3.10).

Property crimes (i.e., larceny, burglary, criminal mischief, and theft-related offenses) accounted for approximately two-thirds of intake cases outside New York City – from 68 percent in Albany County to 79 percent in Clinton County.

Table 3.10. Arrest Offense by Type for Intake Cases

Arrest Offense Type ^a	Large Urban Counties		Mid-Size Urban Counties		Rural County	
	New York City %	Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Violent	40	18	23	24	12	11
Property	41	71	69	68	73	79
Drug	12	<1	1	1	2	1
Other	7	11	7	7	13	10
	(N=8,685)	(n=941)	(n=779)	(N=465)	(N=376)	(N=105)

^a Categories are based on UCR offense classifications (see Appendix 2.1).

Types of intake case offenses differed substantially in New York City from other study sites (Table 3.11).

Robbery and larceny were the largest offense categories in New York City, with each accounting for 22 percent of the intake cases. Larceny was the largest offense category in all other study sites – accounting for 31 percent of the cases in Albany County to 42 percent in Clinton County – and reflects mainly petit larceny shoplifting offenses. Robbery offense cases accounted for 3 percent or less of the cases at all other sites.

New York City was the only site with a substantial number of cases involving drug offenses.

In New York City, 12 percent of intake cases were for drugs offense charges (Table 3.11). In all other study sites drug offenses accounted for less than 2 percent of intake cases.

Eighty-three percent of the drug cases in New York City involved controlled substances. One-half of these controlled substance cases involved the sale of drugs.

When secondary charges were examined, there was no change in the percentage of controlled substance or marijuana cases in each site.

Table 3.11. Arrest Offense Penal Law Articles for Intake Cases

Arrest Offense Penal Law Article	Large Urban Counties		Mid-Size Urban Counties		Rural County	
	New York City %	Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Violent Offenses						
Assault	15	11	16	18	10	7
Robbery	22	3	2	3	<1	0
Sex Offenses	3	4	4	2	2	4
Property Offenses						
Larceny	22	39	31	31	35	42
Burglary	11	16	16	21	23	21
Criminal Mischief	6	11	13	8	11	9
Theft-Related	4	9	11	10	7	5
Drug Offenses						
Controlled Substances ^a	10	<1	<1	<1	1	1
Marijuana ^b	2	<1	<1	<1	1	0
Other Offenses						
Public Order	<1	3	2	1	4	8
Firearms	4	2	1	2	1	1
Arson	1	<1	2	2	1	1
Other	2	2	2	2	4	3
	(N=8,483)	(n=938)	(n=779)	(N=464)	(N=375)	(N=106)

^a Includes both the sale and possession of controlled substances.

^b Includes only the sale or criminal possession of marijuana; unlawful possession of marijuana is a violation – not a crime – and, therefore, not a JD offense.

Characteristics of Prior Cases

The following was based only on prior PINS complaints and prior arrests that resulted in police referrals for further processing in the juvenile justice system. Police diversions of juveniles alleged to have committed criminal acts were not included in this analysis because this information was not easily accessible.

Two different approaches were taken to examine characteristics of prior cases. First, the number of prior PINS complaints and JD police referrals were measured. Second, the degree of prior system penetration was also measured.

Prior PINS Complaints and JD Police Referrals

Juveniles were more likely to have had a prior JD police referral than a PINS complaint (Table 3.12).

The average number of prior JD police referrals ranged from 0.4 in Clinton County to 1.2 in Albany County. In contrast, the average number of prior PINS complaints per case was 0.2 in New York City, Dutchess County and Clinton County; 0.3 in Erie County and Monroe County; and 0.5 in Albany County.

Juveniles in Albany County were more likely to have multiple JD police referrals than juveniles in other study sites (Table 3.12).

Juveniles with two or more JD police referrals accounted for 32 percent of Albany County cases. The other sites ranged from 11 percent in Clinton County to 25 percent in Monroe County. Juveniles with four or more JD police referrals ranged from zero percent in Clinton County to 13 percent in Albany County.

Table 3.12. Prior PINS Complaints and JD Police Referrals for Intake Cases^a

	New York City %	Large Urban Counties		Mid-Size Urban Counties		Rural County
		Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Prior Contacts						
Prior PINS Complaints						
None	84	78	82	72	87	83
One	12	15	11	17	7	13
Two	3	6	4	6	5	4
Three	1	2	2	3	1	0
Four to Six	<1	<1	1	2	<1	0
Average Number Per Case	0.2 cases	0.3 cases	0.3 cases	0.5 cases	0.2 cases	0.2 cases
Prior JD Police Referrals						
None	59	64	55	50	70	74
One	20	14	20	20	15	16
Two	12	10	11	11	6	8
Three	6	5	7	8	5	3
Four to Six	3	6	6	12	4	0
Seven or More	<1	2	1	1	1	0
Average Number Per Case	0.7 cases	0.8 cases	0.9 cases	1.2 cases	0.6 cases	0.4 cases
Average Number of PINS and JD Priors Per Case	1.0 cases	1.2 cases	1.3 cases	1.7 cases	0.8 cases	0.6 cases
	(N=8,685)	(n=941)	(n=779)	(N=465)	(N=376)	(N=106)

^a Prior JD cases do not include JD cases that were not referred by the police for further legal processing.

Most Serious Prior System Penetration

One-half to three-quarters of the cases had no record of a prior PINS complaint or JD police referral (Table 3.13).

Roughly one-half of the cases in Albany County, New York City and Monroe County had no prior PINS complaint or JD police referrals (50 percent, 53 percent and 55 percent, respectively). In Erie County, 64 percent of the cases had no priors. Dutchess County and Clinton County had the largest percentage of cases with no priors (70 percent and 74 percent, respectively).

Most prior cases did not result in a JD finding (Table 3.13).

Albany County had the highest percentage of prior cases with JD findings (17 percent), while Clinton County had the lowest percentage (2 percent).

Table 3.13. Degree of Prior System Penetration for Intake Cases^a

	New York City ^b %	Large Urban Counties		Mid-Size Urban Counties		Rural County
		Erie %	Monroe ^c %	Albany %	Dutchess %	Clinton %
Degree of Prior System Penetration						
No PINS Complaints or JD Police Referrals	53	64	55	50	70	74
Prior PINS Complaint ^d	7	0	-	0	0	0
Prior JD Police Referrals						
No JD Finding	30	29	-	33	21	25
Misdemeanor	4	11	-	12	10	9
Felony	25	9	-	8	5	6
Unknown	<1	9	-	13	6	9
JD Finding - No Placement	5	4	-	10	5	0
Misdemeanor	3	4	-	5	4	0
Felony	2	1	-	4	1	0
Unknown	<1	<1	-	<1	1	0
JD Finding - Placement	6	3	-	7	4	2
Misdemeanor	3	2	-	3	1	0
Felony	3	1	-	3	2	2
Unknown	0	<1	-	1	1	0
	(N=8,685)	(n=941)	(n=779)	(N=465)	(N=376)	(N=106)

^a Prior JD cases do not include JD arrest cases that were not referred by the police for further legal processing.

^b JD findings for New York City are undercounted for two reasons. First, family court data on prior JD findings for designated felony cases were not available in all boroughs; these cases represent roughly 2 percent of the JD cases processed annually. Second, prior family court data for adjusted 1987 cases were not accessible; only 144 of the 988 adjusted cases had prior cases. Priors for a few cases may be overcounted due to the inclusion of some Juvenile Offender (JO) cases.

^c Family court data were not collected in Monroe County. As a result, the degree of prior system penetration could not be measured.

^d Prior PINS complaints could not be tracked to adjudication because PINS family court processing data were not available at all study sites.

The Intake Conference

All probation intake departments assign priority to detention and walk-through cases. Detention cases result in either an attempt at adjustment and a release of the child, or referral to the presentment agency. Walk-through cases involve immediate referral to the presentment agency, in order that the child appear at court the same day.

At the beginning of the intake process, the probation intake worker must first determine that the family court has jurisdiction over the case. This is done by verifying the child's identity and age, and that the charge applies to a JD case. An intake worker in Queens County, New York City, however, commented on the difficulties of determining the correct identity and age of the child:

Some years ago it said on the appearance ticket to bring information [birth certificate] to the court, but now you only have the child and their parent to go on. I can't confirm what they say as true, but that's the system.

Probation will also begin to collect information on prior system contacts and request information from schools and other sources. This information is used when evaluating the decision to adjust a case. In all study sites probation intake records are automated and routine searches are made for prior records. In addition, checks are often made for other family members. Some probation departments keep their records by family rather than by individuals (i.e., Dutchess and Erie counties). (See Volume II for a discussion on computerization of JD cases.)

Where prior cases have been adjusted or otherwise favorably terminated, they must be sealed according to FCA §375.1. Exceptions to these sealing provisions authorize release of sealed records to the juvenile or his agent and to probation services for the limited purpose of making adjustment decisions complying with FCA §308.1(4). This provision, which affects less than 5 percent of the cases, states that probation may not adjust a case with one of twelve charges specified in FCA §308.1(4) (see page 54) if the juvenile had a prior adjustment of a case with one of the twelve specified charges (FCA §375.1(3)).⁹ Under these sealing statutes, only 19 percent of prior records in New York City should have been available to probation intake workers in 1987 for the cohort cases. The percentage of unsealed prior records that should have been available in other sites ranged from 6 percent in Clinton County to 21 percent and 22 percent in Albany and Dutchess counties, respectively.¹⁰

At the time of this study, the physical sealing of records was routine in New York City and Nassau, Erie and Monroe counties. (See Volume II for a full discussion of each site's sealing practices.) A New York City senior probation administrator saw one effect of sealing as causing probation to refer more cases to the presentment agency:

The sealing of cases has had an effect on adjustment, I think. We can see that a kid has had a prior or priors [that is, prior sealed cases], and because we can't look in [to the records] to see what has happened, we will say, "Let's send it up [to the presentment agency]." The result is more sending of cases to court.

The sealing of favorably terminated cases did not become routine in Monroe County until the 1988 *Alonzo M.*¹¹ decision which specifically addressed sealing issues. The problem of not having access to prior case information was not viewed positively by a senior probation administrator in Monroe County:

Since the *Alonzo M.* case we now seal our adjusted cases – we are still in the process, actually. I believe that [sealing] provision is detrimental to giving good service to kids. By not having access to the details we cannot see what went on. We don't know where we failed or were good. Of course, something may have changed significantly for the child and if we can't look back we often cannot tell. I take the position that the kid didn't fail, but that programs and our intervention may. I can't see how it helps the child to seal the record.

Probation intake must also have the relevant parties available for interview. If the alleged offense is a designated felony the probation intake must take place within 72 hours following the issuance of an appearance ticket. For other alleged JD offenses the time frame is 14 days (FCA §307.1) following the issuance of an appearance ticket. Some probation departments have specific days for appearance ticket intakes from particular police departments; for example, in Erie County, cases from the Buffalo Police Department are seen on Mondays and Thursdays. If the child or the complainant fails to appear on the date specified on the appearance ticket, efforts to secure attendance may not exceed seven days (FCA §§307.2[1], [2]). If efforts fail, the case must be referred to the presentment agency. All intake departments in the study sites attempt to secure appearances within the specified time periods. In New York City, however, a relatively large percentage of referrals take place because of non-appearance of the complainant (see below).

When the parties are available, the complainant is often interviewed first to establish if he has an objection to adjustment. If an objection is made, the case must be referred because, "[t]he probation service may not prevent any person who wishes to request that a petition be filed from having access to the appropriate presentment agency" (FCA §308.1[9]). Some intake staff, nevertheless, make strenuous efforts to dissuade complainants when they feel referral is inappropriate, whereas others refer cases immediately whenever complainants object or fail to appear at the scheduled conference. The difference in efforts are usually explained as a result of a lack of resources.

The probation intake worker gathers an account of the alleged events and creates a social profile of the child involved. The Monroe County Probation manual outlines the topics covered in a typical conference:

Begin with an explanation of the law and the role of intake. Have the respondent [juvenile]¹² describe the incident. Get parent's reactions and response. Discuss the police version. Get input on the victim and restitution. Discuss restitution – if relevant. School information – get permission form signed. Family History. Physical and mental health information – explore prior counseling efforts. (Monroe County Probation Department, 1989:3-2).

Most of this information is confidential and probation staff are prohibited from sharing with the presentment agency “any statement made by the child to the probation officer” (FCA §308.1[6]). If the case is not adjusted, however, the presentment agency must be notified of this fact within 48 hours (FCA §308.1[10]).

Intake Decision Making

Local policies to determine intake outcome tend to be informal; as an intake worker in Queens County commented:

There is no objective criteria used for determining an adjustment. The rule I use is, no priors. If there are prior adjustments I won't adjust the case. In addition, the uncooperative type of client will not be adjusted. Where a case is adjusted, there are usually conditions attached. When relevant, the child usually comes into the office on a regular basis, or calls in by phone. In my opinion, we have a responsibility to refer all drug cases, but then they get ACDeD and that dilutes the impact of going to court. Other cases that are always referred are where there are no complainant signatures or a case of little substance in the police officer's report – so referral is made so that Corporation Counsel can substantiate a claim.

The probation officer in Dutchess County who dealt with intake cases after they have first been screened for adjustment by a sifter remarked:

In most cases we look for diversion [adjustment], particularly for light offenses and first offenses. Even if there are some prior cases, for example, in the past two years, we will try to divert. A lot is taken into consideration. . . . If the child is already on probation, we would refer the case to the County Attorney, and if the family circumstances are such that diversion [adjustment] wouldn't work, but otherwise we try to divert all cases.

A senior probation department administrator in Monroe County, mentioned other factors:

There are many things taken into account at intake, but much of it is based on the nature of the charge. In addition, if there is a case pending in the court with a finding, we will not adjust this case. If there has been a prior unsuccessful adjustment we would not adjust again. If the respondent says they are innocent we refer the case. If the parent refuses to be involved or the victim insists, we refer the case. We, of course, look at the safety issue, that is at the nature of the charge. We also refer cases where we can see that placement is needed for the child because of the home situation. Finally, when restitution fails and mediation is refused, although I believe there are new rulings on this issue.

Despite these differences, when asked about the priority of factors that ought to be taken into consideration, probation staff across study sites consistently placed the seriousness of the current charge and the history of contact with the justice system as the most significant items. For example, the intake supervisor in Monroe County said:

The factors in order, in my opinion, are: first, the seriousness of the crime; second, the history of prior contacts and prior diversions; third, the victim's loss - if it is a serious assault I look to the court for direction; fourth, if the child denies it I send it on; fifth, I look at the cooperativeness of the family and the remorsefulness of the child.

A senior probation administrator in Dutchess County remarked in answer to the same question:

It has much to do with the seriousness of the charge, the parental attitude to the child, and the child's prior history of getting into trouble.

A senior probation department administrator in New York City talked about the nature of discretion and the priority intake staff give to social versus legal factors. Her remarks would apply to most probation intake staff interviewed in the study sites.

. . . [T]here are cases you aren't allowed to adjust by law, but beyond that, the staff here go mostly on the kid's prior record. We take into account: the kid's attitude, the school experience and adjustment; any agencies the kid has had contact with; whether he has been in placement . . . it changes from borough to borough and PO [Probation Officer] to PO, and it depends upon the case, but in general, seriousness overrides social factors.

Probation personnel mentioned other factors, for example, their attitudes to drug and sex cases. However, the same overall factors relating to the seriousness of the current offense and prior offenses

emerge again and again. Of course, what counts as a "serious charge" or a "history of delinquency" may be defined differently from site to site.

As mentioned above, information is gathered from the complainant to help in a detention or release recommendation, should the case be petitioned by the presentment agency. At the initial appearance in court, for cases that go that far, a detention decision is made by the presiding judge (FCA §320.5). Only in New York City are detention recommendations made by probation on all cases referred to the presentment agency. Intake staff in Erie, Nassau and Clinton counties do not make such recommendations. In Dutchess County, recommendations for detention are made in cases that the paralegal feels warrant it, but this is often no more than a reiteration of the police recommendation. In Albany County, detention recommendations are only made when the supervisor of intake "feels it should happen." In Monroe County, recommendations are rarely made on appearance ticket cases. On detention and walk-through cases they are made, but as one intake officer put it,

Our problem with these [detention cases] is the time frame. This court wants a hearing the same day and because the child is in detention it is rarely possible for us to make the contacts we need to properly make a good decision.

The Monroe County intake manual spells out the issues involved in more detail:

The FCA mandates that detained youth have a right to adjustment services; however, it provides unrealistic time frames. The IDEAL model includes:

- Review the police packet.
- Interview the youth and parents.
- Get input from any agencies involved.
- Get feedback from the victim.
- Make an informed decision on the need for detention and adjustment suitability.

The REALITY includes:

- Police packet arrives after noon or later.
 - Inadequate interview space at the Hall [of Justice].
 - Inadequate staff to go to detention.
 - Parents rarely available before 2 p.m.
 - Victims unable to be reached.
 - Pressure from all sides to make decisions.
- (Monroe County Probation Department, 1989:8-1)

Table 3.14 shows the number of days from the intake interview until cases are adjusted or referred to the presentment agency. In Albany County 34 percent of cases were referred to the presentment agency before an intake interview was held. This practice is also found to a much lesser degree in other non-New York City sites. New York City has the shortest mean time -6 days, with 84 percent of the cases closed in one day, reflecting the relatively large percentage of intakes that must be referred because of complainant non-appearance. In Erie County and Albany County, 46 percent and 37 percent of cases, respectively, were closed in one day.

All sites close the majority of intake cases within sixty days, that is, before court permission is required to extend the adjustment period. In Monroe County and Dutchess County, substantial percentages of cases were still open after 61 days, 36 percent and 46 percent, respectively, reflecting their practice of relatively lengthy supervision of adjusted cases.

Table 3.14. Intake Interview^a to Intake Close Processing Times for Intake Cases

	New York City %	Large Urban Counties		Mid-Size Urban Counties		Rural County
		Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Processing Time^b						
Closed Prior to Interview	0	6	9	34	10	7
One Day	84	46	29	37	6	3
Two to 14 Days	8	14	13	3	25	19
15 to 30 Days	2	5	7	2	2	14
31 to 60 Days	6	10	7	7	13	46
61 to 90 Days	1	13	7	9	15	10
91 Days or More	<1	6	29	9	31	1
MEAN	6 days	27 days	50 days	33 days	72 days	37 days
St Dev	16 days	48 days	53 days	45 days	67 days	22 days
MEDIAN	1 days	2 days	25 days	1 days	61 days	44 days
	(N=8,563)	(n=794)	(n=632)	(N=446)	(N=336)	(N=88)

^a The intake interview dates in non-New York City data are the dates on which interviews were actually held. The intake interview dates in New York City data reflect the first scheduled interview dates; data were not available for rescheduled interview dates. For some cases, closing dates reflected clerical closing dates rather than actual probation officer closing dates. Therefore, the number of processing days may be marginally greater than actual processing days. Nonetheless, these data are reliable indicators of processing practices.

^b More than five percent of the intake interview or intake close dates were missing in the following study sites: Erie County (16 percent), Monroe County (19 percent), Dutchess County (11 percent) and Clinton County (17 percent).

Intake Outcome Analyses

The percentage of cases referred to presentment agencies varied widely by study site (Figure 3.10).

The percentage of cases referred were as follows: New York City (89 percent), Albany County (65 percent), Monroe County (58 percent), Dutchess County (51 percent), Erie County (34 percent), and Clinton County (26 percent). These numbers correspond largely to the amount of discretion available to probation officers when making an intake decision (Table 3.2).

Another reason reported by probation officers for referring 1987 cases was that the juvenile maintained innocence (zero percent in Clinton County to 21 percent in Erie County) (Appendix 3.1). Another factor was the juvenile's current placement/probation status at the time of the current case (zero percent in Clinton County to 17 percent in Dutchess County). In Queens and Richmond counties, probation officers also cited the juvenile's declaration of innocence as a reason for referral in 23 percent and 18 percent, respectively for their 1989 cases (Appendix 3.3).

1987 PROBATION INTAKE CASES
INTAKE OUTCOME

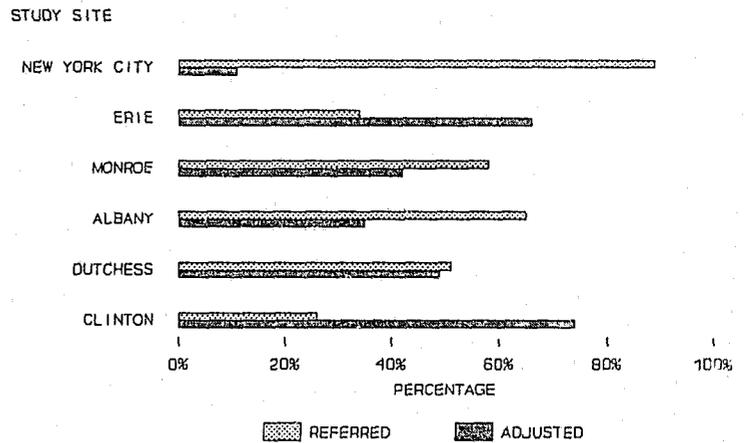


Figure 3.10

It is important to note that the percentage of JD cases adjusted or referred at each study site reflects differing practices regarding the processing of JD intake cases. While referral patterns were compared across sites, it was difficult to make comparisons across sites regarding the percentage of cases referred for any given demographic or offense characteristic. For example, New York City's referral of 89 percent of the cases involving males vs. Dutchess County's referral of only 53 percent of these cases, simply reflects New York City's practice of referring a higher percentage of cases overall than Dutchess County - 89 percent vs. 51 percent.

The intake outcome and its relation to demographic, offense, and prior contact characteristics is examined below.

Demographic Characteristics

Males were no more likely than females to be referred at most study sites (Table 3.15).

Clinton County was the only site where males were more likely to be referred than females (32 percent vs. 8 percent).

Age was not related to intake outcome (Table 3.15).

The relationship between age and intake outcome was not substantively meaningful in any of the study sites.

Minorities were more likely to be referred than whites¹³ in two of the three sites where race/ethnicity data were analyzed (Table 3.15).

Minorities in the counties of Monroe and Albany were more likely to be referred than whites. Differences in percentages were most striking in Monroe County, where 45 percent of cases involving white juveniles were referred versus 65 percent of cases involving minorities (Figure 3.11). In New York City the percentage of adjusted versus referred cases for whites and minorities was not substantially different.

Clinton County was not considered in this analysis because of the small number of minority cases in this site. Erie and Dutchess counties were excluded from this analysis because of the substantial percentage of race/ethnicity data missing at each site (43 percent and 36 percent, respectively).

1987 PROBATION INTAKE CASES
REFERRAL PERCENTAGES BY WHITE/MINORITY

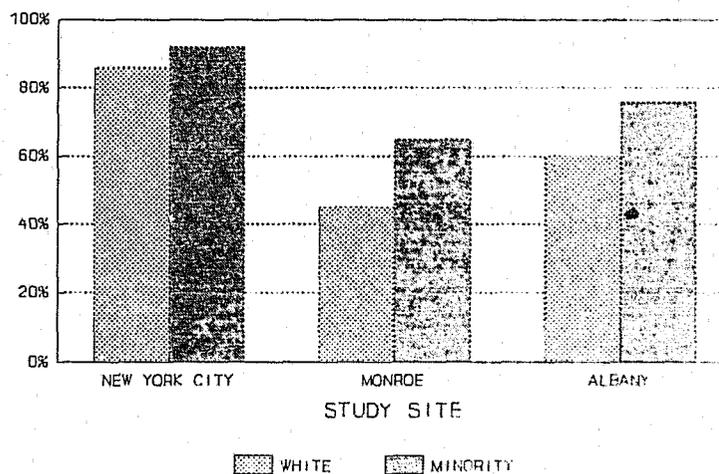


Figure 3.11

Table 3.15. Intake Outcome by Demographic Characteristics of Intake Cases

	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City			Erie			Monroe			Albany			Dutchess			Clinton		
	Adj %	Ref %	(N)	Adj %	Ref %	(n)	Adj %	Ref %	(n)	Adj %	Ref %	(N)	Adj %	Ref %	(N)	Adj %	Ref %	(N)
Sex																		
Male	12	89	(7,762)	65	35	(720)	42	58	(632)	34	66	(363)	47	53	(294)	68	32	(81)
Female	11	90	(859)	70	30	(217)	43	57	(146)	37	63	(101)	56	44	(80)	92	8	(25)
Tau	.0081			-.0396			-.0052			-.0190			-.0764			-.2321		
α	.2257			.1126			.4427			.3411			.0701			.0087*		
Age at Intake																		
7 to 10	17	83	(197)	82	18	(44)	65	35	(43)	50	50	(12)	60	40	(30)	50	50	(8)
11	11	89	(230)	51	49	(35)	31	69	(32)	38	63	(16)	55	46	(22)	86	14	(7)
12	14	86	(530)	65	35	(85)	48	52	(73)	33	67	(46)	48	52	(29)	73	27	(11)
13	13	87	(1,333)	77	23	(150)	44	56	(127)	32	68	(84)	45	55	(69)	71	30	(17)
14	12	88	(2,400)	64	36	(225)	44	56	(242)	34	66	(109)	51	49	(80)	82	19	(27)
15+	10	90	(3,943)	62	38	(375)	37	63	(261)	35	65	(180)	49	52	(136)	71	29	(34)
Average Age	13.9	14.0	yrs.	13.7	13.9	yrs.	13.4	13.7	yrs.	13.5	13.7	yrs.	13.4	13.6	yrs.	13.5	13.3	yrs.
Tau	.0274			.0808			.0982			.0212			.0343			.0311		
α	.0001			.0099			.0064			.3331			.2781			.3755		
Race/Ethnicity^a																		
White	14	86	(919)	-	-	-	55	45	(287)	40	60	(309)	-	-	-	75	25	(95)
Minority	9	92	(7,291)	-	-	-	36	65	(485)	24	76	(152)	-	-	-	100	0	(3)
Black	7	93	(4,873)	-	-	-	35	65	(413)	24	76	(142)	-	-	-	0	0	(0)
Hispanic	11	89	(2,319)	-	-	-	34	66	(62)	38	63	(8)	-	-	-	100	0	(1)
Other	13	87	(99)	-	-	-	44	56	(9)	0	100	(2)	-	-	-	100	0	(2)
Tau ^b	.0567			-			.1914			.1557			-			-.1012		
α	.0000			-			.0000*			.0004*			-			.1594		

^a Five percent or more of the data were missing at the following sites: New York City (5 percent), Erie County (43 percent), Dutchess County (36 percent), and Clinton County (8 percent). Data presentations were excluded when more than 25 percent of the data were missing.

^b Race/ethnicity was recoded to two categories: white and minority.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Offense Characteristics

Generally, the percentage of cases referred to the presentment agency increased with the seriousness of the offense in most study sites (Table 3.16).

Felonics were more likely to be referred than misdemeanors in all study sites, with the exception of Monroe County. Differences in the percentage of felony versus misdemeanor cases referred at these sites ranged from 16 percent in Dutchess County (60 percent vs. 46 percent) to 41 percent in Clinton County (55 percent vs. 14 percent).

Table 3.16. Intake Outcome by Arrest Offense Categories and Classifications for Intake Cases

Arrest Offense Category & Class	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City			Erie			Monroe			Albany			Dutchess			Clinton		
	Adj %	Ref %	(N)	Adj %	Ref %	(n)	Adj %	Ref %	(n)	Adj %	Ref %	(N)	Adj %	Ref %	(N)	Adj %	Ref %	(N)
Felony Offenses	7	93	(6,532)	53	47	(272)	37	63	(227)	15	85	(169)	40	60	(134)	46	55	(33)
A	0	100	(39)	0	0	(0)	0	0	(0)	0	0	(0)	0	0	(0)	100	0	(1)
B	2	98	(1,063)	29	71	(17)	21	77	(14)	8	92	(12)	33	67	(6)	0	100	(2)
C	7	93	(1,679)	50	50	(76)	39	61	(62)	9	91	(56)	30	70	(43)	29	71	(7)
D	8	92	(2,898)	57	43	(125)	38	62	(102)	18	82	(72)	49	51	(59)	50	50	(22)
E	10	90	(893)	57	43	(54)	37	63	(49)	21	79	(29)	35	65	(26)	100	0	(1)
Misdemeanor Offenses	24	76	(1,932)	71	29	(657)	45	56	(548)	47	53	(290)	54	46	(238)	86	14	(71)
A	24	77	(1,740)	71	30	(616)	44	56	(506)	47	53	(269)	54	47	(213)	85	15	(67)
B	32	68	(192)	83	17	(41)	48	52	(42)	38	62	(21)	60	40	(25)	100	0	(4)
Average Offense Seriousness Score^a	3.0	4.0	score	2.4	2.9	score	2.5	2.7	score	2.3	3.1	score	2.5	2.9	score	2.3	3.6	score
Tau ^b	-.1557			-.1728			-.0665			-.2999			-.1553			-.3872		
α	.0000*			.0000*			.0279			.0000*			.0019*			.0000*		

^a B Misdemeanor = 1, A Misdemeanor = 2, E Felony = 3, D Felony = 4, C Felony = 5, B Felony = 6, A Felony = 7.

^b Arrest offense included the seven classification categories.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Violent offenses were more likely to be referred than property offenses in three of the six sites (Table 3.17).

In Erie, Albany and Dutchess counties, cases involving violent offenses (i.e., assault, robbery and sex offenses) were more likely to be referred than those involving property offenses (i.e., larceny, burglary, criminal mischief and theft-related offenses) (Table 3.17). Elsewhere the percentage of adjusted versus referred cases for violent and property offenses was not substantially different.

Table 3.17. Intake Outcome by Arrest Offense Type for Intake Cases

Arrest Offense Type ^a	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City			Erie			Monroe			Albany			Dutchess			Clinton		
	Adj %	Ref %	(N)	Adj %	Ref %	(n)	Adj %	Ref %	(n)	Adj %	Ref %	(N)	Adj %	Ref %	(N)	Adj %	Ref %	(N)
Violent	9	91	(3,492)	52	48	(166)	38	62	(177)	21	80	(112)	33	67	(46)	73	27	(11)
Property	14	86	(3,597)	69	31	(670)	45	56	(541)	39	62	(317)	51	50	(273)	71	29	(83)
Drug	7	93	(999)	50	50	(4)	40	60	(5)	25	75	(4)	50	50	(6)	100	0	(1)
Other	19	81	(597)	68	32	(100)	36	64	(56)	53	47	(32)	55	45	(49)	90	10	(10)
Tau ^b	-.0883			-.1431			-.0542			-.1667			-.1262			.1167		
α	.0000			.0000*			.0732			.0003*			.0122*			.4552		

^a Categories are based on UCR offense classifications (see Appendix 2.2).

^b Arrest offense type was reduced to two categories: violent and property; drug and other were excluded.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Among violent offenses in these three sites – Eric, Albany, and Dutchess counties – the percentage of referrals was less for cases involving assault than for those involving robbery or sex offenses (Table 3.18).

The likelihood of referral also varied across these three sites for property offenses (Table 3.18). Generally, the percentage of referrals was greater for cases involving burglary and theft-related offenses; criminal mischief cases were the least likely to be referred.

In New York City, controlled substance cases were more likely to be referred than marijuana cases (96 percent vs. 79 percent) (Table 3.18). Drug cases at non-New York City sites were excluded from this analysis because of the small number of cases.

Table 3.18. Intake Outcome by Arrest Offense Penal Law Articles for Intake Cases

Arrest Offense Penal Law Article	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City			Erie			Monroe			Albany			Dutchess			Clinton		
	Adj %	Ref %	(N)	Adj %	Ref %	(n)	Adj %	Ref %	(n)	Adj %	Ref %	(N)	Adj %	Ref %	(N)	Adj %	Ref %	(N)
Violent Offenses																		
Assault	11	90	(1,299)	61	39	(99)	37	63	(124)	25	75	(84)	35	65	(37)	86	14	(7)
Robbery	7	93	(1,849)	42	58	(26)	69	31	(13)	0	100	(15)	100	0	(1)	0	0	(0)
Sex Offenses	9	91	(271)	35	65	(34)	36	64	(28)	9	91	(11)	17	83	(6)	50	50	(4)
Property Offenses																		
Larceny	9	91	(1,825)	77	23	(369)	58	42	(238)	57	43	(142)	50	50	(130)	93	7	(44)
Burglary	15	85	(894)	54	46	(147)	32	68	(121)	24	76	(95)	49	51	(85)	46	55	(22)
Criminal Mischief	37	63	(494)	71	29	(103)	39	62	(104)	39	61	(36)	55	45	(42)	50	50	(10)
Theft-Related	12	88	(308)	55	45	(85)	28	72	(85)	26	75	(47)	59	41	(27)	40	60	(5)
Drug Offenses																		
Controlled Substances ^a	4	96	(839)	33	67	(3)	0	100	(3)	50	50	(2)	75	25	(4)	100	0	(1)
Marijuana ^b	21	79	(168)	100	0	(1)	100	0	(2)	0	100	(2)	0	100	(2)	0	0	(0)
Other Offenses																		
Public Order	32	68	(25)	75	25	(28)	42	58	(19)	67	33	(3)	40	60	(15)	88	13	(8)
Firearms	9	92	(329)	67	33	(18)	20	80	(10)	57	43	(7)	40	60	(5)	100	0	(1)
Arson	2	98	(55)	25	75	(4)	58	42	(12)	9	91	(11)	0	100	(4)	0	100	(1)
Other	23	77	(127)	75	25	(20)	35	65	(20)	22	78	(9)	67	33	(15)	100	0	(3)

^a Includes both the sale and possession of controlled substances.

^b Includes only the sale or criminal possession of marijuana; unlawful possession of marijuana is a violation – not a crime – and, therefore, not a JD offense.

The likelihood of referral to the presentment agency increased with the degree of prior system penetration (Table 3.19).

The likelihood of referral increased in all study sites with the severity of the most seriousness prior outcome. For example, in Dutchess County 40 percent of the JD cases with no prior JD cases were referred to the presentment agency. The percentage of JD cases referred increased to 66 percent for cases with one or more prior JD cases but no JD findings, and rose to 100 percent in JD cases with one or more prior JD findings.

Table 3.19. Intake Outcome by Degree of Prior System Penetration^a for Intake Cases

Degree of Prior System Penetration	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City ^b			Erie			Monroe ^c			Albany			Dutchess			Clinton		
	Adj %	Ref %	(N)	Adj %	Ref %	(n)	Adj %	Ref %	(n)	Adj %	Ref %	(N)	Adj %	Ref %	(N)	Adj %	Ref %	(N)
No PINS Complaints or Prior JD Police Referrals	17	83	(4,571)	83	17	(598)	-	-	-	51	49	(231)	60	40	(260)	81	19	(78)
Prior PINS Complaint ^d	7	93	(563)	0	0	(0)	-	-	-	0	0	(0)	0	0	(0)	0	0	(0)
JD Prior Police Referrals																		
No JD Finding	7	94	(2,590)	43	57	(272)	-	-	-	27	73	(154)	34	66	(79)	58	42	(26)
JD Finding - No Placement	<1	100	(435)	20	80	(41)	-	-	-	6	94	(47)	0	100	(21)	0	0	(0)
JD Finding - Placement	<1	100	(526)	3	97	(29)	-	-	-	3	97	(33)	0	100	(16)	0	100	(2)
Tau ^e	.1377			.4489			-			.3678			.3348			.2221		
α	.0000*			.0000*			-			.0000*			.0000*			.0018*		

^a Prior JD contacts do not include JD arrest cases that were not referred by the police for further legal processing.
^b JD findings for New York City are undercounted for two reasons. First, family court data on prior JD findings for designated felony cases were not available in all boroughs; these cases represent roughly 2 percent of the JD cases processed annually. Second, family court data for adjusted 1987 cases with prior cases were not accessible; only 144 of the 988 adjusted cases had prior cases. Priors for a few cases may be overcounted due to the inclusion of some Juvenile Offender (JO) cases.
^c Family court data were not collected in Monroe County. As a result, the degree of prior system penetration could not be measured.
^d Prior PINS complaints could not be tracked to finding because PINS family court processing data were not available at all study sites.
^e Prior system penetration was recoded to three categories: no prior JD police referral, prior JD police referral but no JD finding, and prior JD finding.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

In general, the likelihood of case referral to the presentment agency increased with the number of prior JD cases (Table 3.20).

Cases with no prior JD records were less likely to be referred to presentment agencies than cases with prior JD records. For example, in Erie County only 17 percent of the cases with no prior JD records were referred while 42 percent of the cases with priors were referred. In Dutchess County, the percentage of cases referred increased from 40 percent for those with no prior JD record to 62 percent for those with one prior.

Generally, the percentage of cases referred continued to increase as the number of prior JD cases increased. For instance, in Dutchess County 62 percent of the cases with one prior were referred, 82 percent with two priors, and 100 percent of the cases with four or more priors (Table 3.20 and Figure 3.12).

At each study site, the average number of prior JD cases per referred case was three to five times greater than it was per adjusted case. In Albany County, which had the highest average overall, the average number of priors for adjusted cases was 0.4 compared to 1.6 for referred cases (Table 3.20).

1987 PROBATION INTAKE CASES
REFERRAL PERCENTAGES BY
NUMBER OF PRIOR JD CASES

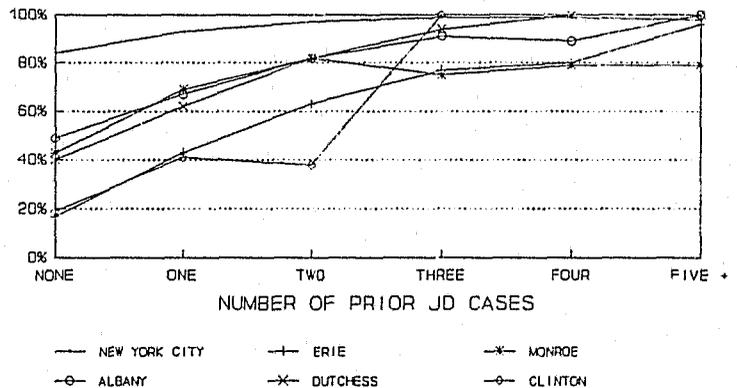


Figure 3.12

Table 3.20. Intake Outcome by Number of Prior JD Cases for Intake Cases

	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City			Erie			Monroe			Albany			Dutchess			Clinton		
	Adj %	Ref %	(N)	Adj %	Ref %	(n)	Adj %	Ref %	(n)	Adj %	Ref %	(N)	Adj %	Ref %	(N)	Adj %	Ref %	(N)
Prior JD Cases																		
None	16	84	(5,142)	83	17	(598)	57	43	(427)	51	49	(231)	60	40	(260)	81	19	(78)
One	7	93	(1,709)	58	43	(134)	31	69	(157)	33	67	(92)	38	62	(58)	59	41	(17)
Two	3	97	(1,057)	37	63	(92)	18	82	(87)	18	82	(49)	18	82	(22)	63	38	(8)
Three	1	99	(505)	23	77	(47)	25	75	(57)	9	91	(35)	6	94	(17)	0	100	(3)
Four	1	99	(181)	20	80	(15)	21	79	(24)	11	89	(27)	0	100	(6)	0	0	(0)
Five or More	2	98	(91)	4	96	(54)	21	79	(28)	0	100	(31)	0	100	(11)	0	0	(0)
Average Number of Prior JD Cases	0.2	0.8 cases		0.3	2.1 cases		0.5	1.3 cases		0.4	1.7 cases		0.2	1.1 cases		0.3	0.8 cases	
Tau	.1249			.4789			.3276			.3848			.3385			.2257		
α	.0000*			.0000*			.0000*			.0000*			.0000*			.0016*		

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Adjustment Services

Involvement by probation intake in the adjustment process varies from site to site. In Erie County, for example, there is some referral to community programs, but there is no case supervision or program monitoring. The supervisor of intake explained that this was due to a lack of staff and limited local resources. This situation is similar in New York City, where program monitoring is usually performed by the program itself, although individual intake staff may attempt to meet with or contact children during the adjustment process. By contrast, in Nassau, Clinton, Monroe, Albany and Dutchess counties, cases are monitored in the same way as are supervised probation adjudications. For example, Albany County cases are classified into four levels of supervision. The level determines the frequency of contacts, in what amounts to "informal probation." Counties that provide regular supervision, to adjusted cases, routinely extend the adjustment period from two to four months so that intake supervision can be maintained longer.

Many departments arrange restitution as part of adjustment. The amount of supervision of restitution cases changes from department to department. Erie County and Clinton County probation departments do not become a party to restitution agreements, they merely arrange them. In New York City, restitution is arranged as part of a special program. A Queens County intake worker explained:

There is a very good program run by the New York City Transit Authority. Their representative will make up a program for a suitable kid, usually a first offender. . . . I usually leave the representative to interview the child and the family. They love it, the kid avoids getting a record and the parents see the kid doing something. . . . The child enters into a contract, not with probation, but with the Transit Authority representative. I don't get involved. It seems to work. You don't see those kids coming back.

Dutchess, Monroe, Albany and Nassau counties all have considerable community-based resources for referrals. The probation officer who deals exclusively with adjusted cases in Dutchess County gave a range of typical options:

Counseling – in which case I have to work out a referral; curfew and chores – which are agreed to through a behavior contract; mediation – referral to the very good mediation program here; alcohol/drug abuse program referrals; community service/restitution – recently I had a fire setter do community service at a local fire department. Whatever the plan, I always make a contract with both the child and the parent.

Monroe County has a long list of what they call diversion programs, including: shoplifting seminars, run for first offender children and their parents; Project Conway, a trip to Attica run by Rochester P.D. for multiple offenders; and the Crimes Reward Program, which involves trips to Monroe County jail with parents and counselors. In addition, they have contract programs that provide a variety of services to children in the adjustment process, including: the Urban League JD Prevention Program, a counseling program focussing on minority youth and families; Hillside Respite, a 30-day foster or group care component, followed by intensive counseling at home; and so on. Nassau County has similar types of local programs available for adjusted cases.

In some counties, programs are exclusively used by children in the adjustment process, for example, the Urban League counseling program in Monroe County. Other counties tend to refer to programs that accept clients from a variety of sources. For example, the Community Service Sentencing Program (CSSP) in Albany County mainly accepts adults, but is also open to juveniles. New York City, Erie and Clinton counties have fewer community-based resources so service provision is much more restricted than in Monroe, Dutchess, Albany and Nassau counties.

In summary, services to children on adjusted cases vary considerably because of widely differing availability of local community-based programs, and probation practices and policies. They range from little more than warnings of subsequent prosecution, should the child be rearrested, to extensive periods of counseling and community program referral.

Information Passed on to the Presentment Agency

When cases are referred by probation intake to the local presentment agency the "police package" is forwarded. There are, however, restrictions on divulging other information. According to FCA §§308.1[6] and [7]:

The probation service shall not transmit or otherwise communicate to the presentment agency any statement made by the child to the probation officer.

No statement made to the probation service prior to the filing of a petition may be admitted into evidence at a fact-finding hearing or, if the proceeding is transferred to a criminal court, at any time prior to conviction.

The provision is critical because it prohibits a child's admissions or confessions from being used by the presentment agency during the charge screening and during the plea bargaining negotiations, and by the court during the "trial phase" of a case – the fact-finding hearing. The actual papers that go forward to the presentment agency may differ in detail from department to department, but the Dutchess County policies and procedures manual is typical of practices in the study sites:

Cases deemed inappropriate for adjustment will be forwarded to the County Attorney's office with a memo of explanation and the police paperwork.

Any statement made by the potential respondent shall not be included in the memo. However, recommendations and previous probation and police contacts may be mentioned in the memo (Dutchess County Probation Dept., 1989:24).

In addition, probation intake officers include their detention recommendations in Monroe County and New York City.

Summary of Findings

1. New York City intake cases involved much more serious offenses than other sites.

Seventy-seven percent of the New York City intake cases involved felony offenses. Elsewhere, felonies represented the top charges in 29 to 37 percent of the cases. New York City had a much higher percentage of violent offenses and much lower percentage of property offenses than other sites. In New York City, robbery offenses accounted for 22 percent of intake cases, while larceny was the largest offense category in all other study sites. Drug offenses accounted for 12 percent of New York City intake cases, but only 2 percent or less elsewhere.

2. One-half to three-fourths of the intake cases had no official prior record of JD police referrals or PINS complaints. Juveniles with four or more prior cases accounted for up to 13 percent of intake cases at sites.

The average number of prior JD police referrals ranged from 0.4 cases in Clinton County to 1.2 in Albany County. The average number of PINS priors per case ranged from 0.2 cases in New York City, Dutchess County and Clinton County to 0.5 in Albany County.

Albany County and Monroe County had the greatest percentages of cases with at least one prior JD police referral (50 percent and 45 percent, respectively). Clinton County and Dutchess County had the smallest percentage of cases with at least one prior JD police referral (26 percent and 30 percent, respectively).

In Albany County, 13 percent of intake cases had at least four prior JD police referrals. The other sites ranged from zero percent in Clinton County to 8 percent in Erie County.

Much of this data is counter-intuitive. For instance, the small number of prior cases in New York City may be explained by the New York City Police Department's policy of diverting almost all misdemeanor cases. Conversely, higher prior police referral numbers, in sites with less serious cases, may reflect policies and practices of diverting fewer cases.

3. The race/ethnicity characteristics of intake cases varied by site, but there were few other demographic differences.

The percentage of intake cases involving minorities was disproportionate to their representation in the population in New York City, Monroe County and Albany County; percentages were similar in Clinton County. Race/ethnicity data were not systematically collected in Erie and Dutchess counties, making it impossible to measure relationships based on race/ethnicity.

The typical alleged JD in all study sites was 14 or 15-year-old males. The percentage of cases involving 14 or 15-year-olds ranged from 57 percent in Dutchess and Clinton counties to 72 percent in New York City. The distribution by sex was relatively similar in all sites (77 percent to 81 percent male), except in New York City, where males made up 90 percent of the intake population.

4. Probation intake cases are processed in a variety of ways.

In several sites, JD police referrals are sifted based on current offense and prior offense factors to determine adjustment eligibility. If the screening result determines that the case should be referred to the presentment agency, interviews are either not held or only a perfunctory interview held. In other sites, interviews are provided for juveniles on all cases, but time is spent on cases that are clearly ineligible for adjustment based on statute or local policies and practices.

5. Some cases, mainly detention cases, bypass probation intake.

The general belief among practitioners is that all JD cases must be referred to probation intake. However, the rules of the court apply this standard only to appearance ticket cases (NYCRR §205.22). Therefore, cases may be petitioned without any opportunity at intake adjustment. Practitioners indicate that many children are detained simply because an adult was not available to assume custody of the juvenile.

6. Current or prior offenses place few limitations on probation's ability to adjust cases.

Discretion in intake decision making is limited by a combination of State laws, State rules and regulations, and local policies. However, only State laws mandate adjustment eligibility. The other criteria should be looked at during intake, but can be broadly interpreted or waived at the direction of a local probation official.

Laws limiting probation's discretion to adjust certain cases based on the current offense or prior offenses apply to only a small percentage of intake cases. Current or prior offenses limited probation's independent discretion to adjust from only 3 percent in New York City and Erie and Dutchess counties to 5 percent in Albany County. However, based on the high referral rates for serious offenses and cases with significant prior contacts, it is unlikely that further limits based on current or prior offenses would have any significant practical impact on processing.

While current and prior offense characteristics place few limitations on probation, the complainant's insistence for referral to the presentment agency has a significant impact. In Albany County, the police are the complainant on all cases and often insist that cases go forward for processing. Probation must refer any case where the complainant or juvenile insists on referral or refuses to participate in the intake process. Insistence for referral by the complainant removed discretion in 56 percent of Albany County's 1987 intake cases. Non-appearance of the complainant removed discretion in 43 percent of the cases processed during the summer of 1989 in Queens County.

7. In New York City, non-appearance of complainants substantially impacts on probation intake and post-intake processing.

In the summer of 1989, probation officers identified non-appearance of the complainant as a reason for referral on about 43 percent of intake cases in Queens County. Practitioners say this is the main reason for referral in all New York City counties. Complainant reluctance to cooperate and limited resources to secure the appearance of the complainant may also affect post-referral processing.

8. There were differences in referral rates from probation intake to presentment agencies across sites.

Probation intake referral rates ranged from 26 percent in Clinton County to 89 percent in New York City.

A misdemeanor case in New York City had a greater chance of referral than a felony case in Erie, Monroe, Dutchess and Clinton counties. A case with no priors in New York City had greater chances of referral than a case with a prior misdemeanor finding in Erie County.

9. Adjustment services vary across study sites.

Adjustment services range from little more than warnings of subsequent prosecution should the child be rearrested, to extensive periods of counseling and community program referral.

In Erie County there is no case supervision or program monitoring. This situation is similar in New York City. By contrast, in Nassau, Clinton, Monroe, Albany and Dutchess counties, cases are monitored in the same way as supervised probation dispositions. For example, Albany County cases are classified into four levels of supervision. The level determines the frequency of contacts, in what amounts to "informal probation." Counties that provide regular supervision to adjusted cases routinely extend the adjustment period from two to four months so that longer intake supervision can be maintained.

10. The seriousness of the current offense, as well as the prior JD record were related to intake outcome.

Felony cases were more likely to be referred than misdemeanor cases in most sites. In several sites, cases involving violent offenses (i.e., assault, robbery, and sex offenses) also had a greater chance of being referred than cases involving property offenses (i.e., larceny, burglary, criminal mischief and theft-related offenses). The likelihood of referral also increased with the seriousness of prior system penetration. Cases involving juveniles whose most serious prior case outcome did not result in a JD finding were less likely to be referred than cases in which the most serious prior outcome was a JD finding. Similarly, the likelihood of referral increased with the number of prior JD cases.

11. Racial/ethnic characteristics were related to intake outcome, while age and gender were not important factors.

In the three sites where race/ethnicity data were analyzed, minorities were more likely to be referred than whites in two of these sites. For example, in Monroe County, 45 percent of cases involving whites were referred versus 65 percent of the cases involving minorities. It is important to note that in this analysis and other analyses, causal inferences cannot be drawn from bivariate relationships. For example, race/ethnicity might prove to be unimportant when the seriousness of the prior record is introduced into the analysis. The relationship of age and intake outcome was not substantively meaningful in any of the sites. Finally, in Clinton County – the only site where gender was related to intake outcome – males were more likely to be referred than females.

12. Few probation departments provide detention recommendations to the court, limiting the amount of social information available.

Only in New York City and Monroe County do probation intake make detention recommendations routinely. Social factors gathered at probation intake may be valuable to the court when determining a child's detention status.

Notes

1. See NYCRR §205.22.
2. Adjustment is in fact the outcome of the adjustment process, but for the sake of clarity, such phrases as adjusted cases will be used for cases that are eventually adjusted.
3. The Office of the Corporation Counsel is the presentment agency in New York City for all except designated felony cases, which are handled by the DA's Office. County Attorneys handle all JD cases in the other study sites. See FCA §254.
4. This topic was given considerable research attention in the 1970s. For example, the findings of D.R. Cressey and R.A. McDermott (in *Diversion From the Juvenile Justice System*, LEAA, National Institute of Law Enforcement and Criminal Justice, 1974:92) were typical when they characterized intake as employing vague standards in a process of "dramatic discretionary decision-making." For similar findings applied to New York State see Henry Paquin, *Characteristics of Youngsters Referred to Family Court Intake and Factors Relating to their Processing*, Albany, School of Criminal Justice, State University of Albany, 1976.
5. Telephone conversation on February 14, 1990.
6. Diversion is often used interchangeably with adjustment. However, this report has operationalized the terms diversions and divert to apply solely to the police decision not to refer a case to probation intake.
7. Probation cannot adjust specified non-designated felony charges where there has been a prior adjustment on any specified non-designated felony charge without the written approval of the court and the presentment agency. The wording of the Family Court Act creates an anomaly in which probation has discretion to adjust a case even if it had previously referred a case with one of the same charges. However, if the prior case was adjusted it would lack discretion.
8. Detention facilities and probation departments may also issue appearance tickets (FCA §307.1 (1) and FCA §307.3).
9. See endnote 7.
10. Family court data were not collected in Monroe County; therefore, it was not possible to measure the percentage of prior records that were sealed.
11. *Matter of Alonzo M.*, 72 N.Y.2d 662 (1988).

12. According to FCA §301.2(2), "respondent" means the person against whom a juvenile delinquency petition is filed. This chapter refers to this person as a "juvenile" or "child," since the probation intake process occurs prior to petitioning. There are, however, several instances in this chapter where individuals are quoted using the term "respondents."
13. Care should be taken when interpreting race data. These study sites had the following proportions of missing data: Erie County 43, Dutchess County 36, and Clinton County 8.

Presentment Agency Screening

Introduction

Presentment agency screening is the next step in the juvenile justice process. The term "presentment agency" refers to a county attorney, corporation counsel or district attorney. The presentment agency has two major responsibilities during screening. First, it must determine whether circumstances warrant a petition being filed against the juvenile. Second, if a petition is to be filed, the presentment agency must determine what charges are to appear on the petition against the respondent. "Respondent" means the person against whom a juvenile delinquency petition is filed (FCA §301.2 [2]). Once a petition has been filed, the presentment agency seeks to establish the allegations against the respondent in court.

There are few statutory provisions to guide the presentment agency in the screening of cases from probation intake. FCA §310.1(1) and FCA §310.1(2) state that the presentment agency is the only party that may file a petition and originate a delinquency proceeding in court. A private person cannot originate a proceeding by filing a petition. FCA §310.1(3) and §375.1(4) state that if the presentment agency decides not to originate a proceeding (i.e., declines to prosecute), the presentment agency must notify both the complainant and the probation service of that fact. The standard of legal sufficiency the petition must pass is given in FCA §311.2. It states that the petition and supporting documents must provide "reasonable cause to believe the respondent committed the crime or crimes charged." In addition, the petition cannot rely on hearsay allegations.¹

This chapter will review the role of the presentment agency in screening cases, in particular, the factors involved in the decision to either decline to prosecute or to file a petition. In addition, throughout this chapter the statistical characteristics of 1987 intake cases referred to presentment agencies are examined. Profiles of alleged JDs and their offenses are presented.

Putting this Chapter in Context

In the previous chapters we found . . .

- A high percentage of arrested juveniles were diverted by the police. For instance, the New York City Police Department and the Monroe County Police Department diverted between 60 percent and 70 percent of all juvenile arrests in 1987. In New York City, 91 percent of misdemeanor arrests were diverted. Felony arrests were not diverted in New York City.
- Almost all (96 percent) of the police referrals were sent to the juvenile justice system. Only four percent of the referrals were statutorily mandated to be sent to the adult system for Juvenile Offender processing.
- New York City probation intake referred 89 percent of its intake cases; Albany County, 65 percent; Monroe County, 58 percent; Dutchess County, 51 percent; Erie County, 34 percent; and Clinton County, 26 percent. The high percentages in New York City and Albany County may be explained by a loss of statutory discretion caused by complainant non-appearance (New York City) and complainant insistence upon referral to the presentment agency (Albany County).

(continued)

A subset of the 1987 probation intake cohort was used for the presentment agency analysis – only cases referred by probation intake to the presentment agency.² The analysis focused on six of the seven study sites – New York City and Erie, Monroe, Albany, Dutchess and Clinton counties – because presentment agency data were not accessible in Nassau County. See Appendix 1 for a full discussion of the project's methodology.

– The seriousness of current offense, as well as prior JD record, were related to intake outcome. Racial and ethnic characteristics were also related.

Historical Role of the Presentment Agency

In most states either the court or probation intake evaluates cases before prosecutor involvement. Prosecutors receive cases directly from police agencies in only five states (NCCJ, 1989). The New York State model is similar to most other states. The presentment agency receives a case after probation intake makes a determination that it should be referred for petitioning.

One of the most significant portions of the family court statutes enacted in 1962 was the provision for appointed counsel to represent juveniles. Various local prosecution practices developed, however, because there was no statutory equivalent for representing petitioners. In some jurisdictions, legal assistance to the petitioner was performed by a variety of individuals, including police, social workers, teachers, private citizens, probation officers and, in some places, judges (Besharov, 1983:221). In New York City, for instance, it was not until the late 1960s that the Office of the Corporation Counsel began to present delinquency petitions. Before that, the New York City Police Department had a single attorney in each borough responsible for presenting petitions.

It was not until the enactment of FCA §254(a) in 1970, that New York State laws clearly defined which agencies were responsible for presenting petitions. FCA §254(a) states that the corporation counsel or county attorney is responsible for presenting cases in family court and assists in all stages of the proceeding, including appeals in connection with the petition. FCA §254-a(1), enacted in 1978, further states that the local county attorney or corporation counsel may enter into agreement with the respective district attorney's office for the presentation of designated felony cases by the district attorney's office. In study sites outside of New York City, separate family court units of county attorney offices present all delinquency petitions, including designated felony petitions. In New York City, the Office of the Corporation Counsel – Family Court Division, usually presents non-designated felony petitions, while family court units of the five county district attorney offices present the designated felony petitions.³

Overview of the Screening Process

Figure 4.1 shows the basic steps that are followed when a case is referred from probation intake to the presentment agency. The cases referred from probation are cases that probation found to be ineligible or unsuitable for adjustment.⁴ If the case is not adjusted, probation must notify the presentment agency within two days of the decision to refer, or prior to the next court date, whichever occurs later (FCA §308.1[10]).

The presentment agency attorney assigned to screen the case must decide, on the information before him (and any extra information he gathers from witnesses, complainants and police officers), whether to file a delinquency petition or to decline to prosecute the case. For cases that do not result in a petition within 30 days of referral from probation, the presentment agency must notify the complainant in writing (FCA §310.1[3]). However, there is no time limit for the filing of a petition short of the period specified in the statute of limitations proscribed in CPL 30.10 or, unless the alleged act is a designated felony act, before the respondent's eighteenth birthday, whichever occurs earlier (FCA §302.2).

Although there are no statutes limiting the time within which the screening decision must be made, detention cases are handled differently from non-detention cases. If the child is detained, a petition must be filed and a probable cause hearing must be held within seven days of the detention or the child must be released (FCA §307.3 [4] and FCA §307.4 [7]).⁵ If the child is released because a petition has not been filed, the presentment agency may still file a petition at a later date.

PRESENTMENT AGENCY SCREENING PROCESSING

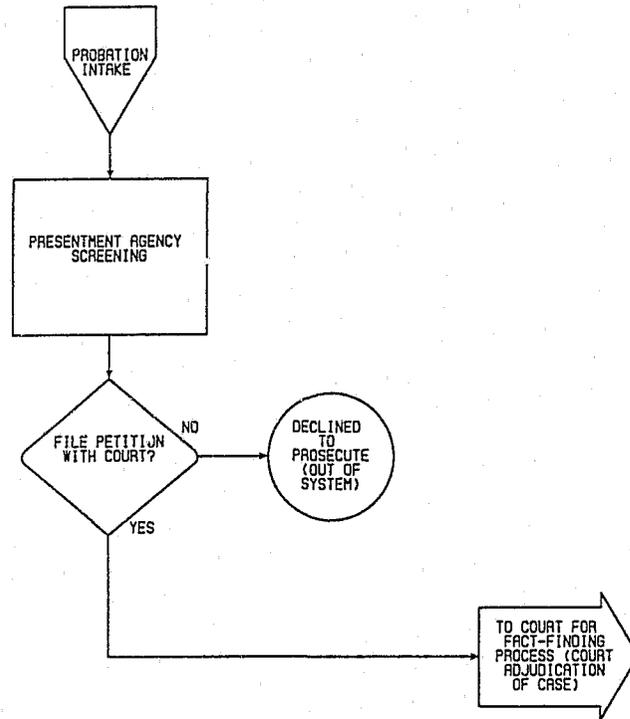


Figure 4.1

The contents of a delinquency petition are stated in FCA §311.1.(3):

A petition must contain:

- (a) the name of the family court in which it is filed;
- (b) the title of the action;
- (c) the fact that the respondent is a person under sixteen years of age at the time of the alleged act or acts;
- (d) a separate accusation or count addressed to each crime charged, if there be more than one;
- (e) the precise crime or crimes charged;
- (f) a statement in each count that the crime charged was committed in a designated county;
- (g) a statement in each count that the crime charged therein was committed on, or on or about, a designated date, or during a designated period of time;
- (h) a plain and concise factual statement in each count which, without allegations of an evidentiary nature, asserts facts supporting every element of the crime charged and the respondent's commission thereof with sufficient precision to clearly apprise the respondent of the conduct which is the subject of the accusation;
- (i) the name or names, if known, of other persons who are charged as co-respondents in the family court or as adults in a criminal court proceeding in the commission of the crime or crimes charged;
- (j) a statement that the respondent requires supervision, treatment or confinement; and
- (k) the signature of the appropriate presentment attorney.

When a case is legally sufficient and the complainant and witnesses are contacted and want to pursue the case, the presentment agency attorney will usually file a petition against the respondent in court.⁶ If the presentment agency elects not to commence a delinquency action (i.e., declines to prosecute) (FCA §375.1 [4]), the case records of the presentment agency, the police department and the probation department must be sealed.

Screening Factors

The presentment agency screens cases using a variety of methods. Attorneys review information sent from the police which may include specific recommendations to probation and the presentment agency. The Chief of the Family Court County Attorney's Office in Monroe County outlined the contents as follows:

We have a "police package" - that's what we call it - it contains the police report, the depositions and a disposition recommendation. The sheet can have a series of boxes, with one of the following checked: formal court action, probation,

suspended judgment, ACD, probation intake – this means adjustment, juvenile mediation or placement. Various of the seven or eight police departments we deal with have similar forms.

Not all police departments provide this sort of recommendation. Indeed, some police departments (the New York City Police Department and the New York State Police, for example) provide no recommendation or only recommend that probation intake either adjust the case or refer the case to the presentment agency. Statements from the respondent that probation gathers during the intake interview and prior sealed case information are confidential and are expressly prohibited from being shared with the presentment agency (see Chapter Three). The probation department will usually refer a “package” containing police and original probation documents to the presentment agency with a referral notification giving intake’s reason for referral, for example, “complainant insistence,” “seriousness of charge,” and so on.

Presentment agency staff in most sites mentioned that it can take a considerable amount of time to gather the additional information required to screen a case, particularly if subpoenas are issued for records or attempts are made to interview complainants and witnesses. This is of particular concern in New York City where corporation counsel attorneys, in practice, never screen cases based solely on the materials sent to them from police and probation. As an attorney in Queens County expressed it, when asked what information is used to make the decision to file a petition or to decline to prosecute:

I, too often, find there is nothing to base a decision on. I need to talk to the complainant, witnesses and the police. This is because there is usually something wrong with the information that comes in and I have to speak to those involved. In practice, it is impossible to proceed from papers.

The Deputy Chief of the Family Court Division of the New York City Office of Corporation Counsel also stressed the need to talk to those involved in every case:

Even where a case is legally sufficient on its face from the papers, it is still important for the attorney to assess the credibility of the witnesses. Police officers do not always know the requirements of legal sufficiency for family court petitions and do not always include in their deposition the necessary elements of a crime. Their accounts often include too much hearsay and are too brief. We are held to a very high standard in going ahead with a case. We usually try to at least talk on the telephone with everyone concerned with the case – witnesses, the complainant and the arresting officer. We often ask a witness to come into the office to sign a new deposition.

In other study sites, screening of cases is often based on paper work alone, which can speed up the screening process considerably.

At these sites, quality and completeness of the paper work is crucial. The attorney needs to be sure that all relevant documents are included, that depositions are signed, and that the police report is complete. An attorney in Monroe County commented:

The quality of information is particularly an issue with detention cases, because we go into court immediately to fulfill the requirements of the law. Often the problems can be cleared up by speaking to the appropriate juvenile officer, rather than the arresting officer himself, who may be out somewhere else or off duty. More usually, I proceed with only papers.

In addition to problems with some local police agencies, the presentment agency staff in Albany County, Dutchess County, Monroe County and Clinton County remarked on the problems of paper work when the New York State Police were involved. Problems included such things as missing documents, unsigned depositions and inappropriate charging.

In most non-New York City sites, the majority of arrests are made by a small number of local police departments that have local juvenile aid bureaus or juvenile officers with considerable knowledge of the information the presentment agency requires. In these situations, the attorney who screens cases may speak to the arresting officer or the juvenile officer for extra information, but in most cases he can proceed from paper work alone. A county attorney in Dutchess County said that in such circumstances:

I often check with the victim to see if there has been a settlement or if they object to a settlement. I can then proceed with all the sworn statements, making sure [that] none of it [the sworn statements] relies on hearsay.

A county attorney in Nassau County mentioned that a grant had been awarded to the agency some years earlier for a joint effort by the police and county attorney's office to "improve petitions." The result was that information had improved considerably and the greatest problem remaining was the difficulty of communicating with witnesses.

Attorneys in New York City described complainant and witness cooperation as a significant factor during screening. The Deputy Chief of the Family Court Division of the New York City Corporation Counsel's office commented on how this may be affected by presentment agency resources and increased caseloads:

If complainants show no interest, we will decline to prosecute, with less efforts to pursue them than we would otherwise take if there weren't so many other cases.

They also mentioned that complainants are often unwilling to come forward because of a lack of faith in the family court "doing something." This is, of course, a self-fulfilling prophecy - when complainants do not come forward cases will be closed with no petition filed.

The legal sufficiency of cases was mentioned by presentment agency staff in all study sites as the most important factor in the decision to file a petition or to decline to prosecute a case. For example, when asked "What do you take into account in deciding to file a petition?" an attorney in Monroe County said, "It is simple - Is it legally sufficient?" Similar sentiments were expressed in Clinton County by an assistant county attorney:

I only decline to prosecute if I can't win the case because of problems of evidence. I don't decline because a case is too trivial - such cases should have been diverted already. . . . I file a petition if the deposition is in order and if the arrest papers are together.

County attorneys in Erie County and Albany County remarked that they decide to prosecute cases based on legal sufficiency and only where a child has disappeared from their jurisdictions would they decline to prosecute a legally sufficient case. In Nassau County the attorneys said that the only standard applied to delinquency cases was reasonable doubt - when cases meet this standard the presentment agency files a petition. A presentment agency attorney in New York County mentioned legal sufficiency, in particular, in the sense of being able to "win a suppression motion" filed by a legal aid attorney based on the legality of the police action and the quality of the evidence.

Unlike probation intake officers, presentment agency attorneys do not generally mention the social circumstances of the child as a reason either refer the case forward or terminate it. The Queens County Borough Chief of Corporation Counsel did, however, remark on wider issues he considered should be taken into consideration:

In some cases we will take a graffiti case in [to court] if there is what is called a "deep sense of crisis." Sometimes . . . in some sex cases, there are real problems of proof, where we have no corroboration of unsworn testimony, we will try to obtain an agreement for therapy and resolve the case that way.

I should also mention that I take a strong line on bias cases. I want a kid to get the message that acting out on prejudice is a criminal activity and that society does not accept personal animus as responsible. I will get the kid in with a parent and get them to work on the issue of bias, to get the kid to think about prejudice. We always file when the case is provable.

In summary, presentment agency attorneys state that the decision to decline to prosecute a case is usually made because an attorney determines that a case is legally insufficient. Of course, in practice, the definition of legal sufficiency may differ from site to site. Attorneys suggest that declinations often occur because the complainant or witnesses are unwilling to testify or cannot be located. Attorneys generally do not identify extra-legal factors (e.g., characteristics of a child's home environment, age) as affecting their decision making.

Screening Outcome Analyses

New York City declined to prosecute a larger percentage of JD cases than other study sites (Figure 4.2).

The New York City Corporation Counsel declined to prosecute 35 percent of the 1987 JD intake cases referred by the probation department. In Dutchess and Clinton counties, the presentment agencies each declined 18 percent, while Monroe County and Erie County presentment agencies declined 14 and 13 percent, respectively. Albany County had the lowest percentage of declined cases (7 percent).

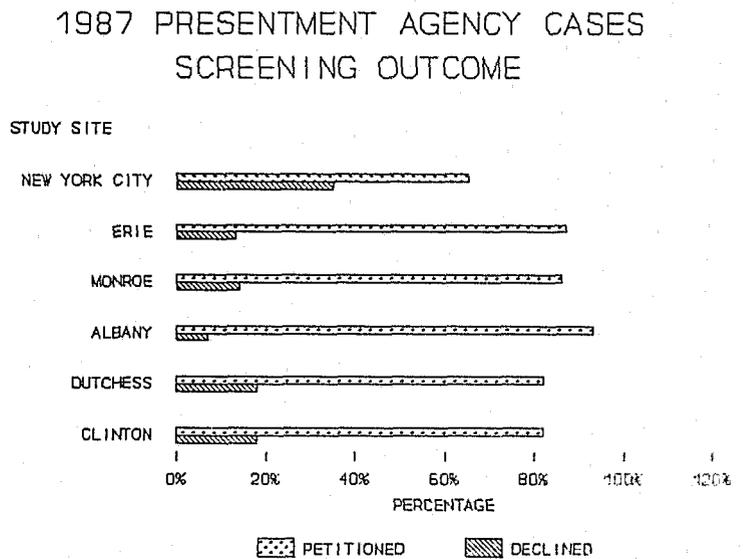


Figure 4.2

Most cases were declined because of legal insufficiency in the two sites where these data were available.

The reasons for case declination in Monroe County and Dutchess County are presented in Table 4.1. Legal insufficiency was the reason cited most often by each presentment agency, accounting for 49 percent of the declinations in Monroe County and 52 percent in Dutchess County. Outcomes on prior or pending cases (e.g., cases where the juvenile was on probation or in placement) also accounted for a substantial proportion of the reasons for declining to prosecute a case - 39 percent of the declined cases in Monroe County and 34 percent in Dutchess County.

Table 4.1. Presentment Agency Declination Reasons for Referred Cases in Monroe and Dutchess Counties^a

Declination Reason	Large Urban County	Mid-Size Urban County
	Monroe %	Dutchess ^b %
Legal Insufficiency (i.e., insufficient evidence, missing depositions)	49	52
Action Taken on Prior/Pending Case	39	34
Restitution Only	4	0
Other ^c	9	14
	(n=57)	(N=29)

^a Data on reasons for declination were not collected in New York City and the counties of Erie, Albany and Clinton.

^b Data on reasons for declination were missing for 17 percent of the declined cases in Dutchess County.

^c "Other" includes reasons such as: changed to PINS petition, victim declined to pursue and juvenile absconded.

Note: Percentages may not sum to 100 percent due to rounding.

Processing Times

The average processing time for declined cases was longer than that for petitioned cases (Table 4.2).

The number of days elapsed from the date a case was closed by probation intake to the date the presentment agency either declined to prosecute or filed a petition in family court are shown in Table 4.2. The average processing time from intake closing to petition filing ranged from 8 days in Erie County to 34 days in Clinton County. In New York City, the only site where sufficient data were available for both declined and petitioned cases, the median processing time from intake closing to declination was five times greater than that for petitioned cases (7 days vs. 35 days).

Table 4.2. Intake Close to Petition Filing and Declination Processing Times for Referred Intake Cases^a

	Large Urban Counties			Mid-Size Urban Counties		Rural County
	New York City ^b %	Erie %	Monroe %	Albany %	Dutchess %	Clinton %
Petition Filing Processing Time^c						
One Day	47	25	—	7	4	9
Two to 15 Days	12	64	—	43	51	9
16 to 30 Days	17	7	—	24	31	46
31 to 45 Days	12	2	—	14	8	18
46 to 60 Days	6	<1	—	6	1	9
61 to 90 Days	4	1	—	3	2	0
91 to 120 Days	2	0	—	2	2	0
120 Days or More	1	<1	—	1	1	9
MEAN	19 days	8 days	—	24 days	22 days	34 days
St Dev	26 days	22 days	—	27 days	36 days	32 days
MEDIAN	7 days	4 days	—	16 days	13 days	23 days
	(N=4,721)	(n=246)	—	(N=257)	(N=131)	(N=22)
Declination Processing Time^d						
One Day	11	—	20	—	—	—
Two to 15 Days	9	—	20	—	—	—
16 to 30 Days	23	—	20	—	—	—
31 to 45 Days	20	—	9	—	—	—
46 to 60 Days	13	—	7	—	—	—
61 to 90 Days	11	—	4	—	—	—
91 to 120 Days	5	—	9	—	—	—
120 Days or More	9	—	11	—	—	—
MEAN	50 days	—	45 days	—	—	—
St Dev	53 days	—	53 days	—	—	—
MEDIAN	35 days	—	23 days	—	—	—
	(N=2,546)	—	(n=45)	—	—	—
Overall Processing Time						
MEAN	30 days	—	—	—	—	—
St Dev	40 days	—	—	—	—	—
MEDIAN	21 days	—	—	—	—	—

^a Cases which bypassed intake were excluded.

^b Excludes cases processed by district attorneys in New York City which are generally the most serious intake referrals. These cases comprise only 1.7 percent of all intake referrals.

^c Family court petition dates were not collected in Monroe County. More than five percent of the intake close or petition filing dates were missing in the following study sites: Erie (12 percent), Albany (9 percent) and Dutchess (17 percent).

^d Presentment agency declination dates were not collected in Albany County and Clinton County. More than five percent of the intake close or declination dates were missing in the following study sites: Erie (41 percent), Monroe (22 percent), and Dutchess (38 percent); when more than 25 percent of the data were missing in a site, the data were not presented.

Demographic Characteristics

Gender, age and race/ethnicity were not associated with presentment agency screening outcome (Table 4.3).

There were no discernible patterns across gender, racial/ethnic or age groups in regard to the percentage of declined versus petitioned cases. Furthermore, there was little variation in the average age of juveniles for declined versus petitioned case.

Table 4.3. Presentment Agency Screening Outcome by Demographic Characteristics of Referred Cases^a

	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City ^b			Erie			Monroe			Albany			Dutchess			Clinton		
	Dec %	Pet %	(N)	Dec %	Pet %	(n)	Dec %	Pet %	(n)	Dec %	Pet %	(N)	Dec %	Pet %	(N)	Dec %	Pet %	(N)
Sex																		
Male	35	65	(6,603)	14	87	(251)	13	87	(330)	6	94	(238)	17	83	(156)	19	81	(26)
Female	37	63	(726)	9	91	(66)	18	82	(82)	9	91	(64)	23	77	(35)	0	100	(2)
Tau	-.0143			.0545			-.0644			-.0574			-.0626			.1293		
α	.1107			.1664			.0960			.1597			.1941			.2508		
Age at Intake^c																		
Seven to 10	38	62	(159)	13	88	(8)	7	93	(15)	0	100	(14)	0	100	(12)	0	100	(3)
11	37	63	(195)	18	82	(17)	15	85	(20)	30	70	(10)	30	70	(10)	0	100	(1)
12	34	66	(434)	7	93	(30)	19	81	(37)	10	90	(31)	13	88	(16)	33	67	(3)
13	33	67	(1,042)	9	91	(35)	15	86	(62)	7	93	(57)	8	92	(38)	0	100	(5)
14	34	66	(2,056)	11	89	(81)	14	87	(126)	3	97	(72)	20	80	(40)	40	60	(5)
15 and Older	35	65	(3,427)	14	86	(143)	12	88	(128)	6	94	(117)	20	80	(70)	10	90	(10)
Average Age	14.1	14.0	yrs	14.0	13.9	yrs	13.6	13.7	yrs	13.4	13.7	yrs	14.0	13.5	yrs	13.8	13.3	yrs
Tau	-.0091			-.0332			.0263			.0315			-.0865			-.0274		
α	.2239			.2035			.2470			.1557			.0752			.4300		
Race^d																		
White	33	67	(777)	13	87	(121)	16	84	(121)	8	92	(185)	-	-	-	13	88	(24)
Minority	35	63	(6,433)	7	93	(121)	13	87	(286)	5	95	(115)	-	-	-	0	0	(0)
Black	35	65	(4,338)	8	92	(107)	13	87	(247)	6	94	(108)	-	-	-	0	0	(0)
Hispanic	36	64	(2,017)	0	100	(13)	17	83	(36)	0	100	(5)	-	-	-	0	0	(0)
Other	37	63	(78)	0	100	(1)	0	100	(3)	0	100	(2)	-	-	-	0	0	(0)
Tau ^e	-.0177			.0950			.0318			.0458			-			-		
α	.0662			.0701			.2607			.2142			-			-		

^a Excludes cases which bypassed intake; only petitioned bypass cases were included in the cohort.

^b Excludes cases processed by district attorneys in New York City which are generally the most serious intake referrals. These cases comprise only 1.7 percent of all intake referrals.

^c Age data were missing in 6 percent of the Monroe County cases.

^d More than five percent of the race/ethnicity data were missing in the following study sites: Erie (24 percent), Dutchess (31 percent), and Clinton (14 percent); when more than 25 percent of the data were missing in a site, the data were not presented.

^e Race/ethnicity was recoded to two categories: white and minority.

Note: None of the bivariate relationships presented in this table meet criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Offense Characteristics

The seriousness of the arrest offense was related to screening outcome in one of the six study sites (Table 4.4).

There was little variation in the percentages of declined versus petitioned cases based on the seriousness of the arrest offense with the exception of Albany County. Misdemeanor cases were more likely to be declined in Albany County than felony cases.

Table 4.4. Presentment Agency Screening Outcome by Arrest Offense Categories and Classifications for Referred Cases^a

Arrest Offense Category & Classification	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City ^b			Erie			Monroe			Albany			Dutchess			Clinton		
	Dec %	Pet %	(N)	Dec %	Pet %	(n)	Dec %	Pet %	(n)	Dec %	Pet %	(N)	Dec %	Pet %	(N)	Dec %	Pet %	(N)
Felony Offenses	34	66	(5,815)	12	88	(127)	10	90	(129)	1	99	(144)	19	82	(81)	22	78	(18)
A	7	93	(28)	0	0	(0)	0	0	(0)	0	0	(0)	0	0	(0)	0	0	(0)
B	32	68	(888)	8	92	(12)	0	100	(9)	0	100	(11)	0	100	(4)	0	100	(2)
C	38	62	(1,503)	5	95	(38)	5	95	(37)	2	98	(51)	23	77	(30)	40	60	(5)
D	34	66	(2,605)	17	83	(54)	13	88	(56)	0	100	(59)	13	87	(30)	18	82	(11)
E	32	68	(791)	13	87	(23)	15	85	(27)	4	96	(23)	24	77	(17)	0	0	(0)
Misdemeanor Offenses	37	64	(1,445)	13	87	(189)	16	85	(284)	11	89	(155)	17	83	(109)	10	90	(10)
A	37	64	(1,318)	12	88	(182)	16	85	(264)	11	89	(142)	18	82	(99)	10	90	(10)
B	37	63	(127)	43	57	(7)	15	85	(20)	15	85	(13)	10	90	(10)	0	0	(0)
Overall Arrest Offense Seriousness Score^c	3.9	3.9	score	2.7	2.9	score	2.4	2.7	score	2.1	3.2	score	2.9	2.9	score	4.0	3.5	score
Tau ^d	-.0065			-.0417			-.0551			-.1019			.0171			.1327		
α	.3024			.1406			.0508			.0004*			.3869			.2041		

^a Excludes cases which bypassed intake; only petitioned bypass cases were included in the cohort.

^b Excludes cases processed by district attorneys in New York City which are generally the most serious intake referrals. These cases comprise only 1.7 percent of all intake referrals.

^c A Felony = 7, B Felony = 6, C Felony = 5, D Felony = 4, E Felony = 3, A Misdemeanor = 2, B Misdemeanor = 1.

^d Arrest offense includes the seven offense classification categories.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Violent offenses were more likely to be declined than property offenses in one of the six study sites (Table 4.5).

Violent offenses (i.e., assault, robbery and sex offenses) were more likely to be declined than property offenses (i.e., larceny, burglary, criminal mischief and theft-related offenses) in Monroe County (20 percent vs. 11 percent, respectively). The likelihood of declination was similar for both violent and property offenses at other study sites.

Presentment agency staff suggested that victims are sometimes less willing to testify on a violent offense case, thus minimizing the chance at petitioning.

(Comparisons of offense types were limited to violent and property offenses because of the small number of cases involving drug and "other" offenses at most sites.)

Table 4.5. Presentment Agency Screening Outcome by Arrest Offense Type for Referred Cases^a

	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City ^b			Erie			Monroe			Albany			Dutchess			Clinton		
	Dec %	Pet %	(N)	Dec %	Pet %	(n)	Dec %	Pet %	(n)	Dec %	Pet %	(N)	Dec %	Pet %	(N)	Dec %	Pet %	(N)
Arrest Offense Type ^c																		
Violent	38	62	(2,985)	17	83	(79)	20	80	(104)	7	93	(89)	19	81	(31)	0	100	(3)
Property	34	66	(2,996)	10	90	(205)	11	89	(276)	6	94	(195)	19	82	(135)	21	79	(24)
Drug	30	70	(923)	100	0	(2)	0	100	(2)	0	100	(3)	67	33	(3)	0	0	(0)
Other	32	68	(479)	16	84	(32)	19	81	(31)	20	80	(15)	5	96	(22)	0	100	(1)
Tau ^d	.0411			.0937			.1219			.0215			.0084			-.1686		
α	.0007			.0575			.0088*			.3587			.4572			.1950		

^a Excludes cases which bypassed intake; only petitioned bypass cases were included in the cohort.

^b Excludes cases processed by district attorneys in New York City which are generally the most serious intake referrals. These cases comprise only 1.7 percent of all intake referrals.

^c Categories are based on UCR offense classifications (see Appendix 2.2).

^d Arrest offense type was reduced to two categories: violent and property; drug and "other" were excluded.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Generally, there was little variation in the percentage of cases declined across offenses classified as violent offenses or property offenses in Monroe County (Table 4.6).

The percentage of cases declined involving assault, robbery or sex offenses – violent offenses – ranged from 12 percent for sex offenses to 25 percent for robbery offenses in Monroe County.

The percentage of cases declined involving larceny, burglary, criminal mischief or theft – property crimes – ranged from 10 percent for burglary cases to 15 percent for criminal mischief offenses in Monroe County.

In New York City, misdemeanor and felony marijuana cases were declined more often than controlled substance cases.

Drug cases involving misdemeanor and felony marijuana offenses were less likely to be declined than those involving controlled substance offenses (54 percent vs. 26 percent).

Table 4.6. Presentment Agency Screening Outcome by Arrest Offense Penal Law Article for Referred Cases^a

Arrest Offense Penal Law Article	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City ^b			Erie			Monroe			Albany			Dutchess			Clinton		
	Dec %	Pet %	(N)	Dec %	Pet %	(n)	Dec %	Pet %	(n)	Dec %	Pet %	(N)	Dec %	Pet %	(N)	Dec %	Pet %	(N)
Violent Offenses																		
Assault	36	64	(1,138)	8	92	(39)	23	77	(74)	10	91	(63)	21	79	(24)	0	100	(1)
Robbery	39	61	(1,593)	20	80	(15)	25	75	(4)	0	100	(15)	0	0		0	0	
Sex Offenses	38	62	(207)	32	68	(22)	12	88	(17)	0	100	(10)	0	100	(5)	0	100	(2)
Property Offenses																		
Larceny	31	69	(1,646)	8	92	(84)	11	89	(92)	8	92	(61)	15	85	(65)	33	67	(3)
Burglary	34	66	(743)	8	92	(67)	10	90	(76)	4	96	(72)	19	81	(43)	33	67	(12)
Criminal Mischief	35	65	(305)	13	87	(30)	15	85	(61)	9	91	(22)	21	79	(19)	0	100	(5)
Theft-Related	38	62	(267)	13	87	(38)	11	89	(54)	6	94	(35)	27	73	(11)	0	100	(3)
Drug Offenses																		
Controlled Substances ^c	26	74	(797)	100	0	(2)	0	100	(2)	0	100	(1)	0	100	(1)	0	0	
Marijuana ^d	54	46	(133)	0	0		0	0		0	100	(2)	50	50	(2)	0	0	
Other Offenses																		
Firearms	32	68	(295)	0	100	(6)	17	83	(6)	0	100	(3)	0	100	(3)	0	0	
Public Order	53	47	(17)	43	57	(7)	10	90	(10)	0	100	(1)	0	100	(9)	0	100	(1)
Arson	30	70	(47)	0	100	(3)	0	100	(4)	0	100	(10)	0	100	(4)	0	100	(1)
Other	39	61	(88)	20	80	(5)	15	85	(13)	29	71	(7)	40	60	(5)	0	0	

^a Excludes cases which bypassed intake; only petitioned bypass cases were included in the cohort.

^b Excludes cases processed by district attorneys in New York City which are generally the most serious intake referrals. These cases comprise only 1.7 percent of all intake referrals.

^c Includes both the sale and possession of controlled substances.

^d Includes only the sale and criminal possession of marijuana; unlawful possession of marijuana is a violation – not a crime – and, therefore, not a JD offense.

The percentage of cases declined was lower for cases with no prior JD record at two study sites (Table 4.7).

Cases with no prior JD record were more likely to be declined than those with a prior record in Dutchess and Clinton counties. Elsewhere, the number of prior cases was not related to presentment agency outcome.

Table 4.7. Presentment Agency Screening Outcome by Prior JD Record Score for Referred Cases^a

	Large Urban Counties									Mid-Size Urban Counties						Rural County		
	New York City ^b			Erie			Monroe			Albany			Dutchess			Clinton		
	Dec %	Pet %	(N)	Dec %	Pet %	(n)	Dec %	Pet %	(n)	Dec %	Pet %	(N)	Dec %	Pet %	(N)	Dec %	Pet %	(N)
Number of Prior JD Cases																		
None	38	62	(4,135)	14	86	(103)	12	88	(175)	9	91	(113)	24	76	(104)	33	67	(15)
One	31	69	(1,527)	12	88	(57)	10	90	(99)	8	92	(62)	8	92	(36)	0	100	(7)
Two	31	69	(990)	9	91	(58)	23	77	(62)	8	93	(40)	6	94	(18)	0	100	(3)
Three	33	67	(473)	17	83	(36)	13	87	(39)	0	100	(32)	6	94	(16)	0	100	(3)
Four	26	74	(173)	17	83	(12)	22	78	(18)	0	100	(24)	50	50	(6)	0	0	(0)
Five or More	35	65	(85)	12	89	(52)	15	85	(20)	7	94	(31)	9	91	(11)	0	0	(0)
Average Number of Prior JD Cases	0.7	0.9	cases	2.2	2.1	cases	1.5	1.3	cases	1.2	1.8	cases	2.7	1.2	cases	0.0	1.0	cases
Tau	.0661			.0068			-.0518			.0506			.1205			.3316		
α	.0000			.4359			.0827			.0568			.0195*			.0161*		

^a Excludes cases which bypassed intake; only petitioned bypass cases were included in the cohort.

^b Excludes cases processed by district attorneys in New York City which are generally the most serious intake referrals. These cases comprise only 1.7 percent of all intake referrals.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Filing the Petition

The content of delinquency petitions as stipulated in FCA §311.1 is shown above.

Many children are arrested with accomplices in which case there is, nevertheless, one petition for each child, although they may mention the names of co-respondents and may refer to multiple allegations and charge multiple crimes. Merrill Sobie comments on the distinction between this and adult court practice:

Although the inclusion of multiple defendants in a criminal indictment is routine, the ability of the Family Court Act to provide individualized justice, particularly at the dispositional phase, militates against the inclusion of multiple respondents in a single charge. (Sobie, 1983:335).

A major part of the screening process is to decide which charges to include. Attorneys in all sites mentioned that the charging practices of the police were partially a function of police familiarity with the corresponding sentences for specific charge adjudications in the adult system. However, adult sentences are not applicable to JDs. Furthermore, because there are no mandated sentences for JDs in the Family Court Act, attorneys stress that JD charging decisions are generally made to establish the most provable case and not as precursors to the ultimate dispositions.

There are, however, three situations where charging decisions may be influenced by potential case outcomes.⁷ First, a respondent adjudicated to a felony offense could be subject to a maximum of 18 months placement versus a maximum of 12 months for a misdemeanor offense adjudication (FCA §353.3[5]). Second, the court may order a restrictive placement (see Chapter Six) for respondents adjudicated to designated felony offenses (FCA §353.5). Third, restrictive placement must be ordered on a designated felony adjudication if the respondent inflicted serious physical injury on a person who is 62 years of age or older (FCA §353.5[3]). Fourth, if fingerprints are taken, fingerprints must be destroyed unless (a) the juvenile is between 11 and 12 years of age and was adjudicated to a class A or class B felony, or (b) the juvenile is 13 and older and has been adjudicated to a felony and is subsequently convicted of a crime (FCA §354.1[6]).⁸ Table 4.8 illustrates the overall relationship between police arrest charges and presentment agency petition charges (see Appendix 4 for detailed comparisons across charge classifications and categories). Table 4.9 shows charge movements in each of the three charging situations discussed above.

New York City and Erie County were more likely to raise or lower arrest offense classifications at petition than other study sites (Table 4.8).

Arrest offenses classifications (A, B, C, D or E felonies and A or B misdemeanors) were either raised or lowered at petition in 25 percent of the cases in New York City (13 percent raised, 12 percent lowered) and 19 percent of the cases in Erie County (9 percent raised, 10 percent lowered). The percentage of changes in the seriousness of offenses from arrest to petition were somewhat lower in Albany, Clinton and Dutchess counties (6 percent, 8 percent and 9 percent, respectively).

Table 4.8. Changes in Arrest vs. Petition Offense Classifications for Petitioned Cases^a

	Location				
	New York City %	Large Urban County Erie %	Mid-Size Urban Counties Albany % Dutchess %		Rural County Clinton %
Changes in Offense Classifications ^b					
Same	75	82	94	90	92
Raised	13	9	3	3	8
Lowered	12	10	3	6	0
	(N=4,735)	(n=314)	(N=267)	(N=156)	(N=26)

^a Includes 1987 JD intake cases referred to the presentment agency and intake bypass cases (i.e., JD cases the police referred directly to the presentment agency or family court).

^b Tables presenting charge movement across classifications (A through E felonies and A and B misdemeanors) from arrest to petition offense are presented in Appendix 4.1.

Erie County was more likely to lower felony arrest offenses to misdemeanor petition offenses while New York City was more likely to raise misdemeanor arrest offenses to felony petition offenses (Table 4.9).

In New York City a small percentage of felony cases were lowered to misdemeanors (5 percent), while one-quarter of the misdemeanor cases were raised to felonies on petitions. Conversely, one-fifth of the cases involving felony offenses were lowered to misdemeanors in Erie County, while 11 percent of the misdemeanor cases were raised to felonies.

Erie County lowered a substantially larger percentage of fingerprintable arrest offenses to non-fingerprintable petition offenses than other study sites. Conversely, New York City raised a larger percentage of non-fingerprintable arrest offenses to fingerprintable petition offenses than other sites (Table 4.9).⁹

Seventeen percent of the fingerprintable arrest offenses in Erie County were lowered to non-fingerprintable offenses on the petition. In contrast, the percentage of fingerprintable arrest offenses lowered to non-fingerprintable offenses ranged from zero in Clinton County to 5 percent in Dutchess County.

In New York City 8 percent of the non-fingerprintable arrest offenses were raised to fingerprintable petition charges. Elsewhere the percentage of fingerprintable cases lowered to non-fingerprintable cases ranged from zero percent in Albany County to 5 percent in Clinton County.

Table 4.9. Arrest vs. Petition Offense by Statutory Categories for Petitioned Cases^a

	New York City ^b	Large Urban County Erie	Mid-Size Urban Counties		Rural County Clinton
			Albany	Dutchess	
Felony Arrest Offenses	(N=3,822)	(n=127)	(N=135)	(N=67)	(N=15)
Felony Offense at Petition	95%	79%	98%	88%	100%
Lowered to Misdemeanor Offenses at Petition	5	21	2	12	0
Misdemeanor Arrest Offenses	(N=913)	(n=187)	(N=132)	(N=89)	(N=11)
Misdemeanor Offense at Petition	76%	89%	96%	98%	91%
Raised to Felony Offenses at Petition	24	11	4	2	9
Fingerprintable Arrest Offenses	(N=1,389)	(n=42)	(N=51)	(N=21)	(N=5)
Fingerprintable Offense at Petition	97%	87%	98%	95%	100%
Lowered to Non-Fingerprintable Offenses at Petition	3	17	2	5	0
Non-Fingerprintable Arrest Offenses	(N=3,341)	(n=269)	(N=217)	(N=135)	(N=20)
Non-Fingerprintable Offense at Petition	92%	98%	100%	99%	95%
Raised to Fingerprintable Offenses at Petition	8	2	0	1	5
Designated Felony Arrest Offenses	-	(n=7)	(N=10)	(N=2)	(N=2)
Designated Felony Offense at Petition	-	71%	80%	100%	100%
Lowered to Non-Designated Felony Offenses at Petition	-	29	20	0	0
Non-Designated Felony Arrest Offenses	-	(n=317)	(N=263)	(N=156)	(N=24)
Non-Designated Felony Offense at Petition	-	100%	100%	100%	100%
Raised to Designated Felony Offenses at Petition	-	0	0	0	0

^a Includes 1987 JD intake cases referred to the presentment agency and intake bypass cases (i.e., JD cases the police referred directly to the presentment agency or family court).

^b Excludes cases processed by district attorneys in New York City which are generally the most serious intake referrals. These cases comprise only 1.7 percent of all intake referrals. As a result, designated felony data were incomplete for New York City.

Assignment of Attorney to Present Petition In Court

After a petition has been filed, presentment agency attorney assignment is organized vertically in three out of five sites. That is, the attorney who files the petition prosecutes the case in court. The exceptions to this are in Erie County and Nassau County, where senior or supervising prosecutors screen cases prior to permanent prosecutor assignment. Practitioners suggest that vertical representation allows the attorney who is handling the case to become familiar at an early stage with the supporting documents, arresting officer, witnesses and complainant. In addition, in all study sites, attorneys become responsible for the cases of juveniles they have prosecuted before.

Summary of Findings

1. **New York City declined to prosecute a larger percentage of JD cases than other study sites.**

The New York City Corporation Counsel's Office declined to prosecute 35 percent of the 1987 JD intake cases referred by the probation department. In Dutchess and Clinton counties, the presentment agency declined 18 percent, while Monroe County and Erie County presentment agencies declined 14 and 13 percent, respectively. Albany County had the lowest percentage of declined cases (7 percent).

2. **Presentment agency staff state that legal insufficiency was the prime reason for declinations to prosecute.**

Legal insufficiency was the declination reason cited most often in case records of the Monroe County (49 percent) and Dutchess County (52 percent) presentment agencies. Elsewhere, even where data were not available, practitioners usually suggested that legal insufficiency is the main reason for declinations. In practice, of course, the definition of legal sufficiency may differ from site to site.

Practitioners suggest that declinations for legal insufficiency often occur because the complainant or witnesses are unwilling to testify or cannot be located. Practitioners generally do not identify non-legal factors (e.g., characteristics of a child's home environment, age) as factors in their decision making.

Outcomes on prior or pending cases (e.g., currently on probation or in placement) also accounted for a substantial proportion of the declined cases - 39 percent of the declinations in Monroe County and 34 percent in Dutchess County.

3. **The prior JD record was related to presentment agency screening outcome at two study sites.**

The likelihood of a case being declined was greater in Dutchess and Clinton counties for cases with prior JD records than those without prior records.

4. **Generally, offense seriousness and type of offense were not related with presentment agency screening outcome.**

In one of the six sites, offense seriousness was related to screening outcome. In Albany County, misdemeanor cases were more likely to be declined than felony cases.

Type of offense was related with screening outcome in only one of the six sites. In Monroe County, violent offenses (i.e., assault, robbery and sex offenses) were more likely to be declined than property offenses (i.e., larceny, burglary, criminal mischief and theft-related offenses) (21 percent vs. 11 percent respectively). At other study sites the probability of declination was similar for both violent and property offenses.

5. **Gender, age and race/ethnicity were not related with presentment agency screening outcome.**

6. **Declined cases took longer to process than petitioned cases.**

The median processing time from intake closing to declination was five times greater than that for petitioned cases in New York City – 7 days for petitioned cases but 35 days for declined cases. The longer processing times for declined cases may be an indication that extended efforts are made to gather information on cases that are initially determined to be legally insufficient, because of the quality of police reports, reluctant witnesses, and so on.

Elsewhere processing time analyses were limited to petitioned cases due to the lack of or availability of data for declined cases. Petition processing times ranged from a median of four days in Erie County to 23 days in Clinton County.

7. **New York City and Erie County were more likely to change offense classifications at petition than other study sites.**

Arrest offenses classifications were either raised or lowered at petition in 25 percent of the cases in New York City (13 percent raised, 12 percent lowered) and 19 percent of the cases in Erie County (9 percent raised, 10 percent lowered).

In New York City only a small percentage of felony cases were lowered to misdemeanors (5 percent). However, one-quarter of the misdemeanor cases were raised to felonies. In New York City, 8 percent of the non-fingerprintable arrest offenses were raised to fingerprintable petition charges. This was less likely to occur elsewhere.

In Erie County, one-fifth of the cases involving felony offenses were lowered to misdemeanors. Erie County also lowered 17 percent of the fingerprintable arrest charges to non-fingerprintable petition charges. In contrast, the percentage of fingerprintable arrest offenses lowered to non-fingerprintable offenses ranged from zero percent in Clinton County to 5 percent in Dutchess County.

Notes

1. *Matter of David T.*, 75 N.Y.2d 927 (1990).
2. Bypass cases (a total of 79 for the study sites) were excluded from the subset, because data were only accessible for bypass cases that resulted in petitions (see Chapter Three).
3. Family court cases are handled by district attorneys exclusively assigned to family court in every New York City county except the Bronx. That unit handles both family court delinquency cases and adult court Juvenile Offender cases.
4. Presentment agencies occasionally refer cases back to probation for adjustment. Such a process, however, is not statutorily acknowledged and is usually informal. In this report, such cases are categorized by an adjustment outcome.
5. Generally, if a child is detained, the child must be brought before the appropriate family court within 72 hours (FCA §307.3[4]). If a petition has not been filed, a jurisdictional hearing must generally be held within 72 hours of the time detention commenced (FCA §307.4[5]) and a petition must be filed and a probable-cause hearing held within four days of the conclusion of the jurisdictional hearing or the child must be released (FCA §307.4[7]).
6. Complainant non-appearance at probation intake and complainant insistence that cases go forward remove adjustment discretion from probation intake (see Chapter Three). In particular this applied to Albany County because of complainant's insistence and in New York City because of complainant non-appearance. Albany County intake cases referred to the presentment agency because of the insistence of the complainant (i.e., the police agency) were less likely to be declined (10 percent versus 24 percent) than cases where the police agency did not insist on a referral.

In Queens County, intake cases referred because of the non-appearance of complainants during the summer of 1989 had a declination percentage similar to that for all cases (43 percent versus 38 percent, respectively).
7. See Chapter Six for a discussion of the various dispositional options.
8. If the adjudicated JD reaches the age of 21 or has been discharged from placement for at least three years and has no criminal convictions or pending criminal actions which terminate in a criminal conviction, all fingerprints related to the JD arrest must be destroyed (FCA §354.1[7]).

9. While Clinton County did raise charges in 9 percent of the cases, this statistic comprised only one case.

Fact-Finding

Introduction

This chapter follows processing from the initial appearance of the JD case in family court to the fact-finding outcome. The Family Court Act differentiates between the fact-finding process and the disposition process. During fact-finding, petition charges are adjudicated and the allegations are or are not established. However, the respondent is found to be a JD only if the court, after a dispositional hearing, determines that the respondent requires supervision, treatment, or confinement (FCA §352.1 and FCA §352.2). The disposition process is examined in the next chapter.

Several major activities occur during the fact-finding process. These include the appointment of the respondent's counsel, the decision to detain the respondent, and the pre-trial negotiations between the law guardian and the presentment agency counsel.¹

Statistical analyses presented in this chapter focus on the fact-finding outcome. Demographic profiles of alleged JDs are presented, as are the characteristics of cases processed during fact-finding. A subset of the 1987 cohort was used for the fact-finding analysis – cases that resulted in a JD petition.

Overview of the Fact-Finding Process

The fact-finding process begins with either the filing of a JD petition by the presentment agency or the receipt of a removal order from the adult court.² The receipt of the removal order from the adult system is tantamount to the filing of a family court JD petition, and removal cases proceed in the same way as other JD petitions.

The fact-finding process consists of two stages: the *pre-trial* stage and the fact-finding *hearing* or *trial* stage (Figure 5.1).³ Pre-trial includes the initial appearance, probable-cause hearing, discovery, and motion practice. During the pre-trial process the respondent is advised of his rights to remain silent and to legal representation, a

Putting this Chapter in Context

In the previous chapters we found . . .

- A high percentage of arrested juveniles were diverted by the police. For instance, the New York City Police Department and the Monroe County Police Department diverted between 60 percent and 70 percent of all juvenile arrests in 1987. In New York City, 91 percent of misdemeanor arrests were diverted. Felony arrests were not diverted in New York City.
- Almost all (96 percent) of the police referrals were sent to the juvenile justice system. Only four percent of the referrals were statutorily mandated to be sent to the adult system for Juvenile Offender processing.
- New York City probation intake referred 89 percent of its intake cases; Albany County, 65 percent; Monroe County, 58 percent; Dutchess County, 51 percent; Erie County, 34 percent; and Clinton County, 26 percent. The high percentages in New York City and Albany County may be explained by a loss of statutory discretion caused by complainant non-appearance (New York City) and complainant insistence upon referral to the presentment agency (Albany County).

(continued)

law guardian is appointed and a decision is made to detain the respondent or to release him. Also, various legal motions may be made and plea negotiations may occur between the presentment agency and the law guardian. Finally, the petition may be dismissed, a respondent may admit to an allegation or the case may go forward to trial.

A family court JD trial is analogous to an adult court trial: witnesses are sworn in, evidence is taken, and cross-examinations take place. There are, however, no references to jury trials in the Family Court Act, and there is a rebuttable assumption that a respondent may not waive the right to counsel (FCA §249-a).⁴ After completion of the trial, the judge determines whether or not the allegations of the petition have been established (FCA §345.1).

At any point during the fact-finding process – either pre-trial or during the trial – a case may be dismissed. (A case may also be dismissed post-fact-finding; this is discussed in the next chapter.) Petitions may be dismissed during fact-finding for one of the following reasons:

- (a) the statute of limitation requirements were not met (FCA §302.2);
- (b) the petition was found to be defective (FCA §315.1);
- (c) the court or presentment agency is unable to hold a probable-cause hearing within the mandated time (FCA §325.3[4]);
- (d) speedy trial provisions were not met (FCA §310.2);
- (e) the respondent's double jeopardy protections were violated (FCA §303.2);
- (f) the court refers the case to the probation service and the probation service adjusts the case (FCA §320.6[3]); or
- (g) the court determines that in the furtherance of justice there is the "existence of some compelling further consideration or circumstances clearly demonstrating that a finding of delinquency or continued proceedings would constitute or result in injustice" (FCA §315.2). This often happens as a result of the completion of a successful period where the case is adjourned in contemplation of dismissal (ACD) (FCA §315.3).

Some of the major aspects of the fact-finding process are discussed below. A discussion of the pre-trial processing of a case, including a discussion of the events at the initial appearance, is followed by a discussion of the trial stage.

- The seriousness of current offense, as well as prior JD record, were related to intake outcome. Racial and ethnic characteristics were also related.

- The presentment agency in New York City declined to prosecute about 35 percent of probation intake's referrals; Dutchess and Clinton counties, 18 percent; Monroe County, 14 percent; Erie County, 13 percent; and Albany County 7 percent.

- Presentment agency staff suggest that legal insufficiency was the prime reason why cases were declined to prosecute, and often occur because the complainant or witnesses are unwilling to testify or cannot be located.

- Offense seriousness and type of offense, as well as prior record, were not often associated with the presentment agency screening outcome. Gender, age, and race/ethnicity were not associated with screening outcomes.

- Top charge seriousness did not change for most cases at all study sites. New York City and Erie County were most likely to raise or lower arrest charge classifications at petitioning.

- As the discussion moves to the fact-finding process, 60 percent of the original intake cohort remains in Albany County; New York City, 55 percent; Monroe County, 45 percent; Dutchess County, 43 percent; Erie County, 35 percent; and Clinton County, 25 percent.

Pre-Trial Processing

Initial Appearance

The first appearance of the respondent before the court is known as the initial appearance, which is somewhat analogous to an arraignment in adult court. The matters dealt with during the initial appearance may occur over a series of proceedings, and are discussed below. First, the respondent must be informed of his rights, including the right to remain silent and the right to have the assistance of counsel (FCA §320.3). Second, if a law guardian has not already been retained by the respondent, the court will appoint one for him (FCA §320.3). Third, the respondent will admit or deny each charge contained on the petition (FCA §321.1[1]). Fourth, a determination is made by the court whether detention is necessary (FCA §320.4[2][a]). Fifth, a determination is made whether to refer the case back to probation intake for another possibility of adjustment (FCA §320.4[2][b]). Sixth, the dates of the trial and, if necessary, of the probable-cause hearing are set (FCA §320.4[2][d] and FCA §320.4[2][c]).

At all study sites with more than one judge, judges were assigned to cases at the initial appearance on a rotational basis. In New York City, however, the current practice is to assign a different judge for the trial phase. Some state that this serves to remove the chance of "subsequent prejudice," since the judge presiding at fact-finding will not have heard information unrelated to the current petition (Sobie, 1983:374). This is, however, not a policy of the other sites, and the same judge will often preside at both the initial appearance and the trial.

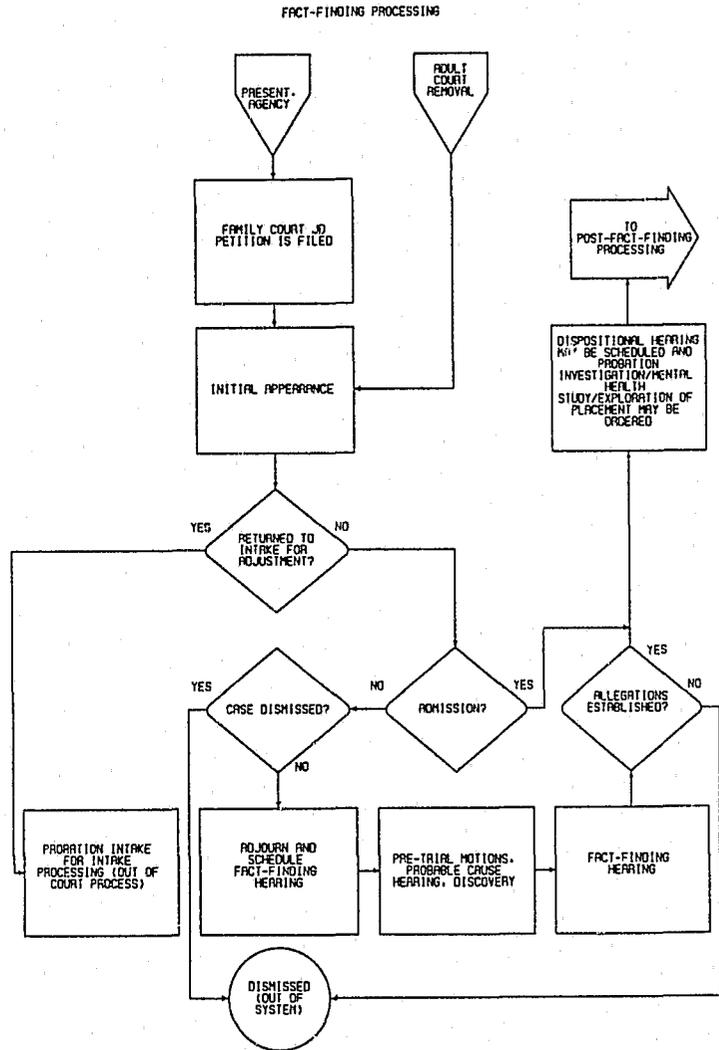


Figure 5.1

If the respondent is detained, the initial appearance must commence within 72 hours after a petition is filed or the next court date, whichever is sooner (FCA §320.2[1]).⁵ If the respondent is not detained, the initial appearance must commence, absent good cause shown, within 10 days after the filing of the petition (FCA §320.2[1]). A warrant may be issued if the respondent does not appear at the scheduled initial appearance (FCA §312.2[5]). In New York City, warrants were issued in 17 percent of the cases scheduled for initial appearance; Dutchess County, 5 percent; Nassau County, 3 percent; Albany County, 3 percent; Erie County, 1 percent; and none were issued in Clinton County.⁶ The initial appearance may be adjourned for up to three days or until the next court day, whichever is sooner (FCA §320.2[3]).

Figure 5.2 and Table 5.1 show the number of days from petition filing to the respondent's first court appearance. Almost all of Erie County's cases (99 percent) were heard within ten days; 85 percent in Nassau County, 25 percent in Dutchess County, 17 percent in Albany County, and 16 percent in Clinton County. New York City data were not available for this analysis, but practitioners state that all initial appearances occur within three days of the filing of the petition, if a warrant were not issued. Dutchess County and Albany County practitioners suggested that court congestion is the reason for the delays in those counties. In non-New York City sites, practitioners did not identify non-appearance of juveniles as significantly impacting on initial appearance delays.

The juvenile may appear in court before the filing of the petition. A pre-petition detention hearing must be held if the child is detained by the police and the presentment agency has not filed a petition within 72 hours of the detention, or the next court date, whichever is sooner (FCA §307.4[5]). At the pre-petition detention hearing, a law guardian must be appointed to represent the child and the presentment agency must present the application.

At the pre-petition detention hearing, the court must make a preliminary determination of whether it has jurisdiction over the child (FCA §307.4[1]). If jurisdiction is not found, or the allegations do not constitute a JD case, or the facts do not support detention pursuant to the criteria stated for court ordered detention, the child must be released (FCA §307.4[4]). If the case is not dismissed, a petition must be filed and a probable-cause hearing held within four days of the conclusion of the hearing (FCA §307.4[7]).

1987 COHORT
DAYS BETWEEN PETITION FILING AND INITIAL
APPEARANCE DATE: PERCENTAGE TEN DAYS +

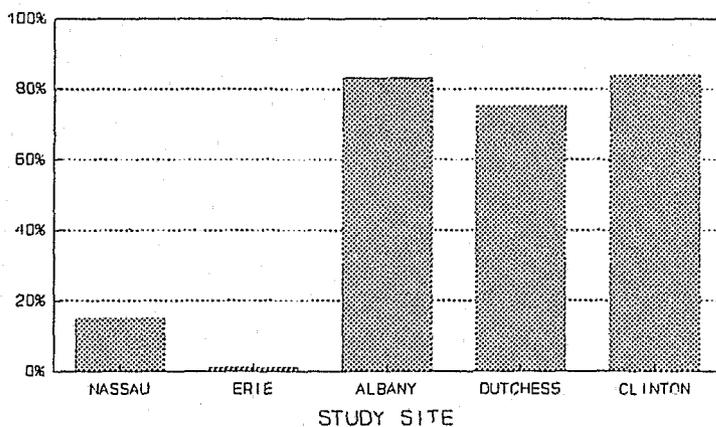


Figure 5.2

Table 5.1. Petition Filing to Initial Appearance Processing Times for Petitioned Cases

	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County
	Nassau %	Erie %	Albany %	Dutchess %	Clinton %
Processing Time^a					
One Day	36	20	10	15	12
Two to 10 Days	49	79	7	10	4
11 to 20 Days	3	1	21	31	12
21 to 30 Days	3	<1	33	24	40
31 to 40 Days	3	0	14	8	24
41 to 50 Days	4	0	6	3	0
51 Days or More	3	1	9	10	8
MEAN	10 days	6 days	27 days	23 days	31 days
St Dev	20 days	6 days	25 days	23 days	39 days
MEDIAN	7 days	7 days	22 days	20 days	22 days
	(N=590)	(n=302)	(N=252)	(N=156)	(N=25)

^a More than five percent of the petition filing or initial appearance dates were missing in the following study sites: Nassau (7 percent), Erie (7 percent), and Albany (10 percent). Initial appearance dates were not available in New York City; however, practitioners say that all initial appearances occur within three days when warrants are not issued.

Note: Percentages may not sum to 100 percent due to rounding.

Appointment of Law Guardian

During the initial appearance, the presiding judge must appoint a law guardian to represent the respondent if independent legal representation is not available (FCA §320.2).⁷ Law guardian representation may only be waived by the respondent after a law guardian is appointed and the court determines after a hearing and upon clear and convincing evidence that the respondent understands the nature of the charges, possible dispositional alternatives, and possible defenses against the charges (FCA §249-a).

In some sites, the New York State Office of Court Administration has entered into agreements with local legal aid societies for the provision of law guardian representation (FCA 243[a]). However, panel law guardians designated by the court to represent individual cases and private attorneys selected by the respondent or the respondent's family provide representation at all sites (FCA §243[b] and FCA §243[c]). New York State makes appropriations for the cost of legal aid society and panel law guardians (FCA Article 248).

Private attorney representation is infrequent in all study sites, except in Nassau County where private attorneys were retained in 22 percent of the cases (Table 5.2). Law guardians from the Legal Aid Society represent most cases in New York City, Erie County and Monroe County.⁸ In these sites, panel attorneys are generally appointed to cases when a Legal Aid Society attorney represents another respondent charged in the same incident. This is done to avoid potential conflict of interest situations.

Panel law guardians are most frequently used in sites not having legal aid representation for JDs and represented 74 percent of the cases in Nassau County, 94 percent in Albany County and 94 percent in Dutchess County (Table 5.2). Nassau County has a law guardian panel system and has enough cases to use a panel member rotation system for new cases petitioned by the presentment agency – two panel members work in the court each day, on a rotating basis; both work in the morning when the bulk of cases arrive and one is on duty in the afternoon.

In Dutchess, Clinton, and Albany counties, most law guardians are appointed by the presiding judge from the law guardian panel. For example, when asked, “How are cases assigned to law guardians in Dutchess County?” a local attorney replied:

By the judge picking someone from the law guardian panel list. Certain lawyers stipulate that they only want certain types of case. There is no hard and fast rule about who gets appointed. Those who are on the list tend to be considerably social-work minded. The judge may, in fact, pick someone who had some experience in delinquency cases for juveniles.

Table 5.2. Type of Law Guardian Representation for Petitioned Cases

	Suburban New York City County	Large Urban County	Mid-Size Urban Counties	
	Nassau %	Erie %	Albany %	Dutchess %
Law Guardian Type ^a				
Panel	74	5	94	94
Legal Aid Society	1	83	1	0
Private Counsel	22	5	5	5
Other	2	0	0	0
Combination	<1	6	<1	1
	(N=529)	(n=294)	(N=262)	(N=156)

^a More than five percent of the law guardian data were missing in the following study sites: Nassau (17 percent), Erie (10 percent), and Albany (7 percent). Data for law guardian types were not available in New York City or Clinton County.

In those counties with relatively few delinquency cases, the judge usually informs the law guardian by mail of the date of the initial appearance. These lawyers are also appointed to the full variety of family court cases including PINS, abuse and neglect, and family offenses.

In Monroe County, Legal Aid Society attorneys represent most JD cases. Legal aid attorneys meet with the respondent and family members before the initial appearance and determine if the case is appropriate for Legal Aid Society representation. The Legal Aid Society in Monroe County takes into consideration factors relating to the respondent's financial status when determining the appropriateness of legal aid representation. A financial means test to determine representation is not mentioned in the Family Court Act and is not applied in other study sites. If the case is not deemed appropriate, a law guardian panel member will be appointed if the respondent does not retain a private attorney. A legal aid attorney described the process of beginning a case:

A typical example might be that the presentment agency gives you a copy of the petition. You then try to find the child and the parent. You look through your files to see if there is a previous record. I'll find the respondent and parent and give them my "spiel" -introduce myself, tell them what I do. Talk about their attorney if they have one. If they do and he's not there, I'll get an adjournment at the initial appearance. If I'm going to handle the case, then I read the petition and all the accompanying information I have. I will go over all of it with the respondent and parent -that this is a JD offense, which is a crime, and so on. I take the opportunity to find out about the child - has he been in family court before, is he attending school, and what is the parent's attitude to the kid being detained or paroled [released]? After those things, I'll talk to the presentment agency about requests for detention or not and any possible pleas.

The preparation of a case in New York City is substantially the same -the legal aid attorney becomes involved when the petition has been filed and will interview the respondent and parent before the initial appearance. Each New York City county has a legal aid office under the umbrella of the New York City Legal Aid Society - Juvenile Rights Division.

Legal aid attorneys in the New York City counties are rotated in the assignment of new cases. This is described as a system of "vertical continuity" in which teams receiving petitions follow the cases through all subsequent hearings. Information is gathered from local borough-based records, which, until a Juvenile Right's Division city-wide information system becomes available, is their main source of prior record information. Information is also gathered from interviews with respondents, parents and the probation department, who may inform the legal aid attorney of the probation intake worker's detention recommendation. See Chapter One for a further review of the law guardian role.

New York City Detention Cases

Two factors practitioners often associate with the likelihood of detention are the seriousness of the current offense and the prior warrant history. New York City data were examined to determine the relationship between these two factors and detention decisions at the first court appearance. These data were provided by the computerized Juvenile Justice Information Services data base. Outside New York City, detention data was not easily accessed due to the lack of a statewide detention data base for this type of research.

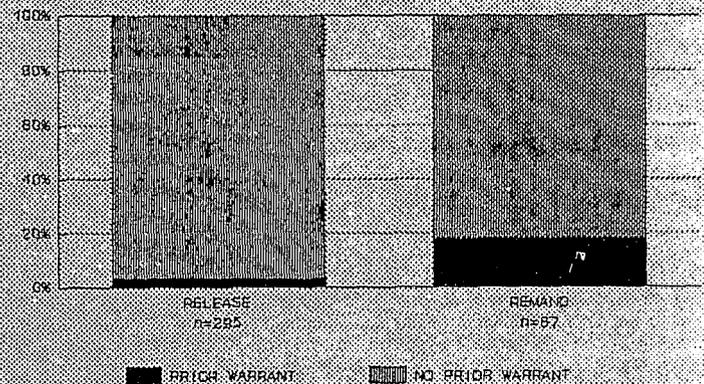
Warrant history was related to the detention decision at initial court appearances.

Juveniles remanded to detention at initial court appearances were more likely to have warrant histories than those who were released by the courts (18 percent vs. 3 percent).

The seriousness of the petition offense was related to the detention decision at the initial court appearance.

Remands to detention were more likely to be ordered in cases involving B felonies than in those involving C, D, and E felonies and A misdemeanors. (A felonies and B misdemeanors were not included in this analysis because of the small number of cases.)

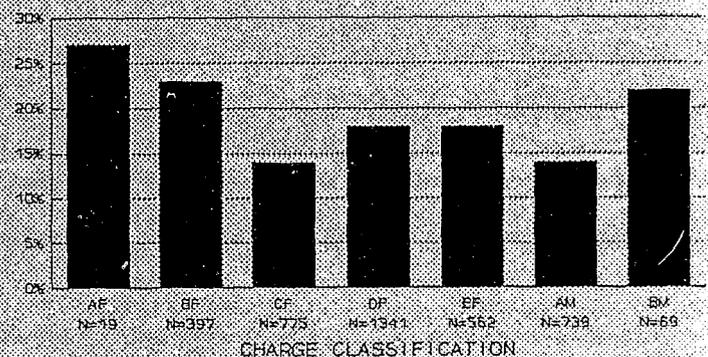
1987 NEW YORK CITY PETITIONS
WARRANT HISTORY BY RELEASE/REMAND STATUS



SOURCE: JJIS
NOTE: THIS DATA WAS GATHERED FROM A 5 PERCENT SAMPLE.

Figure 5.3

1987 NEW YORK CITY PETITIONS
REMAND PERCENTAGE BY CHARGE CLASSIFICATION



SOURCE: JJIS
NOTE: ONLY CASES WHERE THE RESPONDENT APPEARED AT THE INIT. APP. ARE INCLUDED.

Figure 5.4

Detention Decision

The Family Court Act stipulates that at the initial appearance a detention determination must be made according to FCA §320.5 (FCA §320.4):

The court shall not direct detention unless it finds and states the facts and reasons for so finding that unless the respondent is detained;

- (a) there is a substantial probability that he will not appear in court on the return date; or
- (b) there is a serious risk that he may before the return date commit an act which if committed by an adult would constitute a crime (FCA §320.5[3]).

A respondent's history of JD findings may be introduced by the presentment agency to support a detention or release recommendation (FCA §320.5[4]). Recommendations for the detention decision are also made by probation in New York City and Monroe County (see Chapter Two). The second of the two reasons mentioned above sanctions "preventive detention" of juveniles which was upheld as constitutional in the United States Supreme Court *Schall v. Martin* case.⁹

The likelihood of detention is often a function of access to facilities. For example, the county attorney in Clinton County commented that:

... [T]he nearest non-secure detention is in Essex County, 30 miles or so south, and we have to go a long way, as far as Albany, for secure detention. Detention is not used often, for obvious reasons.

Despite these difficulties, children are remanded to both secure and non-secure detention facilities in all study sites. Secure detention facilities are characterized by physically restricting construction, hardware and procedures (FCA §301.2[4]). Non-secure detention facilities are characterized by the absence of restricting construction, hardware and procedures (FCA §301.2[5]).

Merril Sobie, in his commentary on FCA §320.5, explained the use of non-secure detention as "predicated on the deficiency of the child's home rather than the probability of criminal activity which, in any event, can be prevented only by secure detention" (Sobie, 1983:373). A presentment agency attorney in New York County commented on the difference between secure and non-secure detention:

To me, NSD [non-secure detention] is not a remand. With NSD, the primary focus is the needs of the respondent, rather than the protection of the community.

Consequently, in New York City at least, recommendations by the presentment agency for detention are invariably for secure

detention. Nevertheless, practitioners state that a sizeable number of remands in all study sites were to non-secure facilities, and non-secure detention is likely to be the detention choice a judge would make when a parent does not attend the initial appearance. A senior legal aid attorney in New York City, however, saw much less difference between secure and non-secure detention:

NSD is indeed a remand. The child is cutoff from home, school, and the community. Although there may not be bars on windows, there is still very much deprivation from the child's point of view.

Judges interviewed in all study sites stressed that, when detention was appropriate, they nevertheless try to place children in the least restrictive environment. A family court judge in Dutchess remarked:

We use non-secure detention where we can. Often we have to be careful because the juvenile is a guest in a private home. I use secure detention if I feel the kid is likely to hurt himself. The recommendation comes from probation and we hear from social workers. It is preliminary, remember; we can always do something else if it doesn't work out.

A family court judge in Nassau County named four factors that he took into account when determining the appropriate remand: first, the threat to society; second, whether the child is a danger to himself; third, the likelihood of running away or not appearing at the next court event; and fourth, the availability of appropriate custody from recognizance to a parent, to non-secure detention and to secure detention.

If the respondent is not remanded, the court may provide release terms and conditions that the respondent must follow (FCA §320.5[2]). According to practitioners, however, respondents are usually released to the custody of their parents or another responsible adult without formal conditions, although, practitioners say, conditions have been used on individual cases. Conditions are similar to those used for probation -- the respondent must go to school, obey curfews and, perhaps, avoid contact with particular people and places.

Study sites without local facilities or with facilities that are full have to transport remanded children considerable distances. In the study sites, secure detention facilities are only available in New York City and Erie, Monroe and Nassau counties. In Dutchess County, secure detention remands are made to the Highland New York State Division for Youth (DFY) facility. In Albany County, secure detention remands may be to facilities in Erie or Monroe counties or to DFY facilities.

In New York City, the practice for judges is to order a "specific remand" or an "open remand," when ordering detention. A specific remand is when the judge stipulates that the child is to be remanded specifically to secure detention or to non-secure detention. An open remand is when a child is remanded to the Commissioner for Juvenile Justice and staff at the New York City Department of Juvenile

Justice (DJJ) determine the secure or non-secure status based on a risk assessment instrument. This arrangement was found in no other study site.

Decision to Refer Back to Probation Intake

Another decision to be made during the initial appearance is whether the case should be referred back to probation for adjustment, even though a petition has been filed (FCA §320.6). The court may, with the consent of the victim or complainant, refer a case to probation for adjustment. In the case of a designated felony petition, the consent of the presentment agency is also required (FCA §320.6[2]).

There were very few post-petition adjustments in the study sites. The percentage of cases referred back to intake ranged from zero percent in Clinton County and Albany County to 4 percent in Erie County. Less than one percent (0.2 percent) of the cases in New York City and Nassau County and 2 percent of the cases in Dutchess County were referred back to intake.¹⁰

Entry of An Admission or Denial

During the initial appearance, the respondent must either admit or deny each charge in the petition (FCA §321.1). As Merrill Sobie comments:

Requiring a plea [admission or denial] may result in a speedy dispositional hearing or the granting of an adjournment in contemplation of dismissal without the necessity of scheduling full evidentiary hearings. Even in more serious cases which are not amenable to early disposition, the entry of a plea [admission or denial] at the initial appearance will set the stage for discovery and may speed adjudication (Sobie, 1983:380).

When an admission is entered at the initial appearance or any subsequent proceeding prior to the completion of the trial, the case will proceed to the dispositional hearing, unless the case is dismissed post-fact-finding (see Chapter Six). When there is no admission to the charges in the petition, a trial date must be scheduled within 60 days of the initial appearance for non-detention cases and 14 days for detention cases where the top charge is at least a C felony (FCA §340.1[2] and FCA §340.1[1]).

Probable-cause Hearing

The Family Court Act probable-cause statutes states that if the respondent denies a charge contained in the petition and the court determines at the initial appearance that he will be detained for more than three days pending trial, the court must schedule a probable-cause hearing (FCA §325.1[1]) to determine whether there is reason to believe that a crime was committed (FCA §325.3[1][a]) and whether the respondent committed such crime (FCA §325.3[1][b]).¹¹ If probable-cause is found, the court must decide

whether continued detention is necessary (FCA §325.3[3]). If probable-cause is not found, the respondent must be released from detention and the case adjourned (FCA §325.3[4]).

Probable-cause hearings rarely occur outside of New York City and Monroe County. A judge in Erie County, for example, reported that in the 18 months he had been hearing cases in family court he had not presided at a single probable-cause hearing. The paucity of probable-cause hearings may be explained because admissions are made at the initial appearance, because respondents waive probable-cause hearings, because trials are scheduled within three days of the initial appearance, or because the interpretation of statutes vary. Differences in interpretation have created a great deal of controversy.¹²

Discovery and Motion Practice

Discovery is the part of the fact-finding process that statutorily provides a mechanism allowing each side to learn information about the opponent's case. This information is provided through the voluntary disclosure of information or through a court order after a ruling on a filed motion. Information made available during discovery enables the opposition to ascertain the strength of the opposing party's case, and develop pre-trial and trial strategies.

Besides motions to grant discovery, there are several other types of motions, including motions to suppress evidence (FCA §330.2) and to join, sever, or consolidate petitions (FCA §311.6). Some motions also result in the petition being dismissed (see above).

The extent of motion practice serves as a barometer to measure how legally active a site's law guardian representation is. Motion practice is used to a varying degree in the different study sites. In two sites – New York City and Monroe County – practitioners say that motions are made and motion hearings are held almost routinely. For instance, a New York City Corporation Counsel representative suggested that motion hearings to suppress evidence are held more frequently than trials and, in fact, are very determinative of ultimate case outcomes. In the other sites, however, such practices are less common. For instance, while motions to suppress evidence are routinely made in New York City and Monroe County, presentment agency staff in Erie County say that suppression motions are only made in about "... one of twelve cases." In Albany County and Dutchess County, practitioners indicate that only one or two motions to suppress evidence are made each year.

Presentment Agency and Law Guardian Negotiations

Generally, there are several areas for negotiation during the pre-trial phase of processing -- the final adjudication of the charges (i.e., plea bargaining), the final outcome of the case, and the outcome of another active case. Practitioners hold a wide variety of opinions on the role and significance of these negotiations in JD cases.

Arguably, one of the most extreme opinions about plea bargaining is held by a family court judge in Monroe County who actively discourages plea bargaining because he feels that it "sends the wrong message to the child." He looks for either an admission to the top petition charge or wants the case to go to a fact-finding hearing. Other practitioners feel that plea bargaining is appropriate but that it has practical limitations because there is little statutory relationship between charge adjudications and disposition of cases. There are, as discussed in the previous chapter, a few exceptions. A respondent adjudicated to a felony offense could be subject to a longer initial period of placement than someone adjudicated to a misdemeanor; the court may order a restrictive placement (see Chapter Six) for respondents adjudicated to designated felony offenses. Also, if fingerprints are taken, fingerprints must be destroyed unless allegations to certain charge classifications are established.

Because pleaded charges do not generally guarantee specific dispositions, some law guardians attempt to withdraw admissions if dissatisfied with the outcome (FCA §321.4) A law guardian in Dutchess County explained the use of the "conditional plea":

You might say, 'why [plea] if it makes no real difference?' It's not like negotiating with the DA [in the adult system] because the county attorney can't guarantee the disposition . . . I have it so that if the disposition [in Family Court] doesn't turn out as expected on the plea, my client can withdraw the plea. It is on record as a plea on the understanding that the juvenile will not be placed.

The county attorney in Clinton County, mentioned the recent introduction of conditional pleas in his county:

In the last year or so, since we had a new judge, we have had conditional pleas. We haven't had anyone withdraw it [the admission] yet and go back to trial, but I have no objection to that. That would only happen when a case is pled on the understanding that there wouldn't be placement. It's used to move cases along more quickly. They did it in Franklin County, where the judge came from, and so we are doing it here. It was the judge who first suggested it.

In some counties, the court may request probation to perform a pre-plea investigation prior to accepting the conditions of the plea. The investigations supervisor in Monroe County said:

Sometimes there are what I call "pre-pre-sentence investigations" before fact-finding, it's a sort of pre-plea investigation. It's a technique used by the defense lawyers as part of the plea negotiation. They sometimes get judges to order them.

A county attorney in Nassau County reported that conditional pleas were not practiced there because he thought that the fact-finding phase and the dispositional phase are so separate that no guarantees could be given on the eventual outcome. In his opinion,

conditional pleas could also compromise the independence of the probation investigation which assists the court in making a dispositional order (see Chapter Six).

In general, study site presentment agency counsels were in broad agreement on plea bargaining strategies. Some agencies have informal guidelines which can always be overturned in particular circumstances. In general, however, whether guidelines exist or not, presentment agency attorneys say that they accept admissions to lower charges, provided that the charges do not drop from serious felonies to misdemeanors. As mentioned earlier, this would lower the maximum placement period from 18 months to 12 months. A New York County attorney commented:

There are three elements: the official policy; the informal policy; and my personal philosophy. The official policy comes from Central Office. You don't plea an A, B, or C felony to a misdemeanor [without approval from a supervisor]; there are [also] policies on weapons charges; drug charges; and all sex cases.

A presentment agency attorney in Monroe County referred to his office's general policies:

We have a sliding scale: a multiple felony and/or DF [designated felony] case can become one felony; an E felony becomes an A misdemeanor; one misdemeanor with prior contacts becomes a [lesser] misdemeanor or a PINS [petition substitution] if appropriate.

In Clinton, Erie, Albany, Dutchess and Nassau counties, county attorneys reported that pleas are negotiated on an individual basis, but that similar criteria to those outlined above were generally followed.

In addition to plea bargaining, another form of negotiation involves the use of "covers." This occurs when the respondent has more than one active petition. In these situations, the presentment agency and the law guardian agree that the presentment agency will ask the court to dismiss one petition if the respondent admits to an allegation on the other petition. In New York City, these agreements usually preclude the sealing of the dismissed case (see Volume II). No other site uses sealing as a factor in negotiations.

Although presentment agency attorneys say that ACDs are often ordered over their objections, some presentment agencies recommend ACDs to the court, and ACDs may also be discussed during pre-trial negotiations with law guardian counsels.¹³ This option is available on non-designated felony cases and involves the adjournment of the case for six months (FCA §315.3[1]).¹⁴ If the respondent does not get into further trouble during the period of the ACD and does not violate any terms of the ACD, then the case will be dismissed in "furtherance of justice" (FCA §315.3). If during the period of the ACD there is a violation of any terms and conditions of the ACD order, the case may be restored to the calendar and resumed.

From a law guardian's perspective an ACD is the best possible outcome of the pre-trial process –short of a straight dismissal –the case will most often end in a dismissal and be sealed. For these same reasons, a New York County attorney, commented on why his office does not generally accept an ACD offer from the law guardian:

You don't accept [an offer by the law guardian to] an ACD on a felony case or any drug case . . . Informally, I know what my borough chief likes and what he doesn't like. Personally, a finding is good – even an ACD. During that six months if he is not going to school you can violate the ACD. I monitor my ACD cases by calling the school. If he gets rearrested I violate the ACD. You don't want ACDs though . . . , particularly for young kids . . . , because you want to be able to build a record you can use [i.e., one that is not sealed] over the next four years or so.

Even though an ACD may be given at any time prior to the completion of the dispositional hearing, presentment agency staff prefer it to occur after the allegations are established.¹⁵ In that scenario, violated cases would move directly to the dispositional process and avoid having to go to trial many months after the incident. However, whether ACDs are ordered before or after allegations are established, the end results are the same – non-violated ACDs are dismissed and sealed.

Trial Stage

If pre-trial processing does not result in a dismissal or an admission, the case will proceed to trial. The trial is held so that the court can determine whether the allegations in the petition are established. The respondent, however, may make an admission to an allegation prior to the completion of the trial.

There are several matters that must take place prior to the completion of the trial. First, the presentment agency and the law guardian may deliver opening statements, with the presentment agency proceeding first (FCA §342.1[1]). Second, the presentment agency must offer evidence in support of the charges (FCA §342.1[2]). Third, the respondent (law guardian) may offer evidence in defense of the presentment agency charges (FCA §342.1[3]). Fourth, the presentment agency may offer a rebuttal to the defense's evidence, and the defense may offer a rebuttal to the presentment agency's evidence (FCA §342.1[4]). Fifth, the defense and the presentment agency have the right to deliver summations, with the defense proceeding first (FCA §342.1[5] and FCA §342.1[6]). Sixth, the court must enter a finding as to whether the allegations were established (FCA §342.1[7]).

Family Court Act §340.1 governs the time standards for the trial. The trial must commence within 60 days of the completion of the initial appearance, if the respondent is not in detention. If the respondent is in detention and the respondent is charged with the

commission of a class A, B, or C felony, the trial must commence within 14 days of the conclusion of the initial appearance. If the respondent is in detention and the highest allegation is less than a C felony, the trial must commence within three days of the conclusion of the initial appearance.

The court may adjourn a trial on its own motion or on the motion of the presentment agency for up to three days if the respondent is in detention and up to 30 days if the respondent is not in detention (FCA §340.1[3][a]). There are, however, several exceptions. Cases may be adjourned for up to six months in contemplation of dismissal, and a 30-day adjournment can be ordered if requested by the respondent (FCA §340.1[3][c] and FCA §340.1[3][b]). Successive motions to adjourn a trial can only be granted if special circumstances can be shown, not including calendar congestion or the status of the court's caseload (FCA §340.1[5]).

FCA §340.2 states that, with several exceptions (e.g., mistrial, illness), the judge presiding at the commencement of the trial must continue to preside until the completion of the trial, and if necessary, until a dispositional hearing. Upon the completion of the trial, the court must enter an order specifying whether the charges are established.

If an allegation is not established, the court will enter an order dismissing that charge. If no charges are established, the entire petition will be dismissed (FCA §345.1[2]). If the entire petition is dismissed, it is ordered sealed, unless a motion not to seal is affirmed by the court (FCA §375.1[1]) (see Volume II).

Fact-Finding Outcome Analyses

The following section illustrates the fact-finding outcomes of cases across study sites. The reader should be wary about drawing conclusions from fact-finding data, however, because cases in sites with different fact-finding processing styles may have similar results, once post-fact-finding outcomes are taken into account. For instance, ACDs may be most frequently given in some sites after allegations are established, whereas in other sites, ACDs may be more frequently given before allegations are established.¹⁶ In either scenario, the end result is the same – the case is dismissed and ordered sealed. Furthermore, at some sites cases are often dismissed in satisfaction of pleas taken on other active cases (i.e., covered cases), while other sites rarely dismiss cases for this reason.

While these differences in processing styles may be purely strategic, they contribute to marked differences in “conviction” rates. The next chapter will present data illustrating post-fact-finding outcomes and their relationship to fact-finding outcomes.

The term “trial” is used in this analysis and elsewhere to describe cases where fact-finding outcomes were determined after the completion of the trial. When respondents admitted to allegations during the trial, the outcome is described as occurring pre-trial.

Trial Status

Fact-finding outcomes were most likely to be determined pre-trial. (Table 5.3).

Most JD cases did not result in trials. New York City, where 11 percent of the cases were concluded by trial, was more likely than other sites to have trials. Elsewhere, the percentage of cases with trials ranged from 1 percent in Dutchess County to 5 percent in Erie County (Figure 5.5).¹⁷

1987 COHORT
PERCENTAGE OF PETITIONS
RESULTING IN TRIALS

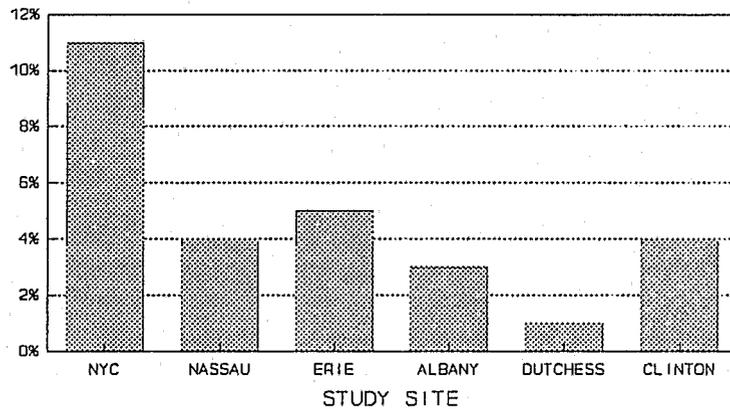


Figure 5.5

Table 5.3. Trial Status of Petitioned Cases

	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County	
	New York City ^a %	Nassau %	Erie %	Albany %	Dutchess %	Clinton %
Trial Status ^b						
Pre-Trial	89	96	95	97	99	96
Post-Trial	11	4	5	3	1	4
	(N=4,609)	(N=588)	(n=303)	(N=262)	(N=133)	(N=26)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b More than five percent of the fact-finding trial status data were missing in the following study sites: Nassau (8 percent), Erie (7 percent), Albany (7 percent), and Dutchess (17 percent).

When fact-findings were concluded pre-trial, outcomes were more likely to be admissions than case dismissals. (Table 5.4).

The percentage of pre-trial cases pled ranged from 51 percent in Erie County to 84 percent in Clinton County. These percentages, however, can be misleading if "covered" dismissals are not considered.

Dismissing cases in satisfaction of pleas taken on other cases (i.e., covered dismissal) was a processing strategy used in three of the six counties. The larger urban study sites of Nassau County, Erie County and New York City were more likely to have covered cases (18 percent, 13 percent and 11 percent, respectively) than less urbanized sites. Clinton County did not dismiss any cases for this reason and only 2 percent of the cases in Dutchess County and in Albany County were disposed pre-trial in this manner. If one attempts to control for differing processing styles and removes covered cases from the equation, the disparity among the percentage of cases in which allegations were established is reduced substantially (e.g., in New York City the percentage of cases in which allegations were established would increase from 58 percent to 65 percent).¹⁸

Pre-trial dismissals were more likely to occur with an ACD in several sites (Table 5.4).

Pre-trial dismissals occurred more often with ACDs than without ACDs in Nassau, Erie and Dutchess counties. For example, in Dutchess County, 24 percent of the cases received ACD dismissals, while 8 percent were dismissed without ACDs. New York City was the only site more likely to dismiss cases pre-trial without ACDs.

Table 5.4. Trial Status and Fact-Finding Outcome for Petitioned Cases^a

	Trial Status and Fact-Finding Outcome ^b					
	New York City ^a %	Suburban New York City County Nassau %	Large Urban County Erie %	Mid-Size Urban Counties Albany % Dutchess %		Rural County Clinton %
Pre-Trial						
Allegations Not Established	42	37	49	25	34	16
Dismissed - Unconditional ^c	21	6	13	13	8	4
Dismissed - ACD ^c	10	13	23	10	24	12
Dismissed - Covered ^d	11	18	13	2	2	0
Allegations Established ^e (i.e., plea)	58	63	51	76	66	84
	(N=4,105)	(N=562)	(n=289)	(N=253)	(N=132)	(N=25)
Post-Trial						
Allegations Not Established	34	27	50	33	100	0
Allegations Established ^e	66	73	50	67	0	100
	(N=504)	(N=26)	(n=14)	(N=9)	(N=1)	(N=1)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b More than five percent of the trial status data were missing in the following study sites: Nassau (8 percent), Erie (7 percent), Albany (7 percent), and Dutchess (15 percent).

^c Dismissals classified as unconditional or ACD may have been ordered because of a plea taken on another case. These dismissals were not classified as "covered" dismissals unless court records clearly stated that these were dismissals in satisfaction of pleas taken on other concurrent cases.

^d Covered dismissals involve cases that were dismissed in satisfaction of pleas taken on other concurrent cases. ACD dismissals that were dismissed in satisfaction of pleas taken on other cases were counted as "covered" dismissals. In non-New York City sites, the concurrent cases for which pleas were taken usually result in JD findings; 94 percent of these concurrent cases in Nassau County had JD findings, 95 percent in Erie County, 86 percent in Albany County, and 100 percent in Dutchess County. Data were not available for New York City cases.

^e These cases may be subsequently dismissed. For post-fact-finding outcomes see Chapter Six.

At trials, allegations were more often established than dismissed (Table 5.4).

Allegations were established in the majority of trials at most study sites. In New York City, for example, allegations were established in 66 percent of the trials while the remaining 34 percent were dismissed.

Charge Reduction

A majority of the felony petition charges were lowered to misdemeanors at adjudication in three of the six study sites (Table 5.5 and Figure 5.6).

In three of the six sites, the top charges in over one-half of the adjudicated cases involving felony petition offenses were lowered to misdemeanor offenses (Table 5.5). In Erie County, 84 percent of the adjudicated felony cases were lowered to misdemeanor offenses, 65 percent in New York City and 54 percent in Nassau County. Elsewhere, the percentage of felony petition offenses lowered to misdemeanor offenses was 44 percent in Albany County, 33 percent in Dutchess County and 10 percent in Clinton County.

Some reviewers suggested that overcharging by the presentment agency on petitions (i.e., raising misdemeanor arrest offenses to felony offenses at petition) might explain the substantial decreases in felony petitions to misdemeanor adjudications. While New York City and Erie County were more likely to raise misdemeanor arrest offenses to felony offenses at petition (see Table 4.9), these cases comprised a relatively small percentage of felony petition cases at each of these sites (10 percent and 14 percent, respectively). Therefore, this hypothesis did not fully explain the reduction of felony petitions to misdemeanor offenses.

Tables presenting charge movement from petition to adjudicated offense by offense classification are presented in Appendix 5.1.

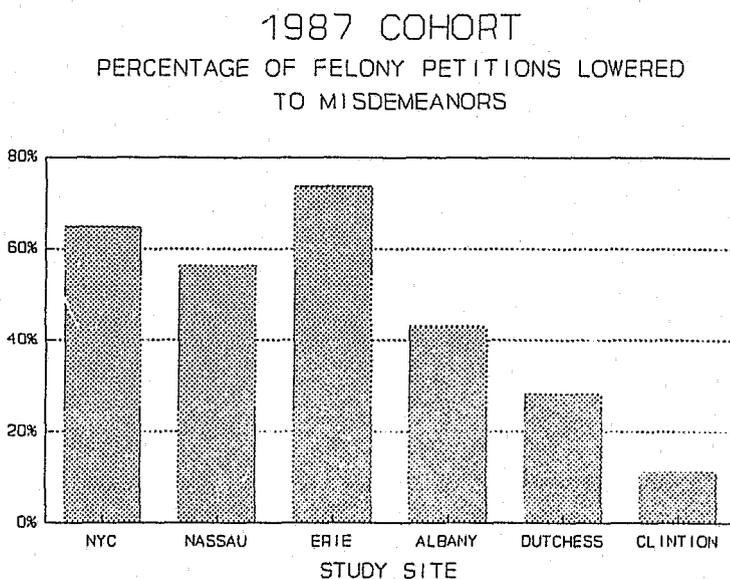


Figure 5.6

Table 5.5. Charge Reduction for Petition vs. Adjudicated Offenses^a by Statutory Categories for Petitioned Cases

	New York City ^b %	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County
		Nassau %	Erie %	Albany %	Dutchess %	Clinton %
Felony Offenses at Petition						
Same at Adjudication	35	46	16	56	67	90
Lowered to Misdemeanor Offenses at Adjudication	65	54	84	44	33	10
	(N=2,172)	(N=151)	(n=50)	(N=117)	(N=30)	(N=10)
Fingerprintable Offenses at Petition						
Same at Adjudication	46	58	16	66	56	100
Lowered to Non-Fingerprintable Offenses at Adjudication	54	42	84	34	44	0
	(N=928)	(N=53)	(n=19)	(N=46)	(N=9)	(N=5)
Designated Felony Offenses at Petition						
Same at Adjudication	-	50	0	50	0	0
Lowered to Non-Designated Felony Offenses at Adjudication	-	50	100	50	0	100
	-	(N=2)	(n=2)	(N=4)	(N=0)	(N=2)

^a More than five percent of the adjudication offense data were missing in the following study sites: Nassau (11 percent), and Dutchess (17 percent).

^b Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals. Designated felony data were incomplete for New York City and are not presented.

Up to four-fifths of the cases involving fingerprintable offenses were lowered to non-fingerprintable offenses. Erie County lowered these offenses in the largest percentage of cases (84 percent), while none of the fingerprintable offenses were lowered in Clinton County.

While New York City had the most serious petition offenses, three other study sites had more serious adjudicated offenses (Figure 5.7).

The overall seriousness scores for all petitioned offenses versus all adjudicated offenses were: New York City, 4.0 versus 2.5; Nassau County, 3.0 versus 2.4; Erie County, 2.8 versus 2.0; Dutchess County, 2.8 versus 2.5; Clinton County, 3.6 versus 3.2; and Albany County, 3.4 versus 2.7.¹⁹

Clinton County had highest percentage of adjudicated cases involving felony offenses (53 percent), followed by Albany County (35 percent), Dutchess County (30 percent), New York City (29 percent), Nassau County (22 percent) and Erie County (6 percent). Tables presenting charge movement from petition to adjudicated offense by offense classification are presented in Appendix 5.

New York City practitioners suggest that the charge reductions largely result from active legal representation and mutual accommodation between law guardians and presentment agency counsels. Some reviewers also suggested that overcharging by the presentment agency on petitions might explain the substantial reduction in the seriousness of adjudication charges at some sites. This hypothesis, however, was not supported by the data (see page 158).

Processing Times

Fact-finding processing was concluded in 15 days or less for a substantial percentage of cases in most study sites (Table 5.6).²⁰

The fact-finding process (i.e., initial appearance to fact-finding outcome) was completed within 15 days in almost one-half to over three-quarters of the cases in

1987 COHORT
AVERAGE SERIOUSNESS SCORE
PETITION AND ADJUDICATED CHARGE

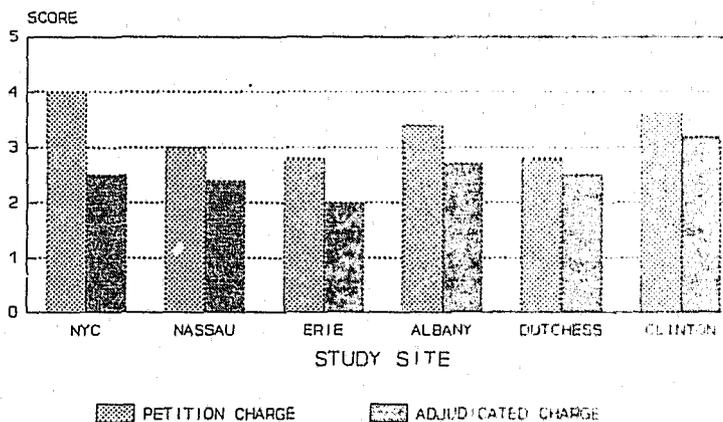


Figure 5.7

non-New York City study sites, with the percentage of cases completed within this time ranging from 49 percent in Dutchess County to 87 percent in Clinton County. In New York City, the fact-finding process was completed within 15 days in only 18 percent of the cases. The median processing times shown for New York City cases (61 days) versus non-New York City study sites (1 day in Clinton County to 14 days in Dutchess County) clearly illustrate diametrically different practices – New York City cases are much more likely to have extensive motion practice and result in trials (Figure 5.8).

1987 COHORT
 MEDIAN PROCESSING TIME
 INITIAL APPEAR TO FACT-FINDING OUTCOME

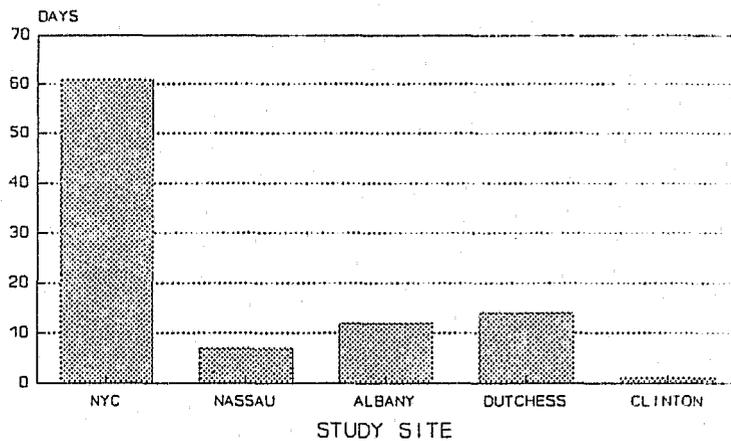


Figure 5.8

Table 5.6. Initial Appearance to Fact-Finding Outcome^a Processing Times for Petitioned Cases

	Suburban New York City County		Large Urban County	Mid-Size Urban Counties		Rural County
	New York City ^b %	Nassau %	Erie ^c %	Albany %	Dutchess %	Clinton %
Processing Time						
One Day	5	39	–	44	31	83
Two to 15 Days	13	18	–	11	18	4
16 to 30 Days	6	10	–	14	17	0
31 to 45 Days	12	7	–	11	9	4
46 to 60 Days	14	8	–	7	7	4
61 to 90 Days	21	9	–	7	9	0
91 to 120 Days	14	5	–	5	3	0
121 Days or More	17	5	–	3	7	4
MEAN	72 days	31 days	–	25 days	33 days	10 days
St Dev	58 days	45 days	–	33 days	50 days	30 days
MEDIAN	61 days	7 days	–	12 days	14 days	1 day
	(N=4,557)	(N=578)		(N=244)	(N=154)	(N=24)

^a In instances where an ACD dismissal was the fact-finding outcome, the date of the fact-finding outcome is the day the ACD was ordered – not the day the case was dismissed.

^b New York City processing times reflect the time the petition was filed and not the actual appearance of the respondent in court. Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^c Data are not presented for Erie County because of inconsistencies in the coding of fact-finding dates.

Characteristics of Trial Cases in New York City

Table 5.3 shows that fact-finding outcomes were rarely determined at trials in study sites with the exception of New York City. Therefore, only New York City data are presented in the following tables which compare the characteristics of pre-trial cases and trial cases. Presentations are limited to processing times and arrest to petition charge reduction. The bivariate relationships of gender, age, race/ethnicity, seriousness and type of current offense and prior JD record were not substantively meaningful.

Processing Times

The median processing time for trial cases was more than one month greater than that for cases concluded pre-trial (Table 5.7).

In New York City, the median processing time for trial cases was 90 days versus 58 days for cases concluded pre-trial.

Table 5.7. Initial Appearance to Fact-Finding Outcome^a Processing Times^b for Petitioned Cases in New York City^c

		New York City
Pre-Trial Fact-Finding Processing Time		(N=4,049)
Less than Two Days		5
Two to 15 Days		14
16 to 30 Days		6
31 to 45 Days		13
46 to 60 Days		14
61 to 90 Days		20
91 to 120 Days		13
120 Days or More		15
MEAN		68 days
St Dev		58 days
MEDIAN		58 days
Pose-Trial Fact-Finding Processing Time		(N=497)
Less than Two Days		<1
Two to 15 Days		9
16 to 30 Days		3
31 to 45 Days		7
46 to 60 Days		9
61 to 90 Days		23
91 to 120 Days		23
120 Days or More		27
MEAN		94 days
St Dev		54 days
MEDIAN		90 days
Overall Processing Time		
MEAN		72 days
St Dev		58 days
MEDIAN		61 days

^a In instances where an ACD dismissal was the fact-finding outcome, the date of the fact-finding outcome is the day the ACD was ordered - not the day the case was dismissed.

^b New York City processing times reflect the time the petition was filed and not the actual appearance of the respondent in court.

^c Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals. Warrant cases are included; this distorts normal processing times.

Charge Reduction

Cases with trials were less likely to have the seriousness of the top petition charge reduced at adjudication (Table 5.8 and Figure 5.9).

Respondents in only 26 percent of the cases concluded pre-trial entered pleas to the most serious petition charges. Conversely, allegations were established for the most serious petition charge in two-thirds of the cases concluded at trial.

1987 NEW YORK CITY COHORT
CHANGE IN PETITION CLASSIFICATIONS
PRE-TRIAL VS. POST-HEARING ADJUDICATIONS

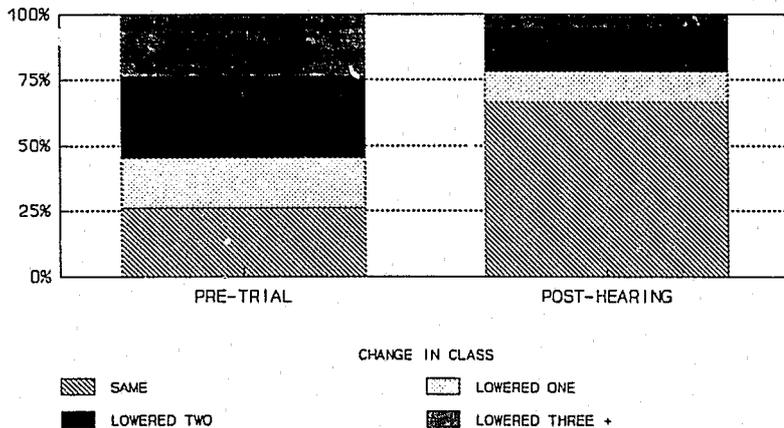


Figure 5.9

Table 5.8. Charge Reduction from Petition to Adjudicated Offenses by Trial Status for Petitioned Cases in Which Allegations Were Established in New York City^a

Pre-Trial Charge Reduction	New York City %
Same Classification	26%
Lowered One Classification	19
Lowered Two Classifications	31
Lowered Three or More Classifications	24
(N=2,274)	
Post-Trial Charge Reduction	
Same Classification	66%
Lowered One Classification	12
Lowered Two Classifications	16
Lowered Three or More Classifications	6
(N=320)	

^aExcludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

Post-Fact-Finding Processing

At the conclusion of the fact-finding process, if one or more allegations are established – either by an admission or after a trial – the court may schedule a dispositional hearing to determine whether the respondent is a JD (i.e., the respondent is in need of treatment, supervision, or confinement). The court may also choose to dismiss the case any time prior to the entry of a JD order, with or without an ACD. Post-fact-finding processing is the focus of the next chapter.

Summary of Findings

1. **Law guardians in New York City and Monroe County make greater use of the procedural opportunities (i.e., motion practice) outlined in the Family Court Act than the other study sites.**

The extent of motion practice serves as a barometer to measure how legally active a site's law guardian representation is. In two sites – New York City and Monroe County – practitioners say that motions are made and motion hearings are held routinely. In the other sites, however, practitioners say that such practices are much less common.

2. **Most sites take longer than ten days to process cases from petition filing to the initial appearance.**

By statute, absent good cause shown, the initial appearance must occur within ten days (three days for a detention case) after the filing of the petition. Almost all (99 percent) of the Erie County cases were processed within ten days; 85 percent in Nassau County. In contrast, 25 percent of the Dutchess County cases were processed within ten days; 17 percent in Albany County; and 16 percent in Clinton County. While New York City data were not available for this analysis, practitioners there indicate that the initial appearance always occurs within three days of the filing of the petition, with the exception of non-appearance cases. Practitioners in Albany and Dutchess Counties suggest that court congestion is the reason for delays in those counties.

3. **Fact-finding processing times in New York City were longer than those at other sites.**

The median fact-finding processing time (date of initial appearance to fact-finding outcome) in New York City was almost two months. At other sites, it ranged from about one day in Clinton

County to about two weeks in Dutchess County. The longer fact-finding processing times found in New York City reflect diametrically different practices – New York City cases are more likely to have extensive motion practice and result in trials.

4. New York City petitions were more likely to result in trials than petitions at other study sites.

More than one out of 10 New York City petitions had trials. Elsewhere, the percentage of cases that had trials ranged from 1 percent in Dutchess County to 5 percent in Erie County.²¹

5. Allegations were established in the majority of petitions.

The percentage of cases where the allegations were established ranged from 51 percent in Erie County to 84 percent in Clinton County. Elsewhere, allegations were established in 59 percent of the New York City cases, 63 percent in Nassau County, 66 percent in Dutchess County, and 76 percent in Albany County.

Once cases dismissed in satisfaction of pleas taken on other cases (i.e., covered cases) are removed from the equation, there is less disparity between sites. The percentages ranged from 59 percent of the allegations established in Erie County to 84 percent in Clinton County. Elsewhere, allegations were established in 65 percent in New York City, 67 percent of the Dutchess County cases, and 77 percent in both Albany and Nassau counties.

6. New York City cases entered fact-finding with the highest average petition offense seriousness score. After adjudication, however, New York City's average score was the third highest.

New York City had the highest average offense seriousness score at petition (4.0). However, Clinton County (3.2) and Albany County (2.7) had higher adjudication offense seriousness scores than New York City (2.5).

New York City practitioners suggest that the charge reductions largely result from active legal representation and mutual accommodation between law guardians and presentment agency counsels. Some reviewers also suggested that over-charging by the presentment agency on petitions might explain the substantial reduction in the seriousness of adjudication charges at some sites. This hypothesis, however, was not supported by the data (see page 158).

Notes

1. See Knitzer and Sobie, *Law Guardians in New York State - A Study of the Legal Representation of Children*, New York State Bar Association, 1984 for a description of the New York State Law Guardian system and Law Guardian practices. See Whisenand and Sobie, *Law Guardian Representation Standard*, New York State Bar Association, 1988 for a set of Law Guardian Standards approved by the New York State Bar Association.
2. Removals may occur before or after an adult court conviction. If a case is removed after an adult court conviction, only a family court dispositional hearing will be held.
3. Although the fact-finding hearing is analogous to an adult court trial, the term "trial" is not used in the Family Court Act. Activities during the stage before the fact-finding hearing are, however, referred to in the Act as "pre-trial." For the purposes of clarity, the term "trial" is used throughout this discussion when describing the fact-finding hearing.
4. Twelve states provide juveniles with the right to a jury trial (Juvenile Justice Reform, 1987:112).
5. Forty-two states require a child to receive a detention hearing within a specified time after police detention. Twenty-three states require a detention hearing before seventy-two hours (Juvenile Justice Reform, 1987:108).
6. At any point after petition, the percentage of warranted cases ranged from 8 percent in Clinton County to 35 percent in New York City. Elsewhere, warrants were issued in 14 percent of the cases in Nassau County, 9 in Dutchess County, 10 in Albany County, and 14 percent in Erie County.
7. An attorney would have already been assigned to the juvenile, if the case had a pre-petition detention hearing.
8. Data were not available to measure the percentage of legal aid represented cases in New York City and Monroe County. Practitioners state, however, that legal aid does represent the majority of cases in those sites.
9. *Schall v. Martin*, 467 U.S. 253, 104 S.Ct. 2403 (1984).
10. Monroe County presentment agency statistics show that 4.6 percent of that county's petitions resulted in referrals back to intake.
11. The probable-cause hearing may have been scheduled at the completion of the pre-petition detention hearing.

12. Family Court Act §325.1 states that if the charges are not admitted at the initial appearance and the judge determines that the respondent should be detained for more than three days, the respondent is entitled to a probable-cause hearing. If, at the probable-cause hearing, the court determines that it has reason to believe that a crime was committed and the respondent committed the crime, the court must then determine whether continued detention is necessary. FCA §340.1 states that in cases where the respondent is charged with less than a C felony, the detained respondent must receive a fact-finding within three days. Some argue that the date of the fact-finding hearing merges with the date of the probable-cause hearing on cases where the respondent is charged with less than a C felony offense, and that a probable-cause hearing is not necessary.

These statutes leave open much room for varying interpretations, and various interpretations have developed. The question is whether the statutes should be read together or separately.

The New York City Legal Aid Society takes the position that the intent of Article 3 of the Family Court Act is to statutorily require probable-cause hearings regardless of the nature of the charges facing a juvenile in any case where detention will extend beyond three days, citing *People ex rel. Guggenheim v. Mucci*, 32 N.Y.2d 307, 344 N.Y.S.2d 944 (1973). The Legal Aid Society points out that FCA §325.1(2) makes no distinction between A, B, and C felonies and lesser offenses, and notes that under Article 7 of the Family Court Act, children charged with being persons in need of supervision retain the right to a probable-cause hearing within three days of the initial appearance. See FCA §739. The Legal Aid Society states that two hearings are statutorily required – a fact-finding hearing and a probable-cause hearing – and that a fact-finding hearing to be scheduled within three days does not merge with the probable-cause hearing which is separately required even if the fact-finding hearing must be adjourned. Unreported case law reflects some agreement with the Legal Aid Society that the juvenile does not waive his right to a probable-cause hearing by requesting an adjournment of the fact-finding hearing in order to have time to prepare a full defense. See *People ex rel. Gordon o/b/o Lee B.*, Index No. 27064/86 (N.Y. Sup.Ct., Kings Co. 1986); *People ex rel. Duhlberg o/b/o Edward N.*, Index No. 1632/84 (N.Y. Sup. Ct., Bronx Co. 1984), citing *People ex rel. Kaufmann v. Davis*, 57 A.D.2d 597, 393 N.Y.S.2d 746 (2d Dept. 1977); *Matter of Milton D.*, 72 A.D.2d 812, 421 N.Y.S.2d 909 (2d Dept. 1979).

In contrast, Corporation Counsel generally adhere to the position that when a respondent is charged with less than a C felony, because the fact-finding hearing must be scheduled within three days of the initial appearance (FCA §340.1), there is no necessity for a probable-cause hearing since its purpose will merge with the fact-finding hearing. *Matter of Snap*, 125 Misc.2d 314, 479 N.Y.S.2d 332 (N.Y.Fam. Ct., Queens Co. 1984); *Matter of Robert*

L., 129 Misc.2d 742, 493 N.Y.S.2d 970 (N.Y. Fam. Ct., Bronx Co. 1985).

Some Corporation Counsel representatives have urged for clarification of the legislative intent and a legislative amendment of the two statutes, preferably contained in one statute so that there is no misunderstanding whether the provisions should be read exclusively or merged with one another.

13. In the adult system, ACDs can only be given with prosecutor's approval and are limited to misdemeanor cases (CPL §170.55).
14. A designated felony case may, however, be dismissed in furtherance of justice, without an ACD (FCA §315.2).
15. In the adult system ACDs can only be ordered before a conviction (CPL 170.55 [1]).
16. See endnote 15.
17. Monroe County presentment agency statistics show that 11 percent of that county's petitions resulted in a fact-finding hearing.
18. When cases were dismissed in satisfaction of pleas taken on other concurrent cases, in non-New York City sites, the concurrent cases for which pleas were taken usually resulted in JD findings; 94 percent of these concurrent cases in Nassau County had JD findings, 95 percent in Erie County, 86 percent in Albany County, and 100 percent in Dutchess County. Data were not available for New York City cases.
19. A felony = 7, B felony = 6, C felony = 5, D felony = 4, E felony = 3, A misdemeanor = 2, B misdemeanor = 1
20. The patterns and elapsed times did not significantly change when warranted cases were excluded.
21. See endnote 17.

Post-Fact-Finding

Introduction

This chapter examines the post-fact-finding process for JD cases. A brief discussion of placement and probation supervision practices is also included. After the allegations are established at fact-finding, the court must determine the final outcome of the case. Possible outcomes include dismissal and the dispositional orders of conditional discharge, probation, and placement. A dispositional hearing must be held and a JD finding must be made that the respondent requires supervision, treatment or confinement before the court can issue a dispositional order. If a JD finding is not made, the case is dismissed.¹

After fact-finding, the presentment agency and law guardian² may present arguments at the dispositional hearing concerning the advisability of specific dispositional alternatives. Also, cases must be investigated by probation staff and mental health evaluations may be performed before the entry of the JD finding.³ These reports assist the court in deciding the appropriate dispositions.

Statistical analyses presented in this chapter focus on two outcomes – the JD finding and the disposition. The analysis which examines JD findings included all JD petitions – petitions concluded both at fact-finding (i.e., those dismissed before allegations are established) and post-fact-finding (i.e., those in which allegations were established).

Overview of the Post-Fact-Finding Process

After the allegations are established during fact-finding, the court must make a determination about the final outcome of the case, including a dismissal or a dispositional order (Figure 6.1).⁴ The court must conduct a dispositional hearing and find the respondent to be a JD, before entering a dispositional order. A probation investigation and, in some circumstances, a mental health evaluation must also be submitted to the court (FCA §351.1[2]).⁵ In non-designated felony cases heard outside of New York City, the court may, after entering a JD finding, order that the case be transferred to the county where the respondent resides (FCA 302.3[4]).

Putting this Chapter in Context

In the previous chapters we found . . .

- A high percentage of arrested juveniles were diverted by the police. For instance, the New York City Police Department and the Monroe County Police Department diverted between 60 percent and 70 percent of all juvenile arrests in 1987. In New York City, 91 percent of misdemeanor arrests were diverted. Felony arrests were not diverted in New York City.
- Almost all (96 percent) of the police referrals were sent to the juvenile justice system. Only four percent of the referrals were statutorily mandated to be sent to the adult system for Juvenile Offender processing.
- New York City probation intake referred 89 percent of its intake cases; Albany County, 65 percent; Monroe County, 58 percent; Dutchess County, 51 percent; Erie County, 34 percent; and Clinton County, 26 percent. The high percentages in New York City and Albany County may be explained by a loss of statutory discretion caused by complainant non-appearance (New York City) and complainant insistence upon referral to the presentment agency (Albany County).

(continued)

POST-FACT-FINDING PROCESSING

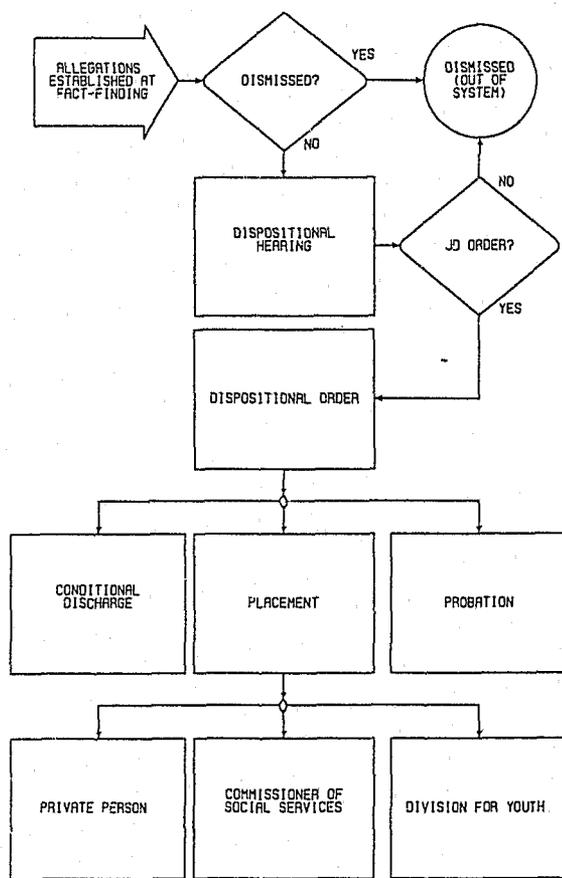


Figure 6.1

Family Court Act §350.1 guides the time requirements for cases that have dispositional hearings. If the respondent is detained and not found to have committed a designated felony act, the dispositional hearing must begin not more than 10 days after the fact-finding completion except that the court may adjourn a dispositional hearing on its own motion or on motion of the presentment agency for not more than ten days or on the motion of the respondent for not more than 30 days (FCA §350.1[1]).⁶ In all other cases, the dispositional hearing must begin not more than 50 days after the fact-finding completion, with identical exceptions for adjournment as above noted (FCA §350.1[2]).

Practitioners say that most dispositions follow abbreviated hearings. However, the court, the presentment agency, and the law guardian may call witnesses to testify, and witnesses may be subject to cross-examination (FCA §350.4). Following testimony, the presentment agency and law guardian are allowed to offer statements. The probation service may also be directed to summarize its investigation and deliver statements concerning the advisability of specific dispositional alternatives.

- The seriousness of current offense, as well as prior JD record, were related to intake outcome. Racial and ethnic characteristics were also related.
- The presentment agency in New York City declined to prosecute about 35 percent of probation intake's referrals; Dutchess and Clinton counties, 18 percent; Monroe County, 14 percent; Erie County, 13 percent; and Albany County 8 percent.
- Presentment agency staff suggest that legal insufficiency was the prime reason why cases were declined to prosecute, and often occur because the complainant or witnesses are unwilling to testify or cannot be located.
- Offense seriousness and type of offense, as well as prior record, were not often associated with the presentment agency screening outcome. Gender, age, and race/ethnicity were not associated with screening outcomes.
- Top charge seriousness did not change for most cases. New York City and Erie County were most likely to raise or lower arrest charge classifications at petitioning.
- The percentage of cases in which allegations were established ranged from 54 percent in Erie County to 82 percent in Clinton County.
- New York City had the highest average seriousness score at petition (4.0). However, Clinton County (3.2), Dutchess County (2.8), and Albany County (2.7) all had higher adjudication seriousness scores than New York City (2.5).
- As the discussion moves to the post-fact-finding process, about 30 percent of the original cohort remains in New York City; Erie County, 16 percent; Albany County, 25 percent; and Clinton and Dutchess counties, 18 percent.

At the completion of the dispositional hearing, the court must determine whether the respondent is in need of supervision, treatment or confinement. If so, the court must enter a JD finding (FCA §352.1). Otherwise the case will be dismissed (FCA §352.2).⁷ The JD adjudication decision must be based on a preponderance of evidence (FCA §350.3[2]). This standard of proof differs from that of the fact-finding stage, where allegations must be proved beyond a reasonable doubt (FCA §342.2).

After a JD finding has been rendered, the court must enter a dispositional order of conditional discharge, probation, or placement (FCA §350.4[9]). If the court anticipates a possible placement, it will often request an exploration of placement to determine the most appropriate placement option. In the study sites, explorations of placement are performed by one of the following: probation, detention facilities, or "placement committees." Placement committees include representatives from a variety of agencies or disciplines: mental health, DFY, local community-based agencies, schools, etc.

The criterion for determining a disposition restates the overall delinquency purpose clause (see Chapter One): "... the court shall consider the needs and best interest of the respondent as well as the need for protection of the community" (FCA §352.2[2]). In addition, the court must choose the "least restrictive [dispositional] alternative" in cases involving non-designated felony adjudications (FCA §352.2[2]).

When determining a disposition on a designated felony adjudication, the court must also enter a finding of whether the respondent requires restrictive placement (FCA §353.5). Factors that the court must examine include the needs and best interests of the respondent, the record and background of the respondent, the nature and circumstances of the offense, the need for protection of the community, and the age and physical condition of the victim (FCA §353.5[2]). Restrictive placement must be ordered on a designated felony adjudication if the respondent inflicted serious physical injury upon a person who is 62 years of age or older (FCA §353.5[3] and PL §10.00).

JD Finding Outcome Analyses

The JD finding outcome – the decision whether or not the respondent is in need of treatment, supervision or confinement – is examined in this section. Cases in which there are no JD findings are dismissed. As discussed in the previous chapter, dismissals may occur either during (i.e., allegations not established) or after (i.e., allegations established) the fact-finding process. Because the percentage of cases dismissed during fact-finding versus post-fact-finding varies across study sites due to different processing practices, these two dismissal percentages were combined in this section to determine what percentage of all petitioned cases received JD findings in each study site.

Three dismissal categories are presented – unconditional, ACD and covered. An unconditional dismissal is an unconditional dismissal. ACD and covered dismissals are both conditional dismissals.

When the court gives an ACD dismissal, it attaches conditions that must be met by the respondent within the time frame specified – usually six months. The conditions specified may be, at minimum, to stay out of trouble or may, for example, include restitution, community service or probation supervision. A covered dismissal is a dismissal given in satisfaction of a plea taken on another concurrent case.

The frequency with which ACD versus covered dismissals were used in each of the study sites is, once again, a reflection of processing practices. Courts in the larger urban study sites of New York City, Nassau County and Erie County used dismissals as covered in a substantially larger percentage of cases than the courts in Albany, Dutchess and Clinton counties.⁸ While data are shown for Clinton County, these data are excluded from analyses because of the small number of cases.

The percentage of all petitioned cases in which JD findings were entered varied across study sites (Table 6.1).

The percentage of petitioned cases with JD findings ranged from 31 percent in Erie County to 66 percent in Albany County. Dutchess County had the second highest percentage of JD findings (57 percent), followed by Nassau County with 49 percent and New York City with 41 percent (Figure 6.2).

Dismissals were more likely to be ACD dismissals than unconditional dismissals in Nassau County (20 percent vs. 10 percent), Erie County (40 percent vs. 15 percent) and Dutchess County (32 percent vs. 9 percent). Unconditional and ACD dismissals were given with similar frequency in New York City and Dutchess County. New York City was more likely to order unconditional dismissals than other sites (25 percent vs. 9 percent in Dutchess County to 16 percent in Albany County). Also, the urban study sites of New York City, Erie and Nassau counties dismissed a larger percentage of petitions in satisfaction of pleas taken on other concurrent petitions (10 percent, 13 percent and 21 percent, respectively) than other study sites. These type of dismissals were not often used in Albany County (3 percent) or in Dutchess County (2 percent).

1987 COHORT JD PETITIONS
PERCENTAGE RESULTING IN JD FINDINGS

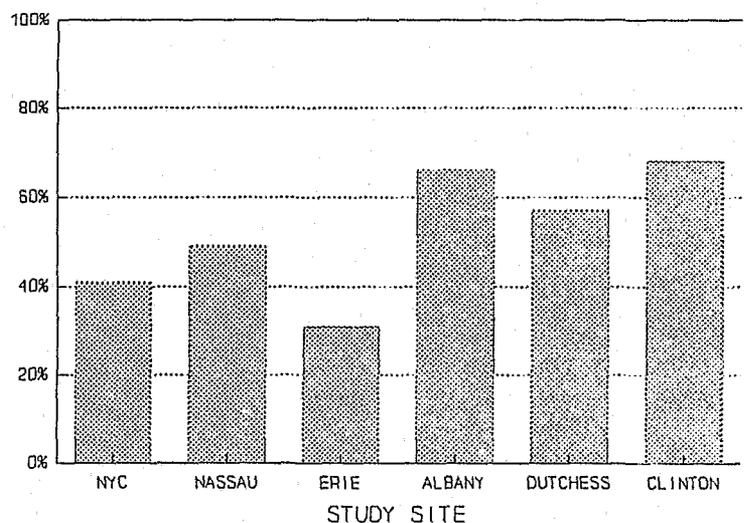


Figure 6.2

Table 6.1. JD Finding Outcomes for Petitioned Cases^a

	New York City ^b %	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County
		Nassau %	Erie %	Albany %	Dutchess %	Clinton ^c %
JD Finding Outcomes						
No JD Finding	60	51	69	34	43	32
Unconditional Dismissal	24	10	15	16	9	5
ACD Dismissal	25	20	40	16	32	26
Covered Dismissal	10	21	13	3	2	0
JD Finding	41	49	31	66	57	68
	(N=4,546)	(N=450)	(n=298)	(N=243)	(N=145)	(N=19)

^a Excludes cases transferred to other courts for disposition and cases with PINS findings.

^b Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^c Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

Note: Percentages may not sum to 100 percent due to rounding.

When allegations were established, dismissals were ordered for a substantial percentage of cases in all study sites (Table 6.2).

In cases where allegations were established, the outcomes for many cases were dismissals (unconditional and ACD). The percentage of cases with dismissals ranged from 7 percent in Nassau County to 35 percent in Erie County (Figure 6.3).

Most dismissals are made in furtherance of justice (FCA §315.2). These include cases that are dismissed after an ACD period. A petition may be dismissed in furtherance of justice "when even though there may be no basis for dismissal as a matter of law, such dismissal is required . . . by the existence of some compelling further consideration or circumstances clearly demonstrating that a finding of delinquency or continued proceeding would constitute or result in injustice" (FCA §315.2[1]). Factors that the court must examine when ruling on a motion to dismiss in furtherance of justice include the seriousness and circumstances of the crime; the extent or harm caused by the crime; any misconduct by law enforcement personnel in the investigation and arrest of the respondent; the history and character of the respondent; the needs and best interest of the respondent; the need for protection of the community; and other relevant facts indicating that a finding would serve no useful purpose (FCA §315.2[1]).

1987 COHORT
PERCENTAGE RESULTING IN DISMISSAL
AFTER ALLEGATIONS ESTABLISHED

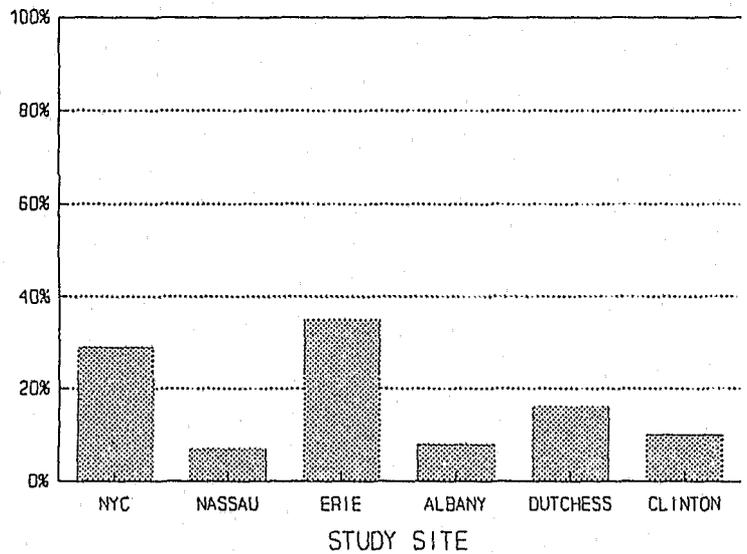


Figure 6.3

Table 6.2. Fact-Finding Outcomes for Cases in Which Allegations Were Established

	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County	
	New York City ^a %	Nassau %	Erie %	Albany %	Dutchess %	Clinton ^c %
Allegations Established						
Dismissed - Unconditional	2	2	0	1	1	0
Dismissed - ACD	27	5	35	7	15	10
JD Finding	71	60	56	79	71	65
PINS Finding	0 ^b	1	8	<1	5	25
Transferred to Other Court	0	32	1	13	8	0
	(N=2,641)	(N=361)	(n=156)	(N=199)	(N=86)	(N=20)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b There were 13 JD petitions with PINS findings in New York City. These cases, however, were not included in the cohort data base and are excluded from analyses.

^c Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

Nassau, Albany and Dutchess counties were the only sites with a substantial number of cases transferred to other family courts for disposition (Table 6.2).

Of those cases in which allegations were established, Nassau County had the largest percentage of cases transferred to other family courts for disposition (32 percent), followed by Albany County (13 percent) and Dutchess County (8 percent). Probation agency staff state that most of these cases in Nassau County and Dutchess County were transferred to New York City, the jurisdiction where the respondent resides. Statutorily, cases may not be transferred from a New York City to a non-New York City county (see above).⁹ Elsewhere, there were few or no cases transferred.

Table 6.3. JD Finding Outcomes by Demographic Characteristics of Petitioned Cases

	New York City ^a					Suburban New York City County					Large Urban County				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(n)
Sex															
Male	23	24	11	42	(4,092)	9	19	24	49	(384)	13	42	13	32	(236)
Female	30	32	5	34	(420)	16	30	5	49	(63)	25	36	15	25	(61)
Tau ^d	-.0488					.0035					-.0667				
α	.0005					.4702					.1255				
Age^b															
7 to 10	36	33	7	25	(93)	8	42	8	42	(12)	0	80	0	20	(5)
11	25	26	12	37	(122)	25	38	13	25	(8)	17	67	8	8	(12)
12	34	23	9	34	(273)	5	33	14	48	(21)	9	48	0	44	(23)
13	25	29	8	38	(672)	9	30	25	36	(53)	33	31	11	25	(36)
14+	21	24	10	43	(1,305)	4	16	26	55	(129)	15	37	15	34	(82)
Average Age	14.0 yrs.		14.1 yrs.			14.1 yrs.		14.2 yrs.			14.0 yrs.		14.1 yrs.		
Tau ^d	.0568					.0507					.0245				
α	.0002					.1582					.3377				
Race/Ethnicity^c															
White	17	36	8	39	(508)	-	-	-	-	-	17	44	11	28	(116)
Minority	24	23	10	42	(3,930)	-	-	-	-	-	12	34	19	36	(128)
Black	25	23	11	42	(2,698)	-	-	-	-	-	13	38	15	34	(111)
Hispanic	23	25	10	42	(1,186)	-	-	-	-	-	7	7	33	53	(15)
Other	24	33	11	33	(46)	-	-	-	-	-	0	0	0	100	(2)
Tau ^{d,e}	.0210					-					.0894				
α	.0809					-					.0816				

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b Age reflects the age of the juvenile on the date the case was opened by probation intake and, in the case of intake bypass cases, the date the petition was filed.

^c More than five percent of the race/ethnicity data were missing in the following study sites: Nassau (49 percent), Erie (18 percent), Dutchess (23 percent), and Clinton (10 percent). When 25 percent or more of the data were missing in a site, the data are not presented.

Demographic Characteristics

Males were more likely to have JD findings than females in one of the five study sites (Tables 6.3).

Petitions involving males were more likely to result in JD findings than those involving females in Albany County (69 percent vs. 50 percent). Elsewhere,

gender was not related to JD finding outcomes.

While percentage differences at other sites suggest relationships, the percentage differences are not large enough given sample sizes to draw statistically reliable conclusions.

Table 6.3. JD Finding Outcomes by Demographic Characteristics of Petitioned Cases (continued)

	Mid-Size Urban Counties										Rural County				
	Albany					Dutchess					Clinton ^f				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)
Sex															
Male	17	13	2	69	(199)	9	29	2	60	(119)	6	24	0	71	(17)
Female	11	30	9	50	(44)	8	42	4	46	(26)	0	50	0	50	(2)
Tau ^d	-.1571					-.1048					-				
α	.0073*					.1044					-				
Age^b															
7 to 10	57	14	0	29	(14)	9	46	9	36	(11)	0	0	0	0	(0)
11	17	33	0	50	(6)	29	43	0	29	(7)	0	0	0	0	(0)
12	12	12	0	77	(26)	8	62	8	23	(13)	0	50	0	50	(2)
13	14	21	5	60	(42)	10	37	0	53	(30)	25	75	0	0	(4)
14+	12	16	2	71	(61)	9	22	0	69	(32)	0	0	0	100	(4)
Average Age	13.3 yrs.				13.8 yrs.	13.0 yrs.				13.9 yrs.	13.2 yrs.				14.5 yrs.
Tau ^d	.1097					.3124					-				
α	.0521					.0003*					-				
Race^c															
White	14	15	2	69	(139)	6	32	4	58	(50)	6	24	0	71	(17)
Minority	19	17	4	60	(101)	10	18	2	70	(61)	0	0	0	0	(0)
Black	19	17	4	60	(94)	9	15	0	76	(55)	0	0	0	0	(0)
Hispanic	0	20	0	80	(5)	25	75	0	0	(4)	0	0	0	0	(0)
Other	50	0	0	50	(2)	0	0	50	50	(2)	0	0	0	0	(0)
Tau ^{d,e}	-.0900					.1302					-				
α	.0821					.0861					-				

JD finding outcome was recoded to two categories: dismissed and JD finding.
 Race/ethnicity was recoded to two categories: white and minority.
 Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [p. < .05] and is equal to or exceeds ±.10).

Age was related to JD finding outcomes in one of the five study sites (Table 6.3).

In Dutchess County, those aged 12 or younger were less likely than older children to be found JDs by the court. Elsewhere, age was not related to JD finding outcomes. While percentage differences at other sites suggest relationships, the percentage differences are not large

enough given sample sizes to draw statistically reliable conclusions.

Race/ethnicity was not related to the likelihood of JD findings in any of the study sites (Table 6.3).

While percentage differences at other sites suggest relationships, the percentage differences are not large enough given sample sizes to draw statistically reliable conclusions.

Table 6.4. JD Finding Outcomes by Petition Offense Categories and Classifications for Petitioned Cases

Pet Offense Cat & Class	New York City ^a						Suburban New York City County					Large Urban County				
	Dismissed			JD Find			Dismissed			JD Find		Dismissed			JD Find	
	Uncond	ACD	Cov'd	%	(N)	Uncond	ACD	Cov'd	%	(N)	Uncond	ACD	Cov'd	%	(n)	
	%	%	%	%	(N)	%	%	%	%	(N)	%	%	%	%	(n)	
Felony																
Offenses	24	23	10	44	(3,675)	9	14	20	58	(210)	13	39	16	32	(112)	
A	29	29	0	41	(17)	0	0	100	0	(1)	0	0	0	0	(0)	
B	23	11	10	55	(584)	12	15	12	62	(26)	22	44	0	33	(9)	
C	29	19	9	42	(983)	4	6	22	67	(49)	18	31	20	31	(45)	
D	22	28	9	42	(1,498)	9	17	18	56	(94)	11	49	11	30	(37)	
E	20	26	13	42	(593)	13	18	23	48	(40)	0	38	24	38	(21)	
Misd.																
Offenses	24	34	12	30	(854)	12	26	22	40	(231)	17	41	11	30	(184)	
A	25	35	11	30	(797)	12	27	22	40	(207)	16	42	11	31	(179)	
B	19	30	14	37	(57)	13	21	25	42	(24)	40	20	40	0	(5)	
Petition																
Offense																
Seriousness																
Score ^b	3.8 score			4.2 score			2.8 score			3.3 score		2.9 score			2.9 score	
Tau ^c	-.1342						-.1984					-.0245				
α	.0000*						.0001*					.3273				

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b A Felony = 7, B Felony = 6, C Felony = 5, D Felony = 4, E Felony = 3, A Misdemeanor = 2, B Misdemeanor = 1.

^c JD finding was recoded to two categories: dismissed and JD finding. Petition offense included the seven classification categories.

Offense Characteristics

The seriousness of the petition offense was related to JD finding outcomes in three of the study sites (Table 6.4).

Respondents in New York City, Nassau County and Albany County were more likely to be found JDs as the seriousness of the petition offense increased. In Albany County, for example, the percentage of felony cases in which there

were JD findings ranged from 82 percent for C and D felonies to 90 percent for E felonies, while only 51 percent of the A misdemeanor cases and 33 percent of B misdemeanor cases resulted in findings. Elsewhere, the seriousness of the petition charge was not related to JD finding decision.

Table 6.4. JD Finding Outcomes by Petition Offense Categories and Classifications for Petitioned Cases (continued)

Petition Offense Category & Class	Mid-Size Urban Counties										Rural County				
	Albany					Dutchess					Clinton ^d				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)
Felony Offenses	9%	6%	1%	84%	(115)	9%	36%	2%	53%	(58)	10%	10%	0%	80%	(10)
A	0	0	0	0	(0)	0	0	0	0	(0)	0	0	0	0	(0)
B	17	0	0	83	(6)	0	60	0	40	(5)	0	0	0	100	(1)
C	9	9	0	82	(34)	0	42	5	56	(19)	25	0	0	75	(4)
D	7	7	2	84	(55)	8	29	0	63	(24)	0	20	0	80	(5)
E	10	0	0	90	(20)	30	30	0	40	(10)	0	0	0	0	(0)
Misd. Offenses	21	25	4	50	(123)	9	28	2	60	(85)	0	44	0	56	(9)
A	20	25	4	51	(114)	9	30	3	58	(76)	0	44	0	56	(9)
B	44	22	0	33	(9)	11	11	0	78	(9)	0	0	0	0	(0)
Petition Offense Seriousness Score^b	2.5 score					3.0 score					2.8 score				
Tau ^c	-					.0910					-				
α	.0000*					.1506					-				

^d Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [p. < .05] and is equal to or exceeds ±.10).

Table 6.5. JD Finding Outcomes by Petition Offense Types^a for Petitioned Cases

Petition Offense Type	New York City ^b					Suburban New York City County					Large Urban County				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond	ACD	Cov'd	%	(N)	Uncond	ACD	Cov'd	%	(N)	Uncond	ACD	Cov'd	%	(n)
	%	%	%	%	(N)	%	%	%	%	(N)	%	%	%	%	(n)
Violent ^c	31	22	7	40	(1,840)	12	26	23	39	(108)	20	46	7	26	(69)
Property	19	29	13	40	(1,799)	8	20	19	53	(260)	14	40	14	33	(197)
Drug ^d	19	17	12	52	(574)	6	9	25	59	(32)	0	0	0	0	(0)
Other	23	29	9	39	(323)	22	13	27	38	(45)	16	32	19	32	(31)
Tau ^e	.0007					.1292					.0608				
α	.4821					.0066*					.1613				

^a Categories are based on UCR offense classifications (see Appendix 2.2).

^b Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^c The violent offense category may be most sensitive to the exclusion of JO cases and JO removal cases. These cases reflect the most serious violent offenses committed by juveniles. If included in the cohort, these cases might have altered outcomes for the violent offense category if included in the study's cohort.

JD findings were entered in a larger percentage of drug offense petitions than in other types of petitions in New York City and Nassau County.

New York City and Nassau County petitions involving drug offenses had a greater percentage of JD findings than petitions involving violent, property or other types of offenses (Table 6.5). In New York City, 52 percent of the drug cases had JD findings compared to 40 percent of both violent (i.e., assault, robbery and sex offenses) and property (i.e., larceny, burglary, criminal mischief and theft-related offenses) offense cases and 39 percent of the cases involving other types of offenses. In Nassau County, 59 percent of the drug cases had JD findings compared to 53 percent of property offense petitions, and 39 and 38 percent for violent and other offense

petitions, respectively. Elsewhere, the number of drug cases was too low to make statistical comparisons.

As table 6.6 shows, JD findings were more likely to be entered in New York City controlled substance petitions than marijuana petitions (54 percent vs. 30 percent, respectively). In Nassau County, the number of marijuana cases was too low to make statistical comparisons.

Table 6.5. JD Finding Outcomes by Petition Offense Types^a for Petitioned Cases (continued)

Petition Offense Type	Mid-Size Urban Counties										Rural County				
	Albany					Dutchess					Clinton ^f				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)
Violent ^c	18	21	3	58	(71)	12	28	4	56	(25)	0	33	0	67	(3)
Property	12	13	3	72	(154)	6	35	2	56	(96)	7	27	0	67	(15)
Drug ^d	67	0	0	33	(3)	0	0	0	100	(2)	0	0	0	0	(0)
Other	27	27	0	46	(11)	20	20	0	60	(20)	0	0	0	100	(1)
tau ^e	-.1423 .0166*					.0020 .4911					-				

Does not include offenses involving the unlawful possession of marijuana which is a violation – not a crime – and, therefore, not a JD offense. JD finding was recoded to two categories: dismissed and JD finding. Petition offense type was reduced to two categories: violent and property; drug and "other" were excluded.

Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

In two of the study sites, property offense petitions were more likely to have JD findings than petitions involving violent offenses.

In Nassau County, 53 percent of the property offense (i.e., larceny, burglary, criminal mischief and theft-related offenses) petitions had JD findings, while only 39 percent of the petitions involving violent offenses (i.e., assault, robbery and sex offenses) had JD findings (Table 6.5). Similarly, 72 percent of the property offense petitions in Albany County had JD findings, while 58 percent of the violent offense cases resulted in JD findings. Elsewhere, the percentage of petitions with JD findings was similar for both violent and property offenses.¹⁰

Table 6.6. JD Finding Outcomes by Petition Offense Penal Law Articles for Petitioned Cases

Petition Offense Penal Law Article	New York City ^a					Suburban New York City County					Large Urban County				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond	ACD	Cov'd	%	(N)	Uncond	ACD	Cov'd	%	(N)	Uncond	ACD	Cov'd	%	(n)
	%	%	%	%		%	%	%	%		%	%	%	%	
Violent Offenses															
Assault	29	29	7	36	(734)	14	27	23	36	(70)	23	55	3	9	(40)
Robbery	33	17	8	43	(954)	6	11	33	50	(18)	8	25	25	42	(12)
Sex Offenses	26	24	8	43	(120)	11	32	16	42	(19)	20	47	7	27	(15)
Property Offenses															
Larceny	18	28	13	40	(933)	12	28	10	50	(116)	14	41	14	32	(66)
Burglary	17	26	14	43	(485)	11	12	23	53	(73)	15	39	19	27	(59)
Criminal Mischief	30	32	8	30	(205)	8	22	33	37	(49)	13	46	4	38	(24)
Theft-Related	15	38	11	35	(246)	0	10	26	65	(31)	8	35	18	38	(60)
Drug Offenses															
Controlled Substances ^b	19	15	12	54	(519)	8	4	25	63	(24)	0	0	0	0	(0)
Marijuana ^c	14	36	20	30	(56)	0	25	25	50	(8)	0	0	0	0	(0)
Other Offenses															
Public Order	43	57	0	0	(7)	0	40	20	40	(5)	25	50	25	0	(4)
Firearms	26	22	6	46	(182)	25	8	17	50	(12)	17	17	0	67	(6)
Arson	12	15	9	65	(34)	0	0	0	100	(8)	33	50	0	17	(6)
Other	16	46	7	31	(61)	8	8	50	33	(12)	60	0	20	20	(5)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b Includes offenses for both the sale and possession of controlled substances.

Assault offenses comprised the majority of violent offenses. However, they resulted in JD findings less often than other violent offenses. Conversely, burglary and larceny offenses, which comprised the majority of property offenses, received JD findings more often than lower volume property offenses (Table 6.6).

As Table 6.6 shows, assault petitions in Nassau County had a smaller percentage of JD findings than petitions involving sex offenses or robbery (36 percent vs. 42 percent and 50 percent, respectively). In Albany County, the percentage of assault petitions resulting in JD findings was less than that for those involving robbery (51 percent vs. 91 percent, respectively).

Table 6.6. JD Finding Outcomes by Petition Offense Penal Law Articles for Petitioned Cases (continued)

Petition Offense Penal Law Article	Mid-Size Urban Counties										Rural County				
	Albany					Dutchess					Clinton ^d				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)
Violent Offenses															
Assault	21	25	4	51	(53)	17	17	6	61	(18)	0	100	0	0	(1)
Robbery	9	0	0	91	(11)	0	0	0	100	(1)	0	0	0	0	(0)
Sex Offenses	17	33	0	50	(6)	0	80	0	20	(5)	0	0	0	100	(2)
Property Offenses															
Larceny	10	14	2	75	(59)	12	35	0	54	(43)	0	0	0	100	(3)
Burglary	11	9	2	79	(56)	3	30	3	63	(30)	11	11	0	78	(9)
Criminal Mischief	31	23	0	46	(13)	0	44	0	56	(16)	0	100	0	0	(1)
Theft-Related	14	23	9	55	(22)	13	25	13	50	(8)	0	67	0	33	(3)
Drug Offenses															
Controlled Substances ^b	0	0	0	100	(1)	0	0	0	100	(1)	0	0	0	0	(0)
Marijuana ^c	100	0	0	0	(2)	0	0	0	100	(1)	0	0	0	0	(0)
Other Offenses															
Public Order	0	100	0	0	(1)	22	33	0	44	(9)	0	0	0	0	(0)
Firearms	100	0	0	0	(1)	0	0	0	100	(2)	0	0	0	0	(0)
Arson	20	10	0	70	(10)	0	33	0	67	(3)	0	0	0	0	(0)
Other	0	0	0	100	(4)	17	17	0	67	(6)	0	0	0	0	(0)

^b Includes offenses only for the sale or criminal possession of marijuana; unlawful possession of marijuana is a violation –not a crime –and, therefore, is not a JD offense.

^d Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

Among the property offenses in Nassau County, criminal mischief petitions resulted in JD findings less often (37 percent) than petitions involving higher volume larceny (50 percent), burglary (53 percent) or theft (65 percent) offenses. In Albany County, petitions involving low

volume criminal mischief (46 percent) or theft (55 percent) resulted in JD findings less often than petitions with high volume larceny offenses (75 percent) and burglary offenses (79 percent).

Table 6.7. JD Finding Outcomes by Prior JD Record for Petitioned Cases

	New York City ^a						Suburban New York City County					Large Urban County				
	Dismissed			JD Find			Dismissed			JD Find		Dismissed			JD Find	
	Uncond	ACD	Cov'd				Uncond	ACD	Cov'd			Uncond	ACD	Cov'd		
	%	%	%	%	(N)	%	%	%	%	(N)	%	%	%	%	%	(n)
Number of Prior JD Cases																
None	26	36	4	34	(2,410)	-	-	-	-	-	20	55	3	21	(94)	
One	24	18	12	46	(999)	-	-	-	-	-	17	48	8	27	(52)	
Two	19	10	19	52	(662)	-	-	-	-	-	7	28	24	41	(58)	
Three	22	4	23	51	(298)	-	-	-	-	-	9	40	11	40	(35)	
Four	15	5	23	57	(124)	-	-	-	-	-	8	31	15	46	(13)	
Five or More	15	0	30	55	(53)	-	-	-	-	-	22	20	28	30	(46)	
Average Number of Prior JD Cases	0.7 cases			1.1 cases								1.9 cases			2.3 cases	
Tau	.1708						-					.1384				
α	.0000*						-					.0109*				

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.
^b The limited prior JD record data available in Nassau County were insufficient for the calculation of this statistic.

The percentage of petitions resulting in JD findings was higher for respondents with prior JD records (Table 6.7).

with prior JD records in which JD findings were entered ranged from 46 percent for those with one prior case to 57 percent for those with four priors.

In New York City and Erie, Albany and Dutchess counties, petitions involving respondents with prior JD records were more likely to receive JD findings than those with no records. In New York City, for example, only 34 percent of the petitions with no prior JD records had JD findings, while the percentage of petitions

Table 6.7. JD Finding Outcomes by Prior JD Record for Petitioned Cases (continued)

	Mid-Size Urban Counties										Rural County				
	Albany					Dutchess					Clinton ^c				
	Dismissed			JD Find		Dismissed			JD Find		Dismissed			JD Find	
	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)	Uncond %	ACD %	Cov'd %	%	(N)
Number of Prior JD Cases															
None	20	28	0	53	(80)	10	51	1	38	(69)	13	13	0	75	(8)
One	10	8	2	80	(49)	9	17	0	74	(35)	0	40	0	60	(5)
Two	15	12	6	67	(33)	0	27	7	67	(15)	0	67	0	33	(3)
Three	16	13	7	65	(31)	7	7	0	86	(14)	0	0	0	100	(3)
Four	10	5	5	81	(21)	50	0	0	50	(4)	0	0	0	0	(0)
Five or More	17	10	3	69	(29)	0	0	13	88	(8)	0	0	0	0	(0)
Average Number of Prior JD Cases	1.6 cases		2.1 cases			0.6 cases		1.6 cases			1.0 cases		1.1 cases		
Tau	.1485					.3851					-				
α	.0152*					.0000*					-				

^c Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Processing Times for JD Determination

JD findings were entered within 31 to 90 days of the fact-finding outcome in four of the sites. The majority of post-fact-finding dismissals occurred within 15 days of the fact-finding outcome in four of the study sites (Table 6.8).

Median processing times (i.e., time between fact-finding outcome and JD order or ACD order or non-ACD dismissal) ranged from 42 days in Dutchess County to 63 days in Nassau County (Figure 6.4). Cases receiving JD findings were more likely to be concluded anywhere from 31 and 90 days after the fact-finding outcome.

In those instances where cases were dismissed after allegations were established, median processing times ranged from one day in New York City to 66 days in Nassau County. However, cases resulting in a dismissal were processed more quickly than cases resulting in JD findings in some sites. For instance, in New York City the median processing time from fact-finding to dismissal was one day, while the median processing time from fact-finding to JD finding was 50 days. On the other hand, however, processing time in Nassau County was 66 days for a dismissed case and 63 days for a JD finding case.

1987 COHORT JD PETITIONS
MEDIAN DAYS BETWEEN FACT-FINDING OUTCOME
AND POST-FACT-FINDING OUTCOME

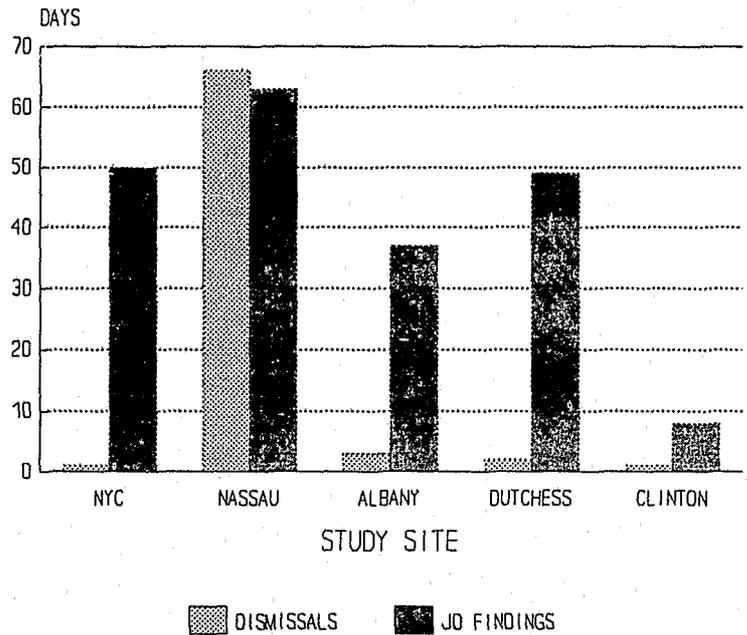


Figure 6.4

Table 6.8. Fact-Finding Outcome to JD Finding Outcome Processing Times for Cases^a in Which Allegations Were Established

	New York City^b	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County
	New York City^b	Nassau	Erie^c	Albany	Dutchess	Clinton^a
	(N=761)	(N=18)		(N=14)	(N=13)	(N=6)
Processing Times for Dismissed Cases						
One Day	64%	17%	-	50%	85%	100%
Two to 15 Days	1	0	-	0	8	0
16 to 30 Days	1	0	-	14	0	0
31 to 45 Days	8	0	-	7	0	0
46 to 60 Days	13	17	-	21	0	0
61 to 90 Days	7	50	-	7	8	0
91 to 120 Days	2	6	-	0	0	0
120 Days or More	5	11	-	0	0	0
MEAN	27 days	75 days	-	25 days	6 days	1 day
St Dev	47 days	66 days	-	29 days	17 days	0
MEDIAN	1 day	66 days	-	3 days	2 days	1 day
Processing Times for Cases With JD Findings	(N=1,920)	(N=202)		(N=151)	(N=59)	(N=13)
One Day	18%	10%	-	10%	19%	31%
Two to 15 Days	4	1	-	2	2	39
16 to 30 Days	10	3	-	17	0	8
31 to 45 Days	12	7	-	30	27	8
46 to 60 Days	19	21	-	14	29	0
61 to 90 Days	16	40	-	10	17	15
91 to 120 Days	9	8	-	9	5	0
120 Days or More	13	10	-	9	2	0
MEAN	61 days	67 days	-	56 days	46 days	19 days
St Dev	58 days	39 days	-	50 days	31 days	28 days
MEDIAN	50 days	63 days	-	37 days	49 days	8 days
Overall Processing Time						
MEAN	50 days	67 days	-	53 days	39 days	18 days
St Dev	57 days	42 days	-	50 days	33 days	26 days
MEDIAN	48 days	63 days	-	36 days	42 days	8 days

^a In instances where an ACD dismissal was the JD finding outcome, the date of the JD outcome is the day the ACD was ordered – not the day the case was dismissed.

^b Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^c Data are not presented for Erie County because of inconsistencies in the coding of fact-finding dates.

*Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

Dispositional Alternatives

Possible dispositions for a finding of delinquency are listed in FCA §352.2 and include conditional discharge, probation, and placement - either restrictive or non-restrictive. These are discussed below. The court may also recommend restitution as a condition of a placement, and order restitution as a condition of a probation or conditional discharge order. The court may also order "services for the public good" (i.e., community service) as a condition of any disposition (FCA §353.6[1]).

Conditional Discharge

Conditional discharge is described in FCA §353.1. A conditional discharge is the least severe option that the court may order after a respondent has been found to be a JD. This is given after the court determines that "neither the public interest nor the ends of justice would be served by placement and probation is not appropriate." A conditional discharge order entails the respondent being given an unsupervised "probationary" period of no more than one year. The court may set conditions such as restitution, curfew, regular school attendance, and so on. If a conditional discharge is violated, a new disposition may be ordered.

Probation

Probation is described in FCA §353.2.

The court may order a period of probation if the court having regard for the nature and circumstance of the crime and the history, character and condition of the respondent is of the opinion that:

- (a) placement of respondent is not or may not be necessary;
- (b) the respondent is in need of guidance training or other assistance which can be effectively administered through probation; and
- (c) such disposition is consistent with the provisions of subdivision two of section 352.2 (a restatement of the delinquency action purpose clause).

In the study site, conditions of probation supervision may range from regular school attendance to drug testing, in the study sites. Probation supervision can be ordered for no more than two years, although the term can be extended for an additional year, at the conclusion of the original period and after a court hearing (FCA §353.2[6]).

Placement

Placement is described in FCA §353.3. Placement alternatives include placement with a family member, custody of a suitable relative or other suitable private person, placement through the local Commissioner of Social Services (CSS), or placement through the New York State Division for Youth (DFY).

All CSS placements and many DFY placements are not directly made with those agencies but, rather, with private voluntary residential child care agencies which contract with these public agencies to provide placement services. The decision to place a juvenile with a voluntary child care agency is usually made by DFY or CSS, except for the "placement for replacement" circumstance. In that situation, the court names the voluntary child care agency directly. This happens after the agency accepts the juvenile for placement, but is placed with DFY awaiting replacement in the facility.

CSS placements are always through voluntary child care agencies, and are reimbursed according to a 50-25-25 formula: 50 percent of the funding is federal, and the rest is shared equally by the State and the locality. On the other hand, most placements through DFY are reimbursed equally by the State and the locality with no federal funding. The exception to this are non-secure or community-based placements of juveniles in the Aid for Dependent Children category. CSS placements, therefore, can often be viewed as desirable by local officials on financial grounds alone. However, the general level of supervision and special services provided in CSS facilities are significantly lower than what DFY provides either directly or through voluntary agency contractors. DFY placements are categorized into several titles which relate to levels of security. Title II placements are in non-secure or community-based facilities, while Title III placements can be limited secure, as well as any of the above (Executive Law Article 19-G).¹¹

Court-ordered placement periods for respondents adjudicated to a non-designated felony offense cannot exceed 18 months for a felony, and 12 months for a respondent adjudicated to a misdemeanor offense. However, respondents who are adjudicated as designated felons (DFs) may be ordered to restrictive placement (FCA §353.5). Restrictive placements are subject to a placement for an initial period of three years unless the offense is a Class A felony, which carries a five-year placement order. A restrictive placement order involves the respondent being placed in a secure facility. In any situation, whether the placement is restrictive or not, the placement period must be decreased by the amount of time that the respondent was detained, if the respondent was in detention pending a dispositional hearing (FCA §353.3[5]).

Restrictive placement must be ordered on a designated felony adjudication, if the respondent inflicted serious physical injury upon a person who is 62 years of age or older (FCA §353.5[3] and PL §10.00). Restrictive placements are also subject to other restrictions concerning transfer to less secure facilities and home visits. If a restrictive placement is ordered, the length of placement cannot generally be modified during the first six months.

If the court placed the respondent with DFY for a felony adjudication, the court may order that the respondent be confined in a residential facility for a minimum period, up to six months (FCA 353.3[9]). For any placement, the court may, upon petition to the court and after conducting a hearing, order an extension of placement for up to one year and successive extensions, without the respondent's consent, until the respondent's eighteenth birthday. An extension can be granted, with the respondent's consent, for a non-restrictive placement, until the respondent's twenty-first birthday (FCA §355.3). FCA §353.5[5] does not indicate whether consent is required for the extension of a restrictive placement.

Reports to Assist the Court in Dispositional Decision Making

Before there is an entry of a disposition for a JD finding, a case must be investigated by probation staff and an evaluation may be performed by mental health practitioners.¹² A mental health evaluation must be made for cases when a designated felony allegation is established, and may be made on non-designated felony adjudications. A respondent cannot be placed in a mental health facility unless a mental health evaluation was ordered.

In addition to the probation investigation and the mental health evaluation, the court may also request an exploration of placement to locate available and appropriate placement facilities. In the study sites, explorations of placement are performed by probation, detention staff or placement committees (see above).

Although probation investigations and mental health evaluations are designed to provide information for the ultimate disposition, the reports are made independently and have different foci of attention. The probation investigation stresses the respondent's general social and family situation. If it appears that a victim impact statement would be relevant to the dispositional process, the investigation must also include an analysis of the victim's version of the offense, the extent of the injury to the victim and the views of the victim to the dispositional alternatives (FCA §351.1[4]). The mental health evaluation focuses on the respondent's psychosocial development and problems, and often includes formal psychiatric diagnoses.

Douglas Besharov in his commentary to the Family Court Act discussed the implications of the victim impact statement. "For the past decade, the Family Court Act's provisions for dealing with juvenile offenders have been repeatedly amended to increase the focus on the needs of the victim and the community, as well as the respondent" (Besharov, 1989:123). This orientation to victim's rights mirrors that manifested in the adult system, beginning in the mid-1980s.

The probation investigation and mental health evaluation must be made available to the presentment agency and the respondent (law guardian) at least five days prior to the commencement of the dispositional hearing (FCA §351.1[5]). If the respondent is detained and has not been found to have committed a designated felony act, the dispositional hearing must commence within 10 days of the fact-finding, with exceptions for adjournments (FCA §350.1[1]). The rationale for this provision is to ensure speedy dispositions for detained children and to avoid unnecessary deprivations of liberty. In all other cases, the dispositional hearing must not commence more than 50 days after the completion of the fact-finding, with exceptions for adjournment (FCA §350.1[2]). Probation investigation staff and mental health practitioners, therefore, have up to five days to submit a report on a designated felony case where the respondent is detained and up to 45 days to submit a report in other cases. All probation departments found it extremely difficult to comply with the non-designated felony detention time-line; resources were cited as contributing, but not a controlling factor. There were fewer complaints about other cases. Merrill Sobie commented on the time standards, saying:

. . . the probation service (or other preparer, such as a mental health clinic) has the virtually impossible burden of conducting an investigation and filing the resultant report within five days of the fact-finding hearing [outcome]. The provision, which is consistent with prior law, is simply unworkable . . . [for other cases,] fifty days provides ample time to complete diagnostic and probation reports while affording counsel the time to prepare for a possibly complex or time consuming hearing. (Sobie, 1983:498).

However, a law guardian at the New York City Legal Aid Society presented a contrasting point of view:

The time frames [for designated felony investigations] do allow sufficient time for the requisite investigations and . . . lengthening the time frames would simply lengthen delays; negative consequences from these delays inure to society, as well as to the juveniles.

At the dispositional hearing, the presentment agency and law guardian can call the investigating probation officer, the mental health evaluator, and other witnesses to testify or rebut the findings of the probation investigation and mental health evaluation.

Probation Investigations

The Assistant Deputy Director of Probation in Nassau County provided an overview of the investigation process: "the purpose of an investigation is twofold: first, to provide a document for decision making; secondly, to outline a treatment plan for the kid." All probation agencies in the study sites have officers who perform JD

investigations. In the smaller sites, investigations are often performed by officers who have other functions (e.g., intake, supervision). In New York City, some probation officers only perform the investigation function. In Erie County, investigation probation officers also supervise juveniles placed on probation.

As discussed above, a probation investigation must be performed for all cases that result in a JD finding. A new investigation will often not be ordered when a previous investigation has been recently completed for the same respondent. In these situations, the court will request an update. JD findings are, however, sometimes made without the benefit of any probation investigation. Probation staff in several study sites stated that this usually happens when the child makes an admission and all parties are in agreement about the disposition.

In Erie County, law guardian, presentment agency, and probation staff say that investigations are sometimes not ordered when respondents are likely to receive a probation disposition. The Chief Attorney of the Legal Aid Office in Erie County, commented:

If we can work out a deal for an admission and a disposition of probation we'll waive the probation investigation . . . rather than risk a placement recommendation on the part of probation.

The Probation Director in Erie County, however, disagreed with the practice of waiving investigations:

If an investigation were done, we might turn up more problems that would lead to a placement disposition or the [development] of a different [probation supervision] approach Violations of probation seem to occur more frequently on [supervision] cases where investigations were not ordered.

A probation officer in Dutchess County described the information available to him at the beginning of an investigation and how he gathers additional information.

First, [I have] a copy of the court order requesting the JD investigation. Second, a copy of the petition. Third, a copy of the police deposition. That is about it, the rest comes about as a result of my investigation. I send a letter to the school saying that I will be visiting them in about four weeks. I interview the parent and the child, separately. It takes four weeks, usually, to put it all together. I create a description of the offense. I write to the police arresting officer to get information on the offense and to talk about his knowledge of the kid and to get their recommendation for sentencing. I get a report or statement from the juvenile about his involvement. I collect victim information and, if necessary, a victim impact statement. I also construct a personal and social profile of the child and family. I collect information on their employment history, physical and mental well-being, their current living arrangements, and so on.

A probation investigator in Queens County responded to the same question, saying:

Not much [is available at the beginning], the charge information from the face-sheet. It's a brief little statement. I have to create the parents' story, the family history and find out if there is involvement with drugs or drinking. I produce an in-depth report on family background. Educational records are particularly important, I send for school information in the majority of cases and sometimes I need additional educational material if the child is in special-ed.

Investigations share basic elements in all study sites:

- Both the respondent and parent(s) are interviewed, either at home, if local resources permit, or in the office.
- If there is a victim, a victim impact statement is created, particularly if restitution is involved.
- Parents are required to sign release forms to facilitate information gathering if the forms were not signed at intake.
- A product of the investigation is a dispositional recommendation to the Family Court. This recommendation, along with the supporting investigation reports and memoranda, is confidential (FCA §355.1[5]).
- If an exploration of placement was requested by the court, the results are often included in the probation investigation.

Based on the probation investigator's view of the case, there can be a number of recommendations. In some sites, such as New York City, recommendations are strictly limited to the dispositional alternatives available in FCA §352.2, including conditional discharge, probation, or placement. In other sites, probation departments may recommend other outcomes, including the substitution of a PINS finding or an ACD.¹³ The specificity of recommendations also vary. For instance, in some sites recommendations for placement might include specific types of placements for specific periods of time. In other sites, recommendations may suggest only the broad placement category.

The Deputy Director of Probation in Monroe County remarked on that site's approach to investigation recommendations:

The system, before coming to court, by both the police and probation intake, has such a presumption toward diversion that investigations will often recommend placement. Our placement rate is a high percentage of cases that get this far. The only fall-out from this is the recommendation of probation for those children who we feel could make it in the community.

The Deputy Director of Probation in Dutchess County had quite a different view: "the whole aim is to recommend the least restrictive alternative. This means probation unless there is a very good reason why not."

The Deputy Director of Probation in Albany County suggested that an ACD and probation disposition were appropriate outcomes for cases which seemed not to reflect a pattern of criminal behavior, but a single incident. His ranking of importance among various criteria started with the threat to the community, the number of prior adjustments or adjudications, and the availability of community-based programs to meet the juvenile's needs. This view is similar to that expressed by a probation supervisor in Monroe County:

... What we take into account are one, risk to the community and two, the resources of the community. It is important to determine the lowest level of care equal to the principles. We decide if the kid needs placement or probation. If we decide placement, it can be with [social services] or DFY, but we don't recommend a specific level of care. [We don't recommend] conditional discharge . . . unless there is restitution involved. Probation may be recommended with conditions - 'Stay away from that department store.'

... [W]e made a judgment some time ago that [J]Ds go to DFY with the exception of very young children, ages eight to ten years, or if [social services] has a history with the kid, that is, he has already stayed with [social services]. In addition, for those 'emotionally suited' to [social services] foster homes, we will recommend [social services] in special cases. These are exceptions, though, and only about five percent of cases. In general, PINS go to [social services], and JDs all go to DFY.

Information on prior cases is also included in probation investigations to assist the court in dispositional decision making. This information is usually gathered from probation's own records and court records. In a landmark decision, the New York State Court of Appeals held in *Alonzo M.* that the sealing provisions of the Family Court Act are violated when information taken from prior sealed cases is included in probation investigations (see Volume II for a further discussion of sealing).¹⁴

Mental Health Evaluations

As mentioned above, a respondent found to have committed a designated felony act must receive a mental health evaluation. Also, a respondent must receive a mental health evaluation prior to a placement with a mental health facility. Other juveniles may also be evaluated by order of the court. In Albany County, judges said that

they requested mental health evaluations in cases of assaultive behavior or running away so they could get to "the root" of the problem.

In some sites, mental health evaluations are performed by clinics servicing all of the court's mental health evaluation needs (e.g., for PINS, abuse/neglect cases). Other sites employ mental health professionals solely for evaluating alleged delinquents. Other sites use part-time consultants.

There are a variety of *ad hoc* arrangements to address local obstacles to getting the evaluations completed in a timely fashion, the Deputy Director of Probation in Monroe County explained:

Our resources for mental health evaluations (MHEs) are very bad, or at least badly organized. The MHEs performed at non-secure detention are very helpful. They start an evaluation before placement is ordered. Their psychologist is always doing them, four to six a week, and they are available in less than a week. We get it verbally first and written later. It is timely and adequate. For kids in secure detention there are some problems, it is done [through] DFY [to the Office of Mental Health (OMH)] mobile mental health unit - it is costly so not overused. When one is ordered we notify DFY [who notify OMH]. Other resources include Rochester Mental Health, but they don't allow handcuffs. If a child is in secure detention and we have a responsible parent, we get the court to release the kid to the parent, to get a mental health evaluation done, and then they come back to detention. We don't have the manpower to escort.

An OMH mobile mental health unit is also used frequently in Nassau County to perform mental health evaluations. In Albany County, half of the evaluations are done at a local mental health clinic.

Exploration of Placement

If the court is considering a placement disposition, it will often request that an exploration of placement be performed so that an appropriate voluntary placement facility might be found for the respondent. To allow time for various placement options to be considered, dispositional hearings are often adjourned for several weeks or months until court-requested explorations of placement are completed.

In Erie County, explorations of placement are performed by detention facility staff who work in the family court. In Nassau, Monroe, Clinton and Albany counties, placement committees explore placement options. Elsewhere individual probation officers work with the local DFY personnel, and voluntary facility representatives.

In any case, prospective voluntary facilities are sent a copy of the investigation report and, if available, a copy of the mental health evaluation. Some placement facilities require interviews with the juveniles before they accept them. Juveniles may be rejected by a number of voluntary facilities before they are either accepted or referred to DFY for placement. Unlike voluntary facilities, DFY cannot reject a direct placement order.

Dispositional Outcome Analyses

The disposition outcomes of cases in which JD findings were entered is examined in this section. Three disposition categories are presented - placement, probation and conditional discharge. Sentence lengths along with the types of placements ordered by the court - placements with a private person, the Commissioner of Social Services (CSS) and the Division for Youth (DFY) - are also examined. While percentage distributions are shown for Clinton County, this site was excluded from the analytic discussion because of the small number of cases.

Probation was used much more frequently than placement in all study sites with the exception of New York City where the percentage of use was similar (Figure 6.5).

The percentage of JD findings that resulted in probation supervision dispositions ranged from 46 percent in New York City to 63 percent in Erie County (Table 6.9).

With the exception of Nassau County where 98 percent of the probation orders ranged from 19 to 24 months, the majority of probation orders were for 7 to 12 months, with percentages ranging from 67 percent in Dutchess County to 97 percent in Albany County (Table 6.10).

The percentage of JD findings in which placement - the most severe order - was ordered ranged from 27 percent in Nassau County to 43 percent in New York City and Dutchess County (Table 6.9).

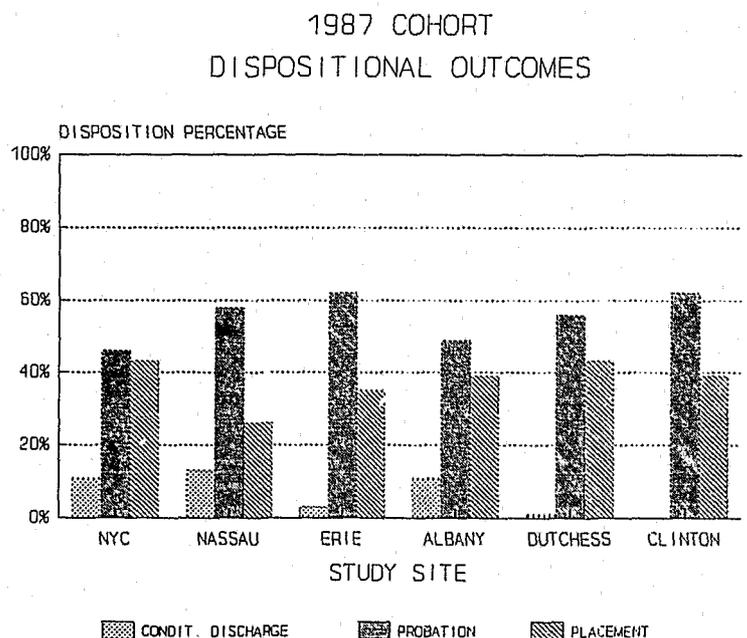


Figure 6.5

Table 6.9. Disposition Outcomes for Cases With JD Findings

Disposition Outcomes	New York City ^a	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County
	%	Nassau %	Erie %	Albany %	Dutchess ^b %	Clinton ^c %
Conditional Discharge	11	13	3	11	1	0
Probation	46	60	63	50	55	62
Placement	43	27	34	40	43	39
	(N=1,876)	(N=215)	(n=92)	(N=157)	(N=83)	(N=13)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b Nine cases counted as placement dispositions actually received probation dispositions with placement as a condition of probation.

^c Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

In Erie and Albany Counties, all or almost all placement orders were 7 to 12 months in length (Table 6.10). In New York City and Nassau County, placement orders were more often 7 to 12 months rather than 13 to 18 months long (57 percent vs. 43 percent). In Dutchess County, placement orders were split evenly between these two ranges.

Conditional discharges, which were the least used disposition options, were almost never used in Erie and Dutchess counties (3 percent and 1 percent, respectively) (Table 6.9). This option was imposed most frequently in Nassau County, New York City and Albany County (13 percent, 11 percent and 11 percent, respectively). Conditional discharges were usually 12 months long in all study sites (Table 6.10).

Table 6.10. Disposition Length by Type of Disposition for Cases With JD Findings

	Suburban New York City County		Large Urban County	Mid-Size Urban Counties		Rural County
	New York City ^a %	Nassau %	Erie %	Albany %	Dutchess ^b %	Clinton ^c %
Sentence Lengths						
Conditional Discharge						
1 to 6 Months	8	0	0	10	0	0
7 to 12 Months	91	100	100	90	100	0
13 to 18 Months	1	0	0	0	0	0
	(N=146)	(N=20)	(n=2)	(N=10)	(N=1)	(N=0)
Probation						
1 to 6 Months	5	1	5	1	4	0
7 to 12 Months	70	2	95	97	67	63
13 to 18 Months	14	0	0	0	16	0
19 to 24 Months	11	98	0	1	13	38
	(N=808)	(N=122)	(n=58)	(N=78)	(N=45)	(N=8)
Placement						
1 to 6 Months	1	0	0	2	0	0
7 to 12 Months	73	57	100	94	62	40
13 to 18 Months	26	43	0	5	35	60
19 to 24 Months	<1	0	0	0	3	0
	(N=742)	(N=54)	(n=31)	(N=62)	(N=34)	(N=5)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b Nine cases counted as placement dispositions actually received probation dispositions with placement as a condition of probation.

^c Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

Table 6.11. Disposition Outcomes by Demographic Characteristics of Cases With JD Findings

	New York City ^a				Suburban New York City County				Large Urban County			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)	CD %	Prob %	%	(n)
Sex												
Male	10	46	44	(1,722)	13	61	26	(183)	4	63	33	(76)
Female	16	49	35	(142)	13	52	36	(31)	0	60	40	(15)
Tau ^c	.0453				-.0776				-.0556			
α	.0252				.1287				.2988			
Age^b												
7 to 10	13	57	30	(23)	0	80	20	(5)	0	100	0	(1)
11	11	58	31	(45)	0	100	0	(2)	0	100	0	(1)
12	9	53	39	(93)	10	80	10	(10)	0	60	40	(10)
13	9	49	42	(258)	11	53	37	(19)	0	56	44	(9)
14	9	46	45	(564)	16	59	25	(69)	7	68	25	(28)
15 to 17	12	44	44	(892)	13	57	30	(106)	2	61	37	(43)
Average Age	14.1 yrs.		14.2 yrs.		14.2 yrs.		14.3 yrs.		14.1 yrs.		14.2 yrs.	
Tau ^c	-.0348				-.0603				-.0388			
α	.0784				.1772				.3581			
Race/Ethnicity^c												
White	17	48	35	(196)	-	-	-	-	3	63	34	(32)
Minority	10	46	44	(1,644)	-	-	-	-	4	57	39	(46)
Black	9	47	45	(1,126)	-	-	-	-	3	55	42	(38)
Hispanic	12	44	45	(503)	-	-	-	-	13	63	25	(8)
Other	13	80	7	(15)	-	-	-	-	0	0	0	(0)
Tau ^{c,f}	-.0601				-				-.0484			
α	.0050				-				.3355			

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b Age reflects the age of the juvenile on the date the case was opened by probation intake and, in the case of intake bypass cases, the date the petition was filed.

^c More than five percent of the race/ethnicity data were missing in the following study sites: Nassau (46 percent), Erie (15 percent), Dutchess (13 percent), and Clinton (8 percent). When more than 25 percent of the data were missing in a site, data were not presented.

^d Nine cases counted as placement dispositions actually received probation dispositions with placement as a condition of probation.

Demographic Characteristics

Gender was not related to dispositional outcomes (Table 6.11).

Although percentage differences in some study sites suggest relationships, the differences are not large enough given the sample sizes to draw statistically reliable conclusions.

Age was related to dispositional outcome in one site (Table 6.11).

Generally, the likelihood of placement increased with age in Albany County. Elsewhere, age was not related to disposition outcomes. While percentage differences at other sites suggest relationships, the percentage differences are not large enough given sample sizes to draw statistically reliable conclusions.

Table 6.11. Disposition Outcomes by Demographic Characteristics of Cases With JD Findings (continued)

	Mid-Size Urban Counties								Rural County			
	Albany				Dutchess ^d				Clinton ^e			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)
Sex												
Male	9	50	42	(135)	1	54	45	(71)	0	67	33	(12)
Female	23	50	27	(22)	0	67	33	(12)	0	0	100	(1)
Tau ^c	.1009				.0833				-			
α	.1038				.2254				-			
Age^b												
7 to 10	0	75	25	(4)	0	100	0	(4)	0	0	0	(0)
11	33	33	33	(3)	0	100	0	(2)	0	0	0	(0)
12	15	65	20	(20)	0	0	100	(3)	0	100	0	(1)
13	4	60	36	(25)	0	63	38	(16)	0	0	0	(0)
14	9	56	35	(43)	0	50	50	(22)	0	75	25	(4)
15 to 17	13	36	52	(62)	3	53	44	(36)	0	50	50	(8)
Average Age	13.6 yrs.		14.1 yrs.		13.7 yrs.		14.1 yrs.		14.3 yrs.		14.8 yrs.	
Tau ^c	-.2267				-.0772				-			
α	.0043*				.2589				-			
Race/Ethnicity^c												
White	14	53	33	(94)	0	55	45	(29)	0	67	33	(12)
Minority	7	43	50	(60)	2	49	49	(43)	0	0	0	(0)
Black	7	38	55	(55)	2	50	48	(42)	0	0	0	(0)
Hispanic	0	100	0	(4)	0	0	0	(0)	0	0	0	(0)
Other	0	100	0	(1)	0	0	100	(1)	0	0	0	(0)
Tau ^{c,f}	-.1697				-.0394				-			
α	.0179*				.3700				-			

^c Placement outcome was recoded to two categories: no placement and placement.

^f Race/ethnicity was recoded to two categories: white or minority.

^e Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Minorities were more likely to be placed than whites in one site (Table 6.11).

Placement was more likely to be ordered for minorities than whites in Albany County (50 percent vs. 33 percent, respectively).

Although percentage differences suggest relationships in other study sites, the percentage differences are not large enough given the sample sizes to draw statistically reliable conclusions.

Table 6.12. Disposition Outcomes by Adjudicated Offense Categories and Classifications for Cases With JD Findings

Adjudicated Offense Cat & Clas ^b	New York City ^a				Suburban New York City County				Large Urban County			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD	Prob	%	(N)	CD	Prob	%	(N)	CD	Prob	%	(n)
	%	%			%	%			%	%		
Felony Offenses	6	47	47	(668)	13	47	40	(47)	33	0	67	(3)
A	0	0	100	(1)	0	0	0	(0)	0	0	0	(0)
B	5	29	67	(66)	20	0	80	(5)	0	0	0	(0)
C	4	55	41	(141)	0	18	82	(11)	0	0	0	(0)
D	6	49	45	(248)	24	47	29	(17)	0	0	100	(2)
E	7	46	47	(212)	7	86	7	(14)	100	0	0	(1)
Misd. Offenses	13	46	41	(1,149)	11	69	20	(141)	2	66	31	(83)
A	13	46	41	(1,015)	12	68	20	(131)	3	65	33	(79)
B	19	46	36	(134)	0	80	20	(10)	0	100	0	(4)
Adjudicated Offense Seriousness Score ^c	2.6 score		2.8 score		2.3 score		3.1 score		1.9 score		2.1 score	
Tau ^d	.0746				.1947				-			
α	.0011				.0005*				-			

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b More than five percent of the adjudication offense data were missing in the following study sites: Nassau (13 percent), Erie (7 percent), Albany (5 percent), and Dutchess (31 percent); when more than 25 percent of the data were missing in a site, the data were not presented.

^c A Felony = 7, B Felony = 6, C Felony = 5, D Felony = 4, E Felony = 3, A Misdemeanor = 2, B Misdemeanor = 1.

Offense Characteristics

The seriousness of the adjudicated offense was associated with dispositional outcome in two of the study sites (Table 6.12).

Placements were more likely to be ordered in Nassau County in cases where the top adjudicated charge was a C or B felony offense than in cases involving less

serious offenses. In Albany County, adjudicated felons were more likely to be placed than those adjudicated for misdemeanor offenses.

Although percentage differences suggest relationships in other study sites, the percentage differences are not large enough given the sample sizes to draw statistically reliable conclusions.

Table 6.12. Disposition Outcomes by Adjudicated Offense Categories and Classifications for Cases With JD Findings
(continued)

Adjudicated Offense Cat & Class ^b	Mid-Size Urban Counties								Rural County			
	Albany				Dutchess				Clinton ^c			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)
Felony Offenses	9	41	50	(54)	-	-	-	-	0	63	38	(8)
A	0	0	100	(1)	-	-	-	-	0	0	0	(0)
B	0	0	100	(1)	-	-	-	-	0	0	0	(0)
C	19	31	50	(16)	-	-	-	-	0	67	33	(3)
D	9	41	50	(22)	-	-	-	-	0	60	40	(5)
E	0	57	43	(14)	-	-	-	-	0	0	0	(0)
Misd. Offenses	12	58	31	(95)	-	-	-	-	0	60	40	(5)
A	12	58	31	(85)	-	-	-	-	0	60	40	(5)
B	10	60	30	(10)	-	-	-	-	0	0	0	(0)
Adjudicated Offense Seriousness Score^c	2.5 score		3.0 score		3.5 score		3.4 score					
Tau ^d	.1975				-							
α	.0085*				-							

^d Placement outcome was recoded to two categories: no placement and placement. Adjudication offense included the seven offense classification categories.

^c Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Table 6.13. Disposition Outcomes by Adjudicated Offense Types^a for Cases With JD Findings

Adjudicated Offense Type ^c	New York City ^b				Suburban New York City County				Large Urban County			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)	CD %	Prob %	%	(n)
Violent ^d	10	54	36	(456)	11	68	21	(28)	0	67	33	(12)
Property	10	42	47	(818)	12	65	23	(126)	5	64	32	(66)
Drug ^e	8	43	49	(278)	17	44	39	(18)	0	0	0	(0)
Other	15	50	35	(277)	10	60	30	(20)	0	63	38	(8)
Tau ^f	-.1055				-.0143				.0117			
α	.0001*				.4283				.4591			

^a Categories are based on UCR offense classifications (see Appendix 2.2).

^b Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^c More than five percent of the offense type data were missing in the following study sites: Nassau (11 percent), Erie (7 percent), Albany (6 percent), Dutchess (28 percent), and Clinton (8 percent); when 25 percent or more of the data were missing, data were not presented.

Type of adjudicated offense was related to placement outcome in New York City (Table 6.13).

In New York City, placement was more likely to be ordered in cases involving property (i.e., larceny, burglary, criminal mischief, and theft-related offenses) and drug offenses (47 percent and 49 percent, respectively), than in cases involving violent (i.e., assault, robbery, and sex offenses) or other offenses (36 percent and 35 percent, respectively), as illustrated in Table 6.14.

Table 6.13. Disposition Outcomes by Adjudicated Offense Types^a for Cases With JD Findings (continued)

Adjudicated Offense Type ^c	Mid-Size Urban Counties								Rural County			
	Albany				Dutchess				Clinton ^b			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)
Violent ^d	22	43	35	(37)	-	-	-	-	0	100	0	(2)
Property	6	55	39	(96)	-	-	-	-	0	50	50	(10)
Drug ^e	0	100	0	(1)	-	-	-	-	0	0	0	(0)
Other	14	50	36	(14)	-	-	-	-	0	100	0	(1)
Tau ^f	-.0315				-				-			
α	.3586				-				-			

^d The violent offense category may be most sensitive to the exclusion of JO cases and JO removal cases. These cases reflect the most serious violent offenses committed by juveniles. If included in the cohort, these cases might have altered outcomes for the violent offense category if included in the study's cohort.

^e Does not include offenses involving the unlawful possession of marijuana which is a violation – not a crime – and, therefore, not a JD offense.

^f Disposition outcome was recoded to two categories: no placement and placement. Adjudicated offense type was restricted to two categories: violent and property; drug and "other" were excluded.

^g Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Table 6.14. Disposition Outcomes by Adjudicated Offense Penal Law Articles for Cases With JD Findings

Adjudicated Offense Penal Law Article ^b	New York City ^a				Suburban New York City County				Large Urban County			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD	Prob		(N)	CD	Prob		(N)	CD	Prob		(n)
	%	%	%		%	%	%		%	%	%	
Violent Offenses												
Assault	13	53	34	(265)	16	63	21	(19)	0	78	22	(9)
Robbery	3	54	43	(146)	0	0	100	(2)	0	0	0	(0)
Sex Offenses	0	74	26	(23)	0	100	0	(7)	0	50	50	(2)
Property Offenses												
Larceny	9	48	43	(255)	12	61	26	(57)	0	75	25	(28)
Burglary	12	40	48	(169)	11	56	33	(18)	0	80	20	(5)
Criminal Mischief	13	41	46	(76)	7	77	16	(31)	10	70	20	(10)
Theft-Related	11	39	49	(429)	19	67	15	(27)	7	50	43	(28)
Drug Offenses												
Controlled Substances ^c	8	44	49	(264)	20	33	47	(15)	0	0	0	(0)
Marijuana ^d	18	35	47	(17)	0	100	0	(3)	0	0	0	(0)
Other Offenses												
Public Order	25	25	50	(4)	0	100	0	(2)	0	0	0	(0)
Firearms	16	56	28	(113)	17	50	33	(6)	0	33	67	(3)
Arson	10	90	0	(10)	0	0	0	(0)	0	0	0	(0)
Other	17	47	36	(58)	0	60	40	(5)	0	0	100	(1)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b More than five percent of the Penal Law article data were missing in the following study sites: Nassau (11 percent), Erie (7 percent), Albany (6 percent), Dutchess (28 percent), and Clinton (8 percent); when more than 25 percent of the data were missing, data were not presented.

Among the high volume violent offenses in New York City, the percentage of robbery cases where placement was ordered was greater than that for assault cases (43 percent vs. 34 percent, respectively) (Table 6.14).

There was little variation across property offense cases in New York City for which placements were ordered: larceny (43 percent); criminal mischief (46 percent); burglary (48 percent); and theft (49 percent).

Table 6.14. Disposition Outcomes by Adjudicated Offense Penal Law Articles for Cases With JD Findings (continued)

Adjudicated Offense Penal Law Article ^b	Mid-Size Urban Counties								Rural County			
	Albany				Dutchess				Clinton ^e			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)
Violent Offenses												
Assault	19	52	30	(27)	-	-	-	-	0	0	0	(0)
Robbery	29	14	57	(7)	-	-	-	-	0	0	0	(0)
Sex Offenses	0	50	50	(2)	-	-	-	-	0	100	0	(2)
Property Offenses												
Larceny	10	55	35	(40)	-	-	-	-	0	33	67	(3)
Burglary	9	43	49	(35)	-	-	-	-	0	57	43	(7)
Criminal Mischief	0	70	30	(10)	-	-	-	-	0	0	0	(0)
Theft-Related	0	67	33	(18)	-	-	-	-	0	100	0	(1)
Drug Offenses												
Controlled Substances ^c	0	100	0	(1)	-	-	-	-	0	0	0	(0)
Marijuana ^d	0	0	0	(0)	-	-	-	-	0	0	0	(0)
Other Offenses												
Public Order	0	0	0	(0)	-	-	-	-	0	0	0	(0)
Firearms	0	100	0	(1)	-	-	-	-	0	0	0	(0)
Arson	0	67	33	(3)	-	-	-	-	0	0	0	(0)
Other	50	25	25	(4)	-	-	-	-	0	0	0	(0)

^c Includes offenses for both the sale and possession of controlled substances.

^d Includes offenses only for the sale and criminal possession of marijuana; unlawful possession of marijuana is a violation – not a crime – and, therefore, not a JD offense.

^e Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

Table 6.15. Disposition Outcomes by Prior JD Record for Cases With JD Findings

Number of Prior JD Cases	New York City ^a				Suburban New York City County				Large Urban County			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD	Prob		(N)	CD	Prob		(N)	CD	Prob		(n)
	%	%	%		%	%	%		%	%	%	
None	12	61	28	(817)	-	-	-	-	5	60	35	(20)
One	12	44	44	(462)	-	-	-	-	0	79	21	(14)
Two	8	33	58	(346)	-	-	-	-	4	71	25	(24)
Three	7	27	66	(152)	-	-	-	-	0	79	21	(14)
Four	7	11	81	(70)	-	-	-	-	0	50	50	(6)
Five or More	10	17	72	(29)	-	-	-	-	7	29	64	(14)
Average Number of Prior JD Cases	0.7 cases		1.6 cases						2.0 cases		3.0 cases	
Tau	-.3485				-				-.1758			
α	.0000*				-				.0585			

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b The limited prior JD record data available in Nassau County were insufficient for the calculation of this statistic.

The likelihood of placement increased with the number of prior JD records in three study sites (Table 6.15).

In New York City and Albany and Dutchess counties, the likelihood of placement increased generally with the number of the prior JD records. In New York City, for example, placement was ordered in only 28 percent of cases that did not have prior JD records. This percentage rose to 44 percent for those with one prior JD case, to 66 percent for those three priors and to 81 percent for those with four priors.

While percentage differences at other sites suggest relationships, the percentage differences are not large enough given sample sizes to draw statistically reliable conclusions.

Table 6.15. Disposition Outcomes by Prior JD Record for Cases With JD Findings (continued)

	Mid-Size Urban Counties								Rural County			
	Albany				Dutchess ^c				Clinton ^d			
	No Placement		Plac		No Placement		Plac		No Placement		Plac	
	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)	CD %	Prob %	%	(N)
Number of Prior JD Cases												
None	24	60	17	(42)	0	62	39	(26)	0	67	33	(6)
One	3	76	22	(37)	0	73	27	(26)	0	67	33	(3)
Two	14	46	41	(22)	0	60	40	(10)	0	0	0	(1)
Three	0	45	55	(20)	0	33	67	(12)	0	67	33	(3)
Four	6	25	69	(16)	0	50	50	(2)	0	0	0	(0)
Five or More	10	10	80	(29)	14	0	86	(7)	0	0	0	(0)
Average Number of Prior JD Cases	1.3 cases		3.3 cases		1.1 cases		2.2 cases		1.0 cases		1.2 cases	
Tau	-.5083				.2706				-			
α	.0000*				.0133*				-			

^c Nine cases counted as placement dispositions actually received probation dispositions with placement as a condition of probation.

^d Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

*Meets criteria established to identify substantively meaningful relationships (i.e., the tau value is statistically significant [$p < .05$] and is equal to or exceeds $\pm .10$).

Probation Supervision

The general conditions of an order of probation are stipulated in FCA §353.2(2). These include regular school attendance, obeying "all reasonable commands" of the parent/guardian, not visiting designated places or associating with designated people, performing restitution or public service, and other conditions the court decides are necessary or appropriate. As a Clinton County supervising probation officer described: "We do whatever seems right at the time. Probation conditions may include curfew, not going to the shopping mall except with parents, and performing community service."

In many study sites, the specification of conditions takes the form of a quasi-contract between the juvenile and the probation officer, with the juvenile given a written copy. (FCA §353.2[5]). Nassau County is the only study site where agreement to drug testing is a standard probation condition. As the Deputy Director of Probation stated:

... We have quite an extensive program. We have staff who work at the County Medical Examiner's Office. Right now we do maybe 20 juveniles a week [out of 500 or so], but we'll be stepping it up with more staff, and expect to soon double the numbers. We do the whole range of testing [for alcohol and narcotics]. However, random testing has limitations... [where there are positive findings] we mostly get marijuana [results], because cocaine and alcohol burn off more quickly.

Most supervising probation officers in most study sites interview the respondent and parent or guardian immediately following the dispositional order. If the family cannot be reached while in court, telephone calls and letters are used to schedule interviews, but this is less effective. As a supervising probation officer in Dutchess County explained,

I send a letter for an appointment. The child should be accompanied by the parent, but parents often don't take probation seriously. I try to impress them that probation is a court sentence and there is a section where all parties sign - me, the parent and the child.

Generally, cases are assigned to different levels of supervision depending upon the characteristics of the particular case or the respondent. Classifications, however, can change as the supervision period progresses. This is the general pattern in all study sites: to decrease the level of supervision as the case progresses, assuming the conditions in the order of probation are met.

Along with regular contact with the juvenile, probation supervision also includes contact with parents, other family members, school officials, staff of community-based agencies with which the family is involved, and so on. Most study sites support visits to the

home of probationers, but suggest that increasing supervision caseloads and resource shortages are making this increasingly difficult. In New York City, for instance, home visits are rarely made.

If conditions of probation are not met, the probation department may file a violation petition (FCA §360.2). In all study sites, however, probation officers say that they are reluctant to issue violation petitions precipitously and try to work out problems before such a step is necessary. A senior legal aid attorney with the New York City Juvenile Rights Division suggested that poor supervision of probationers, typified by few home visits, is the reason why many cases result in violations. Erie County respondents in danger of violating probation are referred by their probation officers for mental health evaluations. One supervision probation officer in Queens County commented that a deteriorating home environment would sometimes precipitate a violation.

Not all juveniles on probation live at home for all or most of the probationary period; some cases in Dutchess County involve placement in DFY group homes as a condition of probation.

You can get there [to DFY placement] by two routes. The first, is as authorized by the courts - that is, a court order - the second, is at probation's discretion [as a condition of probation]. In the second case we require no special court order but we will place a child if they have a lot of structure missing in their lives. Those who are staying out late or who won't go to school. Those who need guidelines. They can stay there from six months to a year. It is very flexible and very successful. I believe that they turn kids around. Sometimes we go for extended placement for these kids.

Placement Characteristics

The extent to which placements were made through DFY or CSS varied across study sites (Table 6.16).

New York City and Nassau County made placements almost exclusively through DFY (98 percent and 97 percent, respectively). DFY was also the primary placement funnel for Erie and Albany counties (61 percent and 61 percent, respectively). In Dutchess County, on the other hand, the majority of placements were made through CSS (53 percent).

New York City and Nassau County courts were the most likely to order unspecified DFY placements (Table 6.16).

When determining DFY placement types, the court may order two DFY placements, categorized by levels of security. Title II placements are always non-secure, while Title III placements can be either secure (for a restrictive placement), limited-secure, or non-secure. The court may also order a placement DFY-unspecified, meaning that DFY has discretion to determine placement type. Unspecified placements were ordered in 25 percent of all New York City placements and 33 percent of all Nassau County placements. Elsewhere, the percentages ranged from 3 percent in Dutchess County to 5 percent in Albany County.

Title III placements were ordered for the majority of placements in two of the study sites (Table 6.16 and Figure 6.6)

Title III placements are usually to limited-access facilities. The courts in Albany and Erie counties ordered Title III placements for the majority of all placements (55 percent and 58 percent, respectively). Elsewhere, 31 percent of the Dutchess County placements involved Title III facilities, 31 percent in New York City, and 35 percent in Nassau County.

1987 COHORT DFY PLACEMENT TYPES

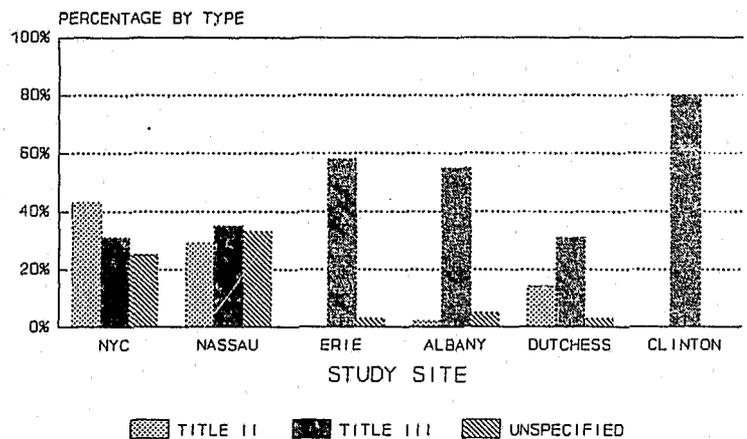


Figure 6.6

Table 6.16. Type of Placement for Cases With Placement Dispositions

Type of Placement	New York City ^a	Suburban New York City County	Large Urban County	Mid-Size Urban Counties		Rural County
	%	Nassau %	Erie %	Albany %	Dutchess ^b %	Clinton ^c %
Parents/Legal Guardian/Relatives	0	2	3	0	0	0
Division for Youth (DFY)	98	97	61	61	47	80
Title II	43	29	0	2	14	0
Title III	31	35	58	55	31	80
Unspecified	25	33	3	5	3	0
Commissioner of Social Services (CSS)	2	2	36	39	53	20
Foster Care	0	0	0	0	6	0
Group Home	0	0	0	2	17	0
Institution	0	2	26	8	31	0
Unspecified	2	0	10	29	0	20
	(N=809)	(N=58)	(n=31)	(N=62)	(N=36)	(N=5)

^a Excludes cases processed by district attorneys in New York City. These cases, which are generally the most serious intake referrals, comprised only 1.7 percent (133 cases) of all intake referrals.

^b Nine cases counted as placement dispositions actually received probation dispositions with placement as a condition of probation.

^c Statistical significance cannot be determined because of the small number of cases; therefore, Clinton County statistics are not referenced in the text.

DFY Placement

A special set of DFY data was used to examine practices in several areas, including type of placement order (i.e., direct to DFY or direct to a voluntary facility under contract with DFY), levels of placements (secure versus non-secure), and lengths of stay at placement. The DFY cohort consists of DFY JD placement admissions between July 1, 1987 and June 30, 1988, in the seven study sites.¹⁵

Court-Ordered Facility

More than three-quarters of the placements were sent by the court directly to DFY facilities; 24 percent were sent by the court directly to voluntary child care agency facilities.¹⁶ These percentages varied significantly by site: Albany, Clinton, Dutchess and Erie counties had no direct voluntary child care agency placements; Monroe County and New York City had similar percentages (27 percent and 23 percent respectively) of court ordered direct voluntary child care agency placements. A majority of Nassau County's placements, on the other hand, were made by the court directly to voluntary child care agencies (59 percent).

Level of Facility Security

Placement titles are used to categorize the two types of DFY placement. Placement is also guided by the placement title. Title III placements can be either secure, limited-secure or non-secure, while Title II placements are always non-secure. Only 1 percent of the DFY study group were placed in secure DFY facilities which are almost wholly used for the relatively small Juvenile Offender and designated felony populations (Table 6.17). The majority of Title III placements (69 percent) were made to limited secure facilities. Most Title II placements (79 percent) were made to non-secure and community-based settings. Only one Title III placement was sent to a voluntary child care agency by the court.

Placement type orders differed significantly by study site. Sites ranged from a low of 29 percent of Nassau County cases placed in limited secure facilities to a high of 58 percent in Erie County. Conversely, non-secure and community-based facilities and voluntary child care agency placements varied from a low of 33 percent in Erie County to a high of 67 percent in Nassau County (as mentioned above, Nassau County cases were much more likely to be sent to voluntary agencies by the court than cases in any other county). The study sites also differed markedly in their use of community-based vs. non-community-based placement facilities. Dutchess County placed 76 percent of cases in non-community based facilities, compared to Nassau County, which placed only 29 percent of cases in such facilities. Overall, the population of the special study was placed as follows:

Table 6.17. Starting Care Levels for 1987 Placements

Starting Care Level	Percent
Secure	1
Limited secure	35
Non-secure	18
Community-based	10
DFY foster care	1
Voluntary placement-replacement	33
N/A	3
TOTAL	100

(N=1,270)

Length of Facility Stay

The average length of DFY facility stay for the 1987 study group was just over six months (181.6 days).¹⁷ DFY facility length of stay is the amount of time a youth resides at a particular DFY facility. No differences in lengths of facility stay were found by age, ethnicity, or type of placement facility.¹⁸

In 1989, the average length of DFY facility stay was 4.9 months. DFY staff indicate that placement stays at voluntary child care agencies averaged 10.5 months in 1989. DFY staff suggest that the decrease in average length of DFY facility stay is attributable to relatively fixed capacities and significant increases in admissions. The overall length of stay in DFY residential care was 9.6 months in 1989, a drop from 10.6 months in 1987.

Summary of Findings

1. **JD finding percentages varied between study sites, for cases petitioned.**

JD finding percentages ranged from about 31 percent in Erie County to 66 percent in Albany County. Elsewhere, New York City, 41 percent; Nassau County, 49 percent; and Dutchess County, 57 percent.

2. **The court has wide discretion when determining a post-fact-finding outcome.**

After the allegations are established at fact-finding the court may still exercise the discretion to dismiss a high level felony case or order placement on a low level misdemeanor. Criterion for determining a disposition is broad and simply restates the overall delinquency purpose clause that ". . .the court shall consider the needs and best interest of the respondent as well as the need for protection of the community." The only limitations on court discretion at disposition, concern designated felony adjudications involving respondents who inflict serious physical injuries upon persons 62 years of age or older - restrictive placements must be ordered on these very rare cases.

3. **After allegations were established, the courts dismissed between 7 and 35 percent of the petitions.**

Dismissal percentages after the establishment of allegations ranged from 7 percent in Nassau County to 35 percent in Erie County. Elsewhere, Albany County, 8 percent; Dutchess County, 16 percent; and New York City, 29 percent.

These dismissals usually occur as a result of an expired ACD period. For instance, in Erie County, all dismissals were ACDs; in New York City, three-quarters of the dismissals were ACDs.

4. **Probation was used much more frequently than placement in all study sites with the exception of New York City, where probation and placement percentages were similar.**

The percentage of JD findings that resulted in probation supervision dispositions ranged from 46 percent in New York City to 63 percent in Erie County. The percentage of JD findings that resulted in placements ranged from 27 percent in Nassau County to 43 percent in New York City and Dutchess counties.

Conditional discharges were rarely used in Erie and Dutchess counties, and infrequently (between 11 percent and 13 percent of the JD findings) used in Nassau County, New York City and Albany County.

- 5. The courts in Albany and Erie counties ordered DFY Title III placements for the majority of all placements. In all other sites, DFY Title II placements were more frequently ordered than DFY Title III placements.**

New York City and Nassau County made placements almost exclusively through DFY, and DFY was the primary funnel at all other sites except Dutchess County, where the majority of placements were made through CSS.

The courts in Erie and Albany counties ordered Title III placements for the majority of all placements (58 percent and 55 percent, respectively). In all other sites, Title II placements (non-secure) were more frequently ordered than Title III placements (secure, limited-secure or non-secure). DFY data indicate that 32 percent of Title III placements result in admissions to non-secure facilities.

- 6. Demographic variables were not often related to JD and dispositional outcomes.**

In Albany County, gender was related with JD outcome, while age and race/ethnicity were related with dispositional outcome. Age was related with JD outcome in Dutchess County. Elsewhere, there were no substantively meaningful relationships between demographic characteristics and outcomes at either stage.

Males were more likely to receive JD findings than females in Albany County (69 percent vs. 50 percent). Older juveniles were more likely to receive JD findings in Albany County (i.e., those over 11 years of age), and Dutchess County (i.e., those over 12 years of age). Placement was more likely to be ordered for minorities than whites in Albany County (50 percent vs. 33 percent, respectively).

- 7. Legal characteristics of the current offense were related with JD finding and disposition outcomes in most sites.**

Charge seriousness was related to JD finding outcome and disposition in Nassau and Albany counties, while charge type was related to only JD outcome in both counties. In New York City, charge seriousness was related to only JD outcome and charge type to only dispositional outcome. In Erie County, charge seriousness was associated with only JD outcome.

Respondents in New York City, Nassau County and Albany County with felony petitions were more likely to be found JDs than those with misdemeanor petitions. Placements were more likely to be ordered in Nassau County in cases where the top adjudicated charge was a B or C felony than in cases involving less serious offenses. In Albany County, JDs with felony adjudications were more likely to be placed than those with misdemeanor adjudications.

In New York City, 52 percent of the drug cases had JD findings compared to 40 percent of the violent, property, and other offense cases. In New York City, placement was ordered in about one-half of property and drug offenses adjudications, but only in about one-third of violent and other offense adjudications. In Nassau County, 53 percent of the property offense petitions had JD findings, while about 39 percent of the petitions involving violent offenses had JD findings. Similarly, 72 percent of the property offense petitions in Albany County had JD findings while about 58 percent of the violent offense cases resulted in JD findings.

8. **Prior record score was related with JD and disposition outcomes in New York City and Albany and Dutchess counties. Prior record score was related to only JD outcome in Erie County.**

In New York City and Erie, Albany and Dutchess counties, petitions involving respondents with prior JD records were more likely to receive JD findings than those with no prior records.

In New York City and Erie and Albany counties, the likelihood of placement increased with the seriousness of the prior JD record. In New York City, for example, placement was ordered in about a quarter of those cases without prior JD records. This percentage rose to 44 percent for those with one prior JD case, and higher with more extensive histories of prior contacts.

9. **Probation investigations were not always ordered by the court when required by statute.**

Practitioners in several study sites indicated that probation investigations are not always ordered when required by statute. This often happens when a child enters an admission and the law guardian and presentment agency are in agreement about the disposition.

Notes

1. Non-ACD dismissals in furtherance of justice can be entered at any point in processing (FCA section 315.2). Practitioners, however, state that dismissals after a JD finding are very rare.
2. See Knitzer and Sobie, *Law Guardians in New York State - A Study of the Legal Representation of Children*, New York State Bar Association, 1984 for a description of the New York State Law Guardian system and Law Guardian practices. See Whisenand and Sobie, *Law Guardian Representation Standard*, New York State Bar Association, 1988 for a set of Law Guardian Standards approved by the New York State Bar Association.
3. The term "mental health evaluation" is more commonly used by practitioners than the Family Court Act's term "diagnostic assessment." Therefore, "mental health evaluation" is used in this discussion.
4. The allegations may also have been established in the adult court and removed for dispositional purposes to family court.
5. Often times, the court will not order a probation investigation if an investigation on a previous case was available.
6. If a case were to be removed from the adult system after a conviction, the dispositional hearing must also be scheduled in accordance with FCA §350.1 (FCA §350.2).
7. The dismissal may occur before the dispositional hearing, during the dispositional hearing, or at the completion of the dispositional hearing. See endnote 1.
8. In these latter three sites, dismissals given because of pleas taken on other cases were sometimes classified as ACD rather than covered dismissals. It is also important to note that ACD dismissals are sometimes ordered by the court when action had been or was about to be taken on other concurrent or active cases.
9. These transferred cases were excluded from analysis examining JD finding and dispositional outcome, because data concerning the JD finding and subsequent disposition were not available.
10. Comparisons of offense types were limited to violent and property offenses at sites outside New York City because of the small number of petitions involving drug and "other" offenses at most of these sites.
11. A respondent placed by the court in a Title III facility can be transferred, during the first 60 days, from a secure facility to a non-secure facility, without an administrative hearing under

section 515-a of the Executive Law. An administrative hearing is required after 60 days. A respondent placed in a Title III non-secure facility, cannot be transferred to a secure facility, unless he "committed an act or acts which are exceptionally dangerous to himself or others", without an administrative hearing at any point (Sobie, 1983:532).

12. If a case results in an outcome -- such as an ACD -- not described in the menu of dispositional alternatives described in FCA section 352.2, a probation investigation does not need to be ordered. *In the Matter of Dwayne G.*, 135 Misc.2d 114, 515 N.Y.S.2d 183 (Fam. Ct., Queens Co. 1987)
13. See endnote 11.
14. The Court, however, stated that information on a sealed case may be disclosed in an investigation if derived from other than sealed records. *Matter of Alonzo M.*, 72 N.Y.2d 662 (1988)
15. The DFY data were distributed among the sites as follows: Albany County, 41 cases (3.2 percent); Clinton County, 2 cases (0.2 percent); Dutchess County, 33 cases (2.6 percent); Erie County, 36 cases (2.8 percent); Monroe County, 132 cases (10.4 percent); Nassau County, 97 cases (7.6 percent); and New York City, 929 cases (73.1 percent).
16. The remaining 0.05 percent were sent to DFY facilities as a condition of probation.
17. These data were of juveniles admitted to placement in a 12 month period beginning July 1, 1987, therefore, many of the longer stay juveniles were still in placement at the end of March 1990, when these data were created. In addition, for many juveniles a proxy of their date of community care was substituted for missing facility release dates. For these reasons, length of stay in placement should be interpreted with caution. Length of stay of juveniles still in placement was calculated as of April 1 1990. The effect of this is to reduce the proportion of juveniles with very long lengths of stay.
18. This method, however, must under-count secure facilities. See end note 17.

Appendices

Research Methods

The objectives of this study are to provide a snapshot of the processing of juvenile delinquents (JDs) in New York State's juvenile justice system and to identify demographic and legal factors related to decision outcomes at each processing stage in the system. Two approaches were undertaken for the acquisition of information to accomplish these ends. First, practitioners – police, probation staff, presentment agency attorneys, law guardians, family court judges, and others – were interviewed to gain an understanding of study site juvenile justice practices and policies. Second, data collection was undertaken in 11 counties to track JD cases from probation intake to disposition. Probation intake was selected as the starting point for tracking the JD cohort because it was the first processing stage in the juvenile justice system where record keeping was centralized within each study site. The lack of centralized record keeping for the numerous police agencies in many of the study sites and the widely different forms of records kept across these police made the collection of case-level data from the police not feasible.

Site Selection

The five New York City boroughs (Bronx, Kings, New York, Queens and Richmond) and the counties of Nassau, Erie, Monroe, Albany, Dutchess and Clinton were the sites selected for this study. The inclusion of New York City in the study was imperative, since three-fifths of the JD arrests reported statewide in 1987 occurred in New York City. The sites outside New York City were selected to represent a demographic and socioeconomic cross-section of non-New York City counties. Selection criteria for the non-New York City study sites included population size and density, racial/ethnic composition, per capita income, high school dropout rates and geographic location.

Agency Participation and Client Confidentiality

Before the study could be undertaken, it was necessary to secure the participation of numerous agencies in the study sites, including police departments, law guardian organizations, probation departments, presentment agencies and family courts. Project staff met with representatives of these agencies to request interviews with agency practitioners. Data was also requested of many of those agencies contacted.

In general, offense-based data, including the demographic characteristics of alleged JDs, was requested of the local probation agencies; presentment agency screening data was requested of the presentment agencies; and petition, adjudication and disposition data were requested of the courts. Also, non-New York City detention data and study site placement data, was requested from the New York State Division for Youth and New York City detention data was requested from the New York City Department of Juvenile Justice.

While all of these agencies in each of the sites agreed to participate in the interview phase, some agencies expressed concern about providing data to the study (Table 1.A). Specifically, the district attorneys in the New York City boroughs of Bronx, Kings and New York (Manhattan), who prosecute designated felony cases, refused to provide data on cases favorably terminated. The Family Court Act stipulates that police, probation, presentment agency, and court records must be sealed upon a favorable termination (i.e., intake adjustments, presentment agency declinations or family court dismissals) of a case. The Nassau County presentment and probation agencies, and the Albany County presentment agency, further determined that all requested records, sealed or unsealed, were confidential and could not be provided to the study without a court order. The project did not request a court order. All other agencies, however, agreed to release data on both sealed and unsealed records with the provision that the anonymity of juveniles be maintained. A discussion of the issues surrounding access to sealed cases is presented in Volume II.

Table 1.A. Types of Data/Supplying Agencies

Site	Probation Intake Data		Presentment Agency Screening Data		Court Data		Detention Data		Post-Disposition Data	
NYC	Prob	(1)	CC	(1)	CC	(1)	DJJ	(1)	DFY	(1)
			Bronx DA	(3)	Bronx DA	(3)				
			Queens DA	(1)	Queens DA	(1)				
			NY DA	(3)	NY DA	(3)				
			Kings DA	(3)	Kings DA	(3)				
Monroe	Prob	(1)	CA	(1)	Court	(1)	DFY	(1)	DFY	(1)
Erie	Prob	(1)	CA	(1)	Court	(1)	DFY	(1)	DFY	(1)
Dutchess	Prob	(1)	CA	(1)	Court	(1)	DFY	(1)	DFY	(1)
Nassau	Prob	(2)	CA	(2)	Court	(1)	DFY	(1)	DFY	(1)
Clinton	Prob	(1)	CA	(1)	Court	(1)	DFY	(1)	DFY	(1)
Albany	Prob	(1)	CA	(2)	Court	(1)	DFY	(1)	DFY	(1)

Key:

- Prob Local Probation Agencies
- CC NYC Corporation Counsel
- DA NY County DA, Kings County DA, Queens County DA, Bronx County DA
- DJJ New York City Department of Juvenile Justice
- CA Local County Attorney Offices
- Court Local Family Courts
- DFY New York State Division for Youth
- 1 All Records Provided
- 2 All Records Denied
- 3 Only Sealed Records Denied

In order to comply with anonymity concerns, only the first initial and the first, third and fourth letters of surnames were coded in sites outside New York City. These codes, along with dates of birth and dates of the crime incidents, were sufficient for tracking cases across agencies and, at the same time, maintained the anonymity of juveniles. In New York City, abbreviated name codes were unnecessary, because data would be linked by the programming staff of the New York City Juvenile Justice Information Services (JJIS).

Practitioner Interviews

Project staff interviewed scores of practitioners for this study. In general, supervising judges, probation directors, and presentment agency and law guardian association supervisors, were interviewed at each study site. In New York City, the primary focus for the interviews was in Queens and New York counties. Also, police agency representatives from most of the major police agencies were interviewed, as were local detention and placement personnel.

Sample

This study tracked JD cases from probation intake to disposition. A cohort of cases opened during 1987 was selected because the outcomes of a substantial number of cases opened in each of the subsequent years were still pending when data collection was undertaken for this study. Cases opened by probation intake units from January 1, 1987 to December 31, 1987 and intake bypass cases for which petitions were filed during this same period served as the base for the study's cohort. Intake bypass cases are JD cases referred by the police directly to the presentment agency or family court rather than probation intake. Only intake bypass cases in which petitions were filed were included in the cohort, because there was no reasonable way to identify bypass cases not resulting in petitions. The percentage of cases that bypassed intake, however, was relatively small in each site and ranged from zero percent in New York City to 5 percent (62 cases) in Erie County (see Table 1.B); elsewhere, 3 percent (3 cases) of the cases bypassed intake in Clinton County, 2 percent (7 cases) in Dutchess County and 1 percent (7 cases) in Albany County.

Finally, only JD cases in which the family court had original jurisdiction were included in the cohort, because some New York City district attorney offices (see above) declined to release data on JD removals resulting in a sealing order. JD removals were excluded from the study at all sites, because of the bias that might be introduced into the cohort with the exclusion of those dismissed cases in some counties but not others. While JD removal cases represented a relatively small percentage of all JD cases (i.e., less than 1 percent statewide with most reported by New York City), they represented the most serious cases.

The study cohort comprises a census of intake and intake bypass cases opened during 1987 in New York City, Albany County, Dutchess County and Clinton County; a census of petitioned intake cases opened during 1987 in Nassau County; and a random sample of intake and intake bypass cases opened during 1987 in Erie County and Monroe County (80 percent and 85 percent, respectively). A census of New York City data was used because the data were computerized and easily obtained.

There were various ways that the counties defined the intake "open" data. In Monroe County, Albany County, Dutchess County and Clinton County, intake units defined this date as the date the case was entered in the intake log. In Erie County, it was defined by the intake unit as the date of a juvenile's initial intake interview. In New York City, it was defined as the return date on the appearance ticket or the date of the detention hearing or police walk-through. In Nassau County, where only family court data were collected because of the probation department's unwillingness to participate in this study, the incident and arrest dates were used to determine whether or not a case was likely opened by intake during 1987. The intake staff in the Nassau County Probation Department stated that there was usually a two-week lag between the arrest date and the intake open date. Therefore, data were collected on all petitions where

Table 1.B. 1987 Cohort Base, Number of Sampled Cases and Number of Cases Retained in Cohort After Sampling

	Suburban NYC County		Large Urban Counties		Mid-Size Urban Counties		Rural County
	New York City	Nassau	Erle	Monroe	Albany	Dutchess	Clinton
No. of JD Cases in Cohort Base	8,956^a	721^b	1,269	956^c	491	387	113^d
Opened by Intake	8,956	-	1,207	956	484	380	110
Intake Bypass	0	-	62	-	7	7	3
Percentage Sampled	100.0	100.0	80.0	85.0	100.0	100.0	100.0
Number of Cases Sampled for Cohort	8,956	721	1,016	812	491	387	113
Cases Retained in Sampled Cohort	8,956	712	996	798	478	386	109
Cases Excluded from Sampled Cohort	0	9	20	15	13	1	4
Transferred in from Another Jurisdiction	0	9	0	14	2	0	2
Lowered to PINS at Intake	0	-	2	1	5	0	1
Outside Jurisdiction of Article 3 of FCA							
16 or Older	0	0	2	0	1	0	0
Violation Offense Only	0	0	12	0	2	1	0
Opened in 1986	0	0	0	0	3	0	1
Referred by Court for Adjustment	0	0	4	0	0	0	0

^a Total number of intake cases reported opened in 1987 by the New York City Probation Department to the New York State Department of Probation and Correctional Alternatives.

^b The estimated number of 1987 intake and intake bypass cases petitioned to family court. Files for petitions filed in February and March of 1988 were not available; therefore, estimates of the number of petitions filed in February through March of 1988 (21 and 20, respectively) were based on the percentage of petitions filed during this period in 1987 for the 1986 intake cases. Excludes multiple petitions filed on two cases. In both cases, the crimes were committed during a single incident but involved multiple victims. In one case, 15 petitions were filed for a single intake case and in the other case 11 petitions were filed. The number of petitions filed in each case reflect the number of victims. Only the petition with the most serious outcome was retained in the cohort for each case.

^c Sixty-four of the 1,010 Monroe County JD intake log entries for 1987 were excluded from the entries sampled. These entries were for cases referred back to intake by the presentment agency or the court for intake adjustment (62 cases) or mental health evaluations (2 cases). These cases had been entered previously in the log when initially referred by the police.

^d Seven of the 117 Clinton County JD intake log entries for 1987 were excluded from the cohort. These seven cases reflected intake cases referred by the police to probation intake for phone consultations. In these situations the probation officer contacts juvenile and his or her parents by phone - juveniles are not required to appear at intake and the case is closed after one consultation.

arrest dates occurred from December 16, 1986 to December 15, 1987. Cases with arrest dates of December 16, 1987 or later but with petition date prior to January 1, 1988 were also included in the study. The arrest dates reported in the files of petitioned cases in Nassau Family Court from January 1, 1987 to March 31, 1988 were screened. When arrest dates were missing from files, these dates could usually be derived from petitions. Descriptions of crime incidents in petitions were often abbreviated versions of those found in police reports and usually provided some indication of how quickly juveniles were apprehended after crime incidents.

The percentage of cases sampled in both Erie County (80 percent) and Monroe County (85 percent) was based on an estimate of the number of cases that would be present at the JD finding stage. The probability theory employed in constructing the samples ensured that statistical sampling error ranges, in theory, would not exceed plus or minus 3 percent (95 percent confidence interval) for intake outcome, presentment agency outcome, trial outcome, and JD finding outcome percentages when inferences are based on all cases at each processing stage. Sampling error exceeds this range, however, in subcategory analyses (i.e., the percent of males adjusted vs. referred at intake outcome).

The total number of cases sampled in each study site is presented in Table 1.B. At some sites, the number of cases in the sampled cohort was reduced when cases that did not meet the inclusion criteria were discovered during data collection (Table 1.B). Among the cases excluded at this stage were (1) cases transferred in from other counties to intake for adjustment supervision or to family court for disposition, (2) cases outside the jurisdiction of the family court (i.e., the juvenile was 16 years of age or older, the sole arrest offense was a violation or the case was reclassified as a PINS at intake), (3) cases opened prior to 1987 and (4) Erie County intake bypass cases referred to intake by family court for adjustment (i.e., intake bypass cases that were not petitioned).

The percentage of cases for which no data could be located was very low in most sites: New York City, 3.0 percent; Nassau County, 10.5 percent; Erie County, 0.5 percent; Monroe County, 2.1 percent; Albany County, 1.3 percent; Dutchess County 0.8 percent; and Clinton County, 0.0 percent (Table 1.C).

Table 1.C. Data Collection Status of Cases Retained in Sampled Cohort of 1987 Cases

	Suburban NYC County		Large Urban Counties		Mid-Size Urban Counties		Rural County
	New York City	Nassau ^a	Erie	Monroe	Albany	Dutchess	Clinton
Data Collection Status of 1987 Cohort Cases							
Data Collected							
Number of Cases	8,685	637	991	781	472	383	109
Percentage of Cases	97.0%	89.5%	99.5%	97.9%	98.7%	99.2%	100.0%
No Data Collected							
Number of Cases	271	75	5	17	6	3	0
Percentage of Cases	3.0%	10.3%	0.5%	2.1%	1.3%	0.8%	0.0%
	(N=8,956)	(N=712)	(n=996)	(N=798)	(N=478)	(N=386)	(N=109)

^a Includes petitioned 1987 intake and intake bypass cases only.

Data Collection Instrument

The data collection instrument was developed by project staff. Drafts of the instrument were tested at all sites before data collection was undertaken to ensure its reliability across sites. Whenever possible, instructions to assist in the coding of data were included in the instrument.

Cohort Data Collection

Cohort data were manually collected at all sites with the exception of New York City where data were obtained from the computerized Juvenile Justice Information Services (JJIS). It was not possible to collect the full set of data in several study sites.

- In Monroe County, family court data for both current and prior cases were to be secured from the family court's computerized files. Although project staff were informed that the data were complete, it was found, at a very late date, that the data were incomplete. It was not practical to perform manual data collection at that late date.
- In Nassau County, prior contact data were also not collected. While data were accessible in family court on all prior PINS and JD cases that resulted in petitions, the refusal of the probation department to release data on sealed cases that were not petitioned (i.e., adjusted or declined cases) made it impossible to accurately measure the extent of prior PINS and JD contacts. Data on declined cases could not be collected in Nassau County because of the presentment agency's refusal to release data on sealed cases (i.e., declined cases).

Manual Data Collection In Non-New York City Sites

Data collectors were hired at each study site and trained by project staff. A minimum of five days training was provided for each site. In addition, each data collector was given written instructions - adapted for each site to accommodate variations in recordkeeping across agencies - which (1) explained sampling procedures for Erie and Monroe County, (2) outlined data collection tasks, (3) identified the forms in case files where data could be located and (4) provided directions for interpreting and recording data that were county-specific or too complicated to include in the data collection instrument.

When files could not be located, data were taken from log books and index files if there were sufficient data to determine the processing stage outcome.

At sites with more than one data collector (i.e., all sites except Dutchess and Clinton counties), all completed data collection instruments were cross-verified during the first week of data collection to assure coder reliability; thereafter, a minimum of one case completed the prior day was cross-verified each day for each data collector. In Dutchess and Clinton County, data collectors were asked to each day review a minimum of one case completed the prior day. Project staff also made periodic site visits to verify coded instruments.

At the conclusion of data collection, inter-rater agreement for each section of the data collection instrument was measured based on a random sample of 5 percent of the completed cases. If the 5 percent random sample yielded less than 10 sampled cases, the percentage of cases sampled was adjusted to insure a minimum of 10 sampled cases. In Dutchess and Clinton counties, which each had only one data collector, project staff conducted the inter-rater data verification. Inter-rater agreement of 100 percent was found for more than 90 percent of the data elements in most sites. Inter-rater agreement for most of the remaining elements ranged from 90 percent to 97 percent. Data elements found to have coding inconsistencies that could not be corrected were excluded from analyses.

New York City Computerized Data

Much of the New York City processing data for this study came from the New York City Juvenile Justice Information Services (JJIS). JJIS supports two data bases serving various juvenile justice related agencies. The New York City Department of Probation/JJIS (DOP/JJIS) data base was used to provide the "front-end" demographic, incident, arrest and intake-related information. The Corporation Counsel/JJIS (CC/JJIS) data base, serving several presentment agency offices, was used to provide the "back-end" presentment agency screening and court-related information.

Case Records for 1987 Cohort

Programming was required to create a matched cohort between the two systems, since the data bases were not integrated. All but 300 of the referred DOP/JJIS cases were matched to CC/JJIS cases. Per agreement with Bronx, Kings and Manhattan district attorney offices, presentment agency and family court data for sealed records prosecuted by these agencies were removed from the cohort data file. The Queens District Attorney's Office, however, provided data for both sealed and unsealed cases. Data were not requested from the Richmond County District Attorney's Office because of the small number of cases processed.

Prior Case Records for 1987 Cohort

Prior case records from the DOP/JJIS and CC/JJIS systems could not be matched because the older case records contained far fewer of the common data elements to perform the match. Fortunately, this inability to match case records did not interfere with data analyses because it was not necessary to track prior case activity.

Quality of JJIS Data

JJIS staff audited approximately 2 percent of the 1987 CC/JJIS records. The audit found only a few data elements (e.g. law guardian type and reason for presentment agency declination) that could not be used by the study because of coding inconsistencies. Probation staff also audited 2 percent of the 1987 DOP/JJIS records. DOP/JJIS elements that could not be used included probation investigation recommendations and number of correspondents.

Supplemental Data Sources

In addition to the cohort data, several other data base files were tapped to provide supplemental data for this study.

Supplemental Cohort Data

Socioeconomic data – parents' marital status, place of residence and household income – were collected by probation officers during intake interviews for each juvenile delinquency case opened from June 1 through August 31, 1990 at several study sites. These data were collected, in part, to serve as proxies for data not always available in the official records of the 1987 intake cohort.

It was not possible to collect data at each of the study sites. In New York City, data were collected in only two of the five boroughs – Queens and Richmond. Data also were collected in Erie, Dutchess and Clinton counties. Data are not presented for Albany County because interviews were not conducted for a majority of JD cases due to the immediate referral of these cases to the presentment agency. Finally, Monroe County declined to participate in this aspect of the study.

Only JD cases in which interviews were conducted were included in this analysis. Interviews were not conducted for a substantial number of cases at each of the five study sites: Queens County, 23 percent; Richmond County, 15 percent; Erie County, 11 percent; Dutchess County, 18 percent; and Clinton County, 23 percent. While findings should be interpreted with some caution given the absence of these data and the limited period for data collection, the data serve as indicators of the socioeconomic background of juveniles processed by probation intake.

New York City and Monroe County Police Diversion Data

Aggregate police diversion data were obtained from the New York City Police Department and the Rochester Police Department to examine the likelihood of diversion for JD arrests. These were the only two police diversion programs within the study sites that maintained data on offense and demographic characteristics.

New York State Uniform Crime Reporting (UCR) System

While it was not possible to track juveniles from the point of arrest, the study presents aggregate statistics on juvenile arrests in Chapter Two. The Uniform Crime Reporting (UCR) Program is the sole source for comprehensive juvenile arrest statistics. Arrests are reported to this program on a monthly basis by all law enforcement agencies in the State. The Division of Criminal Justice Services, which manages the State's UCR Program, in turn, reports these arrest statistics to the Federal Bureau of Investigation which manages the national UCR Program.

Reporting practices vary across law enforcement agencies and, as a result, arrests for violations and non-referred felony and misdemeanor arrests may not be reported to the UCR Program. For instance, some police agencies report as arrests only those cases that are referred for further processing, while other study sites report referred cases, diverted cases and violations. This means that for certain jurisdictions there is substantial undercounting of arrests. Caution should be exercised when interpreting the total number of arrests for State and regional analysis. These data, however, are reliable indicators of trends in arrest activity. Because of existing reporting practices, UCR data include all juvenile arrests (i.e., JO, JD and violations).

New York State Division of Probation and Correctional Alternatives

Local probation departments report aggregate processing data to the Division of Probation and Correctional Alternatives on a monthly bases. Data reported on number of intake cases opened during 1987 statewide was used in JD police referral trends analyses.

New York State Division of Criminal Justice Services: Computerized Criminal History (CCH) Data Base

The Computerized Criminal History (CCH) system records arrest and dispositional data on all fingerprintable arrests reported by local law enforcement agencies to the Division of Criminal Justice Services. This system was used to measure compliance with statutes regarding the fingerprinting of juveniles. (See Volume II for a discussion of issues surrounding the fingerprinting of juveniles.) CCH data were also used to measure trends in JO police referrals.

New York State Division For Youth (DFY) Placement Data Base

A special set of DFY data was used to examine practices in several areas, including type of placement order, levels of placement, and lengths of stay at placement. The DFY cohort consists of DFY JD placement admissions between July 1, 1987 and June 30, 1988, in the seven study sites.

Population Projections

The Division of Criminal Justice Services contracted the National Planning Association, Inc. (Washington D.C.) to provide population estimates for this study. The data was mostly used in Chapter Two for determining arrest and police referral rates. Appendix 2.1 presents several tables and graphics which show juvenile population trends.

Analysis

The analyses of demographic, legal and JD processing variables presented throughout this report for the study cohort are limited to the examination of proportional frequency distributions and the bivariate relationships of demographic, legal and processing time variables to processing stage outcomes. The unit of count throughout the cohort analyses is case-based. The number of cases included in the cohort analyses and the outcome of these cases by processing stages is presented in Table 1.D.

The statistical procedures used to analyze data include percentages, measures of central tendency, and Kendall's rank correlation coefficients. Interpretation of the data are based on percentage distributions patterns and these statistical tests.

Percentages were calculated without missing data. When more than 5 percent of the data for a given variable were missing in a site, it was noted in the table. When more than 25 percent of the data were missing for a given variable in a site, data were not presented for that site.

Table 1.D. Number of 1987 Sampled Cohort Cases by Processing Stage and Outcome

	Suburban NYC County		Large Urban Counties		Mid-Size Urban Counties		Rural County
	New York City	Nassau	Erie	Monroe	Albany	Dutchess	Clinton
Intake	8,685	-	941	781	465	376	106
Adjusted	988	-	622	332	163	183	78
Referred	7,697	-	318	448	302	192	28
Unknown	0	-	1	1	0	1	0
Presentment Agency	7,697	-	318	448	302	192	28
Declined	2,583	-	39	57	20	34	5
Petitioned	4,800	-	276	355	274	153	23
Consolidated Intake Referrals ^b	0	-	3	-	8	4	0
Unknown	314 ^a	-	0	36	0	1	0
Family Court^c	4,800	637	326	-	281	150	26
Dismissed	2,670	231	206	-	83	62	6
JD Finding	1,876	219	92	-	160	83	13
Transfer	0	128	3	-	26	7	0
PINS	0	5	12	-	1	4	5
Pending Fact-Finding	179	32	1	-	1	0	0
Pending Disposition	0	3	0	-	0	0	0
Unknown	75	19	12	-	10	4	2

^a Includes cases processed by district attorney's offices in New York City (129 cases).

^b Multiple intake referrals for a single juvenile were sometimes consolidated into a single petition.

^c Intake bypass cases were added to petitioned intake referrals in Erie County (50 cases), Albany County (7 cases), Dutchess County (7 cases), and Clinton County (3 cases).

The demographic, legal and processing time variables along with the processing stage variables examined in bivariate analyses are listed below. The demographic variables examined in relation to processing stages include:

- Sex: male and female
- Age: 7-10, 11, 12, 13, 14 and 15 years of age
- Race/Ethnicity: white, black, Hispanic and other

Legal variables include:

- Most Seriousness Current Arrest/Petition/Adjudicated Offense: A, B, C, D, E felonies and A, B misdemeanors
- Most Serious Current Offense Type: violent, property, drug or other
- Most Serious Current Offense Penal Law Article
- Prior JD Record Score: number of prior JD police referrals

Processing time variables included:

- Intake Open to Close
- Intake Close to Petition Filing
- Petition Filing to Initial Court Appearance
- Initial Court Appearance to Fact-Finding Outcome
- Fact-Finding Outcome to JD Finding Outcome

The processing stage variables include:

- Intake Outcome: adjusted vs. referred to the presentment agency
- Presentment Agency Screening Outcome: declined vs. petitioned
- Trial Status: no trial vs. trial
- Fact-Finding Outcome: allegations established vs. allegations not established
- JD Finding Outcome: dismissal vs. JD finding, and
- Disposition Outcome: no placement vs. placement

The strength of bivariate relationships was measured with Kendall's rank correlation coefficients tau b and c. Kendall's tau statistic was the most appropriate measure of mutual association for ordinal-level data because it incorporates corrections for ties (Blalock, 1979:436-441). The value of tau ranges from ± 1.00 with ± 1.00 indicating a perfect relationship.

It could be argued that it is inappropriate to use tests of statistical significance on data from study sites where the site cohort is the full population of 1987 cases. This would be true if the only objective of the study was to describe that population. Statistical tests are applied to population parameters in this study to distinguish differences that could have arisen by chance from differences that were unlikely to have arisen by chance. See Blalock, 1979 pp. 241-243 for a discussion of treating population parameters as if they were sample statistics.

Only statistically significant ($p < .05$) tau values that equal or exceed $\pm .10$ are considered substantively meaningful and highlighted in the text. These criteria were established to control for the sensitivity of statistical measures to sample size. While tau values less than $\pm .10$ may be statistically significant in large samples, the magnitude of the tau values and the small percentage differences that are generally associated with these values are too small to be considered substantively meaningful. Conversely, tau values that equal or exceed $\pm .10$ may not be statistically significant when sample sizes are small, even though the percentage differences generally associated with these values are large. This situation occurs when the percentage differences are not large enough given the sample size to draw statistically reliable conclusions.

Sampling Error

It is important to note that all samples are subject to sampling error (i.e., the discrepancy between the sample statistic and corresponding population parameter). The sampling error varies with the size of the sample from which inferences are made. The error range decreases as the sample size increases. As a result, small percentage differences (e.g., 3 percent) are statistically significant ($p < .05$) in large samples while comparable percentage differences in smaller samples are not. Because the number of cases included in the analyses conducted decreased at each successive processing stage, this problem is most apparent, for example, in the post-fact-finding analyses where sample sizes at disposition in some study sites were very small. Although percentage differences in the disposition sample suggested relationships, sample sizes were often too small to draw statistically reliable conclusions about these relationships. In Dutchess County, for example, where 83 cases reached disposition, 45 percent of the cases involving males with JD findings resulted in placement but only 33 percent of those involving females. While the difference between these percentages is substantial, the difference was not statistically significant.

Data Limitations

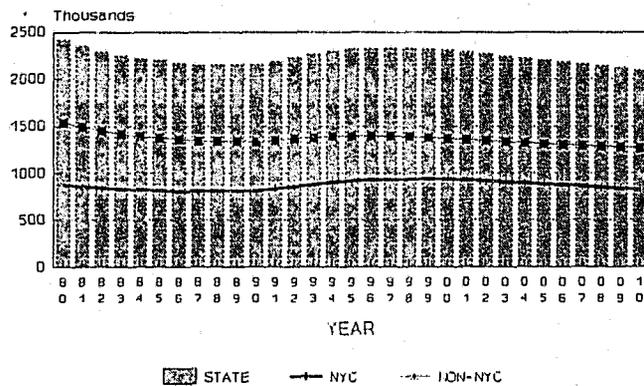
Causal inferences cannot be drawn from bivariate relationships that are found to be statistically significant. For example, a statistically significant relationship between intake outcome and race/ethnicity does not necessarily mean that decisions to adjust or refer cases were influenced by the race/ethnicity of children. If other factors excluded from this bivariate analysis such as seriousness of the current offense or prior JD record were also examined in conjunction with race/ethnicity in a multivariate analyses, the relationship of race/ethnicity to intake outcome might prove to be spurious. Multivariate analyses, which examine the strength and importance of relationships among three or more variables, were not within the confines of this descriptive study.

Juvenile Population Estimates

The Division of Criminal Justice Services contracted the National Planning Association, Inc. (Washington, D.C.) to provide population estimates for the Juvenile Justice Processing Study. This data was mostly used in Chapter Two for determining arrest and police referral rates.

Data presented in this appendix should assist planners when projecting future system resource needs. The 14 and 15 year old populations are also presented separately to identify the juvenile population most likely to enter the juvenile justice system (see Chapter Two).

POPULATION ESTIMATES 7 - 15 YEAR OLDS



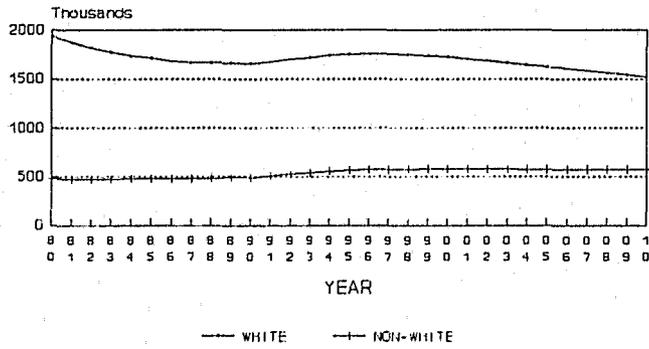
SOURCE: IFA

Figure 2.1A

Table 2.1A. Population Estimates, 7 - 15 Year Olds

Year	New York State	% Change	New York City	% Change	Non-New York City	% Change
1980	2,415,375		880,241		1,535,134	
1981	2,347,840	- 2.9%	858,823	- 2.5%	1,489,017	- 3.1%
1982	2,289,527	- 2.5%	841,009	- 2.1%	1,448,518	- 2.8%
1983	2,249,103	- 1.8%	830,763	- 1.2%	1,418,340	- 2.1%
1984	2,213,579	- 1.6%	822,159	- 1.0%	1,391,420	- 1.9%
1985	2,195,822	- 0.8%	818,598	- 0.4%	1,377,224	- 1.0%
1986	2,164,209	- 1.5%	805,944	- 1.6%	1,358,265	- 1.4%
1987	2,146,832	- 0.8%	807,313	0.2%	1,339,019	- 1.4%
1988	2,149,257	0.1%	810,259	0.3%	1,338,998	0.0%
1989	2,152,668	0.2%	812,928	0.3%	1,339,740	0.1%
1990	2,147,745	- 0.2%	812,592	0.0%	1,335,153	- 0.3%
1991	2,183,721	1.6%	834,685	2.6%	1,349,036	1.0%
1992	2,224,680	1.8%	858,837	2.8%	1,365,843	1.2%
1993	2,257,167	1.4%	880,025	2.4%	1,377,142	0.8%
1994	2,295,579	1.7%	903,477	2.6%	1,392,102	1.1%
1995	2,317,863	1.0%	920,626	1.9%	1,397,237	0.4%
1996	2,322,402	0.2%	926,231	0.6%	1,396,171	- 0.1%
1997	2,325,825	0.1%	931,573	0.6%	1,394,252	- 0.1%
1998	2,320,672	- 0.2%	934,526	0.3%	1,386,146	- 0.6%
1999	2,316,003	- 0.2%	937,715	0.3%	1,378,288	- 0.6%
2000	2,305,192	- 0.5%	938,674	0.1%	1,366,518	- 0.9%
2001	2,284,437	- 0.9%	928,517	- 1.1%	1,355,920	- 0.8%
2002	2,264,097	- 0.9%	918,485	- 1.1%	1,345,612	- 0.8%
2003	2,242,445	- 1.0%	908,066	- 1.1%	1,334,379	- 0.8%
2004	2,220,307	- 1.0%	897,573	- 1.2%	1,322,734	- 0.9%
2005	2,198,177	- 1.0%	887,142	- 1.2%	1,311,035	- 0.9%
2006	2,176,894	- 1.0%	874,154	- 1.5%	1,302,740	- 0.6%
2007	2,156,112	- 1.0%	861,430	- 1.5%	1,294,682	- 0.6%
2008	2,135,734	- 1.0%	848,944	- 1.5%	1,286,790	- 0.6%
2009	2,115,906	- 0.9%	836,697	- 1.5%	1,279,209	- 0.6%
2010	2,090,403	- 1.2%	822,218	- 1.8%	1,268,185	- 0.9%

NEW YORK STATE
POPULATION ESTIMATES
BY RACE/ETHNICITY



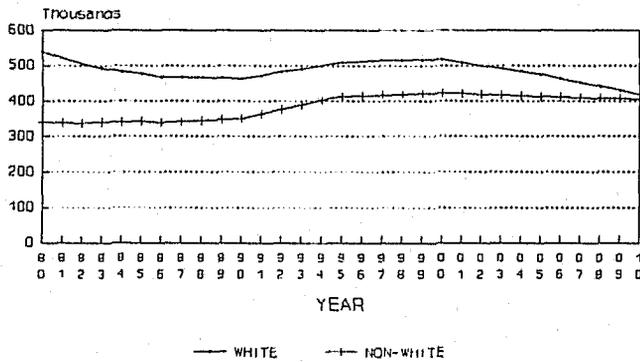
SOURCE: NPA

Figure 2.1B

Table 2.1B. New York State Population Estimates by Race/Ethnicity

Year	White	% Change	Non-White	% Change
1980	1,937,872		477,503	
1981	1,873,534	- 3.4%	474,306	- 0.7%
1982	1,816,523	- 3.1%	473,004	- 0.3%
1983	1,773,615	- 2.4%	475,488	0.5%
1984	1,734,745	- 2.2%	478,834	0.7%
1985	1,714,920	- 1.2%	480,902	0.4%
1986	1,685,468	- 1.7%	478,741	- 0.5%
1987	1,667,771	- 1.1%	479,061	0.1%
1988	1,666,479	- 0.1%	482,778	0.8%
1989	1,665,381	- 0.1%	487,287	0.9%
1990	1,657,752	- 0.5%	489,993	0.6%
1991	1,677,489	1.2%	506,232	3.2%
1992	1,700,974	1.4%	523,706	3.3%
1993	1,718,321	1.0%	538,846	2.8%
1994	1,740,118	1.3%	555,461	3.0%
1995	1,750,048	0.6%	567,815	2.2%
1996	1,752,281	0.1%	570,121	0.4%
1997	1,753,153	0.0%	572,672	0.4%
1998	1,745,521	- 0.4%	575,151	0.4%
1999	1,737,986	- 0.4%	578,017	0.5%
2000	1,725,673	- 0.7%	579,519	0.3%
2001	1,705,171	- 1.2%	579,266	0.0%
2002	1,686,040	- 1.1%	578,057	- 0.2%
2003	1,665,849	- 1.2%	576,596	- 0.3%
2004	1,645,249	- 1.3%	575,058	- 0.3%
2005	1,624,612	- 1.3%	573,565	- 0.3%
2006	1,603,586	- 1.3%	573,308	0.0%
2007	1,582,897	- 1.3%	573,215	0.0%
2008	1,562,443	- 1.3%	573,291	0.0%
2009	1,542,338	- 1.3%	573,568	0.0%
2010	1,518,072	- 1.6%	572,331	- 0.2%

NEW YORK CITY
7 - 15 YEAR OLD POPULATION ESTIMATES
BY RACE/ETHNICITY



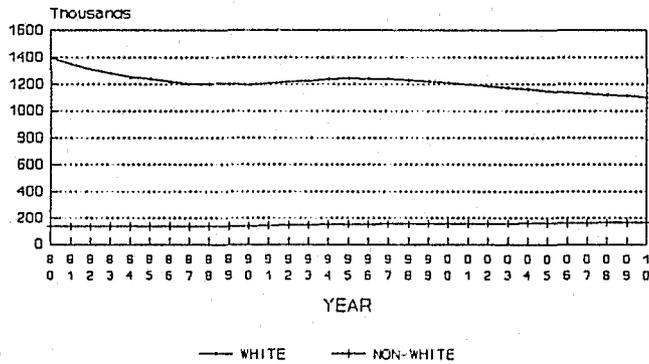
SOURCE: NPA

Figure 2.1C

Table 2.1C. New York City 7 - 15 Year Old Population Estimates by Race/Ethnicity

Year	White	% Change	Non-White	% Change
1980	539,608		340,633	
1981	520,864	- 3.6%	337,959	- 0.8%
1982	504,302	- 3.3%	336,707	- 0.4%
1983	492,791	- 2.3%	337,972	0.4%
1984	482,330	- 2.2%	339,829	0.5%
1985	477,332	- 1.0%	341,266	0.4%
1986	467,025	- 2.2%	338,919	- 0.7%
1987	466,927	0.0%	340,886	0.6%
1988	466,359	- 0.1%	343,900	0.9%
1989	465,504	- 0.2%	347,424	1.0%
1990	462,919	- 0.6%	349,673	0.6%
1991	471,985	1.9%	362,700	3.6%
1992	482,185	2.1%	376,652	3.7%
1993	490,951	1.8%	389,074	3.2%
1994	500,949	2.0%	402,528	3.3%
1995	507,715	1.3%	412,911	2.5%
1996	511,513	0.7%	414,718	0.4%
1997	514,891	0.7%	416,682	0.5%
1998	515,915	0.2%	418,611	0.5%
1999	516,899	0.2%	420,816	0.5%
2000	516,593	- 0.1%	422,081	0.3%
2001	507,884	- 1.7%	420,633	- 0.3%
2002	499,893	- 1.6%	418,592	- 0.5%
2003	491,689	- 1.7%	416,377	- 0.5%
2004	483,430	- 1.7%	414,143	- 0.5%
2005	475,201	- 1.7%	411,941	- 0.5%
2006	463,707	- 2.5%	410,447	- 0.4%
2007	452,342	- 2.5%	409,088	- 0.3%
2008	441,082	- 2.6%	407,862	- 0.3%
2009	429,917	- 2.6%	406,780	- 0.3%
2010	417,596	- 3.0%	404,622	- 0.5%

NON-NEW YORK CITY
7-15 YEAR OLD POPULATION ESTIMATES
BY RACE/ETHNICITY



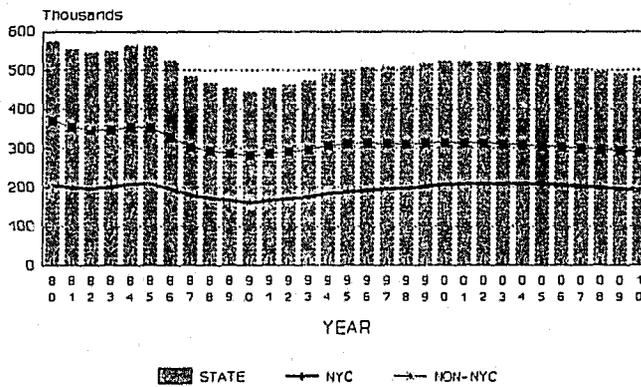
SOURCE: NPA

Figure 2.1D

Table 2.1D. Non-New York City Population Estimates by Race/Ethnicity

Year	White	% Change	Non-White	% Change
1980	1,398,264		136,870	
1981	1,352,670	- 3.4%	136,347	- 0.4%
1982	1,312,221	- 3.1%	136,297	0.0%
1983	1,280,824	- 2.5%	137,516	0.9%
1984	1,252,415	- 2.3%	139,005	1.1%
1985	1,237,588	- 1.2%	139,636	0.5%
1986	1,218,443	- 1.6%	139,822	0.1%
1987	1,200,844	- 1.5%	138,175	- 1.2%
1988	1,200,120	- 0.1%	138,878	0.5%
1989	1,199,877	0.0%	139,863	0.7%
1990	1,194,833	- 0.4%	140,320	0.3%
1991	1,205,504	0.9%	143,532	2.2%
1992	1,218,789	1.1%	147,054	2.4%
1993	1,227,370	0.7%	149,772	1.8%
1994	1,239,169	1.0%	152,933	2.1%
1995	1,242,333	0.3%	154,904	1.3%
1996	1,240,768	- 0.1%	155,403	0.3%
1997	1,238,262	- 0.2%	155,990	0.4%
1998	1,229,606	- 0.7%	156,540	0.4%
1999	1,221,087	- 0.7%	157,201	0.4%
2000	1,209,080	- 1.0%	157,438	0.2%
2001	1,197,287	- 1.0%	158,633	0.8%
2002	1,186,147	- 0.9%	159,465	0.5%
2003	1,174,160	- 1.0%	160,219	0.5%
2004	1,161,819	- 1.1%	160,915	0.4%
2005	1,149,411	- 1.1%	161,624	0.4%
2006	1,139,879	- 0.8%	162,861	0.8%
2007	1,130,555	- 0.8%	164,127	0.8%
2008	1,121,361	- 0.8%	165,429	0.8%
2009	1,112,421	- 0.8%	166,788	0.8%
2010	1,100,476	- 1.1%	167,709	0.5%

ESTIMATED POPULATIONS 14 - 15 YEAR OLDS



SOURCE: NPA

Figure 2.1E

Table 2.1E. Estimated Populations, 14 - 15 Year Olds

Year	New York State	% Change	New York City	% Change	Non-New York City	% Change
1980	575,569		205,077		370,492	
1981	553,213	- 4.0%	198,844	- 3.1%	354,369	- 4.5%
1982	545,156	- 1.5%	197,815	- 0.5%	347,341	- 2.0%
1983	549,720	0.8%	201,514	1.8%	348,206	0.2%
1984	562,974	2.4%	208,520	3.4%	354,454	1.8%
1985	562,218	- 0.1%	209,446	0.4%	352,772	- 0.5%
1986	525,145	- 7.1%	195,829	- 7.0%	329,316	- 7.1%
1987	483,357	- 8.6%	180,368	- 8.6%	302,989	- 8.7%
1988	466,421	- 3.6%	172,586	- 4.5%	293,835	- 3.1%
1989	454,767	- 2.6%	166,760	- 3.5%	288,007	- 2.0%
1990	443,625	- 2.5%	161,153	- 3.5%	282,472	- 2.0%
1991	453,464	2.2%	166,115	3.0%	287,349	1.7%
1992	462,888	2.0%	170,756	2.7%	292,132	1.6%
1993	472,365	2.0%	175,439	2.7%	296,926	1.6%
1994	492,071	4.0%	183,908	4.6%	308,163	3.6%
1995	500,676	1.7%	188,293	2.3%	312,383	1.4%
1996	506,175	1.1%	192,650	2.3%	313,525	0.4%
1997	508,218	0.4%	195,581	1.5%	312,637	- 0.3%
1998	509,396	0.2%	198,304	1.4%	311,092	- 0.5%
1999	516,267	1.3%	203,196	2.4%	313,071	0.6%
2000	522,138	1.1%	207,675	2.2%	314,463	0.4%
2001	521,913	0.0%	208,270	0.3%	313,643	- 0.3%
2002	521,870	0.0%	208,907	0.3%	312,963	- 0.2%
2003	520,292	- 0.3%	208,967	0.0%	311,325	- 0.5%
2004	518,051	- 0.4%	208,773	- 0.1%	309,278	- 0.7%
2005	515,290	- 0.5%	208,370	- 0.2%	306,920	- 0.8%
2006	509,265	- 1.2%	205,227	- 1.5%	304,038	- 0.9%
2007	503,093	- 1.2%	202,034	- 1.6%	301,059	- 1.0%
2008	496,855	- 1.3%	198,835	- 1.6%	298,020	- 1.0%
2009	490,726	- 1.2%	195,688	- 1.6%	295,038	- 1.0%
2010	483,527	- 1.5%	192,121	- 1.9%	291,406	- 1.2%

APPENDIX 2.2

Arrests by UCR Offenses: Juveniles Aged Seven through 15, 1987-1989

Table 2.2A

	STATE			NYC			REST OF STATE		
	1987	1988	% Chg	1987	1988	% Chg	1987	1988	% Chg
ALL OFFENSES	79,139	70,043	- 11.5%	47,480	37,727	- 20.5%	31,659	32,316	2.1%
Violent Offenses	9,666	11,533	19.4%	6,322	7,827	23.8%	3,343	3,716	11.2%
Murder ¹	33	64	93.9%	24	55	129.2%	9	9	0%
Forcible Rape	177	213	20.3%	120	144	20.0%	57	69	21.1%
Robbery	2,890	3,425	18.5%	2,555	3,127	22.4%	335	298	- 11.0%
Aggravated Assault Negligent	1,983	2,211	11.5%	1,453	1,511	4.0%	530	700	32.1%
Manslaughter	1	1	0.0%	0	1	NA	1	0	100.0%
Kidnapping	3	17	466.7%	2	6	200.0%	1	11	1000.0%
Sex Offenses	781	844	8.1%	264	278	5.3%	517	566	9.5%
Coercion	13	15	15.4%	4	9	125.0%	9	6	- 33.3%
Simple Assault	3,785	4,754	25.6%	1,900	2,697	42.0%	1,885	2,057	9.1%
Property Offenses	48,820	38,886	- 20.4%	30,066	19,799	- 34.2%	18,748	19,089	1.8%
Burglary	3,865	3,661	- 5.3%	742	653	- 12.0%	3,123	3,008	- 3.7%
Larceny-Theft	11,894	12,519	5.3%	3,186	3,561	11.8%	8,708	8,958	2.9%
Motor Vehicle Theft	1,529	2,445	59.9%	1,111	2,001	80.1%	418	444	6.2%
Arson	339	397	17.1%	42	35	- 16.7%	297	362	21.9%
Extortion	22	12	- 45.5%	18	8	- 55.6%	4	4	0%
Forgery	110	103	- 6.4%	23	27	17.4%	87	76	- 12.6%
Stolen Property	1,276	1,508	18.2%	356	432	21.4%	920	1,076	17.0%
Criminal Mischief	6,795	6,611	- 2.7%	2,238	2,179	- 2.6%	4,557	4,432	- 2.7%
Fraud	22,109	10,494	- 52.5%	22,047	10,444	- 52.6%	62	50	- 19.4%
Embezzlement	10	6	- 40.0%	6	4	- 33.3%	4	2	- 50.0%
Unauthorized Use of Motor Vehicle	871	1,136	30.4%	303	459	51.5%	568	677	19.2%
Drug Offenses	1,817	2,651	44.0%	1,329	2,024	52.3%	488	627	28.5%
Drug Sale	1,002	1,504	50.1%	861	1,366	58.7%	141	138	- 2.1%
Drug Possession	815	1,147	40.7%	468	658	40.6%	347	489	40.9%
Other Offenses	18,832	16,960	- 9.9%	9,757	8,037	- 17.6%	9,079	8,884	- 2.1%
Dangerous Weapons	961	1,147	19.4%	572	675	18.0%	389	472	21.3%
Bribery	1	5	400.0%	1	3	200.0%	0	2	NA
Prostitution	22	26	18.2%	11	16	45.5%	11	10	- 9.1%
Gambling	12	30	150.0%	11	30	172.7%	1	0	- 100.0%
Offenses against Public Order	423	402	- 5.0%	17	35	105.9%	406	367	- 9.6%
Offenses against Family	163	155	- 4.9%	1	3	200.0%	154	160	3.9%
DWI	11	23	109.1%	3	1	- 66.7%	20	10	- 50.0%
Possession of Burglars' Tools	58	57	- 1.7%	31	35	12.9%	27	22	- 18.5%
Other F/P Offenses	2,898	2,970	2.5%	1,433	1,507	5.2%	1,465	1,463	- 0.1%
Liquor Law	287	273	- 4.9%	135	131	- 3.0%	152	142	- 6.6%
Disorderly Conduct	3,739	4,055	8.5%	2,230	2,540	13.9%	1,509	1,515	0.4%
Public Intoxication	11	8	- 27.3%	0	2	NA	11	6	- 45.5%
Loitering	865	578	- 33.2%	782	516	- 34.0%	83	62	- 25.3%
Other	9,381	7,231	- 22.9%	4,530	2,578	- 43.1%	4,851	4,653	- 4.1%

¹Includes Non-negligent Manslaughter

Note: Percentage changes are sensitive to relatively small absolute numbers. When both numbers used to calculate percentage changes are low, changes should be interpreted with caution. In addition, the percentage change is not a valid indicator of change when the number reported for the base year (1987) is zero (0). In such instances the notation "NA" is used.

Source: DCJS UCR.

Table 2.2B

	STATE			NYC			REST OF STATE		
	1988	1989	% Chg	1988	1989	% Chg	1988	1989	% Chg
ALL OFFENSES	70,043	65,274	- 7%	37,727	31,940	- 15%	32,316	33,334	3%
Violent Offenses	11,533	13,419	16%	7,827	9,245	18%	3,716	4,174	12%
Murder ¹	64	62	- 3%	55	56	2%	9	6	- 33%
Forcible Rape	213	213	0%	144	131	- 9%	69	82	19%
Robbery	3,425	4,672	36%	3,127	4,302	38%	298	370	24%
Aggravated Assault	2,211	2,260	2%	1,511	1,600	6%	700	660	- 6%
Negligent Manslaughter	1	0	- 100%	1	0	- 100%	0	0	0%
Kidnapping	17	10	- 41%	6	3	- 50%	11	7	- 36%
Sex Offenses	844	904	7%	278	283	2%	566	621	10%
Coercion	15	26	73%	9	4	- 56%	6	22	267%
Simple Assault	4,754	5,272	11%	2,697	2,866	6%	2,057	2,406	17%
Property Offenses	38,886	32,348	- 17%	19,799	12,947	- 35%	19,089	19,401	2%
Burglary	3,661	3,607	- 1%	653	625	- 4%	3,008	2,982	- 1%
Larceny-Theft	12,519	12,001	- 4%	3,561	3,123	- 12%	8,958	8,878	- 1%
Motor Vehicle Theft	2,445	2,821	15%	2,001	2,170	8%	444	651	47%
Arson	397	333	- 16%	35	30	- 14%	362	303	- 16%
Extortion	12	12	0%	8	9	13%	4	3	- 25%
Forgery	103	62	- 40%	27	9	- 67%	76	53	- 30%
Stolen Property	1,508	1,738	15%	432	497	15%	1,076	1,241	15%
Criminal Mischief	6,611	6,754	2%	2,179	2,163	- 1%	4,432	4,591	4%
Fraud	10,494	3,820	- 64%	10,444	3,759	- 64%	50	61	22%
Embezzlement	6	17	183%	4	6	50%	2	11	450%
Unauthorized Use of Motor Vehicle	1,136	1,183	4%	459	556	21%	677	627	- 7%
Drug Offenses	2,651	2,712	2%	2,024	2,016	- 1%	627	696	11%
Drug Sale	1,504	1,597	6%	1,366	1,455	7%	138	142	3%
Drug Possession	1,147	1,115	- 3%	658	561	- 15%	489	554	13%
Other Offenses	16,960	16,795	- 1%	8,037	7,732	- 4%	8,884	9,063	2%
Dangerous Weapons	1,147	1,068	- 7%	675	548	- 19%	472	520	10%
Bribery	5	6	20%	3	1	- 67%	2	5	150%
Prostitution	26	11	- 58%	16	5	- 69%	10	6	- 40%
Gambling	30	21	- 30%	30	20	- 33%	0	1	NA
Offenses against Public Order	402	284	- 29%	35	29	- 17%	367	255	- 31%
Offenses against Family	155	165	6%	3	1	- 67%	160	164	3%
DWI	23	15	- 35%	1	1	0%	10	14	40%
Possession of Burglars' Tools	57	64	12%	35	20	- 43%	22	44	100%
Other F/P Offenses	2,970	3,163	7%	1,507	1,576	5%	1,463	1,587	8%
Liquor Law	273	237	- 13%	131	104	- 21%	142	133	- 6%
Disorderly Conduct	4,055	3,748	- 8%	2,540	2,256	- 11%	1,515	1,492	- 2%
Public Intoxication	8	16	100%	2	9	350%	6	7	17%
Loitering	578	571	- 1%	516	477	- 8%	62	94	52%
Other	7,231	7,426	3%	2,578	2,685	4%	4,653	4,741	2%

¹Includes Non-negligent Manslaughter

Note: Percentage changes are sensitive to relatively small absolute numbers. When both numbers used to calculate percentage changes are low, changes should be interpreted with caution. In addition, the percentage change is not a valid indicator of change when the number reported for the base year (1987) is zero (0). In such instances the notation "NA" is used.

Source: DCJS UCR.

Reasons Identified by Probation Officers for Referring Intake Cases to Presentment Agencies in Study Sites Outside New York City^a

Referral Reason	Large Urban Counties		Mid-Size Urban Counties		Rural County
	Erie %	Monroe %	Albany %	Dutchess %	Clinton %
No Discretion					
Complainant Insists	4	25	86	29	18
Juvenile/Family Insists	1	5	<1	12	4
Complainant Non-Appearance	1	1	0	1	0
Juvenile Non-Appearance	13	11	1	14	0
Limited Discretion (requiring court and/or presentment agency approval to adjust)					
Designated Felony	1	1	2	1	2
FCA §308.1(4)	2	2	3	3	2
Full Discretion^b					
Maintained Innocence	21	9	3	15	0
Declined to Participate	<1	7	1	1	0
Current Probation/Placement Status	14	16	3	17	0
Pending Cases	9	7	1	7	0
Prior Cases/Rearrest	15	8	1	6	7
Seriousness of Offense	11	<1	0	0	0
Restitution	2	5	1	4	21
Court Intervention Necessary	1	5	<1	3	0
Needs Extensive Services/Placement	1	2	10	3	18
Treatment Resources Inadequate	0	2	5	1	4
Attempt at Adjustment Failed	3	11	4	8	18
Other	10	15	4	7	11
Unknown	25	4	1	4	0
	(n=318)	(n=448)	(N=302)	(N=191)	(N=28)

^a Referral percentages for a given site may add to more than 100 percent. This is because multiple reasons for referral were often indicated by probation officers.

^b While the Family Court Act does not prevent or place limitations on the ability of probation intake to adjust cases in these situations, local probation department policies may place restrictions on discretion.

APPENDIX 3.2

Intake Discretion Status of 1988 (June 1 to August 31) Intake Cases Referred to New York City's Presentment Agencies in Queens and Richmond Counties

	Queens County %	Richmond County %
Discretion Status		
Lacking Full Discretion		
No Discretion ^a	65	79
Limited Discretion ^b	14	3
Both ^c	2	8
Full Discretion	19	9
	(N=411)	(N=95)

^a Cases referred because of juvenile or complainant insistence on non-appearance. Approval to adjust cannot be provided by either the court or presentment agency in these situations.

^b Requires court and, in some circumstances, presentment agency approval to adjust.

^c Cases in which both *no discretion* and *limited discretion* apply.

Reasons Identified by Probation Officers for the Referral of 1988 (June 1 to August 31) JD Intake Cases to New York City's Presentment Agencies in Queens and Richmond Counties^a

Referral Reason	Queens County %	Richmond County %
No Discretion		
Complainant Insists	17	73
Juvenile/Family Insists	1	6
Complainant Non-Appearance	43	10
Juvenile Non-Appearance	18	12
Limited Discretion		
Designated Felony	2	7
FCA §308.1(4)	14	5
Full Discretion^b		
Maintained Innocence	23	18
Declined to Participate	8	7
Current Probation/Placement Status	4	9
Pending Cases	13	18
Court Intervention Necessary	1	5
Treatment Result Inadequate	< 1	2
Attempt at Adjustment Failed	1	2
Other	18	2
Unknown Cases	4	1
	(N=426)	(N=96)

^a Referral percentages for a given site may add to more than 100 percent. This is because multiple reasons for referral were often indicated by probation officers.

^b While the Family Court Act does not prevent or place limitations on the ability of probation intake to adjust cases in these situations, local probation department policies may place restrictions on discretion.

Top Arrest Offenses vs. Top Petition Offenses for Petitioned Cases

Table 4.A. Top Arrest Offenses vs. Top Petition Offenses for Petitioned Cases in New York City

Type of Arrest Offenses	FELONY PETITION OFFENSES					MISDEMEANOR PETITION OFFENSES		(N)
	A %	B %	C %	D %	E %	A %	B %	
Felony								
A	50	27	0	19	0	4	0	(26)
B	1	87	5	5	1	3	0	(600)
C	<1	2	83	8	4	3	<1	(936)
D	<1	3	8	72	11	5	1	(1,723)
E	0	1	7	21	64	7	0	(537)
Misdemeanor								
A	0	2	4	11	6	76	1	(833)
B	1	8	1	23	3	19	46	(80)

Table 4.B. Top Arrest Offenses vs. Top Petition Offenses for Petitioned Cases in Erie County

Type of Arrest Offenses	FELONY PETITION OFFENSES					MISDEMEANOR PETITION OFFENSES		(n)
	A %	B %	C %	D %	E %	A %	B %	
Felony								
A	0	0	0	0	0	0	0	(0)
B	0	83	8	0	0	8	0	(12)
C	0	0	86	2	0	11	0	(44)
D	0	0	9	66	0	26	0	(47)
E	0	0	8	4	50	38	0	(24)
Misdemeanor								
A	0	0	1	6	5	88	1	(182)
B	0	0	0	0	0	0	100	(1)

Table 4.C. Top Arrest Offenses vs. Top Petition Offenses for Petitioned Cases in Albany County

Type of Arrest Offenses	FELONY PETITION OFFENSES					MISDEMEANOR PETITION OFFENSES		(n)
	A %	B %	C %	D %	E %	A %	B %	
Felony								
A	0	0	0	0	0	0	0	(0)
B	0	90	0	10	0	0	0	(10)
C	0	0	91	2	4	2	0	(46)
D	0	0	0	96	2	2	0	(57)
E	0	0	0	0	96	5	0	(22)
Misdemeanor								
A	0	0	0	3	1	96	0	(121)
B	0	0	0	0	0	18	82	(11)

Table 4.D. Top Arrest Offenses vs. Top Petition Offenses for Petitioned Cases in Dutchess County

Type of Arrest Offenses	FELONY PETITION OFFENSES					MISDEMEANOR PETITION OFFENSES		(N)
	A %	B %	C %	D %	E %	A %	B %	
Felony								
A	0	0	0	0	0	0	0	(0)
B	0	100	0	0	0	0	0	(5)
C	0	0	90	5	0	5	0	(21)
D	0	0	4	81	4	11	0	(27)
E	0	0	0	7	64	29	0	(14)
Misdemeanor								
A	0	0	0	3	0	98	0	(80)
B	0	0	0	0	0	11	89	(9)

Table 4.E. Top Arrest Offenses vs. Top Petition Offenses for Petitioned Cases in Clinton County

Type of Arrest Offenses	FELONY PETITION OFFENSES					MISDEMEANOR PETITION OFFENSES		(N)
	A %	B %	C %	D %	E %	A %	B %	
Felony								
A	0	0	0	0	0	0	0	(0)
B	0	100	0	0	0	0	0	(2)
C	0	0	100	0	0	0	0	(4)
D	0	0	11	89	0	0	0	(9)
E	0	0	0	0	0	0	0	(0)
Misdemeanor								
A	0	0	0	0	9	91	0	(11)
B	0	0	0	0	0	0	0	(0)

APPENDIX 5

Petition vs. Adjudicated Offenses for Petitioned Cases

Table 5.A. Petition vs. Adjudicated Offenses for Petitioned Cases in New York City

PETITION OFFENSES	ADJUDICATED OFFENSES								(N)
	Felony					Misdemeanor			
	A %	B %	C %	D %	E %	A %	B %		
Felony									
A	9	0	36	9	0	46	0	(11)	
B	-	19	5	15	4	55	3	(367)	
C	-	-	24	11	20	40	5	(530)	
D	-	-	-	18	8	64	10	(901)	
E	-	-	-	-	20	78	3	(356)	
Misdemeanor									
A	-	-	-	-	-	90	10	(393)	
B	-	-	-	-	-	-	100	(27)	

Table 5.B. Petition vs. Adjudicated Offenses for Petitioned Cases in Nassau County

PETITION OFFENSES	ADJUDICATED OFFENSES ^a								(N)
	Felony					Misdemeanor			
	A %	B %	C %	D %	E %	A %	B %		
Felony									
A	0	0	0	0	0	0	0	(0)	
B	-	32	16	26	0	26	0	(19)	
C	-	-	27	8	19	46	0	(37)	
D	-	-	-	23	15	59	2	(65)	
E	-	-	-	-	35	66	0	(29)	
Misdemeanor									
A	-	-	-	-	-	97	3	(154)	
B	-	-	-	-	-	-	100	(19)	

^a Adjudication offense data were missing in 11 percent of the Nassau County cases in which allegation were established.

Table 5.C. Petition vs. Adjudicated Offenses for Petitioned Cases in Erie County

PETITION OFFENSES	ADJUDICATED OFFENSES								(n)
	Felony					Misdemeanor			
	A %	B %	C %	D %	E %	A %	B %		
Felony									
A	0	0	0	0	0	0	0	0	(0)
B	-	0	0	50	0	0	50	0	(4)
C	-	-	0	0	0	84	16	0	(19)
D	-	-	-	29	0	71	0	0	(17)
E	-	-	-	-	10	90	0	0	(10)
Misdemeanor									
A	-	-	-	-	-	95	5	0	(92)
B	-	-	-	-	-	-	100	0	(2)

Table 5.D. Petition vs. Adjudicated Offenses for Petitioned Cases in Albany County

PETITION OFFENSES	ADJUDICATED OFFENSES								(N)
	Felony					Misdemeanor			
	A %	B %	C %	D %	E %	A %	B %		
Felony									
A	0	0	0	0	0	0	0	0	(0)
B	-	38	0	38	13	13	0	0	(8)
C	-	-	50	0	11	36	3	0	(36)
D	-	-	-	45	2	45	8	0	(51)
E	-	-	-	-	52	43	5	0	(21)
Misdemeanor									
A	-	-	-	-	-	97	3	0	(67)
B	-	-	-	-	-	-	100	0	(5)

Table 5.E. Petition vs. Adjudicated Offenses for Petitioned Cases in Dutchess County

PETITION OFFENSES	ADJUDICATED OFFENSES ^a							
	Felony					Misdemeanor		(N)
	A %	B %	C %	D %	E %	A %	B %	
Felony								
A	0	0	0	0	0	0	0	(0)
B	-	100	0	0	0	0	0	(1)
C	-	-	22	22	11	44	0	(9)
D	-	-	-	60	13	27	0	(15)
E	-	-	-	-	50	50	0	(4)
Misdemeanor								
A	-	-	-	-	-	94	6	(35)
B	-	-	-	-	-	-	100	(4)

^a Adjudication offense data were missing in 17 percent of the Dutchess County cases in which allegations were established.

Table 5.F. Petition vs. Adjudicated Offenses for Petitioned Cases in Clinton County

PETITION OFFENSES	ADJUDICATED OFFENSES							
	Felony					Misdemeanor		(N)
	A %	B %	C %	D %	E %	A %	B %	
Felony								
A	0	0	0	0	0	0	0	(0)
B	-	0	0	50	50	0	0	(2)
C	-	-	100	0	0	0	0	(3)
D	-	-	-	100	0	0	0	(4)
E	-	-	-	-	0	100	0	(1)
Misdemeanor								
A	-	-	-	-	-	100	0	(7)
B	-	-	-	-	-	-	0	(0)

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CCH	Computerized Criminal History System
CPL	New York State Criminal Procedure Law
DCJS	New York State Division of Criminal Justice Services
FBI	U.S. Department of Justice, Federal Bureau of Investigation
FCA	New York State Family Court Act
IJA/ABA	Institute for Judicial Administration/American Bar Association
NACCJSG	National Advisory Commission on Criminal Justice Standards and Goals
NCJJ	National Center for Juvenile Justice
NDA	National District Attorney Association
NYSBA	New York State Bar Association
PL	New York State Penal Law
RISLG/ALEC	Rose Institute of State and Local Government and the American Legislative Exchange Council
UCR	Uniform Crime Reporting Program

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