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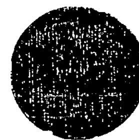

Victim Assistance in the Juvenile Justice System:

164867

A Resource Manual

This manual is a publication of the

NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE

under a cooperative agreement (number 95-MU-MU-K013)

Office for Victims of Crime
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Advocating for the Fair Treatment of Crime Victims

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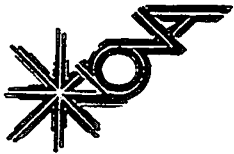

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Victim Assistance in the Juvenile Justice System: A Resource Manual

Outline of Main Points, with Citations to Materials

Chapter One: Overview of the Juvenile Crime

A. Prevalence and nature of juvenile crime

1. Highlights 1-1

a. States vary in who they define as a juvenile
- The upper age of juvenile court jurisdiction in delinquency matters is defined by state statute — most put the upper age at 17
- In most States, juvenile court authority over a youth may extend beyond the upper age of original jurisdiction

b. Amount of crime in the U.S. caused by juveniles
- Victims attributed about 1 in 4 personal crimes to juvenile offenders in 1991
- In 1992, juveniles were responsible for:
  13% of all violent crimes
  23% of all property crimes
- By nature of offense, juveniles were responsible for:
  9% of murders
  12% of aggravated assaults
  14% of forcible rapes
  16% of robberies
  20% of burglaries
  23% of larceny-thefts
  24% of motor vehicle thefts
  42% of arsons
- One in 7 serious violent crimes involved juveniles in groups
- Law enforcement agencies made nearly 2.3 million arrests of persons under age 18 in 1992
- Between 1988 and 1991 there was a 38% increase in the rate of juvenile arrests for violent crime
- Most juveniles have broken the law, fewer have an official record, and a very few were responsible for the majority of offending
- If trends continue as they have over the past 10 years, juvenile arrests for violent crime will double by the year 2010
- States with the highest juvenile violent crime arrest rates were:
  New York
  Florida
  New Jersey
  Maryland
  California
- States with the highest juvenile property crime arrest rates were:
  Utah
  Wisconsin
  Washington
  Colorado
  Idaho

c. Gun possession
- Many high school students say they carry weapons, but few carry guns
- A study in Rochester, New York showed a strong relationship among illegal gun ownership, delinquency, and drug abuse
- Gun possession is common for serious juvenile offenders and some inner-city high school students
- The main reason for gun possession was given as self-protection
- Juvenile arrest rate for weapons violations increased 75% between 1987 and 1992
- More than half of murdered juveniles were killed by firearms

d. Gang involvement
- Definition of a gang is dependent upon:
  - —group involvement in violence and other crime
  - —the use of identifying symbols
  - —internal laws, structure, and organization
  - —leadership hierarchies
  - —control of specific geographic territories
  - —planned recurrent interaction
- Gang members may be identified as:
  - —leaders
  - —core members
  - —fringe members
  - —"wannabes"
  - Gang crime may be:
  - —*member defined*—offenses involving gang members as perpetrators or victims
  - —*motive defined*—offenses committed on behalf of a gang such as defense of territory, intimidation, witness intimidation, or graffiti
- Gangs in the 1990's are characterized by diversity
- Gang activity has extended beyond the inner city of major population centers into smaller cities, suburbs, and rural communities
- Juvenile involvement in gangs varies by the length of time the gang has been in existence
- About half of reported gang-related crime is violent crime
- Ethnicity of gang members is estimated to be about:
  48% African-American
  43% Hispanic
  5% Asian
  4% white
- Gangs in schools increases the likelihood that students are victimized

e. Homicide among juveniles
- The number of known juvenile homicide offenders has more than doubled in recent years while adult offenders increased by 20%
- Nearly one-third of juvenile murder victims are strangers, over half are friends and acquaintances, and about 15% are family members
- In 1991 78% of juvenile homicide offenders killed with a gun, up from 59% in 1976
- Multiple offender killings have more than doubled since the mid-1980's

2. Materials 1-16

a. Chapter 4: "Juvenile justice system structure and process," *Juvenile Offenders and Victims: A National Report,* Howard Snyder and Melissa Sickmund,

National Center for Juvenile Justice; Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C., August, 1995, p. 73 (hereafter *Juvenile Offenders and Victims: A National Report*) 1-16
b. Chapter 3: "Juvenile offenders," *Juvenile Offenders and Victims: A National Report* 1-17
c. Chapter 5: "Law enforcement and juvenile crime," *Juvenile Offenders and Victims: A National Report* 1-49

B. Characteristics of victims of juvenile offenders
1. Highlights 1-6
a. Juvenile victims
- In 1992, violent victimizations against juveniles accounted for:
  23% of the 6.62 million crimes of violence
  1/4 of 5.26 million assaults
  1/5 of 1.23 million robberies
- Persons most likely to be victimized by juveniles are individuals between 12 and 19. The offender is a juvenile in nearly half of such victimizations.
- Black males 14-17 are five times more likely to be victimized than white counterparts — this is the highest rate of any age/sex cohort
- Juvenile victims know their offenders in over 75% of the cases
- Any juvenile between ages 12 and 17 is more likely to be the victim of a violent crime than are persons past their mid-twenties
- The risk of violent victimization for a 29 year old in 1991 was less than one half of that faced by a 17 year old
- Injury is the leading cause of death for youth under age 20. More than 1 in 5 injury deaths result from homicide.
- In 1992, juveniles were murdered at an average of 7 per day
- 24% of all juveniles are murdered by juveniles
- 60% of homicide victims under 10 were killed by a parent, those between 10 and 17 by a friend or acquaintance

b. Adult victims
- Adults are direct victims of juvenile crime in less than one-quarter of violent crimes
- Adults are secondary victims of juvenile crime when their children are victimized by juveniles
- In the 839,400 crimes for which juveniles were arrested in 1992, adults have been either primary or secondary victims
- While the elderly are victims of juvenile crime in less than 1% of violent crimes, many elderly fear juveniles more than other age groups

c. Juveniles and adults are victims of property crimes
- Juveniles account for 33% of all property crime arrests
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a. Impact of crime on victims
- Financial injury
- Physical injury

- Emotional injury
- Social injury
- Injuries from second assaults

b. Juvenile victims
- Juvenile victims suffer less direct financial dollar loss than adults
- Juvenile victims suffer physical injury from crime but incur fewer serious physical injuries than adults
- Juvenile victims may have a more complicated emotional reaction to victimization than adults
- Most personal crimes with juvenile victims occur in school, on school property, or on the way to school. There is no comparable place where crimes against adults is concentrated.
- While law enforcement response is similar to crimes committed against juvenile and adult victims, only 20% of juvenile personal victimization is brought to the attention of the police

c. Unique issues of victimization by juvenile offenders
- Increased sense of powerlessness
- Intimidation and fear may be more pervasive
- Increased anger and frustration due to lack of access to the juvenile justice system and perception that the juvenile justice system is inadequate
- Increased shame and humiliation
- Self-blame if the juvenile is a part of the family or neighborhood

2. Materials 1-100

a. "Crime Victims of Juvenile Offenders," Victor D. Stone, U.S. Department of Justice, Washington, D.C., March, 1995 1-100

b. "Crime Victims of Juvenile Offenders," Victor D. Stone, Criminal Division, U.S. Department of Justice, Washington, D.C., September, 1995 1-110

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A. The juvenile justice system

1. Highlights 2-1

a. Flow chart of juvenile justice system

b. Flow chart of adult criminal system

c. Differences between juvenile justice system and the criminal system
- Terminology
  - —Delinquency
  - —Detention
  - —Status offense
  - —Adjudicatory hearing
  - —Case intake
- The juvenile justice system:
  - —Is less formal or adversarial
  - —Rarely uses jury trials
  - —Uses mediation and probation more often
  - —Uses diversion more often
  - —May not include victim participation
  - —Has lower priority in allocation of resources
  - —Maintains higher levels of confidentiality for defendants

d. Philosophical considerations in the juvenile justice system
- Retributive justice
- Rehabilitative justice
- Reparative justice
- Restitutive justice
- Individual treatment interventions
- Competency based interventions
- Adversarial decision-making
- Consensus decision-making

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a. Flow Chart of Juvenile Justice System, NOVA, July, 1995 2-11
b. Chapter 4: "Juvenile justice system, structure and process," *Juvenile Offenders and Victims: A National Report*, pp. 69-72 2-12
c. "Exploring a Competency Development Model for Juvenile Justice Intervention," G. Bazemore and P. Cruise, *Perspectives*, Fall, 1995 2-16

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- Public perception of juvenile crime and justice
- Confidentiality
- Reduction of the age at which juveniles may be transferred to criminal court
- Standards and process for waiving juveniles to adult criminal courts
- Case decision-making and disposition, including:
  - —Likelihood of arrest and detention
  - —Diversion trends
  - —The process of adjudication
  - —Probation trends
  - —Alternatives to incarceration and sanctions

b. Public perceptions of juvenile justice
- Citizens believe serious crime has increased in their states
- The public does not feel that serious juvenile crime has increased in their neighborhoods, nor are they afraid to walk alone within one mile of their homes at night
- The public feels the main purpose of juvenile courts should be to rehabilitate young law violators
- Citizens believe juveniles should receive the same due process protections as adults
- Depending upon the crime, 50% to almost 70% of the public favor trying juveniles who commit serious crimes (felonies) in adult courts
- The public does not favor giving juveniles the same sentences as adults, nor do most citizens support sentencing juveniles to adult prisons
- If given the option, the public would strongly favor a youth correction system that largely emphasizes the use of community-based treatment programs
- The public prefers spending state juvenile crime control funds on community-based programs as compared to training schools and other residential services
- The public does not feel that training schools are particularly effective in rehabilitating delinquents or acting as a deterrent to juvenile crime
- The public feels juveniles who commit serious violent crimes should be committed to some type of youth correctional facility

- The public feels juveniles found guilty of using drugs or selling small amounts of drugs should receive more lenient sentences than those convicted of selling large amounts of drugs
- Citizens believe juveniles who are repeat offenders should receive harsher sentences than first time offenders

  (Center for the Study of Youth Policy, University of Michigan, April, 1992)

c. Confidentiality
- Law enforcement, schools want information to identify and monitor juvenile offenders
- Prosecutors in criminal court don't know delinquent history of waived juvenile, sometimes resulting in reduced charges for "first offenders"
- Victims want to know the name and address of the accused, the release date, and changes in case status
- The accused wants identity protected to preserve rights and opportunities

d. Reduction of the age at which juveniles may be transferred to criminal court
- But a study reported by the National Council of Juvenile and Family Court Judges showed that up to half the waived cases were dismissed
- Florida, with a history of substantial use of waivers, didn't prosecute 20 % of the waived cases; only 29% of waived cases were for violent felonies
- Some states use "intermediate" or "third systems" involving adult punishment

e. Standards and processes for waiving juveniles to adult criminal courts

f. Case decision-making and disposition, including:
- Likelihood of arrest and detention
- Diversion trends
- The process of adjudication
- Probation trends
- Alternatives to incarceration and sanctions

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a. "State of the State Address: Overhauling the Juvenile Justice System," Governor Pete Wilson, California Governor's Office of Public Affairs, Sacramento, CA, January 8, 1996.......... 2-32

b. "Combatting Juvenile Crime: What the Public Really Wants," I.M. Schwartz, John Johnson Kerbs, Danielle M. Hogston, Cindy L. Guillean, Center for the Study of Youth Policy, April 1992 2-39

c. "Juvenile Crime," Donna Hunzeker, *State Legislatures*, May, 1995.......... 2-56

d. "Youth Violence: An Overview," Delbert S. Elliott, Center for the Study and Prevention of Violence, March, 1994 2-62

e. "Age of Reckoning," *Education Week*, March 9, 1994.......... 2-71

f. "What Works with Juvenile Offenders," Barry Krisberg, Elliot Currie, and David Onek, *Criminal Justice*, Summer, 1995 2-76

g. "State Pen or Playpen? Is Prevention 'Pork' or Simply Good Sense," Robert E. Shepherd, Jr., *Criminal Justice*, Fall, 1995.......... 2-85

h. "A Comparison of the Dispositions of Juvenile Offenders Certified as Adults with Juvenile Offenders Not Certified," Kristine Kinder, Carol Veneziano, Michael Fichter, & Henry Azuma, *Juvenile and Family Court Journal*, 1995 2-88

Chapter Three: Victim Rights in the Juvenile Justice System

A. Significant victim rights legislation applicable to the juvenile justice system

1. Highlights 3-1
a. Constitutional amendments and the juvenile justice system
- State constitutional amendments generally provide that victims have a right "to be informed, present and heard at all critical stages of the criminal justice process"
- Many amendments are limited by language that provides that such rights shall not interfere with the rights of the accused
- Some amendments specifically apply to both the criminal and juvenile justice process
  Alaska
- Some states have adopted separate amendments or legislation addressing the juvenile system
  Arizona
  Florida
- Arizona is proposing an amendment to its constitution through the initiative process that would provide for:
  The prosecution of juveniles 15 years or above as adults
  Prompt restitution to any victims of unlawful conduct by a juvenile
  Deferral of prosecution of certain juveniles and establish community-based alternatives for resolution of such cases
  Make all records and proceedings of juveniles accused as unlawful conduct open to the public

b. Bills of rights for victims in the juvenile justice system
- Florida statute
- Arizona statute
- Texas statute

2. Materials 3-6
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c. State of Arizona Statute, 1995 3-25
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b. Recent court cases on confidentiality
c. Case law on restitution

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C. Proposals for changing the juvenile justice system
1. Highlights 3-4a
a. ***Principle:*** The rights of victims of juvenile offenders should be the same as the rights of victims of adult offenders, and all victims should have rights equal to those of the accused.
b. ***Principle:*** All persons dealing with victims of juvenile offenders should receive education and training on the impact of victimization and appropriate treatment of victims.

c. *Principle:* The public has the same right to know the criminal record of juvenile offenders as it does of adult offenders.

d. ***Argument:*** Juvenile offenders should be treated the same as adult offenders in the criminal justice process. Judges should explore sentencing options with first-time offenders in all cases.

- Juveniles who commit violent crime need swift and certain punishment
- Juveniles should be exposed to the consequences of their crime
- All first-time offenders should be given opportunities for restoration
- Offenders who commit multiple felonies should receive maximum prison time in order to incapacitate them from committing future offenses
- Adult or juvenile offenders who commit heinous crimes may be considered for the death penalty

f. ***Argument:*** Juvenile offenders should be treated differently from adult offenders in the criminal justice process. Offenders should be given opportunities to participate in restorative justice processes.

- Community involvement in juvenile justice proceedings
- Community involvement in sanctions and restitution
- Community involvement in processes of reintegrative shame and restoration of the offender
- Community involvement, when appropriate and with the victim's consent, in victim-offender dialogue
- Juvenile offenders who wish to be involved in the traditional justice system should be allowed that option so long as victim rights and participation are guaranteed
- The community and victims may choose that an accused juvenile be tried in a traditional jury system

2. Materials 3-107
   a. Arizona Criminal Justice Commission Youth and Crime Task Force Working Groups' Recommendations, December 21, 1993 3-107
   b. Arizona Criminal Justice Commission Youth and Crime Task Force Schools and Crime Working Group Funding Working Group Recommendations, July 20, 1994 3-123
   c. Recommendations from Parents of Murdered Children National Conference:, Victims of Juvenile Offenders — Issues and Recommendations, Concord, CA, August 7, 1993 3-153
   d. Draft of American Corrections Association Victims Committee Recommendations on Victims of Juvenile Offenders (Revised January 16, 1994) 3-155

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   - Assistance to victims who must testify
   - Crisis intervention and referral
   - Information about case status and outcome
   - Assistance with compensation and restitution
   - Facilitating participation in the juvenile justice process
   - Facilitating the return of property
   - Information and referral
   - Witness coordination and support

- Post-disposition services

B. Proposed Program Model for Juvenile Justice Victim Services

1. Crisis intervention
   - Emergency aid and practical assistance
   - Defusing
   - Information and referral for social and community services
   - Information on victim compensation
   - Information on victim rights
   - Information on legal options: civil legal remedies; dispute resolution services; criminal justice remedies
2. Counseling and advocacy
   - Supportive counseling
   - Assistance with compensation applications
   - Assistance with insurance applications
   - Advocacy for victim rights
   - Information and referrals on justice and social service options
3. Support during investigation
   - Information on victim rights
   - Support and accompaniment to critical events in the criminal justice system such as photo or line-up identifications and interviews
   - Counseling and advocacy
   - Support during diversion or restorative justice processes
4. Support during prosecution
   - Information on victim rights
   - Support and accompaniment to critical events in the criminal justice system
   - Counseling and advocacy
   - Assistance and advocacy for restitution
   - Assistance and advocacy for victim participation in critical events in the criminal justice system
   - Information and referrals to allied agencies
5. Support after case disposition
   - Information on victim rights
   - Counseling and advocacy
   - Assistance and support with victim-offender dialogue sessions, victim impact panels, or victim education classes
   - Assistance with enforcement of restitution claims
   - Involvement in community monitoring or corrections panels

D. Materials 4-9

1. Excerpts from "Helping Victims and Witnesses in the Juvenile Justice System: Program Handbook," Blair B. Borque and Roberta C. Cronin, American Institutes for Research, April, 1991 4-9
2. "Victim Assistance Program Brief," NOVA, Washington, D.C., 1993 4-45

Chapter Five: Restorative Community Justice

A. Background to Understanding Restorative Community Justice

1. Highlights 5-1

a. Principles
- Accountability of the offender
- Restoration of the victim
- Responsibility of the community

b. Offender accountability
- Retribution: sanctions and penalties
- Restitution to the victim
- Restitution to the community
- Repentance and remorse
- Restoration of the offender's connection to the community

c. Restoration of the victim
- Crisis intervention and emotional support for long range trauma
- Full participation in the justice process ensured by victim rights
- Assistance with practical needs

d. Responsibility of the community
- Equal rights for victims and the accused
- Crime and victimization prevention strategies
- Community involvement in community justice through community policing, community prosecution, community courts, and community corrections

e. Restorative Community Justice
- Victim centered
- Community driven
- Offender focused

2. Materials 5-14

a. *"Restorative Justice Issues — Four Community Models,"* Saskatoon Community Mediation Services, 1995 5-14

b. "Restorative Justice in the Third Decade: Retrospective and Prospective," *Accord*, June 1995 5-30

c. "The Role of Community Justice in the Next Century," Myron Steele and Thomas J. Quinn, *Perspectives*, Summer, 1994 5-55

d. *Restorative Community Justice: A Call to Action*, NOVA, 1995 5-70

B. Critical victim rights in the Restorative Community Justice Model

1. Highlights 5-6

a. Redefinition of victim:
- individual direct victim
- family and friends of victim
- neighborhood or community

b. Increased protection:
- crime and violence prevention
- community participation in law enforcement
- community participation in corrections

c. Restitution for the victim

d. Restitution for the community

e. Information and notification to the victim and community on case status post-arrest

f. Participation through victim statements to the juvenile court

g. Involvement in diversion, sentencing, probation decision-making

h. Opportunity for involvement, at the victims' option, in offender restoration through such vehicles as victim impact education, victim impact panels, and victim-offender dialogue

Chapter Six: Tools for Critically Analyzing Issues and Recommendations for the Juvenile Justice System

Questions for Review in Small Groups 6-1

Session 1. Review existing recommendations in Chapter Three, Section C:

Session 2. What public policy changes should be made to implement victim rights in the juvenile justice system?

Session 3. What innovative program strategies and practices can be employed to involve victims in the juvenile justice system?

A. Prevalence and nature of juvenile crime

a. States vary in who they define as a juvenile

- The upper age of juvenile court jurisdiction in delinquency matters is defined by state statute — most put the upper age at 17

- In most States, juvenile court authority over a youth may extend beyond the upper age of original jurisdiction

b. Amount of crime in the U.S. caused by juveniles

- Victims attributed about 1 in 4 personal crimes to juvenile offenders in 1991

- In 1992, juveniles were responsible for:
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- A study in Rochester, New York showed a strong relationship among illegal gun ownership, delinquency, and drug abuse

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- Increased anger and frustration due to lack of access to the juvenile justice system and perception that the juvenile justice system is inadequate
- Increased shame and humiliation
- Self-blame if the juvenile is a part of the family or neighborhood

States vary in who they define as a juvenile

State statutes define which persons are under the original jurisdiction of the juvenile court

These definitions are based primarily on age criteria. In most States, the juvenile court has original jurisdiction over all persons charged with a law violation who were below the age of 18 at the time of either the offense, arrest, or referral to court. Since 1975 only two States have changed their age criteria. Alabama increased its upper age from 15 in 1975, to 16 in 1976, and to 17 in 1977. In 1993 Wyoming reduced its upper age of original juvenile court jurisdiction from 18 to 17.

Many States have statutory exceptions to this basic age criteria. The exceptions, related to the youth's age, alleged offense, and/or prior court history, place youth involved in more serious matters under the original jurisdiction of the criminal court.

In some States, a combination of the youth's age, offense, and prior record places the youth under the original jurisdiction of both the juvenile and criminal courts. In these situations where the courts have concurrent jurisdiction, the prosecutor is given the authority to decide which court will initially handle the case.

In most States, juvenile cou authority over a youth may extend beyond the upper a of original jurisdiction

In these States the juvenile court order the youth to a term of prob or confinement in a juvenile faci extending from 1 to 6 years beyo upper age of original court juris Through this mechanism, the legislature enables the court to p sanctions and services for a dura time that is in the best interests o juvenile and the public, even for juveniles who have reached the which original juvenile court jur tion ends.

The upper age of juvenile court jurisdiction in delinquency matters is defined by State statute — in most States the upper age is 17

Oldest age for original juvenile court jurisdiction in delinquency matters

15	16	17		
Connecticut	Georgia	Alabama	Kansas	Ohio
New York	Illinois	Alaska	Kentucky	Oklahoma
North Carolina	Louisiana	Arizona	Maine	Oregon
	Massachusetts	Arkansas	Maryland	Pennsylvania
	Michigan	California	Minnesota	Rhode Island
	Missouri	Colorado	Mississippi	South Dakota
	South Carolina	Delaware	Montana	Tennessee
	Texas	District of Columbia	Nebraska	Utah
		Florida	Nevada	Vermont*
		Hawaii	New Hampshire	Virginia
		Idaho	New Jersey	Washington
		Indiana	New Mexico	West Virginia
		Iowa	North Dakota	Wisconsin
				Wyoming

- Many States have higher upper ages of juvenile court jurisdiction in status offense, abuse, neglect, or dependency matters — often through age 20.
- In many States the juvenile court has jurisdiction over young adults who committed offenses while juveniles.
- Several States also have minimum ages of juvenile court jurisdiction in delinquency matters — ranging from 6 to 12.
- Many States exclude married or otherwise emancipated juveniles from juvenile court jurisdiction.

* In Vermont the juvenile and criminal courts have concurrent jurisdiction over all 16- and 17-year-olds.

Source: Szymanski, L. (1995). *Upper age of juvenile court jurisdiction statutes analyses (1994 update).* Szymanski, L. (1995). *Lower age of juvenile court jurisdiction (1994 update).*

Oldest age over which the juvenile c retain jurisdiction for disposition pur delinquency matters

Age	States
17	Arizona, New Hampshire, Nc Carolina
18	Alaska, Kentucky, Iowa, Neb Oklahoma, Tennessee
19	Mississippi, North Dakota, W Virginia
20	Alabama, Arkansas, Connec Delaware, District of Columb Florida, Georgia, Idaho, Illinc Indiana, Kansas, Louisiana, Maryland, Michigan, Minnes Missouri, Montana, Nevada, Mexico, New York, Ohio, Or Pennsylvania, Rhode Island, Carolina, South Dakota, Uta Vermont, Virginia, Washingt Wyoming
24	California, Wisconsin
36	Massachusetts
56	Texas

Until the full term of the disposition

Colorado, Hawaii, New Jers

Note: Extended ages of jurisdiction may restricted to certain offenses or juveniles violent offenses, habitual offenders, and under correctional commitment).

Source: Szymanski, L. (1995). *Extend juvenile court delinquency jurisdiction st analysis (1994 update).*

Chapter 3

Juvenile offenders

How many children are involved in law-violating behavior? What proportion of all crime is committed by juveniles? What are the trends? What do we know about juveniles and gangs? At what time of the day are juvenile offenses most likely to occur? Are there systematic patterns in the law-violating careers of juvenile offenders? What is the prevalence and incidence of drug use? How many murders are committed by juveniles annually, and who do they murder?

Many offenders are not arrested, and many arrested are not referred to juvenile courts. This chapter presents what is known about the prevalence and incidence of juvenile offending. It relies primarily on data developed by the Bureau of Justice Statistics' National Crime Victimization Survey and the National Youth Survey, the Federal Bureau of Investigation's National Incident-Based Reporting System, and the National Institute of Justice's Drug Use Forecasting Program and the Monitoring the Future Study, as well a published research studies.

Acknowledgments

This chapter was written by Howard Snyder. Significant contributions to this chapter were made by several others. James Lynch conducted and summarized his original analysis of data from the National Crime Victimization Survey. James Fox conducted and summarized his original analysis of the FBI's Supplementary Homicide data. Melissa Sickmund prepared the section on juveniles and guns. Barbar Tatem Kelley and Patricia Torbet provided information used to develop the gang section. Contributions were also made by Pamela Messerschmidt and Laura Graham.

Self-reports and official records are the primary sources of information on juvenile offending

Self-report studies ask victims or offenders to report on their experiences and behaviors

There has been an ongoing debate about the relative ability of self-report studies and official statistics to describe juvenile crime and victimization.

Self-report studies can capture information on behavior that never comes to the attention of juvenile justice agencies. Compared with official studies, self-report studies find a much higher proportion of the juvenile population involved in delinquent behavior.

However, self-report studies have their own limitations. A youth's memory limits the information that can be captured. This, along with other problems associated with interviewing young children, is the reason why the National Crime Victimization Survey does not attempt to interview children below age 12. Some victims and offenders are also unwilling to disclose all law violations. Finally, it is often difficult for self-report studies to collect data from large enough samples to develop a sufficient understanding of relatively rare events, such as serious offending.

Official statistics describe the cases handled by the justice systems

Official records underrepresent juvenile delinquent behavior. Many crimes by juveniles are never reported to authorities. Many juveniles who commit offenses are never arrested. Or, if they are arrested, they are not arrested for all of their delinquencies. As a result, official records may systematically suppress the actual picture of juvenile crime.

Official statistics are open to multiple interpretations

Black juvenile arrest rates for marijuana and cocaine violations in recent years have been substantially greater than white arrest rates. One interpretation of these official statistics could be that black juveniles abuse these drugs more. However, a national self-report study finds that black juveniles are no more likely than white juveniles to report they have used illicit drugs. Arrest rates for black youth may be higher because of the more serious nature of their offending (i.e., sales vs. possession), the general frequency with which they commit the acts, or greater law enforcement surveillance.

Trends in official statistics are also sometimes difficult to interpret. A study conducted in Philadelphia of males born in 1945 found that 50% of blacks and 29% of whites had a police contact before their 18th birthday. A replication study of males born in 1958 found that smaller proportions of black males (42%) and white males (23%) had a police contact. How should these declines be interpreted?

While they may reflect a decline [in] delinquent behavior, a change in [official] statistics may also reflect change[s in] law enforcement policies and procedures.

Official statistics are best u[sed] to monitor system flow

While official records may be in[ade]quate measures of the level of ju[venile] offending, they do monitor justi[ce] system activity. An understandi[ng of] the size, characteristics, and var[iations] in official statistics across time [and] jurisdictions provides a descript[ion of] the caseloads of the justice syste[m].

Carefully used, self-report [and] official statistics provide in[sight] into crime and victimizatio[n]

Recently the president of the Ar[merican] Society of Criminology stated t[hat to] abandon either self-report or off[icial] statistics in favor of the other is shortsighted: to systematically i[gnore] the findings of either is dangero[us], particularly when the two meas[ures] provide apparently contradictor[y] findings." He argued that a full [un]derstanding of the etiology of d[elin]quent behavior and its develop[ment is] enhanced by using and integrati[ng] self-report and official record r[esearch].

How much crime in the U.S. is caused by juveniles?

Victims attributed about 1 in 4 personal crimes to juvenile offenders in 1991

One of two continuous sources of information on the proportion of crime committed by juveniles is the National Crime Victimization Survey (NCVS). NCVS captures information on crimes committed against persons age 12 or older. Crimes committed against children below age 12 are not counted. As a result, significant numbers of crimes committed by juveniles and adults are not reported.

In 1991 NCVS found that victims age 12 and older reported that the offender was a juvenile (under age 18) in approximately 28% of personal crimes (i.e., rape, personal robbery, aggravated and simple assault, and theft from a person). These victims also reported that 88% of juvenile crimes were committed by male offenders and 10% by female offenders, with the remainder committed by both males and females. Adult offenders in 1991 had a similar sex profile.

Victims reported that half of all juvenile offenders were white

In 1991 victims of personal crimes reported essentially the same racial distribution for juvenile and adult offenders:

Race of offender	Offender age	
	Juvenile	Adult
White	51%	51%
Black	41	39
Other race	8	10
Total	100%	100%

Source: BJS. (1992). *National crime victimization survey, 1991* [machine-readable data file].

Juveniles were responsible for about 1 in 5 violent crimes

In 1991 juveniles were responsible for 19% of all violent crimes (i.e., rape, personal robbery, and aggravated and simple assault) reported to NCVS in which there was a single offender.

Age of victim	Proportion of crimes committed by juveniles		
	Crimes of violence	Robbery	Assault
All ages	19%	14%	21%
12–19	49	48	52
20–34	5	7	5
35–49	11	4	12
50–64	5	<1	5
Over 64	<1	<1	<1

Source: BJS. (1992). *Criminal victimization in the U.S. 1991.*

Persons most likely to be victimized by juveniles were individuals between ages 12 and 19 (remembering that crimes against children below age 12 are not a part of NCVS). The offender was a juvenile in nearly half of these violent crimes. In contrast, juveniles were seldom the offender in crimes against older victims. For example, 7% of robberies of persons ages 20–34 were committed by juveniles, and victims above age 50 rarely reported that they were robbed by juveniles.

One in 7 serious violent crimes involved juveniles in groups

Seventeen percent of all serious violent crimes in 1991 were committed by juveniles only, either alone (11%) or in juvenile groups (6%). Another 8% of serious violent crimes were committed by a group of offenders that included at least one juvenile and one adult. In all, 25% of all serious violent crime involved a juvenile offender; and of these crimes, more than one-half involved a group of offenders. Adults were less likely to commit crimes in groups: about one-third of serious violent crimes committed by adults involved a group of offenders.

Number and type of offenders	Percent of serious violent crime
1 juvenile	11%
2 or more juveniles	6
1 or more juvenile with adult(s)	8
2 or more adults	22
1 adult	53
Total	100%

Juvenile victims were more likely than adult victims to be victimized by a group of juvenile offenders. That is, 14% of all juveniles who were victims of a serious violent crime reported that they were victimized by two or more juvenile offenders, compared with 3% of adult victims.

Racial profiles of violent crime victims varied with the race of the juvenile offender

In 1991, when a white juvenile committed a violent crime, the victim was nearly always white (95%).

Race of victim	Juvenile offender's race		
	White	Black	Other
White	95%	57%	80%
Black	3	37	7
Other	2	6	13
Total	100%	100%	100%

Note: Hispanics can be of any race, but most are classified as white.

Source: BJS. (1992). *National crime victimization survey, 1991* [machine-readable data file].

In contrast to white offenders, the victim profile of black juvenile offenders was more racially mixed. Fifty-seven percent of the violent crime victims of black juvenile offenders were white and 37% black.

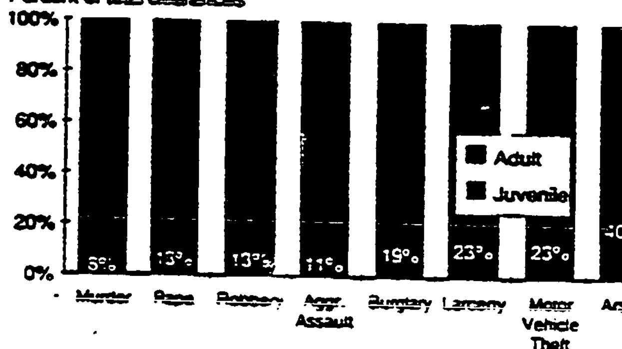
Juveniles were responsible for 1 in 10 violent crimes cleared by arrest in 1991

The second source of information that addresses the relative volume of crime committed by juveniles and adults comes from the FBI. The FBI tracks the proportion of crimes that result in arrest — or crimes cleared — and the age of the arrestee(s). Many crimes captured by NCVS are never reported to law enforcement agencies and many reported crimes never result in arrest. In contrast to NCVS data, some cleared crimes are against children below age 12. For these and other reasons, NCVS and the FBI's clearance statistics approach the question of the relative volume of juvenile crime from different perspectives.

The FBI reported that 11% of all violent crimes (i.e., murder, forcible rape, robbery, and aggravated assault) cleared in 1991 were cleared by the arrest of a person under age 18. Juveniles were also arrested in 22% of all cleared property crimes (i.e., burglary, larceny, motor vehicle theft, and arson).

The juvenile proportions of crime inferred by FBI clearance data are below those roughly corresponding figures reported by NCVS for 1991. One possible reason for this difference is that adult crimes are more serious and, therefore, are more likely than are crimes committed by juveniles to be reported to law enforcement. If so, the differential reporting would make the juvenile contribution to crime smaller from the perspective of law enforcement than from the perspective of victims.

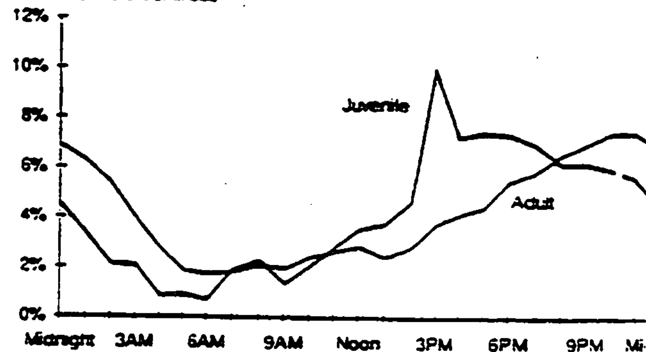
The juvenile responsibility for crime varies substantially with offense



- Based on the FBI's 1991 clearance data, juveniles were responsible fc substantially greater proportion of property crimes than violent crimes.

Source: FBI. (1992). *Crime in the United States 1991.*

When do juvenile and adult offenders commit violent crimes?



- Violent crimes committed by juveniles peak at the close of the school decline throughout the evening hours.
- In contrast with juveniles, the number of violent crimes committed by a increases from early morning through midnight.
- The time profiles of when juveniles commit violent crime and when juv are the victims of violent crime are similar.

Note: Data are from the State of South Carolina.

Source: FBI. (1993). *National incident-based reporting system 1991 and 1992* [readable data files].

Most juveniles have broken the law, fewer have an official record, and very few are responsible for the majority of offending

Most juveniles have committed at least one delinquent act

A study by Shannon in Racine, Wisconsin, found that 90% of males and 65-70% of females who turned 18 in the 1960's and 1970's reported they had engaged in at least one illegal act before age 18. A more recent self-report study conducted by Huizinga and others in high-risk areas of Denver found that 94% of boys and 90% of girls reported they had committed a delinquent offense before turning 18. The Denver study, as well as one conducted in Pittsburgh by Loeber and others, found that 10% of boys in high-risk areas reported having committed at least one street crime (e.g., fighting, purse snatching, burglary, bicycle theft, theft from school) by age 7.

High levels of violence have also been reported. The National Youth Survey, conducted by Elliott and others, interviewed juveniles who turned 18 in the late-1970's and early-1980's. This study found that by their 18th birthday 30% of males and 10% of females reported committing at least 3 violent offenses within a 1-year period.

Black juveniles are twice as likely as white juveniles to come in contact with law enforcement

A 1986 National Academy of Sciences (NAS) study concluded that 27% of all males, 20% of white males, and 42% of black males will come in contact with law enforcement before their 18th birthday. A study by Tracy and others in Philadelphia of males and females who turned 18 in 1976 found that more than twice as many males as females had a police contact by age 18 (33% vs. 14%).

The large difference between the proportion of juveniles who commit crime and the proportion apprehended is apparent. A study by Wolfgang et al. of police records of Philadelphia males who turned 18 in 1963 found that 35% of males had a police contact before their 18th birthday. However, followup interviews with the boys found that 60% of the most serious offenders were not known to police. Similarly, the National Youth Survey found that 84% of the most frequent and serious offenders had no official record.

Most juveniles who come in contact with the juvenile justice system do so only once

The study of Philadelphia males who turned 18 in 1976 found that 42% of those with police contacts had only one contact by their 18th birthday. Snyder's study of the juvenile court careers of 69,000 youth in Arizona and Utah found that 59% of all youth referred to court intake once did not return to juvenile court again.

Both these studies found that males were more likely to recidivate than females. For example, in the court records study, 71% of the females who came to the attention of the court had only one referral compared with 54% of the males.

Minorities were more likely to have multiple official contacts. In the Philadelphia study, for example, 48% of white males with police contacts had more than one contact, compared with 63% of nonwhite males.

Juvenile offending — some specialization amidst a large amount of versatility

Some juveniles are referred to the justice system repeatedly for the same type of offense. However, such specialization is rare. In general, a juvenile law-violating career usually involves a wide variety of offenses.

Most juveniles who commit violent offenses are persistent offenders who, as they continue to offend, eventually commit a violent act. The sequencing of law-violating behaviors in the careers of violent offenders is best characterized as a general trend of diversification, not specialization. As the delinquency career continues, more serious behaviors are added, and do not replace, the less serious law-violating behaviors.

The earlier the onset of a delinquent career, the greater the number of delinquent offenses juveniles are likely to commit before their 18th birthday. However, the average seriousness of the offenses in a delinquent career is not related to the age at onset.

Serious offending increases as the delinquent ages and as the career lengthens

With age and the related increase in physical ability, and access to delinquent peers, weapons, drugs, and situations that could lead to law-violating behavior, juveniles become more able and likely to commit serious delinquent acts. This point is supported by the FBI's 1992 arrest statistics, which show that the violent crime proportion of all arrests increased consistently with age through the juvenile years.

Both studies of police contacts in Philadelphia found a tendency for offense severity to increase with each new police contact. When an offense was repeated, the severity of the new offense tended to be greater than its predecessor. The study of juvenile court careers in Arizona and Utah also found a general progression in referrals from less to more serious behaviors. For example, a violent offense was more likely to be found toward the end of a juvenile career.

This increase is not consistent, however. The studies in Philadelphia and in Denver found that violent behavior is intermittent and imbedded in a series of less violent offenses.

A small number of juvenile offenders are chronic, or persistent, offenders

In the first Philadelphia study Wolfgang and his colleagues introduced and popularized the term *chronic offender*. They found that only 6% of the boys in the birth cohort (or 18% of all male offenders) had 5 or more police contacts before their 18th birthday. This small group was responsible for more than half of all the offenses committed by the cohort, including:

- 82% of robberies.
- 73% of forcible rapes.
- 71% of homicides.
- 69% of aggravated assaults.

Wolfgang labeled this small group of offenders, those with 5 or more police contacts, as chronic offenders.

The same pattern has been noted in many studies. In the second Philadelphia cohort study 7% of boys in the birth cohort (or 23% of all male offenders) had 5 or more police contacts and accounted for 61% of all offenses committed by males and:

- 75% of forcible rapes.
- 73% of robberies.
- 65% of aggravated assaults.
- 60% of homicides.

The study of juvenile court careers in Arizona and Utah found that 16% of youth referred to court, those with 4 or more referrals in their careers, accounted for 51% of all court referrals and were responsible for a disproportionate share of serious referrals:

- 70% of motor vehicle thefts.
- 67% of robberies.
- 67% of burglaries.
- 66% of forcible rapes.
- 64% of murders.
- 51% of aggravated assaults.

They were far less responsible for cases involving shoplifting (31%) and underage drinking (40%).

The National Youth Survey also found the majority of offending to be concentrated in a small portion of the population. More than one-half of all offenses reported by this nationally representative sample and 83% of its serious crimes were committed by 5% of the youth.

The suggestion has been made that rehabilitation efforts and crime control initiatives should focus on chronic offenders to maximize crime reduction effects. Although appealing on the surface, it is difficult to implement such a policy. Chronic offenders would have to be identifiable early in their offending careers if interventions were to have the opportunity to halt their chronic offending patterns, and prospective identification has been found to be elusive.

Some juvenile offenders continue offending as adult[s]

The reported percentage of juveni[le] offenders who continue to offend [as] adults depends upon the sample studied, the definition of offendin[g] and the length of adult followup.

A sample of youth from the first Philadelphia cohort study was fol[lowed] through age 30. About half of m[ales] with juvenile police contacts had [an] officially recorded arrest by age [30. A] study of violent juvenile offende[rs in] Columbus, Ohio, conducted by Hamparian et al., found that 64% [of] males and 33% of females were rearrested as adults by age 25.

A study conducted by the South Carolina Department of Youth S[ervices] found that 20% of males with a juvenile court record were either placed on adult probation or in a[n] institution by age 21.

A followup study of male juveni[les] incarcerated in California Youth Authority institutions showed th[at] were arrested as adults, 82% for [a] major felony, 65% for a violent [of]fense, and 42% had more than 9 arrests during an 8-year followu[p] period.

Probability of adult arrest increases with the number [of] juvenile arrests

The earlier a youth commits a s[erious] violent offense, the more likely [the] youth is to continue this behavi[or into] adult years. The National You[th] Survey found that 45% of yout[h] initiating serious violent offend[ing] before age 11 continued to com[mit] violent acts into their twenties.

compared with about one-fourth of those who started at ages 11 and 12, and a lower and relatively constant proportion for those who began such behavior at ages 13 to 17.

In the Columbus study of violent juvenile offenders, 36% of those with 1 juvenile arrest had an adult arrest by age 25, 62% of those with 2 to 4 juvenile arrests, and 78% of those with 5 or more juvenile arrests.

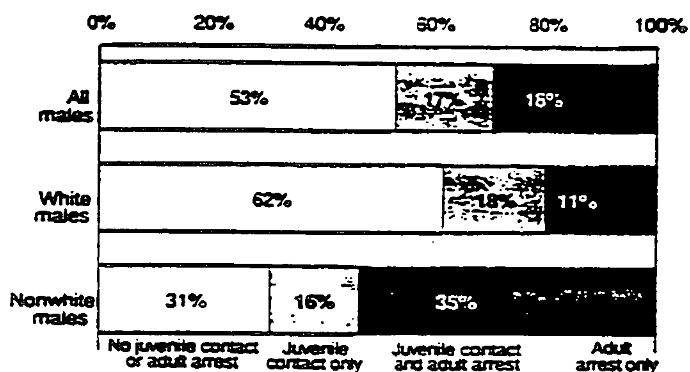
Serious adult offenders are likely to have more serious juvenile careers

Haapanen found that 60% of a sample of adult prisoners in the California Department of Corrections in the late 1970's who were convicted of robbery and burglary had prior commitments to California Youth Authority institutions. In a nationwide sample of State prisoners age 40 or older in 1979, Langan and Greenfield found that 15% reported that they had been incarcerated as a juvenile, and 44% had been placed on juvenile probation.

Juvenile offending is less predictive of adult offending as an adult ages

Older adult offenders are less likely than younger adult offenders to have a juvenile record. A study of prisoners in South Carolina found that 65% of the 18-year-olds in adult institutions had a juvenile record, compared with 48% of 21-year-olds and 34% of 24-year-olds. A similar pattern was found for adults on probation. Fifty-two percent of 18-year-old probationers had a juvenile record, compared with 27% of 21-year-old and 20% of 24-year-old probationers.

Half of the males with police contacts as juveniles had no adult arrests by age 30; nearly 4 in 10 males arrested as adults had no juvenile record



■ 6 in 10 white males and 3 in 10 nonwhite males had no police contact as a juvenile and no arrest as an adult by age 30.

Source: Wolfgang, M., Thornberry, T., and Figlio, R. (1987). *From boy to man, from delinquency to crime.*

Less than one-half of 1 percent of juveniles in the U.S. were arrested for a violent offense in 1992

□ 5% of juveniles were arrested in 1992 — of those, about 9% were arrested for a violent crime.

Source: FBI. (1993). *Crime in the United States 1992.*

How many juveniles carry guns and other weapons?

Many high school students say they carry weapons, but few carry guns

In 1990 the Centers for Disease Control asked a nationally representative sample of students in grades 9–12 how many times they had carried a weapon, such as a gun, knife, or club, during the past 30 days. One in 5 reported carrying a weapon at least once in the previous month. About 1 in 20 said they had carried a firearm, usually a handgun.

Males were nearly 4 times as likely as females to report carrying a weapon (31% vs. 8%). Hispanic males (41%) and black males (39%) were more likely to say they carried a weapon than were white males (29%).

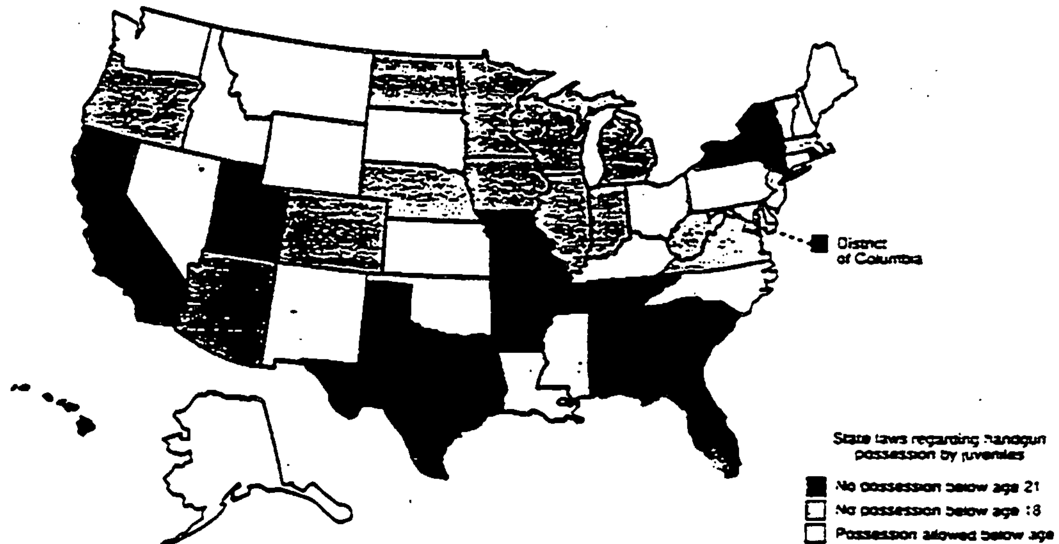
Of students who reported they had carried a weapon, 25% said they had carried a weapon only once in the 30-day period, while 43% reported carrying a weapon 4 or more times. Students who reported carrying weapons 4 or more times were 9% of all students and accounted for 71% of weapon-carrying incidents.

Among students who reported carrying a weapon, knives or razors were carried more often (55%) than clubs (24%) or firearms (21%). Most students who reported carrying firearms carried handguns. Black males were the only group for whom firearms were carried more often than other weapons — 54% of black males who carried weapons carried a firearm.

Study finds strong relationsh among illegal gun ownership delinquency, and drug abuse

A recent longitudinal study of higl risk, urban youth in Rochester, Ne York, assessed the scope of legal : illegal gun ownership by 9th and 1 grade boys. [Legal guns are defin shotguns or rifles owned for reaso other than protection.] By 10th gr more boys owned illegal guns (7% than legal guns (3%). Of those wl owned illegal guns, 57% carried tl on a regular basis, and 24% had u: gun in a street crime. Compared \ those with legal guns, boys with il guns were more likely to be invol in street crime (74% vs. 14%), to : drugs (41% vs. 13%), and to be a member (54% vs. 7%).

At the end of 1993, 16 States had laws prohibiting the possession of handguns by juveniles



Source: National Governors' Association. (1994). *Kids and violence.*

Gun possession is common for serious juvenile offenders and some inner-city high school students

A study of inmates in maximum security juvenile correctional facilities and high school students in inner-city areas where gun-related violence was likely to occur found:

- 55% of inmates said they carried guns all or most of the time in the year or two prior to their incarceration: 84% carried a gun now and then: and 63% had committed at least one crime with a gun.
- 12% of students said they carried guns most of the time, while another 23% said they carried guns now and then.
- 62% of inmates had male family members who routinely carried a gun: 84% had been threatened with a gun or shot at during their lives: and half had been stabbed with a knife.
- Two in 5 students reported that males in their family routinely carried guns outside the home: 45% had been threatened with a gun or shot at on their way to or from school: 1 in 10 had been stabbed: and 1 in 3 had been seriously assaulted in or on the way to school.
- Few thought it would be difficult to get a gun — 13% of inmates and 35% of students said it would be a lot of trouble or nearly impossible.
- Except for military-style rifles, most guns obtained from informal sources were purchased for $100 or less. Most military-style rifles cost $300 or less.
- 35% of inmates and 10% of students believed it was "okay to shoot a person if that is what it takes to get something you want."
- 61% of inmates and 28% of students believed it was "okay to shoot someone who hurts or insults you."

Many inmates of juvenile facilities and inner-city high school students own at least one gun

	Percent who said they owned a gun	
	Inmates	Students
Any type of gun	83%	22%
Rifles		
Sawed-off shotgun	51	9
Regular shotgun	39	10
Automatic/semiautomatic	35	6
Target or hunting	22	8
Handguns		
Revolver	58	15
Automatic/semiautomatic	55	18
Derringer or single-shot	19	4
Homemade (zip)	6	4
Three or more guns	65	15

Source: Sheley, J., and Wright, J. (1993). Gun acquisition and possession in selected juvenile samples. *Research in Brief.*

To obtain a gun—informal sources were preferred

	Percent of inmates	Percent of students
Likely source if desired		
Get off the street	54%	37%
Borrow from family or friend	45	53
Buy from family member or friend	36	35
Get from a drug dealer	36	22
Get from an addict	25	22
Steal from a house or apartment	17	8
Steal from a person or car	14	7
Buy from gun shop	12	28
Steal from a store or pawnshop	8	4
Source of most recent handgun		
A friend	30%	38%
The street	22	14
Drug addict	12	6
"Taken" from a house or car	12	2
Drug dealer	9	2
Gun shop/pawnshop	7	11
Family member	6	23

Source: Sheley, J., and Wright, J. (1993). Gun acquisition and possession in selected juvenile samples. *Research in Brief.*

The main reason given for having a gun was self-protection

	Percent listing reason as "very important"	
	Inmates	Students
Protection	70%	68%
Enemies had guns	52	32
To get someone	38	18
Use in crimes	37	(not asked)
Friends had one	17	9
To impress people	10	9
To sell	10	5

Source: Sheley, J., and Wright, J. (1993). Gun acquisition and possession in selected juvenile samples. *Research in Brief.*

The number of jurisdictions affected by gangs has increased substantially in the past 20 years

Statistically, little is known about gangs in the U.S.

No national-level data are collected on the number of gangs or gang members, the juvenile proportion of gang members, or the volume of gang crime. An increasing number of local and State agencies are collecting these statistics, but striking differences exist in the criteria for identifying gangs and gang members and for classifying a crime as gang related.

Key elements most frequently incorporated into local definitions of gangs address the group involvement in violence and other crime, use of symbols, internal organization, identifiable leadership, control of territory, and recurrent interaction.

Gang literature distinguishes among the actual leaders, core members, fringe members, and "wannabes." These distinctions are not captured in gang member statistics, particularly when member counts are aggregated across reporting law enforcement jurisdictions. Interpretation of member counts is further confounded by the lack of uniformity in procedures to purge files of inactive gang members. Retention of such persons in gang data bases artificially inflates the number of gang members involved in criminal activity and the age range of gang members.

In some cities, gang crime is *member defined*—any offense involving a gang member as a perpetrator or victim is counted as a gang crime. In others it is *motive defined*—only offenses committed on behalf of the gang are counted, such as crimes committed in defense of territory, retaliations, witness intimidations, and graffiti.

Gangs in the 1990's are characterized by diversity

It is difficult to describe the "typical" gang, as membership and gang-related activities vary considerably. For instance, in chronic, well-established gangs, members remain active over a longer period of time, whereas emerging gangs might attract more transient members.

Gangs tend to be composed of ethnically similar members, with ethnic gangs distinguishing themselves in terms of such factors as principal orientation (e.g., profit, turf, honor, and socialization), choice of crimes (e.g., drug sale, extortion, assault, hate crimes, car theft, and armed robbery), drug of choice, and use of symbols (e.g., tattoos, style of dress, hand signals, and graffiti).

Gangs have recently emerged in many jurisdictions

Gangs have been in existence for decades in certain urban areas, such as Chicago, Los Angeles, New York City, and Philadelphia. These cities are commonly referred to as "chronic gang problem" cities. A disturbing trend observed over the past two decades is the emergence of gang problems in all regions of the U.S. Gang activity has extended beyond the inner city of major population centers into smaller cities, suburbs, and rural communities.

Miller surveyed metropolitan areas in 1975 and found that half reported a gang problem. In 1992 Curry, Ball, and Fox surveyed metropolitan police departments in the 79 largest U.S. cities and in a sample of 43 smaller cities. Police departments in 72 of the 79 largest cities reported having criminally involved groups, which labeled as gangs, that had juvenile members. Three more large cities reported gang-like problems, inclu drug organizations, posses, and cre In addition, 88% of the smaller citi also reported a gang problem.

Many of the cities in the 1992 surv had been studied in a 1988 survey. 1992 findings indicate that there h been a significant increase in the proportion of both large and small cities with gang problems in the pr ous few years. For example, gang were reported in three-quarters of cities in 1988 and in about 9 in 10 1992. Smaller cities showed a sim increase. In 1988, 7 in 10 smaller cities reported a gang problem, compared with nearly 9 in 10 in 1

Gang migration from city to was not planned

There is some concern that certai gang nations, such as the "Crips" the "Bloods," are migrating eastw from the west coast. There is littl evidence for more than sporadic deliberate migration of these grou The emergence of gangs in new a can more readily be explained by normal residential relocation and genesis.

The size of the juvenile component of gangs varies gang type

The age structure of gangs is dep on the length of time the gang ha in existence. Cities with an eme gang problem report that up to 9 gang members are juveniles. In with more established gangs, onl about one-fourth of gang membe juveniles.

Gang-related crime is primarily a violent crime problem

In the 110 jurisdictions in the 1992 survey reporting gang crime problems, there were an estimated 250,000 gang members (both juvenile and adult) in approximately 5,000 gangs. Surprisingly, law enforcement agencies in these jurisdictions reported only 46,000 gang-related crimes — or less than one crime per year for every five gang members. The researchers offered three possible explanations for this apparent imbalance.

First, gang members may remain in the official files even though they have not recently committed a gang-related crime. Second, gang crimes often involve multiple offenders. Third, the survey relied exclusively on law enforcement records of incidents, and should not be expected to portray accurately the actual law-violating behavior of gang members.

Homicides and other violent crimes accounted for about half of all recorded gang-related crime incidents in the reporting jurisdictions.

Profile of gang-related crime:

Homicide	2.3%
Other violent	48.5
Property	14.8
Drug-related	10.3
Vice	2.9
Other crimes	21.2

Gang-involved juveniles engage in more violent behavior than nongang delinquents, and gang-related violence has increased since the late 1980's. Contrary to media accounts, the bulk of gang violence is not a cause or consequence of drug dealing. Violence occurs independently and is more often related to status and territorial disputes directed at members of other gangs. Associated with the escalation of violence are more lethal and more plentiful firearms. The most common victims of gang assaults are other gang members.

Despite reports of gang involvement in drug trafficking, researchers have found that street gang structures do not organizationally support drug distribution, but drug-selling cliques within the gang may operate. That is, individual gang members may be involved in distribution networks, but in most instances these networks are not organized gang activities.

The ethnic composition of gangs has changed from previous decades

In the early part of the century, gang members were most commonly second-generation white immigrants from eastern and southern Europe and African-Americans who had recently immigrated to northern cities from the South. Recent studies have highlighted increases in gang activity among Central and South American and Asian immigrants.

About one-third of police departments responding to the 1992 survey could provide information on the ethnicity of gang members. In these jurisdictions, the ethnicity of gang members was estimated to be 48% African-American, 43% Hispanic, 5% Asian, and 4% white. Compared with research conducted over the last few decades, the proportions of white and Asian gang members appears to be increasing.

A small proportion of gang members are female

Data available from the 1992 survey of law enforcement agencies did not substantiate major involvement of females in gangs. Some jurisdictions reported no female gang members, while others as a matter of policy never classified females as gang members or relegated females to the status of associate gang members. Controlling for law enforcement policies that exclude female gang members, it was estimated that about 6% of gang members are female.

The 1992 survey found that the criminal behavior of male and female gang members differed. A higher proportion of male crimes were violent offenses (51% compared with 32% for females), while a higher proportion of female crimes were property offenses (43% compared with 15% for males). About 10% of male and female crimes were drug-related offenses.

15% of students reported gangs existed in their schools

The 1989 School Crime Supplement to the National Crime Victimization Survey interviewed a nationally representative sample of students ages 12–19. Twenty-five percent of students in central cities reported gangs in their schools, compared with 8% in nonmetropolitan areas. In schools where gangs were present, students were twice as likely to fear attack in school (35% vs. 18%) and in going to and from school (24% vs. 12%). The 15% of the students who reported gangs in their schools were also more likely than other students to be the victims of crime (12% compared with 8%).

Increase in homicides by juveniles is tied to the use of guns

The FBI is a primary source of information on homicide

The FBI's *Supplementary Homicide Reports* provide data on offenders as well as victims. In 29% of homicides that occurred between 1976 and 1991, the identity of the perpetrator was unknown, at least at the time the reports were completed by law enforcement authorities. From the large majority of homicides in which the offender is known, however, a profile of juveniles who murder can be developed and trends in juvenile homicide can be examined.

The growth in homicides involving juvenile offenders has surpassed that among adults

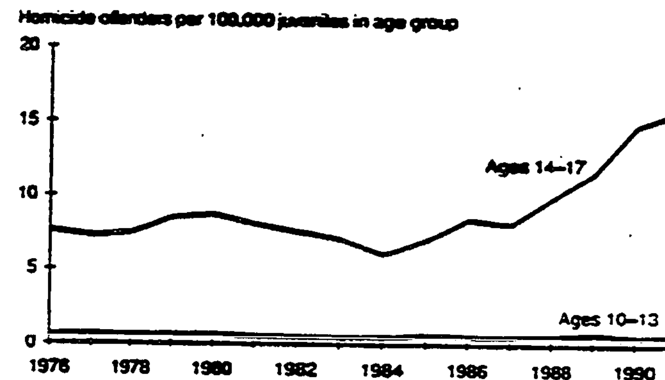
From 1976 to 1991, nearly 23,000 persons under age 18 were known perpetrators of homicide in the U.S., an average of more than 1,400 per year. Moreover, the number of known juvenile homicide offenders has more than doubled in recent years, from 969 in 1984 to 2,202 in 1991, while the number of adult offenders increased 20% over the same period.

The trends in homicide for male and female juveniles are quite different. Controlling for population changes, homicides by male juveniles have more than doubled in number since the mid-1980's, whereas those by female juveniles have remained steady in recent years.

Between 1976 and 1991, 9 in 10 juvenile murderers were male, and about half were white

Most juvenile homicide offenders are male (91%). Boys are 10 times more likely to commit homicide than girls.

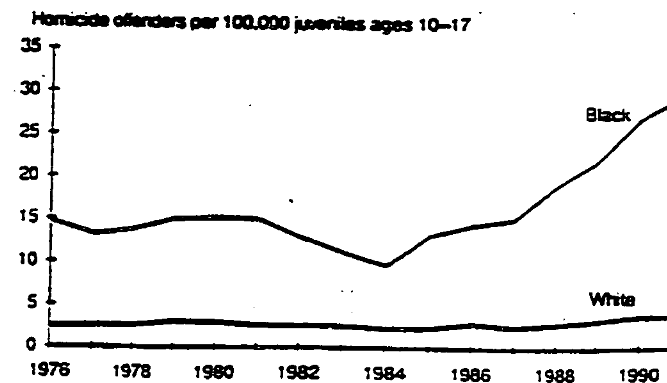
The homicide offending rate for 14–17-year-olds increased substantially in recent years, while the rate for younger juveniles remained constant



- Between 1984 and 1991 the rate at which juveniles ages 14 to 17 committed murder increased 160%.

Source: FBI. (1993). *Supplementary homicide reports 1976–1991* [machine-readable data files].

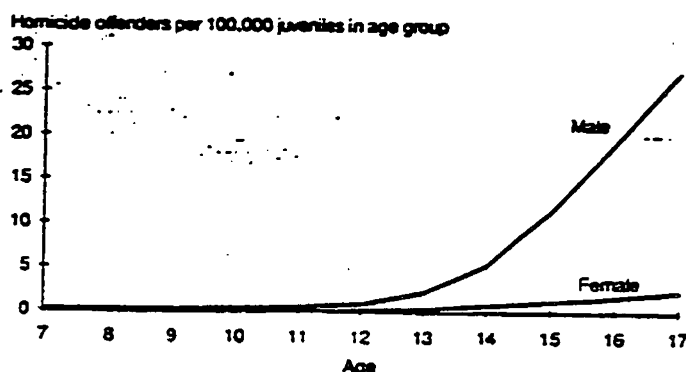
The homicide offending rate for black juveniles is substantially higher than the rate for white juveniles and has risen sharply in recent years



- Between 1984 and 1991 the rate at which white juveniles committed murder increased by 64%, while the black juvenile murder rate increased 211%.

Source: FBI. (1993). *Supplementary homicide reports 1976–1991* [machine-readable data files].

The disparity between juvenile male and female homicide offending rates increases with age

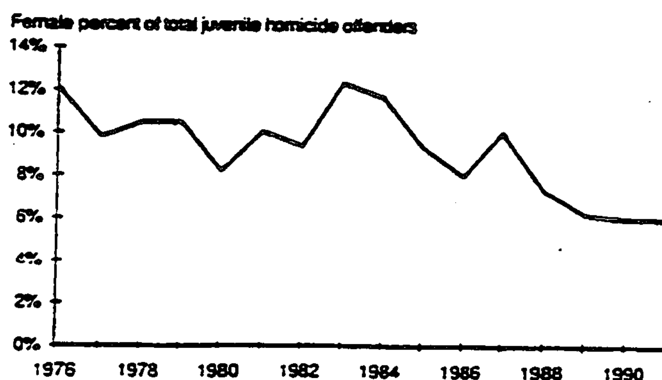


- At age 13 the male homicide rate is 6.3 times greater than the female rate; by age 17 the male rate is 11.5 times greater.

Note: Rates are based on the 1976–1991 combined average.

Source: FBI. (1993). *Supplementary homicide reports 1976–1991* [machine-readable data files].

The female proportion of juvenile homicide offenders declined between 1987 and 1991



- While the female proportion of juvenile offenders declined between 1976 and 1991, the number of female juvenile homicide offenders remained relatively constant.

Source: FBI. (1993). *Supplementary homicide reports 1976–1991* [machine-readable data files].

The rate of homicide offending increases throughout adolescence. This is true for both boys and girls, but the growth during adolescence is particularly sharp for boys.

Nearly half (47%) of juvenile homicide offenders are white. However, when population differences are taken into account, black juveniles kill at a rate 6 times that of white juveniles.

In most homicides, the victim and offender are of the same race. Ninety-two percent of the victims of white juveniles are white; 76% of victims of black juveniles are black.

Boys and girls tend to kill different types of victims

The typical male juvenile homicide offender kills a friend or acquaintance during an argument. Fifty-three percent killed friends or acquaintances, while 34% killed strangers. In 67% of homicides the boy used a gun, and a knife was used in another 18% of the cases.

The typical female juvenile homicide offender is nearly as likely to kill a family member (41%) as a friend or acquaintance (46%). Firearms are not used as often in female homicides as in homicides by males. While 42% of female juvenile homicide offenders used a firearm, 32% killed with a knife.

Both male and female juvenile homicide offenders tend to kill males. Eighty-five percent of boys and 70% of girls killed males (generally friends, fathers, or brothers).

Nearly one-third of juvenile murder victims are strangers

When juveniles commit homicide, most of their victims are friends or acquaintances (53%). Thirty-two percent of juvenile murder victims are strangers, and 15% are family members.

When juveniles kill strangers, generally the perpetrator is male (96%) and black (57%), uses a gun (64%), and kills during the commission of a felony (62%).

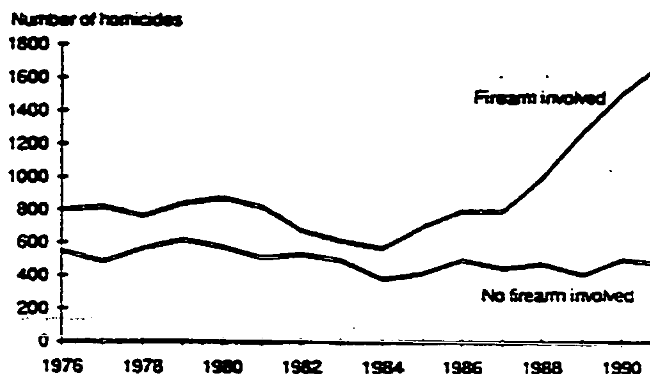
Similarly, when juveniles kill friends or acquaintances, the perpetrator is almost always male (92%), is equally likely to be white or black, kills with a firearm (62%), and is frequently motivated by an argument or brawl (45%).

In family-related incidents, the offender is usually male (75%), is more often white (64%), murders with a firearm (64%), and is motivated by an argument or brawl (51%). When juveniles commit homicide within the family, they typically kill fathers/stepfathers (30%) or brothers (17%).

Handguns accounted for the greatest proportion of homicides by juveniles from 1976 to 1991

Over the period 1976 to 1991, firearms were used by 65% of juvenile homicide offenders — 44% used handguns. The use of firearms by juvenile homicide offenders increased substantially over this period. In 1976, 59% of juvenile homicide offenders killed with a gun; by 1991 the figure was 78%.

Gun homicides by juveniles have nearly tripled since 1983, while homicides involving other weapons have actually declined



- From 1983 through 1991, the proportion of homicides in which the juvenile uses a gun increased from 55% to 78%.

Source: FBI. (1993). *Supplementary homicide reports 1976–1991* [machine-readable data files].

A growing number of juveniles kill in groups of two or more

Multiple-offender killings have more than doubled since the mid-1980's. While in a majority (77%) of homicide incidents involving juvenile offenders the offender acted alone, 14% involved 2 offenders, 6% involved 3 offenders, and 3% involved 4 or more offenders. Group killings typically involve guns (64%) or knives (17%), and often occur during the commission of other felonious acts (51%). When multiple offenders are involved they are disproportionately black (52%) and male (93%). Victims of multiple-offender homicides are as likely to be strangers as not and are more likely to be male (86%) and white (60%).

Group killings are more likely to [cross] racial lines than single-offender homicides. Whereas 11% of sing[le-]offender killings involve victims [and] offenders of different races, one-quarter of multiple-offender hom[icides] involved victims and offenders o[f] different races. These mixed-rac[e] group killings typically involve b[lack] offenders killing white victims (7[?% of] all mixed-race combinations) wh[o are] strangers (76%), and often invol[ve an] element of robbery (60%).

4 in 10 high school seniors have used an illicit drug at least once — more have used alcohol or tobacco

The Monitoring the Future Study tracks the drug use of high school seniors

Since 1975 the Monitoring the Future Study (MTF), often called the High School Seniors Survey, has asked a nationally representative sample of high school seniors in public and private schools to describe their drug use patterns through self-administered questionnaires. In 1993 the survey sampled more than 16,000 seniors from 139 schools. Beginning in 1991 the survey expanded to include 8th and 10th graders. By design, MTF excludes dropouts and institutionalized, homeless, and runaway youth.

MTF collects information on the use of illicit drugs (such as marijuana, hallucinogens, cocaine, other opiates, stimulants, barbiturates, and tranquilizers not prescribed by physicians) and on alcohol and tobacco use. Annual results of this effort are commonly carried in the media and influence public perception and public policy.

Alcohol and marijuana were used on a daily basis by about 1 of every 40 high school seniors in 1993

	Proportion of seniors who used			
	in Lifetime	in Last year	in Last month	Daily*
Alcohol	87.0%	76.0%	51.0%	2.5%
Been drunk	62.5	49.6	28.9	0.9
Cigarettes	61.9	--	29.9	19.0
Marijuana/hashish	35.3	26.0	15.5	2.4
Smokeless tobacco	31.0	--	10.7	3.3
Inhalants	17.4	7.0	2.5	0.1
Stimulants	15.1	8.4	3.7	0.2
LSD	10.3	6.8	2.4	0.1
Sedatives	6.4	3.4	1.3	0.1
Tranquilizers	6.4	3.5	1.2	<0.1
Cocaine, not crack	5.4	2.9	1.2	0.1
PCP	2.9	1.4	1.0	0.1
Crack cocaine	2.6	1.5	0.7	0.1
Steroids	2.0	1.2	0.7	0.1
Heroin	1.1	0.5	0.2	<0.1

- Nearly 1 in 5 high school seniors smoked cigarettes on a regular basis, with nearly 1 in 10 smoking half a pack or more per day

* Used on 20 or more incidents in the last 30 days.

-- Cigarette and smokeless tobacco use in the last year was not included in the survey.

Source: Johnston, L., O'Malley, P., and Bachman, J. (1994). *National survey results on drug use from the monitoring the future study 1975–1993.*

More than 4 in 10 seniors in 1993 reported illicit drug use

In 1993, 43% of all seniors said they had at least tried illicit drugs. Marijuana was by far the most commonly used illicit drug: in 1993, 35% of high school seniors reported they had tried marijuana. About half of those who said they had used marijuana (or 16% of all seniors) reported they had used no other illicit drug. Therefore, more than one-quarter (27%) of all seniors, or nearly two-thirds of those seniors who used illicit drugs, reported using an illicit drug other than marijuana.

While 35% of high school seniors reported using marijuana at least once, 26% reported they had used it in the past year, and 15% had used it in the previous month. A large number of seniors reported using marijuana on nearly a daily basis. MTF asks students if they had used marijuana on 20 or more occasions in the previous 30 days. In 1993, 2.5% of high school seniors said they used marijuana this frequently.

Seventeen percent of high school seniors have used inhalants, making inhalants the second most prevalent illicit drug after marijuana. Stimulants are the next most prevalent drug: 15% of seniors reported they had used stimulants. However, stimulants rank second to marijuana in terms of current use, as many of the early users of inhalants have since discontinued their use.

In 1993 about 1 in 16 high school seniors (6.1%) reported that they have used cocaine. Half of this group (3.3%) reported that they used it in the previous year, and about one-fifth of users (1.3% of high school seniors) reported use in the preceding 30 days. About 1 in 40 high school seniors reported previous use of crack cocaine about 1 in 70 had used it in the previous year, and about 1 in 150 had used crack in the previous month.

Heroin was the least commonly used illicit drug, with 1.1% of high school seniors reporting they had used it at least once. MTF found that a greater

proportion of younger students (1.4% of 8th graders and 1.3% of 10th graders) reported using heroin. These higher rates for younger age groups may reflect the fact that heroin users are more likely to drop out of school before their senior year.

Alcohol and tobacco are more widespread than any illicit drug

Seven of 8 high school seniors reported in 1993 that they had tried alcohol at least once; half said they had used it in the previous month. Even among 8th graders the reported use of alcohol is high — two-thirds had tried alcohol and one-quarter had used it in the month prior to the survey.

Perhaps of greater concern are the juveniles who indicate heavy drinking (defined as five or more drinks in a row) in the preceding 2 weeks: 28% of seniors, 23% of 10th graders, and 14% of 8th graders reported this behavior.

Tobacco use was less prevalent than alcohol use. In 1993, 62% of seniors and 30% of 8th graders had tried cigarettes. Thirty percent of seniors and 17% of 8th graders had smoked in the preceding month. Of more concern is the fact that 15% of high school seniors, 11% of 10th graders, and 6% of 8th graders reported they were currently smoking cigarettes on a regular basis.

Male high school seniors reported more illicit drug use than females in 1993; white seniors reported more use than black seniors

	Proportion of seniors who used in previous year				
	Male	Female	White	Black	Hispar
Alcohol	75.9%	76.0%	79.6%	64.2%	77.2
Been drunk	53.4	46.1	56.4	25.2	41.7
Marijuana/Hashish	29.0	22.4	25.9	14.2	23.5
Inhalants	9.2	4.8	7.6	2.2	5.7
Stimulants	8.2	8.5	9.0	2.3	6.2
LSD	8.4	5.1	7.4	0.6	5.1
Barbiturates	3.4	3.3	3.6	1.0	1.9
Tranquilizers	3.5	3.3	3.7	1.0	2.0
Crack	1.9	1.1	1.3	0.6	2.5
Cocaine, not crack	3.7	2.0	2.6	0.7	5.1
Steroids	2.5	0.1	1.2	1.1	0.9
Heroin	0.7	0.3	0.5	0.4	0.7

Note: White does not include Hispanic.

Source: Johnston, L., O'Malley, P., and Bachman, J. (1994). *National survey results c drug use from the monitoring the future study 1975–1993.*

Males are more likely than females to use drugs

Males use alcohol more frequently than females. Daily use was reported by 3.6% of males and 1.4% of females. Males were more likely to drink heavily than were females. More than 1 in 3 males and nearly 1 in 5 females reported taking five or more drinks in a row in the previous 2 weeks.

While males were more likely than females to have used marijuana in the previous year (29% vs. 22%), the proportion of males that used marijuana on a daily basis was more than double the female proportion (3.3% vs. 1.5%). The proportions of male and female high school seniors reporting any illicit drug use other than marijuana in the previous year were very similar, 18% and 16%. Males had higher annual use rates of inhalants, LSD, crack, cocaine, steroids, and heroin. Female annual use rates were similar to those of males for stimulants, barbiturates, and tranquilizers.

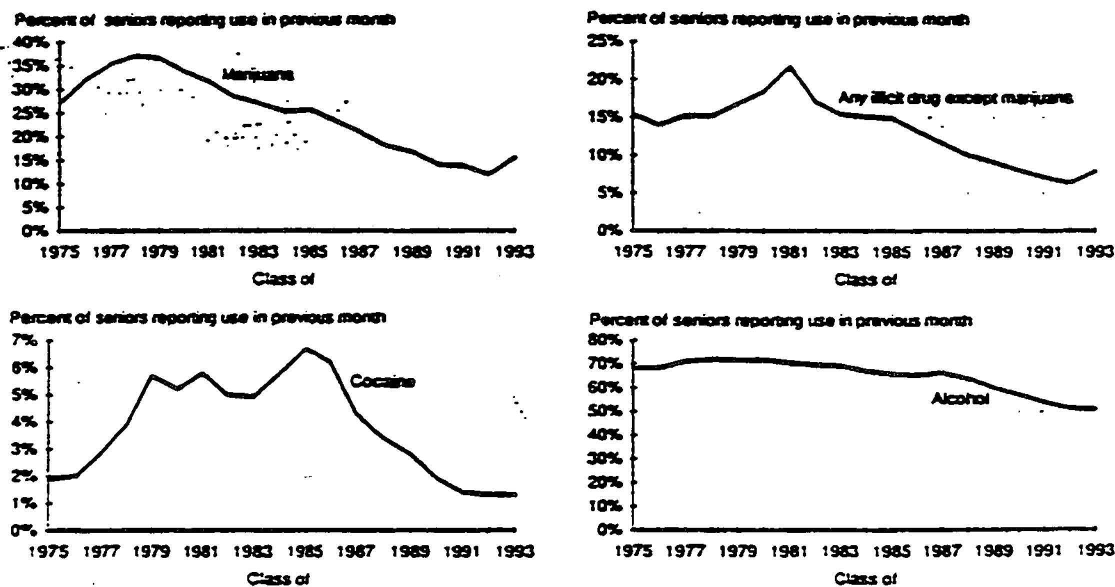
Black seniors report lower dr use rates than white seniors

Twenty-one percent of white senic 1993 reported smoking on a daily basis, compared with 4% of black: Daily drinking among blacks was thirds that of whites. Whites were more likely than blacks to have ha five or more drinks in a row in the previous 2 weeks (31% vs. 13%).

The same general pattern held for drugs. The proportion of black se who reported using marijuana on : daily basis was one-third that of whites. Whites were 3 times as li as blacks to say they had used coc in the previous month and in the previous year. White seniors wen twice as likely as blacks to have t heroin at least once and more thar times as likely to have tried LSD.

Illicit drug use by juveniles declined substantially during the 1980's

The proportion of high school seniors in 1993 who reported they had used illicit drugs in the previous month was substantially below the levels reported in the early 1980's



- High school seniors reported more marijuana use in 1978 than in any other year between 1975 and 1993. In 1978, 37% of high school seniors reported they had used marijuana in the previous month; in 1993 this proportion was cut to 15%.
- Other illicit drug use peaked in 1981. In 1981, 17% of high school seniors reported using illicit drugs other than marijuana in the previous month. By 1993 this proportion was cut to 8%.
- Cocaine use peaked in 1985 at 7%, then declined to 1% in 1993.
- Reported use of alcohol in the previous month also declined from a peak in 1978 of 72% to 51% in 1993.
- After years of continuous decline, reported drug use by high school seniors grew in some categories between 1992 and 1993. While these new levels of drug use are far from the highs of earlier years, there may be a change in the downward trend in drug use by U.S. high school seniors.

Source: Johnston, L., O'Malley, P., and Bachman, J. (1994). *National survey results on drug use from the monitoring the future study 1975–1993.*

The number of youth ages 15–20 killed in alcohol-related traffic motor vehicle crashes declined 54% from 1982 to 1992

Traffic crashes are the leading cause of death for adolescents

The National Highway Traffic Safety Administration reported that in 1992 more than 39,000 persons died in highway crashes. About 45% of these deaths were alcohol related. Preventable traffic "accidents," involving alcohol- or drug-impaired drivers and pedestrians, resulted in nearly 18,000 deaths in 1992.

In 1992, 2,452 of these alcohol-related traffic fatalities were youth ages 15–20. In fact, *alcohol-related* traffic crashes are the leading cause of death for adolescents and young adults — accounting for 20% of all deaths of youth ages 15–20.

The number of alcohol-related motor vehicle fatalities declined 54% between 1982 and 1992 for youth ages 15–20. Alcohol-related traffic fatalities accounted for 42% of all traffic fatalities involving these youth in 1992, which was substantially lower than the 1982 figure.

Percent of fatalities that were alcohol related:

	1982	1992
Youth 15–20	63%	42%
Adults	58	48

In 1982 a greater proportion of the youth than adult traffic fatalities were alcohol related; by 1992 the adult proportion was higher.

Alcohol-related traffic accidents caused by young people have declined

Between 1982 and 1992 the number of drivers ages 15–20 involved in crashes where someone died declined 27%, from 10,080 to 7,400. Nearly all of this decline resulted from a drop in the number of alcohol-related traffic incidents. In 1992, 26% of drivers ages 15–20 who were involved in fatal crashes were impaired or intoxicated, compared with 43% in 1982.

Similarly, the number of young drivers killed in fatal crashes declined 30% between 1982 and 1992 (from 4,526 to 3,153), with nearly all of the decline resulting from a decrease in alcohol-related traffic incidents. In 1992, 35% of drivers ages 15–20 who were fatally injured were impaired or intoxicated at the time of the incident, compared with 55% in 1982.

Raising the drinking age has had some impact on drunk driving fatalities

The proportion of drivers ages 15–20 involved in crashes who had blood alcohol concentrations at or above 0.10% declined from 31% in 1982 to 17% in 1992. From this data, the National Highway Traffic Safety Administration estimates that minimum drinking age laws have saved more than 13,000 lives since 1975.

Drivers under 21 years of age are more likely to be in a fatal alcohol-related crash than are older drivers. Among drivers ages 16 and 17 the alcohol-related fatality rate is nearly twice the rate for drivers age 25 and older. The rate for drivers ages 18–20 is nearly 3 times the rate for older adults.

Young drivers are arrested for driving under the influence at rates lower than expected

According to FBI estimates, there were more than 1.6 million arrests made in 1992 for driving under the influence.

> **Blood Alcohol Concentration**
>
> In most States a blood alcohol conc[entration] (BAC) of 0.10% is considere[d] legal intoxication for all drivers. At l[east] nine States have lowered the BAC threshold to 0.08%. Impaired driver[s] with a BAC of 0.15% or higher are 2[...] times more likely to have a fatal cra[sh] than are sober drivers. The BAC of those arrested for driving under the influence is, on average, greater tha[n] 0.15%. This is the equivalent of 10[...] drinks in a 4-hour period.
>
> The legal drinking age is now 21 in [all] States and the District of Columbia. [In] 1994, 22 States and the District of Columbia had set lower illegal bloo[d] alcohol concentrations for persons under age 18. Most have set this b[lood] alcohol level at 0.02%.

One might expect that these arrests would be distributed by driver age pattern similar to the age pattern fo[r] drunk driving overall.

To the contrary, young drivers are being arrested for driving under the influence, nationally, at rates that a[re] far below their incidence in alcoho[l-] related crashes. Drivers under age [21] account for 14% of all fatally injur[ed] drivers with a blood alcohol concen[-] tration at or above the 0.10% level, make up only 1% of all arrests for driving under the influence.

Across the country, the number of driving-under-the-influence arrests [per] drunk drivers killed is higher for 1[8- to] 20-year-olds than for 16- and 17-y[ear-] olds. Higher still is the number of arrests per drunk drivers killed for adults age 25 and older.

Does substance abuse lead to delinquency?

There are patterns in the sequencing of delinquency and substance abuse

It has been consistently found that:

- Alcohol use precedes marijuana use.
- Marijuana use precedes hard-drug use.
- Minor delinquency generally precedes more serious behavior.

However, these findings do not necessarily imply causal connections. Researchers believe that delinquency and substance abuse are caused by the same underlying factors, rather than one causing the other.

A study of 7th grade boys found that the proportion committing delinquent acts increased with more serious substance use

	Percent who ever committed delinquent acts			
Delinquent act	No use	Beer, wine, or tobacco	Liquor	Marijuana
Ran away	6%	10%	14%	32%
Truant	11	28	61	74
Damaged property	6	22	46	64
Set fires	1	7	8	17
Burglary	3	10	12	43
Stole more than $50	2	2	5	34
Shoplifted	12	32	47	74
Stole car	1	4	9	34
Assault w/ weapon	3	6	9	30
Hit to hurt	26	45	65	74
Gang fight	9	13	21	47
Had sex	20	25	32	61

Source: Van Kammen, A., Loeber, R., and Stouthamer-Loeber, M. (1991). Substance use and its relationship to conduct problems and delinquency in young boys. *Journal of youth and adolescence.*

The initiation of delinquency and the initiation of substance abuse appear to be independent events

Huizinga, Menard, and Elliott reviewed the findings of the National Youth Survey to investigate the links between delinquency and substance abuse. They found that the onset of minor delinquency in a child's life generally occurs prior to the onset of alcohol use. Thus alcohol use cannot be a cause for the onset of delinquency. Similarly, since serious offending generally begins prior to the use of marijuana and hard drugs, their use cannot be viewed as a cause for the initiation of more serious delinquency.

The sequencing of minor delinquency to alcohol use, to more serious offending, to marijuana and hard drug use most likely reflects overlapping, independent, and developmentally determined delinquency and substance abuse patterns. Drug use does not cause the initiation of delinquent behavior, nor delinquent behavior the initiation of drug use. However, they may have the same root causes, such as family background, family structure, peer associations, peer influences, school history, psychosocial attributes, interpersonal traits, unemployment, and social class.

Drug use seems to prolong involvement in delinquency once the behavior has begun

Generally the more serious a youth's involvement in delinquency, the more serious his or her involvement is with drugs. Changes in drug use have been shown to produce large changes in delinquent behavior, while changes in delinquency have been shown to have a smaller impact on changes in drug use. Consequently, it seems that increases in substance abuse may lead to increases in delinquent behavior. However, increases in delinquent behavior generally has only a small impact on the level of substance abuse.

1 in 3 juvenile detainees were under the influence of drugs at the time of their offense

Juveniles in delinquent institutions report extensive drug use

The 1987 Survey of Youth in Custody interviewed juveniles in long-term, State-operated institutions. Eighty-one percent of these inmates reported having used drugs at some point in their lifetime: 79% had tried marijuana, 43% cocaine, 38% amphetamines, 28% barbiturates, and 27% LSD. Three in 5 youth in custody reported having used at least one drug regularly.

The Survey of Youth in Custody also found that 48% of the juvenile inmates reported being under the influence of drugs or alcohol while committing the offense for which they were institutionalized. Most were under the influence of drugs — 9% of juveniles in custody said they were under the influence of no drugs other than alcohol at the time of their offense. The proportion of juveniles in custody who reported being under the influence of drugs or alcohol varied with the nature of the offense.

Percent who said they were under the influence of drugs or alcohol at the time of their offense:

Murder	43%
Rape	34
Robbery	51
Assault	49
Burglary	53
Larceny/theft	49
Motor vehicle theft	45
Drug possession	59
Drug trafficking	56

Source: BJS. (1989). *Correctional populations in the United States, 1987.*

White juveniles in custody were more likely than blacks to report being under the influence of illicit drugs at the time of their offense

	Percent of juveniles who committed current offense under the influence of drugs		
	All races[a]	White	Black
Any illicit drug[b]	39%	51%	24%
Marijuana	32	40	21
Cocaine	13	17	8
Amphetamines	6	10	2

[a] Includes American Indians, Alaskan Natives, Asians, and Pacific Islanders.
[b] Includes illicit drugs other than those detailed.

Source: BJS. (1989). *Correctional populations in the United States, 1987.*

Delinquency rates are higher for those who sell drugs than those who use drugs

A self-report study of 9th and 10th grade boys in Washington, DC, conducted by Altschuler and Brounstein in 1988 found that those who had not used drugs reported the least involvement in law-violating behavior. Those who sold drugs reported higher delinquency rates than those who used drugs. For example, juvenile drug sellers were more likely to have carried concealed weapons and to have committed violent offenses than were juveniles who only used drugs or juveniles who were drug free.

Moreover, this study found that those who both sold and used drugs had delinquency rates similar to those who just sold drugs. Therefore, it appears that involvement in drug trafficking results in higher delinquency rates, regardless of whether the juvenile is a user or not.

The crime most commonly committed under the influence of drugs was burglary. Of those that reported committing burglary, 32% reporte[d] they were under the influence of d[rugs] at the time. Of those who reporte[d] drug selling, 26% reported doing s[o] while under the influence of drugs. The crimes committed most often [to] obtain drugs were drug selling (36[%]), serious assault (24%), burglary (2[?]) and robbery (19%). Implicit in th[e] findings is that the majority of juv[e]niles who commit crimes do so fo[r] reasons completely independent o[f] drugs.

One-third of juveniles enterin[g] detention centers test positi[ve] for at least one drug

NIJ's Drug Use Forecasting (DUF[)] program monitors drug use among [a] high-risk group of juveniles, those arrested or detained by the justice system. Unlike other efforts, the [DUF] program does not rely on self-repo[rts] to assess drug use. In 1993 in 12 [cities,] males held in a detention center fo[r less] than 48 hours were asked to anonymously provide urine specim[ens] for laboratory analysis.

Overall, the 12 sites in 1993 reported that between 18% and 54% of juveniles tested positive for at least one illicit drug. The average proportion of positive tests was 33%. This is substantially above the 1992 average of 25%. At most sites, the overall increase resulted from an increase in marijuana use.

The level of marijuana use in 1993 ranged from 14% to 51% of the juveniles tested, with an average value of 26%. This was substantially above the 1992 average of 16.5%. With few exceptions, levels of cocaine were unchanged from 1992 to 1993. In 1993 the average proportion of juveniles that tested positive for cocaine was 6.5%. Opiate use in these high-risk males remained at relatively low levels in 1993, with none of the sites reporting more than 2% of their juveniles testing positive for opiates. The percentage of juveniles testing positive for more than one drug ranged from 1% to 14%, with an average value of 7.5%, and representing a small increase over 1992.

Drug use is related to school attendance

In most sites the cocaine use of those attending school was less than half that of those not attending school. Among those not attending school, the proportion of juveniles testing positive for cocaine ranged from 3% to 46%, while positive tests for those in school ranged from 1% to 17%. In contrast, the rates of marijuana use among those attending school approached the level of those not attending school.

Cities vary substantially on the proportion of their juvenile offenders that test positive for marijuana

	Offense charged				
City	Any	Violent	Property	Drug	Other
Birmingham, AL	22	19	12	38	30
Cleveland, OH	27	23	26	30	29
Denver, CO	51	44	46	n/a	53
Indianapolis, IN	18	19	13	48	16
Los Angeles, CA	24	21	22	33	26
Phoenix, AZ	31	28	26	68	33
Portland, OR	14	7	19	n/a	13
St. Louis, MO	16	22	7	26	12
San Antonio, CA	30	24	21	62	34
San Diego, CA	35	29	37	46	36
San Jose, CA	25	24	18	50	27
Washington, DC	47	45	35	63	39

- In most cities juveniles charged with a violent offense were no more likely than other offenders to test positive for marijuana.

Source: NIJ. (1994). Drug use forecasting: 1993 annual report on juvenile arrestees/detainees. *Research in Brief.*

Juvenile arrestees/detainees charged with a drug offense were the most likely to test positive for cocaine in all cities

	Offense charged				
City	Any	Violent	Property	Drug	Other
Birmingham, AL	5	4	1	29	4
Cleveland, OH	18	16	8	36	16
Denver, CO	8	6	4	n/a	8
Indianapolis, IN	2	0	1	8	2
Los Angeles, CA	13	11	8	25	16
Phoenix, AZ	8	7	8	24	4
Portland, OR	4	2	4	n/a	2
St. Louis, MO	6	5	2	21	4
San Antonio, CA	7	4	6	12	7
San Diego, CA	6	3	5	29	6
San Jose, CA	4	2	5	8	4
Washington, DC	7	4	5	14	5

Source: NIJ. (1994). Drug use forecasting: 1993 annual report on juvenile arrestees/detainees. *Research in Brief.*

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The number of youth ages 15–20 killed in alcohol-related traffic motor vehicle crashes declined 54% from 1982 to 1992

Traffic crashes are the leading cause of death for adolescents

The National Highway Traffic Safety Administration reported that in 1992 more than 39,000 persons died in highway crashes. About 45% of these deaths were alcohol related. Preventable traffic "accidents," involving alcohol- or drug-impaired drivers and pedestrians, resulted in nearly 18,000 deaths in 1992.

In 1992, 2,452 of these alcohol-related traffic fatalities were youth ages 15–20. In fact, ***alcohol-related*** traffic crashes are the leading cause of death for adolescents and young adults — accounting for 20% of all deaths of youth ages 15–20.

The number of alcohol-related motor vehicle fatalities declined 54% between 1982 and 1992 for youth ages 15–20. Alcohol-related traffic fatalities accounted for 42% of all traffic fatalities involving these youth in 1992, which was substantially lower than the 1982 figure.

Percent of fatalities that were alcohol related:

	1982	1992
Youth 15–20	63%	42%
Adults	58	48

In 1982 a greater proportion of the youth than adult traffic fatalities were alcohol related; by 1992 the adult proportion was higher.

Alcohol-related traffic accidents caused by young people have declined

Between 1982 and 1992 the number of drivers ages 15–20 involved in crashes where someone died declined 27%, from 10,080 to 7,400. Nearly all of this decline resulted from a drop in the number of alcohol-related traffic incidents. In 1992, 26% of drivers ages 15–20 who were involved in fatal crashes were impaired or intoxicated, compared with 43% in 1982.

Similarly, the number of young drivers killed in fatal crashes declined 30% between 1982 and 1992 (from 4,526 to 3,153), with nearly all of the decline resulting from a decrease in alcohol-related traffic incidents. In 1992, 35% of drivers ages 15–20 who were fatally injured were impaired or intoxicated at the time of the incident, compared with 55% in 1982.

Raising the drinking age has had some impact on drunk driving fatalities

The proportion of drivers ages 15–20 involved in crashes who had blood alcohol concentrations at or above 0.10% declined from 31% in 1982 to 17% in 1992. From this data, the National Highway Traffic Safety Administration estimates that minimum drinking age laws have saved more than 13,000 lives since 1975.

Drivers under 21 years of age are more likely to be in a fatal alcohol-related crash than are older drivers. Among drivers ages 16 and 17 the alcohol-related fatality rate is nearly twice the rate for drivers age 25 and older. The rate for drivers ages 18–20 is nearly 3 times the rate for older adults.

Young drivers are arrested for driving under the influence at rates lower than expected

According to FBI estimates, there were more than 1.6 million arrests made in 1992 for driving under the influence.

> **Blood Alcohol Concentration**
>
> In most States a blood alcohol concentration (BAC) of 0.10% is considered legal intoxication for all drivers. At least nine States have lowered the BAC threshold to 0.08%. Impaired drivers with a BAC of 0.15% or higher are 28 times more likely to have a fatal crash than are sober drivers. The BAC of those arrested for driving under the influence is, on average, greater than 0.15%. This is the equivalent of 10–1[illegible] drinks in a 4-hour period.
>
> The legal drinking age is now 21 in all States and the District of Columbia. [illegible] 1994, 22 States and the District of Columbia had set lower illegal blood alcohol concentrations for persons under age 18. Most have set this blo[od] alcohol level at 0.02%.

One might expect that these arrests would be distributed by driver age in pattern similar to the age pattern for drunk driving overall.

To the contrary, young drivers are being arrested for driving under the influence, nationally, at rates that are far below their incidence in alcohol-related crashes. Drivers under age 2[1] account for 14% of all fatally injured drivers with a blood alcohol concentration at or above the 0.10% level, [but] make up only 1% of all arrests for driving under the influence.

Across the country, the number of driving-under-the-influence arrests p[er] drunk drivers killed is higher for 18–20-year-olds than for 16- and 17-year-olds. Higher still is the number of arrests per drunk drivers killed for adults age 25 and older.

Chapter 5

Law enforcement and juvenile crime

For delinquents, law enforcement is the doorway to the juvenile justice system. Once a juvenile is apprehended for a law violation, it is the police officer who first determines if the juvenile will move deeper into the justice system or will be diverted.

Law enforcement agencies track the volume and characteristics of crimes reported to them and use this information to monitor the changing levels of crime in their communities. Not all crimes are reported and most of those that are reported remained unsolved. Consequently, the reported crime information cannot shed much light on the problem of juvenile crime. However, law enforcement agencies also report arrest statistics that can be used to monitor the flow of juveniles and adults into the justice system. These arrest statistics are the most often cited source of information on juvenile crime trends.

This chapter describes the volume and characteristics of juvenile crime from the perspective of law enforcement. Information is presented on the number of juvenile arrests made annually, the nature of these arrests, and arrest trends. Violent crime, property crime, drug, and weapons arrests and trends are presented. Juvenile arrests and arrest trends are also compared with those of adults. The data presented in this chapter were originally compiled by the Federal Bureau of Investigation as a part of its Uniform Crime Reporting Program.

Acknowledgments

This chapter was written by Howard Snyder. The county-level arrest maps were produced by Dennis Sullivan using data extrapolated from a data file prepared by the Inter-university Consortium for Political and Social Research at the University of Michigan, which was based on a data file provided by the FBI.

Information from the FBI's Uniform Crime Reporting Program is th most often cited source for juvenile crime and arrest trends

Since the 1930's police agencies have reported to the Uniform Crime Reporting (UCR) Program

Each year thousands of agencies voluntarily report the following data to the FBI:

- Number of reported Index crimes.
- Number of arrests and the most serious charge involved in each.
- Age, sex, and race of arrestees.
- Proportion of reported Index crimes cleared by arrest and the proportion cleared by the arrest of persons under age 18.
- Dispositions of juvenile arrests.
- Detailed victim and assailant information in homicide cases.

In 1992 law enforcement agencies with jurisdiction over 95% of the U.S. population contributed data on reported crimes, while 84% of the country was represented in the reported arrest data.

What can the UCR data tell us about crime and young people?

The UCR data can provide estimates of the annual number of arrests of young people for various offense categories. It can detail these arrests by sex, race, and urban, suburban, and rural areas. It can estimate changes in arrests over various time periods and the proportion of crimes cleared by youthful arrests. The UCR can also compare the relative number of adult and youthful arrests within offense categories and over time.

UCR data document the number of crimes reported, not the number of crimes committed

The UCR Program monitors the number of Index crimes (see side bar) that come to the attention of law enforcement agencies. Although this information is useful in trending the volume of crime committed, it must be recognized that not all crimes are brought to the attention of law enforcement. Reported crime figures cannot be used to measure the number or the proportion of crimes committed by juveniles.

Crimes are more likely to be reported if they involve an injury or a large economic loss. For example, the National Crime Victimization Survey found that 92% of motor vehicle thefts were reported in 1992, while police received reports on 70% of robberies with injury, 52% of simple assaults with injury, and 29% of attempted robberies without injury. Consequently, changes in reported crime may reflect changes in the number of crimes committed, in the willingness of victims to report these crimes to law enforcement agencies, or in the inclination of the police to make a record of the incident. At least part of the increase in reported crime statistics in the past 20 years can be attributed to an increase in the willingness of victims to report crimes to police.

UCR data document the number of arrests made, not the number of persons arrested

A person can be arrested more than once in a year. Each arrest is counted separately in the UCR. One arrest can represent many crimes. A person arrested for allegedly committing 40 burglaries would show up in the UCR data as one arrest for burglary. One crime may also result in multiple arrests. For example, three youth may be arrested for one burglary. This situation of multiple arrests for a sir crime is more likely to occur for juveniles than for adults because juveniles are more likely than are adults to commit crimes in groups.

What are the Crime Indices?

The designers of the UCR Program wanted to create an index (similar in concept to the Dow Jones Industrial Average or the Consumer Price Inde which would be sensitive to changes the volume and nature of reported crime. They decided to incorporate specific offenses into the index base on several factors: likelihood of being reported, frequency of occurrence, pervasiveness in all geographical areas of the country, and relative seriousness.

The *Crime Index* is divided into two components: the *Violent Crime Inde* and the *Property Crime Index.*

Violent Crime Index — includes murder and nonnegligent manslaugh ter, forcible rape, robbery, and aggra vated assault.

Property Crime Index — includes burglary, larceny-theft, motor vehicle theft, and arson.

Crime Index — includes all eight crimes included in the *Violent Crime Index* and *Property Crime Index.*

While some violent crimes such as kidnapping and extortion are exclud the Violent Crime Index contains wh are generally considered to be serio crimes. In contrast, a substantial proportion of the crimes in the Prope Crime Index are generally considere less serious crimes, such as shoplift theft from motor vehicles, and bicyc theft, all of which are included in the larceny-theft category.

UCR records only the most serious offense for which a person was arrested

Arrest counts and trends for less serious offenses must be carefully interpreted. For example, an arrest of a person for both robbery and weapons possession would appear in the UCR data as one robbery arrest. The count of weapons arrests reflects only those arrests in which a weapons charge was the most serious offense charged.

UCR documents the result of a juvenile arrest

Local agencies report to the FBI how they disposed of arrestees who are classified as juveniles in their jurisdictions. This is the only information in the UCR Program that is sensitive to the States' statutory juvenile/adult distinction. The UCR permits agencies to characterize the disposition of the arrest into five categories: handled within the department and released; transferred to another police agency; or referred to a welfare agency, a juvenile court, or a criminal court.

Clearance statistics provide a different perspective than do arrest statistics

A crime is considered *cleared* once someone is charged with that crime. If a person is arrested and charged with committing 40 burglaries, UCR would record 40 burglary clearances. If three people are arrested for robbing a liquor store, UCR would record one robbery cleared. Knowing the number of crimes reported as well as the number of crimes cleared in a year provides an understanding of the proportion of crimes for which an arrest was made.

A much greater proportion of violent than property crimes are cleared by arrest

	Percent of all crimes cleared
Violent Crime Index	45%
Murder	65
Forcible rape	52
Robbery	24
Aggravated assault	56
Property Crime Index	18%
Burglary	13
Larceny-theft	20
Motor vehicle theft	14
Arson	15

Source: FBI. (1993). *Crime in the United States 1992.*

UCR captures the proportion of crimes cleared by juvenile arrest

UCR data also document the proportion of cleared crimes that were cleared by the arrest of persons under age 18. This is the only source of information in the UCR that specifies the percentage of crime committed by juveniles.

Assessments of the juvenile contribution to the U.S. crime problem are often based on the proportion of arrests that are juvenile arrests. Clearance and arrest statistics give a very different picture of the juvenile contribution to crime. An understanding of this difference is important if one wishes to use the UCR data properly.

How should clearance and arrest data be interpreted?

Let's try to answer the question: "What proportion of all burglaries are committed by juveniles?" The UCR reports that 20% of all burglaries cleared in 1992 were cleared by the arrest of persons under age 18 and that 34% of persons arrested for burglary in 1992 were under age 18. How do we reconcile these very different percentages?

First, can we be certain that the 13% of all burglaries that were cleared in 1992 are like all the burglaries committed? It could be argued that juveniles are less skilled at avoiding arrest. If so, cleared burglaries are likely to contain a greater percentage of juvenile burglaries than would those that are not cleared.

But even if we assumed that the offender characteristics in the 13% of cleared burglaries are similar to those of the 87% not cleared, how do we reconcile that large difference between the juvenile clearance and arrest percentage (18% vs. 34%)?

The key to this difference can be found in the fact that, more so than adults, juveniles tend to commit crimes in groups. Assume a police department cleared five burglaries, one committed by a pair of juveniles and the other four committed individually by four different adults. The juvenile proportion of burglaries cleared would be 20% (1 in 5), while 33% of persons arrested for burglary would be a juvenile (2 in 6).

Clearance and arrest statistics answer different questions. If you want to know how much crime was committed by juveniles, the clearance data give a better indication because they count crimes, not arrestees. However, if you want to know how many persons entered the justice system, use the arrest data.

Law enforcement agencies made nearly 2.3 million arrests of persons under age 18 in 1992

Nearly 6% of all juvenile arrests in 1992 were for a violent crime — half of these arrests involved juveniles below age 16, half involved whites, and 1 in 8 involved females

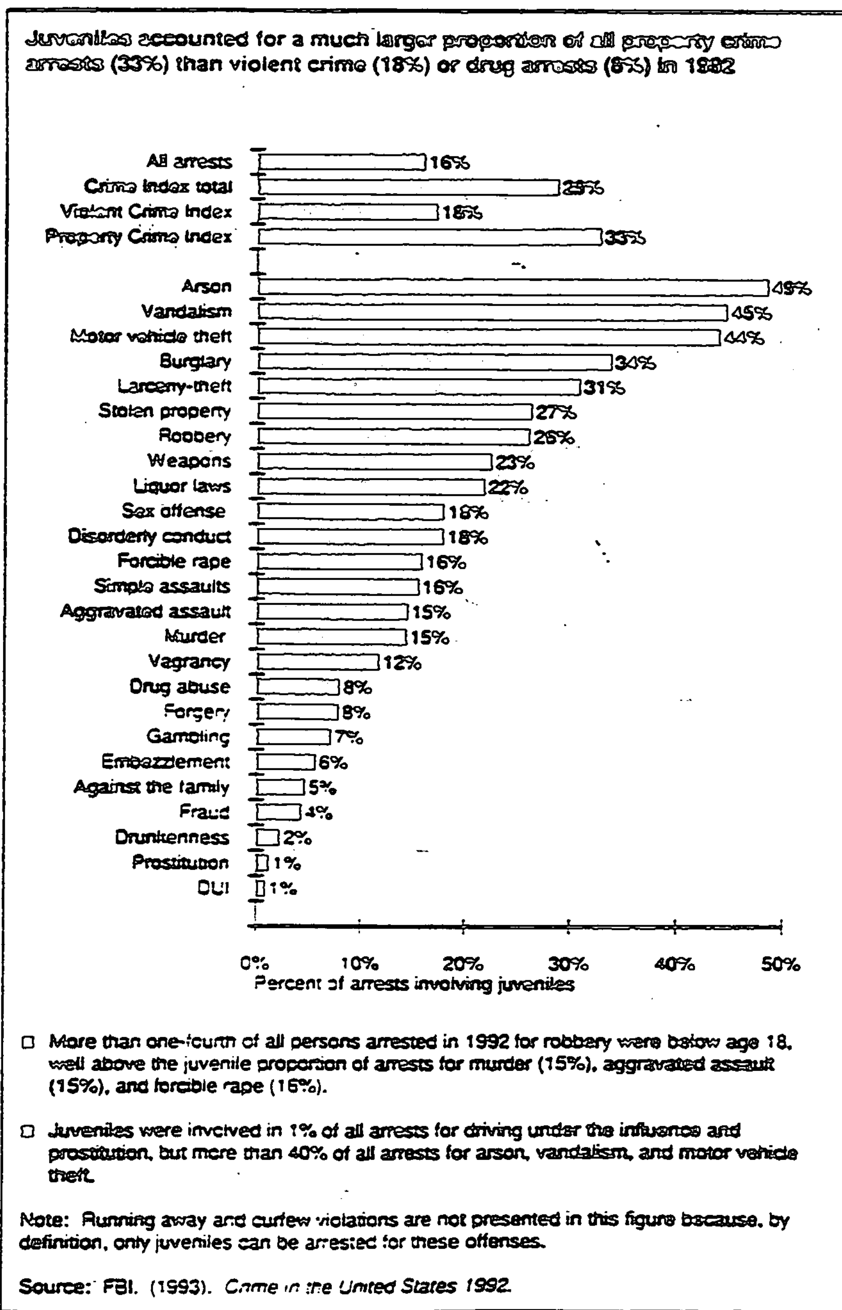
Offense charged	Estimated number of juvenile arrests	Percent of total juvenile arrests					
		Female	Ages 16 and 17	White	Black	Native American	Asian
Total	**2,296,000**	**23%**	**46%**	**70%**	**27%**	**1%**	**2%**
Crime Index Total	839,400	21	40	68	29	1	2
Violent Crime Index	129,600	13	50	49	49	1	1
Murder and nonnegligent manslaughter	3,300	6	73	41	57	<1	1
Forcible rape	6,300	2	44	52	46	1	1
Robbery	45,700	9	51	38	60	<1	2
Aggravated assault	74,400	16	50	56	42	1	1
Property Crime index	709,800	23	38	71	26	1	2
Burglary	144,500	9	40	75	22	1	2
Larceny-theft	468,200	29	36	73	24	1	2
Motor vehicle theft	87,500	12	46	58	39	1	2
Arson	9,700	11	21	83	15	1	1
Nonindex offenses	1,456,500	24	49	71	26	1	2
Other assaults	169,400	24	40	62	35	1	2
Forgery and counterfeiting	8,400	35	67	78	19	1	1
Fraud	18,400	26	46	53	44	<1	2
Embezzlement	800	45	78	69	29	1	1
Stolen property; buying, receiving, possessing	42,900	11	50	59	39	1	1
Vandalism	145,300	9	33	82	16	1	1
Weapons; carrying, possessing, etc.	54,200	7	51	62	36	1	1
Prostitution and commercialized vice	1,200	52	72	69	29	1	1
Sex offenses (except forcible rape and prostitution)	19,700	7	32	73	25	1	1
Drug abuse violations	85,700	11	68	52	47	<1	1
Gambling	1,200	7	66	24	74	1	1
Offenses against the family and children	5,100	35	45	76	21	1	3
Driving under the influence	14,700	14	92	92	5	2	1
Liquor law violations	119,200	29	76	92	5	2	1
Drunkenness	18,900	16	72	88	10	2	1
Disorderly conduct	136,500	22	47	67	32	1	1
Vagrancy	4,100	15	42	67	32	<1	1
All other offenses (except traffic)	338,500	21	54	68	29	1	2
Curfew and loitering law violations	91,100	27	47	76	21	1	2
Runaways	181,300	57	30	78	17	1	3

- 57% of juvenile arrests for murder and 60% of juvenile arrests for robbery involved blacks.
- 92% of juvenile arrests for driving under the influence and for liquor law violations involved whites.
- The majority of juvenile arrests for running away from home (57%) and for prostitution (52%) involved females.

Note: UCR data do not distinguish the ethnic group Hispanic; Hispanics may be of any race. Detail may not add to totals because of rounding.

Sources: FBI. (1993). *Crime in the United States 1992.* Arrest estimates developed by the National Center for Juvenile Justice.

In 1992 juveniles accounted for 13% of all violent crimes reported to law enforcement agencies and 18% of all violent crime arrests



Juveniles accounted for a much larger proportion of all property crime arrests (33%) than violent crime (18%) or drug arrests (8%) in 1992

- More than one-fourth of all persons arrested in 1992 for robbery were below age 18, well above the juvenile proportion of arrests for murder (15%), aggravated assault (15%), and forcible rape (16%).
- Juveniles were involved in 1% of all arrests for driving under the influence and prostitution, but more than 40% of all arrests for arson, vandalism, and motor vehicle theft.

Note: Running away and curfew violations are not presented in this figure because, by definition, only juveniles can be arrested for these offenses.

Source: FBI. (1993). *Crime in the United States 1992.*

How much of the crime problem is caused by juveniles?

Arrest proportions accurately characterize the ages of individuals entering the justice system. The fact that juveniles were 15% of all persons arrested for murder in 1992 implies that 15% of all persons entering the justice system on a murder charge were juveniles, not that the juveniles committed 15% of all murders.

Because juveniles are more likely than adults to commit crime in groups, arrest percentages are likely to exaggerate the juvenile contribution to the crime problem. The FBI clearance data provide a better assessment of the juvenile contribution to crime.

Juveniles were responsible for 13% of all violent crimes in 1992 and 23% of all property crimes

The juvenile contribution to the crime problem in the U.S. in 1992 varied considerably with the nature of the offense. Based on 1992 clearance data, juveniles were responsible for:

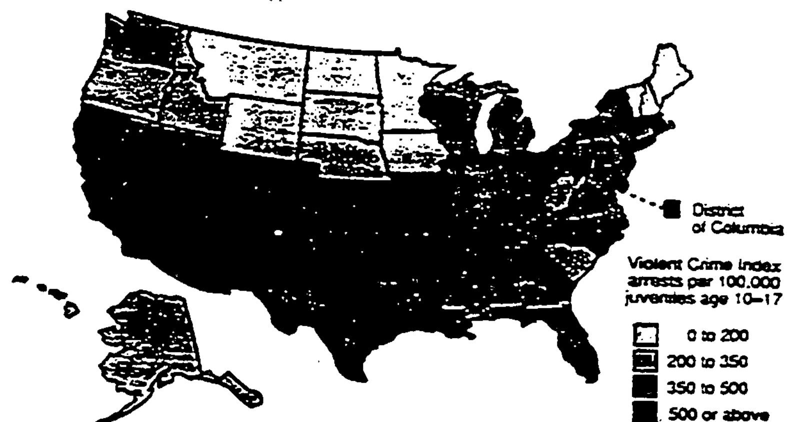
- 9% of murders.
- 12% of aggravated assaults.
- 14% of forcible rapes.
- 16% of robberies.
- 20% of burglaries.
- 23% of larceny-thefts.
- 24% of motor vehicle thefts.
- 42% of arsons.

Crimes with greater discrepancies between the arrest and clearance proportions may be those in which group behavior is more common. For example, while the discrepancy is small for forcible rape, it is relatively large for motor vehicle theft, burglary, murder, and robbery.

In 1992 the States of New York, Florida, New Jersey, Maryland, and California had the highest juvenile violent crime arrest rates

States with high juvenile arrest rates for some violent crimes do not necessarily have high juvenile arrest rates for all violent crimes

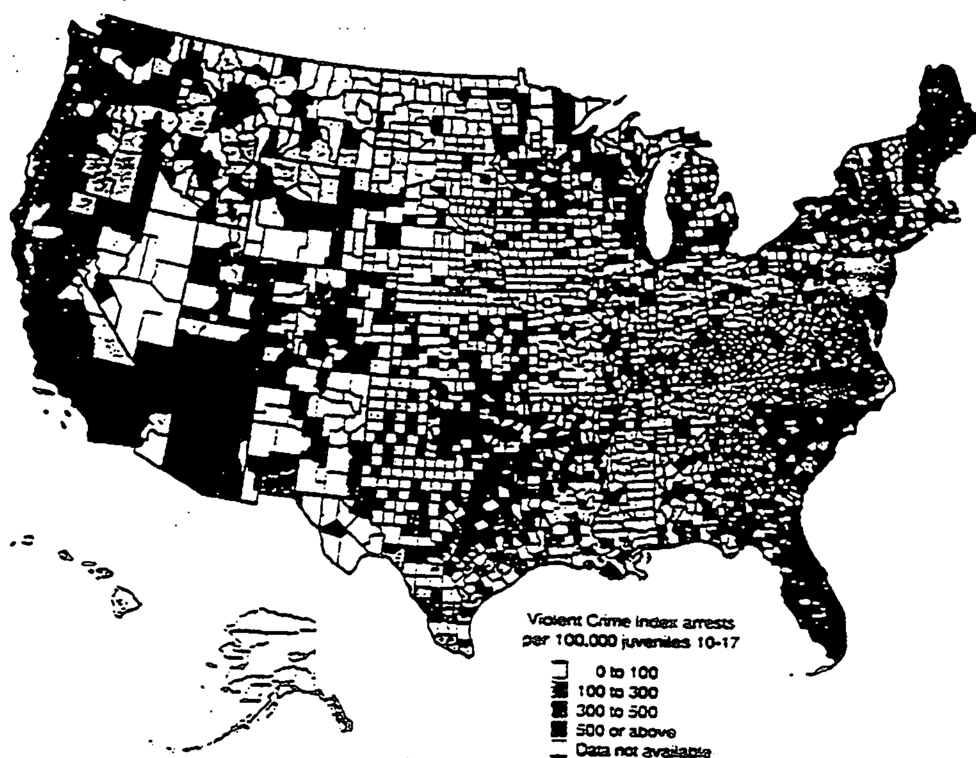
State	% Reporting	Arrests per 100,000 juveniles ages 10–17: Violent Crime Index	Murder	Forcible Rape	Robbery	Agg. Assault
Total U.S.	83%	458	12	22	161	263
Alabama	93	220	11	9	61	139
Alaska	94	205	1	23	38	143
Arizona	94	519	11	16	114	378
Arkansas	100	265	14	22	60	168
California	99	633	20	17	246	350
Colorado	92	506	6	21	85	394
Connecticut	82	499	7	24	125	343
Delaware	54	340	3	54	62	220
Dist. of Columbia	100	1,318	65	52	416	785
Florida	92	739	12	29	247	450
Georgia	72	251	6	14	62	169
Hawaii	100	276	2	26	149	99
Idaho	88	313	2	9	16	287
Illinois	42	463	5	52	101	305
Indiana	51	487	4	11	60	411
Iowa	64	159	0	9	17	133
Kansas	77	377	4	11	77	285
Kentucky	96	331	5	12	64	250
Louisiana	60	569	23	26	129	391
Maine	82	128	2	19	28	80
Maryland	100	645	21	35	200	390
Mass.	66	545	5	19	137	384
Michigan	90	388	20	44	101	223
Minnesota	99	179	3	12	29	136
Mississippi	35	223	15	31	73	105
Missouri	43%	571	18	23	154	376
Montana	90	94	1	16	19	58
Nebraska	73	104	1	13	32	59
Nevada	79	394	25	39	145	185
New Hamp.	81	101	0	15	25	61
New Jersey	97	691	7	30	253	402
New Mexico	56	382	4	15	55	308
New York	85	996	15	17	642	322
N. Carolina	97	396	14	13	72	298
N. Dakota	77	58	0	15	13	30
Ohio	66	372	7	41	155	168
Oklahoma	97	353	8	24	90	231
Oregon	95	338	5	27	130	177
Pennsylvania	84	463	9	26	185	243
Rhode Island	100	613	4	33	82	494
S. Carolina	96	200	6	20	28	147
S. Dakota	71	120	2	23	8	87
Tennessee	49	296	12	23	100	161
Texas	100	380	17	17	131	214
Utah	73	391	2	26	56	307
Vermont	53	36	3	9	3	21
Virginia	100	228	11	20	92	105
Washington	80	385	5	48	106	226
West Virginia	100	77	3	9	24	41
Wisconsin	98	376	16	21	149	190
Wyoming	95	82	2	10	5	65



Note: Reported rates for jurisdictions with less than complete reporting may not be accurate. Readers are encouraged to review the technical note at the end of this summary. Detail may not add to totals because of rounding.

Source: State rates were developed from data reported in *Crime in the United States 1992*.

Counties within a State exhibited diverse juvenile violent crime arrest rates in 1992



Note: Rates were classified as "Data not available" when agencies with jurisdiction over more than 50% of the population did not report.

Source: County rates were developed using *Uniform Crime Reporting Program data [United States]: County-level detailed arrest and offense data, 1992* [machine-readable data file] prepared by the Inter-university Consortium for Political and Social Research.

Arrests for Violent Crime Index offenses monitor violence levels in the juvenile population

The Violent Crime Index combines four offenses (murder/nonnegligent manslaughter, forcible rape, robbery, and aggravated assault). The Index is dominated by arrests for two of the four offenses — robbery and aggravated assault. In 1992, 93% of juvenile Violent Crime Index arrests were for robbery and aggravated assault. Thus, a jurisdiction with a high juvenile Violent Crime Index arrest rate does not necessarily have a high juvenile arrest rate in each component of the Index. For example, while New Jersey had one of the highest juvenile Violent Crime Index arrest rates in 1992, its juvenile murder arrest rate was below the national average.

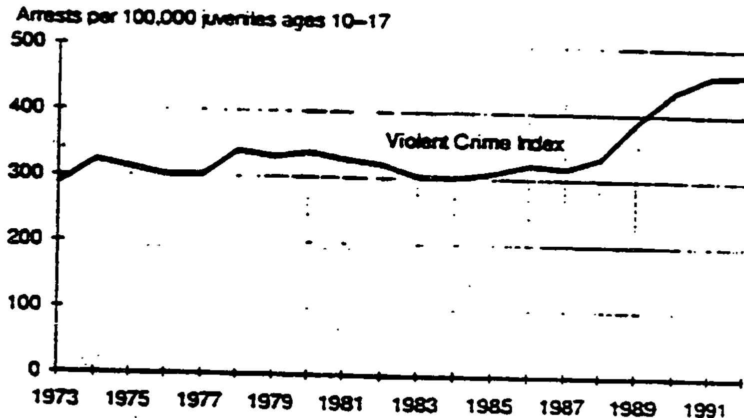
After more than a decade of relative stability, the juvenile violent crime arrest rate soared between 1988 and 1992

The increase in the juvenile arrest rate for violent crimes began in the late 1980's

During the period from 1973 through 1988 the number of juvenile arrests for a Violent Crime Index offense (murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault) varied with the changing size of the juvenile population. However, in 1989, the juvenile violent crime arrest rate broke out of this historic range.

The years between 1988 and 1991 saw a 38% increase in the rate of juvenile arrests for violent crimes. The rate of increase then diminished, with the juvenile arrest rate increasing little between 1991 and 1992. This rapid growth over a relatively short period moved the juvenile arrest rate for violent crime in 1992 far above any year since the mid-1960's, the earliest time period for which comparable statistics are available.

From 1973 through 1988 the juvenile arrest rates for violent crimes remained relatively constant, but these rates have climbed rapidly in recent years



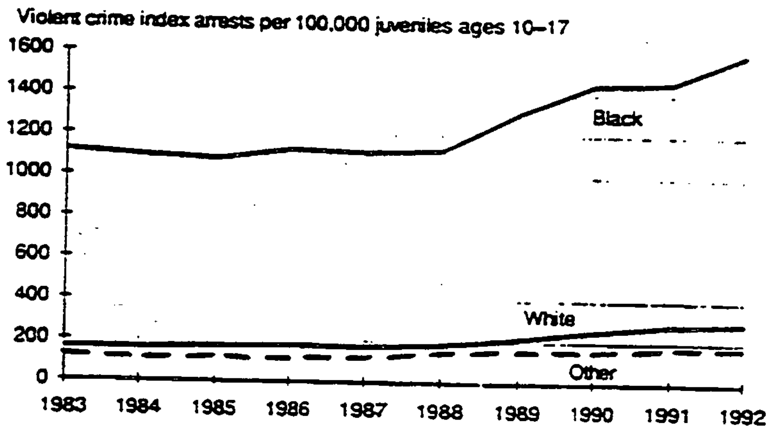
Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*

The juvenile violent crime arrest rate increased substantially in all racial groups in recent years

In 1983 the violent crime arrest rate for black youth was nearly 7 times the white rate. Between 1983 and 1992 the white arrest rate increased more than the black arrest rate increased (82% vs. 43%). As a result, in 1992 the rate of violent crime arrests for black youth was about 5 times the white rate.

Over the 10-year period from 1983 through 1992, the violent crime arrest rate for youth of other races increased 42%, nearly equal to the increase in the black rate.

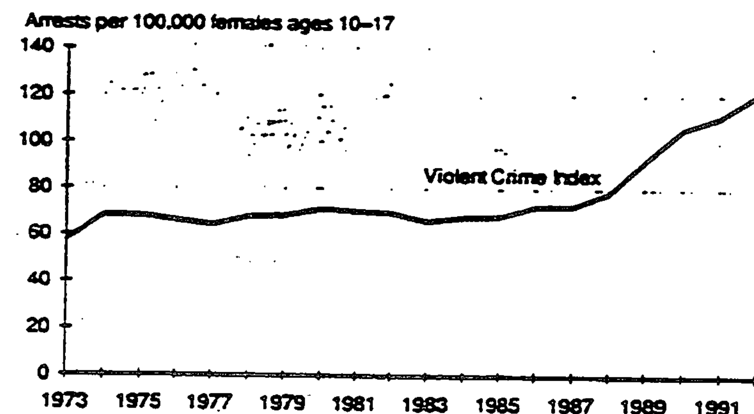
The rapid growth in violent crime arrest rates between 1988 and 1992 is found in all racial groups



- In absolute terms, the black rate grew much more than the white rate. That is, a typic 100,000 white juveniles experienced 110 more arrests in 1992 than in 1983, while a comparable group of black juveniles experienced 470 more arrests for a violent crime.

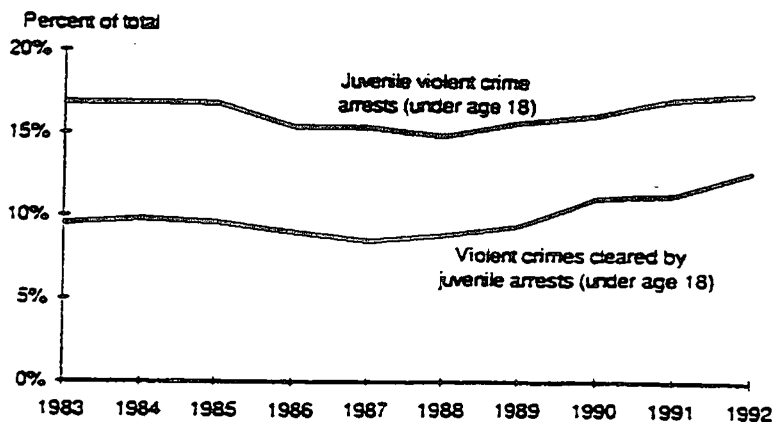
Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selecte offenses 1965–1992.*

Arrest rates for female juveniles charged with a violent crime, while far below the male juvenile rates, followed the male trends — stable from the mid 1970's to the late 1980's then increasing substantially



Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*

The juvenile proportion of both violent crime arrests and violent crimes cleared by juvenile arrests increased sharply in the late 1980's



Sources: FBI. (1984–1993). *Crime in the United States* series.

Females were involved in 1 in 8 juvenile violent crime arrests in 1992

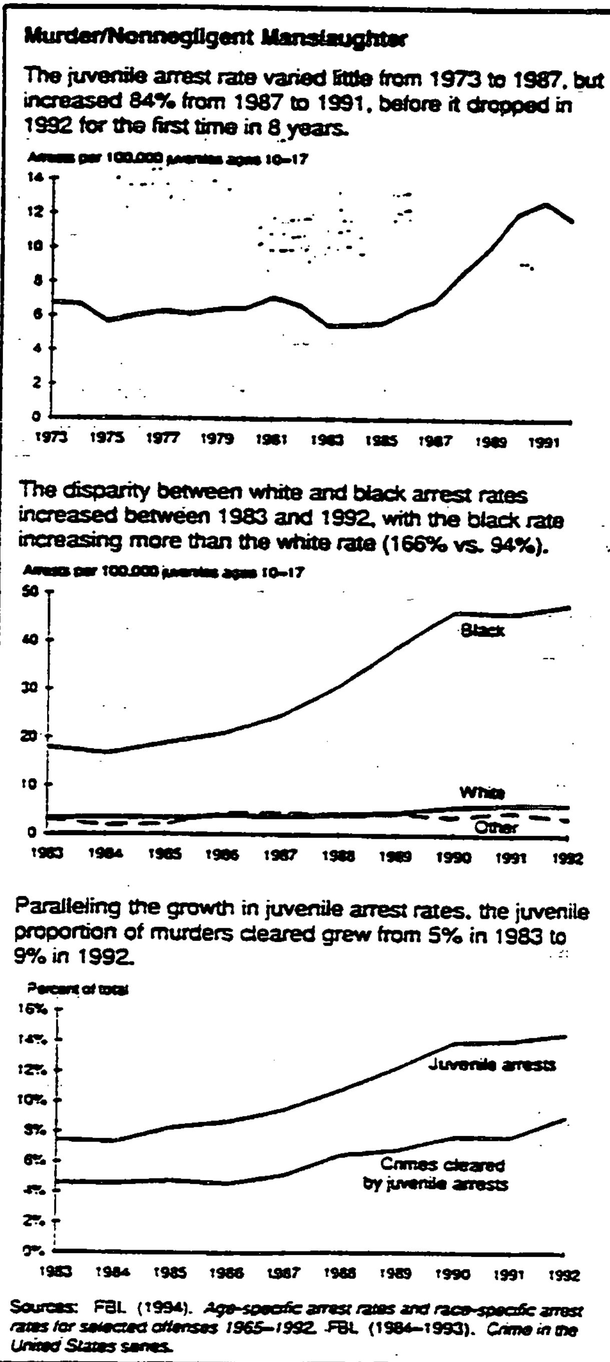
From the 1960's through most of the 1980's, the percentage of juvenile violent crime arrests involving females fluctuated between 9% and 11%. Between 1983 and 1992 the female arrest rate increased 83%, while the male rate increased 49%. As a result, females accounted for 13% of all juvenile violent crime arrests in 1992.

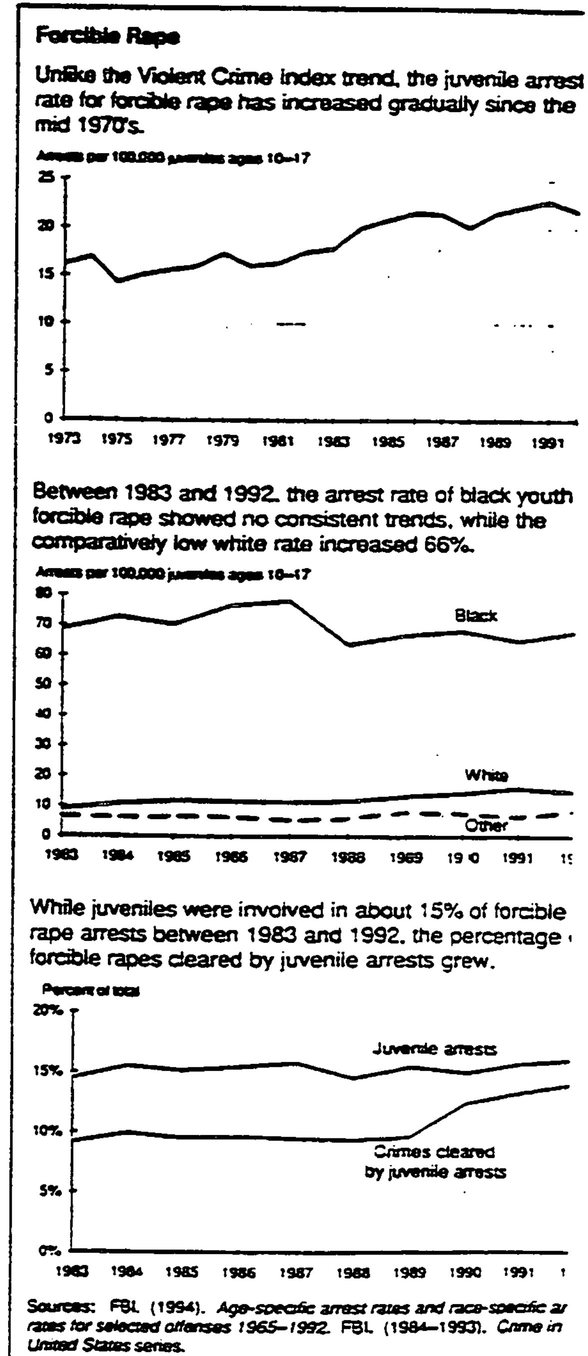
Juvenile responsibility for violent crime has increased in the past few years

During the 1970's and 1980's the proportion of violent crimes cleared by juvenile arrest declined with the declining juvenile population in the U.S. In fact, the juvenile responsibility for violent crime reached its lowest level in 20 years in 1987. After this low point, the responsibility of juveniles for violent crime began to increase, with the rate moving up 4 percentage points between 1987 and 1992, returning to the levels of the early 1970's.

In 1992, as in previous years, the juvenile proportion of all violent crime arrests was above their clearance proportion — 18% of violent arrests compared with 13% of violent crimes cleared. Therefore, while juveniles may have been responsible for about 1 in 8 violent crimes in 1992, juveniles accounted for more than 1 in 6 persons entering the justice system charged with a violent offense.

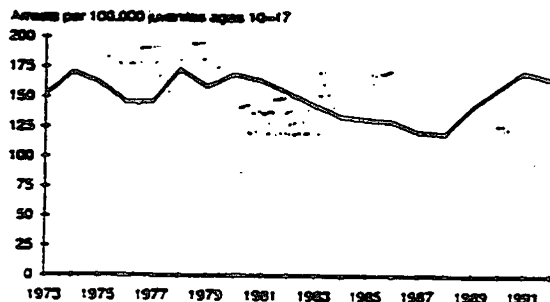
Trends in juvenile arrests for specific violent crimes show differe patterns



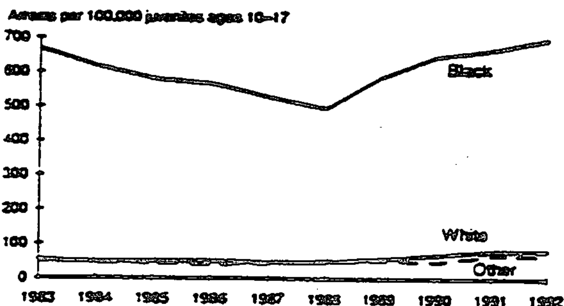


Robbery

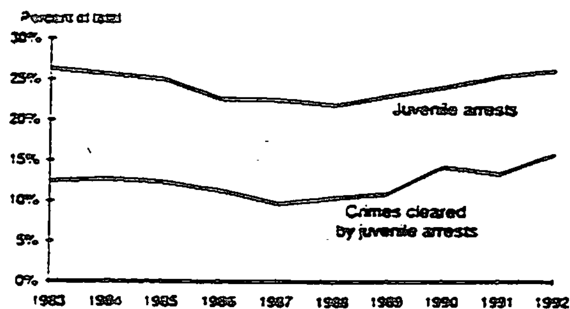
Unlike the trends for other violent crimes, juvenile robbery arrest rates declined during most of the 1980's before reversing in 1989 and returning to 1980 levels.



The disparity between black and white arrest rates was greater for robbery than for any of the other three Violent Crime Index offenses.



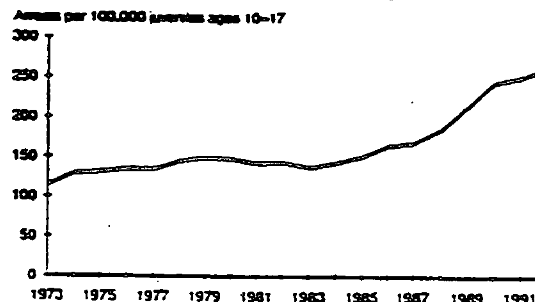
Between 1983 and 1992 the juvenile proportion of robbery arrests declined and then, in the late 1980's, increased to earlier levels.



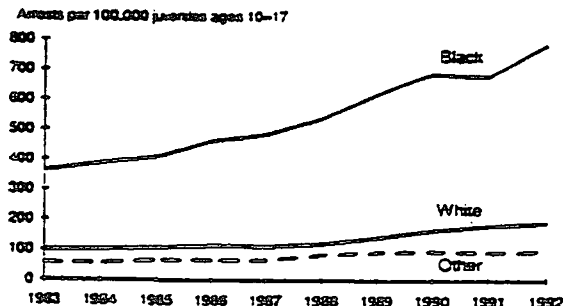
Sources: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.* FBI. (1984–1993). *Crime in the United States series.*

Aggravated Assault

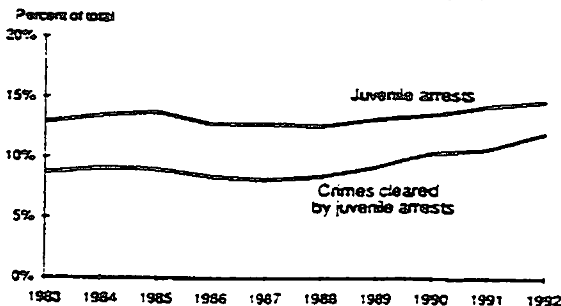
Juvenile arrest rates for aggravated assault remained relatively constant from the mid 1970's through the mid 1980's before increasing sharply through 1992.



Juvenile arrest rates for aggravated assault increased substantially across all racial groups — 94% for whites, 116% for blacks, and 66% for other races.



With large increases in both juvenile and adult rates between 1983 and 1992, the juvenile proportion of aggravated assault arrests increased only slightly.



Sources: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.* FBI. (1984–1993). *Crime in the United States series.*

After a decade of gradual increase, the juvenile arrest rate for weapons violations increased 75% between 1987 and 1992

A weapons law violation was the most serious charge in 54,000 juvenile arrests in 1992

There were more juvenile arrests for weapons law violations in 1992 than for murder, forcible rape, and robbery combined. A weapons law violation was the most serious charge in 54,000 juvenile arrests. Many more juvenile arrests actually involved a weapons law violation but, following the FBI's reporting procedures, an arrest is classified under the most serious offense involved (e.g., aggravated assault, robbery, forcible rape, and murder).

Juvenile arrests for weapons law violations more than doubled between 1983 and 1992

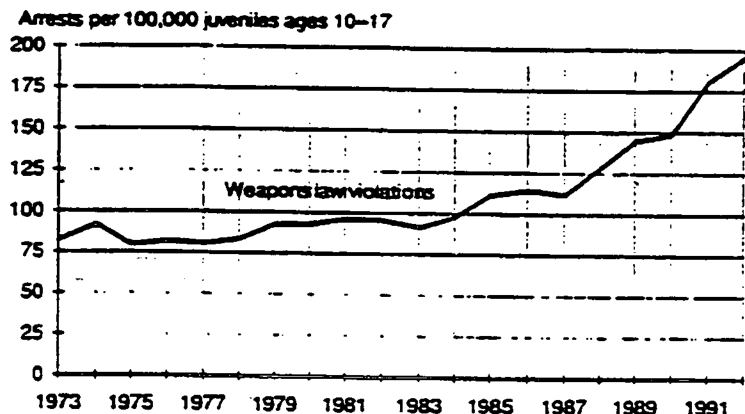
Between 1983 and 1992 the adult arrests increased 21%, while juvenile arrests increased 117%. During this same time period, juvenile murder arrests rose 128% and aggravated assault arrests rose 95%, while arrests for other assaults increased 106%. These large increases in juvenile arrests reflect a growing involvement of juveniles in violent crime.

As juveniles age, the probability that their murderer will use a firearm increases substantially

The proportion of victims killed by firearms in 1992 varied with the age of the victim:

- 4% of victims under age 1.
- 15% of victims ages 1–4.
- 37% of victims ages 5–9.
- 72% of victims ages 10–14.
- 85% of victims ages 15–17.

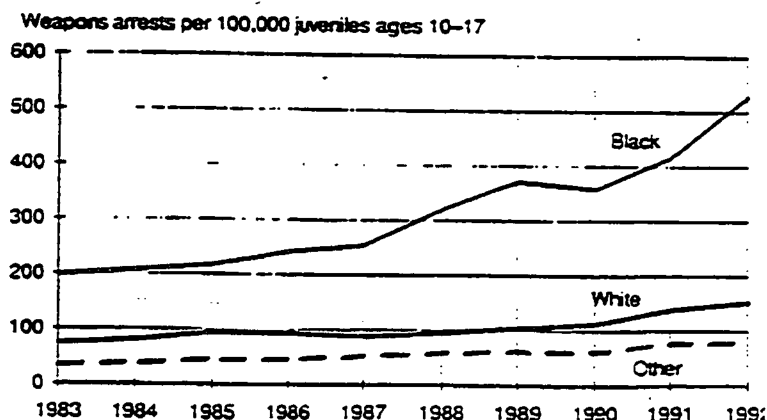
The 20-year trend in the rate of juvenile arrests for weapons law violation closely parallels the juvenile arrest trend for murder



- It took 12 years (from 1975 to 1987) for the juvenile arrest rate for weapons offenses to increase 25%. In comparison, it took just 2 years (from 1987 to 1989) for the rate to increase another 25%, and then just 2 more years (from 1989 to 1991) for another 25% increase.

Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*

Juvenile arrest rates for weapons law violations more than doubled between 1983 and 1992 in each racial group



- The increase for black juveniles (167%) was greater than the increases for whites (106%) and for youth of other races (129%).

Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for select offenses 1965–1992.*

With some notable exceptions, percentage increases in juvenile and adult arrests have been roughly similar over the past 10 years

Between 1983 and 1992 the percentage growth in juvenile arrests for murder, weapons law violations, and motor vehicle theft far surpassed the growth in adult arrests

	Percent change in arrests					
	1991–1992		1988–1992		1983–1992	
	Juvenile	Adult	Juvenile	Adult	Juvenile	Adult
Total	3%	-1%	11%	6%	17%	21%
Crime Index Total	1	-2	12	5	16	25
Violent Crime Index	5	2	47	19	57	50
Murder	0	-6	51	9	128	9
Forcible rape	2	-2	17	3	25	14
Robbery	1	-2	50	13	22	21
Aggravated assault	8	4	49	23	95	69
Property Crime Index	0	-4	8	1	11	16
Burglary	-1	-3	1	-3	-20	-3
Larceny-theft	0	-4	8	2	13	21
Motor vehicle theft	-4	-4	12	-5	120	45
Arson	8	-3	25	-7	26	-18
Nonindex offenses	4	0	11	6	18	20
Other assaults	9	5	49	26	106	113
Forgery	-3	4	5	8	9	25
Fraud	10	0	-2	17	-41	31
Embezzlement	3	1	-38	-13	35	53
Stolen property	-4	-2	6	-2	39	21
Vandalism	5	-3	28	7	34	32
Weapons	16	5	66	13	117	21
Prostitution	-8	-4	-27	-1	-54	-17
Sex offense	10	4	28	6	41	22
Drug abuse	14	7	-10	0	7	64
Gambling	15	3	52	-17	25	-58
Against the family	27	7	53	56	212	79
Driving under influence	-19	-8	-37	-6	-52	-18
Liquor law violations	-12	-13	-24	-14	-12	12
Drunkenness	-14	-6	-26	-4	-47	-31
Disorderly conduct	6	-1	24	1	35	6
Vagrancy	57	-14	38	-8	36	-11
All other offenses (except traffic)	6	4	11	16	3	55
Curfew	1	*	5	*	9	*
Runaways	4	*	13	*	31	*

■ Because the absolute number of juvenile arrests is far below the adult level, a larger percentage increase in juvenile arrests does not necessarily imply a larger increase in the actual number of arrests. For example, while the percentage increase in juvenile arrests for a weapons law violation was much greater than the adult increase between 1983 and 1992, the increase in the number of arrests was 9% greater for adults.

* Not applicable to adults.

Source: FBI. (1993). *Crime in the United States 1992.*

Persons arrested in 1992 were, on average, older than those arrested in 1972

Offense	Average age of arrestees 1972	1992
Violent Crime Index	26.2	27.6
Murder	29.7	27.2
Forcible rape	24.8	28.6
Robbery	22.0	24.1
Aggravated assault	29.0	28.8
Property Crime Index	21.1	25.1
Burglary	19.9	23.5
Larceny-theft	21.8	26.2
Motor vehicle theft	20.1	21.8
Arson	20.5	22.8
Weapons	29.1	26.0
Drug abuse	22.3	28.5

Source: FBI. (1993). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965-1992.*

Between 1972 and 1992 the average age of the U.S. population increased by nearly 3 years. Generally following this increase in the general population, the average age of persons arrested in 1992 for larceny-theft, forcible rape, and burglary was nearly 4 years older than those arrested in 1972.

The increase in the average age of those arrested for a drug abuse violation was greater than the increase in the general population: those arrested for a drug abuse violation were nearly 6 years older.

Even with the aging of the U.S. population, the larger percentage increases in juvenile arrests for murder and weapons law violations resulted in a decline in the average age of arrestees in these crime categories. On average, 1992 arrestees were nearly 3 years younger than those arrested for these crimes in 1972.

Although adults were responsible for most of the recent violent crime increases, juveniles contributed more than their fair share

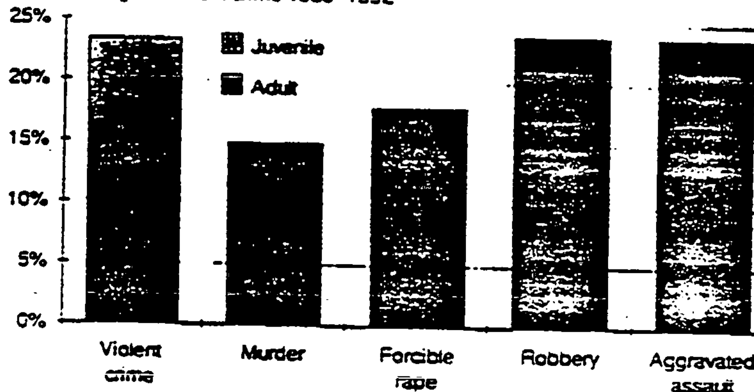
Users of reported crime and arrest statistics face difficult interpretation problems

Violent crime is increasing and, based on their representation in the general population, juveniles are responsible for a disproportionate share of this increase. But is it accurate to say that juveniles are driving the violent crime trends?

The number of violent crimes reported to law enforcement agencies increased 23% between 1988 and 1992. Knowing that over this same period, juvenile arrests for violent crime grew 47%, while adult arrests for violent crimes increased 19%, it is easy to conclude that juveniles were responsible for most of the increase in violent crime. However, even though the percentage increase in juvenile arrests was more than double the adult increase, the growth in violent crime cannot be attributed primarily to juveniles.

An example shows how this apparent contradiction can occur. Of the 100 violent crimes committed in 1988 in a small town, assume that juveniles were responsible for 10, and adults for 90. If the number of juvenile crimes increased 50%, juveniles would be committing 15 (or 5 more) violent crimes in 1992. A 20% increase in adult violent crimes would mean that adults were committing 108 (or 18 more) violent crimes in 1992. If each crime resulted in an arrest, the percentage increase in juvenile arrests would be more than double the adult increase (50% versus 20%). However, nearly 80% of the increase in violent crime (18 of the 23 additional violent crimes) would have been committed by adults.

If juveniles had committed no more violent crimes in 1992 than in 1988, violent crime in the U.S. would have increased 16% instead of 23%



- Juveniles were responsible for one-quarter of the 15% increase in murders between 1988 and 1992. If murders by juveniles had remained constant o this period, murders in the U.S. would have increased 11%.

Source: FBI. (1993). *Crime in the United States 1992.*

Large percentage increases can yield relatively small overall changes. Juvenile arrests represent a relatively small fraction of the total; consequently, a large percentage increase in juvenile arrests does not necessarily translate into a large contribution to overall crime growth.

Adults responsible for 70% of recent increase in violent crimes

In 1988 the FBI reported juveniles were arrested in 9% of the violent crimes for which someone was arrested; this juvenile clearance percentage was 13% in 1992. If it is assumed that juveniles were responsible for similar percentages of the *unsolved* violent crimes in these years, then it is possible to estimate the number of crimes committed by juveniles and by adults in 1988 and 1992.

From FBI reported crime and clea statistics, it was estimated that juveniles committed 108,000 mor Violent Crime Index offenses in 1 than in 1988, while adults commi an additional 258,000. Therefore juveniles were responsible for 30 the growth in violent crime betwe 1988 and 1992. Between 1988 ar 1992 juveniles were responsible f 26% of the increase in murders, 4 the increase in forcible rapes, 39 the increase in robberies, and 27 the increase in aggravated assault Juveniles contributed less to the increase in murder than to the inc in other violent crimes.

If trends continue as they have over the past 10 years, juvenile arrests for violent crime will double by the year 2010

Age-specific arrest rates provide a clearer picture of arrest trends

The media and the public often use arrest trends to assess the relative changes in juvenile and adult criminal behavior. Arrest trends are simple to report — *juvenile violent crime arrests up 47% in past 5 years* — but they are notoriously difficult to interpret. First, interpretations are complicated by population changes, which can be considerable, even over a short time period, for the few high-crime-generating age groups. For example, how differently would the increase in juvenile arrests from 1983 to 1992 be viewed if it were known that the number of 16- and 17-year-olds in the U.S. population declined by 10% over this period?

Also, juvenile and adult arrest trends lump everyone into one of two groups. This ignores important variations within the groups that may provide important information to understand these trends.

A better method for comparing arrest patterns is to compare annual, age-specific arrest rates — for example, the number of arrests of a typical group of 100,000 17-year-olds in 1983 and in 1992. Arrest rates control for the impact of population growth or decline on arrests. They also break down the juvenile and adult groups into smaller pieces so that changes in younger and older juveniles and adults can be studied independently. Age-specific arrest rates can also be used to project the number of future arrests if certain assumptions are made and projections of population growth are available.

How many juvenile violent crime arrests will there be in the year 2010?

Estimates of future juvenile arrests for violent crime vary widely. The accuracy of these estimates relies on the appropriateness of each estimate's underlying assumptions and the accuracy of existing data. For this report, two sets of estimates were developed using different assumptions. Both sets are based on age-specific arrest rates and projected population growth (controlling for racial differences).

The first set of estimates assumes that the rates of juvenile violent crime arrests in 2010 will be equal to the rates in 1992. Under this assumption, the number of violent juvenile crime arrests is projected to increase 22% between 1992 and 2010. This increase corresponds to the projected growth in the juvenile population ages of 10 to 17. Projected increases would be nearly equal in all offense categories.

In contrast to the "constant rate" assumption underlying the first set of projections, the second set of estimates assumes that juvenile violent crime arrest rates will increase annually between 1992 and 2010 in each offense category as they have in recent history (i.e., from 1983 to 1992).

Assuming both population growth and continuing increases in arrest rates, the number of juvenile violent crime arrests is expected to double by 2010. The projected growth varies across crime categories. If current trends continue, by the year 2010 the number of juvenile arrests for murder is expected to increase 145% over the 1992 level. Projected increases are less than half as great for forcible rape (66%) and robbery (58%).

Juvenile arrest projections vary with the nature of underlying assumptions

		Projections assuming no change in arrest rates from 1992 to 2010		Projections assuming annual changes in arrest rates equal to the average increases from 1983 to 1992	
Offense	Juvenile arrests in 1992	Juvenile arrests in 2010	Increase over 1992	Juvenile arrests in 2010	Increase over 1992
Violent Crime Index	129,600	158,600	22%	261,000	101%
Murder	3,300	4,100	23	8,100	145
Forcible rape	6,300	7,700	22	10,400	66
Robbery	45,700	56,600	24	72,200	58
Aggravated assault	74,400	90,200	21	170,300	129

▣ If juvenile arrest rates remain constant through the year 2010, the number of juvenile arrests for violent crime will increase by one-fifth; if rates increase as they have in recent history, juvenile violent crime arrests will double.

Note: Both series of estimates control for racial variations in population growth.

The increase in violent crime arrest rates is disproportionate for juveniles and young adults

Violent crime arrest rates have increased in all age groups

Over the 10-year period from 1983 to 1992, arrest rates for Violent Crime Index offenses increased substantially for juveniles as well as adults. Juveniles had the largest increases (averaging nearly 60%), but even the rates for persons ages 35 to 39 increased 47%.

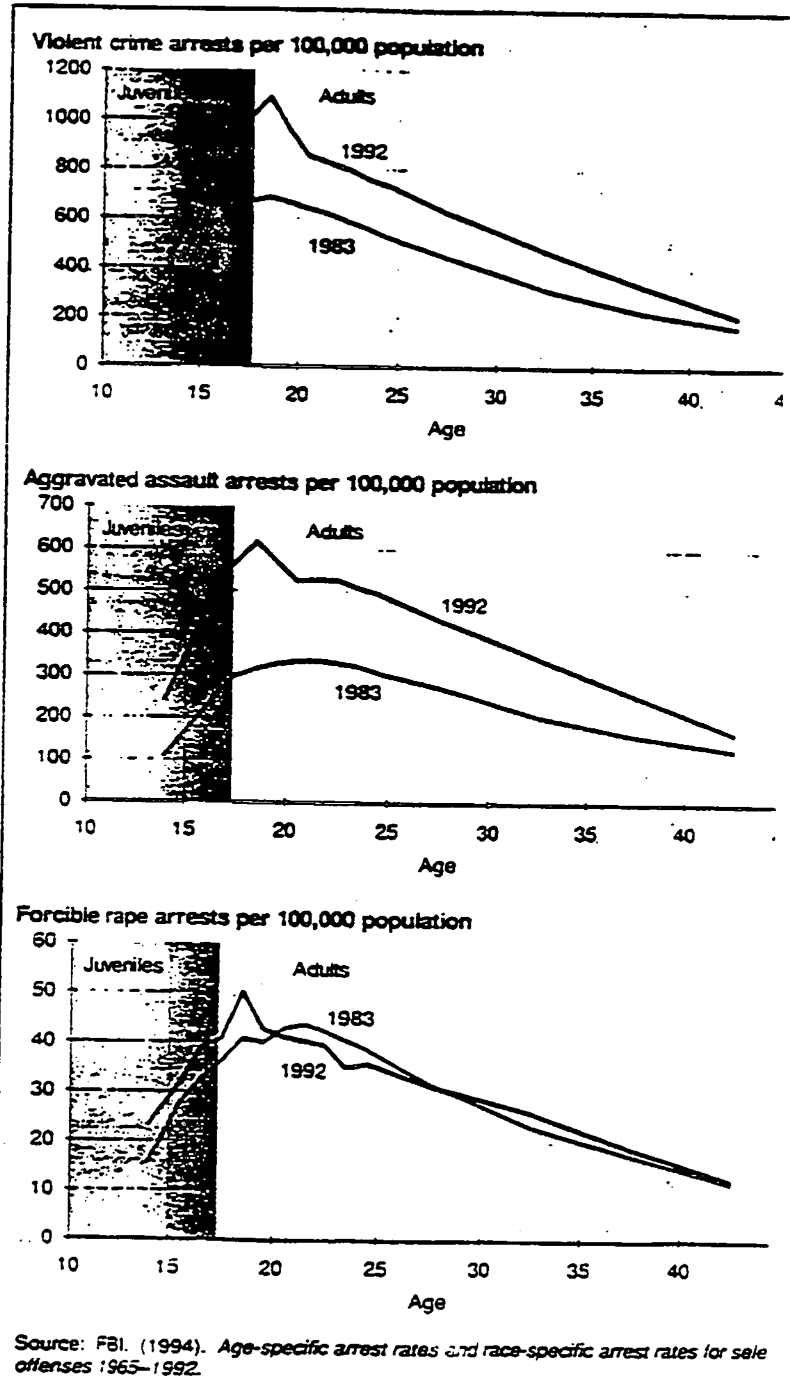
The Violent Crime Index treats each of its four offenses equally — an arrest for aggravated assault is counted the same as an arrest for murder. While this may be reasonable statistically, these four crimes raise different concerns and should be understood separately.

Aggravated assault arrest rates increased most for juveniles and young adults

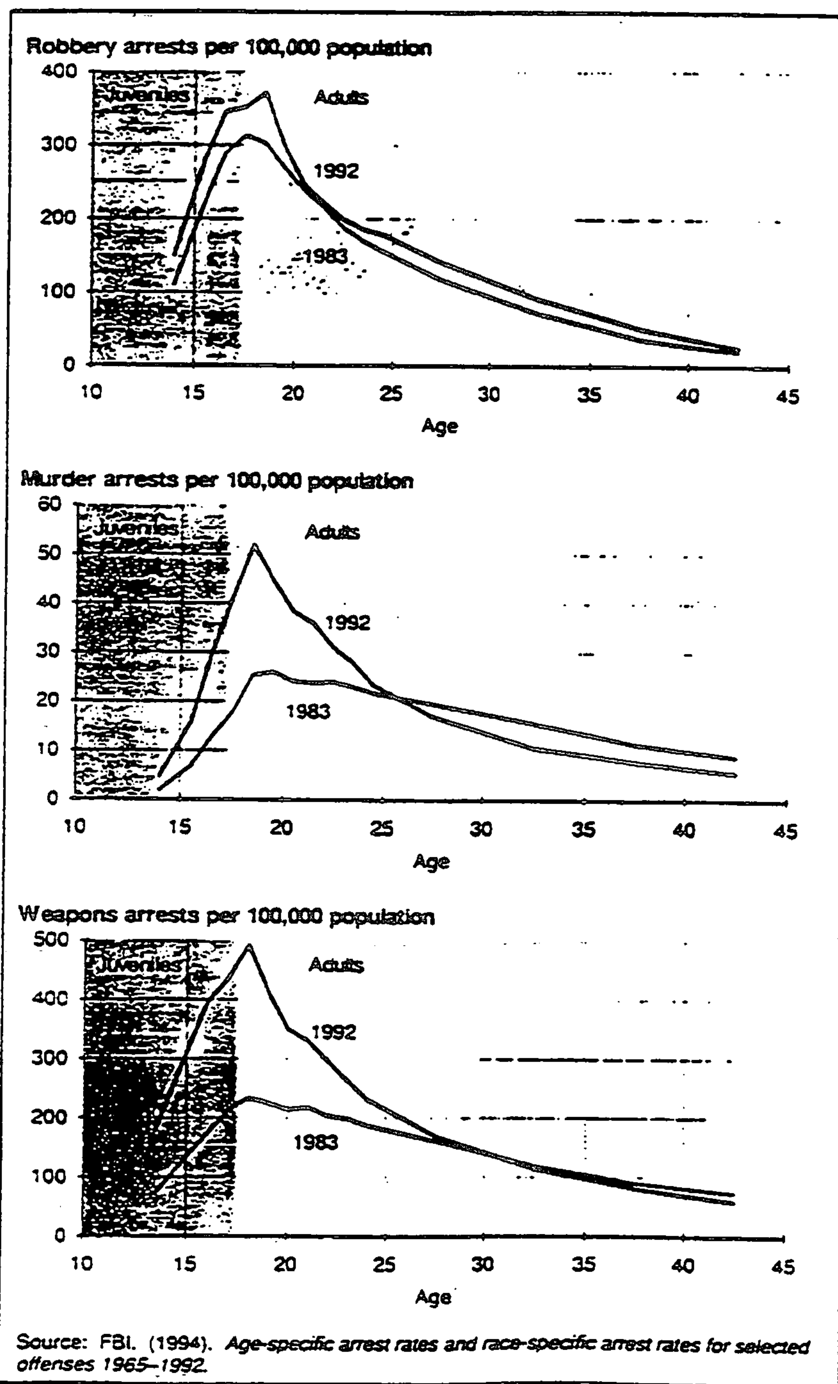
In 1992 arrests for aggravated assault were 68% of all Violent Crime Index arrests. Thus, changes in violent crime arrest rates primarily reflected changes in aggravated assaults. As with violent crime overall, aggravated assault arrest rates increased substantially between 1983 and 1992 in all age groups, with juvenile rates up about 100% and the rates for persons in their twenties up about 60%.

Forcible rape arrest rates increased far less than other violent crimes

In contrast to the overall violent crime and aggravated assault patterns, forcible rape arrest rates for juveniles grew between 1983 and 1992 by a relatively small 20%, while actually declining for persons in their twenties.



Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*



Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*

Robbery arrest rates increased much less than aggravated assault arrest rates

Robbery arrest rates increased in all age groups from 1983 to 1992. However, the growth was less than half of violent crime overall. The age groups with the smallest increases were those in their early twenties, with the juvenile increases similar to those of persons above age 25.

Murder rates declined in most age groups from 1983 to 1992

In 1992 persons above age 25 were arrested for murder at substantially lower rates than they were in 1983. For example, the murder arrest rate for persons ages 35–45 declined nearly 25% over the 10-year period. In stark contrast, murder arrest rates for juveniles and young adults soared, with increases far greater than in any other violent crime category. The average increase for juveniles was double the average increase for young adults.

The fact that murder arrests for all adults increased just 9% between 1983 and 1992 masks two very different trends within the adult age group. The substantial declines in murder arrest rates for adults above their midtwenties almost offset the very large increases in murder arrests of young adults.

As in all violent crimes, 18-year-olds had the highest arrest rate for murder in 1992. However, the pattern of age-related growth in murder arrest rates was not mirrored in any other violent offense, but was paralleled in weapons arrests.

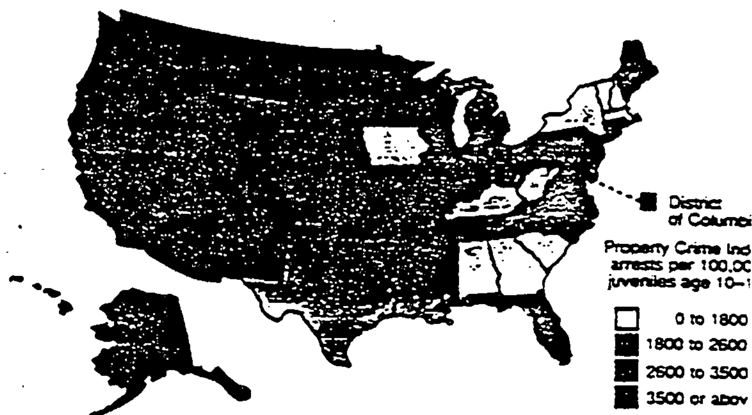
In 1992 the States of Utah, Wisconsin, Washington, Colorado, and Idaho had the highest juvenile property crime arrest rates

In 1992 the States of Florida and Arizona had the highest juvenile arrest rates for burglary; the States of Maryland and Hawaii had the highest juvenile arrest rates for motor vehicle theft.

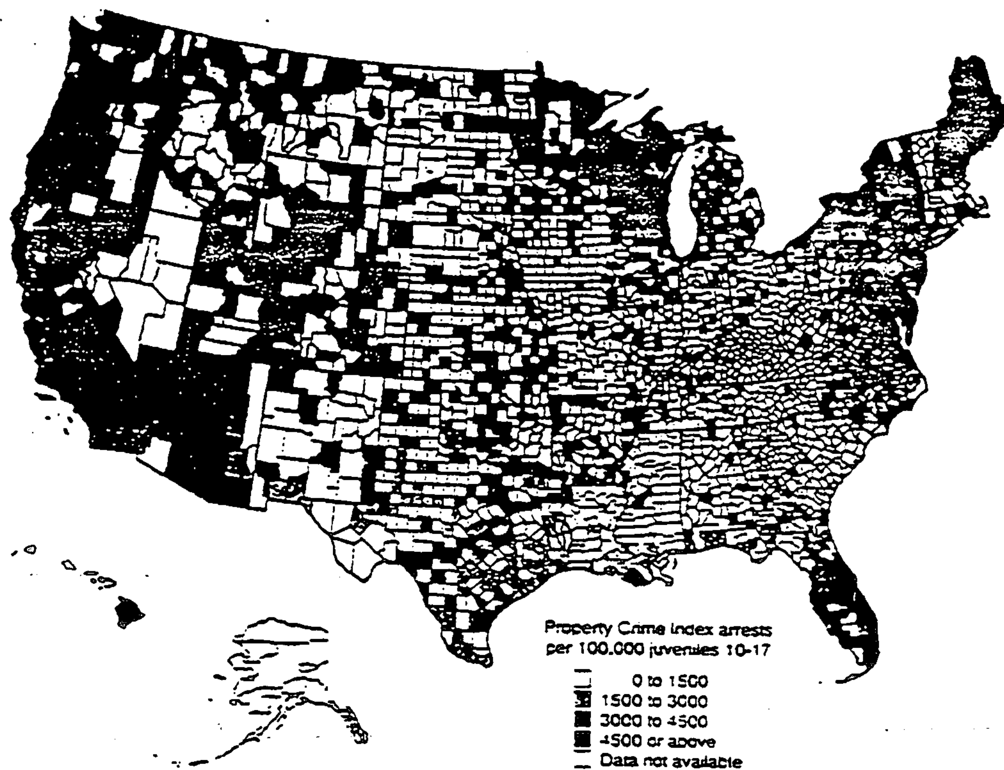
State	% Reporting	Arrests per 100,000 juveniles ages 10–17: Property Crime Index	Burglary	Larceny	Motor Vehicle Theft	Arson
Total U.S.	83	2,578	519	1,704	321	34
Alabama	93	1,069	189	794	80	6
Alaska	94	3,566	531	2,728	299	9
Arizona	94	4,055	849	2,678	480	49
Arkansas	100	1,893	465	1,293	118	17
California	99	2,714	755	1,375	545	39
Colorado	92	4,398	535	3,496	303	64
Connecticut	82	3,135	652	1,956	479	48
Delaware	54	1,773	477	1,190	70	36
Dist. of Columbia	100	1,858	139	288	1,403	27
Florida	92	3,310	869	1,946	480	16
Georgia	72	1,613	352	1,095	150	16
Hawaii	100	3,898	764	2,506	600	28
Idaho	88	4,320	736	3,327	200	57
Illinois	42	3,167	496	2,464	161	45
Indiana	51	2,617	353	1,965	271	28
Iowa	64	1,261	178	984	75	24
Kansas	77	3,199	663	2,339	158	39
Kentucky	96	1,758	393	1,182	160	22
Louisiana	60	2,382	537	1,610	203	31
Maine	82	3,477	707	2,553	160	57
Maryland	100	3,071	554	1,702	758	56
Mass.	66	1,188	365	596	214	14
Michigan	90	1,949	330	1,406	181	32
Minnesota	99	2,831	349	2,196	258	28
Mississippi	35	2,236	504	1,443	278	13
Missouri	43%	2,454	444	1,722	242	46
Montana	90	3,288	245	2,709	293	41
Nebraska	73	2,511	378	1,978	101	54
Nevada	79	3,416	688	2,504	194	30
New Hamp.	81	1,789	284	1,393	73	39
New Jersey	97	2,623	532	1,824	222	44
New Mexico	56	3,812	472	3,176	152	12
New York	85	1,727	328	1,148	224	27
N. Carolina	97	1,867	545	1,185	107	[illegible]
N. Dakota	77	3,458	363	2,795	275	[illegible]
Ohio	66	2,195	408	1,466	280	41
Oklahoma	97	2,655	535	1,739	319	[illegible]
Oregon	95	4,283	664	3,079	449	[illegible]
Pennsylvania	84	1,879	373	1,147	324	[illegible]
Rhode Island	100	2,639	579	1,651	321	[illegible]
S. Carolina	96	620	146	404	64	[illegible]
S. Dakota	71	3,525	356	2,954	158	[illegible]
Tennessee	49	2,319	365	1,796	141	[illegible]
Texas	100	2,467	537	1,570	341	[illegible]
Utah	73	5,612	659	4,403	469	[illegible]
Vermont	53	691	321	340	24	[illegible]
Virginia	100	2,110	367	1,451	257	[illegible]
Washington	80	4,536	723	3,382	387	[illegible]
West Virginia	100	1,102	240	742	97	[illegible]
Wisconsin	98	4,987	635	3,726	566	[illegible]
Wyoming	95	2,553	240	2,154	131	[illegible]

Note: Reported rates for jurisdictions with less than complete reporting may not be accurate. Readers are encouraged to review the technical note at the end of this summary. Detail may not add to totals because of rounding.

Source: State rates were developed from data reported in *Crime in the United States 1992.*



Juvenile behavior, justice system policy, and community attitudes influenced the magnitude of State and county juvenile property crime arrest rates in 1992



Note: Rates were classified as "Data not available" when agencies with jurisdiction over more than 50% of the population did not report.

Source: County rates were developed using *Uniform Crime Reporting Program data [United States]: County-level detailed arrest and offense data, 1992* [machine-readable data file] prepared by the Inter-university Consortium for Political and Social Research.

High juvenile violent crime arrest rates do not imply high property crime arrest rates

The three States with the highest juvenile arrest rates for Property Crime Index offenses (Utah, Wisconsin, and Washington) were ranked 19th, 25th, and 21st in juvenile arrests for Violent Crime Index offenses. States with high adult violent and property crime arrest rates do, however, tend to have high corresponding juvenile arrest rates.

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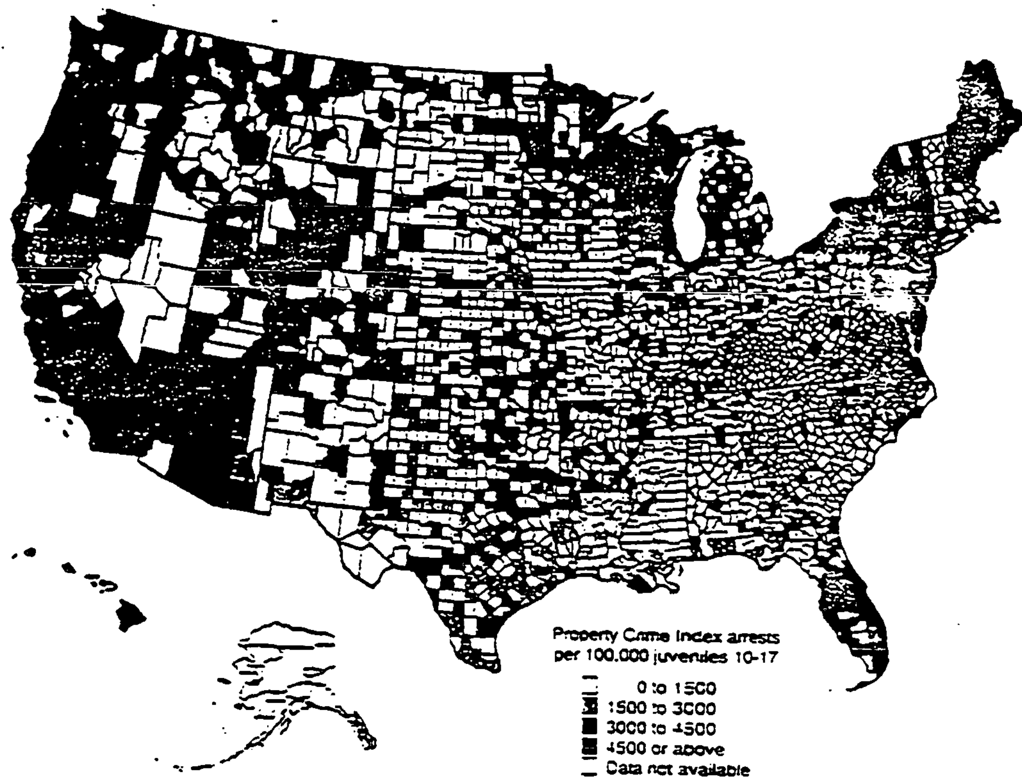

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In contrast to their violent arrest trends, juvenile arrest rates for property crimes were stable between the mid 1980's and 1992

Juvenile property crime arrest rates were at their lowest point in the past 20 years in 1984

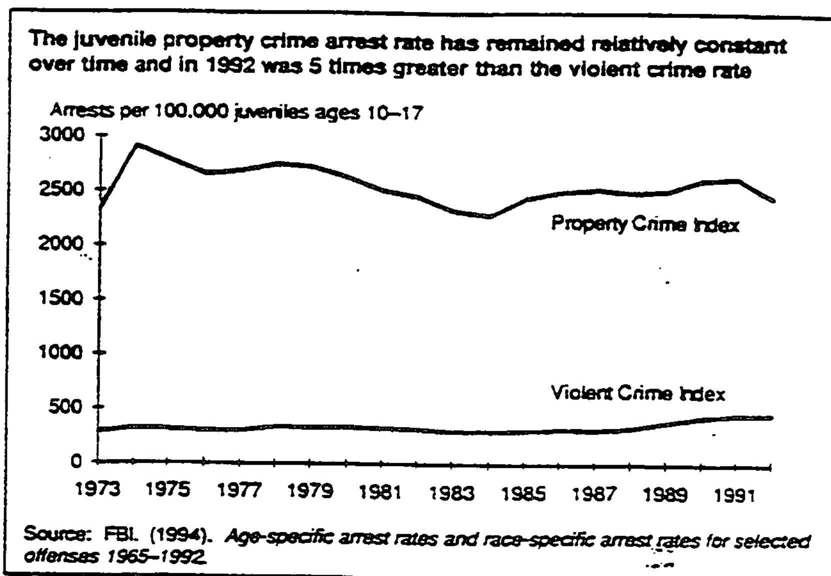
Law enforcement agencies made 29% fewer arrests of juveniles for Property Crime Index offenses (burglary, larceny-theft, motor vehicle theft, and arson) in 1983 than in 1974. Only about half of this decline can be explained by the 15% drop in the size of the U.S. population ages 10–17 during the same time period.

After these years of decline, the number of property arrests began to increase in 1985. Between 1983 and 1992, the number of juvenile arrests for a property crime increased 11%, while the juvenile population remained relatively constant. This increase was far less than the 57% growth in juvenile violent crime arrests during the same period.

The contrasting growth of violent and property arrest rates is common to all race groups

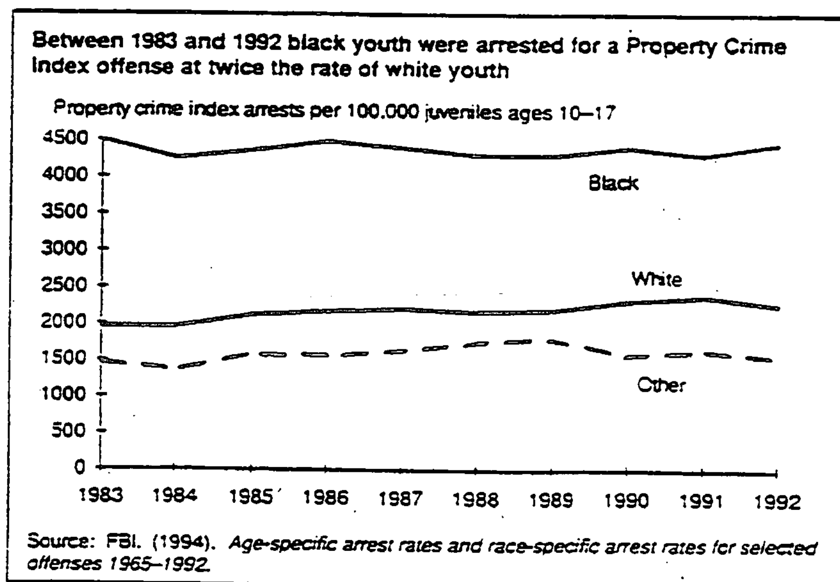
While property crime arrest rates of black youth have remained constant, the white arrest rate increased 16% in the 10-year period between 1983 and 1992. The relative stability in property crime arrest rates between 1983 and 1992 is in sharp contrast to the much larger increases in violent crime arrest rates for the same period — the 82% increase in violent crime arrests for white youth and the 43% increase for black youth. Similarly, while the violent crime arrest rate for youth of other races increased 42%, their property crime arrest rate increased only 5% over the 10-year period from 1983 through 1992.

The juvenile property crime arrest rate has remained relatively constant over time and in 1992 was 5 times greater than the violent crime rate



Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*

Between 1983 and 1992 black youth were arrested for a Property Crime Index offense at twice the rate of white youth



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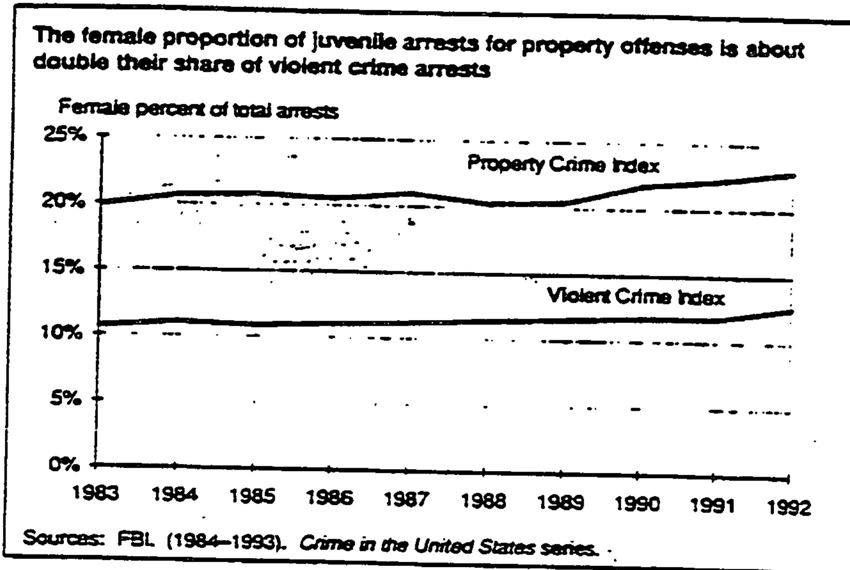
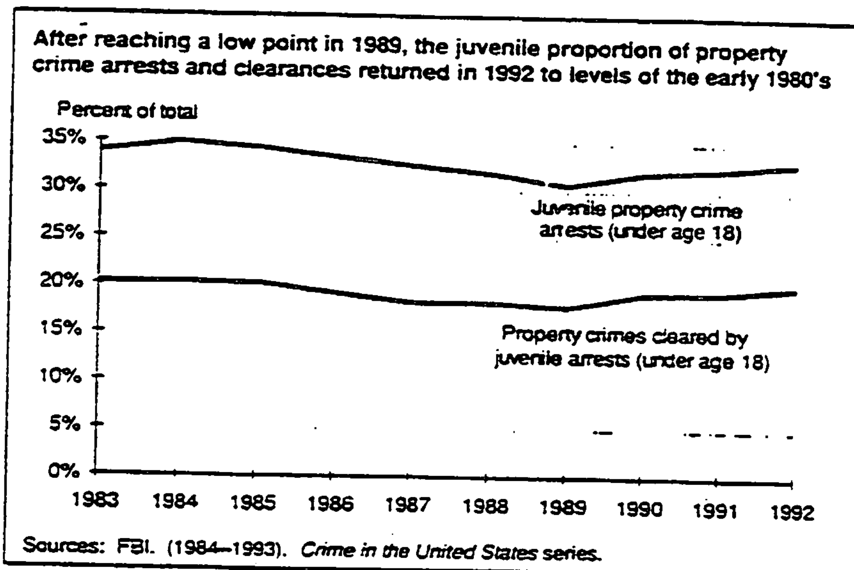


Sources: FBI. (1984–1993). *Crime in the United States series.*



Sources: FBI. (1984–1993). *Crime in the United States series.*

Recently the female arrest rat for property crimes increased more than the male rate

Between 1983 and 1992, while the number of juvenile male arrests for property offense increased 7%, the number of juvenile female arrests increased 27%. The greater involv ment of females in property crime arrests was not limited to the juven population: a similar increase is fou in the adult arrest statistics.

The juvenile responsibility for property crimes changed little between 1983 and 1992

Based on clearance data, juveniles committed about 1 in 5 property cr between 1983 and 1992. However, over this 10-year period about 1 in persons arrested for a property offe was a juvenile. The arrest proporti is larger than the clearance proport because juveniles are more likely t adults to commit crimes in groups : may be more easily apprehended.

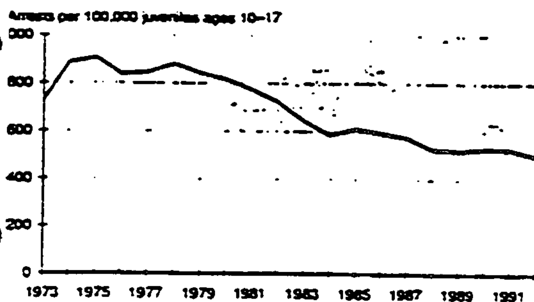
Property Crime Index arrest trends are dominated by the l serious larceny-theft offense:

Two-thirds of all juvenile Property Crime Index arrests in 1992 were f larceny-theft. Consequently, the In trends follow closely the trends in larceny-theft. Over the past 20 yea the juvenile arrest trends for the m serious offenses of burglary and m vehicle theft have been very differ from the Index. Juvenile burglary arrest rates have dropped precipito over the past 20 years, while motor vehicle theft arrest rates declined sharply before returning to, and the surpassing, their earlier levels.

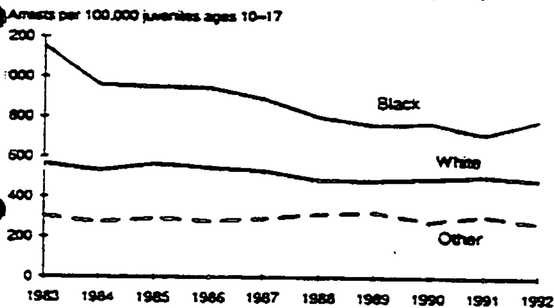
hile juvenile burglaries have declined significantly in recent ears, juvenile involvement in motor vehicle theft has increased

urglary

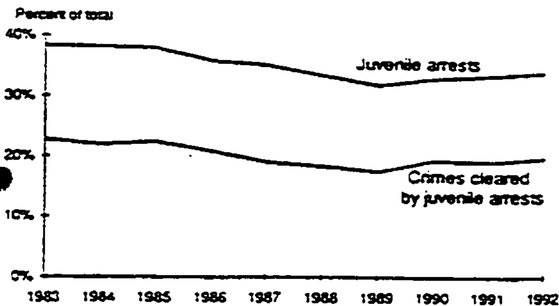
he juvenile arrest rate for burglary has declined for most f the past 20 years—the 1992 arrest rate was 44% elow the rate in 1975.



etween 1983 and 1992 burglary arrest rates declined for ll races, with the decline greater for blacks (32%) than or whites (14%) or for youth of other races (11%).



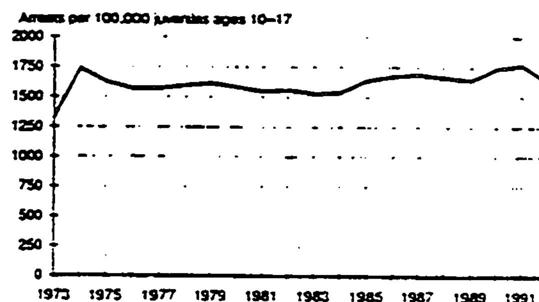
Juveniles were arrested in 1 in 5 burglaries cleared in 1992, a proportion that declined in recent years and was vell below their proportion of burglary arrests.



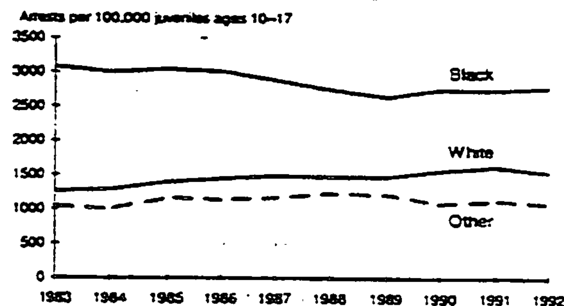
Sources: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.* FBI. (1984–1993). *Crime in the nited States series.*

Larceny-Theft

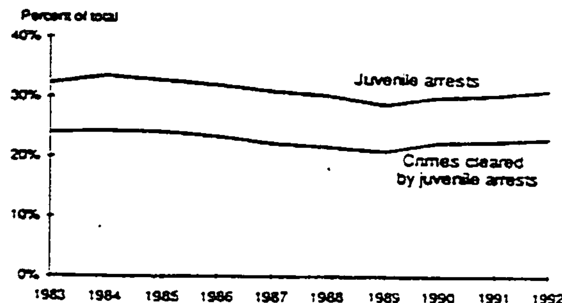
The juvenile arrest rate for larceny-theft has fluctuated within a limited range for most of the past 20 years, increasing since the early 1980's.



Over the past 10 years, the arrest rate for black juveniles declined 10%, while the rate for whites increased 22% and the rate for other race juveniles grew 3%.



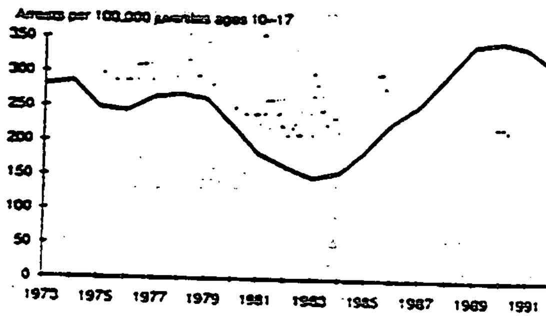
The juvenile proportion of larceny-theft arrests declined slightly over the past 10 years, as did the proportion of larceny-thefts attributed to juveniles.



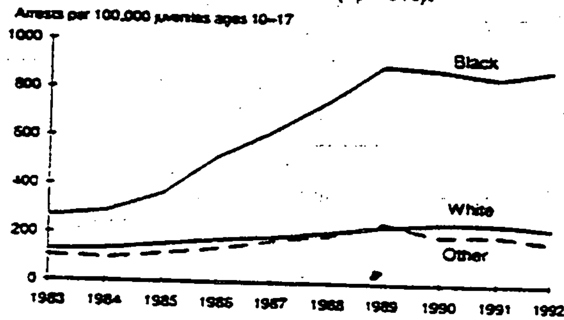
Sources: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.* FBI. (1984–1993). *Crime in the United States series.*

Motor Vehicle Theft

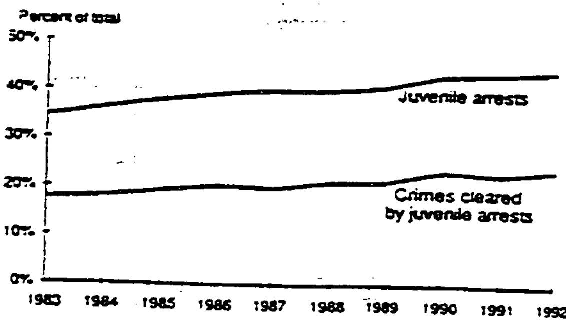
The juvenile arrest rate for motor vehicle theft showed a sharp decline in the early 1980's, followed by a sharper increase between 1984 and 1989.



All racial groups contributed to the doubling of juvenile arrest rates between 1983 and 1992: white (up 84%), black (up 231%), and other race (up 70%).



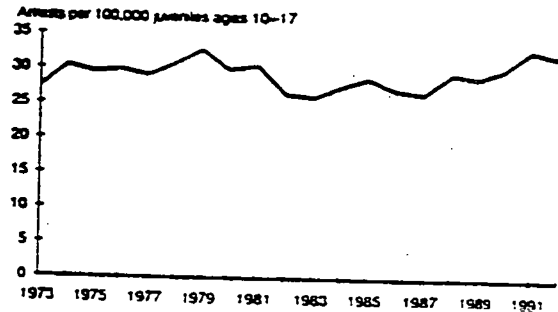
The juvenile proportion of arrests for motor vehicle theft grew from 35% in 1983 to 44% in 1992, as did juvenile responsibility for this crime.



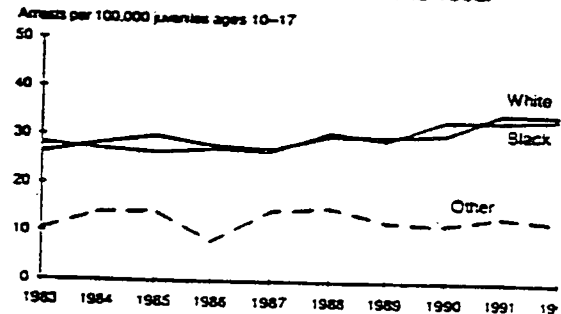
Sources: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.* FBI. (1984–1993). *Crime in the United States series.*

Arson

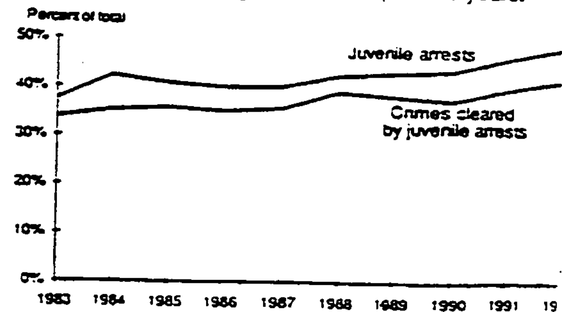
The arrest rate of juveniles for the crime of arson grew 21% between 1987 and 1992, returning to levels report in the late 1970's.



Unlike each of the other crimes in the Property Crime Index, arson arrest rates for white and black juveniles were essentially equal between 1983 and 1992.



Arson is more of a juvenile offense than any other crim in the Property Crime Index, and juvenile arrest and clearance proportions grew over the past 10 years.



Sources: FBI. (1994). *Age-specific arrest rates and race-specific arr rates for selected offenses 1965–1992.* FBI. (1984–1993). *Crime in t United States series.*

The 1980's witnessed a significant change in patterns of juvenile arrests for drug abuse violations with the emergence of crack

From the mid 1970's through the mid 1980's juvenile drug abuse arrest rates dropped by half

During this period the magnitude of arrest rates for whites and blacks were similar; in fact from 1973 through 1980, the white arrest rate for drug abuse violations was higher than the rate for blacks. The decline in drug arrest rates from 1975 to 1985 can be attributed to a change in the rate at which juveniles, particularly white juveniles, were arrested for marijuana offenses.

	Juvenile arrests per 100,000		
	1975	1985	1990
Marijuana			
White	436	285	131
Black	313	378	199
Other	246	160	25
Cocaine/Heroin			
White	14	42	68
Black	36	121	766
Other	21	7	6

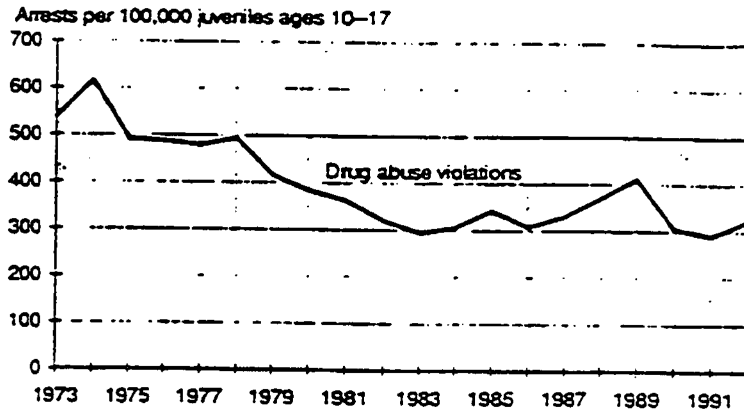
Source: FBI. (1992). *Crime in United States 1991.*

While the arrest rate for white youth continued to decline, the black rate grew substantially after 1985. The overall growth in the black rate was driven by huge increases in cocaine/heroin arrests.

In 1980 juveniles accounted for 19% of the drug abuse violation arrests; by 1992 the juvenile proportion had declined to 8%

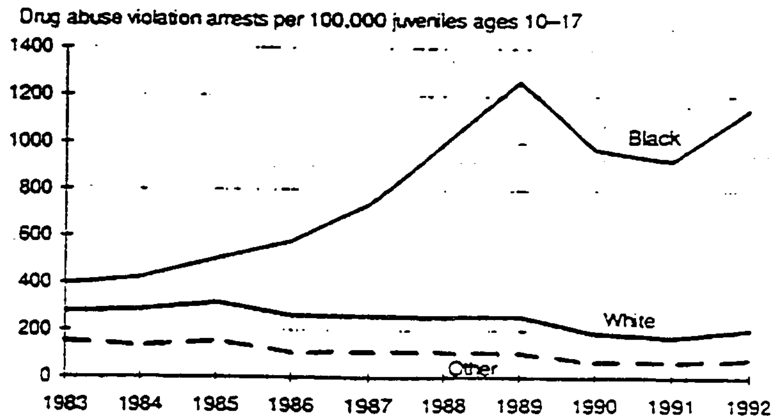
Over this same period the female proportion of juvenile drug arrests also declined from 16% to 11%. Both of these changes are likely to be related to the decline in arrests for marijuana.

The juvenile arrest rate for drug abuse violations in 1992 was far below the levels of the 1970's and near the low point of the mid 1980's



Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*

After being nearly equal in the early 1980's, white and black arrest rates began to diverge, so that by 1992 the black rate was more than 5 times the white rate



Source: FBI. (1994). *Age-specific arrest rates and race-specific arrest rates for selected offenses 1965–1992.*

What do police do with the juveniles they arrest?

Most large law enforcement agencies have specialized units concentrating on juvenile justice issues

A national survey of law enforcement agencies conducted in 1990 asked large police departments and sheriffs' departments (those with 100 or more sworn officers) about the types of special units they operate. A large proportion reported that they had special units targeting juvenile justice concerns, although neither the level of staffing nor the effectiveness of these units were addressed.

Special units	Type of agency	
	Police	Sheriff
Drug education in schools	93%	82%
Juvenile crime	89	59
Child abuse	79	65
Missing children	74	61
Gangs	60	47
Domestic violence	45	40

Sources: Reaves, B. (1992). *Sheriffs' departments 1990. BJS Bulletin.* Reaves, B. (1992). *State and local police departments, 1990. BJS Bulletin.*

A large proportion of these agencies also reported that they had written policy directives for handling juveniles (95% of police and 86% of sheriffs' departments) and for handling domestic violence/spousal abuse events (93% of police and 77% of sheriffs' departments).

On a typical day about 750 juveniles are admitted to police lockups

Lockups are the temporary holding facilities maintained by law enforcement agencies. Twenty-nine percent of local police departments in 1990 operated a lockup facility separately from a jail. While the average capacity of these lockups was 8 inmates, the range was quite broad. While the average capacity of lockups was only 5 in communities with populations under 10,000, the average capacity of lockups was more than 160 in communities with populations more than 1 million.

The national survey asked departments that administered these facilities for the number of juveniles they had admitted on Friday, June 29, 1990. It was estimated that approximately 750, or 4% of persons admitted to lockups on this day, were classified by State law as juveniles. Assuming that, on average, about 6,000 juveniles were arrested per day in 1990, this means that roughly 1 in 10 were placed in lockups. While most stays are short, this volume of admissions implies that a substantial portion of all juveniles in custody are held in police lockups.

Most juveniles arrested in 1992 were referred to court for prosecution

The FBI's Uniform Crime Reporting Program asks law enforcement agencies to report their responses to the *juveniles* they take into custody. This is the only component of the UCR Program that is sensitive to State variations in the definition of a juvenile. Consequently, in New York, law enforcement agencies report their responses to those persons arrested who were younger than age 16 at t time of arrest; in Illinois and Texa reports are for arrestees younger th age 17, while in most other States reports captured the dispositions o arrests of persons younger than ag

Thirty percent of juveniles taken i custody by law enforcement in 19 were handled within the departme and released. These juveniles wer warned by police and then release usually to parents, other relatives, friends. In some jurisdictions, the enforcement agency may operate i own diversion programs that may provide some intervention service juveniles. Another 3% of arrested juveniles were either referred to another law enforcement agency c welfare agency.

The remaining juveniles, more tha in 3 arrested, were referred to cou intake, the next step in the justice system. Most of these juveniles (' were referred to a juvenile court c juvenile probation department. However, law enforcement agenc reported in 1992 that 7% were ref to criminal courts for prosecution adult.

Juveniles arrested in small cities : rural areas were more likely than in large urban centers to be referr a criminal court. For example, in only 1.4% of juveniles referred fc prosecution in cities with populat more than 250,000 were sent to criminal courts, compared with 9 rural counties and 12.4% in cities populations less than 10,000.

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Technical Note

While juvenile arrest rates reflect juvenile behavior, many other factors can affect the size of these rates.

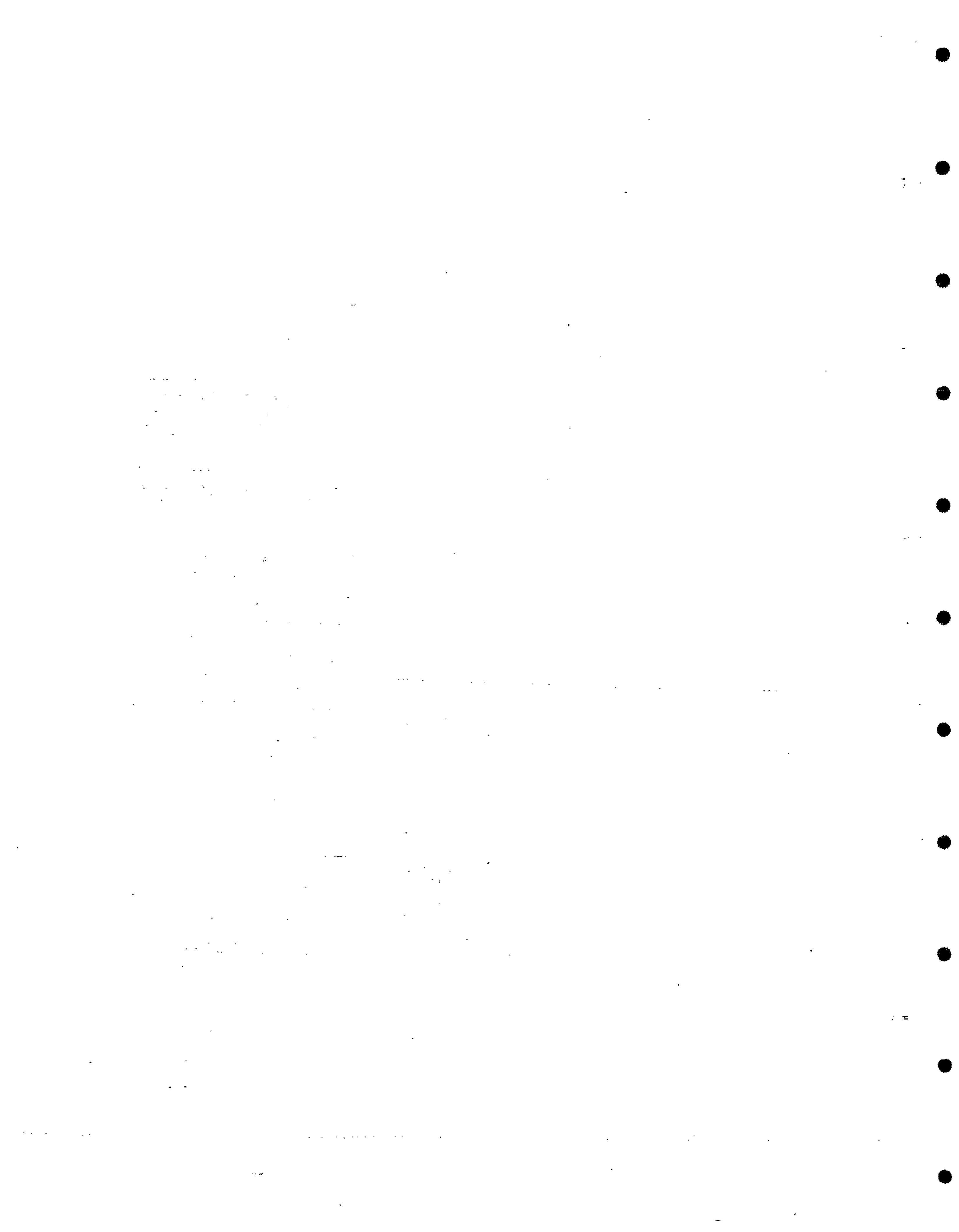
Arrest rates are calculated by dividing the number of youth arrests made in the year by the number of youth living in the jurisdiction. Therefore, jurisdictions that arrest a relatively large number of nonresident juveniles would have a higher arrest rate than a jurisdiction whose resident youth behave in an identical manner.

Jurisdictions, especially small jurisdictions, that are vacation destinations or that are centers for economic activity in a region may have arrest rates that reflect more than the behavior of their resident youth.

Other factors that influence the magnitude of arrest rates in a given area include the attitudes of its citizens toward crime, the policies of the jurisdiction's law enforcement agencies, and the policies of other components of the justice system. Consequently, the comparison of juvenile arrest rates across jurisdictions, while informative, should be done with caution.

In most areas not all law enforcement agencies report their arrest data to the FBI. Rates for these areas are then necessarily based on partial information. If the reporting law enforcement agencies in these jurisdictions are not representative of the complete jurisdiction, then the rates will be biased. For example, if the only agencies that report in a county are urban agencies, the county's reported rate will only reflect activity in the urban section of the county. Reported rates for jurisdictions with less than complete reporting may not be accurate.

In the cited reports, the FBI calculates juvenile arrest rates by dividing the number of arrests of persons under age 18 by the population ages 0 through 17. While this is consistent, the majority of the population in this age range is below 10, while few arrestees are below age 10. For this report, the FBI's reported arrest rates were modified to make them more sensitive to changes in that part of the juvenile population that is likely to generate the arrest figures. Specifically, the reported arrest rates were recalculated using a population base of persons ages 10 through 17.



Chapter 2

Juvenile victims

How often are juveniles the victims of crime? Who are their offenders? How often are firearms involved? How many juveniles are murdered each year? How many commit suicide? What is known about missing and homeless youth? How many children are abused or neglected annually? What are child maltreatment trends? Does abuse lead to later delinquency?

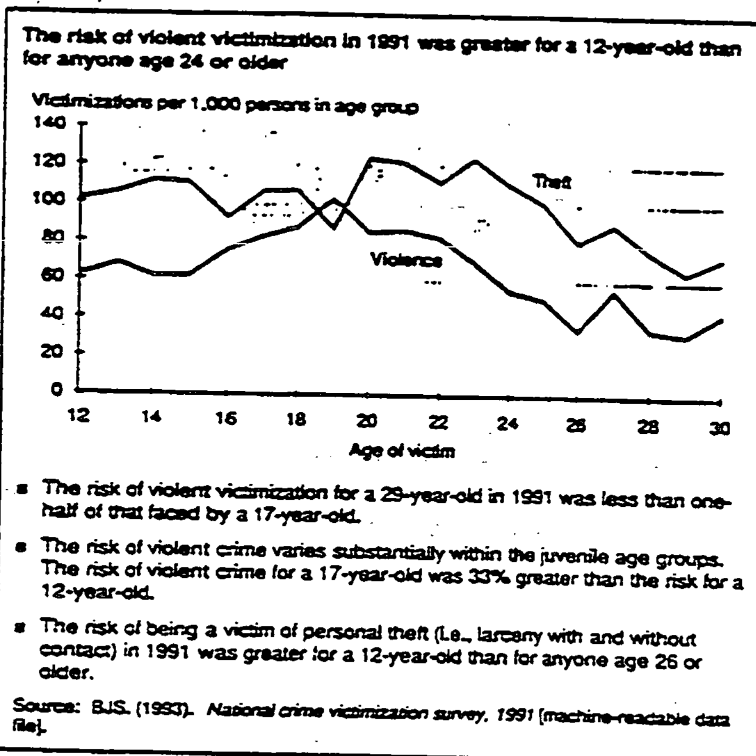
Much of juvenile victimization is hidden from public view — crimes are not reported, offenders are not arrested, and abusers are not identified. This chapter presents what is known about the prevalence and incidence of juvenile victimization. Data sources include the Bureau of Justice Statistics' National Crime Victimization Survey and the Federal Bureau of Investigation's Supplementary Homicide Reporting Program and its National Incident-Based Reporting System. Child maltreatment information is drawn from data collected by the National Center on Child Abuse and Neglect and the Administration for Children and Families. Data from the Office of Juvenile Justice and Delinquency Prevention's National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children are presented, as well as suicide information from the National Center for Health Statistics.

Acknowledgments

Howard Snyder authored this chapter. Invaluable contributions were made by several individuals. James Lynch conducted and summarized his original analysis of the National Crime Victimization Survey data. James Fox conducted and summarized his original analysis of the Supplemental Homicide data. Pamela Messerschmidt reported findings from the national incidence studies on missing children. Eileen Poe summarized findings on the prevalence and incidence of child maltreatment and the response of child protective service agencies. Contributions were also made by Melissa Sickmund, Amy Craddock, Jody Greene, and Christopher Ringwalt.

Any juvenile between ages 12 and 17 is more likely to be the vic of violent crime than are persons past their midtwenties

The risk of violent victimization in 1991 was greater for a 12-year-old than for anyone age 24 or older



- The risk of violent victimization for a 29-year-old in 1991 was less than one-half of that faced by a 17-year-old.
- The risk of violent crime varies substantially within the juvenile age groups. The risk of violent crime for a 17-year-old was 33% greater than the risk for a 12-year-old.
- The risk of being a victim of personal theft (i.e., larceny with and without contact) in 1991 was greater for a 12-year-old than for anyone age 26 or older.

Source: BJS. (1993). *National crime victimization survey, 1991* [machine-readable data file].

Juveniles and young adult the greatest risk of victimiz

Victimization rates vary substan across age groups. Senior citize have much lower victimization than persons ages 18–24. In fac young adults have the highest ra within the adult population. Th victimization rate for juveniles i roughly the same as that of youn adults and substantially above t for persons over age 24. This is for both crimes of violence and of theft.

Juvenile victims are likely know their offender

Most offenders who victimize j are family members, friends, or quaintances. In 1991 only 22% personal crimes against juvenil committed by strangers. Adult much more likely to be victimi strangers (42%). The juvenile adult proportions of stranger cr

In 1991 juveniles ages 12–17 were as likely to be the victims of rape, robbery, and simple assault as were adul ages 18–24; aggravated assault was the only violent crime for which young adults had a statistically higher victimization rate

	Victimizations per 1,000 persons in age group						
		Juveniles			Adults		
Crime type	All Ages	Total	12–14	15–17	Total	18–24	25–34
Personal crime	98	172	166	179	89	193	114
Crimes of violence	32	71	65	78	28	81	37
Rape	1	2	1	3	<1	2	1
Robbery	6	10	11	10	5	12	8
Aggravated assault	8	15	14	17	7	24	9
Simple assault	18	44	40	48	15	42	19
Crimes of theft	65	101	102	101	61	112	77
Personal larceny with contact	3	3	2	3	3	4	3
Personal larceny without contact	62	98	100	97	58	109	74

Note: Detail may not add to totals because of rounding.

Source: BJS. (1993). *National crime victimization survey, 1991* [machine-readable data file].

1991 were more similar for rape and robbery than for aggravated assault and simple assault.

	Percent stranger crime	
	Juvenile	Adult
Personal crimes*	22%	42%
Rape	33	39
Robbery	44	51
Aggravated assault	20	38
Simple assault	15	38

* Includes crimes of theft.

A gun was used in 1 in 4 serious violent offenses against juveniles in 1991

The offender was armed in 67% of serious violent crimes (i.e., crimes of violence excluding simple assault) involving juvenile victims. In 19% of serious violent incidents the offender had a handgun, in 6% a gun other than a handgun, in 18% a knife, and in 25% a blunt object was used.

The level of weapon use against juveniles is only slightly less than against adults. Compared with adult victimizations, offenders in serious violent incidents against juveniles were less likely to be armed (67% compared with 72% for adults) and, when armed, less likely to use a handgun (19% compared with 24% for adults).

Juveniles suffer fewer and less serious injuries than adults

The proportion of serious violent incidents that resulted in injury was the same for juveniles (35%) as for adults (36%) in 1991. Adult victims of serious violent crime, however, were twice as likely as juvenile victims to be injured seriously (14% versus 7%). Injuries requiring hospital stays of at least 2 days were also more common for adult (3%) than for juvenile victims (fewer than 1%).

More than 1 in 5 violent crime victims in 1991 was a juvenile age 12–17

	Proportion of victims who were:			
	Juveniles			
Crime type	Total	12–14	15–17	Adults
Personal crime	18%	9%	9%	82%
Crimes of violence	22%	10%	12%	78%
Rape	18	3	15	82
Robbery	18	9	8	82
Aggravated assault	20	9	11	80
Simple assault	24	11	13	76
Crimes of theft	16	8	8	84
Personal larceny with contact	11	4	7	89
Personal larceny without contact	16	8	8	84

Source: BJS. (1993). *National crime victimization survey, 1991* [machine-readable data file].

Much of what is known about the victimization of juveniles comes from NCVS

The Bureau of Justice Statistics (BJS) conducts the National Crime Victimization Survey (NCVS). With funds from BJS, the Bureau of the Census contacts a large nationally representative sample of households and asks their occupants to describe the personal crimes they have experienced. Personal crimes are broken into two general categories: crimes of violence and crimes of theft.

Personal crimes of violence include rape, personal robbery, and aggravated and simple assault. These crimes always involve contact between victim and offender. For this report, serious violent crime includes all crimes of violence except simple assault. Personal crimes of theft include larcenies (theft without force or threat of force) with and without victim-offender contact.

With all its strengths, NCVS has limitations in describing the extent of juvenile victimizations. NCVS does not capture information from, or about, victims below age 12. Designers of the survey believe that younger respondents are not able to provide the information requested. Therefore, juvenile victimizations recorded by NCVS cover only those that involve older juveniles. In addition, as with any self-report survey, NCVS has limited ability to address the sensitive issues of intrafamily violence and child abuse.

Some official data sources (such as law enforcement and child protective service agencies) can provide a partial picture of crime against juveniles. However, they are limited to those incidents made known to them.

Compared with other juveniles, black youth are more likely to be the victim of a violent crime

Race/ethnicity of victim	Violent victimizations per 1,000 population Ages 12–17	Ages 18–24
Total	71	82
White (not Hispanic)	69	84
White Hispanic	69	56
Black	84	99
Other	42	55

In 1991 black juveniles and young black adults had the highest violent victimization rates. Black juveniles had a violent victimization rate 20% higher than that of white juveniles. Among both blacks and non-Hispanic whites, young adults had a greater risk of violent victimization than did juveniles, while the reverse was true for white Hispanics.

Whites were more likely than Hispanics or blacks to be the victim of a personal theft in 1991

Race/ethnicity of victim	Personal theft victimizations per 1,000 population Ages 12–17	Ages 18–24
Total	101	110
White (not Hispanic)	109	122
White Hispanic	74	84
Black	87	77
Other	75	93

White juveniles were 25% more likely to be the victim of a personal theft than were black juveniles in 1991. In contrast, while white and Hispanic young adults were about 10% more likely to be a victim of a personal theft than were same race juveniles, black juveniles were at greater risk than young black adults.

When cash or property was taken from a juvenile victim in 1991, most lost less than $25

In 1991, 56% of crimes involving personal theft from a juvenile resulted in losses of $25 or less. Twenty-seven percent involved losses of more than $50. The losses of adult victims were somewhat greater. Among adults, 36% of personal thefts involved the loss of $25 or less and 50% involved losses of more than $50.

Personal crimes with juvenile victims occurred most often in school or on school property

In 1991 approximately 56% of juvenile victimizations happened in school or on school property. There is no comparable place where crimes against adults were so concentrated. Much of this concentration for juveniles was due to personal theft. Seventy-two percent of personal thefts involving juvenile victims occurred in school.

Twenty-three percent of violent juvenile victimizations occurred in school or on school property in 1991. For juveniles, violent crimes were about as likely to occur at home (25%) as they were in school. A somewhat larger proportion of the violent crimes reported by juvenile victims occurred on the street (33%). A larger proportion (35%) of violent crimes involving adult victims happened in the home.

Few juvenile victimizations a[re] reported to law enforcement

Only 20% of juvenile personal vic[...] timizations were brought to the at[...] tion of police in 1991. In contrast [...] 37% of adult personal victimizati[...] were reported to police. When as[...] why the event was not reported to [...] police, 35% of these juvenile vict[...] said that they reported the inciden[...] some other authority, primarily sc[...] officials. If the percentage of juv[...] victimizations reported to police i[...] combined with those not reported [...] police but reported to school offic[...] approximately 48% of juvenile pe[...] sonal victimizations were reporte[...] an authority in 1991.

Juveniles reported that police responded to approximately 64% o[...] personal crimes brought to their attention. This is essentially the rate at which police appeared for events reported to them by adult victims.

For personal crimes involving ju[...] victims that resulted in a police r[...] sponse, the victim reported that [...] police arrived within 10 minutes [...] notification in 48% of the incide[...] 82% of the incidents, police arri[...] within an hour.

Response times were similar for [...] Police arrived within 10 minutes [...] 43% of the incidents and within [...] hour in 82% of the incidents.

A juvenile's risk of becoming a victim of a nonfatal violent crime increased between 1987 and 1991

NCVS monitors changes in nonfatal violent victimizations

The National Crime Victimization Survey asks respondents to report on crimes in which they were the victim, which obviously excludes fatal incidents. Nonfatal violent victimizations include rape, robbery, and aggravated and simple assault.

The risk of violent victimization has increased for juveniles and young adults in recent years

Between 1987 and 1991 the risk that a person between the ages of 12 and 17 would become a victim of a nonfatal violent crime increased 17%. Over this period the risk of violence increased from 61 to 71 violent victimizations per 1,000 juveniles. During the same period the risk of violence for those ages 18–24 increased 24% from 66 to 81 per 1,000. The risk of violent victimizations for age groups above age 24 declined with age, and the risks that they would become the victim of a nonfatal violent crime did not increase between 1987 and 1991.

During the same period the risk of personal theft for juveniles decreased from 114 to 101 per 1,000, although this decrease was not significant statistically.

Recent changes in juvenile victimization rates varied by race and ethnic group

Changes in a juvenile's risk of violent crime differed by race and ethnicity. The rate of violent victimization for non-Hispanic whites increased 21% between 1987 and 1991, from 57 to 69 per 1,000. During the same period, the violent victimization rate for blacks remained constant. Black juveniles had a violent victimization rate of 84 per 1,000 in 1991. The victimization rate for white-Hispanic juveniles increased more than 40% to a level equal to that of whites, but due to their small numbers in the NCVS sample, this difference was not statistically significant.

The increase in risk of violent victimization for young adults (ages 18 to 24) was greater for blacks than for whites from 1987 to 1991. Violent victimizations among non-Hispanic whites increased 25% (from 67 to 84 per 1,000) and among blacks 48% (from 67 to 99 per 1,000).

The nature of nonfatal violence against juveniles did not change much between 1987 and 1991

In the case of serious violence (rape, robbery, and aggravated assault) no statistically significant changes occurred in the nature of juvenile victimizations. The proportion involving serious injury declined from 11% to 7% but this difference was not statistically significant. The percent of serious violent incidents resulting in injury remained essentially the same (37% in 1987 and 35% in 1991) as did the proportion resulting in hospital stays. The proportion of serious violent incidents in which weapons were used also remained essentially the same from 1987 (66%) to 1991 (67%).

Between 1987 and 1991 no statistically significant changes were found in the places where serious violence occurred, in the reporting of these events to the police, or in the characteristics o juvenile victims.

The increased risk of violent victimization from 1987 to 1991 among juveniles ages 12–17 stems largely from an increase in simple assault rates

	1987	1988	1989	1990	1991
Population ages 12–17 (in millions)	20.756	20.346	20.049	20.102	20.370
Total violent victimizations	1,258,000	1,245,000	1,294,000	1,328,000	1,448,000
Victimizations per 1,000 population:					
Crimes of Violence*	61	61	65	66	71
Robbery	8	9	10	11	10
Aggravated assault	15	16	14	16	15
Simple assault	36	36	39	37	44

*Includes data on rape not displayed as a separate category.

Source: Moone, J. (1994). Juvenile victimizations: 1987–1992. *OJJDP Fact Sheet.*

Recent large increases in the homicide rates of black and older juveniles are the result of increases in firearm homicides

Fatal injuries to youth have decreased, while homicides rise

According to the National Center for Health Statistics, injury was the leading cause of death for youth below age 20 in 1991. Homicide was second only to motor vehicle accidents as the leading cause of fatal injuries. Two in 5 injury deaths of these youth in 1991 were the result of motor vehicle collisions. More than 1 in 5 injury deaths resulted from homicide. Between 1986 and 1991, while the number of youth dying in motor vehicle accidents declined 20%, homicide deaths rose substantially.

On a typical day in 1992, seven juveniles were murdered

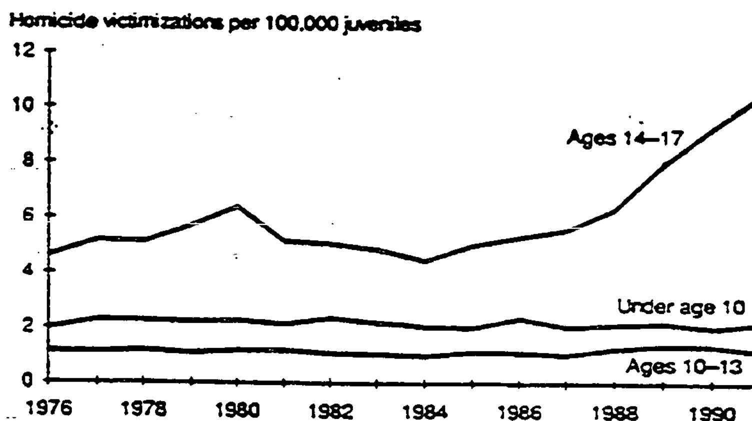
An FBI Supplementary Homicide Report form is completed on all homicides known to police. Data are collected on victim and offender demographics, the victim-offender relationship, the weapon, and circumstances surrounding the homicide.

From 1985 through 1992 nearly 17,000 persons under age 18 were murdered in the U.S. In 1992, 2,595 juveniles were murdered, an average of 7 per day.

Year	Number of juvenile homicides
1985	1,605
1986	1,753
1987	1,738
1988	1,955
1989	2,184
1990	2,339
1991	2,610
1992	2,595

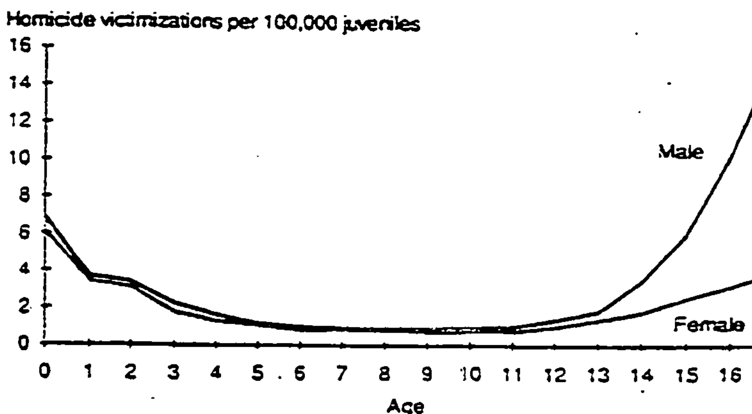
Source: FBI. (1986–1993). *Crime in the United States* series

The homicide victimization rate for juveniles ages 14–17 has nea[rly] doubled since the mid-1980's, while the rates for younger juveni[les] have remained relatively constant



Source: FBI. (1993). *Supplementary homicide reports 1976–1991* [machine-readable da[ta] files].

Until they become teens, boys and girls are equally likely to be murdered



- The rate of homicide victimization is higher for children age 5 and young[er] than for those between ages 6 and 11. After age 11 the homicide victimi[za]tion rate increases throughout adolescence, especially for boys.

Note: Rates are based on the 1976–1991 combined average.

Source: FBI (1993). *Supplementary homicide reports 1976–1991* [machine-readable da[ta] files].

Juvenile homicides have increased most in large cities

The growth in juvenile homicide has been most pronounced in larger cities, those more than one-quarter million in population. Although the rate of juvenile homicides has increased in the U.S. in recent years, growth has been smallest in the South.

Homicide victimization rates have increased for males and females

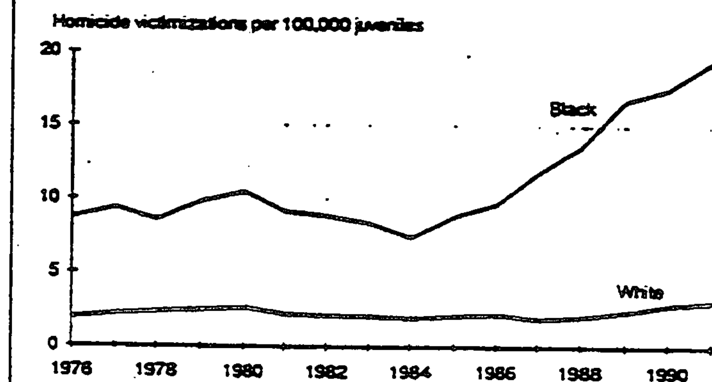
Sixty-five percent of juvenile homicide victims between 1976 and 1991 were male. The risk of being murdered has increased since the mid-1980's for both boys and girls. However, the increase has been greater for males. As a result, the male proportion of juvenile homicide victims has increased. In 1985, 64% of juvenile homicide victims were males; in 1991 this proportion had increased to 72%.

Black males ages 14–17 are more likely than other juveniles to be homicide victims

Slightly more than half of the juveniles killed between 1976 and 1991 were white. In terms of rate per 100,000 persons, however, black juveniles were 4 times more likely than white juveniles to be homicide victims. As a result, young black males have the highest homicide victimization rate of any race/sex group. The rate for black males was twice that of black females, 5 times that of white males, and 8 times that of white females.

Race and sex differences in homicide victimization rates were even more pronounced among older juveniles. Among juveniles ages 14 to 17, blacks were 5 times more likely to be murdered than whites. Similarly, older boys were 3 times more likely to be killed than older girls.

The homicide victimization rate among black juveniles has increased substantially in recent years



Source: FBI. (1993). *Supplementary homicide reports 1976–1991* [machine-readable data files].

These race and sex differences in homicide victimization rates have increased in recent years, especially among older juveniles. In 1984 among juveniles ages 14 to 17, the homicide victimization rate for black males was 3 times that of black females, 5 times that of white males, and 9 times that of white females. By 1991 among these older juveniles, the homicide victimization rate for black males was 7 times that of black females, 8 times that of white males, and 29 times that of white females.

Most juvenile victims know their attacker, usually well

In 22% of homicides involving a juvenile victim between 1976 and 1991, information about the offender is unknown because the case is unsolved. For cases in which the offender was known, 24% percent of juvenile victims were murdered by other juveniles. Most juveniles (76%) were killed by adults; 52% were killed by persons ages 18 to 29.

Most juvenile homicides involved victims and offenders of the same race. Ninety-two percent of the black juvenile victims were killed by blacks, and 93% of the white juvenile victims were killed by whites.

Forty percent of juvenile homicide victims were killed by family members, most of them by parents. Of these parent-killing-child cases, slightly more than half of the boys (53%) were killed by their fathers, and slightly more than half of the girls (51%) were murdered by their mothers.

Forty-five percent of juvenile homicide victims were murdered by friends, neighbors, or acquaintances. These incidents generally involved boys being killed by males (66%).

Fourteen percent of juvenile homicide victims were killed by strangers. In murders by strangers, one-third occurred during the commission of another felony, such as rape or robbery.

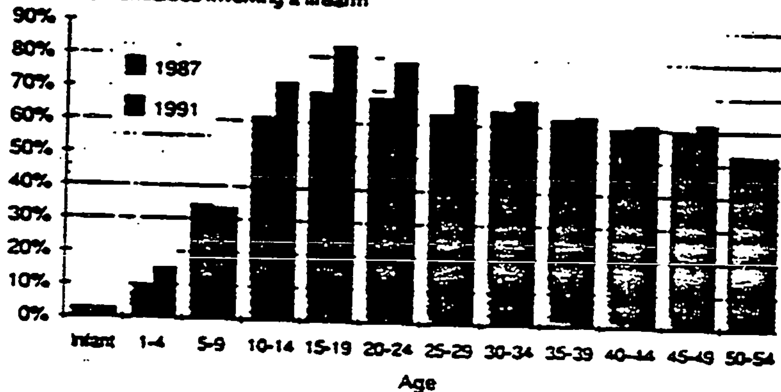
Young children are often killed by parents, older juveniles by their peers

Children were more likely than were older juveniles to be killed by their parents. Fifty-nine percent of homicide victims under age 10 were killed by parents (more often the father). Fists or feet were the most common weapons in such killings (45%). Eighteen percent of these younger children were killed with a firearm. These younger homicide victims were slightly more likely to be male (54%).

A Bureau of Justice Statistics study of murder cases disposed in 1988 found that 4 in 5 children under age 12 murdered by their parents had been previously abused by the parent who killed them.

Homicide victims ages 10 to 17 were more often killed by a friend or other acquaintance (61%) rather than by a family member (16%). More than 70% of these homicide victims were shot to death. The large majority of juvenile homicide victims in this age range were male (73%).

Homicides of youth ages 15–19 are most likely to involve a gun



Sources: FBI. (1988). *Crime in the United States 1987*. (1992). *Crime in the United States 1991*.

More than half of juvenile homicide victims are killed with a firearm

In 1991 approximately 57% of all juvenile homicide victims were killed with a firearm, 8% were killed with a cutting or stabbing instrument, and 17% were killed with personal weapons such as fists or feet. Overall, homicide victims under age 18 were less likely than were adult homicide victims to be killed with a firearm and more likely than were adult victims to be killed with personal weapons. Older teens (ages 15 to 19) were more likely than was any other age group to be killed with a gun, while the murderers of young children rarely used a gun.

The firearm homicide rate increased while the nonfirear homicide rate declined

The firearm homicide death rate fo teens ages 15 to 19 increased 61% between 1979 and 1989, from 6.9 t 11.1 deaths per 100,000. During tl same period, the nonfirearm homic rate decreased 29%, from 3.4 to 2. Thus, the observed increase in the homicide rate for older teenagers v driven solely by the increase in fire homicides.

Homicides involving firearms have been the leading cause of death for black males ages 15 to 19 since 19 In 1979 there were fewer than 40 s deaths per 100,000 black males tha age in the population — by 1989 tl figure had increased to more than 8 In 1989 the firearm homicide deatl among black males ages 15 to 19 i metropolitan counties was 6.5 time rate in nonmetropolitan counties.

For every two youth (ages 0–19) murdered in 1991, one youth committed suicide

7% of all suicides in 1991 involved youth age 19 or younger

The National Center for Health Statistics reported that 30,810 persons committed suicide in the United States in 1991. More than half of the persons who committed suicide in 1991 were age 40 or older.

Age group	Proportion of all suicides
All ages	100%
0-9	0
10-19	7
20-29	19
30-39	21
40-49	16
50-59	11
60-69	10
70-79	9
80 and older	6

Note: Detail may not total 100% because of rounding.

Source: National Center for Health Statistics (1993). *Death rates for selected causes, by 5-year age groups* (unpublished data).

Suicides increased between 1979 and 1991 most for the very old and juveniles ages 10–14

Age groups	1979	1991	Percent change
Total	27,206	30,810	13%
0–9	1	1	0
10–14	151	265	76
15–19	1,789	1,900	6
20–24	3,461	2,854	-18
25–29	3,273	3,089	-6
30–34	2,588	3,430	33
35–39	2,096	3,091	47
40–44	1,782	2,680	50
45–49	1,794	2,207	23
50–54	1,997	1,778	-11
55–59	1,889	1,614	-15
60–64	1,681	1,629	-3
65–69	1,533	1,573	3
70–74	1,199	1,513	26
75–79	987	1,396	41
80 & older	985	1,789	82

Source: National Center for Health Statistics. (1993). *Death rates for selected causes, by 5-year age groups* (unpublished data).

Young suicides are disproportionately male and white

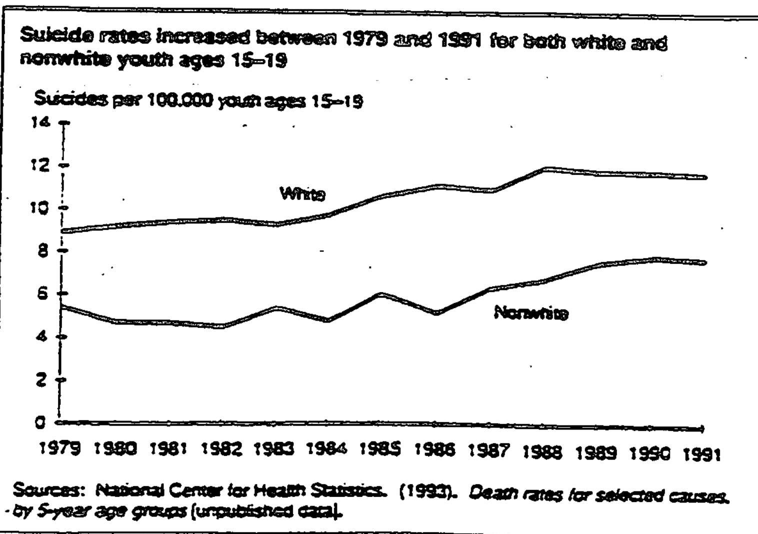
Using FBI data, in 1991 about 4,400 youth below age 20 were murdered in the U.S. The magnitude of this problem has captured the public's attention. However, much less attention has been given to the fact that for every two youth murdered, one youth commits suicide.

In 1991, 2,165 persons below age 20 committed suicide. Eighty-three percent of these persons were male, 88% were between ages 15 and 19, and 86% were white.

	Number of suicides		Suicides per 100,000 youth	
	10–14	15–19	10–14	15–19
Total	265	1,900	1.5	11.0
Male	207	1,589	2.3	18.0
Female	58	311	0.7	3.7
White	228	1,629	1.6	11.9
Male	175	1,352	2.4	19.1
Female	53	277	0.8	4.2
Nonwhite	37	271	1.0	7.8
Male	32	237	1.8	13.5
Female	5	34	*	2.0

* Too few cases to obtain a reliable rate.

Source: National Center for Health Statistics. (1993). *Death rates for selected causes, by 5-year age groups* (unpublished data).



Sources: National Center for Health Statistics. (1993). *Death rates for selected causes, by 5-year age groups* (unpublished data).

Children below age 12 are the victims in 1 in 4 violent juvenile victimizations reported to law enforcement

FBI's NIBRS can shed light on crimes against children

As noted in previous sections, the primary source of information on crimes committed against juveniles is the National Crime Victimization Survey. NCVS, however, limits its interviews to persons ages 12 and above. Therefore, NCVS does not capture information on crimes against younger children.

The FBI's new National Incident-Based Reporting System (NIBRS) may fill part of this critical information gap. NIBRS captures detailed information on each incident reported to a law enforcement agency. Agencies report to the FBI victim, offender, and arrestee demographics, as well as information on the offense(s), the victim-offender relationship(s), each victim's level of injury, and the use of weapons.

This section describes the nature of violent juvenile victimization as captured by NIBRS in South Carolina. Although these data may not be nationally representative, and describe only those incidents reported to law enforcement agencies, NIBRS data enable a close look at more than 196,000 incidents of murder, violent sex offenses, robbery, and aggravated and simple assault reported to law enforcement agencies in South Carolina from 1991 to mid-1993.

As NIBRS expands to collect information from more States, it can help to shed light on this relatively unknown component of crime in the U.S.

Children below age 12 were the victims in 28% of violent sex offense incidents reported to law enforcement agencies in South Carolina

Victim's age	Offense: All violent offenses	Murder	Violent sex offense	Robbery	Aggravated assault	Simple assault
5 & younger	1%	3%	12%	<1%	1	1%
6–11	3	<1	16	1	3	3
12–17	12	5	27	7	12	12
18–24	28	24	18	23	26	28
25–54	53	58	26	59	55	54
55 & older	3	11	1	11	3	3
Total	100%	100%	100%	100%	100%	100%
11 & younger	5%	4%	28%	1%	4%	4%
17 & younger	17	9	55	7	16	16
18 & older	83	91	45	93	84	84

- The South Carolina NIBRS data indicate that juveniles were victims in more than half (55%) of all violent sex offenses — a figure that is consistent with the finding of a recent Bureau of Justice Statistics report that found that 51% of rape victims in a 12-State sample were juveniles.
- Children below age 12 were rarely the victim in robbery incidents. They were, however, about 4% of murder and assault victims reported to law enforcement agencies.
- If South Carolina NIBRS data are representative of the actual ratio of younger-to-older juvenile victimizations, then NCVS is missing 51% of juvenile violent sex offenses, 9% of juvenile robberies, 26% of juvenile aggravated assaults, and 22% of juvenile simple assaults.

Note: Detail may not total 100% because of rounding.

Source: Snyder, H. (1994). *The criminal victimization of young children.*

Children below age 12 were victimized in roughly 600,000 violent incidents in 1992

According to NIBRS data, in South Carolina between 1991 and 1993, juveniles (persons below age 18) were victims in 17% of violent incidents reported to law enforcement agencies. Juveniles ages 12–17 were victims in 72% of these violent victimizations of persons under age 18.

In 1992 NCVS reported 1,552,000 violent crime victimizations of persons ages 12–17. If the NIBRS proportion is representative — that is, the NCVS figure represents 72% of all juvenile victimizations — then roughly 600,000 violent victimizations of children below age 12 occurred in 1992.

The profile of crimes against children differs from those involving older juveniles

Nearly 1 in 3 victims below age 12 who came to the attention of law enforcement was alleged to be the victim of a violent sexual offense, compared with 1 in 8 older juvenile victims (persons ages 12–17). This discrepancy was even more pronounced in the offense profile of

young children (those below age 6). When violent crimes against young children were referred to law enforcement, nearly 1 in 2 was a violent sex offense.

For both children and older juveniles, about 1 in 4 violent victimizations was an aggravated assault. Compared with older juveniles, child victims were involved in smaller proportions of robberies and simple assaults.

Child victims are as likely as older juvenile victims to be male

Half of juvenile victims were male. However, child victims of a violent sex crime were more likely to be male than were older juvenile victims. Thirty-two percent of victims of a violent sex offense who were below age 6 were males, compared with 20% of those ages 6–11, and 9% of those ages 12–17.

Adults are the offenders in most violent crimes against children

In nearly 6 in 10 violent victimizations of children and older juveniles, the offender was an adult (age 18 or older). The offender was most likely to be an adult when the victim was a very young child. The offender was an adult in 74% of violent victimizations against children younger than age 6, in 48% of violent victimizations against children ages 6–11, and in 58% of violent victimizations against older juveniles.

Child victims of violent crime are more likely than older juvenile victims to be victimized by a family member

Offender type	Victim's age: All ages	5 & younger	6–11	12–17	11 & younger	17 & younger	18 & older
Family member	27%	50%	26%	17%	33%	22%	29%
Acquaintance	53	41	59	64	54	61	51
Stranger	20	9	15	18	13	17	20
Total	100%	100%	100%	100%	100%	100%	100%

- Child victims below age 6 were the least likely to be victimized by strangers and most likely to be victimized by a family member. Half of these young children were victimized by a family member, while fewer than 1 in 10 were victimized by a stranger.
- The probability that the offender was a family member declined substantially for older juveniles, as the proportion of victimizations by acquaintances and strangers increased. The proportion of stranger victimizations for older juveniles was twice that of young children.

Source: Snyder, H. (1994). *The criminal victimization of young children.*

Children were less likely than older juveniles to be victimized with a firearm

Firearms were more common in the violent victimizations of adults than of juveniles. Firearms were involved in 13% of violent victimizations of adults and in 8% of victimizations of juveniles. Children, who are less of a physical threat to an offender, were the least likely to be victimized with a firearm. Firearms were present in about 4% of violent victimizations of persons below age 12 and in 9% of those involving victims ages 12–17.

About 4 in 10 juvenile victims of violent crime needed medical attention

Forty-four percent of juvenile victims of violent crimes reported to law enforcement agencies in South Carolina received an injury that required medical attention. Juveniles were less likely to be injured than were adults, and children were less likely than were older juveniles to be injured. Adults were injured in 51% of their violent victimizations, older juveniles in 45%, and children younger than age 12 in 39% of their violent victimizations referred to police.

Injury was least likely to occur when the offender was a stranger. For children injury occurred in a greater proportion of crimes committed by family members than by other offenders. Children (persons below age 12) were injured in 42% of crimes committed by family members, in 38% of crimes committed by acquaintances, and in 35% of crimes committed by strangers. For older juveniles, injury was equally as likely if the offender was a family member (43%), an acquaintance (46%), or a stranger (43%).

Young children are at most risk of violent victimization at dinner time — older juveniles, at the end of the school day

The risk of violent victimization varies with the time of day

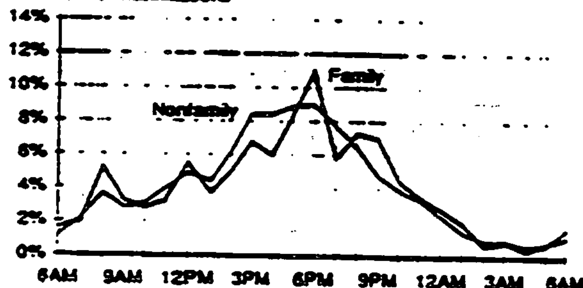
NIBRS data from South Carolina for the years 1991 to 1993 were used to develop a 24-hour profile of the risk of violent victimization for different age groups, based on crimes reported to law enforcement agencies. For adults the risk of violent victimization (murder, violent sex offense, robbery, and aggravated and simple assault) increased continuously from 6 a.m. to just before midnight, then declined to a low point at 6 a.m.

Juvenile patterns are quite different. For juveniles ages 12–17, the peak was 3 p.m., the end of the school day. For older juveniles the risk remained relatively constant between 4 p.m. and midnight, before declining, while the risk for juveniles ages 6–11 decli continuously after the 3 p.m. pea

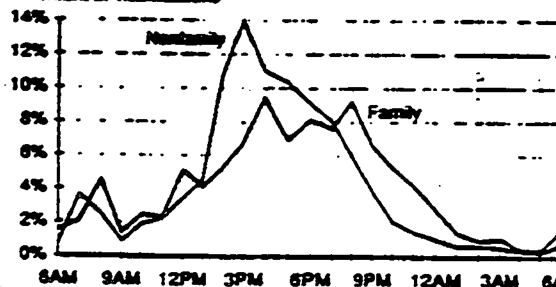
For children younger than age 6, risk increased throughout the day the highest risk at 6 p.m. (dinner relative peaks at 8 a.m. (breakfas noon (lunch), and 3 p.m. (after sc After 6 p.m. the risk to these you children declined continuously u the early morning hours.

A juvenile's risk of violent victimization varies with the time of day and the type of offender

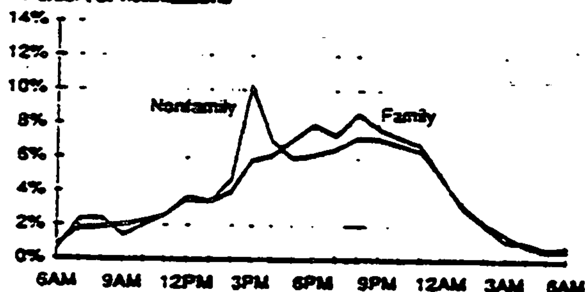
Children younger than age 6



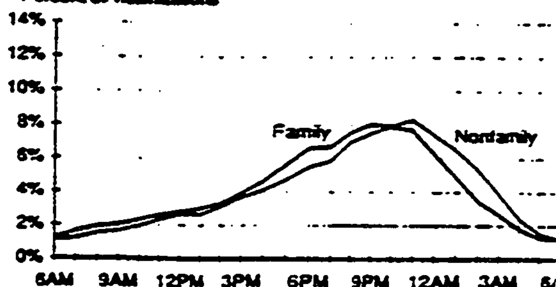
Young juveniles ages 6–11



Older juveniles ages 12–17



Adults age 18 and older



- Juveniles ages 6 to 17 were at greatest risk of violent victimization by nonfamily members (acquaintances or strange 3 p.m. (the end of the school day). For those ages 6 to 11, this risk declined sharply after 3 p.m., while the risk rema relatively high for older juveniles until 11 p.m.
- For children younger than age 6, nonfamily victimizations were most common between 2 p.m. and 7 p.m., declining substantially thereafter. The pattern of victimizations by family members was roughly similar, with the major exceptic sharp peaks around the traditional meal times of 8 a.m., noon, and 6 p.m.

Source: Snyder, H. (1994) *The criminal victimization of young children.*

Caretakers know the whereabouts of many "missing" children — the problem is recovering them

Some categories of "missing" children are more numerous than others

The term "missing children" has been used for many years to describe very different kinds of events, making it difficult to estimate the magnitude of these phenomena or to formulate appropriate public responses. A 1988 national incidence study sought to measure the "missing child problem" by examining several distinct problems.

Broadly defined:	Defined as serious:
Parental/family abduction	
354,100 children per year	*163,200 children per year*
A family member took a child or failed to return a child at the end of an agreed-upon visit in violation of a custody agreement/decree with the child away at least overnight.	A family member took the child out of State or attempted to conceal/prevent contact with the child, or abductor intended to keep child or permanently change custodial privileges.
Stranger/nonfamily abduction	
3,200–4,600 children per year	*200–300 children per year*
Coerced and unauthorized *taking* of a child, or *detention*, or *luring* for purposes of committing another crime.	A nonfamily abduction where the abductor was a stranger and the child was gone overnight, or taken 50 miles or more, or ransomed, or killed, or the perpetrator showed intent to keep the child permanently.
Runaway	
450,700 children per year	*133,500 children per year*
A child who left home without permission and stayed away at least overnight or who was already away and refused to return home.	A runaway who during a runaway episode was without a secure and familiar place to stay.
Thrownaway	
127,100 children per year	*59,200 children per year*
A child who was told to leave home, or whose caretaker refused to let come home when away, or whose caretaker made no effort to recover when the child ran away, or who was abandoned.	A thrownaway who during some part of the episode was without a secure and familiar place to stay.
Otherwise missing	
438,200 children per year	*139,100 children per year*
Children missing for varying periods depending on age, disability, and whether the absence was due to injury.	An otherwise missing case where police were called.

Source: Adapted from Finkelhor, D., Hotaling, G., and Sedlack, A. (1990). *Missing, abducted, runaway, and thrownaway children in America. First report: Numbers and characteristics, national incidence studies.*

Who are runaways and what happens when they are away?

In the 1988 national incidence study, parents or guardians of runaways who were gone overnight provided information about their youngsters and their experiences while gone.

Most runaways were teenage girls (58%); most were 16 or 17 years old (68%). Most came from families that were or had been broken: only 28% lived with both (natural or adoptive) parents.

Most runaways initially stayed with someone they knew (66%) or did so at some time during the episode (94%). Some had spent time in unfamiliar or dangerous situations, with 29% having spent at least part of the episode without a familiar and secure place to stay, and 11% having spent at least one night without a place to sleep. Many runaways returned home within a day or two, but about half (52%) were gone for 3 days or more and 25% were gone for a week or more. For about half of the runaways, their whereabouts were known to their caretaker more than half of the time they were away from home.

Many runaways had run away before, with 34% having run away at least once before in the past 12 months. Some traveled a long distance: approximately 16% went more than 50 miles from home during the episode, and about 10% went more than 100 miles.

Who are thrownaways, and what happens when they are away?

About half of thrownaway children were runaways whose parents or guardians made no effort to recover them, and about half were directly forced to leave home. Parents of

thrownaway children reported that most (84%) were 16 years old or older. The vast majority stayed with friends at least part of the time while they were away (88%), although 13% spent at least one night without a place to sleep. A majority (68%) returned home within 2 weeks. For about three-quarters of thrownaway children, caretakers knew of their whereabouts more than half of the time they were away from home.

Who are abducted children, and what happens when they are taken?

Parents of children abducted by a family member reported that most of these were young: 33% were 2 to 5 years old, and 28% were 6 to 9 years old. Most were returned within a week: 62% were returned in 6 days or less, and 28% were returned in 24 hours or less. For just over half of children abducted by a family member, their caretaker knew their whereabouts more than half of the time they were away from home.

Many family abductions appeared to fall into the "serious" category. The abducting parent:

- Prevented the child from contacting the caretaking parent (41%).
- Concealed the child (33%).
- Threatened or demanded something of the caretaking parent (17%).
- Took the child out of State (9%).

Nonfamily abductions were studied in the records of a national sample of police departments. In these cases, three-quarters of the children were teenage girls, and half were 12 years old or older. Most of the victims were not missing for long. Most were gone for less than 1 day: an estimated 12%–21% were gone for less than 1 hour. Nearly all of the victims were forcibly moved during the episode. Most were taken from the street; 85% of the cases involved force (75% with a weapon). Compared with the 200–300 nonfamily abductions that fell into the "serious" category (stereotypical kidnappings), researchers estimated that there were about 100 stranger-abduction homicides.

Who are other missing children, and what happens when they are missing?

Most lost or otherwise missing children tended to fall into one of two age groups: 4 years old or younger (47%) or 16 to 17 years old (34%). Of those incidences where the reason was known, most (57%) were missing for "benign" reasons (such as the child's forgetting the time or misunderstandings between parents and children about when the latter would return or where they would be). The next largest group (28%) involved children who had been injured while they were away from home. Nearly all of these children had returned within 24 hours.

Some runaways are more likely to be harmed than others

A national study of law enforcement policies and practices regarding missing children and homeless youth examined the characteristics of runaways whose caretakers had reported to police that their children were missing. The study also examined the characteristics of runaway episodes that were associated with being victimized by sexual or nonsexual assault, theft, or sexual exploitation while gone:

- Children 12 or younger and w youth were more likely than t ers and black youth to be vict in some way.
- Traveling 10 to 50 miles from having no secure place to stay having a history of six or mor previous runaway incidents w associated with some form of victimization.
- The length of time a youth wa was not associated with vic- timization or sexual exploitati when the other factors were t into account.

Who are homeless youth?

An estimated 100,000–500,000 may be homeless for some perio year. Homeless youth were defi a 1991 study as "adolescents liv the streets with no supervision, ance, or regular assistance from parent or responsible adult." M more youth are homeless with th families.

Some homeless youth are runaw thrownaways. Some, after year foster care and other placements gotten too old to be cared for by child welfare system or have pr be such "difficult cases" that the given early emancipation, *de fa* by the court.

Some homeless youth are undoc mented immigrants, living in th to earn money to send to their f Some were separated from their families when the family becam homeless and could no longer c them or when the adolescent ch denied admission to a shelter.

Community agencies and institutions identify about 1.4 million children a year who they suspect may be abused or neglected

Child maltreatment by a caretaker can take many forms

Child maltreatment is a general term that includes physical, sexual, and emotional abuse, and physical, emotional, and educational neglect (see box). Child maltreatment occurs when a caretaker (a parent or a parent substitute, such as a daycare provider) is responsible for, or permits, the abuse or neglect of a child. The maltreatment can result in actual physical or emotional harm, or it can place the child in danger of physical or emotional harm. Some forms of child maltreatment, such as physical or sexual abuse, may result in the caretaker being referred to the criminal justice system and processed as a criminal offender.

Estimating the extent of child abuse and neglect is difficult

The number of children either identified by or reported to community agencies or institutions is an undercount of the actual number of abused or neglected children. Many young children lack the verbal skills to report the incident or the awareness that the incident may be inappropriate or criminal. Some children are too embarrassed or afraid to report the incident, or are threatened into silence. Adults who witness maltreatment may not report it because they do not consider the incident inappropriate or criminal or they may view it as a "private family matter" and, thus, none of their business.

Two in 3 abused or neglected children show signs of injury or impairment

The second National Study of the Incidence and Prevalence of Child Abuse and Neglect (NIS-2) focused on "officially recognized" maltreatment. However, the study was not restricted to cases reported to child protective service agencies. Cases known to other investigatory agencies such as police, courts, or public health departments were also included, as were cases known to other community institutions such as hospitals, schools, day care centers, and social service agencies. The study did not include "unofficial" cases known only to family members or neighbors. In this sense the incidence rates reported are underestimates.

NIS-2 estimated that official sources identified more than 1.4 million children who they believed to be harmed or at risk of harm by maltreatment at least once in 1986. Harm was defined as any maltreatment that caused, prolonged, or worsened some actual injury or impairment of at least moderate severity. More than 900,000 of these children suffered "demonstrable harm" as a result of maltreatment. This figure translates into an incidence rate of 15 children harmed per 1,000 children under age 18 in the U.S. population. Adding in those children not yet harmed, but at risk of harm, increases the rate to 23 children endangered or harmed by maltreatment for every 1,000 children in the U.S. population.

There are several different types of child maltreatment

Physical abuse includes physical acts that caused or could have caused physical injury to the child.

Sexual abuse is involvement of the child in sexual activity to provide sexual gratification or financial benefit to the perpetrator, including contacts for sexual purposes, prostitution, pornography, or other sexually exploitative activities.

Emotional abuse is defined as acts (including verbal or emotional assault) or omissions that caused or could have caused conduct, cognitive, affective, or other mental disorders.

Physical neglect includes abandonment, expulsion from the home, delay or failure to seek remedial health care, inadequate supervision, disregard for hazards in the home, or inadequate food, clothing, or shelter.

Emotional neglect includes inadequate nurturance or affection, permitting maladaptive behavior, and other inattention to emotional/developmental needs.

Educational neglect includes permitting the child to be chronically truant or other inattention of educational needs.

Most harm comes from abuse

Of those children harmed by maltreatment, most were victims of abuse (56%). The most frequent type of abuse was physical abuse. Five in 10 abused children were physically abused, 3 in 10 were emotionally abused, and 2 in 10 were sexually abused. Among those who were neglected, more than half were educationally

neglected, one-third were physically neglected, and 1 in 10 were emotionally neglected.

Most of the children harmed by maltreatment (73%) suffered moderate injuries — injuries that persisted at least 48 hours but were not life threatening or did not involve long-term impairment. Serious injuries were experienced by 15% of harmed children, and in 0.1% of maltreatment cases the child died. For the remaining 12% of children, injury was inferred from the nature of the maltreatment itself (such as incest).

Child maltreatment increased substantially from 1980 to 1986

Overall, the incidence of child maltreatment in which the child was harmed increased 66% between 1980 and 1986. This increase primarily reflects an increase in the incidence of abuse (74%). Among abuse cases, the incidence of physical abuse increased 58% and the incidence of sexual abuse more than tripled. The incidence of emotional abuse remained virtually unchanged, as did the various forms of neglect.

The rates of fatally injured and severely injured children did not increase between 1980 and 1986. Moderate injuries were the only maltreatment-related injuries to show significant change (89%) over this time period. Based on these findings, the overall increase in cases of maltreatment between 1980 and 1986 may have largely been due to an increased likelihood that professionals recognized maltreatment, rather than to any increase in the actual incidence rate.

Maltreatment is related to characteristics of the child

The incidence of maltreatment varied by sex and age but not by race or ethnicity:

- The incidence of abuse was greater for females than for males. This difference stems primarily from the greater risk of sexual abuse for females.
- The incidence of child maltreatment generally increased with age. Within abuse, each of the abuse categories showed the age-related increase: within neglect the increase was limited to educational neglect.
- Moderate injuries were more frequent among older children. Fatalities were more frequent among younger children. Younger children also had more serious injuries. The NIS-2 report concludes that these findings might be due to the relative physical frailty of young children.
- From 1980 to 1986, the incidence of physical and sexual abuse increased more for older than for younger children.

Community agencies and institutions identify more maltreatment in lower income families

Community agencies and institutions report that children from families with an annual income of less than $15,000 experienced substantially more maltreatment of all types than children from families with greater incomes in 1986. The abuse rate was 4 times higher in families with income of less than $15,000 compared with those with higher incomes. The neglect rate [was] nearly 8 times higher in lower in[come] families. Compared with those f[rom] families with incomes above $15[,000], children in lower income familie[s] suffered more injuries in every in[jury] category except fatalities.

Most maltreatment cases ar[e] recognized by schools

In 1986 more maltreatment cases [were] identified by schools than by all [other] community agencies or institutio[ns] combined:

Schools	53%
Police/sheriff	9
Social services	9
Hospitals	5
Probation/courts	4
Public health	3
Daycare centers	2
Mental health	2
Welfare	2
All others	11

Source: NCCAN. (1988) *Study findings: Study of national incide[nce] and prevalence of child abuse an[d] neglect.*

Less than half of alleged ch[ild] maltreatment cases were reported to child protective services in 1986

Community agencies and institut[ions] reported 44% of the cases they re[cog]nized as possible child maltreatm[ent] cases to a child protective servic[e] agency. Hospitals, police and sh[eriff] departments, and mental health a[gen]cies reported about 6 in 10 of the recognized cases. Social service[s], schools, public health, and proba[tion/courts] reported about 1 in ev[ery] ... Daycare centers had the lowest r[eport]ing rate, 1 in 6.

Most abuse and neglect cases enter the official child welfare system through child protective service agencies

What are child protective services?

Child protective services generally refer to services provided by an agency authorized to act on behalf of a child when parents are unable or unwilling to do so. In all States these agencies are mandated by law to conduct assessments or investigations of reports of child abuse and neglect and offer rehabilitative services to families where maltreatment has occurred or is likely to occur.

While the primary responsibility for responding to reports of child maltreatment rests with State and local child protective services agencies, prevention and treatment of abuse and neglect can involve professionals from many disciplines and organizations. Although variations exist among jurisdictions, community response to child maltreatment typically includes the following sequence of events.

Identification. Individuals likely to identify abuse are often those in a position to observe families and children on an ongoing basis. This may include educators, law enforcement personnel, social services, medical professionals, probation officers, daycare workers, mental health professionals, and the clergy, as well as family members, friends, and neighbors.

Reporting. Some individuals, such as medical and mental health professionals, educators, child care providers, social service providers, law enforcement personnel, and clergy, are often required by law to report suspicions of abuse and neglect. Some States require reporting by any person having knowledge of abuse or neglect.

Child protective services or law enforcement agencies usually receive the initial report of alleged abuse or neglect that may include identifying information on the child, the nature and extent of maltreatment, and information on the parent or other person responsible for the child (caretaker). The initial report may also contain identifying information on the individual causing the alleged maltreatment (perpetrator), the setting in which maltreatment occurred, and the person making the report.

Intake and investigation. Protective services staff are responsible for determining whether the report constitutes an allegation of abuse or neglect and the urgency of the response needed. The initial investigation involves gathering and analyzing information from and about the child and family. Protective service agencies may work with law enforcement and other agencies during this period. Caseworkers generally respond to reports of abuse and neglect within 2 to 3 days. A more immediate response may be required if it is determined that a child is at imminent risk of injury or impairment.

If the intake worker determines that the referral does not constitute an allegation of abuse or neglect, the case may be closed. If there is substantial risk of serious physical or emotional harm, severe neglect, or lack of supervision, a child may be removed from the home under provisions of State law. Most States require that a court hearing be held shortly after the removal to approve temporary custody by the child protective service agency. In some States, removal from the home requires a court order.

Following the initial investigation, the protective service agency generally concludes one of the following: (1) sufficient evidence exists to support or substantiate the allegation of maltreatment or risk of maltreatment; (2) sufficient evidence does not exist to support maltreatment; or (3) maltreatment or the risk of maltreatment is indicated although sufficient evidence to conclude or substantiate the allegation does not exist. Should sufficient evidence not exist to support an allegation of maltreatment, additional services may still be provided if it is believed there is risk of abuse or neglect in the future.

Assessment. Protective services staff attempt to identify the factors that contributed to the maltreatment and to address the most critical treatment needs.

Case planning. Case plans are developed by protective services, other treatment providers, and the family in an attempt to alter the conditions and/or behaviors resulting in child abuse or neglect.

Treatment. A treatment plan is implemented for the family by protective services and other treatment providers.

Evaluation of family progress. After the treatment plan has been implemented, protective services and other treatment providers evaluate and measure changes in family behavior and the conditions that led to child abuse or neglect, assess changes in the risk of maltreatment, and determine when services are no longer necessary. Case managers often coordinate the information from several service providers when assessing the case's progress.

Case Closure. While some cases are closed because the family resists intervention efforts and the child is considered to be at low risk of harm, others are closed when it has been determined that the risk of abuse or neglect has been eliminated or sufficiently reduced to a point where the family can protect the child from maltreatment without further intervention.

If it is determined that the family will not be able to protect the child, the child may be removed from the home and placed into foster care. If the child cannot be returned home to a protective environment within a reasonable timeframe, parental rights may be terminated so that permanent alternatives for the child can be found.

One option available to child protective services is referral to juvenile court

Substantiated reports of abuse and neglect do not necessarily lead to court involvement if the family is willing to participate in the child protective agency's treatment plan. However, the agency may file a complaint in juvenile court if the child is to be removed from the home without parental consent or when the parents are otherwise uncooperative.

Adjudicatory hearings primarily focus on the validity of the allegations while dispositional hearings address the case plan (e.g., placement, supervision, and services to be delivered). Typical dispositional options include: treatment and services provided by protective service agencies, temporary custody granted to the State child protective agency, foster care, termination of parental rights, permanent custody granted to the State child protective agency, and legal custody given to a relative or other person. Both adjudicatory and dispositional hearings are held within a timeframe specified by State statute.

Although not all abuse and neglect cases are court involved, the juvenile court is playing an increasingly significant role in determining case outcomes. The Federal Adoption Assistance and Child Welfare Act 1980 (P.L. 96–272) required greate judicial oversight of the child prote tive service agency's performance. This legislation was passed in an attempt to keep children from bein needlessly placed in foster care or in foster care indefinitely. The go this legislation was to enable the c to have a permanent living arrange ment (e.g., return to family, adopti or live with other relatives) as soo possible.

Courts often review decisions to remove children from home durin emergencies, oversee agency effor prevent placements and reunite fa lies, approve agency case plans de signed to rehabilitate families, per cally review cases, and decide wh to terminate parental rights in case involving children unable to return home. Courts review case plans o court-involved cases prior to impl mentation and maintain ongoing involvement until the child is eith returned home or placed in a perr nent, adoptive home.

Child protective service agencies received 1.9 million reports of child maltreatment in 1992

NCANDS monitors the caseloads of child protective services

The Child Abuse Prevention, Adoption, and Family Services Act of 1988 required the National Center on Child Abuse and Neglect (NCCAN) to establish a national data collection program on child maltreatment. In response, NCCAN established the National Child Abuse and Neglect Data System (NCANDS).

NCANDS annually collects information on cases handled by each State's child protective service agency. These data include information on the number of reports received, the number of children involved, the number of reports that were substantiated after investigation, information on the perpetrators in substantiated cases, and information on disposition of the cases. These data provide a national picture of the caseloads of child protective service agencies and their responses to child maltreatment cases.

Nationally, child protective service agencies received an estimated 1.9 million reports of alleged child abuse and neglect in 1992. Many of these reports involved more than one child (e.g., siblings) and a child may be involved in more than one report in a year. Therefore, it is difficult to determine how many individual children were involved in these reports. Child protective service agencies conducted approximately 1.6 million child abuse and neglect investigations.

In 41% of these investigations the allegation of child abuse or neglect was substantiated (i.e., the allegation of maltreatment or risk of maltreatment was supported or founded on the basis of State law or policy) or was indicated (i.e., the allegation could not be substantiated, but there was reason to suspect that the child was maltreated or was at risk of maltreatment).

How common are intentionally false allegations of child abuse and neglect?

Six States report information on the number of intentionally false allegations of child maltreatment — Florida, Hawaii, Illinois, Missouri, Vermont,

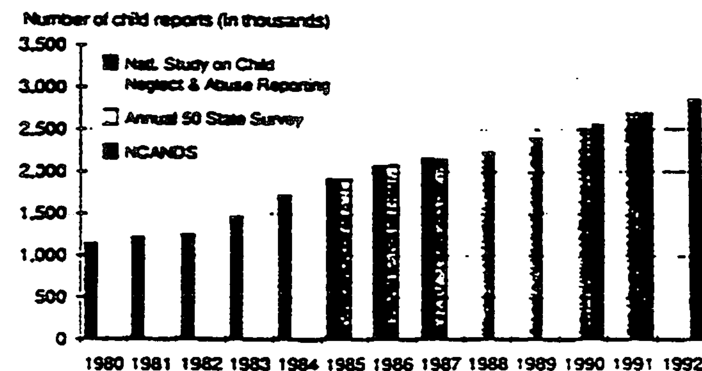
Educators are the most common source of reports of abuse and neglect to child protective service agencies

Source of referral	Percent of total
Professionals	50%
Educators	16
Social service	12
Legal justice	12
Medical	10
Family and community	27%
Friends/neighbors	10
Relatives—not parents	10
Parents	7
Other sources	23%
Anonymous	11
Victims	2
Other*	10

* Includes child care providers, perpetrators, and sources not otherwise identified.

Source: NCCAN. (1994). *Child maltreatment 1992: Reports from the States to the National Center on Child Abuse and Neglect.*

Reports of alleged child maltreatment have increased since 1980



- The increasing trend in child maltreatment reports over the past decade is believed to be the result, at least in part, of a greater willingness to report suspected incidents. Greater public awareness both of child maltreatment as a social problem and the resources available to respond to it are factors that contribute to increased reporting.

Note: Child reports are counts of children who are the subject of reports. Counts are duplicated when an individual child is the subject of more than one report during a year.

Sources: NCCAN. (1994). *Child maltreatment 1992: Reports from the States to the National Center on Child Abuse and Neglect.* NCCAN. (1993). *National child abuse and neglect data system: Working paper 2, 1991 summary data component.*

Neglect is the most common form of substantiated or indicated maltreatment

Type of maltreatment	% of Victims
Neglect	49%
Physical abuse	23
Sexual abuse	14
Emotional maltreatment	5
Medical neglect	3
Other	9
Unknown	3

Note: Total is greater than 100% because victims can be in more than one category when more than one type of abuse or neglect has occurred.

Source: NCCAN. (1994). *Child maltreatment 1992: Reports from the States to the National Center on Child Abuse and Neglect.*

and Virginia. Data from these States show that:

- 60% of allegation investigations were not substantiated.
- 5% of the allegations that were not substantiated were determined to be intentionally false.
- 3% of all allegations were intentionally false.

All children are potential victims of maltreatment

In 1992 information on substantiated or indicated victims of maltreatment provided by States to NCANDS found the following:

- 52% of the victims were female.
- 7% of victims were under the age of 1. 52% were under the age of 8, and 7% were 16 or older.
- 55% of the victims were white, 26% were black, 10% were Hispanic, and 4% were other races; race was unknown for the remaining 5% of victims.

For every 1,000 juveniles in the Nation, 43 were the subject of abuse a neglect reports in 1992

State	Population under age 18 (in thousands)	Number of children subject of a report
Total U.S.	66,168	2,855,691
Alabama	1,076	43,246
Alaska*	185	9,892
Arizona	1,047	51,216
Arkansas	629	38,089
California	8,423	463,090
Colorado	909	55,740
Connecticut	771	22,080
Delaware	172	8,292
Dist. of Columbia	117	12,093
Florida	3,106	180,285
Georgia	1,800	46,192
Hawaii	293	5,310
Idaho	324	24,020
Illinois	3,029	131,592
Indiana	1,461	58,970
Iowa	735	28,094
Kansas	678	22,079
Kentucky	964	56,438
Louisiana	1,238	47,893
Maine	306	10,177
Maryland	1,225	46,698
Mass.	1,384	52,581
Michigan	2,509	117,376
Minnesota	1,206	27,462
Mississippi	748	32,076

State	Population under age 18 (in thousands)	Numb[er of] child[ren] subjec[t of] a rep[ort]
Missouri	1,350	79,4
Montana*	228	14,7
Nebraska	439	17,0
Nevada	338	22,5
New Hampshire	280	10,9
New Jersey	1,863	50,4
New Mexico*	469	26,9
New York	4,422	228,4
N. Carolina	1,662	88,4
N. Dakota	172	7,5
Ohio	2,820	148,1
Oklahoma	858	24,0
Oregon	766	41,5
Pennsylvania	2,844	25,8
Rhode Island	233	12,8
S. Carolina*	945	33,8
S. Dakota	204	10,4
Tennessee	1,246	31,2
Texas	5,072	174,2
Utah	654	27,0
Vermont	144	3,2
Virginia	1,562	55,6
Washington	1,355	55,8
West Virginia	438	20,9
Wisconsin	1,330	47,6
Wyoming	138	5,4

* Unduplicated counts — children who were the subject of more than one report dur[ing] the year were only counted once.

Note: Unless indicated otherwise, data are duplicated counts of children who are the subject of reports. Counts are "duplicated" because an individual child may be the subject of more than one report during the year. Many reports involve more than on[e] child, in which case each child is counted separately.

Source: NCCAN. (1994). *Child maltreatment 1992: Reports from the States to the National Center on Child Abuse and Neglect.*

Removal from home occurr[ed in] 1 of 5 substantiated cases

NCANDS reported that 18% of t[he] victims in substantiated or indic[ated] cases were removed from their h[omes] in 1992. This represents a 6% in[crease] over 1991.

Court actions (e.g., filing for temporary custody, filing for guardianship, filing a dependency petition, and other such civil actions) were initiated for 17% of the victims in substantiated or indicated cases in 1992.

Parents are most often the perpetrator in substantiated child maltreatment cases

In substantiated or indicated cases, 4 in 5 perpetrators were the child's parents.

	Percent of all perpetrators
Parents	81%
Other relatives	12
Noncaretakers	5
Child care	1
Foster parents	1
Facility staff	<1
Total	100%

Determining the exact number of children who die from maltreatment is difficult

NCANDS found that almost 1,100 children were known to have died as a result of abuse or neglect in 1992 in the 44 States reporting such deaths. This translates into more than 1 death for every 1,000 substantiated victims.

Using data from multiple data sets (including the FBI's Supplemental Homicide Reports), another study estimated as many as 2,000 child maltreatment deaths per year. More precise numbers of child maltreatment fatalities would require increased collaboration by medical, legal, and social service agencies.

States vary in the standard of proof required to substantiate allegations of child abuse and neglect

Level of evidence to substantiate a report

Case worker's judgment	Some credible evidence	Credible evidence	Preponderance of evidence
Hawaii	Alaska	Alabama	District of Columbia
Mississippi	Arizona	Colorado	Georgia
Ohio	Arkansas	Connecticut	Iowa
Tennessee	California	Florida	Kansas
West Virginia	Idaho	Illinois	New Jersey
Wyoming	Kentucky	Maryland	Oklahoma
	Louisiana	Michigan	Pennsylvania
	Maine	Nebraska	Texas
	Massachusetts	Nevada	Vermont
	Missouri	Rhode Island	Virginia
	Montana	Utah	Washington
	New Hampshire		Wisconsin
	New York		
	North Carolina		
	North Dakota		
	Oregon		
	South Carolina		
	South Dakota		

Higher standards of proof result in slightly lower substantiation rates —

- Where the standard of evidence is the case worker's judgment the substantiation rate is 49%.
- Where the standard of evidence is "some credible evidence" the substantiation rate is 46%.
- Where the standard of evidence is "credible evidence" the substantiation rate is 44%.
- Where the standard of evidence is "a preponderance of evidence" the substantiation rate is 43%.

Note: Levels of evidence required to substantiate a report of child maltreatment are established by law, regulation, policy, or custom and usage. Delaware uses "level of risk."

Source: Flango, V. (1991). Can central registries improve substantiation rates in child abuse and neglect cases? *Child abuse and neglect.*

659,000 children were in substitute care for at least part of 1992

442,000 children were in substitute care at the end of 1992

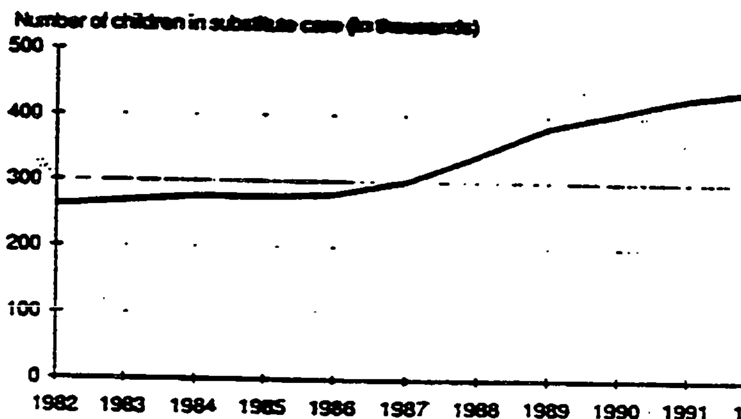
The American Public Welfare Association, with funding from the Department of Health and Human Services, collects information from public child welfare agencies on the services provided to children. This data collection system is the Voluntary Cooperative Information System (VCIS). VCIS monitors the flow of children through the substitute care system in the United States. The child substitute care population includes children living out of the home and under the management and planning responsibility of the State child welfare agency.

VCIS reports that 421,000 children were in substitute care at the beginning of 1992. During 1992, 238,000 children entered substitute care. Therefore, 659,000 children experienced substitute care for some period of time during 1992. During 1992 about 217,000 children left substitute care. Consequently, there were 21,000 more children living in substitute care at the end of 1992 than when the year began.

Most children in substitute care live in foster homes

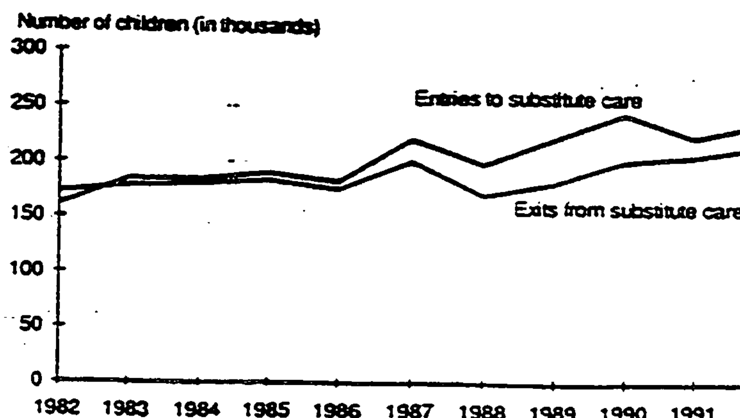
The most common type of substitute care provided by the child welfare system is foster care. In 1990, 75% of the substitute care population resided in foster care; 16% lived in group homes, emergency shelters, or other types of child care facilities; and 9% resided in such places as hospitals, correctional institutions or college dormitories or lived independently or in transitional settings.

The substitute care population increased by more than two-thi[rds] between 1982 and 1992



Source: Tatara, T. (1993). U.S. child substitute care flow data for FY 92 and curren[t] trends in the State child substitute care populations. *VCIS Research Notes.*

More children have been entering than leaving substitute care [each] year



Source: Tatara, T. (1993). U.S. child substitute care flow data for FY 92 and curre[nt] trends in the State child substitute care populations. *VCIS Research Notes.*

Children in substitute care in 1990 were much younger than those in care in 1982

The number of children in substitute care under age 6 increased 148% between 1982 and 1990. In contrast, the number of children between ages 13 and 18 increased only 2%. Thus, in 1990 children younger than age 6 accounted for 36% of the substitute care population, compared with 22% in 1982. Juveniles ages 13 to 18 comprised 45% of the 1982 population, but only 30% of the 1992 population. The median age of children in substitute care in 1982 was 13; by 1990 the median age had dropped to 9.

In 1990 a disproportionate number of black children were living in substitute care

In 1982 more than one-half (53%) of the child substitute care population was white and one-third (34%) was black. Hispanic children and children of other races were each 7% of this population. Between 1982 and 1990 the number of black children in substitute care increased 83%, while the number of white children increased 16%. Thus, by 1990 the proportions of white and black children in substitute care were approximately equal (39% and 40%, respectively). The number of Hispanic children increased 172% between 1982 and 1990 and represented 12% of the substitute care population in 1990. The proportion of children of other races remained almost constant at 8%.

In 1990 nearly 3 in 4 children entered substitute care for parent-related reasons

In 1990, 51% of all children entering substitute care were doing so for protective service reasons. Another 21% entered because of parental illness, death, handicap, or financial hardship. Twelve percent entered because of delinquency or status offending behavior. 1% entered as the result of parental relinquishment, 2% were due to the child's disability or handicap, and 13% entered for other reasons.

Between 1984 and 1990 the number of children entering substitute care due to parental absence increased 62%, while those entering for delinquency or status offending behavior increased 52%.

Children experienced a greater number of placements during a continuous period in substitute care in 1990 than in 1982

Although almost half of children in substitute care remained in one placement while in care, the proportion of these children declined from 56% to 43% between 1982 and 1990.

Number of placements	1982	1990
1	56%	43%
2	20	27
3 or more	24	30
Total	100%	100%

Source: Tatara, T. (1993). *Characteristics of children in substitute and adoptive care.*

Most children leaving substitute care in 1990 had been in care for less than 1 year

Time in care	Proportion of children leaving care
0–12 months	60%
1–2 years	17
2–3 years	9
3–5 years	9
More than 5 years	6

Note: Detail may not total 100% because of rounding.

Source: Tatara, T. (1993). *Characteristics of children in substitute and adoptive care.*

Two-thirds of children leaving substitute care in 1990 were reunited with their families

The proportion of children leaving substitute care who were reunited with their families increased substantially, from 50% in 1982 to 67% in 1990. There was a small decline in the number and proportion of children leaving substitute care who were adopted between 1982 (10%) and 1990 (8%). There was also a decline in the number and proportion of children leaving substitute care who reached the age of majority or were emancipated at the time of their exit from care, from 10% in 1982 to 6% in 1990. Other reasons for leaving care included running away, incarceration, marriage, death, discharge to another public agency, or establishment of legal guardianship.

Childhood abuse and neglect increases a child's odds of future delinquency and adult criminality

Today's abused and neglected children are likely to be tomorrow's violent offenders

An ongoing study of delinquency examined direct child maltreatment as well as more general exposure to family violence. Researchers interviewed 1,000 7th and 8th grade students and their caretakers every 6 months for 4 years, and also obtained information from child protective service agency files.

Compared with youth who were not abused or neglected, a greater proportion of youth who were substantiated victims of maltreatment before age 12 reported committing violent acts (70% vs. 56%). Even if they were not direct victims, youth exposed to various forms of family violence had higher rates of self-reported violence than those who were not exposed to such family violence.

Type of family violence	Percent reporting violent behavior
Spousal violence	
Child exposed	70%
Child not exposed	49
Child or sibling maltreatment	
Child exposed	70%
Child not exposed	53
Family climate of hostility	
Child exposed	68%
Child not exposed	43

Source: Thornberry, T. (1994). *Violent families and youth violence. OJJDP Fact Sheet.*

In addition, self-reported violence increased with exposure to more types of violence. Exposure to all three forms of family violence doubled the risk of self-reported violence.

Number of types of family violence	Percent reporting violent behavior
All three	79%
Two	73
One	60
None	39

Source: Thornberry, T. (1994). *Violent families and youth violence. OJJDP Fact Sheet.*

Arrest records study also finds abused and neglected children more likely to become violent

A recent National Institute of Justice study compared arrest records of 908 persons who had court-substantiated cases of abuse or neglect prior to age 12 with those of a demographically matched comparison group of 667 children with no official abuse or neglect histories.

Researchers found that 26% of abused or neglected children eventually had a juvenile arrest record, compared with 17% of children who were not abused or neglected. Abused or neglected children were also more likely to have an adult arrest record (29% compared with 21%) and to have an adult or juvenile arrest for violent crime (11% compared with 8%).

Not only did the prevalence of an arrest history differ for the two groups, but the nature of the offending patterns varied also. Compared with the control group, abused or neglected children had a first arrest at a younger age, committed more offenses, and were arrested more frequently.

Although childhood abuse and neglect increased the probability that the child would enter the juvenile justice system, childhood abuse apparently had no effect on the juvenile offender continuing law-violating behavio the adult years. In both groups a half of the children with juvenile records were also arrested as an a In addition, in both groups, roug one-third of those with juvenile v crime arrest histories also had a v crime arrest as an adult.

Not only does "violence beg violence," but neglect does

While the likelihood of later viol was greater for children who exp enced violence first hand, neglec children also displayed an elevat level of violence later in life.

Type of abuse	Perc with vi offense
Physical abuse only	16
Neglect only	12
Sexual abuse only	6
Comparison group	8

Source: Widom, C. (1992). *The cyc violence. NIJ Research in Brief.*

3 in 10 female inmates in State prisons said they had been ab as juveniles

- 31% of women in prison in 19 been abused before age 18, 24% after age 18.
- These women were equally li report being sexually as phys abused before they entered p
- Females were more likely tha inmates to have been abusec past (43% vs. 12%).

Source: Beck, A., et al. (1992). *Su State prison inmates, 1991.*

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Crime Victims of Juvenile Offenders

I. Special treatment of juvenile offenders: its history and rationale.

Congress passed special juvenile provisions because it believed it could rehabilitate young offenders. In addition, Congress wished to shield immature young persons who committed a "youthful indiscretion" (e.g., vandalism, truancy and petty larceny) and who were unacquainted with the legal consequences of their behavior which could disqualify them for their entire adult lives from opportunities where admission of a criminal record is fatal. Therefore, persons who are not yet 18 years old when they commit federal offenses are not automatically prosecuted in public federal criminal proceedings. Instead, Congress provided the option (which the juvenile can waive) of having the matter handled in a civil proceeding called a juvenile adjudication. During this proceeding, the obligations of the prosecution parallel a criminal bench trial. The proceeding itself is usually closed or conducted out of the public's hearing, and all the records of it are "safeguarded from disclosure to unauthorized persons" or sealed. At its conclusion, the district court does or does not find (adjudicate) the juvenile to be a delinquent. If the court finds the juvenile to be a delinquent, the court can impose probation, restitution, and a maximum 5 year term of confinement, but no fine. A more detailed step by step overview of the statutory procedures for prosecuting federal juvenile offenders is attached at the end of this outline.

II. Categories of juvenile offenders who get federally prosecuted.

There is a Congressional preference for state prosecution of federal juveniles since states generally handle family law problems and typically have specialized juvenile judges and juvenile training schools and prison facilities. The federal system has no federal juvenile facilities and therefore when a federal juvenile is adjudicated "a delinquent" and sentenced to a custodial term, space for the juvenile is obtained by contract at a state facility for a fee. As a fiscal matter then, the difference between the federal authorities prosecuting a juvenile and the local authorities prosecuting the same juvenile is that the local authorities will be reimbursed tens of thousands of dollars a year in contract custodial fees from the federal authorities for confining the same juvenile in the same program, if the federal authorities rather than state authorities convict

the juvenile. This is an additional reason that most juvenile prosecutions are prosecuted by the states.

Until 1984, the federal government prosecuted juveniles who committed crimes where the states had no territorial jurisdiction, such as on military bases and Indian reservations. Also prosecuted were some juveniles who violated state and federal laws but whom the state decided not to prosecute. The 1984 Crime Control Act created two more broad categories of overlapping state and federal juvenile jurisdiction, i.e., for felony crimes of violence and for certain drug felonies. However, it also made all juvenile violators of drug and violent offenses subject to involuntarily losing the protection of the federal juvenile statutes and being transferred to "adult status" in certain circumstances (typically if they previously had been adjudicated delinquent or convicted at the federal or state level).

As drug gangs proliferate and adopt increasingly more violent tactics, they have increasingly become the subject of federal investigations. Many of the victims of these gangs turn out to be members of rival juvenile gangs, or other juveniles who get targeted because they appear vulnerable to these offenders. For example, in 1991 juveniles accounted for 17% of all violent crime perpetrators. On the other hand, 25% of all violent crimes involved a juvenile victim (in 1992). Several hundred juvenile offenders are federally prosecuted each year, although a some involuntarily lose their juvenile protection and are transferred to adult status after which they are prosecuted and sentenced exactly the same as if they were adults. This memorandum focuses on the confidentiality rights of those juvenile offenders who are not transferred to adult status, and witnesses' and victims' diminished rights at those juvenile prosecutions. In the American Correctional Association's Victim's Committee Report dated August 1994, the report's first recommendation was to correct the legislative imbalance that allows less rights to victim's of juvenile crimes than are available to victim's of adult offenders.

<u>III. Conflicting legislative mandates: juvenile defendants' privacy rights and how they impact upon the Attorney General's Guidelines for Victim and Witness Assistance.</u>

A. VICTIMS OF FEDERAL JUVENILE OFFENDERS

The Crime Victims' Bill of Rights, Sec. 502(b) of the Victims' Rights and Restitution Act of 1990, 42 U.S.C. 10606(b), provides seven specific rights, which are also enumerated in Article II, Part A. of the Attorney General Guidelines. Four of those seven rights are significantly curtailed when dealing with federal juveniles. The four victim/witness rights affected are the right:

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(1)"to be notified of court proceedings" (subsection 3);
(2)"to be present at all public court proceedings..."(subsection 4);
(3)"to confer with the attorney for the government in the case" (subsection 5); and
(4)"to information about the conviction, sentencing, imprisonment, and release of the offender" (subsection 7).

The Crime Victims' Bill of Rights, 42 U.S.C. 10607(c)(3), states that "During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of" various events. Similarly, the Attorney General's Guidelines require that federal officials shall make their "best efforts" to honor victims' and witnesses' rights. However, since juvenile proceedings are not technically prosecutions of crimes, but rather civil adjudications of status, arguably the Crime Victims' Bill of Rights does not strictly apply during the civil prosecutive stage of the juvenile proceeding. The Attorney General's Guidelines do not explicitly comment upon their applicability to juvenile delinquency proceedings. Therefore, the conclusions which follow attempt to reconcile the competing statutes and guidelines.

1. Notification about the investigation of the crime. Article III of the Attorney General's Guidelines assigns this obligation to the investigating agency. A victim is to be notified about the status of the investigation of the crime "to the extent it is appropriate to inform the victim...." Since juvenile proceedings are statutorily presumed to be confidential, one must keep this in mind when deciding how much to inform a victim about the status of the criminal investigation. Out of an abundance of caution, a general statement about the progress or success of the investigation may be disclosed to the victim prior to the time that an information or complaint charging an act of juvenile delinquency is filed. For example, a victim is certainly entitled to know if the investigation is unsuccessful and that the perpetrator is still at large. However, the name or other identifying date about a suspect who is known or believed by the investigators to have been younger than 18 when the crime occurred probably should not be disclosed at this stage.

2. Notification and attendance at court proceedings. Article III of the Attorney General's Guidelines assigns this obligation and the following two obligations to the federal prosecutive authorities. During the prosecution of a crime, a victim is to be notified of the arrest, filing of charges, scheduling of court proceedings that a witness must or may attend, release or detention status of the suspect, acceptance of a plea or rendering of a verdict, and imposition of sentence including parole eligibility date. Since juvenile delinquency adjudications are not criminal prosecutions, by their very terms these victim rights do not appear to apply to juvenile

adjudications of status. In addition, juvenile court proceedings are typically conducted "in chambers" and closed to the public pursuant to 18 U.S.C. 5032, para. 3. Providing notice to the victims of closed proceedings is not required by 42 U.S.C. 10606(4), would serve little purpose, and would also appear to violate 18 U.S.C. 5038 absent an order from a court opening up the proceeding pursuant to United States v. A.D., 28 F.3d 1353 (3d Cir. 1994).

3. The right to confer with the attorney for the government.

The considerations noted above suggest that the victims' right to confer with the attorney for the government about its discretionary dispositional decisions (such as what detention status to seek, whether to dismiss the case, whether to utilize pretrial diversion, or whether to accept a negotiated plea) do not apply to juvenile proceedings but only relate to "any Federal criminal case." See sec. 6(a)(5) of Pub.L. 97-291 as amended and reprinted in the Editorial Notes to 18 U.S.C. 1512.

4. Victim Impact Statements.

Since a disposition, rather than a sentencing, follows a juvenile adjudication, it is not mandatory under the juvenile dispositional provision, 18 U.S.C. 5037, or under Fed.R.Crim.P. 32(c)(1) that a presentence report be prepared. Therefore, it is by no means certain that a Victim Impact Statement will be prepared for inclusion in the presentence report under Fed.R.Crim.P. 32(b)(4)(D), or that a comment will be solicited by the court from the victim of a violent crime at sentencing under Fed.R.Crim.P. 32(c)(3)(E). Consequently, a prosecutive representative should be careful to advise the victims in a juvenile proceeding that they may have the opportunity to provide input into the preparation of the Victim Impact Statement portion of the presentence report. The victim can also be informed that they can ask the prosecutive representative to pass along to the court the victim's request that the probation office prepare a victim impact statement for the court prior to final disposition of the juvenile case. Each case, however, will turn on what the presiding judge decides to allow.

5. Dispositional information.

Article III of the Attorney General's Guidelines assign this obligation and the following one to the responsible correctional agency. In addition, 42 U.S.C. 10607(c)(5) provides that "After trial, a responsible official shall provide a victim the earliest possible notice" of the scheduling of a parole hearing; the escape, work release, furlough, or any other form of release from custody of the offender; and the death of the offender if it occurs before release. Since this statutory provision granting victims' rights is not explicitly predicated upon a criminal prosecution, by its terms it may be applicable to juvenile proceedings, although the adjudicatory hearing is arguably not a

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trial. In any event, the first type of notification, about a parole hearing, is moot. See also, United States v. Pinto, 755 F.2d 150, 154 (10th Cir. 1985).

The balance of these rights are directly affected by the language of the juvenile delinquency statute at 18 U.S.C. 5038(a)(6). It provides that federal juvenile records shall be released

> to the extent necessary to meet ... inquiries from any victim of juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.

This 1974 provision was not explicitly repealed by Congress when the Victims' Rights and Restitution Act of 1990 was passed. As it stands, the 1974 provision would appear to be the more specific statute controlling the provision of dispositional information to victims of juvenile offenders. It differs from granting the normal victims' rights in several respects. First, it requires an inquiry from the victims themselves, with a substitute requester only being allowed if a victim has died, unlike the definition of victim in 42 U.S.C. 10607(e)(2)(B). Second, it relieves the responsible official of the obligation of automatically providing the victim the earliest possible notice of the offender's disposition. The provision in 18 U.S.C. 5038 is not, however, clearly inconsistent with a victim's separate but related right under 42 U.S.C. 10607(c)(8) to be provided with general information about the corrections process. This provision of general information by the correctional agency is an appropriate opportunity to inform a victim of his or her right to request the final disposition information about the juvenile offender. Moreover, interpretation of that dispositional data and an explanation of the projected release date of the offender in non-technical terms would appear to be permissible.

6. Notice about the actual release of the offender. Article III of the Attorney General's Guidelines assigns this obligation to the correctional agency. The actual release status of an offender (given furloughs, work release, commutation of sentence, etc.) is not necessarily the same as the final judicial disposition and projected release date as computed on the date when the juvenile sentence is imposed under 18 U.S.C. 5037. Therefore, it is arguably inappropriate under the general prohibition against giving out juvenile information contained in 18 U.S.C. 5038(c) for a victim to be notified at the time when the juvenile offender in his or her case has actually been released from custody.

7. A summary of the changed consequences for prosecutorial victim-witness coordinators.

From the above, it is clear that both during the investigative stage of the case against a juvenile and after the conclusion of the adjudication, victims rights to information about the matter are somewhat limited. More pervasive changes, however, affect the obligations of the prosecutorial victim-witness coordinators. Their normal obligations to notify the victim about court proceedings and his or her right to be present at those proceedings, to confer with the government attorney about the course of the proceedings, and about the current release status of the juvenile offender, have all changed. These coordinators will now need to contact the victims and explain the following special rights, as listed below and detailed in the specially tailored sample letters attached to this memorandum.

- the victim and his adult attendant cannot attend a juvenile's various hearings, unless, as may occur, the juvenile is transferred to adult status or the court decides to open the proceedings to the public (in which case the victims will need to be recontacted and normal victim's rights will apply) ;

- the prosecutors and coordinators are happy to receive the victim's views on appropriate disposition (not only whether the prosecutor should move to detain, dismiss, defer prosecution, or accept a plea, but also how severe a sentence is warranted), but these communications must remain a one-way process. The prosecution officials are not permitted to convey any prosecutorial information from the ongoing progress of the juvenile case to the victim in the manner that the standard right to "confer" typically implies;

- the victim has the right to ask the prosecutive representative to make known to the court the victim's request that a victim impact statement be prepared. This can be requested orally during this conversation. They should also be told that there is no guarantee that it will be ordered by the court or that the victim will be contacted by the probation officer to help prepare a formal victim impact statement; and

- the victim must request information about the final disposition of the juvenile (although they can request it orally right then), if the victim wishes to be informed of that information and its consequences, i.e., the offender's likely or projected release date.

B. CHILD WITNESSES IN FEDERAL JUVENILE ADJUDICATIONS

Under 18 U.S.C. 3509, child victims and child witnesses have been granted special rights which generally protect their privacy. Since juvenile proceedings are themselves closed proceedings designed to protect the privacy of the juvenile

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made the required report in good faith. Since not making a report is a misdemeanor and the making of a report has been immunized, these new provisions override any violation of 18 U.S.C. 5038 that might derive from the knowledgeable officials volunteering such reports prior to receiving an inquiry complying with 18 U.S.C. § 5038(a)(3).

IV. Potentially Available Victims' Rights and Services

All victims' rights and services except those marked with a double asterisk - "**" - are available in juvenile proceedings.

Victims' Rights

1. Filing of victim's own civil suit for personal injury or property damages [weakened by No.2 and No.12 below]
2. Statutory financial liability of parents [not provided in 18 U.S.C. 5037]**
3. Notification of and input into prosecutive decision not to file a petition (defer prosecution, negotiate a cooperation agreement, etc.) [see 42 U.S.C. 10606(b)(5)]**
4. Notification if offender has a communicable disease [see 42 U.S.C. 10607(c)(7)]
5. Notification of all court proceedings [see 42 U.S.C. 10606(b)(3) & 10607(c)(3)(D)]**
6. Notification of time and place of probation release hearing [see 42 U.S.C. 10607(c)(5)(B)]**
7. Attend juvenile hearings even though non-public (trial and sentencing) [see No. 5 above]**
8. Have adult and attorney present while testifying
9. Present victim impact information before disposition in writing
10. Right to close hearing to general public [if child victim, see 18 U.S.C. 3509(d) & (e)]
11. Notification of offender's actual release from physical custody on furlough, escape, death, and full term release (and location) [see 42 U.S.C. 10607(c)(3)(E) & (5)]**
12. Access to court records including defendant's name, address, photo, police record, name and address of parents of offender [not provided, see 18 U.S.C. 5038(a)] **
13. Restitution from victim or fund, as formal disposition, informal disposition, or condition of probation [see 18 U.S.C. 5037(a)]
14. Restraining order for protection requiring physical distance [see 42 U.S.C. 10606(b)(2)]
15. Present victim impact statement orally to court or by audio or video tape [for sex and violent crimes by adults, compare Fed.R.Crim.P. 32(c)(3)(E)]**
16. Attend (preferably with accompanying official) and present statement at probation or other commutation release hearing**

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Victims' Services

Police related services

17. Report of investigation status and filing of case [see 42 U.S.C. 10607(c)(3)(a)-(c)]**
18. Property return [see 42 U.S.C. 10607(c)(6) and 18 U.S.C. 3663(b)(1)(A)]
19. Transportation to line-ups, interviews

Fees and Claims Services [see 42 U.S.C. 10607(c)(1)(B) and 18 U.S.C. 3663(b)]

20. Assistance with insurance claims
21. Assistance with victim compensation from crime fund
22. Assistance with witness fees
23. Assistance with restitution claims and collection

Court Related Services

24. Orientation to juvenile court [see 42 U.S.C. 10607(c)(8)]
25. Preparation for testimony
26. Notification of court date when testifying
27. Notification of court dates when not testifying [see 42 U.S.C. 10606(b)(4) & 10607(c)(3)(D)]**
28. Transportation to court to testify
29. Transportation to court solely to observe the proceeding**
30. Transportation to court to present victim impact statement**
31. Legal counsel other than prosecutor
32. Witness reception area [see 42 U.S.C. 10607(c)(4)]
33. Accompanying victim to court
34. Child care during court process
35. Employer intervention
36. Assistance with victim impact statement
37. Notification of disposition(without a request) [see 42 U.S.C. 10607(c)(3)(F) & (G)]**

Emergency and Counseling Services

38. Assistance with emergency shelter
39. Assistance with emergency security repair
40. Assistance with emergency financial aid
41. Crisis intervention/counseling
42. 24-hour telephone access/hotline

Other Services

43. Referral to other agencies [see 42 U.S.C. 10607(c)(1)(a)&(c)]
44. Victim or witness protection from intimidation [see 42 U.S.C. 10607(c)(2)]
45. Victim/offender post adjudication structured mediation**

V. Summary of Fifteen Non-witness Victims' Rights and Services From the Above List Which are Curtailed in Juvenile Cases

Limited Pre-trial Rights and Services

17. Report of investigation status and filing of case

3. Notification of and input into prosecutive decision not to file a petition (defer prosecution, negotiate a cooperation agreement, etc.)

Limited Trial Rights and Services

5. Notification of all court proceedings

27. Notification of court dates when not testifying

29. Transportation to court solely to observe the proceeding

7. Attend juvenile hearings (trial and sentencing)

30. Transportation to court to present victim impact statement

15. Present victim impact statement orally to court or by audio or video tape

Limited Post-trial Rights and Services

37. Notification of disposition(without a request)

6. Notification of time and place of probation release hearing

16. Attend (preferably with accompanying official) and present statement at probation or other commutation release hearing

45. Victim/offender post-adjudication structured mediation

11. Notification of offender's actual release from physical custody on furlough, escape, death, and full term-release (and location)

12. Access to court records including defendant's name, address, photo, police record, name and address of parents of offender

2. Statutory financial liability of parents

VI. A listing of some of the relevant statutes.

18 U.S.C. 1169 & 25 U.S.C. 3201-3206 (P.L. 101-630, 11/28/90, Indian Child Protection and Family Violence Prevention Act);

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18 U.S.C. 5038(a)(6) & (c) (9/7/1974, Federal Juvenile Delinquency Act, P.L. 93-415, Title V);

18 U.S.C. 403, 2258 & 3509 (Crime Control Act of 1990, P.L. 101-647, 11/29/90, Title II, Subtitles D & E, 11/29/90, Victims of Child Abuse Act, VCAA);

Rule 32(b)(5)(d) & (c)(3)(E);

18 U.S.C. 3663 & 3664 [enacted in 1982, as §§3579 & 3580] re: restitution, and both 18 U.S.C. 1512-1515 [civil procedures and restraining orders] and Congressional policy, reprinted in the Notes to 18 U.S.C. § 1512, 10/12/82, P.L. 97-291, Victim and Witness Protection Act of 1982 (VWPA);

42 U.S.C. 10606 & 10607, Crime Control Act of 1990, Title V, Victims' Rights and Restitution Act of 1990 (VRRA);

18 U.S.C. 3525 & 42 U.S.C. 10601-10605, Victims Compensation Fund, 1984 Crime Control Act, P.L. 98-473, Title II, 10/12/84.

Attachments

Sample Victim Witness Coordinator correspondence for victims of juvenile offenders

A Step by Step Overview of Federal Juvenile Prosecutions

Crime Victims of Juvenile Offenders

I. Special treatment of juvenile offenders: background

Congress passed special juvenile provisions because it believed it could rehabilitate young offenders. In addition, Congress wished to shield immature young persons who committed a "youthful indiscretion" (e.g., vandalism, truancy and petty larceny) and who were unacquainted with the legal consequences of their behavior which could disqualify them for their entire adult lives from opportunities where admission of a criminal record is fatal. Therefore, persons who are not yet 18 years old when they commit federal offenses are not automatically prosecuted in public federal criminal proceedings. Instead, Congress provided the option (which the juvenile can waive) of having the matter handled in a civil proceeding called a juvenile adjudication. During this proceeding, the obligations of the prosecution parallel a criminal bench trial. The proceeding itself is usually closed or conducted out of the public's hearing, and all the records of it are "safeguarded from disclosure to unauthorized persons" or sealed. At its conclusion, the district court does or does not find (adjudicate) the juvenile to be a delinquent. If the court finds the juvenile to be a delinquent, the court can impose probation, restitution, and (if the juvenile is over 18 at the time of sentencing) a maximum 5 year term of confinement, but no fine.

II. Categories of juvenile offenders who get federally prosecuted.

Until 1984, the federal government prosecuted juveniles who committed crimes where the states had no territorial jurisdiction, such as on military bases and Indian reservations. Also prosecuted were some juveniles who violated state and federal laws but whom the state declined to prosecute. The 1984 Crime Control Act created two more broad categories of overlapping state and federal juvenile jurisdiction, i.e., for felony crimes of violence and for certain drug felonies. In 1991 juveniles accounted for 17% of all violent crime perpetrators. And, 25% of all violent crimes involved a juvenile victim (in 1992). Several hundred juvenile offenders are federally prosecuted each year, although some involuntarily lose their juvenile protection and are transferred to adult status after which they are prosecuted and sentenced exactly the same as if they were adults. This memorandum focuses on the confidentiality rights of those juvenile offenders who are not transferred to adult status, and witnesses' and victims' diminished rights at these juvenile prosecutions.

III. Juvenile defendants' privacy rights and how they impact upon the Attorney General Guidelines for Victim and Witness Assistance.

A. VICTIMS OF FEDERAL JUVENILE OFFENDERS

The Crime Victims' Bill of Rights, Sec. 502(b) of the Victims' Rights and Restitution Act of 1990, 42 U.S.C. 10606(b), provides seven specific rights, which are also enumerated in Article II, Part A. of the Attorney General Guidelines for Victim and Witness Assistance (revised May 1, 1995, hereafter "Art."). Four of those seven rights are significantly curtailed when dealing with federal juveniles. See Art.III, Part C., fn.7. The four victim/witness rights affected are the right:

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(1)"to be <u>notified</u> of court proceedings" (Art.II, A., 3.);
(2)"to be <u>present</u> at all public court proceedings..."(Art.II, A., 4.);
(3)"to <u>confer with the attorney for the Government</u> in the case" (Art.II, A., 5.); and
(4)"to <u>information about the</u> conviction, sentencing, imprisonment, and <u>release of the</u>
<u>offender</u>" (Art. II, A., 7.).

The Crime Victims' Bill of Rights, 42 U.S.C. 10607(c)(3), states that "During the
investigation and prosecution of a crime, a responsible official shall provide a victim the earliest
possible notice of" various events. The statutes and the Attorney General Guidelines also require
that federal officials shall make their "best efforts" to honor victims' and witnesses' rights. 42
U.S.C. 10606(a); Art.II, A. However, since juvenile proceedings are not technically prosecutions
of crimes, but rather civil adjudications of status, the provisions of these victim rights' statutes
must be harmonized with the other statutory restrictions that govern the civil prosecutive stage of
the juvenile proceeding.

<u>1. Notification about the investigation of the crime.</u> Article III of the Attorney
General Guidelines assigns this obligation to the investigating agency. A victim is to be notified
about the status of the investigation of the crime "to the extent it is appropriate..." Art. III, Part
D., 3. Since juvenile proceedings are statutorily presumed to be confidential, one must keep this
in mind when deciding how much to inform a victim about the status of the criminal investigation.
Out of an abundance of caution, a general statement about the progress or success of the
investigation may be disclosed to the victim prior to the time that an information or complaint
charging an act of juvenile delinquency is filed. For example, a victim is certainly entitled to know
if the investigation is unsuccessful and that the perpetrator is still at large. However, the name or
other identifying data about a suspect who is known or believed by the investigators to have been
younger than 18 when the crime occurred should not be disclosed at this stage.

<u>2. Notification and attendance at court proceedings.</u> Article III of the
Attorney General's Guidelines assigns this obligation and the following two obligations to the
federal prosecutive authorities. During the prosecution of a crime, a victim is to be notified of the
arrest, filing of charges, scheduling of court proceedings that a witness must or may attend,
release or detention status of the suspect, acceptance of a plea or rendering of a verdict, and
imposition of sentence including parole eligibility date. Since juvenile delinquency adjudications
are not criminal prosecutions, these victim rights do not apply to juvenile adjudications of status.
In addition, juvenile court proceedings are typically conducted "in chambers" and closed to the
public pursuant to 18 U.S.C. 5032, para. 3. Providing notice to the victims of closed proceedings
is not required by 42 U.S.C. 10606(4) and would serve little purpose.

<u>3. The right to confer with the attorney for the government.</u>
The considerations noted above suggest that the victims' right to confer with the attorney
for the government about its discretionary dispositional decisions (such as what detention status
to seek, whether to dismiss the case, whether to utilize pretrial diversion, or whether to accept a
negotiated plea) do not apply to juvenile proceedings but only relate to "any Federal criminal

case." See sec. 6(a)(5) of Pub.L. 97-291 as amended and reprinted in the Editorial Notes to 18 U.S.C. 1512.

4. Victim Impact Statements.

Since a disposition, rather than a sentencing, follows a juvenile adjudication, it is not mandatory under the juvenile dispositional provision, 18 U.S.C. 5037, or under Fed.R.Crim.P. 32(c)(1) that a presentence report be prepared. Therefore, it is uncertain whether a Victim Impact Statement will be prepared for inclusion in the presentence report as allowed under Fed.R.Crim.P. 32(b)(4)(D), or whether a comment will be solicited by the court from the victim of a violent crime at sentencing as allowed under Fed.R.Crim.P. 32(c)(3)(E). Consequently, a prosecutive representative should advise the victims in a juvenile proceeding about these possibilities. The victim can also be informed that they can ask the prosecutive representative to pass along to the court the victim's request that the probation office prepare a victim impact statement for the court prior to final disposition of the juvenile case, or material furnished to the prosecutor by the victim.

5. Notification of Eligibility for Custodial Release and Death of the Offender.

Article III of the Attorney General's Guidelines assign this obligation and the following one to the responsible correctional agency. In addition, 42 U.S.C. 10607(c)(5) provides that "After trial, a responsible official shall provide a victim the earliest possible notice" of the scheduling of a parole hearing; the escape, work release, furlough, or any other form of release from custody of the offender; and the death of the offender if it occurs before release. Since this statutory provision granting victims' rights is not explicitly predicated upon a criminal prosecution, by its terms it may be applicable to juvenile proceedings, even though the adjudicatory hearing is arguably not a trial. In any event, notification about a parole hearing is moot.

The balance of these rights are directly affected by the language of the juvenile delinquency statute at 18 U.S.C. 5038(a)(6). It provides that federal juvenile records shall be released

> to the extent necessary to meet ... inquiries from any victim of juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.

This 1974 provision was not explicitly repealed by Congress when the Victims' Rights and Restitution Act of 1990 was passed. It restricts normal victims' rights in several respects. First, it requires an inquiry from the victims themselves, with a substitute requester only being allowed if a victim has died, unlike the definition of victim in 42 U.S.C. 10607(e)(2)(B). Second, it relieves the responsible official of the obligation of automatically providing the victim the earliest possible notice of the offender's disposition. The provision in 18 U.S.C. 5038 is not, however, clearly inconsistent with a victim's separate but related right under 42 U.S.C. 10607(c)(8) to be provided with general information about the corrections process. This provision of general information by

the correctional agency is the appropriate opportunity to inform a victim of his or her right to request the final disposition information about the juvenile offender. Moreover, interpretation of that dispositional data and an explanation of the projected release date of the offender in non-technical terms is permissible.

In addition, since a death certificate is a publicly filed document unrelated to the original proceeding, the correctional agency should notify the victim if the offender dies while in their custody.

6. Notice about the actual release of the offender.

Article III of the Attorney General's Guidelines assigns this obligation to the correctional agency. Notification of release hearings and the actual release status of an offender (given furloughs, work release, commutation of sentence, etc.) is not the same as responding to a victim's inquiry about the final judicial disposition and projected release date as computed on the date when the juvenile sentence is imposed under 18 U.S.C. 5037. Pursuant to the current prohibition against giving out juvenile information contained in 18 U.S.C. 5038(c), a victim should not be routinely notified when the juvenile offender in his or her case has actually been released from custody.

7. A summary of the changed consequences for prosecutorial victim-witness coordinators.

Victim-witness coordinators will need to contact the victims of juvenile offenders and explain the following special rights, as listed below and detailed in the specially tailored sample letters available, on request, from the Office of Victims of Crime.

- a victim (who is not at that moment testifying) and his adult attendant cannot attend a juvenile's various hearings, unless, as may occur, the juvenile offender is transferred to adult status or the court decides to open the proceedings to the public;

- the prosecutors and coordinators can solicit and receive the victim's views on appropriate disposition (not only whether the prosecutor should move to detain, dismiss, defer prosecution, or accept a plea, but also how severe a sentence is warranted), but the substantive communications must remain a one-way process. The prosecution officials are not permitted to convey any prosecutorial information about the ongoing progress of the juvenile case to the victim in the manner that the standard right to "confer" typically implies;

- the victim has the right to ask the prosecutive representative to make known to the court the victim's request that a victim impact statement be prepared. Victims should also be told that there is no guarantee that an impact statement will be ordered by the court or that the victim will be contacted by the probation officer to help prepare a formal victim impact statement. A victim's own impact statement can nontheless be prepared and proffered to the court in writing or by audio or video tape; and

informed of that information and its consequences, i.e., the offender's likely or projected release date.

B. CHILD WITNESSES IN FEDERAL JUVENILE ADJUDICATIONS

Under 18 U.S.C. 3509, child victims and child witnesses have been granted special rights which generally protect their privacy. Since juvenile proceedings are themselves closed proceedings designed to protect the privacy of the juvenile offenders, the involvement of child victims and child witnesses is not publicized and is therefore protected. A victim, even a child victim, who is not also a witness, will not ordinarily be able to attend any part of a juvenile adjudicatory hearing.

Child witnesses (under 18 years of age) to crimes against other persons are entitled to have their attorney, guardian ad litem, and adult attendant present when they testify as a witness at any judicial proceeding. 18 U.S.C. 3509 (h) & (i). Subsections (b)(1)(D)(iv), (b)(2)(B)(iii)(VI), and (i) of Title 3509 allow attendance at a juvenile proceeding by at least one parent as the adult attendant. In addition, juvenile witnesses may ask to testify from a remote location by 2-way closed circuit television if, for example, the child witness still feared the juvenile offender.

C. NO CHANGE IN MANDATORY REPORTING BY FEDERAL OFFICIALS OF CHILD ABUSE BY CHILD PERPETRATORS

Even in the unusual situation, where the information about the child abuse is first learned in the course of and after formal commencement of a juvenile delinquency proceeding, the responsible official is still obligated to report the details by statute and under Art. VII, Section B. of the Attorney General's Guidelines. See 18 U.S.C. 1169 & 2258; 25 U.S.C. 3203; and 42 U.S.C. 13031(f).

IV. Victims' and Witnesses' Rights and Services Not Affected by Juvenile Status of Offender

Victims' and Witnesses' Rights

1. Filing of victim's own civil suit for personal injury or property damages;
2. Notification, in sexual assault cases, if offender presents a risk of a communicable disease and reimbursement for the cost of two tests and counseling [see 42 U.S.C. 10607(c)(7) & 14011];
3. Medical testing, in sexual assault cases if the court approves, of juvenile offender for AIDS [see 42 U.S.C. 14011];
4. Option to testify, if a child witness and if court approves, by two way closed circuit television [see 18 U.S.C. 3509(b)(1)];
5. If a child witness, presence of adult attendant and own attorney [or guardian ad litem] while testifying [see 18 U.S.C. 3509(b)(1)(D)(i) & (iv),(b)(2)(B)(iii)(III) & (VI), & (c);
6. Presentation of victim impact information before disposition in writing, or by audio or video tape, to the prosecution and the court [see 18 U.S.C. 3509(f) & 5038(a)(6) & (c);

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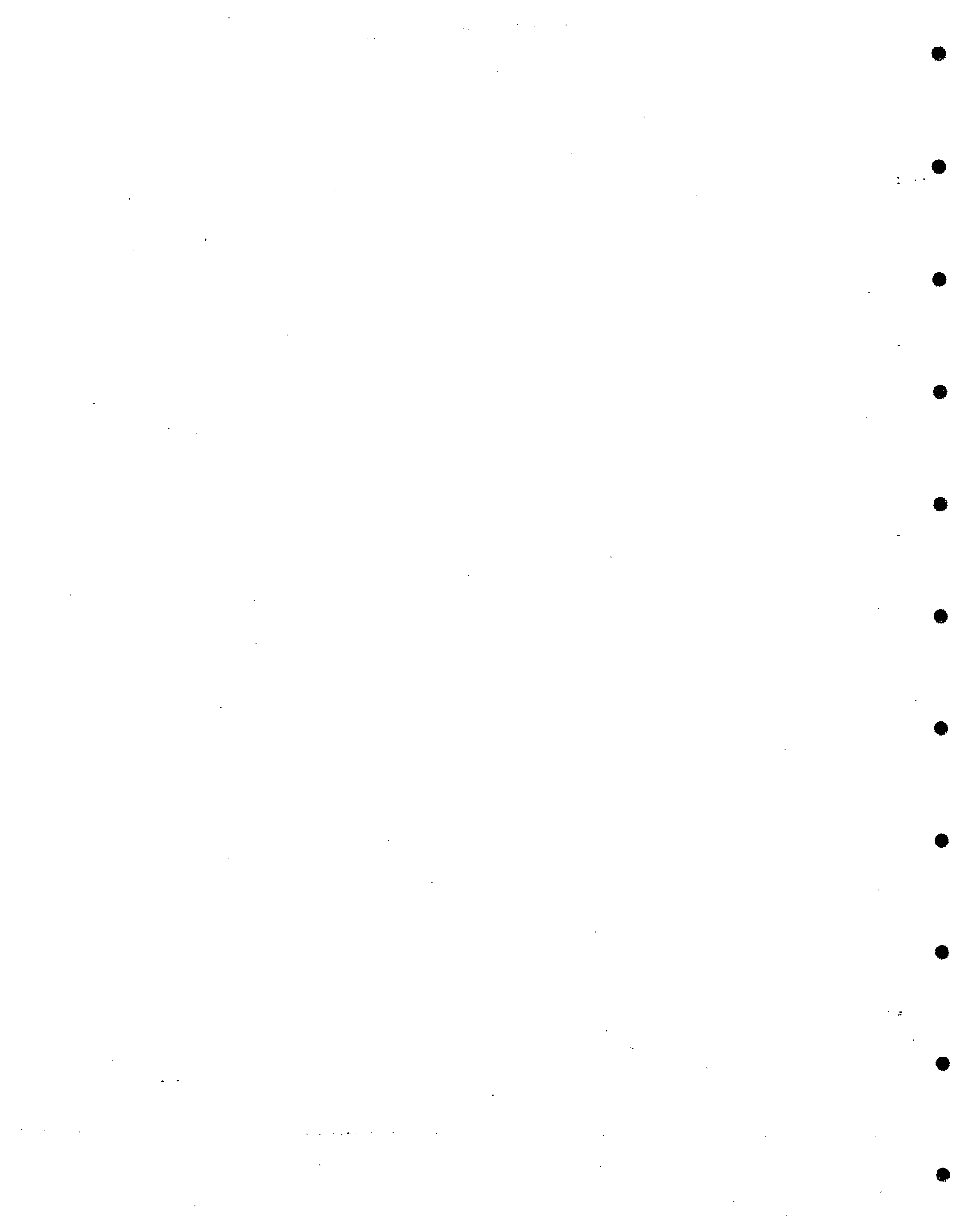
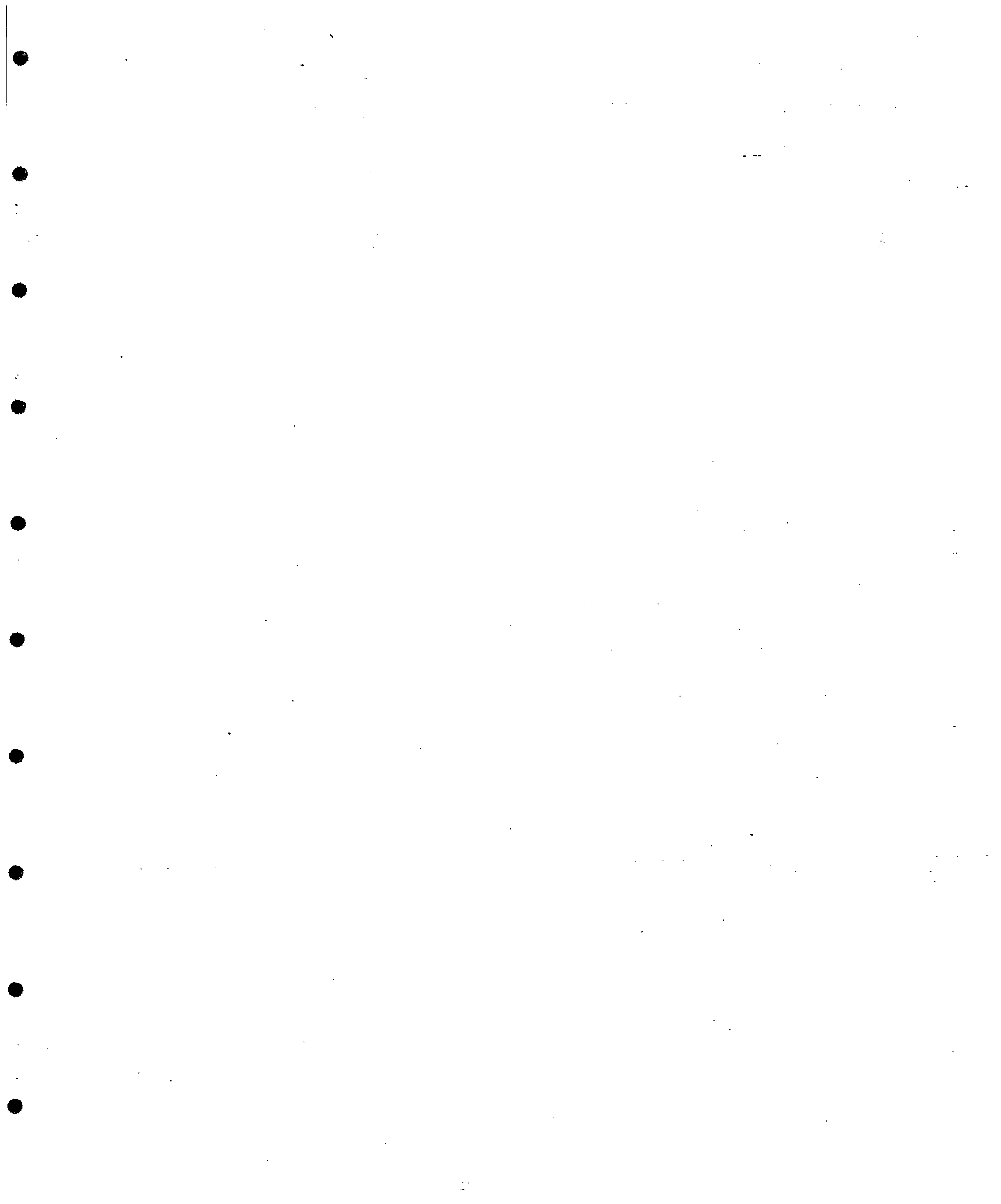
6. Presentation of victim impact information before disposition in writing, or by audio or video tape, to the prosecution and the court [see 18 U.S.C. 3509(I) & 5038(a)(6) & (c);
7. Restitution from victim or fund, as formal disposition, informal disposition, or condition of probation [see 18 U.S.C. 5037(a)];
8. Restraining order for protection requiring physical distance [see 42 U.S.C. 10606(b)(2)];

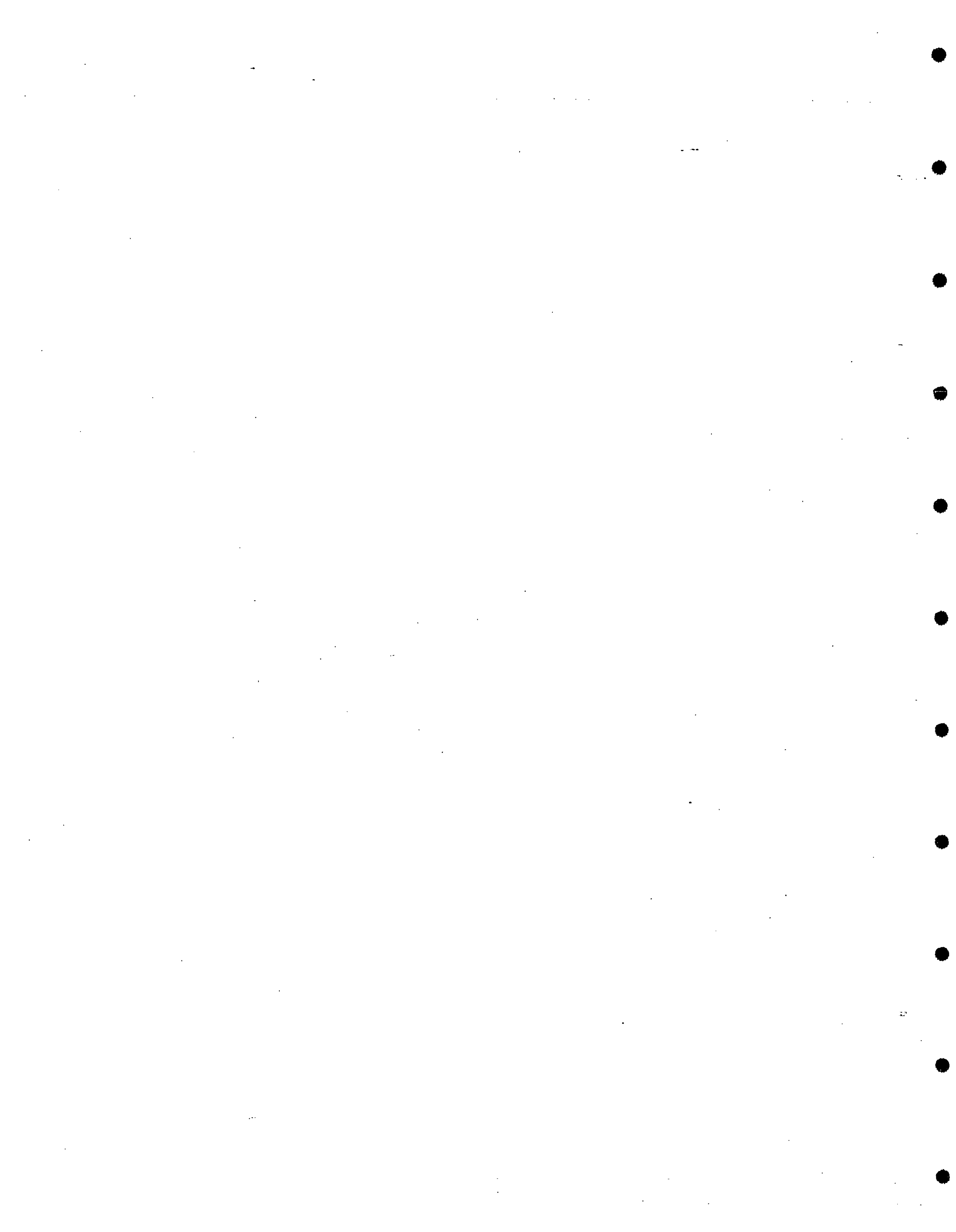
Victims' and Witnesses' Services

9. Property return [see 42 U.S.C. 10607(c)(6) and 18 U.S.C. 3663(b)(1)(A)];
10. Transportation to line-ups, interviews;
11. Assistance with insurance claims;
12. Assistance with witness fee payments;
13. Assistance with victim compensation from crime fund and restitution claims and collection [see 42 U.S.C. 10607(c)(1)(B)];
14. Orientation to juvenile court [see 42 U.S.C. 10607(c)(8)];
15. Preparation for testimony;
16. Notification of court date when testifying [see 42 U.S.C. 10607(c)(3)(D)];
17. Transportation to court to testify;
18. Witness reception area [see 42 U.S.C. 10607(c)(4)];
19. Accompanying witness to court where appropriate;
20. Child care during court process;
21. Employer intervention [see Art.IV, C., 1];
22. Assistance with victim impact informational statement [see Art. V];
23. Assistance finding emergency shelter [see 42 U.S.C. 10607(c)(1)(A)];
24. Assistance finding emergency security repair;
25. Assistance finding emergency financial aid [see Art.IV, C., 2];
26. Assistance finding crisis intervention/counseling and 24 hour telephone access/hotline [see 42 U.S.C. 10607(c)(1)];
27. Victim and witness protection from intimidation [see 42 U.S.C. 10607(c)(2)].

This summary was prepared by Victor Stone, Criminal Division, U.S. Department of Justice. If you should have questions or need additional information, contact Mr. Stone at (202) 616-0728.







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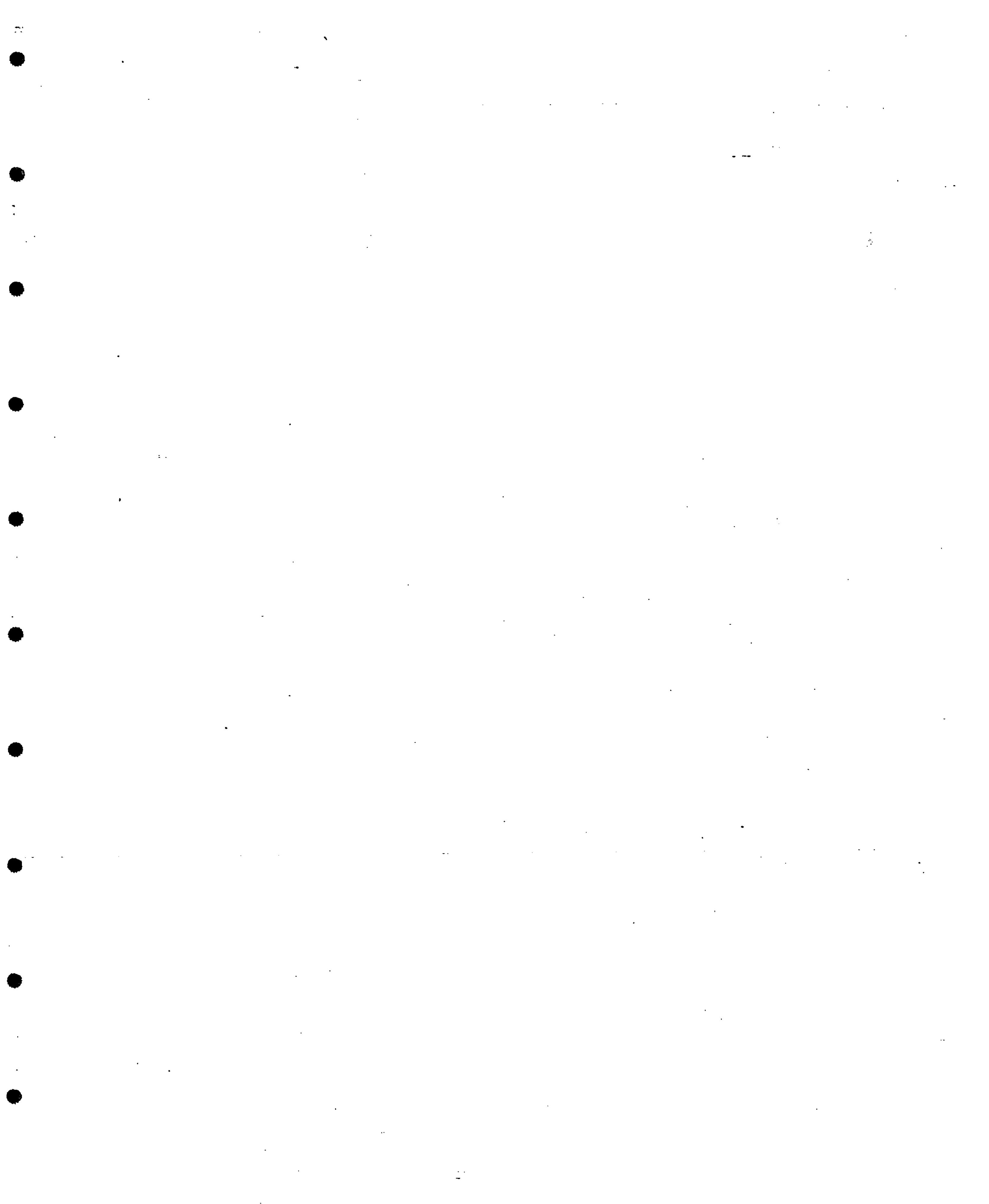
Victims' and Witnesses' Rights

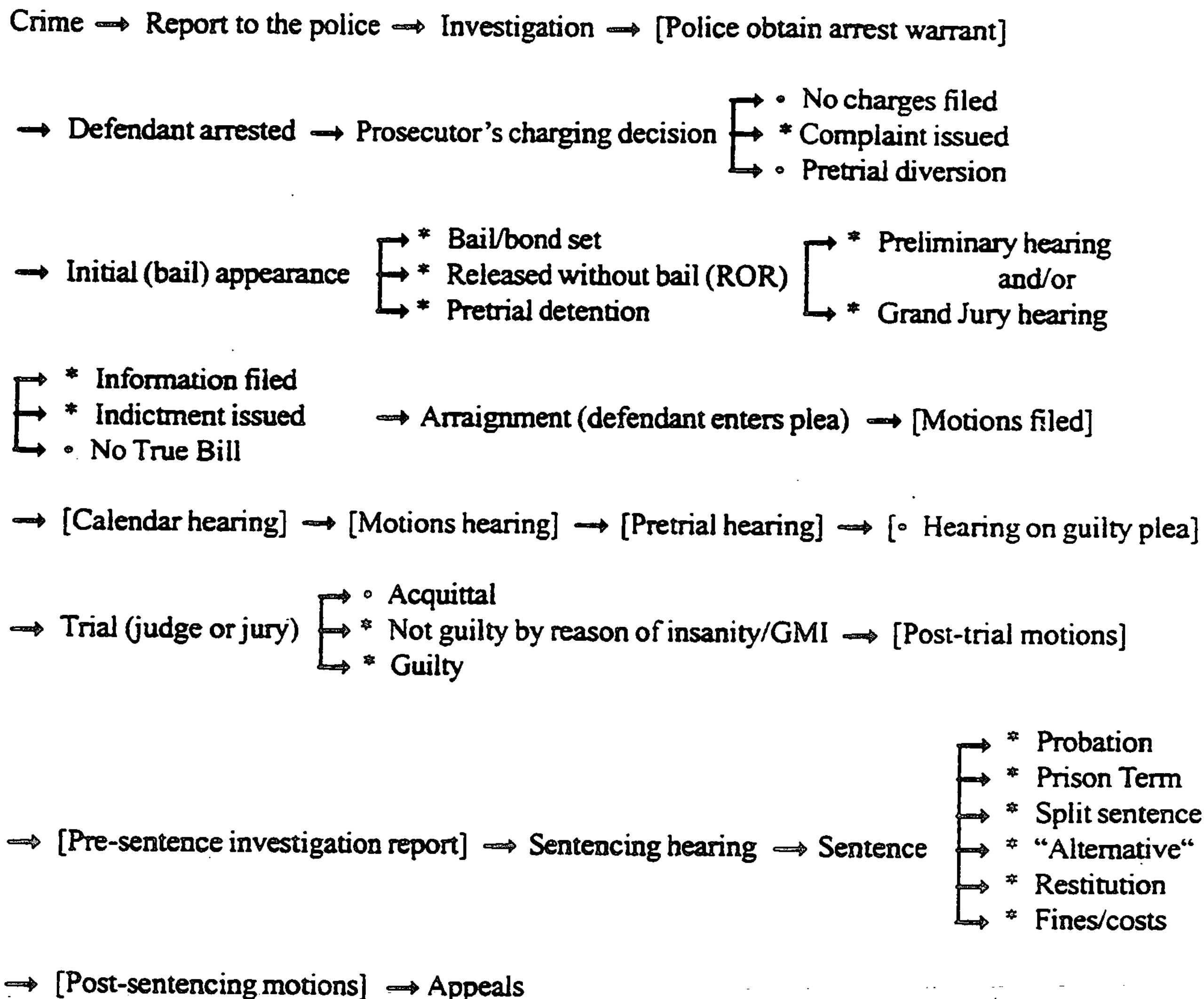
1. Filing of victim's own civil suit for personal injury or property damages;
2. Notification, in sexual assault cases, if offender presents a risk of a communicable disease and reimbursement for the cost of two tests and counseling [see 42 U.S.C. 10607(c)(7) & 14011];
3. Medical testing, in sexual assault cases if the court approves, of juvenile offender for AIDS [see 42 U.S.C. 14011];
4. Option to testify, if a child witness and if court approves, by two way closed circuit television [see 18 U.S.C. 3509(b)(1)];
5. If a child witness, presence of adult attendant and own attorney [or guardian ad litem] while testifying [see 18 U.S.C. 3509(b)(1)(D)(i) & (iv),(b)(2)(B)(iii)(III) & (VI), & (c);
6. Presentation of victim impact information before disposition in writing, or by audio or video tape, to the prosecution and the court [see 18 U.S.C. 3509(f) & 5038(a)(6) & (c);

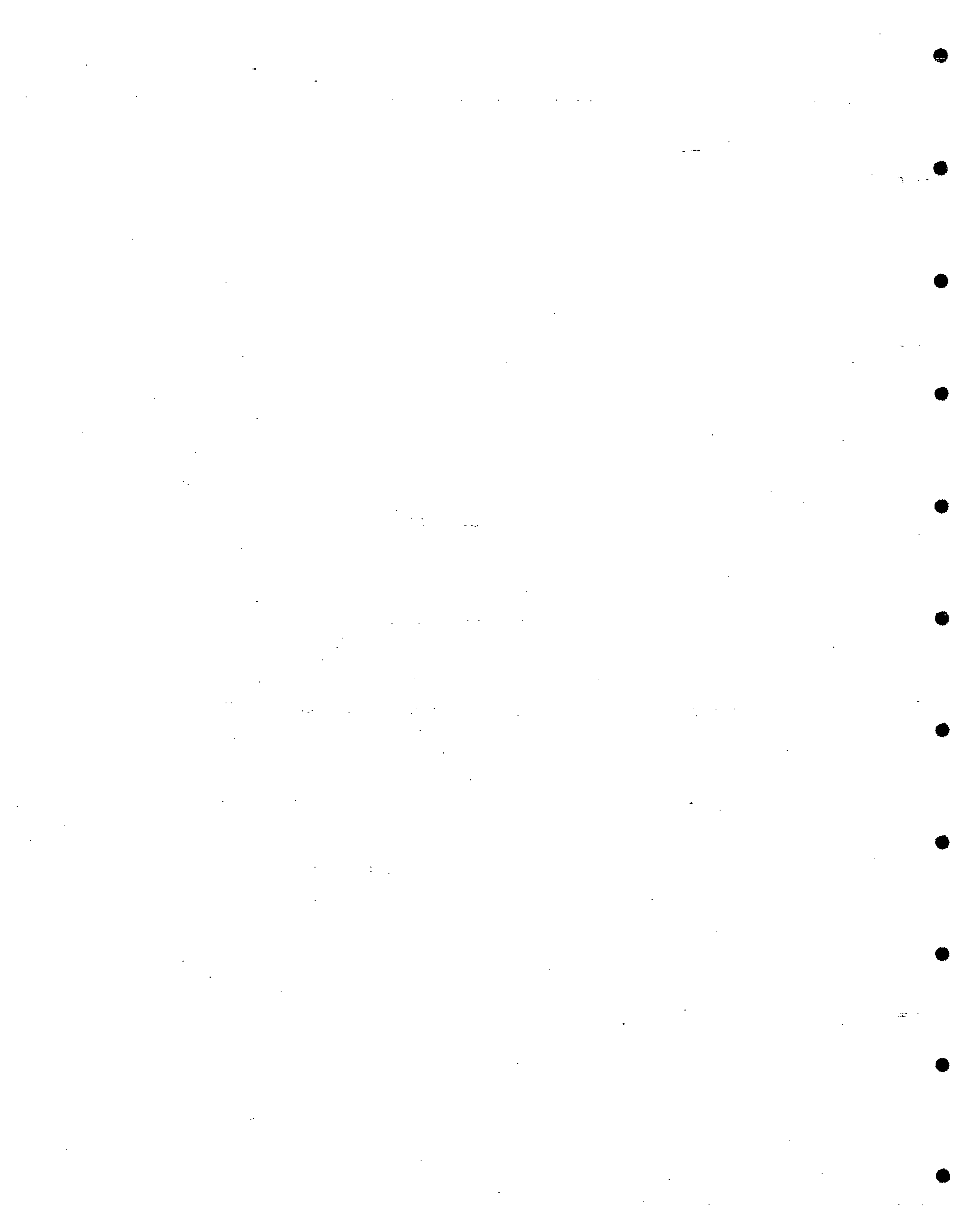


Chapter Two: Overview of the Juvenile Justice System

A. The juvenile justice system

a. Flow chart of juvenile justice system



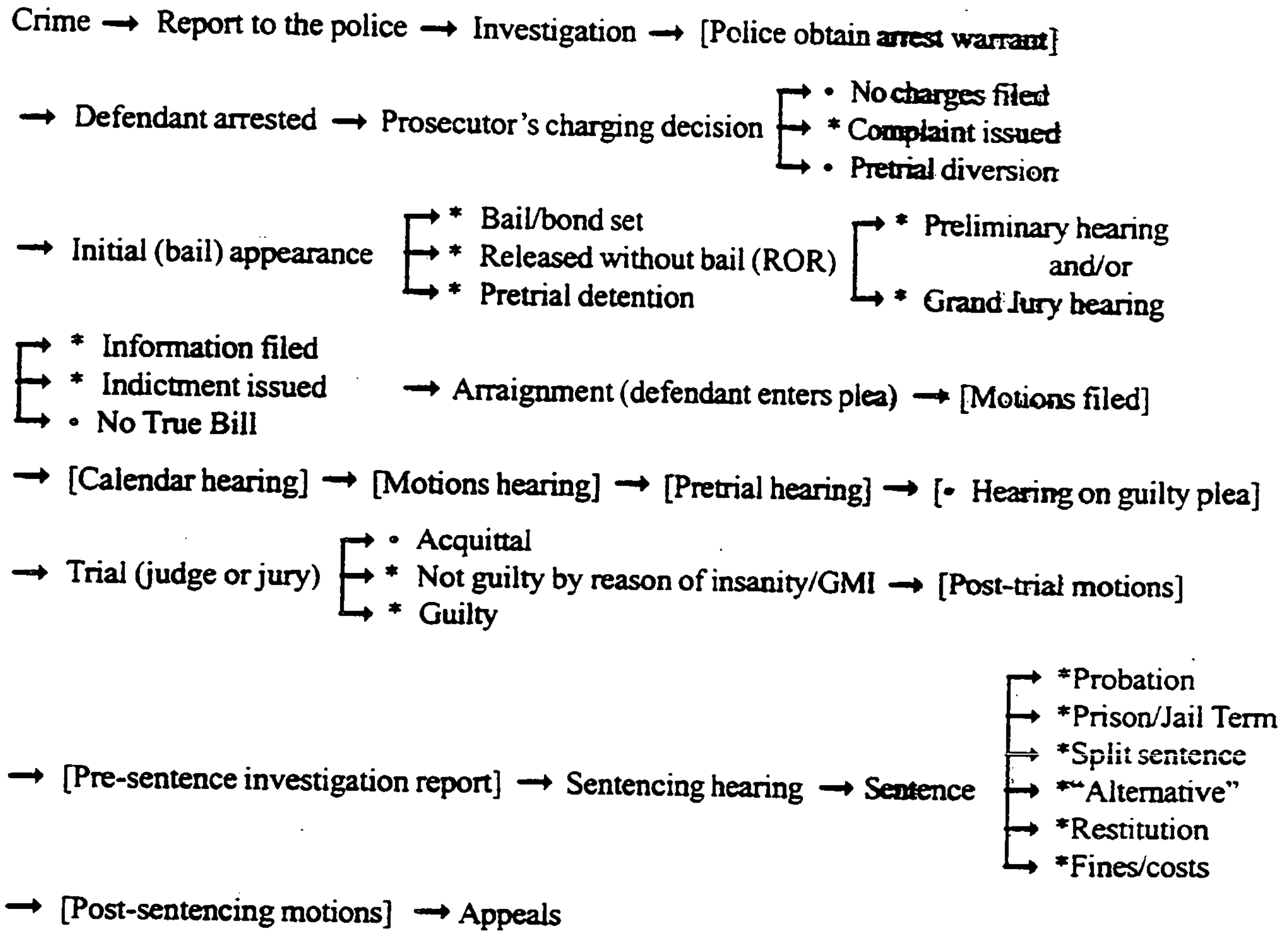


c. Differences between juvenile justice system and the criminal system

- Terminology
  Delinquency
  Detention
  Status offense
  Adjudicatory hearing
  Case intake

- The juvenile justice system:
  Is less formal or adversarial
  Rarely uses jury trials
  Uses mediation and probation more often
  Uses diversion more often
  May not include victim participation
  Has lower priority in allocation of resources
  Maintains higher levels of confidentiality for defendants

b. Flow chart of adult criminal system



B. Summary of significant issues in the juvenile justice system that affect victim rights or services

a. Overview of major issues

- Public perception of juvenile crime and justice
- Confidentiality
- Reduction of the age at which juveniles may be transferred to criminal court
- Standards and process for waiving juveniles to adult criminal courts
- Case decision-making and disposition, including:
  Likelihood of arrest and detention
  Diversion trends
  The process of adjudication
  Probation trends
  Alternatives to incarceration and sanctions

d. Philosophical considerations in the juvenile justice system

- Retributive justice
- Rehabilitative justice
- Reparative justice
- Restitutive justice
- Individual treatment interventions
- Competency based interventions
- Adversarial decision-making
- Consensus decision-making

c. Confidentiality

- Law enforcement, schools want information to identify and monitor juvenile offenders

- Prosecutors in criminal court don't know delinquent history of waived juvenile, sometimes resulting in reduced charges for "first offenders"

- Victims want to know the name and address of the accused, the release date, and changes in case status

- The accused wants identity protected to preservr rights and opportunities

b. Public perceptions of juvenile justice

- Citizens believe serious crime has increased in their states
- The public does not feel that serious juvenile crime has increased in their neighborhoods, nor are they afraid to walk alone within one mile of their homes at night
- The public feels the main purpose of the juvenile court should be to rehabilitate young law violators
- Citizens believe juveniles should receive the same due process protections as adults
- Depending upon the crime, 50% to almost 70% of the public favor trying juveniles who commit serious crimes (felonies) in adult courts
- The public does not favor giving juveniles the same sentences as adults, nor do most citizens support sentencing juveniles to adult prisons
- If given the option, the public would strongly favor a youth correction system that largely emphasizes the use of community-based treatment programs
- The public prefers spending state juvenile crime control funds on community-based programs as compared to training schools and other residential services
- The public does not feel that training schools are particularly effective in rehabilitating delinquents or acting as a deterrent to juvenile crime
- The public feels juveniles who commit serious violent crimes should be committed to some type of youth correctional facility
- The public feels juveniles found guilty of using drugs or selling small amounts of drugs should receive more lenient sentences than those convicted of selling large amounts of drugs
- Citizens believe juveniles who are repeat offenders should receive harsher sentences than first time offenders
  (Center for the Study of Youth Policy, University of Michigan, April, 1992)

e. Standards and processes for waiving juveniles to adult criminal courts

d. Reduction of the age at which juveniles may be transferred to criminal court

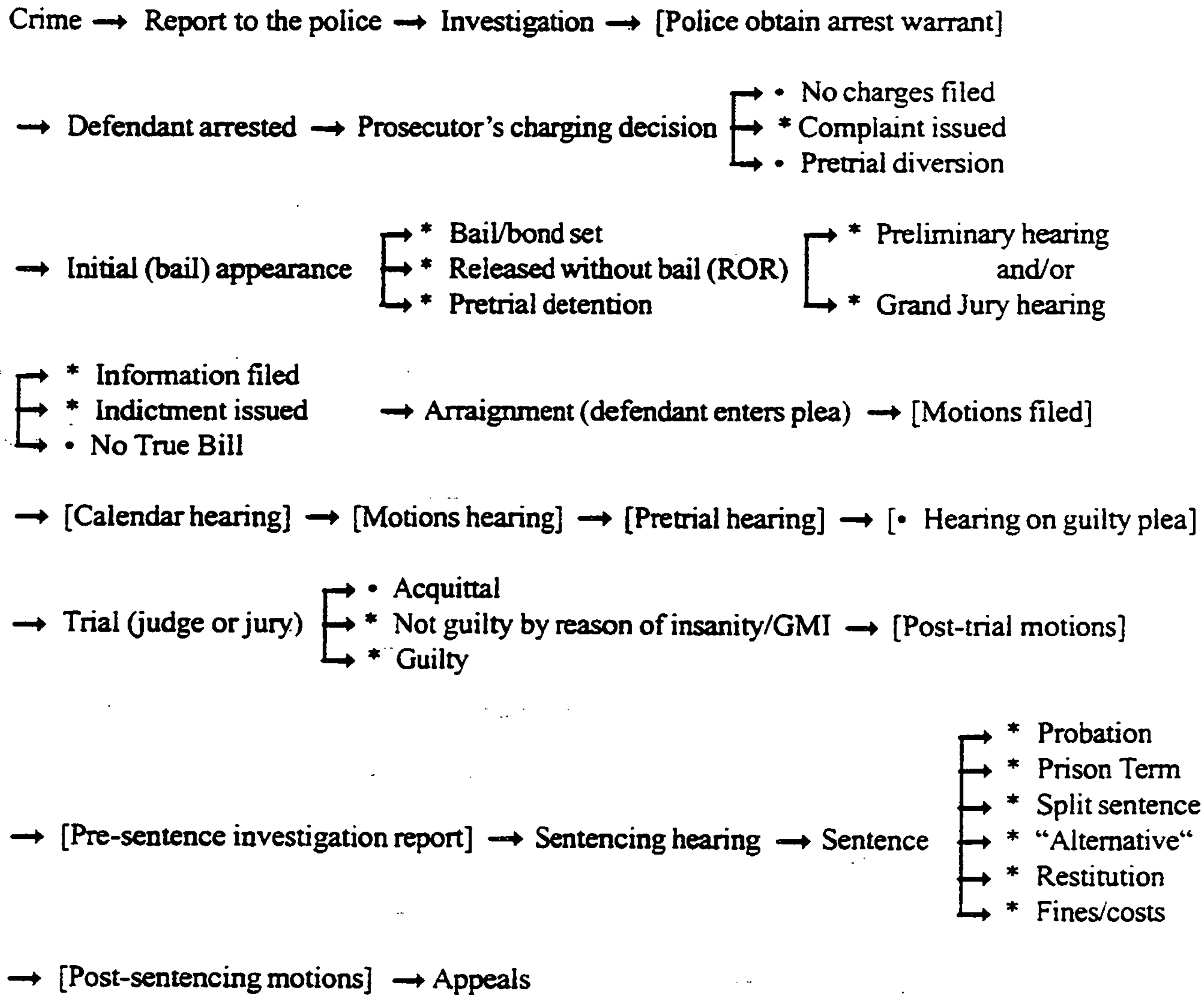
- But a study reported by the National Council of Juvenile and Family Court Judges showed that up to half the waived cases were dismissed

- Florida, with a history of substantial use of waivers, didn't prosecute 20 % of the waived cases; only 29% of waived cases were for violent felonies

- Some states use "intermediate" or "third systems" involving adult punishment

The juvenile justice system

A flow chart of juvenile justice system



f. Case decision-making and disposition, including:

- Likelihood of arrest and detention
- Diversion trends
- The process of adjudication
- Probation trends
- Alternatives to incarceration and sanctions

ıe juvenile justice system was founded on the concept of habilitation through individualized justice

ly in U.S. history, children ɔ broke the law were treated same as adult criminals

ɔughout the late 18th century ants" below the age of reason, itionally age 7, were presumed to ncapable of criminal intent and e, therefore, exempt from prosecu- and punishment. Children as ng as 7 could stand trial in criminal t for offenses committed and if ıd guilty, could be sentenced to on, or even to death.

19th century movement that led to establishment of the juvenile court its roots in 16th-century European cational reform movements. These ier reform movements changed the ception of children from one of iature adults to one of persons with than fully developed moral and nitive capacities.

Society for the Prevention of enile Delinquency was advocating separation of juvenile and adult nders as early as 1825. Soon, lities exclusively for juveniles were blished in most major cities. By -century, these privately operated th "prisons" were criticized for ous abuses. Many States then took he responsibility of operating enile facilities.

first juvenile court in this intry was established in Cook unty, Illinois, in 1899

ois passed the Juvenile Court Act 899, which established the Nation's juvenile court. The British doc- of *parens patriae* (the State as ent) was the rationale for the right ie State to intervene in the lives of dren in a manner different from the it intervenes in the lives of adults.

John Augustus — planting the seeds of juvenile probation (1847)

I bailed nineteen boys, from 7 to 15 years of age, and in bailing them it was understood, and agreed by the court, that their cases should be continued from term to term for several months, as a season of probation; thus each month at the calling of the docket, I would appear in court, make my report, and thus the cases would pass on for 5 or 6 months. At the expiration of this term, twelve of the boys were brought into court at one time, and the scene formed a striking and highly pleasing contrast with their appearance when first arraigned. The judge expressed much pleasure as well as surprise at their appearance, and remarked, that the object of law had been accomplished and expressed his cordial approval of my plan to save and reform.

The doctrine was interpreted as the inherent power and responsibility of the State to provide protection for children whose natural parents were not providing appropriate care or supervision because children were not of full legal capacity. A key element was the focus on the welfare of the child. Thus, the delinquent child was also seen as in need of the court's benevolent intervention.

Juvenile courts flourished for the first half of the 20th century

By 1910, 32 States had established juvenile courts and/or probation services. By 1925, all but two States had followed suit. Rather than merely punishing juvenile crime, juvenile courts sought to turn delinquents into productive citizens — through treatment.

The mission to help children in trouble was stated clearly in the laws that established juvenile courts. This benevolent mission led to procedural and substantive differences between the juvenile and criminal justice systems.

During the next 50 years most juvenile courts had exclusive original jurisdiction over all youth under age 18 charged with violating criminal laws. Only if the juvenile court waived its jurisdiction in a case could a child be transferred to criminal court and tried as an adult. The transfer decision was made on a case-by-case basis when in the "best interests of the child and public" — and was thus within the realm of individualized justice.

The focus on offenders and not offenses, on rehabilitation and not punishment, had substantial procedural impact

Unlike the criminal justice system where district attorneys select cases for trial, the juvenile court controlled its own intake. And unlike criminal prosecutors, juvenile court intake considered extra-legal as well as legal factors in deciding how to handle cases. Juvenile court intake also had discretion to handle cases informally, bypassing judicial action.

In the court room, juvenile court hearings were much less formal than criminal court proceedings. In this benevolent court — with the express purpose of protecting children — due process protections afforded criminal defendants were deemed unnecessary.

Chapter 4

Juvenile justice system structure and process

The juvenile justice system is a relatively new development. The first juvenile court was established less than 100 years ago. In the past 30 years the system has gone through significant modifications, based on Supreme Court decisions and Federal legislation, as well as changes in State legislation. While some differences between the criminal and juvenile justice systems have diminished in recent years, the juvenile system is unique, guided by its own philosophy and legislation and implemented by its own set of agencies.

This chapter describes the juvenile justice system, focusing on structure and process features that relate to delinquency and status offense matters. (The handling of child maltreatment matters is discussed in the chapter on victims.) Sections in this chapter compare and contrast the juvenile and adult systems, document State variations in legislation, and describe the system's processing of cases. In addition, a section presents the significant Supreme Court decisions that in recent years have shaped the modern juvenile justice system. Much of the information was drawn from the National Center for Juvenile Justice's Automated Juvenile Law Archive statutes analyses.

Acknowledgments

This chapter was written by Melissa Sickmund. Howard Snyder contributed the section describing how cases flow through the juvenile justice system. Jeffrey Butts prepared the summaries of the Supreme Court decisions and contributed to the section on provisions for transferring juveniles to criminal court. The initial concept for the "common ground" section was developed by Richard Gable. Contributions were also made by John Wilson, Linda Szymanski, and Hunter Hurst, IV.

: pendulum swung toward law l order in the 1980's

ing the 1980's the public perceived serious juvenile crime was in- sing and that the system was "soft" ıffenders. Although the perceived ease in juvenile crime was largely a perception, many States responded ıassing "get tough" laws. Some ; removed classes of offenders from juvenile justice system and handled n as adult *criminals in criminal* ·7.

Others required the juvenile justice system to be more like the criminal justice system and to treat certain classes of juvenile offenders as *criminals in juvenile court.*

As a result, offenders charged with certain offenses are *excluded* from juvenile court jurisdiction or face *mandatory* or *automatic waiver* to criminal court. In some States prosecutors are given the discretion to file certain juvenile cases directly in criminal court rather than juvenile court under *concurrent jurisdiction* provisions. In other States some juvenile offenders face *mandatory sentences.*

Many States added to the purpose clauses of their juvenile codes phrases such as:

- Accountable for criminal behavior.
- Provide effective deterrents.
- Protection of the public from criminal activity.
- Punishment consistent with the seriousness of the crime.

: mandates of the Juvenile Justice and Delinquency Prevention Act primarily address custody issues

Juvenile Justice and Delinquency ·vention Act of 1974 as amended ıblishes four custody-related ıdates.

he "deinstitutionalization of status ffenders and nonoffenders" ıandate (1974) specifies that ıveniles not charged with acts that ·ould be crimes for adults "shall ot be placed in secure detention ıcilities or secure correctional ıcilities."

he "jail and lockup removal" ıandate (1980) specifies that ıveniles charged with criminal ·cts (delinquents) "shall not be etained or confined in any instiıtion in which they have contact ·ith adult [inmates]." There are, owever, some exceptions to the ıil removal mandate. For examle, a juvenile may be held in a ecure adult facility if the juvenile ·as been charged in criminal court ·ith a felony offense.

- The "sight and sound separation" mandate (1974) states that juveniles may not have (regular) contact with adult offenders. This has been interpreted to require that the juvenile and adult inmates cannot see each other and no conversation between them is possible.
- The "disproportionate confinement of minority youth" mandate (1992) requires that States determine the existence and extent of the problem in their State and demonstrate efforts to reduce it where it exists.

States must comply with the mandates to receive Formula Grant funds under the Act's provisions. The Formula Grants Program is administered by OJJDP. Participation in the Formula Grants Program is voluntary, but to be eligible, States must submit plans outlining their strategy for meeting the mandates and other statutory plan requirements.

As of 1994, 55 of the 57 eligible States and territories are participating in the Formula Grants Program. Annual State monitoring reports show that the vast majority of States and Territories are in compliance with the mandates, either reporting no violations or meeting *de minimis* or other established criteria.

Comparison of 1991 monitoring data (the most recent complete data available) and baseline data show a 98% reduction in the number of violations of the deinstitutionalization of status offenders mandate — from more than 170,000 violations to the current level of fewer than 4,000. Jail removal violations have declined 91% — from nearly 160,000 to fewer than 15,000. Sight and sound separation violations have dropped 90% — from about 85,000 to fewer than 9,000.

In the early juvenile courts, and even in some to this day, attorneys for the State and the youth are not considered essential to the operation of the system, especially in less serious cases.

A range of dispositional options was available to a judge wanting to help rehabilitate a child. Regardless of offense, outcomes ranging from warnings to probation supervision to training school confinement could be part of the treatment plan. Dispositions were tailored to "the best interests of the child." Treatment lasted until the child was "cured" or became an adult (age 21), whichever came first.

As public confidence in the treatment model waned, due process protections were introduced

In the fifties and sixties many came to question the ability of the juvenile court to succeed in rehabilitating delinquent youth. The development of treatment techniques available to juvenile justice professionals never reached the desired levels of effectiveness. Although the goal of rehabilitation through individualized justice — the basic philosophy of the juvenile justice system — was not in question, professionals were concerned about the growing number of juveniles institutionalized indefinitely in the name of treatment.

In a series of decisions beginning in the 1960's the Supreme Court required that juvenile courts become more formal — more like criminal courts. Formal hearings were now required in waiver situations, and delinquents facing possible confinement were given protection against self-incrimination and rights to receive notice of the charges against them, to present witnesses, to question witnesses, and to have an attorney. Proof "beyond a reasonable doubt" was now required for an adjudication rather than merely "a preponderance of evidence." However, the Supreme Court still held that there were enough "differences of substance between the criminal and juvenile courts ... to hold that a jury is not required in the latter."

Some juvenile codes emphasize prevention and treatment goals, some stress punishment, and others seek a balanced approach

Philosophical goals stated in juvenile code purpose clauses

Prevention/ Diversion/Treatment	Punishment	Both
Florida	Arkansas	Alabama
Idaho	Georgia	California
Kentucky	Hawaii	Colorado
New Hampshire	Illinois	Delaware
New Mexico	Iowa	Indiana
North Carolina	Kansas	Maryland
North Dakota	Louisiana	Massachusetts
Ohio	Minnesota	Nevada
Pennsylvania	Mississippi	Oklahoma
South Carolina	Missouri	Utah
Tennessee	New Jersey	Washington
Vermont	Oregon	
West Virginia	Rhode Island	
Wisconsin	Texas	

- Most juvenile codes contain a purpose clause that outlines the philosophy underlying the code.
- Most States seek to protect the interests of the child, the family, the community or some combination of the three.
- Nearly all States also indicate that the code includes protections of the child's constitutional and statutory rights.

Note: Juvenile codes in States not listed did not contain a purpose clause.

Source: Szymanski, L. (1991). *Juvenile code purpose clauses.*

Meanwhile Congress, in the Juvenile Delinquency Prevention and Control Act of 1968, recommended that children charged with noncriminal (status) offenses be handled outside the court system. A few years later the Juvenile Justice and Delinquency Prevention Act of 1974 was passed. It required deinstitutionalization of status offenders and nonoffenders as well as the separation of juvenile delinquents from adult offenders as a condition for State participation in the Formula Grant Program. (In the 1980 amendments to the 1974 Act Congress added a requirement that juveniles be removed from adult jail and lockup facilities.) Community-based programs, diversion, and deinstitutionalization became the banners of juvenile justice policy in the 1970's.

ood. Competency development thus emphasize those interven- ɔcused on improvements in edu- social competence, employabil- ic and community and other life Maloney, Romig and Armstrong, 3

theoretical basis for the compe- development approach builds on jer of both old and new ideas and es in the field of youth develop- and delinquency prevention (Polk Kobrin, 1972; Lofquist, 1983; in and Fleming, 1991). It is also ned by control or containment and social development perspec- Hirschi, 1969; Briar and Piliavin, Hawkins and Catalano, 1992). search on the "resiliency" and the tial for normal development and ation of youth in high risk environ- (Rutter, 1985; Werner, 1986) and ntly overlooked and emerging in- ition frameworks in the literature of nunity corrections.[4] Essentially, of these perspectives shares a com- core focus on the components of a imate identity" — and essentially s with an examination of conven- adulthood. Such an examination 1 ask what is it about conventional s that makes them "conventional," ncriminal and what protects or "in- es" most of us, most of the time, the temptation to commit crimes Hirschi, 1969).

e theory behind the focus on con- onal adulthood suggests that it is the we fill in basic institutions (work, y, community organizations) that de us with a legitimate public iden- s well as with a self-image of useful- and belonging (Polk and Kobrin, ; Pittman and Fleming, 1991). conventional adults value the posi- mage that flows from being a com- it member of conventional groups, generally benefit from this positive iation and identification. They do commit crimes because they are ged most of the time in meaningful ities that make them feel that they ng and can do something that oth- alue. Conventional adults have a mitment" to conventional groups develop a "stake in conformity" or "side bets" which ensures that they have much to lose by being caught in illegal activities (Hirschi, 1969; Piliavin and Briar, 1965; Becker, 1960).

Unlike conventional adults, most youth do not hold positions of responsibility in work, community or family groups which allow them to make meaningful contributions to "be competent." Viewed increasingly as marginal commodities or even liabilities in a society where status is largely determined by one's productive participation in the economy, young people prior to adulthood are for the most part youth increasingly denied the opportunity to be engaged in activities that are important to others and are for all practical purposes restricted to one rather limited conventional role, that of student. Those youth who lack even the clear promise of *future* access to the meaningful adult roles which successful performance in the school may provide have little to lose by involvement in delinquent and other forms of deviant behavior; the "stake" in conventional behavior is low. Further, such youth may develop low self-images and garner a negative public image as a result of being stigmatized by negative labelling process in conventional institutions such as schools (Polk and Schafer, 1972). In turn, these youth become further alienated and the existing "bond" to conventional groups is weakened (Hirschi, 1969; Hawkins and Catalano, 1992). The vast majority of youth under juvenile court supervision fit the above description, and for those youth chronically in trouble, problems of isolation and lack of commitment to conventional groups are exacerbated.

One source of hope for such youth is the persistent research finding that most delinquents eventually "outgrow" their delinquent behavior (e.g., Elliott, 1993). Another source of hope is the previously mentioned research on youth resiliency which suggests that many high risk youth manage to grow up normally and even thrive as a result of "protective influences" (e.g., Rutter, 1985; Werner, 1986). One very common protective influence which distinguishes at-risk youth who "make it" is an apparent bonding to conventional adults, and to conventional groups which facilitate successful maturation brought on by a sense of connectedness and usefulness. The challenge for juvenile justice professionals suggested by these findings is to discover how they might create conditions that "speed up" these natural socialization and maturation processes by building on the resiliencies of delinquent and at-risk youth and on the resources of adults and institutions in their communities.

Building on these ideas, a competency development model differs from the individual treatment model in the objectives expected to be achieved at the conclusion of a rehabilitation program, or *intermediate outcomes* of intervention; in the targets, timing and assumptions, or *context* of intervention; and in the actual programs and practices, roles of participants and messages relayed in the rehabilitative process, or *content* of intervention. While debate within the treatment community has focused primarily on *process* issues — such as the methods used to select offenders for specific treatment interventions (e.g., assessment and classification techniques), variations in case management approaches, or the specific counselling or therapeutic techniques of treatment — these issues of content and context have received little attention. Moreover, on obsession with new programs and faddish intervention techniques in which policymakers seek panacea solutions rather than systemic reforms (Finckenauer, 1982; Bazemore & Umbreit, in press) has diverted attention from a focus on outcomes.

Different Outcomes: The Intermediate Objectives of Intervention

In both long-term and immediate objectives for community supervision of offenders, the individual treatment and competency development interventions differ very little. In the *short-run*, any supervision strategy is immediately concerned with stabilizing offenders or "slowing them down". Juvenile justice professionals must minimize the likelihood that offenders will reoffend while under the court's jurisdiction and keep them in one place long enough to ex-

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Reinventing Rehabilitation: Exploring a Competency Development Model for Juvenile Justice Intervention

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Introduction

In recent years, declining confidence in the treatment mission of juvenile justice have given rise to what Barry Feld has referred to as the "punitive juvenile court" and others have called a retributive paradigm for the juvenile justice system (Feld, 1990; Bazemore and Umbreit, in press). This new "criminalized" juvenile justice system is characterized by determinate and mandatory minimum statutes for juvenile offenders, dessert-based guidelines, a more dominant role for prosecutors, and fewer restrictions on transfer of juveniles to adult court (Feld, 1990). Revised codes and purpose statements in a number of states now deemphasize the role of rehabilitation "in the child's best interest" and an elevate the importance of dessert, crime control, punishment and individual offender accountability (Walkover, 1984; Feld, 1990). Moreover, changes in the nature and content of intervention toward increased emphasis on shock, accountability, punishment and control in more secure settings appear to have replaced the once dominant focus on treatment objectives in juvenile court dispositions.

Because this transformation challenges the basic rationale for a separate justice system for juveniles, many youth advocates have responded to these retributive shifts in policy and practice by proposing a number of reforms aimed at "reaffirming," "revitalizing," or "reimagining" the juvenile justice system (McHardy, 1990; McAllair, 1993). These have been well intentioned attempts to preserve a rehabilitative focus for juveniles and have in some cases brought important improvements in the structure and administration of treatment programs. Some have suggested, however, that these efforts both underestimate the strength of the retributive model and *overestimate* the ability of even a revitalized treatment mission to sustain public support for a separate and distinctive juvenile justice system (e.g., Feld, 1990). Although public support for the concept of juvenile offender rehabilitation appears to remain strong (e.g., Schwartz, Guo and Kerbs, 1992) and belief in rehabilitation remains a potent motivational force among juvenile justice professionals (Palmer, 1992), what appears to be at issue is the *capacity* of the juvenile justice system to bring about such rehabilitation. Also implicit in this questioning of juvenile justice rehabilitation are doubts about the viability of the *individual treatment* model itself.

A central premise of this paper is that it is possible to envision a broader, more empowering, more effective, and more "marketable" agenda for juvenile offender rehabilitation and reintegration.[1] The purpose of this paper is to outline the components of a *competency development* model for juvenile offender rehabilitation, and to contrast the components of this model with those of individual treatment. Most often identified as the rehabilitative goal of the Balanced Approach mission for juvenile justice (Maloney, Romig and Armstrong, 1988; Bazemore, 1993), competency development has emerged in recent years as a holistic model for offender rehabilitation which is part of a larger agenda for juvenile justice reform.[2] Though it encompasses more traditional treatment and service interventions for offenders and recognizes the need for such interventions on a *prescriptive* basis, the more holistic competency development approach gives *programmatic* priority to different policies and practices than those based on the individual treatment mission.

Competency Development: A Definition and Primary Assumptions

For purposes of this paper, competency can be defined as the *capacity to do something well that others value* (Polk and Kobrin, 1972). This focus on proficiency and usefulness to others suggests a need to increase the capacity of young offenders to survive and thrive within conventional groups in their own communities. Thus, a competency development strategy would give priority to those competencies which improve a young person's ability to be productive and effective at tasks and activities which are viewed as important by these community groups.

Defined in this way, competency development offers a clear external referent for gauging offender progress while under juvenile justice supervision and for determining whether the juvenile offender exits the system more capable of being productive and responsible in the community. A competency development focus would require that juvenile justice resources be targeted toward achieving what many would argue should be the ultimate objective and the primary justification for any "correctional" or "rehabilitative" intervention into the lives of juvenile offenders: to help steer them towards conventional

rent state of affairs for offenders up in the juvenile justice system quire more than therapeutic treat- services or even remedial skill pment. Specifically, it will demand scrutiny of the *context* of inter- n and strategic action to change or en this context.

context of intervention is a e" between the assumptions or underlying a rehabilitative ap- and the expected intermediate nes of the intervention. Specifi- he intervention context includes gets of intervention, the *timing* and y given to various rehabilitative aches, assumptions about the *ca- of offenders to change*, and as- ions about the proper *focus of as- ent* and about the most effective *aches to learning conventional ior*.

ts of Intervention

ugh focused on delinquency pre- n, Lofquist's (1983) comparisons mative targets of intervention pro- a useful framework for contrasting nent and competency develop- assumptions for offenders already juvenile justice supervision. As the quadrants" in Figure 1 suggest, in- tions vary in part depending on er the focus is on changing *indi- ls* or *communities* and *institutions*. osing one target maximizes the vement of certain goals while mini- g the achievement of others. Like- certain practices, programs, and gement practices will be given pri- and others will be ignored or given al attention. In choosing to target people and juvenile delinquents ange, we channel resources toward hievement of individual change and emphasize practices that sup- such changes. At the same time, ning a fixed amount of resources, nit, if not largely rule out, the prob- of changing *adults* and adult insti- s that contribute to the problem. ditional individual treatment inter- ns take a one-dimensional view reduces the problem of *crime* to roblem of the *offender*. As Byrne 9) has observed in assessing the weakness of both the surveillance/control and individual treatment models, probation and parole have ironically turned inward toward a focus on "changing the offender" and on individual control strategies at a time when policing—through the neighborhood policing movement — has become more proactive in reaching out to meet community needs (Byrne, 1989:473). Calling for a reemphasis on the "concept of *community* in community corrections," he notes that "*offender based* community control strategies are incomplete, since they take a 'closed system' view of correctional interventions: *change the offender and not the community.*" (Byrne, 1989:487; emphasis in original).

Although most juvenile justice professionals emphasize the importance of the family, and many are increasingly aware of the important role of victims and the community, most treatment programs focus on individual offenders in isolation from these other groups. As atomized responses to youth crime, treatment interventions also fail to ask the community or victims for input, or to engage these other parties in the intervention process. Moreover, as the *object* of treatment and services, the offender is offered few opportunities to make amends to victims or practice other productive, conventional behaviors that could help to change his/her perception in the community and help to establish (or reestablish) ties to community groups.

A competency development approach, on the other hand, is based on the assumption that establishing and strengthening youth bonds to conventional adults and institutions involves changing attitudes and behaviors of adults as well as juveniles – and reshaping organizational processes in adult institutions that exclude at-risk adolescents. This means involving community groups not only in delinquency prevention but also in sanctioning, rehabilitative and reintegrative activities (see Braithwaite, 1989; McElrae, 1993; Bazemore & Umbreit, in press). Examples include: asking business groups to provide jobs slots or work opportunities for offenders, asking civic and community groups to develop creative community service projects and monitor/supervise youth in completing these, asking victims groups

Table 1

"Competency development and individual treatment prescribe different initial objectives for the completion of offender supervision."

Intermediate Outcomes of Intervention: Treatment and Competency Development

Individual Treatment	*Competency Development*
Avoid negative influence of designated people, places and activities	Begin new, positive relationships and positive behavior in conventional roles; avoid placement of youth in stigmatizing treatments
Follow rules of supervision (e.g., curfew, school attendance)	Practice competent, conventional behavior
Attend and participate in treatment activities (e.g., counselling)	Active demonstration of competency through completion of productive activity (service and/ or work with community benefit)
Complete all required treatment and terminate supervision	Significant increase in measurable competencies (academic, social, occupational, etc.)
Improvements in attitude and self-concept; improved family interaction; psychological adjustment.	Improvements in self-image and public [illegible] (community acceptance) and increased bonding and community integration.

ecute whatever supervision plan is appropriate. In the *long-run*, months and years after the intervention is complete, the objective of both treatment and competency development would be a conventional adult who no longer commits crimes and is not motivated to do so.

It is in the *intermediate objectives* for supervision and intervention, on the other hand, that the treatment and competency development perspectives differ most significantly. Intermediate objectives define changes in the offender, in his/her situation, and in any other targets of intervention (e.g., families, community groups) which a given rehabilitative theory suggests are necessary to bring about long term termination or reduction in offending. These changes define "successful completion" in a given intervention program and also prescribe action steps needed to reach this intermediate goal.

Table 1 lists the general supervision or intervention requirements (top half of the table) as well as intermediate changes in the offender (bottom half of the table) for the individual treatment and competency development paradigms respectively. Like the comparisons between the competency development and treatment models presented in subsequent tables in this paper, the contrasts in Table I are "ideal types." That is, they are meant to suggest general comparisons rather than to suggest that *all* treatment oriented agencies or systems mirror the assumptions, policies and practices described. Nor could one find a system or agency which completely exemplifies the competency development model.

In the treatment model, the anticipated intermediate offender change sought is generally in attitude, dysfunctional behavior and/or problematic relationships (especially within the family). Supervision requirements of the treatment model, as illustrated in probation or parole/aftercare, typically amount to a litany of prohibited behaviors concerned with restricting who the offender associates with, how late and under what circumstances s/he is allowed to be away from home, use of alcohol and other substances, absence from school. To this list of "don'ts," a list of "do's," or a set of action steps is added which prescribes that the offender participate in services or activities assumed to help him/her with the underlying problem; for example counselling, drug education, family therapy, tutoring, or special education classes. What should be most apparent in this typical casework scenario is the absence of any tangible offender outcomes. Neither the set of prohibitions nor the prescribed activities requires that the offender *do anything* beyond showing up for a counselling session, court or probation appointment, or school.[5]

The intermediate objectives of a competency development approach, however, are markedly different. Contrary to the individual treatment model, the primary and initial change sought in the offender is increased bonding to conventional groups and acceptance by these groups and the community generally. This bonding and acceptance is expected to result from recognition of the offender as a competent, legitimate member of the group and the community and from the development of meaningful ongoing relationships with conventional adults. Thus, while improvements in self-image are viewed as an important change in the offender, visible participation in productive activity that provides opportunities for meaningful interaction between youth and conventional adults is viewed as necessary to bring about change in the community or *public image* of the offender. Rather than simple completion of services or abstinence from proscribed behaviors, the successful "end" of intervention, therefore, should be a measurable improvement in the capacity to make valued, productive contributions to the community. Since the best way to determine if an improvement in competency has occurred is often to *demonstrate* it, "action steps" involve engaging the youth in valued activities in which he/she is allowed to "practice" being competent in a new role. The relative success of such an intervention would be measured by completion of the task and by the quantity and quality of performance (e.g., in a work or community service program by quality of the work or service; in a learning experience by post-tests; in both by subsequent competent performance in work and/or educational settings). Ultimately, the "proof" of the success of competency development interventions would be in the willingness of the community and community organizations to accept offenders more permanently in conventional roles (e.g., employers agreeing to hire youth in permanent jobs).

In the individual treatment model, the intermediate change sought in the offender is too often based on avoidance or passive participation in required activities. While such participation may also lead to increased understanding of the underlying problems assumed to be at the root of the youth's delinquent behavior, if the objective is increasing the capacity of the offender to do something well that is valued in his/her community, even the most effective treatment interventions fall short. In the more behavioral competency development approach, on the other hand, it is hoped that, having actively experienced productive involvement and gained a sense of usefulness and belonging, the offender will be motivated to continue to engage in such behaviors with the result being an improvement in both personal and *public* image and increased bonding to conventional groups. This improvement is based on a change in the offender's role rather than simply a modification in some presumed underlying attitude or correction of some behavioral adjustment problem. Moreover, as we will argue below, it is not simply the offender who needs to change.

Different Contexts: Targets, Timing and Assumptions of Interventions

If helping juvenile offenders become productive, law-abiding adults is the most important ultimate goal of intervention, a key question raised by the competency development model is how juvenile justice professionals can get delinquent youth to experience the sense of competence, usefulness and belonging that most adults derive from their roles in conventional institutions. Accomplishing this objective and changing

es (i.e., we know that we learn practice and become more com- as we demonstrate our skill by g others), and we have even cre- ecialized philosophies, (i.e., adult g theory) and strategies (i.e., education") to support us in our Ironically, we seem to ignore rinciples when we think about onal programs for delinquent ablesome youth. If being "com- requires *practicing* competent or in roles that require and sup- oductivity and performance, why ositive experiences which allow monstration of competency un- her problems (e.g., learning defi- g problems, behavioral difficul- resolved? Competency develop- sumes that with the right super- nd support most offenders can nmediate involvement in *some* ive activity.

edial and therapeutic have an nt role in any program for defin- and may be beneficial unless n exclusive focus. In the compe- evelopment model, tutoring, classes, writing workshops, and nore traditional didactic ap- es are used to *reinforce* active, ive engagement (e.g., in work, action projects) but do not domi- e program agenda. Programs Youth Build and Youth Conser- Corps (Stoneman, 1994; Rosen- ood, 1988), for example, require ours of class work per day and written diaries and other reflec- vities which often build on learn- eriences from the day's service rk activity. Likewise, therapeutic edial services can be integrated npetency development interven- en needed as a *support*, rather he driving rationale for a youth's ation in a program. Much active ding" also occurs in the process pleting a service project, work ice and other competency devel- activity. Moreover, some behav- d adjustment problems will be solved as young offenders begin ience a more positive identity in oles under the influence and su- n of conventional adults.

Table 2

"Competency development and individual treatment make different assumptions about the ability of offenders to change and the most appropriate intervention approaches."

The Intervention Context: Individual Treatment and Competency Development

Individual Treatment	*Competency Development*
Primary and initial focus on identifying deficits and ameliorative approaches to correct problems; youth defined as in need of services	Primary and initial focus on identifying strengths and building on the positive; youth viewed as resources
For purposes of intervention it is best to assume incompetence and disturbance	For purposes of intervention it is best to assume competence and capacity for positive action
Remedial and reactive	Preventive and proactive
Emphasis on change in individual youth behavior	Emphasis on change in youth and community institutions and adult behavior
Offenders learn best through counseling and remedial training	Offenders learn best by doing
Counselling as a primary modality	Counselling as support for active engagement

Different Content: The Practice, Roles and Messages of Intervention

The content of intervention includes the practices or programs that are given priority in a particular model because they are believed most likely to achieve the intermediate change outcomes expected (e.g., Table I). Equally important aspects of intervention content are the roles assigned to offenders, staff and community in the rehabilitative process. These role differences are often the essence of what may be subtle but critical qualitative distinctions in intervention programs based on individual treatment and competency development assumptions.

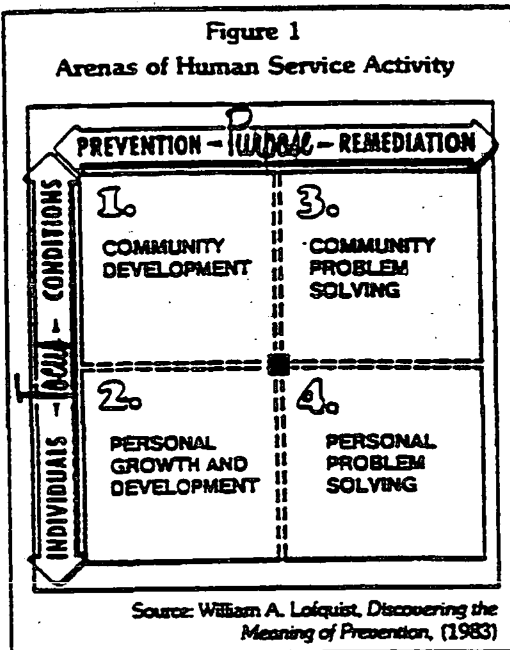
Programs and Practices

In addition to what has become a standard set of supervision requirements and sanctions (e.g., attend school, obey all rules of the court, obey curfew), a juvenile offender entering the typical probation department organized around the traditional individual treatment casework agenda could potentially receive a wide array of services. Though not widely available to all or even most caseworkers in a typical probation department or residential programs, interventions viewed as "best practice" in the individual treatment model now include specialized treatment approaches (e.g., drug and sex offender programs) (Palmer, 1992), mentoring, outdoor challenge, family support work, and remedial skill development activities – as well as more traditional clinical techniques and probation casework practices. The programs and practices listed in column one of Table 3, for example, illustrate the growing diversity of interventions which have become part of the individual treatment model. What these "ideal type" treatment/service interventions have in common is their emphasis on activities intended to "help" the offender overcome some deficit or resolve some problem or disturbance presumably related to his/her offending. Despite the apparent diversity, as Palmer (1992) points out, most treatment/services interventions focus on "personal and interpersonal change" and rely heavily on counselling — individual and group — as the primary treatment technique.

Column 2 of Table 3 provides an

Figure 1

Arenas of Human Service Activity



Source: William A. Lofquist, *Discovering the Meaning of Prevention*, (1983)

to develop victim awareness panels for offenders or supervise offenders assigned to repair damage to burglarized homes of the elderly, asking educational, religious, and other organizations to assist with dispute resolution training for youth, and asking schools to develop and provide school credit for creative community service projects.

Ultimately, such requests make demands on these groups and are aimed at changing the mindset of citizens and community groups who have been led to believe that offender rehabilitation is the sole responsibility of juvenile justice *and* to accept the view that it is only offenders who need to change. At the same time, they create an awareness of the need for more youth involvement and participation in these groups. As argued earlier, a prerequisite for community acceptance and reintegration of offenders would be improvements in the capacity of offenders to make meaningful contributions to community groups. The necessary context for such contributions is the availability of conventional roles for youthful offenders which provide *opportunities* for meaningful contributions and for positive bonding with conventional adults while youth are engaged in productive, conventional activities (e.g., Hawkins and Catalano, 1992; Polk and Kobrin, 1972).

Timing and Priority of Interventions

As Figure 1 suggests, rehabilitative interventions, in addition to emphasizing different targets, may be either preventive in focus or remedial and reactive (Lofquist, 1983). By emphasizing the remedial approach to intervention, we focus attention and resources in a certain direction based on an assumption of a need to remedy underlying problems that contribute to offender *deficits*.

In adopting the remedial or reactive approach, we may increase the likelihood that such problems will be identified and that ameliorative or remedial services will be prescribed to correct individual dysfunctions and (hopefully) bring the offender up to a "normal" state of existence. Such a reactive approach to assessment, however, minimizes the likelihood that we will identify strengths and begin to build positively on the offender's aptitudes and interests, family strengths, or neighborhood resources (see Table 2 on the following page). In the individual treatment approach, juvenile justice caseworkers conduct needs assessments which often read like "laundry lists" of problems. We therefore limit our expectations and rule out the possibility of achieving objectives other than completion of probationary supervision or treatment programs. Moreover, deficit-focused assessments in the absence of identification of strengths and resources may be especially devastating for minority offenders. The "lens" of therapeutic assessment often distorts our perception of family and community cultural strengths in minority communities and results in an underestimation of resources available to support offender reintegration in these communities.

While a competency development model does not assume that all youth or all offenders are equally capable of making positive contributions or minimize the importance of assessment of weaknesses and deficits, a strategic emphasis on identifying and building on strengths would assume, for purposes of intervention, that offenders, their families, and their communities have positive characteristics and resources that can be exploited to increase the likelihood of reintegration and rehabilitation. If the goal is to facilitate or speed up processes of conventional maturational development, the research on resiliency mentioned earlier suggests that identifying and enhancing these "natural supports" holds more promise than simply increasing the availability of therapeutic services and treatment.

Juvenile justice professionals will be more successful if they begin by assuming a capacity in offenders for positive, productive, rational action rather than disturbance and incompetence. A competency development focus requires that juvenile justice professionals are also proactive in efforts to enhance development of these capacities. The more optimistic and appreciative focus on strengths rather than deficits and the broader emphasis on enhancing institutional supports steers juvenile justice toward locating indigenous capacity in neighborhood organizations, local businesses, civic groups, families and extended families. As an example, juvenile justice professionals concerned with enhancing a minority youth's employability skills or finding other positive community roles for such a youth may look first to minority business, fraternal or civic groups as "sponsors" for such activity.

Learning Assumptions

Ironically, many juvenile justice professionals often replicate the very strategies that have proven unsuccessful with delinquent youths in school settings. That is, they hope to achieve positive results from additional "doses" of remedial counselling, special education and other passive didactic approaches regardless of repeated past failures of these approaches. Too often, as the founder of the Youth Conservation Corps, Judge Anthony Kline puts it, "we expect dropouts to drop-in to another school."

In contrast, the competency development strategy assumes that individuals learn primarily by *doing*. As adults we seem to accept this experiential view f

:he role of the offender in the tion program – and in the reha- process itself. In individual treat- e offender is, at best, a compli- cipant in a service program; the accomplishment possible is to e the program and stop the be- ıat brought about the referral to ram. "Success" is defined as the of a negative condition. Follow- ssumption that the offender, like her youth, has not had access to d relationships that allow him/ icipate productively in a legiti- ciety, the competency develop- proach demands that interven- tegies place the offender in roles. ıey can be viewed by the com- ıs assets or resources rather than s (see Table 4). Moreover, each ency development program or in Table 3 assumes a collabora- . supportive role for one or more tional adults working together ung offenders.

ole of the *juvenile justice profes-* ı this process is to create oppor- for delinquent youth to demon- ompetence. In addition, profes- must motivate community to accept offenders in positive d then support them in doing so. uist's framework (see Figure 1 ed earlier), these professionals *preventive* in that they want to both individual *and* institutional ons that stifle positive actions e lack of positive roles for youth) :ate conditions that encourage ıal development as well as insti- change. Similar to community- police officers who attempt to "preventive capacity" of com- :s to discourage predators from ing local citizens (e.g., Trojano- d Bucqueroux, 1990; Kelling and 1988), juvenile justice profes- adopting the competency devel- t paradigm attempt to build the ive capacity of community insti- such as work, schools, churches ıily groups to ensure the positive oment of youth. For example, justice may encourage and as- dle and high schools in develop- ative service projects such as those in Table 3 targeted at conventional and delinquent youth.

As suggested earlier, the role of community in competency development interventions then becomes a critical one (see Table 4). The need to clarify this role and "sell" community groups on it places another responsibility on juvenile justice to first *identify* those specific neighborhood groups (e.g., schools, employers, civic and religious groups) most capable of supporting offenders in the effort to demonstrate competency and crafting intervention strategies intended to change the image of offenders within these and other groups, while at the same time strengthening that group's capacity to support and monitor delinquent youth.

Conclusion and Implications for Implementation

Though grounded in traditional community beliefs and basic American values (e.g., the work ethic), a competency development approach cannot mean "business as usual" for juvenile justice. The objectives of competency development will not be accomplished simply by relabelling traditional treatment casework practices or adding new therapeutic or remedial programs. While the individual treatment perspective and competency development share a commitment to the well being of offenders and a belief in their potential to overcome problems related to their delinquency (i.e., rehabilitation), the competency development approach places primary emphasis on *habilitation*: how it is that human beings, including juvenile offenders, become productive, adult citizens. In summary, competency development demands changes in the content, context, and intended outcomes of rehabilitation programs.

What's in it for juvenile justice? To change the dominant rehabilitation intervention model in juvenile justice, agencies must first be strongly committed to change. Juvenile justice professionals must be motivated by a shared belief in the underlying values of the new model and its potential benefits. They must also see concrete personal advantages as professionals. The provision of treatment and services lies at the core of casework probation and continues to be viewed by many as the only counterbalance to the punitive approaches advocated in the past decade. Change that involves movement toward a new, more holistic approach to offender rehabilitation will be challenging and even threatening to some staff.

Although the relative effectiveness of both the treatment and competency development models in the long-term must await more systematic research,[6] juvenile justice agencies willing to experiment with competency development approaches should experience several short-term, tangible benefits. These include providing service to the community, offer-

Table 4

The Content of Intervention: Participant Roles and the Messages of Individual Treatment and Competency Development

Individual Treatment	*Competency Development*
(Roles)	
Community is uninvolved: responsibility for offender rehabilitation left to professionals	Community develops new opportunities for youth to make productive contributions, build competency and a sense of belonging
Role of offender as passive recipient of treatment or services	Role of offender as active productive resource for positive action
Role of juvenile justice professional as "counsellor" or "broker of services."	Role of juvenile justice professional as developing new roles for young offenders which allow for demonstration of competency

Table 3

"Competency development and individual treatment differ in the nature of programs and practices that receive priority."

The Content of Intervention: Individual Treatment and Competency Development Programs and Practices

Individual Treatment	*Competency Development*
(Best Practices)	
Drug therapy and drug education	Youth as drug educators, drug researchers
Recreational activities	Youth as recreational aides, recreation planners
Individual and family counseling group therapy (insight based)	Peer counselling, leadership development, community service projects, family living skills; cognitive restructuring; anger management
Job readiness and job counselling	Work experience, service crews, employment, job preparation and career exploration
Cultural sensitivity training	Youth develop cultural education projects
Youth and family crisis information	Conflict resolution training, youth as school conflict mediators
Outdoor challenge programs	Conservation projects, community development projects, recycling and community beautification projects
Mentoring and "Big Brother"	Work with adult mentors on programs community projects, intergenerational projects with the elderly
Remedial education	Cross Age tutoring (juvenile offenders teach younger children), educational action teams; decisionmaking skills training

equally diverse illustrative list of competency development practices displayed so as to somewhat parallel the treatment interventions — at least in terms of substantive intervention goals (e.g., drug education; increased vocational aptitude). Even without discussion, however, the reader will detect a different "slant" to these competency development interventions. Moreover, despite the diversity within each approach, the critical common features may be already apparent.

Youth in competency development programs are expected to benefit directly from the active and productive learning experience of the program and from the sense of belonging provided by the experience of working with conventional adults and peers on important tasks. They are also expected to make measurable gains in their own practical cognitive and social skills while serving others. For example, "at-risk" adolescents who provide tutoring to younger children show equivalent or more improvement in their own reading levels than those receiving the tutoring. Likewise, many drug and alcohol programs which utilize "recovering" addicts or alcoholics to provide services and education to other substance abusers find that recovering service providers themselves make therapeutic gains and learn more about their own recovery.

The most obvious and important common element between the diverse competency development interventions in Column 2 of Table 3, that distinguishes these programs and practices from individual treatment, however, is that in most, youth are actively engaged in productive activity with some potential direct *benefit to others*. The "value" of the competency development activity thus goes beyond the value to the delinquent youth themselves; other individuals (e.g., the elderly, younger children, homeless persons) and the community institutions (e.g., businesses, civic groups) also benefit from the intervention. Still another important secondary value of competency development interventions is their utility as a *demonstration* that delinquent youth who have been primarily a liability to local communities can become a resource and are capable of competent, productive behavior. Cognitive interventions (e.g., decisionmaking skill training, anger management) provide a critical supplement to the more behavioral work, service, and active learning approaches which attempt to change the role of the offender from passive, service recipient to active, productive resource.

Intervention Roles

Though some of the more recent treatment programs and practices (e.g., outdoor challenge programs) place the offender in a more active role than traditional clinically-based programs, all in one way or another provide a "service" to the offender (e.g., therapeutic, recreational etc.). The offender is the more or less passive *recipient* of the service or program and the juvenile justice professional or contracted service program is the *provider*. Most important, the "value" of the activity lies simply in the help that is presumably provided to the offender (see Table 4).

A delinquent youth entering a competency oriented probation department would thus be at least as likely to be placed in the role of "service provider" as "service recipient." The youth in such a department might also receive counselling or other services and treatment as needed to address immediate problems, but these services would be provided as *support* for involvement in the productive activity rather than as the primary intervention modality. What this suggests is a subtle but critical qualitative

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ing meaningful work, earning, and developmental opportunities to youth, and measurable improvements in offender skill and capacity to work with others. The individual treatment approach, on the other hand, can only point to the offender's compliant participation in a treatment activity and perhaps to a temporary abstinence from the prohibited behaviors as a measure of impact. An ancillary benefit of competency development interventions is that these activities may also serve as a demonstration to the community of the capacity of offenders for positive contributions.

As these benefits to the offender and the community accumulate, the competency development approach may ultimately improve the public's image of juvenile justice. Just as demonstrating competency through productive work experience, service, and other activities may change the community's image of individual *offenders*, juvenile justice *systems* that promise and deliver on clear, objective performance outcomes (e.g., improvements in offender competency) may also change their organizational image from one of tax liability to one of community asset.

Endnotes

[1] Although a review of the effectiveness of juvenile justice treatment is beyond the scope of this paper, individual treatment as a rehabilitative model has been both fairly and unfairly criticized as ineffective (Martinson, 1974; Lab & Whitehead, 1988) — as well as stigmatizing, paternalistic, expensive, inequitable, and lacking in legal safeguards or standards for limiting duration and intensity (Lofquist, 1983; Pittman & Fleming, 1991; Walgrave, 1993). While treatment practices have changed since the 1970s when these criticisms were more common (Palmer, 1992), many of the central weaknesses in the logic of the individual treatment model remain relevant today. Moreover, although few juvenile justice professionals endorse the medical model per se its core assumptions of delinquency as a symptom of underlying personal and interpersonal problems and of the offender as a passive object in need of therapeutic and remedial services underlie most treatment interventions today (Harris, 1984; Bazemore, 1991; Walgrave, 1993).

[2] The Balanced Approach mission also includes community protection and accountability to victims as major goals to be achieved by juvenile justice systems concerned with balancing the needs of key system "customers." The Balanced Approach is part of a larger paradigm know as *restorative justice* (Zehr, 1990; Bazemore & Umbreit, in press).

[3] This is not to minimize the importance of a range of competencies for a healthy and satisfying adult life. Pittman & Fleming (1991), for example, discuss "personal, social citizenship, health and knowledge/reasoning/creativity" as basic competencies in offenders that allow for productive and essential contributions to conventional groups would seem to be an essential first step in ensuring acceptance by these groups. Such acceptance is often itself a prerequisite for the development of further competencies: youth become more competent once placed in institutional roles that allow for and support competency. Standards of competency, or competence, are not an absolute but vary according to the needs of specific groups (e.g., work groups, communities) as well as according to the demands of specific tasks.

[4] The latter ideas emphasize the need to target the community for change – as well as individual offenders - as part of an intervention strategy focused on reintegration (Reiss, 1986; Byrne, 1989; Braithwaite, 1989), while the resiliency research and the experience with youth development programs and practices underscore the importance of youth access to ongoing support from conventional adults in settings which place youth in active roles which allow them to demonstrate positive, productive behavior.

[5] For the overworked probation or parole officer in the casework model, simply getting the offender to comply with these rules (and there are often many of them) is rare enough. If the offender also has not violated curfew, has been seeing a counsellor and is attending school, the supervision intervention is generally viewed as a "success completion" of community supervision.

[6] There has been too little rigorous evaluation of individual treatment interventions, and competency development interventions with offenders are for the most part still too new to have been subjected to impact evaluations. Although advocates of competency development can point to a growing body of evaluation research that questions the efficacy of much individual treatment (especially the more clinical, counselling-based approaches) (see Lab and Whitehead, 1988; Maloney, Romig and Armstrong, 1988; Palmer, 1992), most would insist that *both approaches* be subjected to rigorous evaluation.

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Juvenile justice system	Common ground	Criminal justice system
	Intake — Prosecution	
▪ In many instances, juvenile court intake, not the prosecutor, decides what cases to file. ▪ Decision to file a petition for court action is based on both social and legal factors. ▪ A significant portion of cases are diverted from formal case processing. ↓ **Diversion** — Intake diverts cases from formal processing to services operated by the juvenile court or outside agencies.	▪ Probable cause must be established. ▪ Prosecutor acts on behalf of the State.	▪ Plea bargaining is common. ▪ Prosecution decision based largely on legal facts. ▪ Prosecution is valuable in building history for subsequent offenses. ↓ **Discretion** — Prosecution exercises discretion to withhold charges or divert offenders out of the criminal justice system.
	Detention — Jail/lockup	
▪ Juveniles may be detained for their own or the community's protection. ▪ Juveniles may not be confined with adults without "sight and sound separation."	▫ Accused offenders may be held in custody to ensure their appearance in court.	▫ Right to apply for bond.
	Adjudication — Conviction	
▪ Juvenile court proceedings are "quasi-civil" — not criminal — may be confidential. ▪ If guilt is established, the youth is adjudicated delinquent regardless of offense. ▪ Right to jury trial not afforded in all States.	▫ Standard of "proof beyond a reasonable doubt" is required. ▫ Rights to a defense attorney, confrontation of witnesses, remain silent are afforded. ▫ Appeals to a higher court are allowed.	▪ Constitutional right to a jury trial is afforded. ▪ Guilt must be established on individual offenses charged for conviction. ▫ All proceedings are open.
	Disposition — Sentencing	
▫ Disposition decisions are based on individual and social factors, offense severity, and youths' offense history. ▫ Dispositional philosophy includes a significant rehabilitation component. ▪ Many dispositional alternatives are operated by the juvenile court. ▫ Dispositions cover a wide range of community-based and residential services. ▪ Disposition orders may be directed to people other than the offender (e.g., parents). ▪ Disposition may be indeterminate — based on progress.	▫ Decision is influenced by current offense, offending history, and social factors. ▫ Decision made to hold offender accountable. ▫ Victim considered for restitution and "no contact" orders. ▫ Decision may not be cruel or unusual.	▫ Sentencing decision is primarily bound by the severity of the current offense and offender's criminal history. ▫ Sentencing philosophy is based largely on proportionality and punishment. ▫ Sentence is often determinate based on offense.
	Aftercare — Parole	
▪ A function that combines surveillance and reintegration activities (e.g., family, school, work).	▫ A system of monitoring behavior upon release from a correctional setting. ▫ Violation of conditions can result in reincarceration.	▫ Primarily a surveillance and reporting function to monitor illicit behavior.

The juvenile justice system differs from the criminal justice system in the handling of offenders, but there is a common ground

The juvenile justice system grew out of the criminal justice system

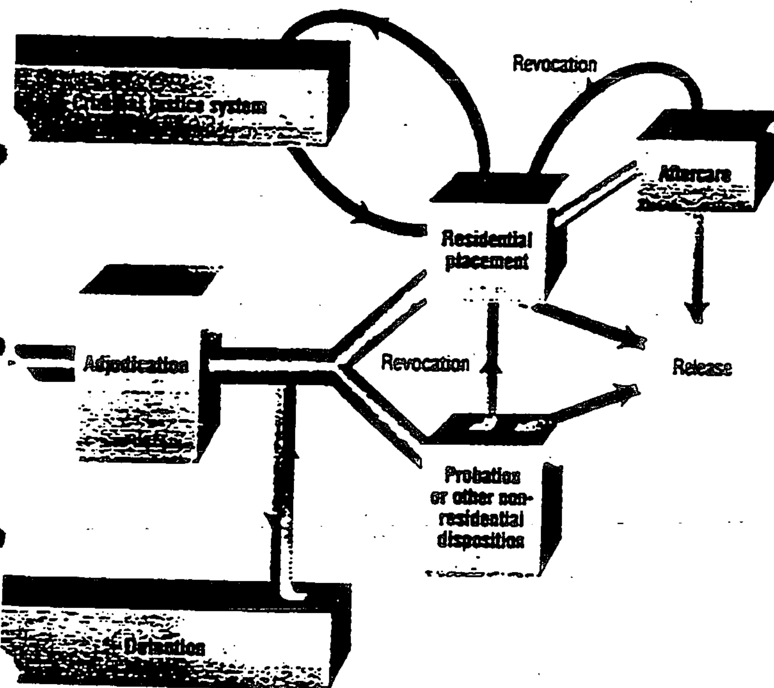
After working within the criminal justice system, designers of the juvenile justice system constructed a new process to respond to delinquent youth that retained many of the components of the criminal justice system. An understanding of what was retained and what was changed leads to an understanding of the basic differences between the two systems as they exist today.

During its nearly 100-year history, the juvenile justice system in the United States has seen fundamental changes in some aspects of process and philosophy. Recently there has been much discussion about the possibility of essentially merging the juvenile and criminal systems. An understanding of similarities and differences of the criminal and juvenile justice systems will help to understand the implications of the proposed changes.

Generalizations can be made about the distinctions between the juvenile and criminal justice systems and their common ground, although the two systems are more alike in some jurisdictions than in others

Juvenile justice system	Common ground	Criminal justice system
	Operating Assumptions	
■ Youth behavior is malleable. ■ Rehabilitation is usually a viable goal. ■ Youth are in families and not independent.	■ Community protection is a primary goal. ■ Law violators must be held accountable. ■ Constitutional rights apply.	■ Sanctions proportional to the offense. ■ General deterrence works. ■ Rehabilitation is not a primary goal.
	Prevention	
■ Many specific delinquency prevention activities (e.g., school, church, recreation). ■ Prevention intended to change individual behavior — often family focused.	■ Educational approaches to specific behaviors (drunk driving, drug use).	■ Generalized prevention activities aimed at deterrence (e.g., Crime Watch).
	Law Enforcement	
■ Specialized "juvenile" units. ■ Some additional behaviors prohibited (truancy, running away, curfew violations). ■ Limitations on public access to information.	■ Jurisdiction involves full range of criminal behavior. ■ Constitutional and procedural safeguards exist. ■ Both reactive and proactive (targeted at offense types, neighborhoods, etc.).	■ Open public access to all information.
Diversion — A significant number of youth are diverted away from the juvenile justice system — often *into* alternative programs.		**Discretion** — Law enforcement exercises discretion to divert offenders *out of* the criminal justice system.

secure custody for a brief period in order to contact a parent or guardian or arrange transportation to a juvenile detention facility. Federal regulations require that the juvenile be securely detained for no longer than 6 hours and in an area that is not within sight or sound of adult inmates.



Most juvenile court cases are referred by law enforcement

Law enforcement referrals accounted for 85% of all delinquency cases referred to juvenile court in 1992. The remaining referrals were made by others such as parents, victims, schools, and probation officers.

The court intake function is generally the responsibility of the juvenile probation department and/or the prosecutor's office. At this point intake must decide either to dismiss the case, handle the matter informally, or request formal intervention by the juvenile court.

To make this decision, an intake officer first reviews the facts of the case to determine if there is sufficient evidence to prove the allegation. If there is not, the case is dismissed. If there is sufficient evidence, intake will then determine if formal intervention is necessary.

About half of all cases referred to juvenile court intake are handled informally. Most informally processed cases are dismissed. In the other informally processed cases, the juvenile voluntarily agrees to specific conditions for a specific time period. These conditions are often outlined in a written agreement, generally called a "consent decree." Conditions may include such items as victim restitution, school attendance, drug counseling, or a curfew. In most jurisdictions a juvenile may be offered an informal disposition only if he or she admits to committing the act. The juvenile's compliance with the informal agreement is often monitored by a probation officer. Consequently, this process is sometimes labeled "informal probation."

If the juvenile successfully complies with the informal disposition, the case is dismissed. If, however, the juvenile fails to meet the conditions, the intake decision may be to formally prosecute the case, and the case will proceed just as it would have if the initial decision had been to refer the case for an adjudicatory hearing.

Young law violators generally enter the juvenile justice system through law enforcement

Each State's processing of law violators is unique

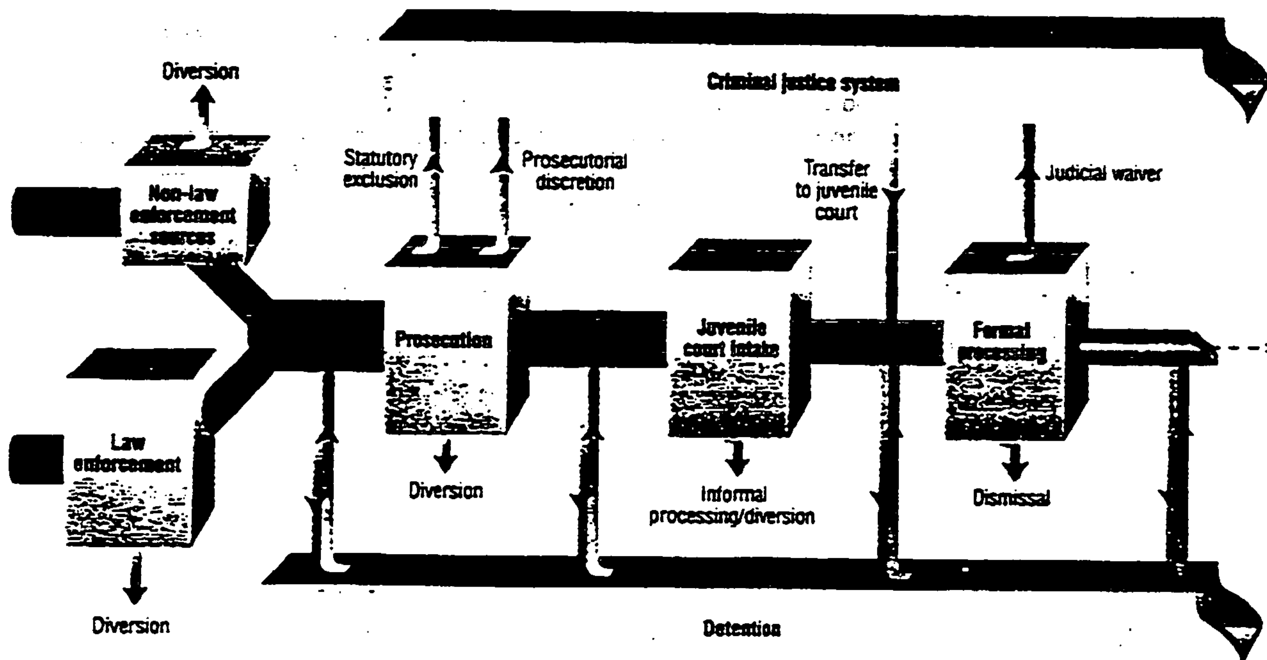
Even within States, case processing often varies from community to community depending on local practice and tradition. Consequently, any description of juvenile justice processing must be general, outlining a common series of decision points.

Law enforcement diverts many juvenile offenders out of the justice system

At arrest, a decision is made either to send the matter further into the justice system or to divert the case out of the system, often into alternative programs. Usually law enforcement makes this decision, after talking to the victim, the juvenile, and the parents, and after reviewing the juvenile's prior contacts with the juvenile justice system. Thirty percent of all juveniles arrested in 1992 were handled within the police department and then released. Two-thirds of arrested juveniles were referred to juvenile court.

Federal regulations discourage holding juveniles in adult jails and lockups. If law enforcement must detain a juvenile

What are the stages of delinquency case processing in the juvenile justice system?



Note: This chart gives a simplified view of caseflow through the juvenile justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show the actual size of caseloads.

t the disposition hearing, dispositional recommendations are presented · the judge. The prosecutor and the ɔuth may also present dispositional commendations. After considering ɔtions presented, the judge orders a sposition in the case.

lost cases placed on probation lso receive other dispositions

lost juvenile dispositions are multiceted. A probation order may inude additional requirements such as ug counseling, weekend confinement the local detention center, and ɔmmunity or victim restitution. The rm of probation may be for a speci-ɔd period of time or open ended. eview hearings are held to monitor e juvenile's progress and to hear ports from probation staff. After nditions of the probation have been iccessfully met, the judge terminates e case. In 1992, 6 in 10 adjudicated linquents were placed on formal obation.

e judge may order the juvenile ɔmmitted to a residential acement

esidential commitment may be for a ecific or indeterminate ordered time riod. In 1992, 3 in 10 adjudicated linquents were placed in a residential cility. The facility may be publicly privately operated and may have a cure prison-like environment or a iore open, even home-like setting. In iny States, when the judge commits a venile to the State department of venile corrections, the department etermines where the juvenile will be iced and when the juvenile will be eased. In other instances the judge ntrols the type and length of stay. In iese situations review hearings are held to assess the progress of the juvenile.

Juvenile aftercare is similar to adult parole

Following release from an institution, the juvenile is often ordered to a period of aftercare or parole. During this period the juvenile is under supervision of the court or the juvenile corrections department. If the juvenile does not follow the conditions of aftercare, he or she may be recommitted to the same facility or to another facility.

The processing of status offense cases differs from that of delinquency cases

A delinquent offense is an act committed by a juvenile for which an adult could be prosecuted in criminal court. There are, however, behaviors that are law violations only for youth of juvenile status. These "status offenses" may include such behaviors as running away from home, truancy, ungovernability, curfew violations, and underage drinking. In many ways the processing of status offense cases parallels that of delinquency cases.

Not all States, however, consider all of these behaviors to be law violations. Many States view these behaviors as indicators that the child is in need of supervision and respond to the behavior through the provision of social services. This different characterization of status offenses causes them to be handled more like dependency than delinquency cases.

While many status offenders enter the juvenile justice system through law enforcement, in many States the initial official contact is a child welfare agency. In 1992, 55% of all status offense cases referred to juvenile court came from law enforcement.

The Juvenile Justice and Delinquency Prevention Act discourages the holding of status offenders in secure juvenile facilities, either for detention or placement. This policy has been labeled *deinstitutionalization of status offenders*. An exception to this policy occurs when the status offender violates a valid court order, such as a probation order that requires the adjudicated status offender to attend school and observe a court-ordered curfew. In such situations the status offender may be confined in a secure juvenile facility.

A juvenile court by any other name is still a juvenile court

Every State has at least one court with juvenile jurisdiction, but in most States it is not actually called "Juvenile Court." Courts with juvenile jurisdiction vary by State — District, Superior, Circuit, County, Family, or Probate court, to name a few. Often the court of juvenile jurisdiction has a separate division for juvenile matters. Courts with juvenile jurisdiction generally have jurisdiction over delinquency, status offense, and abuse/neglect matters and may also have jurisdiction in other matters such as adoption, termination of parental rights, and emancipation. Whatever their name, courts with juvenile jurisdiction are generically referred to as juvenile courts.

During the processing of a case, a juvenile may be held in a secure detention facility

Juvenile courts may hold delinquents in a secure juvenile detention facility if the court believes it is in the best interest of the community or the child. After arrest a youth is often brought to the local juvenile detention facility by law enforcement. Juvenile probation officers or detention workers review the case and decide if the juvenile should be held pending a hearing by a judge.

In all States a detention hearing must be held within a time period defined by statute, generally within 24 hours. At the detention hearing a judge reviews the case and determines if continued detention is warranted. As a result of the detention hearing the youth may be released or detention continued. In 1992 juveniles were detained in 1 in 5 delinquency cases processed by juvenile courts. Detention may extend beyond the adjudicatory and dispositional hearings. In some cases crowded juvenile facilities require that detention continue beyond adjudication until a bed becomes available in a juvenile correctional institution or treatment facility.

Prosecutors may file a case in either juvenile or criminal court

In many States prosecutors are required to file certain (generally serious) cases involving juveniles in the criminal court. These are cases in which the legislature has decided the juvenile should be handled as a criminal offender. In a growing number of States the legislature has given the prosecutor the discretion of filing a defined list of cases in either juvenile or adult court. In these States both the juvenile and adult courts have original jurisdiction over these cases, and the prosecutor selects the court that will handle the matter.

If the case is handled in juvenile court, two types of petitions may be filed: delinquency or waiver. A delinquency petition states the allegations and requests the juvenile court to *adjudicate* (or judge) the youth a delinquent, making the juvenile a ward of the court. This language differs from that used in the criminal court system (where an offender is *convicted* and sentenced).

In response to the delinquency petition, an adjudicatory hearing is scheduled. At the adjudicatory hearing (trial), witnesses are called and the facts of the case are presented. In nearly all adjudicatory hearings the determination that the juvenile was responsible for the offense(s) is made by a judge; although, in some States the juvenile is given the right to a jury trial. In 1992, juveniles were adjudicated delinquent in 57% of cases petitioned to juvenile court for criminal law violations.

Intake may ask the juvenile court to transfer the case to criminal court

A waiver petition is filed when the prosecutor or intake officer believes that a case under jurisdiction of the juvenile court would be more appropriately handled in criminal court. The court decision in these matters follows a review of the facts of the case and a determination that there is probable cause to believe that the juvenile committed the act. With this established, the court then considers whether jurisdiction over the matter should be waived and the case transferred to criminal court.

This decision generally centers around the issue of whether the juvenile is amenable to treatment in the juvenile justice system. The prosecution may argue that the juvenile has been adjudicated several times previously and that interventions ordered by the juvenile court have not kept the juvenile from committing subsequent criminal acts. The prosecutor may argue that the crime is so serious that the juvenile court is unlikely to be able to intervene for the time period necessary to rehabilitate the youth.

If the judge agrees that the case should be transferred to criminal court, juvenile court jurisdiction over the matter is waived and the case is filed in criminal court. If the judge does not approve the waiver request, an adjudicatory hearing is scheduled in juvenile court.

Between the adjudication decision and the disposition hearing, an investigation report is prepared by probation staff

Once the juvenile is adjudicated delinquent, a disposition plan is developed. To prepare this plan, probation staff develop a detailed understanding of the youth and assess available support systems and programs. To assist in preparation of disposition recommendations, the court may order psychological evaluations, diagnostic tests, or a period of confinement in a diagnostic facility.

- Giving Californians the opportunity to allocate a larger portion of their tax dollars to protecting themselves, their families and their neighborhoods through an initiative called Citizens' Option for Public Safety (COPS). Under this initiative, California taxpayers would be given the option to dedicate one percent of their personal income tax liability for local law enforcement agencies simply by checking a box on their state income tax forms. This would not add to anyone's tax liability, but would set aside a projected $150 million in revenue, which would then be placed in trust funds to be utilized according to local needs and priorities. Additionally, state legislation would be enacted to ensure that these new resources do not replace any existing funding for public safety.

OVERHAULING THE JUVENILE JUSTICE SYSTEM

Governor Wilson is proposing to overhaul the state juvenile justice system based on the recommendations of the California Council on Criminal Justice so that juveniles who commit crimes will understand that there are consequences for their actions. His proposals include:

- **Limiting each juvenile offender to no more than one grant of probation for a serious or violent offense.**

- **Giving district attorneys the discretion to prosecute in adult courts anybody over 14 who is charged with the use of a gun during the commission of a crime or charged with specified aggravated or violent crimes.**

- **Prohibiting court-appointed referees from presiding over hearings to determine if juvenile offenders are eligible for trial in adult court.** Currently unelected and unaccountable referees, rather than judges, are given the authority to make the important determination of whether a juvenile should stand trial in a juvenile court or an adult court.

- **Providing a tangible, increased consequence for each contact a juvenile has with the California justice system.** At a minimum, courts would require specified juveniles to perform 40 hours of community service within 60 days, and delay or suspend driving privileges for a period of one year.

- **Eliminating confidentiality protections currently applicable to juvenile offenders.** This would let law enforcement and education officials as well as community leaders share information about juvenile offenders so steps can be taken to prevent them from reoffending. This would also make it easier for law enforcement to investigate juvenile crime by making records readily available to all law enforcement agencies throughout the state. Specifically, the Governor's package includes:

  - Prohibiting courts from sealing or destroying the records of any juvenile convicted of a serious or violent offense. Under current law, even if someone was convicted of a homicide as a juvenile, his or her records are sealed. This can hamper later investigations that might occur if these juvenile offenders later go on to commit crimes as adults.

GOVERNOR PETE WILSON

1996 State of the State Address

OVERHAULING THE JUVENILE JUSTICE SYSTEM

I. The Problem

In January 1995, Governor Wilson directed the California Council on Criminal Justice to review the problem of juvenile gun-violence in California. In its October report to Governor Wilson, the Council found that the "empirical data and anecdotal evidence all show that juvenile violent crime, especially violent gun crimes, are increasing at an alarming rate." In 1985, for instance, just 7.6 percent (532) of the California Youth Authority's (CYA) ward population had murder convictions. By 1994, however, more than 13.9 percent (1,288) of the CYA population had been found responsible for killing another human being. In fact, juvenile violence has become so prevalent in our state that, during 1993, nearly one in five of the juveniles arrested for homicide nationwide were arrested in California. (United States Department of Justice, September 1995)

Compounding and, to some extent, explaining this disturbing trend is California's recent eruption in gang activity. As a report from the USC California Policy Choices study on urban street gangs concludes, "Gang culture has sprung up in most California cities, giving the state what may be the highest level of gang affiliation and gang-related violence in the country." In Los Angeles alone, there were 800 gang-related murders in 1994, a fourfold increase from 1984.

Although overall crime rates have dropped significantly throughout California in the past two years, statistics indicating an increase in juvenile crime combined with data predicting a substantial surge in the size of the state's male juvenile population have led experts to warn of an even more serious explosion in juvenile violence in the year ahead.

II. The Governor's Proposal

To address rapidly escalating rates of juvenile crime, Governor Wilson has proposed directing more resources to local law enforcement; overhauling the juvenile justice system to hold young offenders accountable for their actions while still giving them the chance to change; targeting gun violence among minors; and implementing tough measures to combat gangs.

CITIZENS' OPTION FOR PUBLIC SAFETY (COPS)

Although California has many of the toughest crime laws in the country, some communities lack the resources they need to enforce our state laws effectively. In Los Angeles, for instance, gang members outnumber police officers nearly 6 to 1 and, according to a recent article in *Atlantic Monthly*, the average cop now on the beat encounters 11 times more violent crime than cops in the 1960s. Governor Wilson proposes:

ZERO TOLERANCE FOR GUNS

Guns are used in 80 percent of all homicides committed by juveniles. In an effort to control juvenile crimes involving guns, Governor Wilson has acted on the recommendation of the California Council on Criminal Justice and proposed:

- **Requiring mandatory detainment of any juvenile who unlawfully uses or possesses a gun, until he or she can be taken before a judge.**
- **Increasing penalties for licensed federal firearms dealers who sell firearms to a minor.** Under current law it is not a felony to knowingly sell a firearm to a juvenile.
- **Eliminating probation as an option for juveniles found to have used a firearm during the commission of a violent crime.**
- **Requiring searches as a mandatory condition of parole or probation.** Currently the court and the Youthful Offender Parole Board may impose special conditions of parole, such as warrantless searches, but in many instances jeopardize public safety by releasing juvenile offenders without doing so.

CRACKING THE CULTURE OF GANGS

The Governor has successfully championed increased penalties for dangerous gang activity, which not only results in violent crime but also makes innocent people hostages to fear and corrodes the values of minors in affected communities. This year, Governor Wilson has proposed:

- **Establishing a $2.5 million Gang Civil Injunction Fund** to provide grants to local prosecutors to underwrite the costs of obtaining and enforcing additional injunctions against named gang members and specified gang activities. These injunctions have been used effectively to prohibit certain gang members from engaging in activities typically associated with gang activity such as: carrying a dangerous weapon, using a vehicle to store or transport firearms or narcotics, standing on a roof of any building, and using a pager or whistle as a signal of approaching law enforcement. These funds will underwrite injunctions against an estimated 1,000 gang members.
- **Reauthorizing and improving the Street Terrorism Enforcement and Prevention Act** to make it less difficult for prosecutors to gain convictions and seize assets. It would also expand the legal definition of a street gang and gang-related offenses, and toughen penalties for felonies committed by criminal street gangs. The STEP Act, as it is known, also gives communities the right to evict tenants who use buildings for criminal gang activities and allows buildings owned by gang members to be closed if they are nuisances.
- **Providing additional funding for effective anti-gang programs in the California Youth Authority.** The programs include: identifying and counseling wards who are gang members,

- Requiring law enforcement officials to release the name of a minor 14 years of age or older who is arrested for a serious or violent offense. This is similar to the confidentiality provision in that it would allow law enforcement to inform those local officials who, in order to protect the public, need to know about a juvenile's criminal record.

- Increasing funding for the California Youth Authority and county juvenile camps. By increasing the funding for these programs — $33 million to help fund county camps, $150 million in new bond funds to expand county facilities, and $150 million for additional beds in the CYA — the Governor will ensure that the necessary resources are available to house juveniles convicted of serious or violent offenses.

PREVENTING JUVENILE CRIME

Although Governor Wilson has signed some of the toughest laws in the nation to punish criminals, he also recognizes the value of programs that help prevent crime and offer young offenders the chance to change without coddling them. In an effort to deter and prevent juvenile crime, Governor Wilson has proposed the following:

- **Reducing barriers to the formation of structured programs emphasizing individual responsibility, literacy, work and physical fitness.** This would give courts places to send young offenders, in addition to the CYA and county juvenile facilities.

- **Underwriting a pilot program to develop 20 all-male and all-female magnet schools for grades K-12.** The success of these programs in a number of cities throughout the nation indicates that they can make a positive difference in the lives of boys and girls growing up in difficult circumstances by providing strong role models, a supportive environment and constructive camaraderie.

- **Expanding the mentoring programs at the California Youth Authority.** By expanding programs such as Young Men As Fathers and other mentoring programs, the Governor is reiterating his commitment to finding ways to help kids who need it.

- Forced parents to assume responsibility for the criminal behavior of their children by signing into law legislation (SB 302, McCorquodale) that holds parents jointly accountable with their kids for the costs of cleaning up graffiti.

- Kept handguns out of the hands of minors by signing legislation (AB 2470, Rainey) that prohibits a juvenile from possessing a concealable firearm without the supervision or written permission of a parent or guardian.

- Protected communities from resident criminals by signing into law legislation (AB 3309, Takasugi) that allows the name of a juvenile offender 14 years or older who has committed a serious or violent crime to be disclosed to the public.

IV. Facts and Examples

- The California Attorney General reported that the number of juvenile arrests as a proportion of total arrests increased more than 25% – from 12.1 percent to 15.6 percent – between 1989 and 1994.

- Nine out of ten young wards in the CYA today will eventually be arrested as an adult.

- According to the California Department of Justice, the total number of juvenile arrests increased by more than 11,000 between 1991 and 1994, surging from 245,310 to 257,829 in just four years.

- Juveniles accounted for 18.3 percent of homicide arrests and 13.9 percent of forcible rape arrests in California in 1994.

- According to the California Department of Justice, there will be roughly a quarter of a million gang members in the state by the end of this decade.

- Crimes committed by street gangs cost the state an estimated $1 billion a year, a USC study found.

- Medical costs pertaining to gang-related violence in Los Angeles County alone reached $231 million in 1993.

- Governor Wilson's COPS proposal will generate enough money to support more than 2,000 additional officers in its first year. The following is an estimated breakdown of how much additional funding each county can expect in 1997.

COUNTY	COPS FUNDING ($ IN THOUSANDS)	COUNTY	COPS FUNDING ($ IN THOUSANDS)

Governor's Office of Public Affairs *1/8/96* *Page 6 of 7*

ALAMEDA
ALPINE
AMADOR
BUTTE
CALAVERAS
COLUSA
CONTRA COSTA
DEL NORTE
EL DORADO
FRESNO
GLENN
HUMBOLDT
IMPERIAL
INYO
KERN
KINGS
LAKE
LASSEN
LOS ANGELES
MADERA
MARIN
MARIPOSA
MENDOCINO
MERCED
MODOC
MONO
MONTEREY
NAPA
NEVADA

(Based on each county's s

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Governor's Office of P

tracking cases of gang members who were deported by the INS, enhancing supervisi paroled gang members, and providing free removal of visible gang-affiliated tattoos.

- **Providing funding to supplement curfew enforcement strategies in the 11 count currently participating in the state's Gang Violence Suppression Program.**

III. The Wilson Administration's Record

Governor Wilson has long believed that the most important responsibility of government protect public safety and has made law enforcement a top priority since he was first electe 1991. The following are highlights of his five years of fighting crime in California:

- **Expanded the death penalty** to include drive-by shooters (SB 9, Ayala) and carjacke 32, Peace) who kill.

- **Cracked down on gangs** by making the coercion of minors into criminal street gang a a felony (AB 514, Gotch), expanding the list of crimes that constitute gang activity (SI McCorquodale), and authorizing local school district governing boards to prohibit stuc from wearing gang-related clothing (AB 908, Allen).

- **Made schools safe for learning** by signing into law two bills (SB 966, Johnston and A Friedman) that mandate the expulsion of kids who bring weapons or drugs to school ar require those kids be sent to alternative programs not on the school grounds. The Gove also signed legislation that requires the court to provide the superintendent of the relev school district written notice when a student is convicted of a felony or certain misdem (AB 3053, Connolly).

- **Fought to provide more resources for local law enforcement** by supporting Proposit 172 in the 1993 special election, making numerous appearances on behalf of the initiativ donating thousands of his own campaign dollars to the cause. Proposition 172 ultimatel passed with 58% of the vote.

- **Got tough with juvenile offenders** by signing into law legislation that reduces to 14 th at which juveniles accused of a violent or serious offense can be tried as adults (SB 560, Peace); legislation that allows a juvenile convicted of a serious offense to be committed t adult correctional system (SB 23X, Leonard); and legislation that prevents the court fror sealing a juvenile court record if the defendant was tried as an adult (AB 234, Harvey).

- **Established the first highly structured "boot camps"** in the California Youth Autho by signing into law SB 676 (Presley) in 1992 and, a year later, expanded the state's juven "boot camp" program by signing SB 242 (Presley).

COMBATTING JUVENILE CRIME:

WHAT THE PUBLIC REALLY WANTS

CENTER FOR THE STUDY OF
Youth Policy

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The University of Michigan

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COMBATTING JUVENILE CRIME: WHAT THE PUBLIC REALLY WANTS

Ira M. Schwartz
John Johnson Kerbs
Danielle M. Hogston
Cindy L. Guillean

April, 1992

FOREWORD

'tis the season for public opinion polls. Pollsters are busy surveying voter preferences and attitudes on virtually every topic imaginable. Voters are being asked about political candidates, Congresspersons who bounce checks, the S&L scandal, whether the U.S. should give financial aid to Russia and what to do about the crisis in health care.

This booklet reports findings from yet another public opinion survey -- PUBLIC ATTITUDES TOWARD JUVENILE CRIME AND JUVENILE JUSTICE. To the best of our knowledge, this is the first comprehensive national public opinion survey on the topic. It includes information on such issues as public perceptions of the juvenile crime problem, how taxpayers want their juvenile crime fighting dollars spent, whether juveniles who commit serious crimes (felonies) should be tried in the juvenile or adult criminal courts and whether juvenile law violators should receive the same punishments as adults. This poll was conducted by the Survey Research Center at the University of Michigan's Institute for Social Research. The findings have a 3% to 4% major of error. Appendix A includes more detailed information about the survey and how it was conducted.

Elected public officials, juvenile justice and child welfare professionals, child advocates, public interest gorups and the media should find results from this survey interesting. The findings have important implications for public policy as well as debates on such critical issues as the future of the juvenile court.

The authors would like to thank Dr. William Barton for overseeing the data collection process and Dr. Shenyang Guo for doing the computer runs.

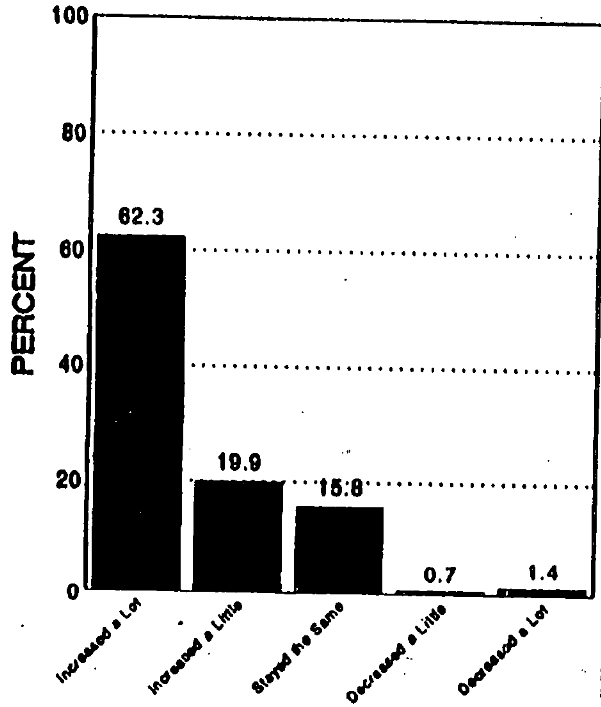
The Annie E. Casey Foundation provided financial support for the survey and this publication. We want to thank the Foundation for their interest in juvenile justice and in providing decisionmakers with policy relevant data.

Ira M. Schwartz
April, 1992

MAJOR FINDINGS

- Citizens believe serious juvenile crime has increased in their states.
- The public does not feel that serious juvenile crime has increased in their neighborhoods, nor are they afraid to walk alone within one mile of their homes at night.
- The public feels the main purpose of the juvenile court should be to rehabilitate young law violators.
- Citizens believe juveniles should receive the same due process protections as adults.
- Depending upon the crime, 50% to almost 70% of the public favor trying juveniles who commit serious crimes (felonies) in adult courts.
- The public does not favor giving juveniles the same sentences as adults, nor do most citizens support sentencing juveniles to adult prisons.
- If given the option, the public would strongly favor a youth correction system that largely emphasizes the use of community-based treatment programs.
- The public prefers spending state juvenile crime control funds on community-based programs as compared to training schools and other residential services.
- The public does not feel that training schools are particularly effective in rehabilitating delinquents or acting as a deterrent to juvenile crime.
- The public feels juveniles who commit serious violent crimes should be committed to some type of youth correctional facility.
- The public feels juveniles found guilty of using drugs or selling small amounts of drugs should receive more lenient sentences than those convicted of selling large amounts of drugs.
- Citizens believe juveniles who are repeat offenders should receive harsher sentences than first time offenders.

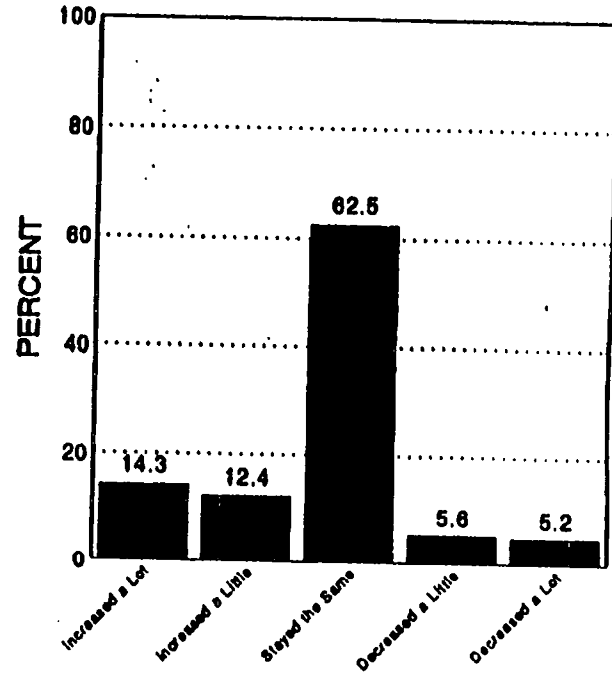
FIGURE 1*



In the last three years, there has been a change in the amount of serious crime committed in my state by 10 to 17 year olds.

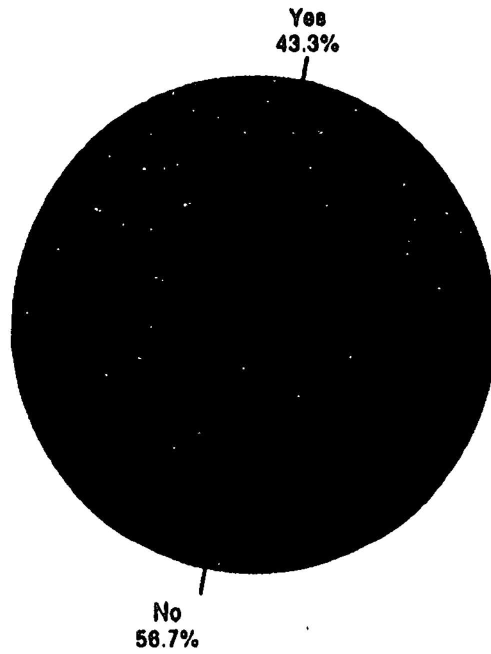
* Due to rounding, percentages may not add up to 100%.

FIGURE 2



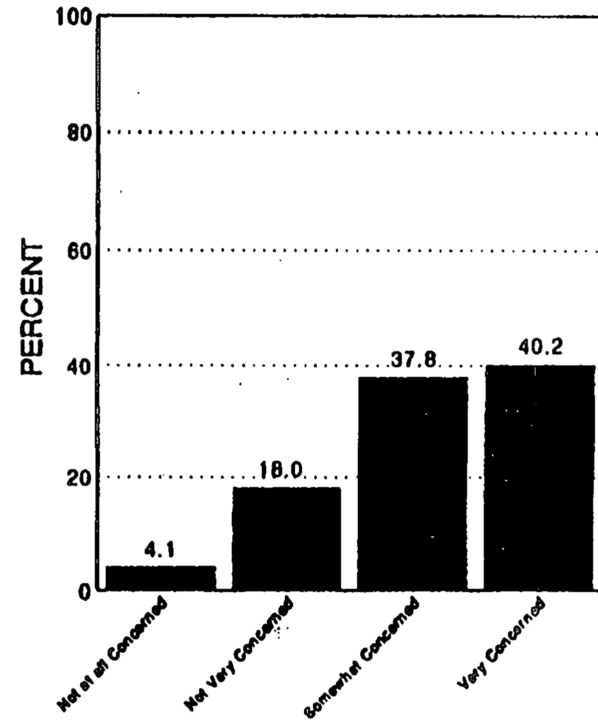
In the last three years, there has been a change in the amount of serious crime committed in my neighborhood by 10 to 17 year olds.

FIGURE 3



There is an area within a mile of my home where I would be afraid to walk alone at night.

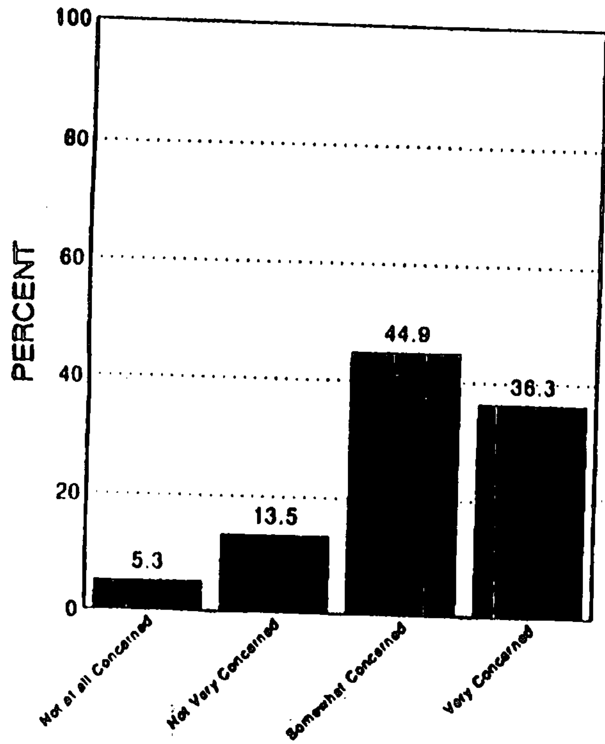
FIGURE 4*



I am concerned about becoming the victim of serious violent crime.

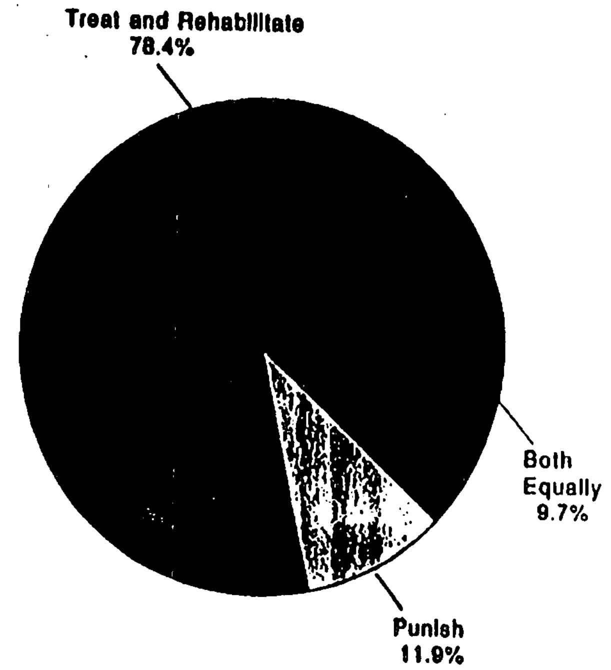
* Due to rounding, percentages may not add up to 100%.

FIGURE 5



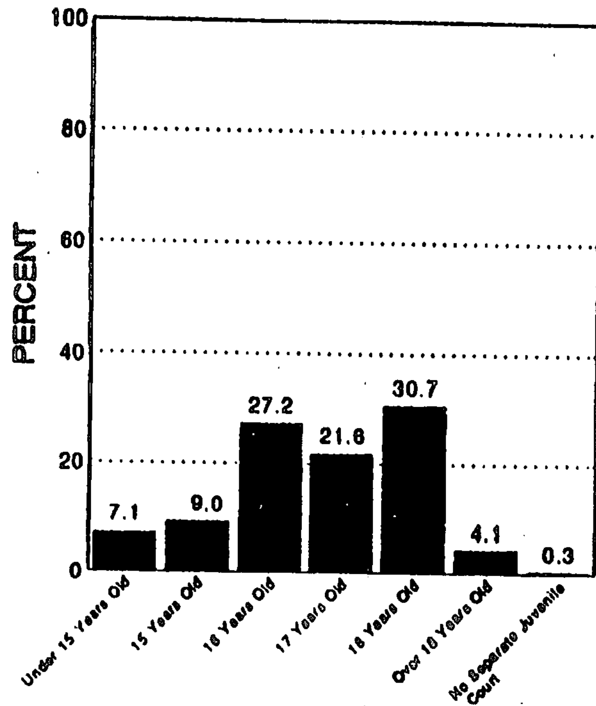
I am concerned about becoming the victim of serious property crime.

FIGURE 6



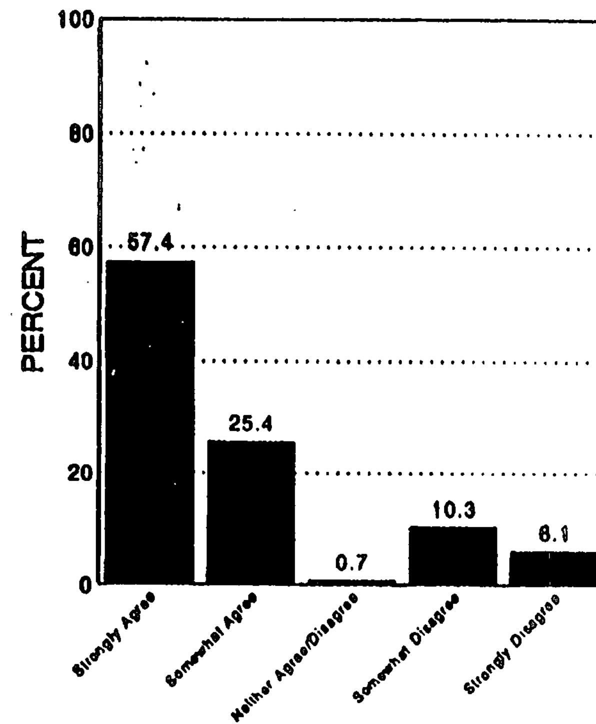
The main purpose of the juvenile court system should be either to treat and rehabilitate young offenders or to punish them.

FIGURE 7



At what age should a person accused of a crime be tried in an adult criminal court rather than a juvenile court?

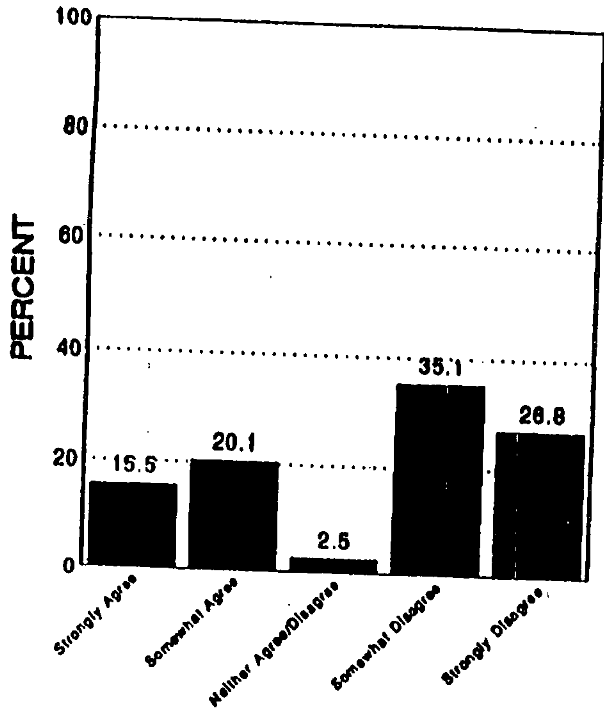
FIGURE 8*



A juvenile accused of a crime should receive the same due process as an adult.

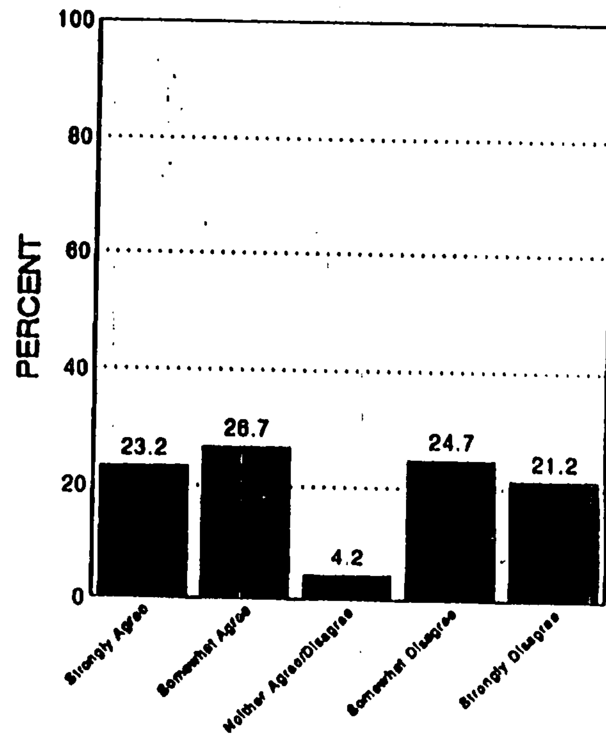
* Due to rounding, percentages may not add up to 100%.

FIGURE 9



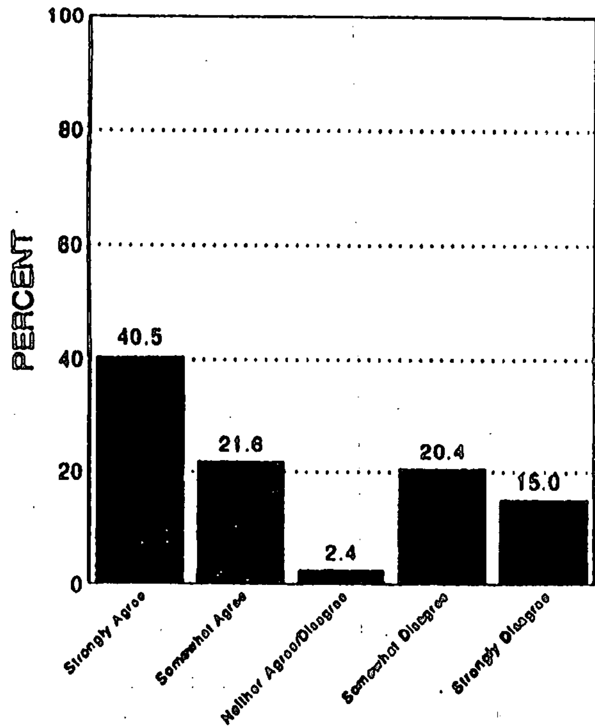
A juvenile convicted of a crime should receive the same sentence as an adult, no matter what the crime.

FIGURE 10



A juvenile charged with a serious property crime should be tried as an adult.

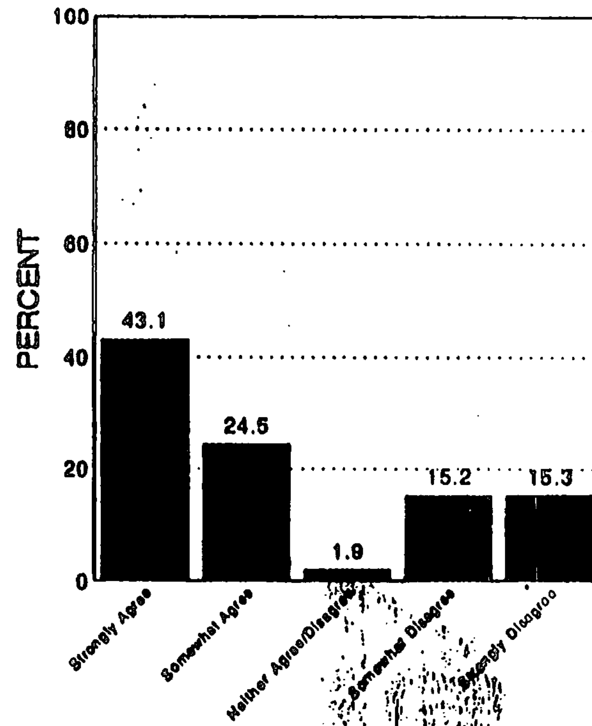
FIGURE 11*



A juvenile charged with selling large amounts of illegal drugs should be tried as an adult.

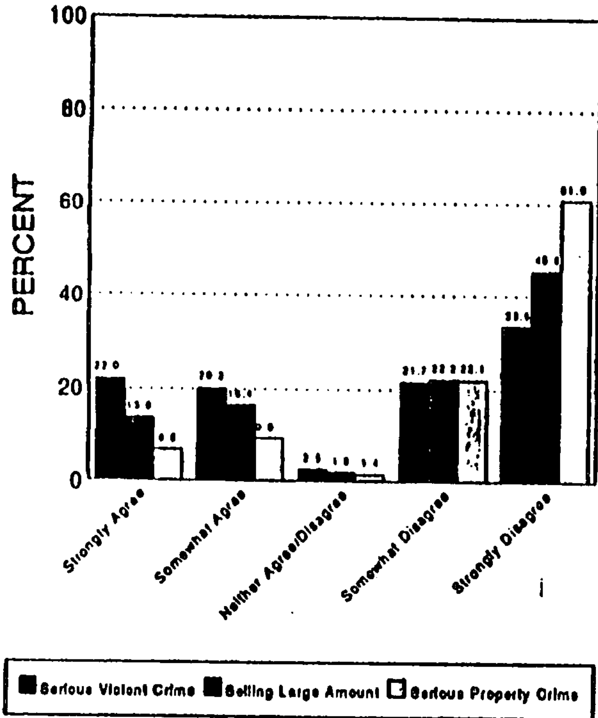
* Due to rounding, percentages may not add up to 100%.

FIGURE 12



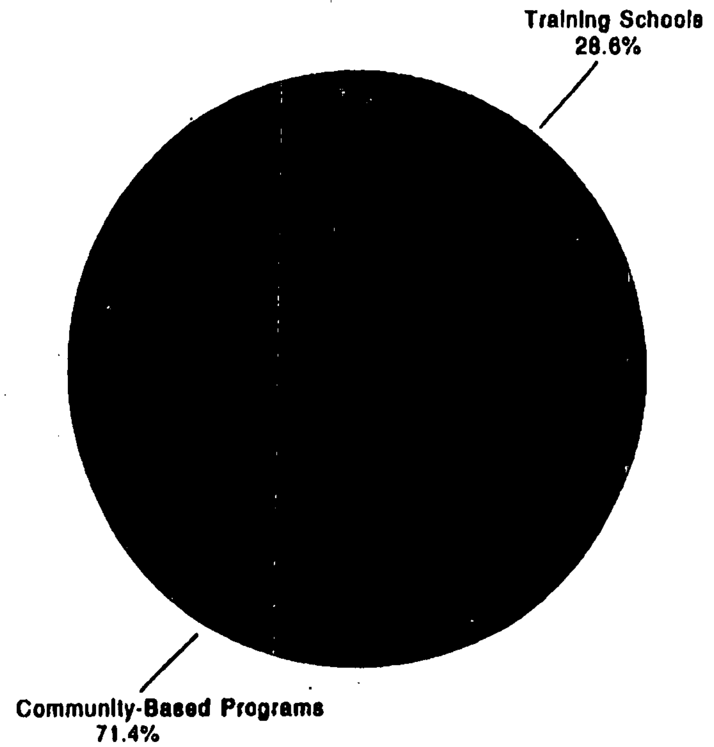
A juvenile charged with a serious violent crime should be tried as an adult.

FIGURE 13



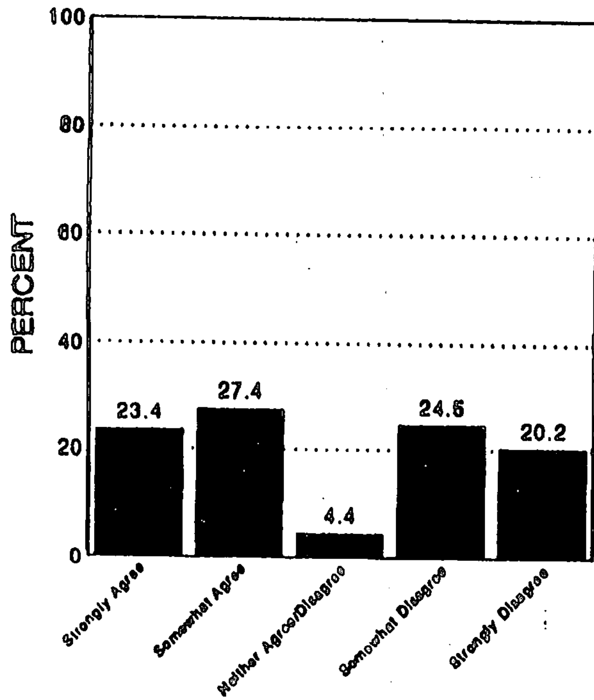
Juveniles should be sent to adult prisons for committing serious violent crimes selling large amounts of drugs, and for committing serious property crimes.

FIGURE 14



Would you favor training schools for many types of juvenile offenders or community-based programs for all but the most violent or serious juvenile offenders?

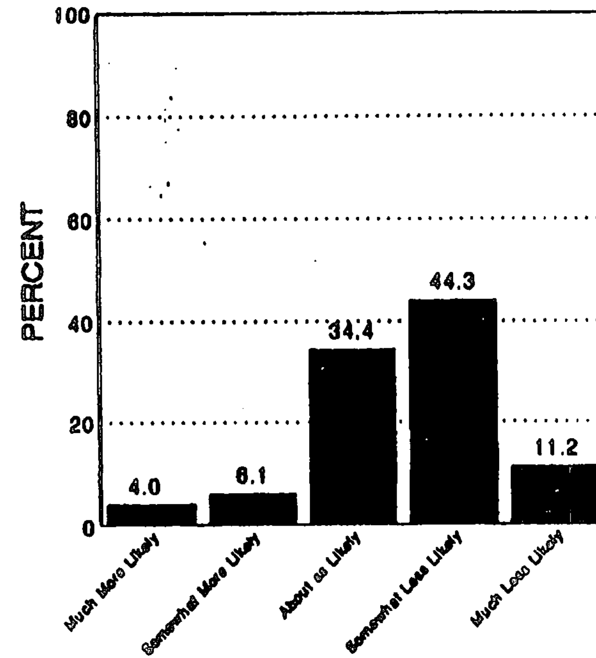
FIGURE 15*



Sending juvenile offenders to training schools discourages other young people from committing crimes.

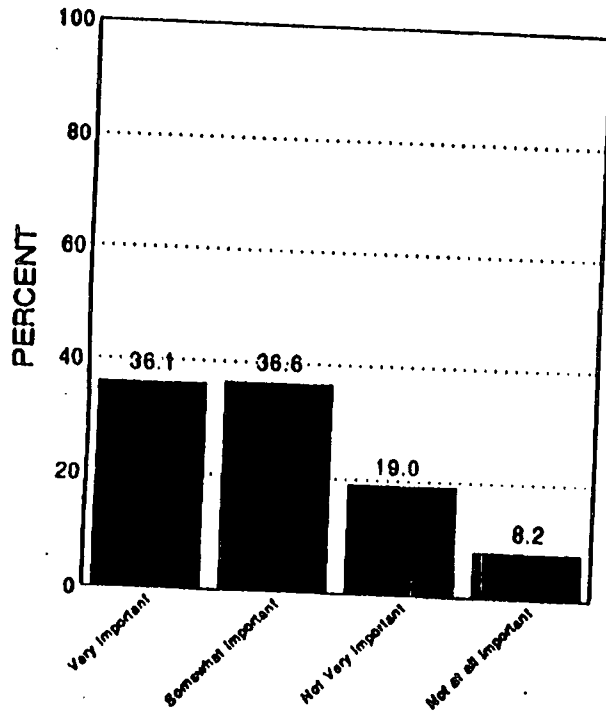
* Due to rounding, percentages may not add up to 100%.

FIGURE 16



Serving time in training schools makes juvenile offenders much more likely, somewhat more likely, about as likely, somewhat less likely, or much less likely to commit crimes again.

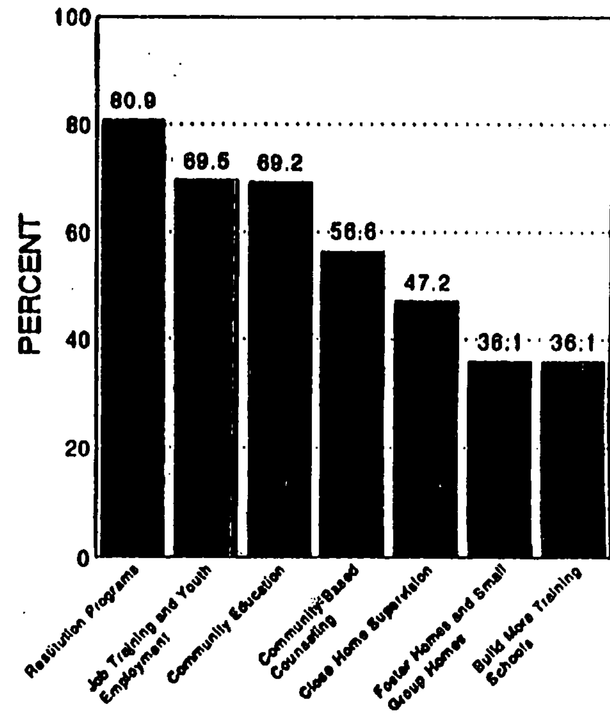
FIGURE 17*



How Important Is it to spend money on building more training schools for confining of juvenile offenders?

* Due to rounding, percentages may not add up to 100%.

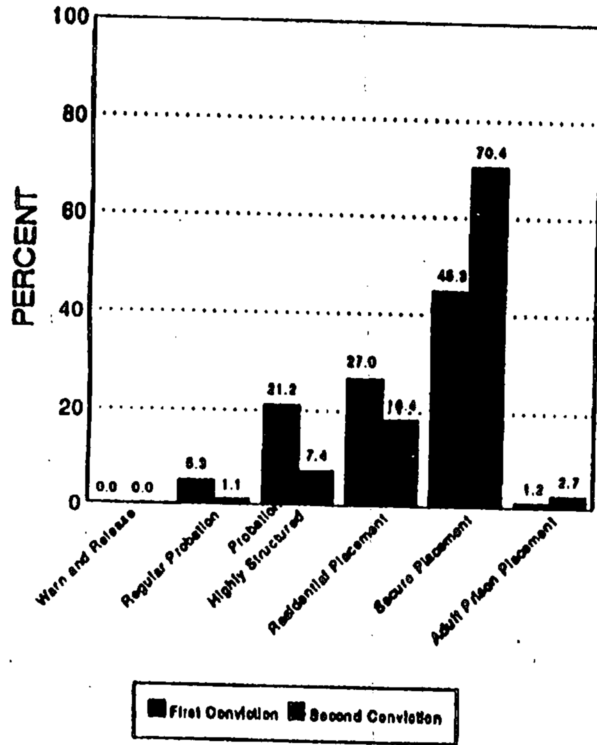
FIGURE 18*



How Important* is it to spend money from the state's juvenile crime budget on the items listed above?

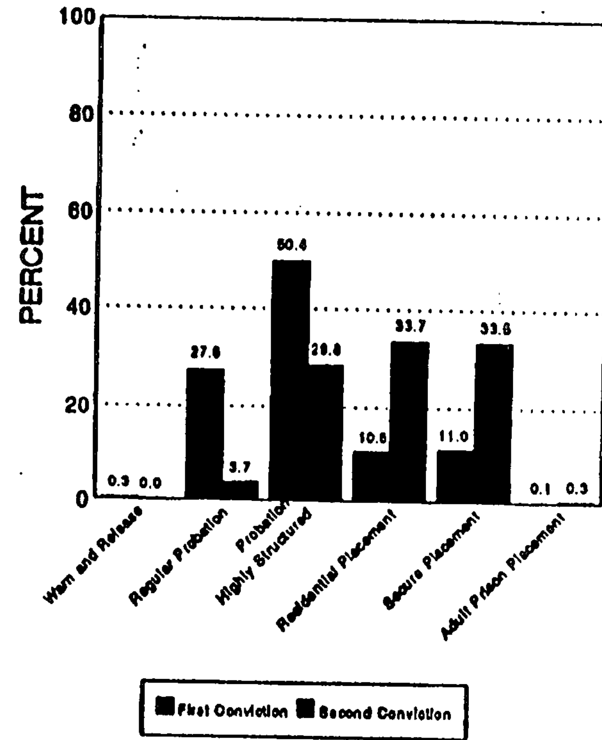
* This graph depicts the percentages of respondents who think it would be "very important" to fund each of the options above.

FIGURE 19



What is an appropriate way to deal with juveniles found guilty of a serious violent crime for the first and second time?

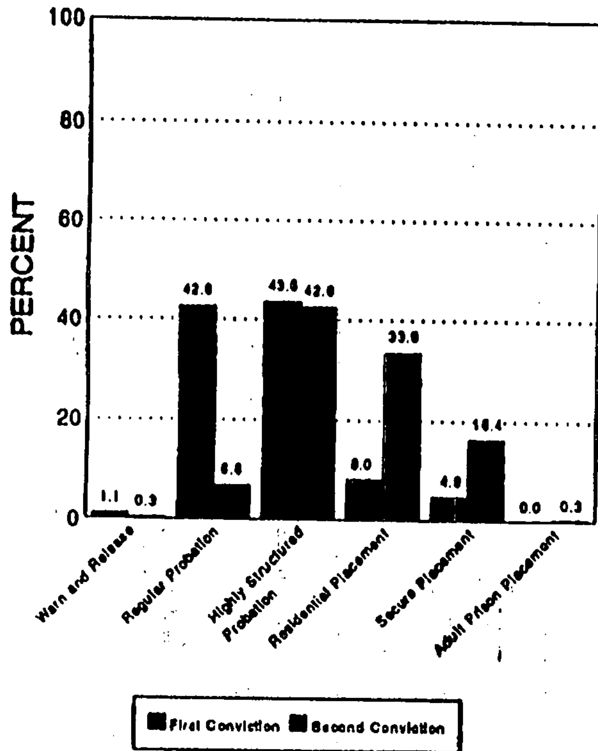
FIGURE 20*



What is an appropriate way to deal with juveniles found guilty of a serious property crime for the first and the second time?

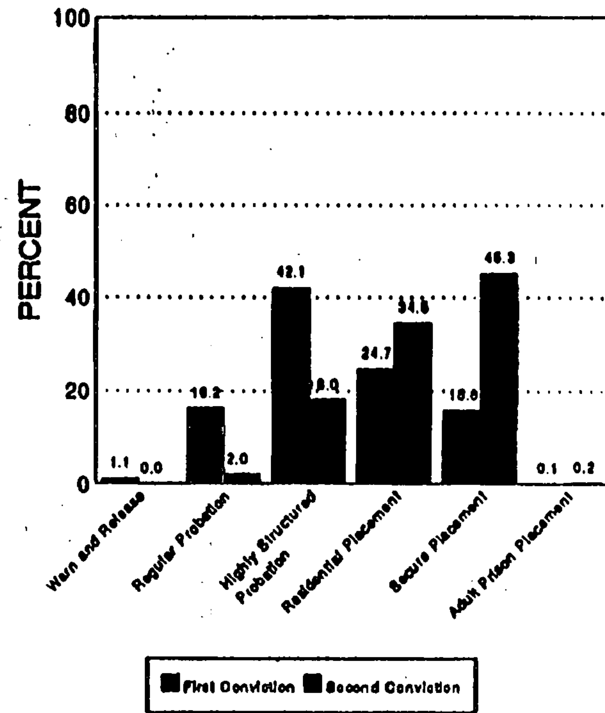
* Due to rounding, percentages may not add up to 100%.

FIGURE 21



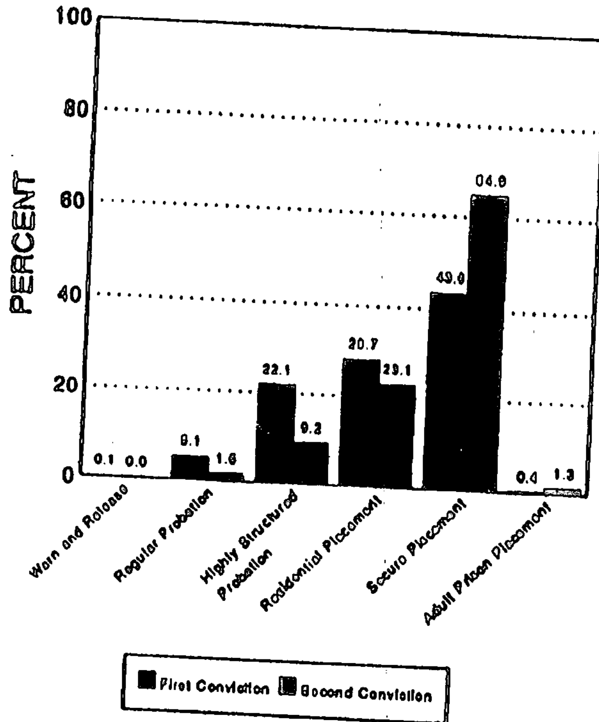
What is an appropriate way to deal with juveniles found guilty of using, but not selling, illegal drugs for the first and the second time?

FIGURE 22



What is an appropriate way to deal with juveniles found guilty of selling small amounts of illegal drugs for the first and the second time?

FIGURE 23



What is an appropriate way to deal with juveniles found guilty of selling large amounts of illegal drugs for the first and second time?

ISSUES AND IMPLICATIONS

As stated earlier, this publication reports findings from the first comprehensive public opinion survey on public attitudes toward juvenile crime and juvenile justice. These findings have important policy implications and, at the same time, raise questions that need to be explored further. For example:

1. The overwhelming majority of respondents want the juvenile court to retain its traditional focus on treatment and rehabilitation not punishment. However, at least half of the respondents, depending upon the type of crime, want juveniles accused of felonies tried in the adult criminal court. There are a number of plausible explanations for this. The public, largely because juvenile court proceedings are closed to citizens and the media in most jurisdictions, may be unaware of what really goes on in juvenile courts and the seriousness of many cases juvenile court judges deal with. Because of publicity surrounding the waiving of selected juvenile cases to adult courts, the public may think the criminal courts are where serious juvenile cases are handled. Also, many citizens may simply feel the juvenile courts should not process serious cases of juvenile delinquency. In any event, the fact that a large proportion of the public favor trying juvenile felony cases in adult criminal courts raises serious questions about the future of the juvenile court handling delinquency matters.

2. While the public favors giving juveniles the same due process protections accorded adults and trying juvenile felony cases in adult criminal courts, the public does not favor giving juveniles the same sentences as adults nor do they favor sentencing juveniles to adult prisons. This suggests the public separates the legal processing of juveniles from the dispositions or sentences they should receive. This also suggests that citizens strongly prefer that correctional interventions targeted toward young people be carried out and delivered through a youth correction system.

3. If given a choice, most citizens would support a youth correction system that largely relies on community-based programs as compared to training schools. In addition, the public feels that it is far more important to spend juvenile crime fighting dollars on community-based programs as

compared to training schools and other residential services.

4. The public feels that first time juvenile offenders should receive more lenient sentences than those found guilty of a second offense. While this makes perfect sense, it also raises the question of what the public really knows about the delinquents typically referred to the juvenile courts. Many, if not most, delinquents referred to the juvenile courts are not first time offenders. Many of these youth are well known to the police and the juvenile courts. This suggests the need to educate the public about the youth referred to the juvenile courts and the appropriate use of correctional interventions.

Finally, a more detailed analysis of the survey findings indicates that respondents who are quite fearful of being the victim of a serious violent crime are likely to have more punitive attitudes toward delinquents (Schwartz, Guo, & Kerbs, In Press). This suggests that we might expect to see more support for such measures as trying juveniles in the adult courts and giving juveniles more adult like sentences, including imprisonment, unless the problem of violence in our society is adequately addressed.

GLOSSARY

<u>Adult Criminal Court</u>: This court almost exclusively deals with adults. In all states, juveniles can be tried in adult criminal courts under certain circumstances. For example, some states permit adult criminal court prosecution for specific charges such as murder and rape.

<u>Community-Based Programs</u>: Programs that maintain juvenile delinquents in the community. They include close supervision, repayment to the victim or community (i.e., restitution programs), special education and job training, treatment and counseling services (e.g., substance abuse programs), and special foster homes or small group homes.

<u>Due Process</u>: The right to an attorney, the right to be told what one is charged with, the right to be present for court proceedings, and the right to cross examine witnesses.

<u>Highly Structured Probation</u>: The juvenile is placed on a special caseload with a small number of other youths. Also, the juvenile is supervised closely in the community by a specially trained probation officer.

<u>Juvenile Court</u>: A special court for young offenders. In most states, juvenile courts handle offenders who are 17 years old or younger. In some states, however, the upper age limit is 15 or 16.

<u>Serious Property Crime</u>: Burglary, auto theft, larceny, and arson.

<u>Serious Violent Crime</u>: Murder, rape, armed robbery, and aggravated assault.

<u>Training Schools</u>: Publicly operated correctional institutions for confining juvenile offenders.

BIBLIOGRAPHY

Schwartz, I.M., Guo, S., & Kerbs, J.J. (In Press). Public attitudes toward juvenile crime and juvenile justice: Implications for public policy. Hamline Journal of Public Law and Policy. 13,2.

APPENDIX A*

All telephone interviews were conducted between August and September of 1991. Approximately half the sample was taken from a national frame (excluding Alaska and Hawaii) of 1,200 listed household telephone numbers which was purchased from Survey Sampling Incorporated (a survey research firm located in Fairfield, Connecticut). Although the Survey Sampling frame was continually updated using a 1-in-6 sample of all listed household numbers, it did not provide perfect coverage of all listings due to: 1) new listings created after the frame was generated; and 2) other causes. This frame did not encompass all listed numbers at any one time. The lack of perfect coverage (which affected the probability of selection) was taken into consideration when sample weights were computed. All numbers not caught by this sampling frame were considered "unlisted" for purposes of weighting.

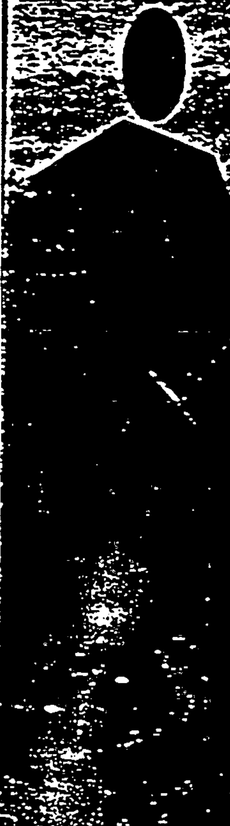
The other sample half was generated using a random digit dialing (RDD) procedure. An equal probability sample of random numbers was generated using a version of the "PPS-to-listed counts" two-stage RDD design which James Lepkowski of the Survey Research Center has been researching. This design has several advantages over the traditional two-stage RDD design which involves primary number screening: (1) The cost of primary number screening is eliminated; and (2) The procedure for handling RDD cases in the telephone facility is simplified. No replacement procedure for non-working numbers is needed. The RDD cases can be handled in the same way as list cases. There is one disadvantage of this design compared to the design which uses primary numbers. In the "PPS-to-listed counts" design, unlisted numbers in a hundred series which had no listed numbers do not have a chance of selection. This type of occurrence is probably unusual and a very minor coverage problem.

Analysis weights incorporated sampling weights (inverse of the probability of selection), a post-stratification factor, and a constant to adjust the weighted total to the number of sample cases (1000). The margin of error for this study is approximately 3 - 4%.

* Taken from Schwartz, Guo, and Kerbs (1992, pps.11-13). Originally, information from Kirsten H. Alcser, Judy H. Connor, & Steve G. Heeringa, National Study of Attitudes Toward Juvenile Crime: Final Report (1991) (unpublished report, on file with the *Center for the Study of Youth Policy*).

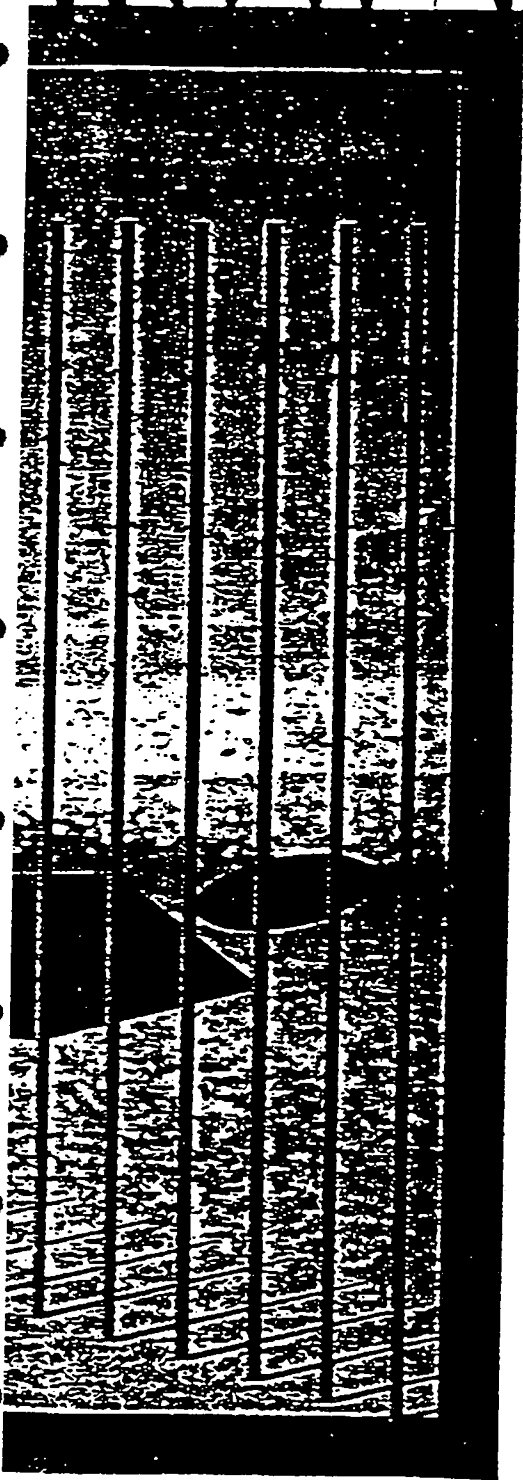
JUVENILE CRIME

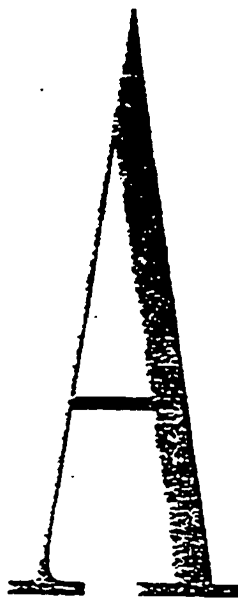
Fear has driven a lot of legislatures to rethink the way they're treating juvenile offenders, and there's little agreement about what works.



ROWN UP TIME

BY DONNA HUNZEKER





re most state juvenile justice systems as out-of-date as bell bottoms and sideburns? Today's young offender is likely to be depicted as a gun-toting, nothing-to-lose, vicious predator. Almost gone is the Boys Town image of juvenile corrections, guiding wayward youth onto the right path. Taking its place are policies that say: If you're old enough to do the crime, you're old enough to do the time.

The public is alarmed by—and afraid of—the increasing number and violence of crimes committed by juveniles. There's some justification. FBI arrest rates for youthful violent offenders nearly doubled between 1982 and 1992 while increasing by only 27 percent for those over 18. Property crimes committed by juveniles were up just 3 percent, however, while dropping slightly for older offenders. And in 20 years, the proportion of crime committed by juveniles has increased only a little.

Donna Hunzeker is NCSL's criminal justice expert.

Drugs + Guns = Youth Violence

REINVENTING JUSTICE

Even so, youth crime and violence has spurred a full-fledged movement in the states to reinvent juvenile justice and to hold accountable serious, violent young offenders. Increasingly, that means treating them like adult criminals. Legislatures in nearly half of the states last year passed new provisions giving adult courts jurisdiction over crimes committed by juveniles. Other new measures have made substantial changes in policies for fingerprinting juveniles or for lifting what traditionally has been a veil of confidentiality surrounding juvenile case proceedings or certain records.

"The juvenile crime scene has changed considerably," says Harry Shorstein, state attorney for the Fourth Judicial Circuit in Jacksonville, Fla., contrasting his experience as a local prosecutor in the early 1970s to the cases his office handles today. "We used to deal mostly with kids breaking street lights and the like, and now routinely see rape and robbery." Shorstein says the system, likewise, needs to respond differently than it did 20 years ago. But others caution against turning juvenile justice on its ear.

"We're making fundamental changes in juvenile justice based on a few cases," says Barry Krisberg, president of the National Council on Crime and Delinquency in San Francisco. He and other youth experts express concern that the wave of get-tough policy is based on panic, perpetuated by the media, that youth violence is out of control and that we don't have any other answers. The juvenile justice system's traditional mission of providing individual intervention for young offenders is being eroded, observers like Krisberg say, because of this fear and frustration over crime.

The increase in violent crime among teenagers can be explained in two words: drugs and guns, says Alfred Blumstein. He is a professor with the H. John Heinz III School of Public Policy and Management at Carnegie Mellon University, Pittsburgh, Pa.

In a forthcoming paper, "Youth Violence, Guns and the Illicit Drug Industry," Blumstein ascribes the boom of the drug industry to the introduction of crack cocaine in the 1980s. He says crack led to many more drug transactions, so traffickers pulled into the business a lot more people from urban, poor, often minority neighborhoods.

"They recruit juveniles, they arm them with guns that are standard tools of the trade in drug markets, and then guns diffuse into the larger community," Blumstein explains.

Violence is a direct and expected result of this growing culture of drugs and guns in urban communities, he said. It becomes commonplace for other teenagers to arm themselves for protection or status. "And I don't have to tell you that kids packing guns is a dangerous, volatile situation," he said.

The drug industry must be brought down, Blumstein theorizes, if many urban communities are to turn around frightening trends in youth violence. "There was great passion to be tough on drug crime during the '80s war on drugs," he said. "But mandatory minimum sentences did almost nothing to affect the drug trade."

Sellers and users caught and jailed are quickly replaced with little impact on the industry. "Incarceration removes crimes from the street only if the crimes leave the street with the offender," Blumstein contends. He proposes:

- Improved enforcement of laws prohibiting young people from having guns. He calls for aggressive action to confiscate guns carried by juveniles on the streets, especially in areas with the highest homicide rates. Blumstein also says that the illegal gun market is flourishing alongside the drug trade, and kids are major consumers.
- Tighten U.S. borders to more effectively reduce the flow of drugs. Blumstein cites estimates that one-third of drugs produced in Latin America are distributed in the states. This will require aggressive, international law enforcement efforts in border states, he says.
- Change asset seizure provisions, moving that money to general funds instead of turning most of it over directly to law enforcement agencies. "Government needs resources for treatment and prevention to help get at the drug culture," he said. Those same funds, going largely unaccounted for to law enforcement agencies, give them little incentive to wipe out major drug markets, according to Blumstein.
- Criminal law alone has proved ineffective in reducing drug use, Blumstein says. He recommends investing in a medical approach to dealing with addicts.

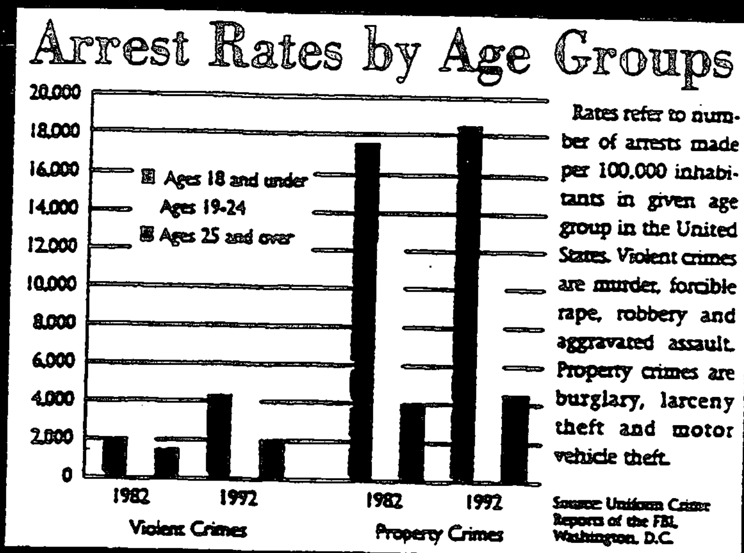
Blumstein's research shows arrest rates for drug crime and homicide among nonwhite youths have followed the same growth curve since the mid-1980s. Other social scientists point to a broader variety of factors including out-of-wedlock births, family dysfunction, media violence and limited economic opportunity as causes of and correlates to youth violence. Most agree, however, on this important prediction: The age distribution of the U.S. population in the coming years will mean more kids committing more violent crimes if we do not now attack root causes.

MORE MURDERS

Alfred Blumstein, who has studied youth violence for the H. John Heinz III School of Public Policy and Management at Carnegie-Mellon University in Pittsburgh, Pa., attributes increases in homicide rates in the late 1980s to a spurt in murders committed by young people ages 15-22, especially young black males. FBI data show murder arrests for that age group up more than 60 percent between 1982 and 1992. Further, Blumstein has documented the fact that murders by young people are more likely to be committed against strangers and with guns, but there is no corresponding trend for non-gun homicides. And, sadly, youth violence frequently claims young people as its victims. Homicide became the second leading cause of death among teenagers, after suicide, in 1992.

"It is clear there has been an attitude change toward the juvenile justice system. It's thought it cannot handle the perceived larger number of serious offenders," says Howard Snyder, director of systems research for the National Center for Juvenile Justice in Pittsburgh. "The pendulum has swung away from rehabilitation of the child and toward community protection."

This shift is seen even in the wording of state juvenile justice codes. Florida, for example, in a major revision of its juvenile justice law in



changed its stated first priority for juvenile offenders who have mitted serious crimes from "best interests of the child" to that of lic safety." The tougher approach can apply to juveniles as young . North Carolina lowered the age of juveniles who can be tried as s to 13, and Oklahoma now can prosecute as adults 13-year-olds sed of murder. Tennessee in 1994 removed the age limit for trying ults juveniles accused of certain serious and violent offenses.

ere are several means by which cases involving juveniles are ferred to adult criminal court, but no composite, national num- of those cases. Most states traditionally have had provisions for icial waiver where a juvenile court judge may waive jurisdiction case, often at the request of prosecution, and transfer it to adult inal court. The U.S. Department of Justice reports that in 1991, juvenile delinquency cases were transferred via judicial waiver, ncrease of 39 percent over 1987. Waivers of drug cases increased percent and offenses against people by 65 percent.

AT BAD KIDS LIKE ADULTS

Increasingly, states are sending juveniles to adult systems under current jurisdiction provisions that give prosecutors discretion to certain cases directly into criminal court. Through "statutory exclu- the legislature can require that certain serious juvenile cases be in adult court instead of having a prosecutor or judge decide how case will be handled. At least 13 states enacted measures in 1994 requiring that certain juvenile cases be handled in adult court. Some were quite specific, like an Indiana law taking certain gang-related offenses out of juvenile court jurisdiction. Other states passed laws that more broadly require adult court handling of juveniles. Kansas, for example, now requires that 16- or 17-year-olds with one prior serious conviction be treated as adults for any subsequent felony charge. Kentucky, Louisiana, Maryland and Washington have broadly expanded required filing of juvenile cases in adult criminal court.

It has been estimated that 5 percent of the more than 2 million juvenile arrests in 1990 were filed directly in criminal courts and that the total number of juvenile cases processed in adult court in 1990 was as high as 200,000.

The host of new laws will send many more juveniles into the adult criminal justice system where, those policies assume, young people will get the harsh treatment a juvenile system cannot provide. But a growing body of evidence suggests that trying juveniles as adults often does not result in tough sentences, but does lessen the chance a young person will get treatment that might diminish future criminality. Further, many experts say the juvenile justice system would be the most appropriate place for the vast majority of youthful offenders if it were retooled and resources allocated better.

"It is absolutely untrue that the juvenile justice system is soft on crime," says Mark Soler, president of the Youth Law Center in Washington, D.C. "What's happening is that too many nonviolent kids tor

whom community placements would be appropriate are being locked up in juvenile detention centers."

APPROPRIATE TREATMENT

Soler says that policies in most states have not reserved secure detention for relatively smaller numbers of violent juvenile offenders. Locking up only the violent and most serious offenders would allow all of the kids in the system to get more appropriate treatment, and there would be ... motivation to send them to the adult system, he says.

"Someone who kills someone in a drive-by shooting should be locked up for a long time. But we're locking up and even sending to the adult system, kids who are property and drug offenders," Soler says. He and other experts say it's a fallacy to believe that the adult system is meting out swift and sure punishment to many of these juveniles.

An action plan for dealing with violent juvenile crime developed by the National Council of Juvenile and Family Court Judges last summer also suggests that treating more juveniles like adults may be misguided. One study, the report says, showed up to half of the juvenile cases sent to adult court being dismissed. Sending a case to adult criminal court does, of course, require that it meet a high standard for sufficiency of evidence, adequacy of witnesses and appropriate due process. Historically, adult criminal courts dismiss many cases for lack of these requirements, while they have a high conviction rate for cases brought.

A recent study by the Pennsylvania Juvenile Court Judge's Commission tracked cases waived to criminal court in 1986. It found that a property crime was the most serious alleged offense in about half of the waived cases, and that while 89 percent of cases resulted in a conviction, two-thirds received jail sentences of two years or less. The Pennsylvania study also suggested that, proportionately, the adult court spent more time on case processing compared to the actual sentence imposed than the juvenile court would have.

An analysis in Florida, a state that historically has waived many kids to adult court, showed nearly 20 percent of those cases were never prosecuted. Conviction rates were high—96 percent—but more than a third did not receive jail or prison sentences. It would seem that was partly due to the increasing number of juvenile cases sent to adult court for property or drug felonies. The Florida analysis also showed only 29 percent of waived cases were for violent felonies, and that the juvenile justice system had not exhausted its resources on many of the youths sent to adult courts.

"We had been fooled into thinking that Florida was tough on juveniles who commit crimes, but found that was just not accurate," says Representative Elvin Martinez, who chairs the House Committee on Criminal Justice. Martinez said most adolescents whose cases were filed as adults were referred back to the juvenile justice system or diverted into adult programs that could not meet their needs. Reform passed in 1994 specifies that cases of habitual and violent juveniles must be filed in adult court. For others, state's attorneys or judges retain discretion. The law also created a "maximum risk" category to make the juvenile system more appropriate for some serious offenders, Martinez said. Those young criminals may be confined to special facilities for treatment and training until they turn 21.

Snyder observes that the trend to send more and more young offenders to the adult system is, in part, a reaction to overcrowded and overstressed juvenile detention systems. Indeed, many states have begun to see the same crowding in juvenile facilities that has plagued adult corrections. Thirty states in one survey reported that juvenile detention

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States are redesigning juvenile justice with "intermediate" or "third systems" designed to handle serious, repeat and violent juvenile offenders with adult punishment while also providing appropriate treatment.

Colorado's "Youthful Offender System" created in 1993 as a part of the adult corrections department is designed to break down gang affiliations and address patterns of thinking that result in youthful criminal behavior and acts of violence. Heavy on treatment, discipline and successful transition back into society, a low staff-to-offender ratio distinguishes the Youthful Offender System from the traditional approach to violent juveniles that often houses them with less serious young offenders or in an adult prison. Courts sentence offenders to the system for a 2- to 6-year commitment that includes community corrections placement and community supervision during the last 6 to 12 months. Youths can have their adult sentences enforced if they commit new crimes or otherwise do not meet program requirements—a strong motivation to do well.

Other states have followed Colorado's lead with intermediate, last-chance systems or facilities as part of adult corrections departments. Wisconsin created the Youthful Offender Program that mandates a 5-year commitment for youths waived to adult system. Juveniles must stay in the program until they are 25 if they commit more serious crimes that would have been felonies punishable by a maximum term of life imprisonment.

Florida has created a boot-camp-style, basic training program for repeat and chronic juvenile offenders who are waived to the adult system. Offenders typically have committed property crimes like robbery or drug offenses. Those who successfully complete the 120-day minimum program will not have to serve their adult sentences and will receive post-release supervision.

North Carolina, also using the boot camp concept, created a labor-intensive, community service IMPACT program for 16- to 25-year-olds sentenced as adults. The program's disciplinary component is supplemented with education and rehabilitation.

Minnesota has created an intermediate system with an "extended jurisdiction juveniles" category that gives young offenders who otherwise would be in the adult system a last chance in the juvenile system. Now youths up to 21 come under the juvenile courts' jurisdiction, similar to a long-time program of the California Youth Authority. Programs are tailored to meet individual needs. If a participant violates the conditions of the stayed sentence, the court may activate the adult sentence without notice.

Arizona and Nebraska are building intermediate facilities to manage the growing number of juveniles sent to the adult system, but they do not give young offenders a last-chance opportunity to suspend their sentences. They will, however, offer skills training and extensive treatment.

In Arizona, the new facilities will house juveniles until age 18 when they are transferred to adult prisons. Nebraska's program will keep them until they are 19.

—Alan Karpelowitz, NCSL

s have been overcrowded for the past 10 years, most typically ing in 1985. "We're building more facilities despite the fact that ids in detention are not serious or violent offenders," Snyder said. ent study by the National Council on Crime and Delinquency d that less than 14 percent of incarcerated youths in 28 state le corrections systems had committed serious, violent crimes. han half of them had committed property and drug crimes and a state institution for the first time. A similar study, also by , estimated that a third of the young people in detention facili- 14 states could be placed in less secure settings at less cost and sk to the public.

DUALIZED PUNISHMENT

achusetts closed its secure training schools for juvenile offend- 1972 and developed a variety of community programs. Utah in rly 1980s also revamped its juvenile justice system to limit confinement to dangerous juveniles; it set up residential and idential community-based programs for most offenders. The toward community placements remains a practical approach, e with little political appeal, according to Soler.

is a tough time for juvenile justice," he says. "There is such a thirst itiveness for kids who commit serious crimes that we are sweeping others into that same net, whether they belong there or not."

es have found that, overall, juvenile justice has worked well in neering states that developed community-based programs for all most serious and violent offenders. "The best systems still are hat provide community options and individualized treatment ny offenders," says Krisberg. "Those have been shown to reduce ism and graduation to serious crime."

ouri appears to be the only state cur- moving in a big way toward more com- -based programs for juvenile offenders. noticeable trend in the states is to pro- cilities or even redesign systems to nodate increasing numbers of juveniles. do created a Youthful Offender System in special session to handle teens ages 14 to are sent to the adult department of cor- s. Several other states have since created ediate facilities for similar offenders.

ar experimentation is seen at the local A county jail in Jacksonville, Fla., es a segregated housing section for il offenders sent there by county judges adult sentences. What makes this adult isual is the public school and counseling ms, which, if completed successfully, ase a juvenile's adult conviction.

IG TOUGHER WORKS

da state attorney Shorstein says efforts to ively prosecute more juveniles as adults, rate them and get the word out to other at adult jail time is the consequence of tting crimes have reversed juvenile ates there over the past few years. "The hing you can do is to send lots of kids to the adult system and then not punish them with jail time," Shorstein says. "It gives them a badge of honor for being an adult criminal without making them pay the price. They end up with even less respect for the adult system than they had for juvenile justice." Shorstein's office sends letters to school students advising them that some of their peers are doing adult time in Duval County Jail, and sends kids in chains and cuffs to talk to other kids about the system being serious about juvenile crime. "We incarcerate more juveniles as adults than any other jurisdiction in the states. But it's actually a quasi-adult system that gives them a chance to not be branded with an adult record."

Some of the "third systems" are applying the boot camp idea, so popular in adult corrections, to young offenders convicted of serious crimes. Boot camps for juveniles are a relatively recent phenomenon, so little is known about their effectiveness. A 1992 Rutgers University survey that identified and described various types of boot camps showed that those run in juvenile systems put considerable emphasis on education, counseling and after care. Other intermediate systems, like the "extended jurisdiction juvenile" category Minnesota created in 1994, allows kids a "last chance" in the youth system before sending them to the adult system. Experts say intermediate or extended jurisdiction concepts have merit when they incorporate age-appropriate programs that have some potential for rehabilitation.

Often, any such program—and hope—is abandoned when large numbers of juveniles are simply sent to adult systems, Snyder says. "You can't expect a kid to spend his developmental years in an adult prison and then come out at some point a grade school teacher. The juvenile justice system has an opportunity and responsibility to help some of these kids. At least we have a shot."

Center for the Study and Prevention of Violence

YOUTH VIOLENCE: AN OVERVIEW

by

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all poor neighborhoods are disorganized however; and those that are effectively organized have low rates of violent behavior, crime and substance use. Poverty is linked to violence through disorganized neighborhoods.

The effect of living in such neighborhoods can be devastating on the family's attempt to provide a healthy, conventional upbringing for their children. Not only are there few social reinforcements for conventional lifestyles to support this type of parenting, but conventional opportunities are limited by racism, discrimination, social isolation from the labor market and few resources. There are often greater opportunities for participation in gangs and the illicit economy which offer relatively quick and substantial rewards that seem to offset the risks associated with violence. One effect of participation in these types of activities is that youth are at high risk for becoming victims as well as perpetrators of violence; a second is that such youth frequently abandon the pursuit of more conventional goals, drop out of school, get pregnant, and become enmeshed in health compromising and dysfunctional lifestyles which arrest the normal course of adolescent development. Such youth are ill-prepared to enter conventional adult roles.

The School and Peer Context

While patterns of behavior learned in early childhood (e.g., aggressiveness) carry over into the school context, the school has its own potential for generating conflict and frustration and violent responses to these situations. A successful non-violent social adjustment at home increases the likelihood but does not *guarantee* a successful non-violent adjustment to school and peers. These are new social systems which have to be negotiated, where one must find her or his own niche. They each have their own performance demands and developmental tasks to complete. Failure to meet these school and peer performance expectations (e.g., academic success, peer approval, personal competence and independence, self-efficacy, and a capacity for developing and maintaining interpersonal relationships and intimacy) creates stress and conflict. The combination of new conflicts and reduced levels of monitoring and supervision in these contexts, increases the likelihood that violence will emerge in response to these problems.

During junior and senior high school, a clear adolescent status hierarchy emerges, and much of the violence at school is related to competition for status and status-related confrontations. Ability tracking also contributes to a collective adaptation to school failure and peer rejection by grouping academically poor students and those who are aggressive troublemakers together in the same classes. Delinquent peer groups tend to emerge out of these classes and individual feelings of anger, rejection and alienation are mutually reinforced in these groups. The strongest and most immediate cause of the actual onset of serious violent behavior is involvement with a delinquent peer group. It is here that violence is modeled, encouraged, and rewarded; and justifications for disengaging one's moral obligation to others are taught and reinforced. The effects of early exposure to violence, weak internal and family controls and aggressive behavior patterns developed in childhood all influence the type of friends one chooses, and the type of friends, in turn, largely determines what behavior patterns will be modelled, established and reinforced during adolescence. However, a strong bond to parents is a protective factor which insulates youth from the influence of delinquent friends as long as the friendship network is not dominated by such youth.

Gangs are a subtype of adolescent peer group, with a more formal identity and membership requirements. They tend to involve more homogeneously delinquent youth, often actively recruiting persons for their fighting skills or street smarts. In some instances membership entails violent behavior as an initiation ritual. However, not all gangs are involved in serious violent behavior or drug distribution. They often serve some positive functions, particularly in disorganized neighborhoods. They not only provide youth a sense of acceptance, belonging and personal worth (which most friendships do), but also a safe place to stay, food, clothing and

protection from abusive parents. But like delinquent groups more generally, joining a gang greatly increases the risk of serious violence, both perpetration and victimization. Likewise, leaving a gang or delinquent peer group substantially reduces the risk of serious violence.

Alcohol, Illicit Drugs and Firearms

The relationship between substance use and violence is complicated. Alcohol is implicated in over half of all homicides and of assaults in the home. Parents who abuse alcohol (and illicit drugs) are more prone to be physically abusive and neglectful of their children. But while problem drinkers are more likely to have a history of violent behavior, they are not disproportionately represented among violent offenders as compared to non-violent offenders. Pharmacological studies find no simple dose-response relationship between alcohol use and violent behavior. While alcohol is clearly implicated in violent behavior, the exact mechanism has not yet been established.

In general, the use of psychoactive drugs has not been linked pharmacologically to violent behavior. The effect of marijuana and opiate drugs actually appears to inhibit violence, although withdrawal may precipitate an increased risk of violence. There is some evidence that drug addicts commit violent crimes to support their drug habit, but this appears to be a relatively rare phenomenon. The clearest drug-violence connection is for selling drugs; the drug distribution network is extremely violent.

Since 1985 the firearm-related homicide rate for adolescents has increased over 150 percent and firearms now account for nearly three-fourths of all homicides of young black men. Surveys estimate that 270,000 guns are taken to school each day. It is not clear that the increase in gun-related violence is simply the result of greater gun availability. However, violent events involving guns are 3 to 5 times more likely to result in death than those involving knives, the next most lethal weapon.

Not much is known about why today's youth, in increasing numbers, are carrying guns. Anecdotal evidence suggests it is to "show off", to insure "respect" and acquiescence from others, or for self-defense. In part, it appears to be a response to the perception that public authorities cannot protect youth or maintain order in their neighborhoods or at school. There is evidence that dropouts, drug dealers and those with a prior record of violent behavior are more likely to own a gun than are other adolescents. And the vast majority (80 percent) of firearms used in crimes are obtained by theft or some other illegal means.

The Adolescence-Adulthood Transition

The successful transition into adult roles (work, marriage, parenting) appears to reduce involvement in violent behavior. In one national study, nearly 80 percent of adolescents who were serious violent offenders reported no serious violent offenses during their adult years (to age 30). However, nearly twice as many black as white youth continued their offending after age 21. Among those employed at age 21, rates of continuity were low and there were no differences in rates of continuity by race.

As noted earlier, race and class differences in serious violent offending are small during adolescence, but become substantial during the early adult years. This difference does not appear to be the result of differences in predispositions to violence, but in the continuity of violence once initiated. Race, in particular, is related to finding and holding a job, and to marriage and stable cohabiting rates. In essence, race and poverty are related to successfully making the transition out of adolescence and into adult roles.

It appears that growing up in poor, minority families and disorganized neighborhoods has two major effects directly related to violent behavior. First, when it comes time to make the transition into adulthood, there are limited opportunities for employment which, in turn, reduces the chances of marriage. These are two primary definers of adult status. Second, there is evidence

that growing up in poor, disorganized neighborhoods inhibits a normal course of adolescent development. Youth from these neighborhoods have lower levels of personal competence, self-efficacy, social skills, and self-discipline. Many are not adequately prepared to enter the labor market even if jobs were available. They are, in some ways, trapped in an extended adolescence and continue to engage in adolescent behavior.

WHAT IS KNOWN ABOUT THE PREVENTION AND CONTROL OF YOUTH VIOLENCE?

Since most violent behavior is learned behavior, the general strategy for prevention and treatment interventions should be 1) to reduce the modeling and reinforcement of violence as a means of solving problems and manipulating or controlling the behavior of others and 2) to ameliorate those social conditions which generate and support violent lifestyles. The most effective strategy for accomplishing this is to insure a healthy course of child and adolescent development for all youth, so they are prepared to enter productive, responsible adult roles; and to insure that these roles are accessible.

Individual Level Interventions

Several individual level interventions appear promising: Head Start programs, Teaching Family group homes, parent effectiveness training, behavioral skill training and some types of employment programs. The reductions in crime, violence and substance use are relatively modest from these programs, and may be relatively short-term effects. Teaching family programs, for example, demonstrate good effects while youth are in these homes, but when they leave this treatment setting and return to their own homes and neighborhoods, these effects are quickly lost. Other programs are too narrowly targeted to a specific context or focus upon improving personal competence without any significant changes in opportunity structures. They are also frequently used as general interventions when they are developmentally appropriate for selected age-groups. But these interventions hold promise as components for a more comprehensive, integrated intervention effort. Counseling and casework approaches had no significant effects and some programs, e.g., shock incarceration and boot camps, appeared to have negative effects.

Neighborhood or Community Interventions

This approach is a comprehensive one which attempts to bring together all of the primary institutions that serve youth, e.g., families, health agencies, schools, employment, and justice, in an integrated, coordinated effort to develop an effective neighborhood organization and deliver the full range of needed services at a single site under a single administrative structure. Such programs include family support programs, community development corporations, and school-based clinics. Unfortunately, there are few good evaluations of these neighborhood level approaches. In too many cases, neighborhood programs fail to develop a comprehensive range of services or a cohesive neighborhood organization which is an essential to this approach. However, the evidence indicates that when such programs are well implemented, they improve the emotional well-being of families, expand and develop informal social networks, and facilitate a successful course of youth development. Theoretically, if sustained over five years or more, this approach should have the greatest payoff in reducing violence, crime and drug abuse, and facilitating a successful course of child and adolescent development.

Gun Control Policies

There is relatively little rigorous research on the effectiveness of various gun control policies. However, there is some evidence for the effectiveness of restrictive handgun laws and

mandatory sentences for firearm offenses. In the case of restrictive handgun laws, several studies have found significant declines in homicide rates with no evidence that other weapons were used as substitutes for firearms. There was some evidence that other weapons were being employed as substitutes in the studies of mandatory sentencing laws. The little evidence on the effectiveness of waiting periods suggests little or no effect on homicide rates. More research is needed in this area to establish the effects of various gun control measures.

Justice System Responses

Since 1985, waivers to adult court have increased dramatically for violent offenses and drug-related offenses. Research on the effects of this policy indicates: 1) longer processing time and longer pre-trial detention, 2) higher conviction rates and longer sentences, 3) disproportionate use of waivers for minority youth, and 4) a substantially lower probability of treatment while in custody. The last two findings raise serious questions about the use of waivers. Restitution is an effective policy. The compliance rate for restitution orders is over 90 percent, and there are modest reductions in recidivism. There is no clear evidence that increases in sentence length or confinement in adult institutions have any significant deterrent effect over shorter sentences and confinement in juvenile institutions. If we consider the situation relative to drug-related offenses, research demonstrates that the decline in adolescent drug use was primarily the result of educational awareness programs and community-based prevention programs; drug enforcement policies involving mandatory sentences and stronger sanctions appear to have had very small deterrent effects. While prevention programs take longer and are more difficult to implement, the violence reduction effects of prevention programs are substantially greater and probably cost no more.

* Throughout this report, the term "violence" will be used to describe physical assaultive behavior and the term "serious violent offenses" will refer to aggravated assaults, forcible rapes, robberies and homicides.

"The Legacy of Juvenile Corrections"
by Barry Krisberg
Corrections Today, August, 1995

As the field of juvenile corrections prepares itself for the next century, practitioners need to understand the historical legacy that continues to influence contemporary policy and practice. As historian William Appleman reminds us, "History offers no answers per se, it only offers a way of encouraging people to use their own minds to make history." Few areas of the justice system are more in need of critical reexamination than juvenile justice.

This past year, the states introduced more than 700 bills to move more trouble youngsters from specialized juvenile facilities to adult prisons. To some, juvenile corrections has come to symbolize soft-headed liberalism. Others see that juvenile facilities are becoming severely crowded, with many juvenile institutions failing to meet even basic professional standards of child protection. At this stage, public officials seem reluctant to spend taxpayers' dollars to reform juvenile corrections — even as they continue to pour billions of dollars into adult prisons. For example, the 1994 crime bill will give states nearly $9 billion for prison construction and several more billion for boot camps, but juvenile corrections was little more than an afterthought in those congressional deliberations.

The Childsavers

Although religious philanthropic organizations established the first specialized juvenile facilities in the United States in 1825, the most significant growth in public juvenile corrections commenced in the second half of the 19th century. For instance, the very first state juvenile reform school, the Lyman School, opened in 1846.

At the same time, growing fears about immigration and the potential for class warfare led government officials to centralize the administration of juvenile facilities. In 1876, there were 51 reform schools or houses of refuge nationwide — of these, nearly three-quarters were run by state or local governments. By 1890, almost every state outside the South had a reform school, and many states had separate facilities for males and females, as well as separate facilities allowing for males and females, as well as separate facilities allowing for racial segregation. Youths were admitted to these facilities for a broad range of behaviors, including criminal offenses, status offenses and dependency. The length of stay was regulated by facility administrators, who also could exercise broad discretion to transfer disruptive young detainees to adult prisons.

The new reform schools came under attack by advocates who often are referred to as "the childsavers." This groups, which included urban clergy, such as Charles Loring Brace, emphasized the need for prevention services in cities. The group founded children's aid societies to distribute food and clothing and to provide temporary shelter and employment for destitute youths. Brace often attended juvenile facilities managers conferences to argue that the longer the period of confinement, the less likely the youth would be reformed. He and his followers implemented an alternative strategy of placing urban youngsters in apprenticeships with farm families in the West and Midwest. The childsavers had great faith in the curative powers of rural family life. Brace declared these families "God's reformatories" for wayward youths.

Reacting to the childsavers' criticism of reform schools, institutional managers began to locate these facilities in rural areas where it was assumed that agricultural labor would aid the reform process. Many institutions initiated a "cottage system" to create the appearance that youths were living with surrogate parents in home-like environments. In fact, the cottages actually functioned as a classification system to separate children by age, race and "criminal sophistication."

The Impact of the Civil War

The Civil War deeply affected the world of juvenile corrections. Many Southern reform schools were destroyed in battles. The participation of juveniles in the Northern draft riots led to a significant increase in incarcerated juveniles. In the South, white officials arrested thousands of emancipated slaves and sent them to segregated Southern prisons and reform schools — places of savage brutality that rivaled the worst abuses of slavery.

The high inflation rates following the Civil War sharply reduced the funds that were spent on institutional upkeep, and conditions of confinement deteriorated. Many institutions resorted to contracting out the labor of their young charges to increase revenues for the reform schools. Critics of the contract labor system charged that making profits, rather than reformation, was becoming the prime function of juvenile facilities. Reports abounded of cruel and vicious exploitation of these captive child laborers. Newspaper accounts told of stabbings, fights, arson and attacks on staff at these institutions.

Growing criticism by organized labor, religious groups and childsavers led many states to investigate juvenile facilities and to establish state boards to oversee the operation of juvenile correctional institutions. These oversight groups uncovered horrid conditions, massive corruption and abusive practices. In this era, the National Prison Association (now ACA) was established, in part, to promulgate enlightened professional standards for the operation of these reform schools. It was hoped that the new regulatory bodies would curb these problems, but little real progress was made. Reform schools continued to proliferate, housing even greater numbers of troubled youths.

The Juvenile Court Movement

The early decades of the 20th century witnessed the growth of the juvenile court movement. The new children's court also ushered in the expansion of probation services and diagnostic clinics of juvenile offenders. There was increased optimism in juvenile corrections that delinquents could be reformed by applying emerging scientific knowledge. One innovation was the introduction of physical exercise, along with special massage and nutritional regimens. Many felt that neglect of the body led to depraved behavior. Also popular: military drill, the precursor of the today's correctional boot camps.

None of these inn ovations led to reduced rates of recidivism, but institutional managers were eager to find alternatives to inmate idleness, which worsened as the contract labor system was abandoned. Public criticism of training school continued and resulted in several states excluding children under 12 from these facilities.

One of the most interesting ideas of this era was the model of offender self-government. One such institution, the Georgia Junior Republic, was organized to be a virtual microcosm of the outside world. Self-government meant that youths were involved in the definition and enforcement of rules, under the close supervision of staff. This concept still is seen today in the popular treatment methods known as guided-group interaction or positive peer culture.

The Move Toward Community-based Services

Juvenile corrections facilities continued to function almost impervious to change throughout the next 50 years. It was not until the late 1950s that a few states, such as New Jersey, began to experiment with alternatives to traditional incarceration. Periodic media coverage of escapes, riots and brutality in facilities deepened public skepticism over the efficacy of juvenile corrections. Legal decisions in the 1960s established that juveniles possessed basic rights to due process and equal protection under the law. The President's Crime Commission in 1967 called for diverting as many youngsters as possible from the failed systems of juvenile corrections. "Deinstitutionalization" be-

came a buzz word. However, large-scale reform rarely matched liberal rhetoric.

Then, in the early 1970s, Massachusetts sent shock waves across the nation when it closed all of its state training schools. The Lyman School, the first training school opened in the United States, was the first to be closed. In short order, Massachusetts, replaced its large traditional juvenile institutions with a network of very small, secure facilities and a wide array of community-based services. Nearly 1,000 youths were quickly removed from brutal and corrupt institutions to innovative and humane community programs.

The Massachusetts reforms were met with intense opposition by the corrections establishment; however, youth advocates used the Massachusetts model to draft the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974. This landmark legislation offered grants to states that were willing to remove status offenders from secure custody, to separate adult and juvenile offenders and to promote "advanced juvenile justice practices." Despite these federal resources, only three states — Missouri, Utah and Vermont — tried to faithfully replicate the Massachusetts approach.

The reform thrust of the JJDPA was soon blunted by 12 years of the Reagan and Bush administration that fundamentally opposed the concept of deinstitutionalization. Moreover, the juvenile reform movement was confronted with growing political rhetoric aimed at "cracking down on juvenile criminals." Through most of the 1980s and '90s, the public response to juvenile offenders was decidedly unsympathetic. This period witnessed a wave of legislative reforms designed to make it easier to adjudicate youths in adult courts. States mandated automatic waiver to the criminal justice system for a new range of offenses. A national war against drugs produced an unprecedented increase in the number of youths entering adult penal facilities. States such as Colorado, Georgia and Minnesota passed laws permitting juvenile corrections officials broad latitude in administratively transferring young people to "youthful offender" facilities operated by adult corrections departments.

Today, juvenile facilities face severe conditions of crowding. Lengths of stay in juvenile facilities have increased steadily in the past 15 years. Despite this expanded use of incarceration, public officials have not invested much in new facilities or increased agency budgets. The larger crisis of crowding in adult facilities is consuming a lion's share of public resources. As a result of increasing caseloads and restricted budgets, many juvenile corrections facilities have experienced deteriorating conditions of confinement and basic lapses in meeting professional standards. Not surprisingly, many state and local juvenile facilities have faced lawsuits that challenge the constitutionality of conditions of confinement.

Back to the Future

Responding to political enthusiasm and the availability of federal funds, many jurisdictions are opening boot camps that are reminiscent of the fad of military drill at the turn of the 20th century. The previously discredited practice of sentencing offenders to detention centers is back in fashion. The new national congressional leadership has expressed its nostalgic support for juvenile corrections practices such as Boys Town of the 1930s.

Once again, private groups, both for profit and nonprofit, are claiming an increasingly larger market share of the $3 billion a year juvenile incarceration industry. Although not by conscious design, many public juvenile facilities are as racially segregated today as they were 100 years ago. Moreover, given the public antipathy toward the alleged leniency of the juvenile justice system, one wonders if juvenile corrections has a viable future in the United States.

At the 1994 International Congress of Juvenile Court Judges, representatives from 62 nations expressed their firm commitment to the value of a humane and rational system of care for troubled youths. These nations are struggling to achieve the American ideal of individualized treatment, education and rehabilitation. Many of the conferees were shocked at reports that, in the United

States, juvenile justice was rushing to embrace a punitive model. This international perspective should provide a "wake-up call" to those of us committed to an enlightened view of juvenile corrections.

The picture is, by no means, all bleak. Ironically, a few jurisdictions are expressing great interest in the Massachusetts model. Positive steps forward can be seen in Arizona, Indiana, Missouri, Nebraska, New Jersey, and Ohio. Further, the Office of Juvenile Justice and Delinquency Program's (OJJDP) Comprehensive Strategy on Serious, Violent and Chronic Juvenile Offenders places major focus on blending treatment and public safety concerns. Indeed, OJJDP is exercising the national leadership role in juvenile corrections that its founders envisioned for it.

There is renewed interest in upgrading professional standards in juvenile corrections. Professional groups — such as the American Correctional Association, American Probation and Parole Association and National Juvenile Detention Association — are actively speaking out against the punitive rhetoric that is so popular in Washington, D.C., and in state capitals across the nation. Private philanthropy also is supporting progressive juvenile justice reform. For example, the Edna McConnell Clark Foundation is working to encourage leadership development within juvenile corrections, the Robert Wood Johnson Foundation is funding juvenile corrections reform in a number of states, and the Annie E. Casey Foundation has launched a major program to reform juvenile detention practices.

It is too soon to tell if these small, yet positive, steps forward can withstand the chilling political climate the juvenile corrections field faces. Although the battle for an enlightened vision of juvenile justice may not be lost, the struggle ahead appears long and arduous. Professionals in juvenile corrections will be tested. The history of juvenile corrections teaches us that true champions for children — such as Charles Loring Brace; Julia Lathrop, one of the founders of the Illinois juvenile court; Jane Addams, founder of Hull House in Chicago; and Jerome Miller, architect of the Massachusetts reform — have previously stepped forward to make a difference. Today, more than ever, we need such heroes.

Age of Reckoning

From *Education Week*, March 9, 1994

After a decade of promising to improve the education system, politicians have begun to embrace a new cure for what ails some children: the adult criminal-justice system. Where they once spoke of helping children whom society has placed at risk, many now speak of incarcerating those who pose a risk to society. Threatening and imposing adult sentences, they claim, is the only way to make schools safe and drug-free. Pledging school reform has given way to lamenting the failure of reform schools.

In delivering their annual State of the State addresses over the past two months, the nation's governors have almost without exception focused on crime and, especially, the upsurge in violence committed by juveniles. Almost all have vowed to get tough, and many have proposed placing entire categories of juvenile offenders under the jurisdiction of adult courts.

"We must understand that our present system did not envision the level of violence and viciousness among young offenders today," said Gov. Zell Miller of Georgia. Calling for a modernized state juvenile justice system "to crack down on those young punks who commit violent crimes," Miller added that he would seek to have juveniles as young as age 13 tried as adults for such offenses.

Lawmakers in New York, Arizona, Washington, Florida, Minnesota, Illinois, and several other states have taken up similar measures.

On the national level, U.S. Attorney General Janet Reno has endorsed the approach used in her home state of Florida, which holds the threat of being treated as adults over young offenders to get them to cooperate with the juvenile justice system. Moreover, the U.S. Senate's anti-crime bill calls for children 13 and older to be automatically transferred to adult court for violent federal offenses.

In keeping with traditional approaches to juvenile delinquency, many of the new initiatives try to address societal problems linked to juvenile crime. Most of their proponents, however, clearly reject the belief that the prior victimization of serious juvenile criminals is reason to treat them more leniently.

"We sympathize with those neglected children who are tempted by drugs or gangs," declared Gov. Pete Wilson of California, who has called for violent offenders as young as 14 to be prosecuted as adults.

. "But when as teenagers or adults they victimize others, our sympathy must yield to responsibility. And our first responsibility must always be to protect the innocent and punish the guilty."

Gov. Fife Symington of Arizona contended that "there is every reason to question whether our courts should be moonlighting as social service agencies." What's more, he added, "I was not hired to be Arizona's chief social theorist. I was not sent here to sit meditating on Freud or the latest 'root causes' of criminal behavior."

No Simple Solutions

Many experts of juvenile law criticize the wholesale transfer of certain juvenile offenders to adult courts as a simplistic, and potentially disastrous, solution to a complex problem. Such an approach, they say, does little to address the well-established antecedents of serious, violent, and chronic juvenile crime: neglect, weak family attachments, a lack of consistent discipline, poor school performance, delinquent peer groups, physical or sexual abuse, or an upbringing in high-crime neighborhoods.

"We have not valued millions of our children's lives, and so they do not value ours in a society in which they have no social or economic stake," Marian Wright Edelman, the president of the Children's Defense Fund, told a House subcommittee last month as she urged it to leave provisions

calling for adult treatment of some categories of young offenders out of its crime bill.

Moreover, the leadership of the National Council of Juvenile and Family Court Judges argues that sending juvenile offenders to adult courts and prisons virtually destroys any hope for rehabilitation. Others cite research indicating that juveniles sentenced in adult courts tend to have higher recidivism rates and to commit another crime sooner after their release than those who go through the juvenile system.

Legal scholars also caution that changes in laws dealing with juvenile offenders may signal a major shift in society's overall conception of childhood and children's legal rights and responsibilities. This shift, they say, could have wide-ranging implications for other areas of law, as well as for school policies dictating discipline, governance, and the transfer of student records.

Barry C. Feld, a professor of law at the University of Minnesota, says our nation's changing view of childhood culpability and responsibility "has implications for every age-graded social institution in our society" and could influence our thinking on voting rights and juvenile due process, among other areas.

As the presiding judge of the juvenile court in Santa Clara County, CA, Leonard P. Edwards has seen several school systems adopt mandatory-expulsion policies that bar children from schools for certain offenses.

Ronald D. Stephens, the executive director of the National School Safety Center in Westlake Village, CA, says some states also have been changing their laws to give school administrators more access to the records of juveniles whose cases were processed by juvenile courts. He predicts that teacher access to such information will become a "major bargaining chip" in contract talks.

After all, teachers can often see signs from an early age. "You hear elementary teachers say, 'This kid is going to kill somebody by the time he gets out of high school,' " says Lieut. William F. Balkwill, who runs the youth-services unit of the Sarasota County, Fla., sheriff's department. "Then, six or seven years later, it comes true."

"We have begun to break down the dichotomy of 'child' and 'adult' " says Janet E. Ainsworth, a professor of law at the University of Puget Sound who has written on the subject. Our legal system, she notes, appears to be changing to account for a fact educators have long known: Children and adults are not separated by a single distinct line.

But when society sees the bill for incarcerating large populations of juveniles, experts predict, it will likely begin putting more pressure on schools to pick up where families have failed. "It simply is not rational public policy to condition our willingness to spend money on children on their getting into trouble first," Edelman argued in her testimony.

Abandoning Tradition

The American juvenile-justice system sprouted from the establishment of separate juvenile courts and legal procedures more than a century ago.

According to Hunger Hurst 3rd, the director of the National Center for Juvenile Justice, the Pittsburgh-based research branch of the National Council of Juvenile and Family Court Judges, the founders of the first juvenile courts envisioned a system that would guide loiterers, runaways, and young perpetrators of petty crimes toward a responsible and productive adulthood. To this day, juvenile judges say they seek to strike a balance between protecting the community, holding children and parents accountable for children's actions, and helping wayward youths develop skills they need to get back on the right track.

However, law enforcement and school officials also have long objected to the secrecy shrouding the proceedings of juvenile courts — a secrecy they say prevents consideration of a juvenile's previous record and hinders efforts to identify and track serious offenders.

By the 1970's, increases in the seriousness of much juvenile crime had prompted states to begin rethinking their juvenile justice systems to establish provisions for sending certain cases to adult courts. By 1992, according to the National Center for Youth Law in San Francisco, every state had some mechanism for prosecuting youths under 18 as adults.

Despite such changes in state statutes, there remains a widespread perception that juvenile courts coddle young criminals and that those criminals have exploited this fact to unleash a growing onslaught of hard-core teenage crime.

"The statistics are telling," said Gov. Barbara Roberts of Oregon in announcing the formation of a task force to rethink that state's juvenile-justice system. "Nine out of 10 juveniles now in custody in Oregon are committed for felonies. One-third are committed for sexual offenses. Over the past five years, the number of homicide-related offenders in the juvenile system has grown 800 percent." Our society's failure to hold juveniles more responsible for their actions, she concluded, "is turning our kids into criminals and our communities and schools into war zones."

'Not the Cleaver Kids'

In a recent USA Today/CNN Gallup poll, 73 percent of respondents said juveniles who commit violent crimes should be treated as adults. Only 19 percent clearly favored treating juvenile offenders more leniently. Similarly, an NBC/Wall Street Journal poll conducted in January found that 57 percent of respondents thought prosecuting juveniles as young as 14 as adults would make a major difference in reducing crime.

Behind the public's support for such changes, experts say, is outrage fueled by media reports of hard-care, frightening juvenile offenders who have been released back onto the streets.

Typical is the story of Craig Price, a Rhode Island juvenile-training school inmate, featured on a Jan. 25 segment of "Dateline NBC" television news magazine. Price, who was arrested at age 15 for the brutal slaying of a Warwick, R.I. woman and her two children, soon confessed to killing a neighbor two years earlier by stabbing her 58 times. An adult convicted of such offenses would likely serve life without parole, but Price, being a juvenile, was sent to the juvenile training center until his 21st birthday.

The Price case has prompted Rhode Island to change its laws to allow violent offenders of any age to be tried as adults. So far, though, the state has been unable to block Price's release, and because his juvenile records are sealed, nothing about his deeds would show up on a criminal-background check. "Dateline NBC" quoted a local police officer as say, "There's no doubt in anybody's mind that Craig Price is going to kill again."

In delivering their annual addresses, many governors invoked images of cold-blooded teenage killers and noted that children are being arrested for serious crimes at younger ages.

"These are not the Cleaver kids soaping up windows," Governor Miller said. "These are middle school kids conspiring to hurt their teacher, teenagers shooting people and committing rapes, young thugs running gangs and terrorizing neighborhoods and showing no remorse when they get caught.

According to statistics recently published by the U.S. Justice Department's office of juvenile justice and delinquency prevention, juvenile arrests for violent crimes increased by 50 percent — double the adult increase — between 1987 and 1991. Juvenile arrests for murder rose 85 percent, four times the increase for adults. By the end of that period, juvenile arrests for murder, forcible rape, robbery, and other violent crimes had reached an all-time high and accounted for 17 percent of all arrests for such crimes.

The juvenile-justice office also notes, however, that only 5 percent of juvenile arrests are for violent offenses, and a small proportion of juvenile offenders commit most of the violent and serious crime.

"It is important to emphasize that even though violent juveniles consume the headlines, the actual juvenile offender in most courts is typically a misdemeanor shoplifter. And, if they are charged with a felony, it is typically either a burglary or a stolen car," says the University of Minnesota's Feld, who has devoted much of his career to studying juvenile justice.

As the National Center for Juvenile Justice points out, adults still commit more than 90 percent of homicides.

"I think the public is unfairly or inaccurately blaming the youth sector of our population for the increase in violent crime," says Robert E. DeComo, a senior program manger at the National Council on Crime and Delinquency, a non-profit research and consulting organization in San Francisco.

Most of the statutory changes now under consideration call for juveniles to be prosecuted as adults for murder, forcible rape, aggravated assault, and other violent offenses. Several, however, also target juvenile criminals who use guns, sell drugs, or belong to gangs.

Safety in Schools

If the laws do make a dent in violent juvenile crime, those most likely to be made safer are juveniles themselves. According to the Justice Department's juvenile-justice office, three of every 10 juvenile murder arrests involves a victim under the age of 18. National surveys also have shown that people under the age of 20 account for a disproportionate percentages of violent-crime victims and that teenage victimizations are most likely to occur at school.

Organizations specifically concerned with school safety welcome such proposals. They say the statutory changes would likely improve student discipline and provide more access to information about student crime — information that will enable them to provide young offenders with the supervision and help they need.

Stephens of the National School Safety Center says the use of such laws "will have the effect of warehousing these kids and keeping them out of circulation for a long time." Such an outcome, he maintains, is greatly preferable to the current situation in most communities, where "youngsters who have committed violent offenses, including murder, are being sent back into the public schools as a condition of probation by the juvenile courts."

The current juvenile-justice system "has become a laughingstock to these kids," says James Corbin, the present of the National Association of School Resource Officers, a nonprofit organization of about 900 certified law-enforcement officers who work in educational settings. "If people believed they would really be punished for bringing weapons and drugs into the schools, there wouldn't be as much of it. Large numbers of these kids have been there four, five, six or 10 times, and the fear of arrest is nonexistent."

Glenda Hathett Johnson, the chief presiding judge of the Fulton County, GA., juvenile court, points to the tendency for adult courts to hold children for longer periods of time and to make no effort, as juvenile courts do, to promptly return them to school. In doing so, she says, adult courts are more disruptive to the learning process.

Richard J. Fitzgerald, a family-court judge in Louisville, KY., says another factor can complicate matters even further. Schools are most likely, he maintains, to see such charges leveled against students in classes for the mentally retarded, emotionally-disturbed, or learning disabled.

Coddle or Crack Down?

The National Council of Juvenile and Family Court Judges agrees that some children should be waived to adult courts. It maintains, however, that juvenile-court judges should make such decisions on a case-by-case basis.

James M. Farris, a Beaumont, Tex., juvenile-court judge who serves as the organization's presi-

dent, contends that research belies the assumption that juvenile courts impose fewer sanctions or give lighter sentences to violent and repeat offenders.

Judge Edwards of the Santa Clara County juvenile court agrees. In fact, he has found that adult courts tend to treat children more lightly because they regard juveniles as first offenders. DeComo of the National Council on Crime and Delinquency adds that prosecutors in the adult justice system often downgrade the charges leveled against juveniles so they will not fall under mandatory waiver provisions.

Others question whether the threat of being prosecuted as an adult actually deters juveniles from crime. Children, Judge FitzGerald asserts, "don't necessarily see a linkage between their behaviors and consequences and are not capable of making legal and right decisions without some guidance and structure in their lives."

Still other experts raise the most vexing question of all. Hurst of the National Center for Juvenile Justice put it this way in a recent N.C.J.J. newsletter: "If adults commit most of the violence in the country and they are not deterred or corrected by the criminal justice system, why do we think the criminal justice system will be effective with juveniles?"

Not Too Young To Die

Ultimately, experts wonder how the federal and state governments, which are already dealing with widespread overcrowding in the prison system, will find the room and resources to incarcerate large numbers of young criminals. They also question how the courts, and society, will cope with the more troubling consequences of the new laws.

As a result of its waivers, inmates who committed crimes as juveniles are showing up on Florida's death row. One of them is Jeffrey Farina. He shot three people and stabbed another in a fast-food store in 1992; one victim died. Asked why he did it, Farina said simply, "I had a boring day."

More than a dozen states currently place no age restrictions on those who can be sentenced to death for capital crimes. Over the past two decades, seven people around the country have been executed for crimes they committed at the age of 17. In 1989, the U.S. Supreme Court upheld the death sentence of a 16-year-old murderer. The year before, however, the Court blocked the execution of a 15-year-old on grounds it would violate the Constitution's prohibition against cruel and unusual punishment.

Prisons and jails also will have to deal with the fact that juvenile inmates who are not placed in separate facilities will be vulnerable to victimization by their fellow prisoners. Governor Miller of Georgia has proposed establishing a separate correctional facility for juveniles tried as adults, but most states plan to continue to house them in regular jails and prisons.

"Look, those kids are all going to be coming back to society," says the University of Minnesota's Feld. "We need to think about what they are going to be like when they come back."

What Works With Juvenile Offenders?

A review of "graduated sanction" programs

By BARRY KRISBERG, ELLIOTT CURRIE, and DAVID ONEK

These are tough times for juvenile offenders. Across the country, there have been repeated calls to "get tougher" on young people who break the law—and those calls have often been followed by increasingly draconian responses.

States have rushed to lower the age at which juveniles can be waived to adult courts. Last year's federal crime bill authorized half a billion dollars to support new prisons for youths. And the revision of that bill now working its way through the new Republican-dominated Congress would slash its funding for youth-oriented prevention programs in favor of still more billions for new prison construction. In many states, funds for rehabilitative programs—such as intensive probation supervision, aftercare, and vocational training—have dried up while prison budgets have skyrocketed.

Part of the rationale for these developments is the claim that nothing but incarceration "works" with serious juvenile offenders. This is by no means the first time that claim has surfaced: it has had a powerful influence on our thinking about appropriate responses to juvenile crime as far back as the mid-1970s. But in the nineties it has taken on an unprecedented virulence. Programs designed to prevent delinquency or to rehabilitate young offenders are routinely derided as "pork"; at best, they are described as well-intentioned but naive efforts to use "social work" to address what only harsh punishment can solve.

Public perception not borne out by research

A careful consideration of the evidence for that popular view finds it wanting. Criminologists have suspected for many years that some kinds of intervention programs for juvenile offenders do indeed "work" to prevent recidivism and often do so far more cheaply than imprisonment.

Under a grant from the federal Office of Juvenile Justice and Delinquency Prevention, the National Council on Crime and Delinquency (NCCD) recently analyzed a vast array of materials on interventions with young offenders. Our research confirms a more optimistic view.

We found, unsurprisingly, that not *everything* works; not all programs to turn around young offenders make a difference. But some programs *do* work—and, increasingly, we are coming to understand *why* they work. The overall finding is clear: The idea that rehabilitation is nothing more than useless "pork" is a myth. And it is a myth that dramatically hobbles our ability to cope with serious juvenile crime.

Graduated sanction programs for juvenile offenders are one type of solution being explored by states across the nation. Types of graduated sanctions include:

- immediate sanctions, which are appropriate for first-time, nonviolent offenders;
- intermediate sanctions, which target repeat minor offenders and first-time serious offenders; and

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- secure care, which is reserved for repeat serious and violent offenders.

In a model graduated sanctions system, the majority of youths are placed in community-based immediate and intermediate sanction programs while secure care is reserved for the violent few.

Research has been conducted on individual programs and statewide systems, and there have been meta-analyses of large numbers of individual studies. Drawing from all of this research, it is possible to determine the common characteristics of *effective* graduated sanction programs.

Studies on graduated sanctions

The research on graduated sanctions for juveniles is uneven. There are some areas with fairly strong results, but others in which research data are almost nonexistent.

One reason for the overall dearth of graduated sanctions research is that

such studies are quite difficult to conduct. Large samples are rare because there are usually small numbers of serious juvenile offenders. Small sample sizes make it very difficult to find statistically significant results. This is particularly true of programs for the most serious offenders, where the numbers of offenders are especially small.

Another common problem in graduated sanctions research is finding comparable control groups. It is difficult to design a study with random assignment (where individuals are randomly assigned to different programs so the results can be compared without concern about selection bias) because practitioners often resist it. But without random assignment, researchers must find a control group that is comparable to the experimental group.

Such [illegible] groups [illegible] are not carefully selected or [illegible] differences between the two groups are not taken into account in the analysis. The result is that it is often [illegible] to tell if differences between the outcomes of the experimental and control groups were due to differences between the experimental and control *programs* or to the types of youths each program served.

This said, some types of graduated sanction programs have been adequately researched. There has been fairly extensive testing of highly structured alternative programs for youths who otherwise would be incarcerated. There are also some solid studies of intensive supervision programs.

Still, there are many large gaps in the research. Very little work has been done on programs for violent offenders—the Violent Juvenile Offender study (discussed below) is an exception. There is also a paucity of research on aftercare, and the research that does exist is mixed at best. The vast majority of intermediate sanction programs have been poorly evaluated, if at all.

Some conclusions can be drawn from the limited body of research that does exist. Community-based graduated sanction programs seem to be at least as successful as traditional incarceration programs in reducing recidivism. Studies of the best-structured graduated sanction programs have shown them to be *more* effective than incarceration. In addition, community-based programs often cost significantly less than their traditional counterparts.

Individual programs

Nothing works? In the 1970s, Martinson's claim that "nothing works" with juvenile offenders was widely disseminated among criminal justice researchers. (Robert Martinson, *What Works? Questions and Answers About Prison Reform*, 36 Pub. Interest 22–45 (1974).) Martinson and his followers argued that it was fruitless to attempt to rehabilitate juvenile offenders; instead, they recommended a greater focus on deterrence and incapacitation.

In the late 1970s and afterward,

however, Martinson's conclusion came under critical scrutiny. There is a substantial and growing body of evidence that some things do work with juvenile offenders. Indeed, Martinson himself renounced his earlier views in the late 1970s. (Robert Martinson, *New Findings, New Views: A Note of Caution regarding Sentencing Reform*, 7 Hofstra L. Rev. 242–58 (1979).)

California Youth Authority. Studies since the 1960s have shown community-based programs to be at least as effective as traditional correctional programs. In the 1960s the California Youth Authority, as part of the Community Treatment Project, randomly assigned youths to either an intensive community-treatment program, with caseloads no larger than twelve, or traditional training schools.

Early results showed that the community-based group did better than the traditional group. (Ted Palmer, *California's Community Treatment Program for Delinquent Adolescents*, 8 J. Res. in Crime & Delinq. 74–82 (1971).)

After one year, the rate of parole failure for the community group was 18 percent, compared to a rate of 35 percent for the traditional group; after two years, the community group had a parole failure rate of 39 percent, compared to 60 percent for the traditional group.

A later study, though critical of claims for this level of success, concluded that the community group fared no worse than the traditional group. (Paul Lerman, *Community Treatment and Social Control* (Univ. of Chicago Press 1975).)

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Silverlake. The Silverlake experiment, conducted by Empey and Lubeck, studied juvenile offenders from Los Angeles County who were randomly assigned to either a county correctional facility (the control group) or a small, community-based program that emphasized daily school attendance and intensive group therapy (the experimental group). (Lamar Empey & Steven Lubeck, *The Silverlake Experiment* (Aldine 1971).)

The rearrest rates for the two groups were virtually identical—60 percent for the experimental group versus 56 percent for the control group. Empey and Lubeck concluded that enhanced community-based programs were as effective as traditional correctional placements. Significantly, the community program cost $1,700 per youth per year while the traditional program cost $4,600.

Provo. A similar study was conducted by Empey and Erickson in Provo, Utah. (Lamar Empey & Maynard Erickson, *The Provo Experiment* (Lexington Books 1972).) Youths were randomly assigned to either traditional probation or to intensive probation, which included daily counseling sessions.

These two groups were compared to each other and also to a group of youths released from training schools across the state, although the training school youths were not randomly assigned. Both of the groups that remained in the community had lower recidivism rates than the training school group.

The probation groups averaged 2.4 new arrests over the four-year tracking period, while the training school group averaged 5.3 new arrests. The intensive probation group fared significantly better than the traditional probation group, although these differences leveled out after one year.

UDIS. A study by Murray and Cox of the Unified Delinquency Intervention Services (UDIS) programs in Chicago found something similar using a new outcome measure—the "suppression effect," or reductions in the frequency of reoffending. (Charles Murray & Louis Cox, *Beyond Probation* (Sage 1979).)

The study compared youths assigned to a UDIS alternative program with youths sent to traditional Department of Corrections facilities. The youths in both groups showed large reductions in the incidence of reoffending. The most intensive of the UDIS programs produced suppression effects comparable to institutionalization.

VisionQuest. Greenwood and Turner evaluated the San Diego VisionQuest program, which served as an alternative to incarceration for serious juvenile offenders. (Peter Greenwood & Susan Turner, *The VisionQuest Program: An Evaluation* (RAND 1987).)

VisionQuest youths spent 12–15 months in various challenging outdoor "impact" programs, with a consistent education plan and individual treatment plan following them through each program stage. In the Greenwood and Turner study, the outcomes for VisionQuest graduates were compared to those of delinquent youths who had been placed in a traditional correctional institution operated by the county.

In spite of the fact that the experimental VisionQuest group consisted of more serious offenders than the control group, the VisionQuest group outperformed the controls. VisionQuest youths were substantially less likely to be rearrested in the first year after release than the traditional group (55% vs. 71%). When differences in group characteristics were statistically controlled, it was determined that first-year rearrest rates for VisionQuest youths were about half that of the controls.

FANS. Still more recently, Henggeler et al. completed an experimental study of South Carolina's Family and Neighborhood Services (FANS) program. This public program utilizes the principles of "multisystemic" therapy—a "highly individualized family- and home-based treatment" designed to deal with offenders in the context of their family and community problems. (Scott Henggeler et al., *Family Preservation Using Multisystemic Therapy: An Effective Alternative to Incarcerating Serious Juvenile Offenders*, 60(6) J. Consulting & Clinical Psychol. (1992).)

FANS targeted serious and violent offenders at imminent risk of out-of-home placement. The program employed masters-level therapists who worked with very small caseloads (four families each) over an average of slightly more than four months. The case-

workers were available on a twenty-four-hour basis and saw the juvenile and/or the family as often as once daily, usually in the home.

Youths in the study were randomly assigned either to FANS or to normal probation treatment, in which few services were provided. The evaluation found that experimentals outperformed controls. At fifty-nine weeks after the initial referral, there were significant positive differences in rates of incarceration, arrests, and self-reported offenses between FANS youths and controls.

Youths in the FANS program acquired only about *half* as many arrests as the controls; 68 percent of controls experienced some incarceration versus 20 percent of the FANS group. These findings were reinforced by self-report measures and by favorable changes among the FANS group in family cohesion and reduced aggression with peers.

IPP. Studies of intensive probation programs for youthful offenders come to similar conclusions. Barton and Butts, for example, completed an evaluation of the Wayne County Intensive Probation Program (IPP) in Detroit, Michigan. (William Barton & Jeffrey Butts, *The Metro County Intensive Supervision Experiment* (Inst. for Soc. Res. 1988).)

Youths in IPP were placed into one of three alternative programs: an intensive supervision program run by the state, a family preservation program run by a private provider, or a day treatment program run by a private provider.

In the Barton and Butts evaluation, the experimental group consisted of youths assigned to one of these three programs, while the control group contained youths placed in a state institution. Youths were randomly assigned to one of the two groups.

The researchers found that the overall performances of the experimental and control groups were comparable over a two-year follow-up period. In addition, IPP programs cost less than one-third as much as incarceration—Barton and Butts estimated that the programs saved $8.8 million over three years.

ISU. Wiebush evaluated the Lucas County, Ohio, Intensive Supervision Unit (ISU), a public program that targeted nonviolent felony offenders. (Richard G. Wiebush, *Juvenile Intensive Supervision: Impact on Felony Offenders Diverted From Institutional Placement*, 39 Crime & Delinq. 68–88 (1993).)

ISU provided case-management and surveillance services to its youths. A comprehensive treatment plan was developed for each youth. ISU probation officers have average caseloads of only fifteen youths. Wiebush used a quasi-experimental design to compare the outcomes for ISU youths with a group of youths who were eligible for ISU but instead were incarcerated and then released to parole supervision.

Analysis of the youths' pre-program characteristics showed that there were few differences. Outcome measures included rearrest, readjudication, and incarceration. All youths were tracked for their first eighteen months in the community.

The results showed that there were no significant differences between the two groups in the extent or seriousness of recidivism, except that the ISU youth had more technical violations. It was concluded that ISU was as effective as incarceration for serious offenders. Moreover, ISU cost just $6,020 per year, compared to $32,320 for incarceration.

VJO. Fagan conducted an in-depth study of the Violent Juvenile Offender (VJO) program, which provided a continuum of care for violent juvenile offenders in four urban sites. (Jeffrey Fagan, *Treatment and Reintegration of Violent Juvenile Offenders: Experimental Results*, 7 Just. Q. 233–63 (1990).)

VJO youths were initially placed in small, secure facilities and were gradually reintegrated into the community through community-based residential programs followed by intensive supervision. There was continuous case management starting in secure care and extending through the reintegration phases. Eligible youths were randomly assigned to experimental VJO programs or traditional juvenile corrections programs.

In Boston and Detroit, the two sites (out of four total sites) with the strongest implementation of the program design, VJO youths had significantly fewer and less serious rearrests than the control group when time at risk was taken into account. In addition, youths in these two sites had significantly longer intervals until their first arrest, regardless of time at risk.

Fagan concluded that "the principles and theories built into [VJO] programs can reduce recidivism and serious crime among violent juvenile offenders." (*Id.* at 254.) Further, Fagan stated that "reintegration and transition strategies should be the focus of correctional policy, rather than lengthy confinement in state training schools with minimal supervision upon release." (*Id.* at 233.)

Skillman. Not every study, to be sure, is as encouraging. Although the Fagan study seemed to reaffirm the importance of aftercare supervision, an evaluation by Greenwood et al. of experimental aftercare programs in Detroit and Pittsburgh found different results. (Peter Greenwood, Elizabeth Piper Deschenes & John Adams, *Chronic Juvenile Offenders: Final Results from the Skillman Aftercare Experiment* (Rand 1993).)

The two experimental programs shared common core features, including prerelease planning involving the aftercare worker, youth, and family; an intensive level of supervision, including several daily contacts; efforts to resolve family problems; efforts to involve the youth in community activities; and highly motivated caseworkers.

Youths in the study, all of whom were returning home from residential placement, were randomly assigned either to one of the experimental aftercare programs or to traditional post-release supervision. There were no significant differences between the experimental and control groups in the number of rearrests, number of reconvictions, and severity of reoffenses. There were also no significant differences between the groups in self-reported offenses.

An explanation offered by the authors for these disappointing results is the difficulty, as discussed earlier, in finding significant differences when there are small sample sizes. Each site had a sample of approximately fifty experimental and fifty control youths.

Greenwood et al. concluded that "the levels of intensive aftercare super-

vision and services for chronic juvenile offenders, as provided in this demonstration project, appear to have had much less effect on subsequent behavior than many of the advocates of aftercare or intensive supervision had hoped." (*Id.* at xii.)

Effective alternatives. Taken together, these studies of community-based graduated sanction programs show that such programs can serve as safe, cost-effective alternatives to incarceration for many youths. Even the less favorable studies we have discussed show community-based programs to be as effective as traditional training schools in reducing recidivism. And the more encouraging studies suggest that when alternative programs are carefully conceived and well-implemented, they can be *more* effective.

State systems

In addition to studies of individual graduated sanction programs, studies have been conducted of state systems that emphasize graduated sanctions.

Massachusetts. The Massachusetts Department of Youth Services (DYS) places less emphasis on incarceration than perhaps any other state system in the nation. In 1972, Massachusetts closed down its traditional training schools.

Today, the state relies on a sophisticated network of small, secure programs for violent youths coupled with a broad range of highly structured community-based programs for the majority of committed youths. Most of these community-based programs are operated by private nonprofit agencies under contract with DYS. Secure facilities are reserved for only the most serious offenders (approximately 15% of all commitments). The largest of these secure programs houses just twenty offenders.

The impact of the Massachusetts system was initially studied by Coates et al. in the late 1970s. (Robert Coates, Alden Miller & Lloyd Ohlin, *Diversity in a Youth Correctional System* (Ballinger 1978).) Coates and his colleagues compared the outcomes of a sample of youths released from the newly established community-based programs in 1974 with a group released from Massachusetts training schools in 1968, before the state's reforms were enacted.

The researchers reported that the average recidivism rates for youths in the community-based programs sample were actually *higher* than for youths in the training school sample (74% vs. 66%). This finding may be partially explained by a decrease in less serious offenders being committed to DYS.

In any case, a closer analysis of the data revealed that in those parts of the state where community programs were properly implemented, recidivism rates were equal or slightly lower than the training school sample. The authors concluded that "regions that most adequately implemented the reform measures with a diversity of programs did produce decreases in recidivism over time." (*Id.* at 177.) In addition, community program youths throughout the state showed better attitudinal adjustment than institutionalized youths.

In 1989, NCCD completed a second study of the Massachusetts system. (Barry Krisberg, James Austin & Patricia A. Steele, *Unlocking Juvenile Corrections* (NCCD 1989).)

NCCD's research on the Massachusetts community-based approach revealed recidivism rates that were as good as or better than most other jurisdictions. DYS youths showed a significant decline in the incidence and severity in offending in the twelve months after entry into DYS community programs as compared to the pre-DYS period. These declines in offending were sustained over the next two years.

NCCD also found that the Massachusetts approach was cost-effective: Massachusetts saved an estimated $11 million annually by relying on community-based care.

Utah. NCCD also studied the Utah juvenile justice system, which like Massachusetts, relies on community-based programs for most committed youths. (Barry Krisberg et al., *The Impact of Juvenile Court Sanctions* (NCCD 1988).)

Using a pre/post test design, the study found that although a high proportion of youths were rearrested, there was a substantial "suppression effect"—youths showed large declines in the frequency and severity of offending after correctional intervention.

Maryland. Gottfredson and Barton found different results in a study of the closing of the Montrose Training School in Maryland. (Denise C. Gottfredson & William H. Barton, *Deinstitutionalization of Juvenile Offenders* (Univ. of Md. 1992).)

The experimental group consisted of youths committed to the Maryland Division of Youth Services after Montrose had been closed. These youths were placed in community-based programs. The control group was youths who had been incarcerated in Montrose before it was closed.

The researchers found that the control group outperformed the experimental group on most recidivism measures. This result is similar to the original Massachusetts study completed by Coates et al., although those earlier researchers found positive results in the regions with strong program implementation.

The Maryland study, like the original Massachusetts study, was conducted immediately after the closing of a training school when community-based programs were at the earliest stage of implementation. It may be that these community-based programs need to operate and improve for several years before positive results will be found, as NCCD's later Massachusetts study suggests.

Resources conserved and recidivism reduced. These studies suggest that states with well-implemented graduated sanction systems are as effective at reducing recidivism as states that rely on traditional approaches. In addition, states employing graduated sanction systems save significant resources, which can be shifted to delinquency prevention programs.

Meta-analyses

Meta-analysis is an analytic technique that synthesizes results across multiple program evaluations. Several recent meta-analyses have again rebuked the claim that "nothing works" with juvenile offenders and supported the notion that rehabilitation can be ef-

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ective, particularly when it is delivered n a community setting. The meta-analyses also point to specific strategies that appear more promising than others.

Lipsey. Lipsey has provided the most comprehensive meta-analysis of delinquency studies to date. (Mark W. Lipsey, *Juvenile Delinquency Treatment: A Meta-Analytic Inquiry into the Variability of Effects*, in *Meta-Analysis for Explanation: A Casebook* (Thomas D. Cook et al. eds., Russell Sage Found. 1991).)

His analysis incorporates 443 such studies, 373 of which were published between 1970 and 1987, including studies of both institutional and community-based programs. All of the studies had experimental designs.

Lipsey found that 64 percent of the study outcomes favored the treatment group, 30 percent favored the control group, and 6 percent favored neither group. The primary outcome measure in 85 percent of the studies was formal contact with the police or juvenile justice system (arrests, police contact, court contact, probation contact, parole contact, institutionalization, or institutional disciplinary contact).

Programs employing behaviorally oriented, skill-oriented, and multimodal treatment methods—methods employed by many of the graduated sanction programs discussed earlier—produced larger effects than other treatment approaches. Deterrence and "shock" approaches—methods employed by control-based incarceration programs—were associated with negative results.

In addition, Lipsey found that the successful treatment approaches produced larger positive effects in community rather than institutional settings, providing strong support for community-based graduated sanction programs.

Garrett. Along similar lines, Garrett analyzed 111 quasi-experimental studies of adjudicated delinquents conducted between 1960 and 1983. (Carol Garrett, *Effects of Residential Treatment on Adjudicated Delinquents: A Meta-Analysis*, 22 J. Res. in Crime & Delinq. 287–308 (1985).)

Most (81%) of the studies were from institutional treatment programs; the rest (19%) were from community residential treatment programs. Three-fourths of the studies involved a control group; the remaining one-fourth used a pre/post design with no comparison group. The outcome measures used varied from study to study and included recidivism, institutional adjustment, psychological adjustment, and academic performance.

Garrett found that the treatment groups, on average, outperformed the controls on these outcome measures. She concluded that the results "are encouraging in that adjudicated delinquents were found to respond positively to treatment on many criteria. The change was modest in some cases, substantial in others, but overwhelmingly in a positive direction." (*Id.* at 306.)

Behavioral treatment showed larger positive effects than psychodynamic treatment or life skills treatment. The individual treatment approaches with the largest positive effects were contingency management, family therapy, and cognitive-behavioral. Garrett concluded that "the results of the meta-analysis suggest that treatment of adjudicated delinquents in an institutional or community residential setting does work." (*Id.* at 287.)

Whitehead and Lab. A less encouraging study was Whitehead and Lab's meta-analyses of fifty studies of institutional and community-based programs. (John T. Whitehead & Steven P. Lab, *A Meta-Analysis of Juvenile Correctional Treatment*, 26 J. Res. in Crime & Delinq. 276–95 (1989).) The researchers concluded that "correctional treatment has little effect on recidivism." (*Id.* at 291.) This conclusion, however, was based on an extremely rigid definition of successful treatment.

Andrews et al. Whitehead and Lab's conclusion was challenged by Andrews et al. in a meta-analyses which included forty-five of the fifty studies used by Whitehead and Lab. (D.A. Andrews et al., *Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis*, 28 Criminology 369–404 (1990).)

The researchers added thirty-five studies of both juvenile and adult programs to their analysis. The researchers coded the programs into four categories. Programs had either (1) "appropriate" correctional service; (2) "inappropriate" correctional service; (3) unspecified correctional service; or (4) nonservice criminal sanctioning.

The appropriate correctional service group included

> (1) service delivery to higher risk cases, (2) all behavioral programs (except those involving delivery of service to lower risk cases), (3) comparisons reflecting specific responsivity-treatment comparisons, and (4) nonbehavioral programs that clearly stated that criminogenic need was targeted and that structured intervention was employed.

(*Id.* at 379.) The inappropriate correctional service included

> (1) service delivery to lower risk cases and/or mismatching according to a need/responsivity system, (2) nondirective relationship-dependent and/or unstructured psychodynamic counseling, (3) all milieu and group approaches with an emphasis on within-group communication and without a clear plan for gaining control over procriminal modeling and reinforcement, (4) nondirective or poorly targeted academic and vocational approaches, and (5) "Scared Straight."

(*Id.*)

Andrews et al. found that programs with appropriate correctional service had the most positive outcomes, followed by unspecified correctional service. Inappropriate service and nonservice criminal sanctioning were both associated with negative outcomes.

vice criminal sanctioning were both associated with negative outcomes.

The authors reaffirmed the importance of rehabilitation, concluding that "appropriate correctional service appears to work better than criminal sanctions not involving rehabilitative service and better than services less consistent with . . . principles of effective rehabilitation." (*Id.* at 384.)

Palmer. In a comprehensive review of the existing meta-analyses, Palmer summarized the findings into four main points (Ted Palmer, *The Re-Emergence of Correctional Interventions* (Sage 1992)):

1. When individual programs were grouped together and analyzed as a single, generic approach (e.g., counseling), many approaches did not seem to successfully reduce recidivism.

2. Despite the above finding in regard to groups of programs, there were many individual programs that seemed successful. The experimental group outperformed the controls in many or most individual programs. Specifically, experimentals significantly outperformed controls in at least 25 percent to 35 percent of all programs, while controls significantly outperformed experimentals in just under 10 percent. Statistically successful individual programs could be found in almost every generic program category, even if the category as a whole seemed unsuccessful.

3. Although generic approaches may not have been shown to have better outcomes, some were associated with equal outcomes. Such approaches seem to be as effective as traditional approaches, and often cost much less.

4. At the generic level, the interventions considered most successful were behavioral, cognitive-behavioral, skill-oriented or life skills, multimodal, and family intervention.

Palmer concluded that "the large number of positive outcomes that have been found in the past three decades with studies whose designs and analysis were at least adequate leaves little doubt that many programs work." (*Id.* at 76.)

What works

Rehabilitation important. These meta-analyses serve to rebuke the claim that nothing works with juvenile offenders and reaffirm the importance of rehabilitation. They suggest that rehabilitation is more successful in community rather than institutional settings. In addition, they point to specific interventions—such as behavioral, skill-oriented, and multimodel approaches—that seem more successful than others.

Research literature on critical components. In the past, several researchers have identified what they believe are the critical components of successful programs for delinquent youths. Altschuler and Armstrong, for example, cited six key components:

- continuous case management;
- emphasis on reintegration and reentry services;
- opportunities for youth achievement and involvement in program decision making;
- clear and consistent consequences for misconduct;
- enriched educational and vocational programming; and
- a variety of forms of individual, group, and family counseling matched to youths' needs.

(David Altschuler & Troy Armstrong, *Intervening with Serious Juvenile Offenders*, in *Violent Juvenile Offenders* (Robert Mathias et al. eds., NCCD 1984).)

Greenwood and Zimring also identified several features essential for program success. (Peter Greenwood & Frank Zimring, *One More Chance: The Pursuit of Promising Intervention Strate-*

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those distinguished by Altschuler and Armstrong, include:

- providing opportunities for success and development of positive self-image;
- bonding youths to prosocial adults and institutions;
- providing frequent, timely, and accurate feedback for both positive and negative behavior;
- reducing the influence of negative role models;
- requiring youths to recognize and understand thought processes that rationalize negative behavior;
- creating opportunities for juveniles to discuss childhood problems; and
- adapting program components to meet the needs of each individual youth.

NCCD findings on critical components. Our review of the research literature lends support to the factors identified by these researchers and also points to additional components critical to the effectiveness of graduated sanction programs. NCCD found that the programs that work most reliably are those that actually address key areas of risk in a youth's life and seek in a variety of ways to strengthen the factors, personal and institutional, that make for healthy adolescent development; provide adequate support and supervision; and offer a long-term stake in the community.

These principles apply to youths at all levels of a graduated sanction system. What is most important, the research suggests, is not so much the particular stage of intervention as the quality, intensity, direction, and appropriateness of the intervention itself. (*Cf.* Andrews et al. *supra.*)

It is important to sort out what the emerging literature tells us in order to provide a more coherent view of what seems clearly promising or just as clearly ineffective, and what seems potentially useful but about which we know too little, so far, to be definitive.

What does not work

We may start with a brief note of what clearly does *not* seem to work. This category includes conventional individual psychological counseling, in or out of the juvenile justice system; "deterrence" approaches such as "Scared Straight"; and most peer-group counseling strategies that simply gather offenders together to talk, without more substantial intervention that addresses the deeper conditions that affect their lives (*Cf.* Joy G. Dryfoos, *Adolescents at Risk: Prevalence and Prevention* 145–47 (Oxford Univ. Press 1990).)

One step up is a range of programs where clear-cut evidence of effectiveness in reducing recidivism or deflecting delinquent careers is slender at best, but where the scattered evidence of success on those dimensions is augmented by more solid evidence that the programs can make a difference in *other* realms.

This category includes short-term community service, restitution, and mediation programs, among others. There is only limited evidence, for example, that restitution programs have reduced offending. (*See* Anne Schneider, *Restitution and Recidivism Rates of Juvenile Offenders: Results from Four Experimental Studies*, 24(3) Criminology (1986).)

On the other hand, some recent evaluations do suggest that restitution programs increase both offenders' and victims' satisfaction with the justice process, deliver important restitution in the form of financial repayments and/or community service, and make victims less fearful of being victimized again. (Mark S. Umbreit & Robert B. Coates, *The Impact of Mediating Victim-Offender Conflict: An Analysis of Programs in Three States*, 43(1) Juv. & Fam. Ct. J. (1992).)

There are some common threads in all of these negative or inconclusive findings. Such programs are often "one shot" or short term. Even those that are longer term rarely take on any of the key problems or social/personal deficits that probably got the youth into trouble in the first place.

If a longer term program does attempt to tackle key problems, it often treats the issues as isolated from the rest of the young person's life. The program rarely has a clear developmental rationale underlying it, and it does not attempt to alter the youth's "ecological"

Added Cites for OJJDP:

- Davidson, W.S., Seidman, E., Rappaport, J., Verck, P., Rapp, N., Rhodes, W., and Herring, J., *Diversion Programs for Juvenile Offenders*, 13 Social Work Research and Abstracts, 48–49 (1977).
- Davidson, William S., Redner, Robin, Blakely, Craig H., Mitchell, Christina M., and Emshof, James G., *Diversions of Juvenile Offenders: An Experiemental Comparison*, 55 Jour. of Consulting and Clinical Psychology, 68–75 (1987).
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- Sampson, Robert, and Laub, John H., *Crime in the Making: Pathways and Turning Points Through Life*, Harvard University Press, Cambridge (1993).
- Sechrest, Lee, White, S.O., and Brown, E.D., *The Rehabilitation of Criminal Offenders: Probems and Prospects*, National Academy Press, Washington, D.C. (1979).
- Shore, Milton, and Massimo, Joseph, *The Effectiveness of a Comprehensive, Vocationally-Oriented Psychotherapeutic Program for Adolescent Delinquent Boys*, 33 Amer. Jour. of Orthopsychology No. 4, 634–642 (1963).

or institutional situation by working to improve such things as family functioning, the youth's goodness of fit with the school, or opportunities for productive and meaningful work.

Themes for success

The programs that clearly do seem to make a difference are, by the same token, those that engage youths' problems and deficits, have an underlying developmental rationale (if often a broad one), and try to alter the institutional and ecological conditions that most affect youths' lives.

As earlier reviews of the evidence have repeatedly found, overall implementation factors such as the consistency and integrity of the intervention are generally more important than the specific "model" of intervention or its specific theoretical underpinning. (*See, e.g.*, W.E. Wright & M.C. Dixon, *Community Prevention and Treatment of Juvenile Delinquency: A Review of Evaluation Studies*, 14 J. Res. in Crime & Delinq. 35–67 (1977).)

But within that general picture there are some crucial themes that we believe appear again and again in the most successful and carefully evaluated programs. These themes apply at the substantive level.

- Programs are "holistic" (or "comprehensive" or "multisystemic"), dealing with many aspects of youths' lives simultaneously, as needed.
- Programs are intensive, often involving multiple contacts weekly or even daily with at-risk youth.
- Programs mostly—though not exclusively—operate outside the formal juvenile justice system under a variety of auspices: public, nonprofit, or university.
- Programs build on youths' strengths rather than focus on their deficiencies.
- Programs adopt a socially grounded approach to understanding a youth's situation and dealing with it, rather than a mainly individual or medical-therapeutic approach.

As is true of virtually every intervention into any kind of problematic behavior, the programs that work on the process or implementation level tend to be those that are continued over a reasonably long time, are reasonably "dose-intensive," are delivered by energetic and committed if not necessarily highly trained staff, and do what they set out to do—that is, possess "therapeutic integrity."

Another critical program component is systematic case management. Successful programs have a case-management system that begins at intake and follows youths through the different program phases until discharge. Individual treatment plans are developed to address the specific needs of each youth and are updated on a regular basis.

Successful programs provide frequent feedback, both positive and negative, to youths on their progress. Positive behavior is acknowledged and rewarded, while clear and consistent sanctions are given for negative behavior.

Education, vocational training, and counseling strategies can be effective if they are intensive and tied to the individual needs of juveniles. The most effective type of counseling seems to be that which employs a cognitive-behavioral approach. The counseling component should include family counseling in addition to individual and group counseling because many of the problems faced by youths are caused or exacerbated by family dysfunction.

Family issues are just one of several key areas in the lives of youths that must be addressed in treatment. Successful programs also typically deal with issues relating to community, peers, school, and work.

It is far more productive to work on these issues when youths remain living with their families, or at least remain in their own communities, while receiving treatment. Of course, for public safety reasons, community-based treatment is not always appropriate, and families, increasingly, may be dysfunctional or nonexistent. Nonetheless, the findings suggest that youths should always be treated in the least restrictive environment possible.

Intensity of service for youths who remain in the community is critical. Successful community programs have low caseloads, ensuring that youths receive constant and individualized attention. Frequent face-to-face contacts, telephone contacts, and contacts with parents, teachers, and employers are essential in order to provide close monitoring and consistent support for youths. This type of service is most successful if its intensity is gradually diminished over a long period of time.

Finally, successful programs gradually reintegrate youths into their homes and communities. Intensive aftercare services are crucial to program success, particularly for residential programs.

Graduated sanctions reduce recidivism and costs

The research literature clearly shows that community-based graduated sanction programs are at least as effective as, and sometimes more effective than, traditional incarceration programs. In addition, graduated sanction programs usually cost far less than their traditional counterparts.

The results of this review also point the way toward an understanding of the crucial elements of success in graduated sanction programs for young offenders. We can say with some confidence that some things do work—when they are carefully conceived, properly implemented, and provided with enough resources to do the job they set out to do. As we have seen, a number of past and present programs across the country have achieved creditable results using some combination of these elements of success.

Again, it is important to stress that good intentions are not sufficient. It would be a mistake to abandon the idea that nothing works only to adopt the equally misleading view that *everything* does. And there is still a great deal to be learned about which specific kinds of interventions work best, with which types of offenders, and under what conditions.

But what is strikingly clear from this research is that the headlong rush to ever-greater incarceration in the name of "getting tough on young thugs" is unjustified. For all but the truly violent few, investing in a continuum of graduated care makes better sense in every dimension—for our youth, for our communities, and, not least, for our pocketbooks.

JUVENILE JUSTICE

By Robert E. Shepherd, Jr.

State Pen or Playpen? Is Prevention "Pork" or Simply Good Sense?

Punishment or prevention? Today in this country a major debate rages over how best to control violent and serious crime, particularly as it involves juveniles, with some believing that better policing and punishment are the answer, while others opt to emphasize prevention. The public has begun to fathom that crime cannot be controlled solely through more sophisticated policing and tougher sentencing, and that a more balanced approach is necessary. Just such a balance was embodied, in part, in the Violent Crime Control and Law Enforcement Act of 1994. Passed by Congress and signed by President Clinton, it is legislation that authorized $7 billion for prevention activities alone. However, 1995 has witnessed a significant and largely successful effort to skew that balance by stripping the prevention money out of the 1994 law, an effort distinguished by labelling prevention programs as "pork."

An excellent recent report issued by the American Youth Policy Forum has identified five important lessons for policy makers in dealing with crime and crime prevention.

1. Research provides a strong foundation for identifying risk factors early in life, which enable us to address the underlying conditions that propel some youth to crime.
2. Tougher law enforcement and stricter sanctions are unlikely, in the absence of effective crime prevention, to reduce crime significantly.
3. A number of youth-oriented prevention strategies have documented impressive results in reducing criminal, delinquent, and predelinquent behavior among young people.
4. Other prevention strategies have not been proven effective—most because they have not been subject to rigorous evaluation, a few because evaluations have found little or no positive impact. Further investments in research and evaluation and evaluation of crime prevention are clearly justified.
5. State and the federal governments need to develop and implement prevention programs aggressively, taking care to learn from experience. Research and evaluation must be important elements in all prevention efforts.

(Richard A. Mendel, *Prevention or Pork? A Hard-Headed Look at Youth-Oriented Anti-Crime Programs*, (1995).)

These conclusions support the view of practically all policy analysts in the field of juvenile justice that delinquency prevention is an essential element in, and the most cost effective component of, any strategy for the reduction of crime.

Definitions

For many years, the classic categorization of delinquency prevention programs was based on the target population of the particular program. Thus, *primary prevention* was intended for all children, such as a comprehensive regimen of prenatal and postnatal medical care, home visitor programs, preschool plans for all children, school-based programs, and similar broad strategies. *Secondary prevention* was aimed at a high-risk population and included practices such as Hawaii's "Healthy Start," Head Start, and other programs for families or children with a high level of violent or antisocial behavior. Finally, *tertiary prevention* was directed at already delinquent youth to prevent repetition of their criminal activity, including many juvenile or family court dispositions, juvenile sex offender treatments, facility-based vocational or remedial educational programs, and the like. Two simpler categories are more commonly utilized now, *prevention*, which encompasses primary prevention strategies, and *intervention*, including both secondary and tertiary prevention programs. Programs are frequently designed and targeted either for children from conception to the age of six or for children and youth over the age of six, largely because of developmental considerations, although there are some that overlap the two groups. Prevention programs designed for one group are not necessarily appropriate for the other, even though the design principles may be similar.

Identified risk factors

Researchers have increasingly concluded that delinquent and violent behavior are not the result of a single, simple causative factor. They result from a more complex interaction of a variety of factors that correlate more or less with the antisocial behavior. A growing body of literature has identified these risk factors, which, along with protective factors, can contribute to the design of prevention and intervention programs that impact positively on the incidence of delinquency and violence. The more a particular program addresses a range of factors, the more likely it is to be successful in retarding antisocial behavior. Research-based programming recognizes that there is no single "silver bullet" but rather a multi-faceted strategy is what's needed in dealing with delinquency and violence.

The family is the first setting in which

children may experience success or failure. Children raised in families with a history of alcohol or other substance abuse are more likely to abuse substances themselves than are other youths. Poor family management practices, such as inconsistent discipline, failure to monitor children's behaviors, rejection and lack of bonding or nurturing, abusive or neglectful behaviors, or reinforcement of antisocial behavior all contribute significantly to later delinquent behaviors. Family conflict and violence also lead to a high incidence of violent behavior by older children and adolescents. The presence of a single parent in the household seems to be a negative largely when that parent is suffering from negative life experiences, financial burdens, isolation, medical conditions, and other similar daily hassles.

Children who live in neighborhoods with significant economic deprivation, high population density, poor housing, high unemployment, and high rates of crime and violence are at greater risk than other youths. There is growing evidence, although there are fewer longitudinal studies, that availability of weapons and high exposure to significant levels of violence in the media may also contribute to later delinquency.

The impact of peers on juvenile delinquency and youth violence is significant. Association with delinquent and violent peers, or even with those who hold favorable attitudes toward delinquency, are strong predictors of negative behavior. Gang involvement is not only a predictor itself but it also reflect a strong sense of alienation and rebellion on the part of the participants, as well as a need for supportive companions, a sense of belonging, and some safety from neighborhood dangers. Academic failure, especially in the early elementary school years up through grade four, is a significant predictor of later delinquent and criminal behavior. This is especially true when there is early and persistent antisocial behavior in the school setting or a lack of commitment to school and educational pursuits. Youths with learning disabilities or with attention deficit hyperactivity disorders (ADHD) are particularly vulnerable to academic failure when no remediation is provided. Hyperactivity and low intelligence appear to be closely correlated with delinquency, as is a history of head injury or other neurological insults. Perinatal risks such as prematurity, low birth weight, oxygen deprivation and exposure to substances in the womb, and medical stresses at birth seem to have a high correlation to behavior problems and delinquency in some studies, but appear to be linked more to early family dysfunction and poor bonding in others, thus making difficult an assessment of the role of each. Gender also appears to play a significant role in predictions of delinquent and violent behavior. Boys show greater levels of both self-reported and officially documented delinquency, aggression in childhood, conduct disorders, and violent behavior.

Protective factors

Protective factors tend to be the converse of the risk factors, strengths that the individual child or youth may possess or have available in the family or community that can predict successful outcomes even in the face of exposure to identified risk factors. When these protective factors are present, delinquency may be prevented, or the extent of the delinquent behavior may be minimized. Many, if not most, youths exposed to single or multiple risk factors do not become delinquent or do not persist in delinquent behavior, and the presence of protective factors may explain this.

The protective factors unique to an individual may include high intelligence, a positive social orientation, a resilient temperament, or simply being born a girl instead of a boy. Also, positive prenatal care and an uncomplicated birth may contribute to the ability to withstand antisocial activities. Ronald Slaby has noted that "much like a physiological immune system, learned patterns of psychological mediation are capable of . . . counteracting the impact of experiences that act as violence toxins." (Ronald Slaby in *Inner City Life: Contributions to Violence* (1995).)

Likewise, factors that contribute to the development of social bonding can be protective from succumbing to the risks of delinquency. The presence of warm, supportive, affective relationships with, or attachments to, family members or other adults or older youth can result in positive social bonding. This bonding can also assist in developing a commitment to positive social activity valued by an influential social group such as a strong family, regardless of the number of parents present in the household. (David Hawkins, Richard Catalano and Associates, *Communities That Care: Action for Drug Abuse Prevention* (1992).)

The establishment of healthy beliefs and clear behavior standards based on strong family values and community norms influenced by churches, synagogues, mosques or other agencies, institutions, or groups can serve to enhance resistance to antisocial activity. When a child or youth is exposed to norms of behavior that exclude drug use, crime, and violence, and that are supportive of educational success and healthy development, a value system is established that opposes negative influences.

Programs that work

Those prevention or intervention programs that are most successful are based on reducing risk factors for delinquency, violence or substance abuse by enhancing protective factors for the same behaviors based on a social development strategy. To do so, successful programs are multi-faceted, directed at multiple risk factors, rather than attempting to address only one risk factor. Such programs also frequently attempt to set clear standards about what is acceptable behavior and to recreate a sense of community and social bonding. These models achieve these goals by providing children and youth *opportunities* to contribute to those around them, by giving them the *skills* to take advantage of the opportunities presented, and by giving *recognition* to participants for their efforts.

Successful programs address risks at or before the time they become predictive of later problems. Interventions to improve family management practices, such as parenting skills, are more effective than waiting to initiate the preventive strategies after a referral for abuse and neglect. Several of the most effective programs are initiated during the first five years of life, particularly prenatally and in early infancy.

The most successful programs are of sufficient length to sustain an effect. Several of these run two to five years. One of the criticisms of Head Start in some of its

manifestations is that a program that is only one year of pre-school is not of sufficient duration to achieve long-term gains in social competence. Americans tend to be impatient people, and we want results quickly. However, efforts to impact on multiple risk factors require more time in order to obtain the desired results.

There are a number of successful prevention and intervention programs operating around the country, most of them based on the principles articulated. Several early childhood education and home visitation programs have followed participants longitudinally, and demonstrated great success in reducing negative behaviors, such as the Perry Preschool Program in Ypsilanti, Michigan, the Houston Parent-Child Development Center, and the Syracuse Family Development Research Project. The Hawaii Healthy Start Program has shown promising early results in reducing family violence and child abuse in high-risk families served by the program over five years commencing prenatally or at the birth of a child. The program is based on the home visitor model, and it resulted in the prevention of child abuse in 99.8 percent of the families identified as high risk, while the rate of child abuse in control group studies was about 20 percent. The reduction of abuse should be reflected by lower violence rates for the program participants as they enter adolescence based on risk factor knowledge.

A juvenile justice system based on a continuum of care, or a series of graduated sanctions, will be most effective in dealing with offenders. Community-based programs also appear to be most effective in intervening with serious offenders without the use of incarceration. States need to look to proven models as effective alternatives to draconian juvenile correctional programs and adult prosecution and punishment. We also must be more faithful to the research we have in designing programs, rather than simply accepting the latest fad as something that will work.

Conclusion

Peter Greenwood noted in a recently published anthology that "there are some juveniles who need to be placed in restrictive settings to protect the community. However, the ultimate choice in youth violence prevention is not just whether some 15-year-old mugger should serve an additional year, at a cost to the public of about $40,000 per year, but whether that same $40,000 might be used to hire two staff to run after-school recreational programs for hundreds of youth, or to hire two caseworkers to work with 40 high-risk youth and their families." (Peter Greenwood in James Q. Wilson & Joan Petersilia, *Crime*, (1995).) Unless we are prepared to invest resources in the early years—the playpen—through prevention, we are necessarily going to have to invest significantly more resources in the state pens of the country.

This column is based in part of the author's preliminary work on the 1995 Annual Report of the Coalition for Juvenile Justice to the President, the Congress, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice.

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COMMITTEE CAUCUS

By Martin J. Weinstein

Prosecution Function

The Prosecution Function Committee provides Criminal Justice Section attorneys who are involved in law enforcement—mainly federal and state prosecutors—an opportunity to meet and discuss issues of interest. The committee, which meets quarterly at the same time as the CJS Council, usually includes representatives from the National District Attorney's Association (NDAA), the National Association of Attorneys General (NAAG), the U.S. attorney's offices, the Department of Justice, and several local prosecutors offices. Generally, the chair is shared by two prosecutors, one federal and the other state or local.

The committee deals both with issues that are proactive suggestions as well responses to matters raised by the CJS Council or the Defense Function Committee. After discussion, the Prosecution Function Committee shares its views with the Defense Function Committee in regularly scheduled meetings, and make its views known at the CJS council meetings.

Concerns of prosecutors

Prosecutors continue to press for serious habeas reform that would include a limit on the amount of frivolous litigation filed by prisoners. In addition, the continued evolution of forfeiture and seizure laws has left *Halper*-type issues unresolved when dealing with subsequent criminal charges. Any ambiguity in this area limits the ability of prosecu-

A Comparison of the Dispositions of Juvenile Offenders Certified as Adults with Juvenile Offenders Not Certified

By Kristine Kinder, M.S.A., Carol Veneziano, Ph.D., Michael Fichter, Ph.D. and Henry Azuma, Ph.D.

Abstract

In recent years, the transfer of juveniles to adult courts has been seen as one way of "getting tough" on juvenile crime. This study examined juvenile cases transferred to adult court, and compared them with a random sample of delinquents adjudicated in juvenile court for conduct that would constitute felonies if committed by an adult. The results indicated that juvenile cases transferred to adult court were far more likely to be pending and unresolved, as compared to the sample from the juvenile justice system. Furthermore, the results did not support the proposition that juveniles transferred to adult court would receive greater punishment than they could expect in juvenile court. Except for a small number of offenders, the prospect of transfer did not appear to provide a deterrent to crime.

Introduction

Since the turn of the century, juveniles were deemed to require different treatment under the law than adults. Due to their age and inexperience, juveniles have traditionally been depicted as less culpable than adult offenders and more amenable to rehabilitative intervention (Bortner, 1986). Adult criminal behavior was viewed as resulting from the exercise of free will, whereas juvenile misconduct was seen as a product of social forces or developmental difficulties (Poulos & Orchowsky, 1994).

Accordingly, the objective of the juvenile courts has been to provide rehabilitative programs and services, rather than to inflict punishment. However, due to public outcry in recent years, politicians have adopted a "get tough" attitude toward dealing with serious youthful offenders. One aspect of the system's increasing emphasis on punishment is the transfer of juvenile offenders to general jurisdiction court to stand trial for their crimes (Arthur & Schwartz, 1993). This procedure is referred to as certification, transfer, waiver, reference, remand or declination. All states have established procedures for remanding juveniles to general jurisdiction court for prosecution (Bortner, 1986).

A number of studies have examined the reasons for waiver to general jurisdiction court. Generally, the results indicate that offense seriousness and prior arrest account for little of the variance in waiver and nonwaiver decisions. Rather, other factors have been identified, such as race (Fagan & Deschenes, 1990), age (Bortner, 1986), reductions in juvenile justice funding (Bishop, Frazier and Henretta, 1989), and waiver for a previous offense (Lee, 1994).

One of the principal rationales underlying the transfer of juveniles to general jurisdiction court is that they will receive stiffer penalties

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than those available in the juvenile justice system. Since juveniles transferred to adult court are considered serious offenders, it would follow that a sentence of probation would be unusual. Some research has examined this rationale, and the results of recent studies suggest that with the exception of violent offenders, this reasoning is not correct (Gillespie & Norman, 1984; Houghtalin and Mays, 1991).

For violent offenders, the research indicates that juvenile offenders transferred to adult court are sentenced as severely or more severely than they would be in juvenile court. A study by Rudman et al., (1986) compared court outcomes for youths transferred to general jurisdiction courts with those for youths retained in juvenile courts in four urban areas. Their data indicated that when a juvenile is charged with a violent crime, and has already committed a prior serious offense, he or she will very likely be adjudicated or convicted of a violent crime irrespective of which court has jurisdiction. Barnes and Franz (1989) found that juveniles charged with crimes against the person were sentenced more severely in general jurisdiction court than they would have been in juvenile court.

However, some research suggests that this pattern does not appear to hold true for property offenders, who make up the largest group targeted by the transfer process. The majority of these juveniles are placed on probation; in addition, some have their charges dismissed or reduced in severity once they are transferred to general jurisdiction court (Feld, 1990). Champion (1989) argued that the juvenile justice system would have institutionalized many of these individuals.

The present study tracked a group of juvenile offenders certified to adult court with a noncertified adjudicated sample of juvenile offenders to compare the two groups. Its primary purpose was to determine whether those certified as adults were treated more punitively by the criminal justice system than those adjudicated for felonies in juvenile court.

Method

Two samples were obtained from St. Louis Missouri: a sample of juveniles certified as adults, and a sample of juveniles adjudicated as delinquent for conduct that would constitute felonies if committed by an adult. Family court records were used to determine certification patterns of juveniles during 1993. Data on certifications was obtained from the records of certified offenders, providing a 100% sample of all youths certified in the city during that year. A total of 112 juveniles were certified as adults in 1993. As only one female was certified, a comparison was made between the 111 males certified as adults, and a random sample of the same number of juveniles aged 14 to 16 adjudicated for felonies who were not remanded to the adult system.

The following variables concerning the juveniles were recorded: (1) age at the time of the offense; (2) race; (3) prior number of referrals to the court; (4) seriousness of the present referral before the court; and (5) disposition of the case.

Results

In 1993, the number of juveniles certified as adults had increased from 27 in 1987 to 112, a 400% increase. Although there had been an increase in the number of juveniles referred to juvenile court for felonies, the increase was from 1,463 in 1987 to 2,185 in 1993, a 33% increase.

Several juveniles were certified as adults more than once. Of 111 certification hearings, 29 were for thirteen juveniles. Eleven were certified twice, one was certified three times and one was certified four times. These juveniles comprised 11.7% of those certified; however, they were the subjects of 26% of the certification hearings. It should also be noted that eight other juveniles had been certified in 1992.

There was little difference between the certified and noncertified males in terms of race. The racial breakdown of the transferred juveniles was 6.3% white and 93.7% black; for the noncertified sample, 8.1% were white and 90.9% were black.

Table 1 indicates the ages of the certified and noncertified samples. As can be seen, certified juveniles were more likely to be 16 and 17 than noncertified juveniles.

Table 1
Comparison of Juveniles by Age Certified vs. Not Certified as Adults

Age	Certified	Noncertified
14	.9%	29.7%
15	25.2%	39.6%
16	61.3%	30.7%
17	12.6%	0

The number of prior referrals to juvenile court was also compared between the certified and noncertified sample. Although there was overlap, certified juveniles were far more likely to have been referred nine or more times to the court system.

Table 2
Prior Referrals to the Court Certified vs. Not Certified as Adults

Number of Prior Referrals	Certified	Noncertified
0-2	8 (7.2%)	23 (20.7%)
3-5	17 (15.3%)	36 (32.4%)
6-8	19 (17.1%)	28 (25.2%)
9-14	39 (35%)	17 (15.3%)
15+	28 (25.2%)	7 (6.3%)

Table 3 lists the breakdown for the current offense. As can be seen, the certified sample was more likely to have been arrested for a violent crime, (55.8%), while the noncertified sample was more likely to have been arrested for crimes involving drug possession or distribution (40.5%).

Table 4 indicates the breakdown of court actions for the samples for certified and non certified juveniles. It should be noted that over one-third of the cases were taken under advisement. For most of these cases, no action is likely to be taken, because of evidentiary problems or because a victim or witness is uncooperative or unavailable.

Discussion

The results indicate a considerable increase in the use of certification to adult court in this metropolitan area. A comparison of those waived to adult court with a random sample of juveniles adjudicated in juvenile court for felonious conduct indicated that the certified sample was older, more likely to have been previously certified, and to have had more prior referrals to juvenile court. Other studies have had similar results.

When the court actions for the two groups are compared, several findings are noteworthy. It is clear that cases were moved more rapidly at the juvenile level as opposed to the

Table 3
Current Court Referral for Certified vs. Not Certified as Adults

Type of felony	Certified	Noncertified
Murder first degree	21	0
Involuntary manslaughter	1	0
Robbery first degree	12	13
Robbery second degree	0	4
Assault first degree	18	7
Assault second degree	1	1
Burglary first degree	0	3
Rape or sodomy	2	2
Sexual abuse first degree	0	2
Total crimes against person	55 (49.5%)	32 (28.8%)
Unlawful use of weapon	15	10
Possession or distribution of controlled substance	15	35
Total crimes against state	30 (27%)	45 (40.5%)
Burglary second degree	3	0
Tampering first degree	18	24
Auto theft	2	9
Stealing-felony	2	1
Total property crimes	25 (22.5%)	30 (27%)

adult level. For the 1993 cases, all juveniles in the adjudicated sample had had their cases decided. At the adult level, however, nearly two-thirds of the cases had either been taken under advisement, or were pending (36% and 29.7% respectively). It is clear that for many of the juveniles transferred to general jurisdiction court, there were no immediate consequences.

It is also apparent that for most of the cases, transfer to general jurisdiction court did not mean that a "get tough" policy was implemented. Of the sample remanded to adult court, 6.3% were sent to prison. Another 17% were placed on probation. Most of the remaining cases had not been completed, and many will most likely be dismissed. In contrast, nearly one-half (49.5%) of the sample which went through juvenile court were placed on probation, and 20.7% were placed with the Division of Youth Services and sent to an institution. Cases determined at the juvenile court level were thus more likely to receive the services provided by the juvenile court.

It would appear that remanding a juvenile to general jurisdiction court is not a panacea in reducing the juvenile crime problem by "getting tough." It is probably more difficult to prosecute an individual in the adult system than in the juvenile justice system. Furthermore, youths are treated as first time offenders when they reach adult courts. Young offenders are probably more likely to be treated less seriously by the adult court system, unless the crime is very serious, because they will be perceived as young and immature by those accustomed to handling adults. It is also possible that juries

Table 4
Breakdown of Court Actions for Certified and Noncertified Juveniles

Court Action: Certified Juveniles					
Taken under advisement		40	(36%)		
No warrant		4	(3.6%)		
Indicted		5	(4.5%)		
Warrant issued		62	(55.9%)		
Status of warrant issued:	Pending			33	(29.7%)
	Acquitted			1	(.9%)
	Under Advisement			1	(.9%)
	Suppressed			1	(.9%)
	Probation			19	(17%)
	Prison			7	(6.3%)
Court Action: Noncertified Juveniles					
Dismissed				29	(26%)
Court supervision--probation				31	(27.9%)
DYS suspended commitment--probation				24	(21.6%)
Division of Youth Services				23	(20.7%)
Temporary custody				2	(1.8%)
Transfer of custody				1	(.9%)
Commitment to agency				1	(.9%)

are reluctant to convict juveniles when a long sentence would be the result. For such reasons, cases of juvenile offenders transferred to adult court seem unlikely to be vigorously prosecuted.

It is also possible that many juveniles might not have been appropriate for transfer to the adult system. Previous research suggests that more juveniles are transferred when the juvenile justice system lacks resources. If juveniles thus transferred are not perceived to be serious cases, again they might be likely to receive more lenient treatment.

The results suggest that most juveniles transferred to adult court are not given longer punishments than if they had remained in the juvenile justice system. Furthermore, it is not clear that at the adult level they will receive the services for youth potentially available to them if they had gone to juvenile court. General jurisdiction court might be the only solution for a small number of youthful offenders who have committed very serious crimes, but this policy appears unlikely as presently implemented to either have a deterrent effect or to deal with the problems facing juvenile offenders.

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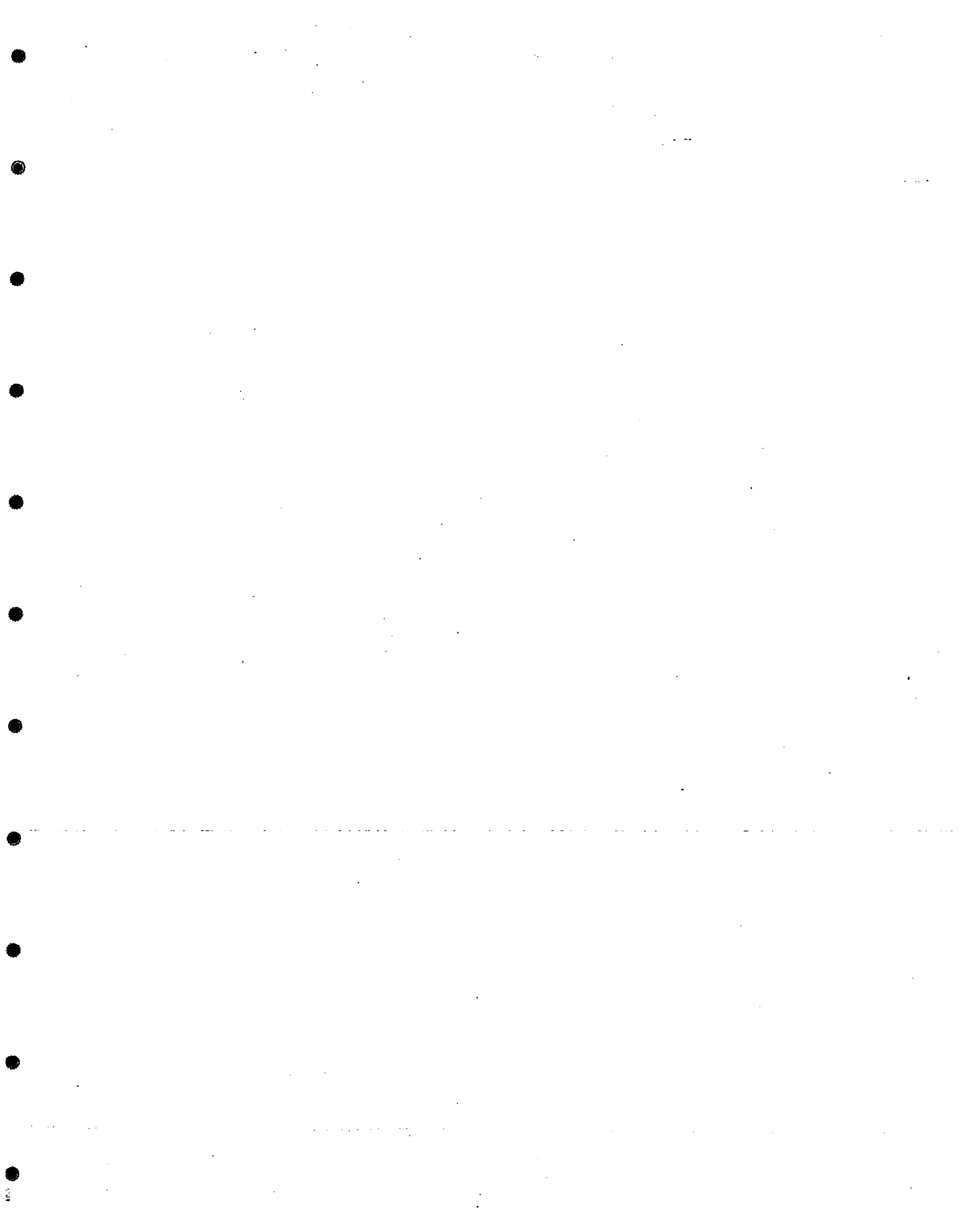


Chapter Three: Victim Rights in the Juvenile Justice System

A. Significant victim rights legislation applicable to the juvenile justice system

a. Constitutional amendments and the juvenile justice system

- State constitutional amendments generally provide that victims have a right "to be informed, present and heard at all critical stages of the criminal justice process"

- Many amendments are limited by language that provides that such rights shall not interfere with the rights of the accused

- Some amendments specifically apply to both the criminal and juvenile justice process
  Alaska

- Some states have adopted separate amendments or legislation addressing the juvenile system
  Arizona
  Florida

- Arizona is proposing an amendment to its constitution through the initiative process that would provide for:
  The prosecution of juveniles 15 years or above as adults
  Prompt restitution to any victims of unlawful conduct by a juvenile
  Deferral of prosecution of certain juveniles and establish community-based alternatives for resolution of such cases
  Make all records and proceedings of juveniles accused as unlawful conduct open to the public

b. Bills of rights for victims in the juvenile justice system

- Florida statute

- Arizona statute

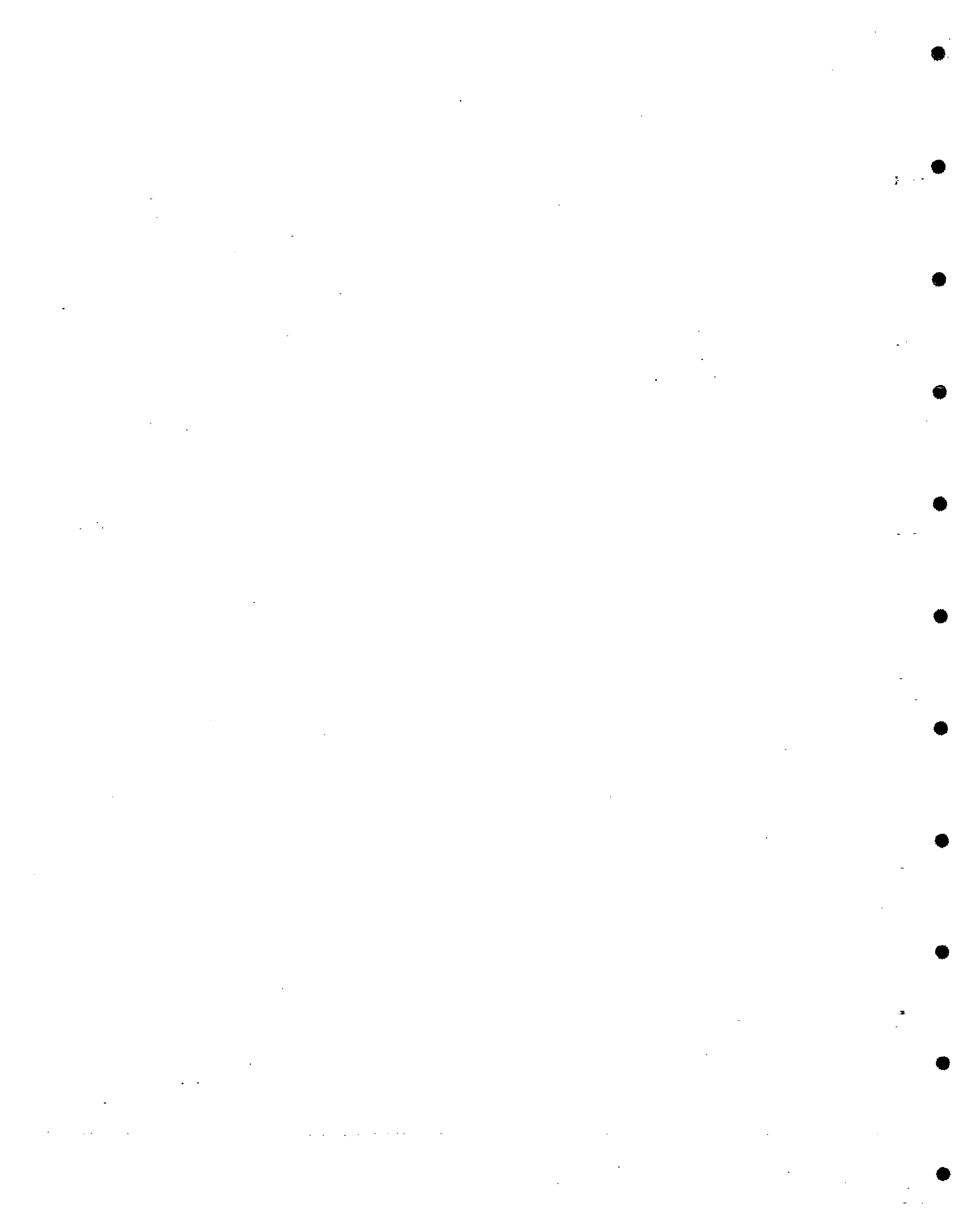
- Texas statute

B. Significant case law interpreting legislation

a. Supreme court decisions establishing rights for the juvenile accused

b. Recent court cases on confidentiality

c. Case law on restitution



C. Proposals for changing the juvenile justice system

a. ***Principle:*** The rights of victims of juvenile offenders should be the same as the rights of victims of adult offenders, and all victims should have rights equal to those of the accused.

b. ***Principle:*** All persons dealing with victims of juvenile offenders should receive education and training on the impact of victimization and appropriate treatment of victims.

c. *Principle:* The public has the same right to know the criminal record of juvenile offenders as it does of adult offenders.

d. *Argument:* Juvenile offenders should be treated the same as adult offenders in the criminal justice process. Judges should explore sentencing options with first-time offenders in all cases.

- Juveniles who commit violent crime need swift and certain punishment
- Juveniles should be exposed to the consequences of their crime
- All first-time offenders should be given opportunities for restoration
- Offenders who commit multiple felonies should receive maximum prison time in order to incapacitate them from committing future offenses
- Adult or juvenile offenders who commit heinous crimes may be considered for the death penalty

f. ***Argument:*** Juvenile offenders should be treated differently from adult offenders in the criminal justice process. Offenders should be given opportunities to participate in restorative justice processes.

- Community involvement in juvenile justice proceedings
- Community involvement in sanctions and restitution
- Community involvement in processes of reintegrative shame and restoration of the offender
- Community involvement, when appropriate and with the victim's consent, in victim-offender dialogue
- Juvenile offenders who wish to be involved in the traditional justice system should be allowed that option so long as victim rights and participation are guaranteed
- The community and victims may choose that an accused juvenile be tried in a traditional jury system

ALABAMA

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with sections 284, 284, and 287 of the Constitution of Alabama of 1901 as amended:

(a) Crime victims, as defined by law or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when authorized, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the person committing the crime.

(b) Nothing in this amendment or in any enabling statute adopted pursuant to this amendment shall be construed as creating a cause of action against the state or any of its agencies, officials, employees or political subdivisions. The Legislature may from time to time enact enabling legislation to carry out and implement this amendment.

Section 2. An election upon the proposed amendment shall be held at the next general, special, primary, or constitutional amendment election held more than three months after final adjournment of the session of the Legislature at which this act is adopted. The election shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor. The proclamation shall be published once a week for four successive weeks immediately preceding the day appointed for the election in a newspaper. A copy of the notice shall be posted at each courthouse and post office.

ARIZONA

2.1 Victims Bill of Rights

Section 2.1 (A) To preserve and protect the victims' rights to justice and due process, a victim of crime has a right:

1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.

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2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.

3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.

4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing.

5. To refuse an interview, deposition, or other discovery request the defendant, the defendant's attorney, or any other person acting on behalf of the defendant.

6. To confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and to be informed of the disposition.

7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant.

8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.

9. To be heard at any proceeding when any post-conviction release from confinement is being considered.

10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.

11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to have these rules be subject to amendment or repeal by the legislature to ensure protection of these rights.

12. To be informed of the victim's constitutional rights.

    (A) A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

    (B) "Victim" means a person against whom a criminal offense has been committed or, if the person is killed or incapacitated, the persons spouse, parent, child, or other lawful representative, except if the person is in custody for an offense or is the accused.

    (C) The legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and

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protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(D) The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislature or retained by victims. (Addition approved election Nov. 6, 1990 eff. Nov. 26, 1990.)

ALASKA

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Sec. 2. Article 1, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 24. RIGHTS OF CRIME VICTIMS. Crime victims, as defined by law, shall have the following rights as provided by law; the right to be reasonably protected from the accused the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody before or after conviction or juvenile adjudication.

Sec 3. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XII, sec 1, Constitution of the State of Alaska, and the election laws of the state.

CALIFORNIA

28. Victims Bill of Rights

(a) The People of the State of California find and declare that the enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safeguards in the criminal justice system to fully protect those rights, is a matter of grave

Victim Assistance in the Juvenile Justice System:

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(d) Right to Tr
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(e) Public Safety
capital crimes whe
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2. To be informed, upon request, when the accused or convicted person is relea from custody or has escaped.

3. To be present at and, upon request, to be informed of all criminal proceedings wi the defendant has the right to be present.

4. To be heard at any proceeding involving a post-arrest release decision, a negot plea, and sentencing.

5. To refuse an interview, deposition, or other discovery request the defendan defendant's attorney, or any other person acting on behalf of the defendant.

6. To confer with the prosecution, after the crime against the victim has been ch before the trial or before any disposition and to be informed of the dispositi

7. To read pre-sentence reports relating to the crime against the victim when th available to the defendant.

8. To receive prompt restitution from the person or persons convicted of the c conduct that caused the victim's loss or injury.

9. To be heard at any proceeding when any post-conviction release from conf is being considered.

10. To a speedy trial or disposition and prompt and final conclusion of the case conviction and sentence.

11. To have all rules governing criminal procedure and the admissibility of ev all criminal proceedings protect victims' rights and to have these rules be amendment or repeal by the legislature to ensure protection of these rig

12. To be informed of the victim's constitutional rights.

(A) A victim's exercise of any right granted by this section shall not for dismissing any criminal proceeding or setting aside any co sentence.

(B) "Victim" means a person against whom a criminal offense has bee or, if the person is killed or incapacitated, the persons spouse, or other lawful representative, except if the person is in custody f or is the accused.

(C) The legislature, or the people by initiative or referendum, have to enact substantive and procedural laws to define, implement

to the same factors considered in setting bail. However, no person charged with the commission of any serious felony shall be released on his or her own recognizance. Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney shall be given notice and reasonable opportunity to be heard on the matter. When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.

(f) Use of Prior Convictions. Any prior felony conviction, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.

(g) As used in this article, the term "serious felony" is any crime defined in Penal Code, Section 1192.7(c).

COLORADO

Article II of the constitution of the State of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 16a. Rights of any crime victims. Any person who is a victim of a criminal act, or such person's designee, legal guardian, or surviving immediate family members if such person is deceased, shall have the right to be heard when relevant, informed, and present at all critical stages of the criminal justice process, all terminology, including the term "critical stages", shall be defined by the general assembly.

Section 2. Each elector voting at said election and desirous of voting for or against said amendment shall cast vote as provided by law either "Yes" or "No" on the proposition: "An amendment to article II of the constitution of the State of Colorado, concerning the rights of crime victims."

Section 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes" the said amendment shall become a part of the state constitution.

FLORIDA

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

IDAHO

Section 22. RIGHTS OF CRIME VICTIMS. A crime victim, as defined by statute, has the following rights:

(1) To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.

(2) To timely disposition of the case.

(3) To prior notification of trial court, appellate and parole proceedings and, upon request, to information about the sentence, incarceration and release of the defendant.

(4) To be present at all criminal justice proceedings.

(5) To communicate with the prosecution.

(6) To be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest justice would result.

(7) To restitution, as provided by law, from the person committing the offense that caused the victim's loss.

(8) To refuse an interview, ex parte contact, or other request by defendant, or any other person acting on behalf of the defendant, unless such a request is authorized by law.

(9) To read presentence reports relating to the crime.

(10) To the same rights in juvenile proceedings, where the offense is a felony if committed by an adult, as guaranteed in this section, provided that access to the social history report shall be determined by statute.

Nothing in this section shall be construed to authorize a court to dismiss a case, to set aside

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or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause state, a country, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute. This section shall be self-enacting. The legislature shall have the power to enact laws to define, implement, preserve, and expand the rights guaranteed to victims in the provisions of this section.

Section 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Article I, of the Constitution of the State of Idaho be amended by the addition of a new Section 22, Article I, of the Constitution of the State of Idaho to provide for the rights of crime victims?"

Section 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

Section 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

ILLINOIS

Section 8.1 Crime Victims Rights.

(a) Crime victims, as defined by law, shall have the following rights as provided by law:

(1) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
(2) The right to notification of court proceedings.
(3) The right to communicate with the prosecution.
(4) The right to make a statement to the court at sentencing.
(5) The right to information about the conviction, sentence imprisonment and release of the accused.
(7) The right to be reasonably protected from the accused throughout the criminal justice process.
(8) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify an the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
(9) The right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice.
(10) The right to restitution.

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(b) The General Assembly may provide by law for the enforcement of this Section.

(c) The General Assembly may provide for an assessment against convicted defendants to pay for crime victims' rights.

(d) Nothing in this Section shall be construed as creating a basis for vacating a conviction or a ground for appellate relief in any criminal case.

KANSAS

15. Victim's rights. (a) Victims of a crime as defined by law shall be entitled to certain basic rights, including the right to be informed of and present at public hearings, as defined by law, of the criminal justice process, and to be heard at sentencing or at any other time deemed appropriate by the court, to the extent that these rights do not interfere with the constitutional rights of the accused.

(b) Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of the agencies, instrumentalities, or employees thereof. The legislature may provide for other remedies to insure adequate enforcement of this section.

(c) Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt or to set aside any sentence imposed in any criminal case.

Sec. 2. The following statement shall be printed in the ballot with the amendment as a whole:

Explanatory statement: This amendment would prescribe that victims of crime would guaranteed certain basic rights during the criminal justice process as long as they do not interfere with the constitutional rights of the accused. Such rights include the right to be informed, and be present at public hearings and be heard at sentencing or at any other time deemed appropriate by the court. This amendment does not provide or create a cause of action for money damages against the state, a county, a municipality or any agency, instrumentality or employee thereof nor does this amendment authorize a court to set aside or void a finding of guilt or innocence or an acceptance of a plea of guilty or set aside any sentence imposed in any criminal case.

A vote for this amendment would guarantee certain basic rights for victims of crime as long as such rights do not interfere with the rights of the accused.

A vote against this amendment would continue the present situation where victims of crime are not provided certain specific guaranteed constitutional rights."

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Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the house of representatives, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 1992 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

MARYLAND

Section 1. Be it enacted by the general assembly of Maryland (three-fifths of all the members elected to each of the two Houses concurring), that it be proposed that the Constitution of Maryland read as follows:

Article 47.

(A) A victim of crime shall be treated by agents of the state with dignity, respect, and sensitivity during all phases of the criminal justice process.

(B) In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed of the rights established in this article and, upon request and of practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented and the terms "crime", "criminal justice proceeding", and "victim" are specified by law.

(C) Nothing in this article permits any civil cause of action for monetary damages for violation of any of its provisions or authorizes a victim of crime to take any action to stay a criminal justice proceeding.

Section 2. And be it further enacted, that the General Assembly determines that the amendment to the Constitution of Maryland proposed by this Act affects multiple jurisdictions and that the provisions of Article XIV do not apply.

Section 3. And be it further enacted, that the foregoing section proposed as an amendment to the Constitution of Maryland shall be submitted to the legal and qualified voters of this State at the next general election to be held in November, 1994 for their adoption or rejection in pursuance of directions contained in Article XIV of the Constitution of this State. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon each ballot there shall be printed the words "For the Constitutional Amendments" and "Against the Constitutional Amendments," as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the

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Constitution, and further proceedings had in accordance with Article XIV.

MICHIGAN

Rights of crime victims; enforcement; assessment against convicted defendants. Sec. 24. (1) Crime victims, as defined by law shall have the following rights as provided by law:

The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

The right to timely disposition of the case following arrest of the accused.

The right to be reasonably protected from the accused throughout the criminal justice process.

The right to notification of court proceedings.

The right to attend the trial and all other court proceedings the accused has the right to attend.

The right to confer with the prosecution.

The right to make a statement to the court at sentencing.

The right to restitution.

The right to information about the conviction, sentence, imprisonment, and release of the accused.

MISSOURI

Section 32. Crime victims, as defined by law, shall have the following rights, as defined by law:

(1) The right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult;

(2) Upon request of the victim, the right to be informed of and heard guilty pleas, bail

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hearings, sentencing, probation revocation hearings, and parole hearings, unless in the determination of the court the interests of justice require otherwise;

(3) The right to be informed of trials and preliminary hearings;

(4) The right to restitution, which shall be enforceable in the same manner as any other cause of action, or as otherwise provided by law.

(5) The right to speedy disposition and appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare his defense.

(6) The right to reasonable protection from the defendant or any person acting on behalf of the defendant;

(7) The right to information concerning the escape of an accused from custody or confinement, the defendant's release and scheduling of the defendant's release from incarceration; and

(8) The right to information about how the criminal justice system works, the rights and availability of services, and upon request of the victim the right to information about the crime.

2. Notwithstanding section 20 of article I of this Constitution, upon a showing that the defendant poses a danger to a crime victim, the community, or any other person, the court may deny bail or may impose special conditions which the defendant and surety must guarantee.

3. Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees provided that the General Assembly may, by statutory enactment, reverse, modify, or supersede any judicial decision or rule arising from any cause of action brought pursuant to this section.

4. Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt, or an acceptance of a plea of guilty in any criminal case.

5. The general assembly shall have power to enforce this section by appropriate legislation.

NEBRASKA

I-28 (1) A victim of a crime, as shall be defined by law, or his or her guardian or representative shall have: The right to be informed of all criminal court proceedings, the right to be present at trial unless the court finds sequestration necessary for a fair trial for the defendant; and the right to be informed of, be present at, and to make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release

proceedings. This enumeration of certain rights for crime victims shall not be construed to impair or deny others provided by law or retained by crime victims.

(2) The Legislature shall provide by law for the implementation of the rights granted by this section. There shall be no remedies other than as specifically provided by the Legislature for the enforcement of the rights granted by this section.

(3) Nothing in this section shall constitute a basis for error in favor of a defendant in any criminal proceeding, a basis for providing standing to participate as a party to any criminal proceeding, or a basis to contest the disposition of any charge.

Section 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution on Nebraska, Article XVI, section I, with the following ballot language:

"A constitutional amendment to prescribe that crime victims shall have certain rights. A crime victim or his or her guardian or representative would have the right to be informed of all criminal court proceedings, the right to be present at trial unless the trial court finds that keeping the victim out is necessary for a fair trial for the defendant, and the right to be informed of, present at, and to make oral or written statements at sentencing, parole, pardon, commutation, and conditional release proceedings. The Legislature would be required to pass laws for implementation of such rights. There would be no remedies other than as specifically provided by the Legislature for the enforcement of such rights.

NEW JERSEY

22. A victim of a crime shall be treated with fairness, compassion and respect by the criminal justice system, shall not be denied the right to be present at public judicial proceedings except when properly sequestered in accordance with law or Court Rule prior to completing his or her testimony as a witness, and shall be entitled to those rights and remedies as may be provided by the Legislature. For the purposes of this paragraph, the phrase "victim of crime" shall mean: a) a person who has suffered physical or psychological injury or has incurred loss or damage to personal or real property as a result of a crime or an incident involving another person operating a motor vehicle while under the influence of drugs or alcohol, and b) the spouse, parent, legal guardian, grandparent, child or sibling of the decedent in the case of a criminal homicide.

NEW MEXICO

The victim of a crime or that victim's representatives has the right to be informed of, to be present at and to be heard at all criminal justice processes concerning the crime committed or alleged to have been committed against the victim."

Section 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date may be called for that purpose.

OHIO

Section 10a. Victims of criminal offenses shall be accorded fairness, dignity, and respect in the criminal justice process, and, as the general assembly shall define and provide by law, shall be accorded rights to reasonable and appropriate notice, information, access, and protection and to a meaningful role in the criminal justice process. This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the constitution of the United States or this constitution and does not create any cause of action for compensation or damages against the state, any political subdivision of the state, any officer employee, or agent of the state or any political subdivision, or any officer of the court.

RHODE ISLAND

Section 23. Rights of victims of crime. A victim of crime shall as, a matter of right, be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process. Such person shall be entitled to receive, from the perpetrator of the crime, financial compensation for any injury or loss caused by a perpetrator of the crime, and shall receive such other compensation as the state may provide. Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator's conduct has upon the victim.

TEXAS

Sec. 30 (a) A crime victim has the following rights:

(1) the right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process; and

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(2) the right to be reasonably protected from the accused throughout the criminal justice process.

(b) On the request of a crime victim, the crime victim has the following rights:

(1) the right to notification of court proceedings;
(2) the right to be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial;
(3) the right to confer with a representative of the prosecutor's office;
(4) the right to restitution; and
(5) the right to information about the sentence, conviction, sentence, imprisonment, an release of the accused.

(c) The legislature may enact laws to define the term "victim" and to enforce these and other rights of crime victims.

(d) The state, through its prosecuting attorney, has the right to enforce the rights of crime victims.

(e) The legislature may enact laws to provide that a judge, attorney for the state, peace officer, or law enforcement agency is not liable for failure or inability to provide a right enumerated in this section. The failure or inability of any person to provide a right or service enumerated in this section may not be used by a defendant in a criminal case as a ground for appeal or post-conviction writ of habeas corpus. A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

UTAH

Sec. 28. The Rights of Crime Victims.

(1) To preserve and protect victims' rights to justice and due process, victims of crimes have these rights, as defined by law:

(a) To be treated with fairness, respect, and dignity, and to be free from harassment and abuse throughout the criminal justice process:

(b) Upon request, to be informed of, to be present at, and to be heard at important criminal justice hearings related to the victim, either in person or through a lawful

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representative, once a criminal information or indictment charging a crime has been publicly filed in court: and

(c) To have a sentencing judge, for the purpose of imposing an appropriate sentence, receive and consider, without evidentiary limitation, reliable information concerning the background, character, an conduct of a person convicted of an offense except that this subjection does not apply to capital cases or situations involving privileges.

(2) Nothing in this section shall be construed as creating a cause of action for money damages, costs, attorneys fees, or for dismissing any criminal charge, or relief from any criminal judgment.

(3) The provisions of this section shall extend to all felony crimes and such other crimes or acts, including juvenile offenses, as the Legislature may provide.

(4) The Legislature shall have the power to enforce and define this section by statute.

Section 3. Submittal to Electors.

The lieutenant governor is directed to submit this proposed amendment to the electors of the state of Utah at the next general election in the manner provided by law.

Section 4. Effective Date.

If approved by the electors of the state, the amendment proposed by this joint resolution shall take effect on January 1, 1995.

WASHINGTON

35. The Rights of Crime Victims

Effective law enforcement depends on cooperation from victims of crime. To ensure victims a meaningful role in the criminal justice system and to accord them due dignity and respect, victims of crime are hereby granted the following basic and fundamental rights.

Upon notifying the prosecuting attorney, a victim of a crime charged as a felony shall have the right to be informed of and, subject to the discretion of the individual presiding over the trial or court proceedings, attend trial and all other court proceedings the defendant has the right to attend, and to make a statement at sentencing and at any proceeding where the defendant's release is considered, subject to the same rules of procedure which govern the defendant's rights. In the event the victim is deceased, incompetent, a minor, or otherwise unavailable, the prosecuting attorney may identify a representative to appear to exercise the

victims rights. This provision shall not constitute a basis for error in favor of a defendant in a criminal proceeding nor a basis for providing a victim or the victim's representative with court appointed counsel.

WISCONSIN

This state shall treat crime victims, as defined by law, with fairness, dignity, and respect for their privacy. This state shall ensure that crime victims have all of the following privileges and protections as provided by law:

- timely disposition of the case
- the opportunity to attend court proceedings unless the trial court finds sequestration is necessary to a fair trial for the defendant;
- reasonable protection from the accused throughout the criminal justice process;
- notification of court proceedings; the opportunity to confer with the prosecution;
- the opportunity to make a statement to the court at the disposition
- restitution
- compensation
- information about the outcome of the case and release of the accused.

The legislature shall provide remedies for violation of this section. Nothing in this section or in any statute pursuant to this section, shall limit any right of the accused which may be provided by law.

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1992 Florida Statute

An act relating to crime victims' rights relating to records and confidential information in proceedings involving juvenile offenders, to protect the right of the victim and certain representatives of the victim to be informed of the proceedings and to be present and to be heard at the proceedings under certain circumstances; expanding victim rights to include prompt and timely disposition; providing an effective date.

Section 1. Subsection (10) of section 39.045, Florida Statutes is amended to read:
39.045 Oaths; records; confidential information. —

(10) (a) This chapter does not prohibit the release of the juvenile offense report by a law enforcement agency to the victim of the offense. However, the name and address of the juvenile must be deleted from the report provided to the victim unless such information is otherwise public under subsection (9) or any other provision of law.

(b) Nothing in this chapter prohibits:

1. The victim of the offense;
2. The victim's parent or guardian if the victim is a minor;
3. The lawful representative of the victim or of the victim's parent or guardian if the victim is a minor; or
4. The next of kin if the victim is a homicide victim, from the right to be informed of, to be present during, and to be heard when relevant at, all crucial stages of the proceedings involving the juvenile offender, to the extent that such rights do not interfere with the constitutional rights of the juvenile offender.

Section 2. Paragraph (a) of subsection (1) of section 960.001, Florida Statutes, is amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice system. —

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in section 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(a) Information concerning services available to victims of crime. — Witness coordination offices as provided in s. 43.35 shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure, through distribution of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about:

1. The availability of crime victim compensation, when applicable;
2. Crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs;
3. The role of the victim in the criminal justice process, including what the victim may expect from the system as well as what they system expects from the victim;

4. The stages in the criminal justice process which are of significance to a crime victim and the manner in which information about such stages can be obtained"
5. "The rights of a victim, who is not incarcerated, including the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant, at, all crucial stages of a criminal proceeding, and to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved, to the extent that such rights do not interfere with constitutional rights of the accused, as provided by s. 16(b), Art. I of the State Constitution; and
6. In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings and parole proceedings.

Section 3. This act shall take effect October 1, 1992.

State of Arizona
House of Representatives
Forty-Second Legislature
First Regular Session
1995

Chapter 197
Senate Bill 1149

An Act

AMENDING TITLE 8, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; TRANSFERRING AND RENUMBERING SECTION 8-230.03, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 8, CHAPTER 2, ARTICLE 7, ARIZONA REVISED STATUTES, AS SECTION 8-290.28; AMENDING SECTIONS 13-1415 AND 13-4405, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-191.06 AND 41-2818, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO VICTIMS' RIGHTS; PROVIDING FOR CONDITIONAL ENACTMENT.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 8, chapter 2, Arizona Revised Statues, is amended by adding article 7, to read:

ARTICLE 7. VICTIMS' RIGHTS FOR JUVENILE OFFENSES

8-281. Applicability

THIS ARTICLE APPLIES TO ACTS THAT ARE COMMITTED BY A JUVENILE AND THAT IF COMMITTED BY AN ADULT WOULD BE EITHER:

1. A MISDEMEANOR OFFENSE INVOLVING PHYSICAL INJURY, THE THREAT OF PHYSICAL INJURY OR SEXUAL ASSAULT.
2. A FELONY OFFENSE.

8-282. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ACCUSED" MEANS A JUVENILE WHO IS REFERRED TO JUVENILE COURT FOR COMMITTING A DELINQUENT ACT.
2. "ARREST" MEANS THE ACTUAL CUSTODIAL RESTRAINT OR TEMPORARY CUSTODY OF A PERSON.
3. "COURT" MEANS THE JUVENILE DIVISION OF THE SUPERIOR COURT WHEN EXERCISING ITS JURISDICTION OVER CHILDREN IN ANY PROCEEDING RELATING TO DELINQUENCY.
4. "CRIME VICTIM ADVOCATE" MEANS A PERSON WHO IS EMPLOYED OR AUTHORIZED BY A PUBLIC ENTITY OR A PRIVATE ENTITY THAT RECEIVES PUBLIC FUNDING PRIMARILY TO PROVIDE COUNSELING, TREATMENT OR OTHER SUPPORTIVE ASSISTANCE TO CRIME VICTIMS.
5. "CUSTODIAL AGENCY" MEANS A LAW ENFORCEMENT OFFICER, SHERIFF OR MUNICIPAL JAILER OR A JUVENILE DETENTION CENTER HAVING CUSTODY OF A PERSON WHO IS ARRESTED.
6. "DELINQUENCY PROCEEDING" MEANS ANY HEARING, ARGUMENT OR OTHER MATTER SCHEDULED OR HELD BY A JUVENILE COURT JUDGE, COMMISSIONER OR HEARING OFFICER RELATING TO AN ALLEGED OR ADJUDICATED DELINQUENT OFFENSE.

7. "DELINQUENT" MEANS A CHILD WHO IS ADJUDICATED TO HAVE COMMITTED A DELINQUENT ACT.
8. "DELINQUENT ACT" MEANS AN ACT TO WHICH THIS ARTICLE APPLIES PURSUANT TO SECTION 8-281.
9. "FINAL DISPOSITION" MEANS THE ULTIMATE TERMINATION OF THE DELINQUENCY PROCEEDING BY A COURT, INCLUDING DISMISSAL, ACQUITTAL, TRANS TO ADULT COURT OR IMPOSITION OF A DISPOSITION AFTER AN ADJUDICATION FOR A DELINQUENT OFFENSE.
10. "IMMEDIATE FAMILY" MEANS A VICTIM'S SPOUSE, PARENT, CHILD, SIBLING, GRANDPARENT OR LAWFUL GUARDIAN.
11. "JUVENILE DEFENDANT" MEANS A JUVENILE AGAINST WHOM A PETITION IS FILED SEEKING TO HAVE THE JUVENILE ADJUDICATED DELINQUENT.
12. "LAWFUL REPRESENTATIVE" MEANS A PERSON WHO IS DESIGNATED BY THE VICTIM OR APPOINTED BY THE COURT AND WHO WILL ACT IN THE BEST INTERESTS OF THE VICTIM.
13. "POSTADJUDICATION RELEASE" MEANS RELEASE ON PROBATION, INTENSIVE PROBATION, WORK FURLOUGH, COMMUNITY SUPERVISION, HOME DETENTION OR ANY OTHER PERMANENT, PLACEMENT ON CONDITIONAL LIBERTY PURSUANT TO SECTION 41-2818 BY THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION OR A SHERIFF OR FROM CONFINEMENT IN A MUNICIPAL, JAIL, A JUVENILE DETENTION CENTER, A RESIDENTIAL TREATMENT FACILITY OR A SECURE MENTAL HEALTH FACILITY.
14. "POSTARREST RELEASE" MEANS THE DISCHARGE OF THE ACCUSED FROM CONFINEMENT.
15. "RIGHTS" MEANS ANY RIGHT GRANTED TO THE VICTIM BY THE LAWS OF THIS STATE.
16. "VICTIM" MEANS A PERSON AGAINST WHOM THE DELINQUENT ACT WAS COMMITTED, OR IF THE PERSON IS KILLED OR INCAPACITATED, THE PERSON'S SPOUSE, PARENT, CHILD OR OTHER LAWFUL REPRESENTATIVE, EXCEPT IF THE PERSON IS IN CUSTODY FOR AN OFFENSE OR IS THE ACCUSED.

8-283. Implementation of rights and duties

A. EXCEPT AS PROVIDED IN SECTIONS 8-285 AND 8-286, THE RIGHTS AND DUTIES THAT ARE ESTABLISHED BY THIS ARTICLE ARISE ON THE ARREST OR FORMAL CHARGING OF A JUVENILE WHO IS ALLEGED TO BE RESPONSIBLE FOR A DELINQUENT ACT AGAINST A VICTIM. THE RIGHTS AND DUTIES CONTINUE TO BE ENFORCEABLE PURSUANT TO THIS CHAPTER UNTIL THE FINAL DISPOSITION OF THE CHARGES. IF A DELINQUENT IS ORDERED TO PAY RESTITUTION TO A VICTIM, THE RIGHTS AND DUTIES CONTINUE TO BE ENFORCEABLE UNTIL RESTITUTION IS PAID OR A JUDGMENT IS ENTERED IN FAVOR OF THE VICTIM.

B. AFTER THE FINAL TERMINATION OF A DELINQUENCY PROCEEDING BY DISMISSAL OR ACQUITTAL, A PERSON WHO HAS RECEIVED NOTICE AND HAS THE RIGHT TO BE PRESENT AND BE HEARD PURSUANT TO THE VICTIM'S BILL OF RIGHTS, ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA, THIS ARTICLE OR ANY COURT RULE IS NO LONGER ENTITLED TO THOSE RIGHTS.

8-284. Inability to exercise rights; designation of others; notice; representative for a minor

A. IF A VICTIM IS PHYSICALLY OR EMOTIONALLY UNABLE TO EXERCISE ANY

RIGHT BUT IS ABLE TO DESIGNATE A LAWFUL REPRESENTATIVE WHO IS NOT A BONA FIDE WITNESS, THE DESIGNATED PERSON MAY EXERCISE THE SAME RIGHTS THAT THE VICTIM IS ENTITLED TO EXERCISE. THE VICTIM MAY REVOKE THIS DESIGNATION AT ANY TIME AND EXERCISE THE VICTIM'S RIGHTS.

B. IF A VICTIM IS INCOMPETENT, DECEASED OR OTHERWISE INCAPABLE OF DESIGNATING ANOTHER PERSON TO ACT IN THE VICTIM'S PLACE, THE COURT MAY APPOINT A LAWFUL REPRESENTATIVE WHO IS NOT A WITNESS. IF AT ANY TIME THE VICTIM IS NO LONGER INCOMPETENT, INCAPACITATED OR OTHERWISE INCAPABLE OF ACTING, THE VICTIM MAY PERSONALLY EXERCISE THE VICTIM'S RIGHTS.

C. IF THE VICTIM IS A MINOR THE VICTIM'S PARENT OR OTHER IMMEDIATE FAMILY MEMBER MAY EXERCISE ALL OF THE VICTIM'S RIGHTS ON BEHALF OF THE VICTIM. IF THE DELINQUENT ACT IS ALLEGED AGAINST A MEMBER OF THE MINOR'S IMMEDIATE FAMILY, THESE RIGHTS MAY NOT BE EXERCISED BY THAT PERSON BUT MAY BE EXERCISED BY ANOTHER MEMBER OF THE IMMEDIATE FAMILY UNLESS THE COURT, AFTER CONSIDERING THE GUIDELINES IN SUBSECTION D, FINDS THAT ANOTHER PERSON WOULD BETTER REPRESENT THE INTERESTS OF THE MINOR.

D. THE COURT SHALL CONSIDER THE FOLLOWING GUIDELINES IN APPOINTING A REPRESENTATIVE FOR A MINOR:

1. IF THE MINOR HAS A RELATIVE WHO WOULD NOT BE SO SUBSTANTIALLY AFFECTED OR ADVERSELY IMPACTED BY THE CONFLICT RESULTING FROM THE ALLEGATION OF A DELINQUENT ACT AGAINST A MEMBER OF THE IMMEDIATE FAMILY OF THE MINOR THAT THE REPRESENTATIVE COULD NOT REPRESENT THE VICTIM.
2. THE REPRESENTATIVE'S WILLINGNESS AND ABILITY TO DO ALL OF THE FOLLOWING:
   (a) UNDERTAKE WORKING WITH AND ACCOMPANYING THE MINOR VICTIM THROUGH ALL THE PROCEEDINGS, INCLUDING DELINQUENCY, CIVIL AND DEPENDENCY PROCEEDINGS.
   (b) COMMUNICATE WITH THE MINOR VICTIM.
   (c) EXPRESS THE CONCERNS OF THE MINOR TO THOSE AUTHORIZED TO COME IN CONTACT WITH THE MINOR AS A RESULT OF THE PROCEEDINGS.
3. THE REPRESENTATIVE'S TRAINING, IF ANY, TO SERVE AS A MINOR'S REPRESENTATIVE.
4. THE LIKELIHOOD OF THE REPRESENTATIVE BEING CALLED AS A WITNESS IN THE CASE.

E. THE MINOR'S REPRESENTATIVE SHALL ACCOMPANY THE MINOR VICTIM THROUGH ALL PROCEEDINGS, INCLUDING DELINQUENCY, DEPENDENCY AND CIVIL PROCEEDINGS, AND BEFORE THE MINOR'S COURTROOM APPEARANCE, SHALL EXPLAIN TO THE MINOR THE NATURE OF THE PROCEEDINGS AND WHAT THE MINOR WILL BE ASKED TO DO, INCLUDING TELLING THE MINOR THAT THE MINOR IS EXPECTED TO TELL THE TRUTH. THE REPRESENTATIVE SHALL BE AVAILABLE TO OBSERVE THE MINOR IN ALL ASPECTS OF THE CASE IN ORDER TO CONSULT WITH THE COURT AS TO ANY SPECIAL NEEDS OF THE MINOR. THOSE CONSULTATIONS SHALL TAKE PLACE BEFORE THE MINOR TESTIFIES. THE COURT MAY RECOGNIZE THE MINOR'S REPRESENTATIVE WHEN THE REPRESENTATIVE INDICATES A NEED TO

ADDRESS THE COURT. A MINOR'S REPRESENTATIVE SHALL NOT DISCUSS THE FACTS AND CIRCUMSTANCES OF THE CASE WITH THE MINOR WITNESS, UNLESS THE COURT ORDERS OTHERWISE ON A SHOWING THAT IT IS IN THE BEST INTERESTS OF THE MINOR.

F. ANY NOTICES THAT ARE TO BE PROVIDED TO A VICTIM PURSUANT TO THIS ARTICLE SHALL BE SENT ONLY TO THE VICTIM OR THE VICTIM'S LAWFUL REPRESENTATIVE.

8-285. Limited rights of a legal entity

ANY CORPORATION, PARTNERSHIP, ASSOCIATION OR OTHER LEGAL ENTITY THAT, EXCEPT FOR ITS STATUS AS AN ARTIFICIAL ENTITY, WOULD BE INCLUDED IN THE DEFINITION OF VICTIM IN SECTION 8-282- SHALL BE AFFORDED THE FOLLOWING RIGHTS:

1. WITHIN A REASONABLE TIME AFTER ARREST, THE PROSECUTOR SHALL NOTIFY THE LEGAL ENTITY OF THE RIGHT TO APPEAR AND BE HEARD AT ANY PROCEEDING RELATING TO RESTITUTION OR DISPOSITION OF THE DELINQUENT.
2. THE PROSECUTOR SHALL NOTIFY THE LEGAL ENTITY OF THE RIGHT TO SUBMIT TO THE COURT A WRITTEN STATEMENT CONTAINING INFORMATION AND OPINIONS ON RESTITUTION AND DISPOSITION IN ITS CASE.
3. ON REQUEST, THE PROSECUTOR SHALL NOTIFY THE LEGAL ENTITY IN A TIMELY MANNER OF THE DATE, TIME AND PLACE OF ANY PROCEEDING RELATING TO RESTITUTION OR DISPOSITION OF THE DELINQUENT.
4. A LAWFUL REPRESENTATIVE OF THE LEGAL ENTITY HAS THE RIGHT, IF PRESENT, TO BE HEARD AT ANY PROCEEDING RELATING TO RESTITUTION OR DISPOSITION OF THE DELINQUENT.

8-286. Information provided to victim by law enforcement agencies

A. AS SOON AFTER THE DETECTION OF AN OFFENSE AS THE VICTIM MAY BE CONTACTED WITHOUT INTERFERING WITH AN INVESTIGATION OR ARREST, THE LAW ENFORCEMENT AGENCY RESPONSIBLE FOR INVESTIGATING THE OFFENSE SHALL PROVIDE THE VICTIM WITH A MULTI-COPY FORM:

1. THAT ALLOWS THE VICTIM TO REQUEST OR WAIVE APPLICABLE RIGHTS TO WHICH THE VICTIM IS ENTITLED, ON REQUEST, UNDER THIS ARTICLE.
2. THAT PROVIDES THE VICTIM A METHOD TO DESIGNATE A LAWFUL REPRESENTATIVE IF THE VICTIM SO CHOOSES PURSUANT TO SECTION 8-284, SUBSECTION A OR SECTION 8-285.
3. THAT PROVIDES NOTICE TO THE VICTIM OF ALL OF THE FOLLOWING INFORMATION:
   (a) THE VICTIM'S RIGHTS UNDER THE VICTIMS' BILL OF RIGHTS, ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA.
   (b) THE AVAILABILITY, IF ANY, OF CRISIS INTERVENTION SERVICES AND EMERGENCY SERVICES AND, IF APPLICABLE, THAT MEDICAL EXPENSES ARISING OUT OF THE NEED TO SECURE EVIDENCE MAY BE REIMBURSED PURSUANT TO SECTION 13-1414.
   (c) IN CASES INVOLVING DOMESTIC VIOLENCE, THE PROCEDURES AND RESOURCES AVAILABLE FOR THE PROTECTION OF THE VICTIM, PURSUANT TO SECTION 13-3601.
   (d) THE NAMES AND TELEPHONE NUMBERS OF PUBLIC AND PRIVATE VIC-

TIM ASSISTANCE PROGRAMS THAT PROVIDE COUNSELING, TREATMENT AND OTHER SUPPORT SERVICES.

(e) THE POLICE REPORT NUMBER, IF AVAILABLE, OTHER IDENTIFYING CASE INFORMATION AND THE FOLLOWING STATEMENT:

IF WITHIN THIRTY DAYS YOU ARE NOT NOTIFIED OF AN ARREST IN YOUR CASE, YOU MAY CALL (THE LAW ENFORCEMENT AGENCY'S TELEPHONE NUMBER) FOR THE STATUS OF THE CASE.

(f) WHETHER THE SUSPECT IS AN ADULT OR JUVENILE, THE VICTIM WILL BE NOTIFIED BY THE LAW ENFORCEMENT AGENCY AT THE EARLIEST OPPORTUNITY AFTER THE ARREST OF A SUSPECT.

(g) IF THE SUSPECT IS A JUVENILE AND THE OFFICER REQUESTS THAT THE ACCUSED BE DETAINED, A STATEMENT OF THE VICTIM'S RIGHT, ON REQUEST, TO BE INFORMED IF THE JUVENILE WILL BE RELEASED OR WILL BE DETAINED PENDING THE DETAINED ADVISORY HEARING AND, OF THE VICTIM'S RIGHT TO BE PRESENT AND HEARD AT THE DETAINED ADVISORY HEARING AND THAT TO EXERCISE THESE RIGHTS, THE VICTIM MUST CONTACT THE DETENTION SCREENING SECTION OF THE JUVENILE PROBATION DEPARTMENT IMMEDIATELY TO REQUEST NOTICE OF ALL THE FOLLOWING:

(i) THE JUVENILE'S RELEASED.

(ii) THE DATE, TIME AND PLACE OF THE DETAINED ADVISORY HEARING AND ANY CHANGES TO THAT SCHEDULE.

(iii) IF THE VICTIM CHOOSES TO EXERCISE THE RIGHT TO BE HEARD THROUGH A WRITTEN STATEMENT, HOW THAT STATEMENT MAY BE SUBMITTED TO THE COURT.

B. THE LAW ENFORCEMENT AGENCY SHALL SUBMIT ONE COPY OF THE VICTIM'S REQUEST OR WAIVER OF PREDISPOSITION RIGHTS FORM TO THE DETENTION CENTER, IF THE ARRESTING OFFICER IS REQUESTING THAT THE ACCUSED BE DETAINED, AT THE TIME THE JUVENILE IS TAKEN TO DETENTION. IF DETENTION IS NOT REQUESTED, THE FORM COPIES SHALL BE SUBMITTED TO THE JUVENILE PROBATION INTAKE SECTION AT THE TIME THE CASE IS OTHERWISE REFERRED TO COURT. THE PROBATION INTAKE SECTION SHALL SUBMIT A COPY OF THE VICTIM'S REQUEST OR WAIVER OF PREDISPOSITION RIGHTS FORM TO THE PROSECUTOR AND THE DEPARTMENTS OR GOVERNMENTAL AGENCIES, AS APPLICABLE, THAT ARE MANDATED BY THIS ARTICLE TO PROVIDE VICTIMS' RIGHTS SERVICES UPON REQUEST.

C. IF THE ACCUSED JUVENILE IS CITED AND RELEASED PURSUANT TO AN ARIZONA TRAFFIC TICKET AND COMPLAINT FORM, INFORM THE VICTIM HOW TO OBTAIN ADDITIONAL INFORMATION ABOUT SUBSEQUENT PROCEEDINGS.

8-287. Notice of terms and conditions of release

ON THE REQUEST OF THE VICTIM, THE JUVENILE COURT OR THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION SHALL PROVIDE A COPY OF THE TERMS AND CONDITIONS OF RELEASE.

8-288. Notice of diversion

IF AN ACCUSED IS ACCEPTED INTO A DIVERSION PROGRAM PURSUANT TO SECTION 8-230.01, THE COURT ADMINISTERING THE PROGRAM SHALL GIVE THE VICTIM NOTICE OF THE CONDITIONS THAT THE ACCUSED MUST COMPLY WITH IN ORDER FOR THE COMPLAINT OR CITATION TO BE ADJUSTED OR DISMISSED. THE NOTICE

SHALL STATE WHETHER RESTITUTION WAS REQUIRED AND THAT, ON REQUEST OF THE VICTIM, THE VICTIM HAS THE RIGHT TO BE NOTIFIED OF THE ACCUSED'S COMPLETION OF OR TERMINATION FROM THE PROGRAM.

8-289. Preliminary notice of rights

A. IF THE VICTIM HAS REQUESTED NOTICE AND IF THE ACCUSED IS IN CUSTODY AT THE TIME OF CHARGING, OR SEVEN DAYS AFTER THE PROSECUTOR CHARGES A DELINQUENT OFFENSE IF THE ACCUSED IS NOT IN CUSTODY, THE PROSECUTOR'S OFFICE SHALL GIVE THE VICTIM NOTICE OF THE FOLLOWING;

1. ALL OF THE VICTIM'S RIGHTS THROUGH DISPOSITION UNDER THE VICTIMS' BILL OF RIGHTS, ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA, THIS ARTICLE AND COURT RULES.
2. THE CHARGE OR CHARGES AGAINST THE ACCUSED AND A CLEAR AND CONCISE STATEMENT OF THE PROCEDURAL STEPS INVOLVED IN A DELINQUENCY PROSECUTION.
3. THE PROCEDURES A VICTIM SHALL FOLLOW TO INVOKE THE VICTIM'S RIGHT TO CONFER WITH THE PROSECUTING ATTORNEY PURSUANT TO SECTION 8-290.09.
4. THE PERSON WITHIN THE PROSECUTOR'S OFFICE TO CONTACT FOR MORE INFORMATION.

B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, IF A PROSECUTOR DECLINES TO PROCEED WITH A PROSECUTION AFTER THE FINAL SUBMISSION OF A CASE BY A LAW ENFORCEMENT AGENCY AT THE END OF AN INVESTIGATION, THE PROSECUTOR, BEFORE THE DECISION NOT TO PROCEED IS FINAL, SHALL NOTIFY THE VICTIM AND PROVIDE THE VICTIM WITH THE REASONS FOR DECLINING TO PROCEED WITH THE CASE. THE NOTICE SHALL INFORM THE VICTIM OF THE VICTIM'S RIGHT ON REQUEST TO CONFER WITH THE PROSECUTOR BEFORE THE DECISION NOT TO PROCEED IS FINAL.

8-290. Notice of delinquency proceedings

A. PURSUANT TO DETAINED ADVISORY HEARINGS, THE COURT SHALL PROVIDE NOTICE OF DELINQUENCY PROCEEDINGS TO THE VICTIM AT LEAST FIVE DAYS BEFORE A SCHEDULED PROCEEDING TO ALLOW THE COURT TO PROVIDE NOTICE TO THE VICTIM.

B. THE COURT SHALL GIVE NOTICE TO THE VICTIM IN A TIMELY MANNER OF ANY CHANGES IN THE SCHEDULED PROCEEDINGS.

8-290.01. Notice of adjudication; impact statement

A. ON REQUEST THE PROSECUTOR'S OFFICE, WITHIN FIFTEEN DAYS AFTER THE ADJUDICATION, TRANSFER, ACQUITTAL OR DISMISSAL OF THE CHARGES AGAINST THE ACCUSED, SHALL GIVE NOTICE TO THE VICTIM OF THE OFFENSE FOR WHICH THE ACCUSED WAS ADJUDICATED DELINQUENT, TRANSFERRED FOR ADULT PROSECUTION OR ACQUITTED OR OF THE CHARGES DISMISSED AGAINST THE DEFENDANT.

B. IF THE JUVENILE IS ADJUDICATED DELINQUENT AND THE VICTIM HAS REQUESTED NOTICE, THE PROSECUTOR'S OFFICE SHALL NOTIFY THE VICTIM, IF APPLICABLE, OF:

1. THE FUNCTION OF THE PREDISPOSITION REPORT.
2. THE NAME AND TELEPHONE NUMBER OF THE PROBATION DEPARTMENT THAT IS PREPARING THE PREDISPOSITION REPORT.

3. THE RIGHT TO MAKE A VICTIM IMPACT STATEMENT UNDER SECTION 8-290.14.
4. THE RIGHT TO RECEIVE PORTIONS OF THE PREDISPOSITION REPORT PURSUANT TO SECTION 8-290.14, SUBSECTION C.
5. THE RIGHT TO BE PRESENT AND BE HEARD AT ANY PREDISPOSITION OR DISPOSITION PROCEEDING PURSUANT TO SECTION 8-290.15.
6. THE TIME, PLACE AND DATE OF THE DISPOSITION PROCEEDING.
7. IF THE COURT ORDERS RESTITUTION, THE RIGHT TO HAVE A JUDGMENT ENTERED FOR ANY UNPAID AMOUNT AND TO FILE A RESTITUTION LIEN PURSUANT TO SECTION 8-251.

C. THE VICTIM SHALL BE INFORMED THAT HIS IMPACT STATEMENT MAY INCLUDE THE FOLLOWING:

1. AN EXPLANATION OF THE NATURE AND EXTENT OF ANY PHYSICAL, PSYCHOLOGICAL OR EMOTIONAL HARM OR TRAUMA SUFFERED BY THE VICTIM.
2. AN EXPLANATION OF THE EXTENT OF ANY ECONOMIC LOSS OR PROPERTY DAMAGE SUFFERED BY THE VICTIM.
3. AN OPINION OF THE NEED FOR AND EXTENT OF RESTITUTION.
4. WHETHER THE VICTIM HAS APPLIED FOR OR RECEIVED ANY COMPENSATION FOR THE LOSS OR DAMAGE.

D. NOTICE PROVIDED PURSUANT TO THIS SECTION DOES NOT REMOVE THE PROBATION DEPARTMENT'S RESPONSIBILITY TO NICTITATE THE CONTACT BETWEEN THE VICTIM AND THE PROBATION DEPARTMENT CONCERNING THE VICTIM'S ECONOMIC, PHYSICAL, PSYCHOLOGICAL OR EMOTIONAL HARM. AT THE TIME OF CONTACT, THE PROBATION DEPARTMENT SHALL ADVISE THE VICTIM OF THE DATE, TIME AND PLACE OF THE DISPOSITION PROCEEDING AND OF THE VICTIM'S RIGHT, IF PRESENT TO BE HEARD AT THAT PROCEEDING.

8-290.02 Notice of postadjudication review and appellate proceedings

A. WITHIN FIFTEEN DAYS AFTER THE DISPOSITION PROCEEDING THE PROSECUTOR'S OFFICE, ON REQUEST, SHALL NOTIFY THE VICTIM OF THE DISPOSITION IMPOSED ON THE JUVENILE DEFENDANT.

B. THE PROSECUTOR'S OFFICE SHALL PROVIDE THE VICTIM WITH A FORM THAT ALLOWS THE VICTIM TO REQUEST POSTADJUDICATION NOTICE OF ALL POSTADJUDICATION REVIEW AND APPELLATE PROCEEDINGS, ALL POSTADJUDICATION RELEASE PROCEEDINGS, ALL PROBATION MODIFICATION PROCEEDINGS THAT IMPACT THE VICTIM, ALL PROBATION REVOCATION OR TERMINATION PROCEEDINGS, ALL CONDITIONAL LIBERTY REVOCATION PROCEEDINGS OR MODIFICATIONS TO CONDITIONAL LIBERTY, ANY DECISIONS THAT ARISE OUT OF THESE PROCEEDINGS, ALL RELEASES AND ALL ESCAPES.

C. THE PROSECUTOR'S OFFICE SHALL ADVISE THE VICTIM ON HOW THE COMPLETED REQUEST FORM MAY BE FILED WITH THE APPROPRIATE AGENCIES AND DEPARTMENTS.

D. ON REQUEST OF THE VICTIM, THE PROSECUTOR'S OFFICE THAT IS RESPONSIBLE FOR HANDLING ANY POSTADJUDICATION OR APPELLATE PROCEEDINGS SHALL NOTIFY THE VICTIM OF THE PROCEEDINGS AND ANY DECISIONS THAT ARISE OUT OF THE PROCEEDINGS.

8-290.03 Notice of release or escape

A. THE CUSTODIAL AGENCY SHALL IMMEDIATELY NOTIFY THE VICTIM OF THE POSTARREST RELEASE OR ESCAPE OF THE ACCUSED.

B. THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION SHALL IMMEDIATELY GIVE NOTICE TO A VICTIM AND THE PROSECUTOR'S OFFICE OF AN ESCAPE BY OR SUBSEQUENT REARREST OF THE ACCUSED OR DELINQUENT WHO WAS DETAINED OR COMMITTED TO THE DEPARTMENT AND CONFINED IN A SECURE CARE FACILITY AND WHO COMMITTED A DELINQUENT ACT AGAINST THE VICTIM.

8-290.04 Notice of delinquent's status

A. IF THE VICTIM HAS MADE A REQUEST FOR POSTADJUDICATION NOTICE, THE DIRECTOR OF THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION SHALL MAIL TO THE VICTIM THE FOLLOWING INFORMATION ABOUT A DELINQUENT IN THE CUSTODY OF THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION:

1. WITHIN THIRTY DAYS AFTER THE REQUEST, NOTICE OF THE EARLIEST RELEASE DATE OF THE DELINQUENT.
2. AT LEAST FIFTEEN DAYS BEFORE THE DELINQUENT'S RELEASE, NOTICE OF THE RELEASE.
3. WITHIN FIFTEEN DAYS AFTER THE DELINQUENT'S DEATH, NOTICE OF THE DEATH.

B. IF THE VICTIM HAS MADE A REQUEST FOR POSTADJUDICATION NOTICE, THE CUSTODIAL AGENCY HAVING CUSTODY OF THE DELINQUENT SHALL MAIL TO THE VICTIM NOTICE OF RELEASE AT LEAST FIFTEEN DAYS BEFORE THE DELINQUENT'S RELEASE OR NOTICE OF DEATH WITHIN FIFTEEN DAYS AFTER THE DELINQUENT'S DEATH.

8-290.05. Notice of postadjudication release; right to be heard; hearing; final decision

A. THE VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY PROCEEDING IN WHICH POSTADJUDICATION RELEASE FROM CONFINEMENT IS BEING CONSIDERED.

B. IF THE VICTIM HAS MADE A REQUEST FOR POSTADJUDICATION NOTICE, THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION, AT LEAST FIFTEEN DAYS BEFORE HEARING, SHALL GIVE TO THE VICTIM WRITTEN NOTICE OF THE HEARING AND OF THE VICTIM'S RIGHT TO BE PRESENT AND BE HEARD AT THE HEARING.

C. IF THE VICTIM HAS MADE A REQUEST FOR POSTADJUDICATION NOTICE, THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION SHALL GIVE NOTICE TO THE VICTIM OF THE DECISION REACHED BY THE DEPARTMENT. THE DEPARTMENT SHALL MAIL THE NOTICE WITHIN FIFTEEN DAYS AFTER THE DEPARTMENT REACHES ITS DECISION.

8-290.06. Notice of probation modification, termination or revocation disposition matters

A. ON REQUEST OF THE VICTIM, THE COURT SHALL NOTIFY THE VICTIM OF ANY PROBATION REVOCATION DISPOSITION PROCEEDING OR ANY PROCEEDING IN WHICH THE COURT IS ASKED TO TERMINATE THE PROBATION OR INTENSIVE PROBATION OF THE DELINQUENT WHO COMMITTED THE DELINQUENT ACT AGAINST THE VICTIM.

B. ON REQUEST OF THE VICTIM, THE COURT SHALL NOTIFY THE VICTIM OF A MODIFICATION OF THE TERMS OF PROBATION OR INTENSIVE PROBATION OF A DELINQUENT ONLY IF THE MODIFICATION WILL SUBSTANTIALLY AFFECT THE

DELINQUENT'S CONTACT WITH OR THE SAFETY OF THE VICTIM OR IF THE MODIFICATION AFFECTS RESTITUTION OR INCARCERATION STATUS.

C. ON REQUEST OF THE VICTIM, THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION SHALL NOTIFY THE VICTIM OF ANY PROCEEDING IN WHICH THE DEPARTMENT MAY REVOKE THE CONDITIONAL LIBERTY OF THE DELINQUENT WHO COMMITTED THE DELINQUENT ACT AGAINST THE VICTIM.

D. ON REQUEST OF THE VICTIM, THE DEPARTMENT OF YOUTH, TREATMENT AND REHABILITATION SHALL NOTIFY THE VICTIM OF A MODIFICATION OF THE TERMS OF CONDITIONAL LIBERTY ONLY IF THE MODIFICATION WILL SUBSTANTIALLY AFFECT THE DELINQUENT'S CONTACT WITH THE VICTIM OR THE SAFETY OF THE VICTIM OR IF THE MODIFICATION AFFECTS RESTITUTION OR SECURE CARE STATUS.

8-290.07 Notice of release, discharge or escape from a mental health treatment agency or residential treatment

A. IF THE VICTIM HAS MADE A REQUEST FOR NOTICE, THE COURT OR THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION, WHICHEVER HAS SUPERVISION OF THE ACCUSED OR DELINQUENT, SHALL NOTIFY THE VICTIM AT LEAST TEN DAYS BEFORE THE RELEASE OR DISCHARGE OF THE ACCUSED OR DELINQUENT, NOTICE OF THE RELEASE OR DISCHARGE OF THE ACCUSED OR DELINQUENT WHO IS PLACED BY COURT ORDER IN A MENTAL HEALTH TREATMENT AGENCY OR A RESIDENTIAL TREATMENT AGENCY. THE MENTAL HEALTH TREATMENT AGENCY OR RESIDENTIAL TREATMENT AGENCY THAT HAS CUSTODY OF THE ACCUSED OR DELINQUENT, SHALL NOTIFY THE COURT OR DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION, WHICHEVER HAS SUPERVISION OF THE ACCUSED OR DELINQUENT, AT LEAST THIRTY DAYS BEFORE THE RELEASE OR DISCHARGE OF THE ACCUSED OR DELINQUENT.

B. THE COURT OR THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION, WHICHEVER HAS SUPERVISION OF THE ACCUSED OR DELINQUENT, SHALL MAIL TO THE VICTIM IMMEDIATELY AFTER THE ESCAPE OR SUBSEQUENT READMISSION OF THE ACCUSED OR THE DELINQUENT, NOTICE OF THE ESCAPE OR SUBSEQUENT READMISSION OF THE ACCUSED OR THE DELINQUENT WHO IS PLACED BY COURT ORDER IN A MENTAL HEALTH TREATMENT AGENCY OR A RESIDENTIAL TREATMENT AGENCY. THE MENTAL HEALTH TREATMENT AGENCY OR RESIDENTIAL TREATMENT AGENCY THAT HAS CUSTODY OF THE ACCUSED OR DELINQUENT, SHALL IMMEDIATELY NOTIFY THE COURT OR THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION, WHICHEVER HAS SUPERVISION OF THE ACCUSED OR DELINQUENT, OF THE ESCAPE, RUNAWAY OR SUBSEQUENT READMISSION OF THE ACCUSED OR DELINQUENT.

8-290.08. Request for notice; forms; notice system

A. THE VICTIM SHALL PROVIDE TO AND MAINTAIN WITH THE LAW ENFORCEMENT AGENCY THAT IS RESPONSIBLE FOR PROVIDING NOTICE TO THE VICTIM A REQUEST FOR NOTICE ON A FORM THAT IS PROVIDED BY THAT AGENCY. THE FORM SHALL INCLUDE A TELEPHONE NUMBER AND ADDRESS. IF THE VICTIM FAILS TO KEEP THE VICTIM'S TELEPHONE NUMBER AND ADDRESS CURRENT, THE VICTIM'S REQUEST FOR NOTICE IS WITHDRAWN. AT ANY TIME THE VICTIM MAY RESTORE A REQUEST FOR NOTICE OF SUBSEQUENT PROCEEDINGS BY FILING ON A REQUEST FORM PROVIDED BY THE AGENCY THE VICTIM'S CURRENT TELEPHONE NUMBER AND ADDRESS.

B. EXCEPT AS PROVIDED IN SUBSECTION C, ALL NOTICES PROVIDED TO A VICTIM PURSUANT TO THIS ARTICLE SHALL BE ON FORMS REVIEWED BY THE ATTORNEY GENERAL.

C. EACH LAW ENFORCEMENT AGENCY, PROSECUTING OFFICE AND COURT WITHIN A COUNTY AMY AGREE FORMALLY OR INFORMALLY TO ESTABLISH DIFFERENT NOTICE PROCEDURES THAT ARE DESIGNED TO MORE EFFICIENTLY AND EFFECTIVELY PROVIDE NOTICE TO VICTIMS. IF DIFFERENT NOTICE PROCEDURES ARE ESTABLISHED, THEY SHALL BE EXPLAINED TO THE VICTIM AS SOON AS THE NOTICE IS IMPLEMENTED AND AS APPLICABLE. NOTICE OF ANY DIFFERENT PROCEDURES SHALL BE REPORTED TO THE ATTORNEY GENERAL.

D. THE COURT AND ALL AGENCIES THAT ARE RESPONSIBLE FOR PROVIDING NOTICE TO THE VICTIM SHALL ESTABLISH AND MAINTAIN A SYSTEM FOR THE RECEIPT OF VICTIM REQUESTS FOR NOTICE.

8-290.09. Victim conference with prosecuting attorney

A. ON REQUEST OF THE VICTIM, THE PROSECUTING ATTORNEY SHALL CONFER WITH THE VICTIM ABOUT THE DISPOSITION OF A DELINQUENT OFFENSE, INCLUDING THE VICTIM'S VIEWS ABOUT A DECISION NOT TO PROCEED WITH PROSECUTION, DISMISSAL, WITHDRAWAL OF A REQUEST FOR TRANSFER, PLEA OR DISPOSITION NEGOTIATIONS AND, WITHDRAWAL OF A REQUEST FOR TRANSFER, PLEA OR DISPOSITION NEGOTIATIONS AND, IF A PETITION HAS BEEN FIELD, PREADJUDICATION DIVERSION PROGRAMS.

B. ON REQUEST OF THE VICTIM, THE PROSECUTING ATTORNEY SHALL CONFER WITH THE VICTIM BEFORE THE COMMENCEMENT OF AN ADJUDICATION OR TRANSFER HEARING.

C. THE RIGHT OF THE VICTIM TO CONFER WITH THE PROSECUTING ATTORNEY DOES NOT INCLUDE THE AUTHORITY TO DIRECT THE PROSECUTION OF THE CASE.

8-290.10 Proceedings, right to be present

THE VICTIM HAS THE RIGHT TO BE PRESENT THROUGHOUT ALL COURT HEARINGS IN WHICH THE ACCUSED OR DELINQUENT HAS THE RIGHT TO BE PRESENT.

8-290.11 Detention hearing

THE VICTIM HAS THE RIGHT TO BE HEARD AT ANY PROCEEDING IN WHICH THE COURT CONSIDERS THE POSTARREST RELEASE OF THE JUVENILE ACCUSED OF COMMITTING A DELINQUENT ACT AGAINST THE VICTIM OR THE CONDITIONS OF THAT RELEASE.

8-290.13 Plea negotiation

A. ON REQUEST OF THE VICTIM, THE VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY PROCEEDING IN WHICH A NEGOTIATED PLEA FOR THE JUVENILE ACCUSED OF COMMITTING THE DELINQUENT ACT AGAINST THE VICTIM WILL BE PRESENTED TO THE COURT.

B. THE COURT SHALL NOT ACCEPT A PLEA AGREEMENT UNLESS:

1. THE PROSECUTING ATTORNEY ADVISES THE COURT THAT BEFORE REQUESTING THE NEGOTIATED PLEA REASONABLE EFFORTS WERE MADE TO CONFER WITH THE VICTIM PURSUANT TO SECTION 8-290.09.
2. REASONABLE EFFORTS ARE MADE TO GIVE THE VICTIM NOTICE OF THE PLEA PROCEEDING PURSUANT TO SECTION 8-290 AND TO INFORM THE VICTIM THAT THE VICTIM HAS THE RIGHT TO BE PRESENT AND, IF PRESENT, TO BE HEARD.

3. THE PROSECUTING ATTORNEY ADVISES THE COURT THAT TO THE BEST OF THE PROSECUTOR'S KNOWLEDGE NOTICE REQUIREMENTS OF THIS CHAPTER HAVE BEEN COMPLIED WITH AND THE PROSECUTOR INFORMS THE COURT OF THE VICTIM'S POSITION, IF KNOWN, REGARDING THE NEGOTIATED PLEA.

8-290.14 Impact statement; predisposition report

A. THE VICTIM MAY SUBMIT A WRITTEN IMPACT STATEMENT OR MAKE AN ORAL IMPACT STATEMENT TO THE PROBATION OFFICER FOR THE OFFICER'S USE IN PREPARING A PREDISPOSITION OR TRANSFER REPORT.

B. IN PREPARING THE PREDISPOSITION OR TRANSFER REPORT, THE PROBATION OFFICER SHALL CONSIDER THE ECONOMIC, PHYSICAL AND PSYCHOLOGICAL IMPACT THAT THE DELINQUENT ACT HAS HAD ON THE VICTIM AND THE VICTIM'S IMMEDIATE FAMILY.

C. ON REQUEST, THE COURT SHALL PROVIDE THE VICTIM WITH THE FOLLOWING INFORMATION FROM THE PREDISPOSITION REPORT:

1. THE REFERRAL HISTORY.
2. THE PROBATION OFFICER'S ASSESSMENT OF THE CASE.
3. THE DISPOSITION AND TREATMENT RECOMMENDATIONS.
4. THE PROBATION OFFICER'S RECOMMENDATIONS FOR TREATMENT AND DISPOSITION.
5. THE DETENTION HISTORY.

8-290.15 Disposition

THE VICTIM MAY PRESENT EVIDENCE, INFORMATION AND OPINIONS THAT CONCERN THE DELINQUENT ACT, THE DELINQUENT, THE DISPOSITION OR THE NEED FOR RESTITUTION AT ANY PREDISPOSITION OR DISPOSITION PROCEEDING, AND THE VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY DISPOSITION PROCEEDING.

8-290.16. Probation modification, revocation disposition or termination proceedings

A. THE VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY PROBATION REVOCATION DISPOSITION PROCEEDING OR ANY PROCEEDING IN WHICH THE COURT IS REQUESTED TO TERMINATE THE PROBATION OR INTENSIVE PROBATION OF A DELINQUENT WHO COMMITTED A DELINQUENT ACT AGAINST THE VICTIM.

B. THE VICTIM HAS THE RIGHT TO BE HEARD AT ANY PROCEEDING IN WHICH THE COURT IS REQUESTED TO MODIFY THE TERMS OF PROBATION OR INTENSIVE PROBATION OF A DELINQUENT IF THE MODIFICATION WILL SUBSTANTIALLY AFFECT THE DELINQUENT'S CONTACT WITH OR SAFETY OF THE VICTIM OR IF THE MODIFICATION INVOLVES RESTITUTION OR INCARCERATION STATUS.

8-290.17. Victim's discretion; form statement

A. THE VICTIM HAS DISCRETION TO EXERCISE THE VICTIM'S RIGHTS UNDER THIS ARTICLE TO BE PRESENT AND BE HEARD AT A COURT PROCEEDING, AND THE ABSENCE OF THE VICTIM AT THE COURT PROCEEDING DOES NOT PRECLUDE THE COURT FROM CONTINUING THE PROCEEDING.

B. EXCEPT AS PROVIDED IN SUBSECTION C, A VICTIM'S RIGHT TO BE HEARD MAY BE EXERCISED THROUGH AN ORAL STATEMENT, SUBMISSION OF A WRITTEN STATEMENT OR SUBMISSION OF A STATEMENT THROUGH AUDIOTAPE OR VIDEOTAPE.

C. IF A PERSON AGAINST WHOM A DELINQUENT ACT HAS BEEN COMMITTED IS IN CUSTODY FOR AN OFFENSE. THE PERSONA MAY BE HEARD BY SUBMITTING A

WRITTEN STATEMENT TO THE COURT.

8-290.18. Return of victim's property; release of evidence

A. ON REQUEST FOR THE VICTIM AND AFTER CONSULTATION WITH THE PROSECUTING ATTORNEY, THE LAW ENFORCEMENT AGENCY RESPONSIBLE FOR INVESTIGATING THE DELINQUENT ACT SHALL RETURN TO THE VICTIM ANY PROPERTY BELONGING TO THE VICTIM THAT WAS TAKEN DURING THE COURSE OF THE INVESTIGATION OR SHALL INFORM THE VICTIM OF THE REASONS WHY THE PROPERTY WILL NOT BE RETURNED. THE LAW ENFORCEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO RETURN THE PROPERTY TO THE VICTIM AS SOON AS POSSIBLE.

B. IF THE VICTIM'S PROPERTY HAS BEEN ADMITTED AS EVIDENCE DURING A HEARING, THE COURT MAY ORDER ITS RELEASE TO THE VICTIM IF A PHOTOGRAPH OR PHOTOCOPY CAN BE SUBSTITUTED. IF EVIDENCE IS RELEASED PURSUANT TO THIS SUBSECTION, THE ACCUSED'S ATTORNEY OR INVESTIGATOR MAY INSPECT AND INDEPENDENTLY PHOTOGRAPH OR PHOTOCOPY THE EVIDENCE BEFORE IT IS RELEASED.

8-290.19. Consultation between crime victim advocate and victim; privileged information; exception

A. A CRIME VICTIM ADVOCATE SHALL NOT DISCLOSE AS A WITNESS OR OTHERWISE ANY COMMUNICATION EXCEPT COMPENSATION OR RESTITUTION INFORMATION BETWEEN ADVOCATE AND THE VICTIM UNLESS THE VICTIM CONSENTS IN WRITING TO THE DISCLOSURE.

B. UNLESS THE VICTIM CONSENTS IN WRITING TO THE DISCLOSURE, A CRIME VICTIM ADVOCATE SHALL NOT DISCLOSE RECORDS, NOTES, DOCUMENTS, CORRESPONDENCE, REPORTS OR MEMORANDA, EXCEPT COMPENSATION OR RESTITUTION INFORMATION, THAT CONTAINS OPINIONS THEORIES OR OTHER INFORMATION MADE WHILE ADVISING, COUNSELING OR ASSISTING THE VICTIM OR THAT ARE BASED ON THE COMMUNICATION BETWEEN THE VICTIM AND THE ADVOCATE.

C. THE COMMUNICATION IS NOT PRIVILEGED IF THE CRIME VICTIM ADVOCATE KNOWS THAT THE VICTIM WILL GIVE OR HAS GIVEN PERJURED TESTIMONY OR IF THE COMMUNICATION CONTAINS EXCULPATORY MATERIAL.

D. AN ACCUSED MAY MAKE A MOTION FOR DISCLOSURE OF PRIVILEGED INFORMATION. IF THE COURT FINDS THERE IS REASONABLE CAUSE TO BELIEVE THE MATERIAL IS EXCULPATORY, THE COURT SHALL HOLD A HEARING IN CAMERA. MATERIAL THAT THE COURT FINDS IS EXCULPATORY SHALL BE DISCLOSED TO THE ACCUSED.

E. IF, WITH THE CONSENT OF THE VICTIM, THE CRIME VICTIM ADVOCATE DISCLOSES TO THE PROSECUTOR OR A LAW ENFORCEMENT AGENCY ANY COMMUNICATION BETWEEN THE VICTIM AND THE CRIME VICTIM ADVOCATE OR ANY RECORDS, NOTES, DOCUMENTS, CORRESPONDENCE, REPORTS OR MEMORANDA, THE PROSECUTOR OR LAW ENFORCEMENT AGENT SHALL DISCLOSE THE MATERIAL TO THE ACCUSED'S ATTORNEY ONLY IF THE INFORMATION IS OTHERWISE DISCOVERABLE.

F. NOTWITHSTANDING SUBSECTIONS A AND B, IF A CRIME VICTIM ADVOCATE IS EMPLOYED OR AUTHORIZED BY A PROSECUTOR'S OFFICE, THE ADVOCATE MAY DISCLOSE INFORMATION TO THE PROSECUTOR WITH THE ORAL CONSENT OF THE VICTIM.

8-290.20 Minimizing victim's contacts

BEFORE, DURING AND IMMEDIATELY AFTER ANY COURT PROCEEDING, THE COURT SHALL PROVIDE APPROPRIATE SAFEGUARDS TO MINIMIZE THE CONTACT THAT OCCURS BETWEEN THE VICTIM, THE VICTIM'S IMMEDIATE FAMILY AND THE VICTIM'S WITNESS AND THE ACCUSED, THE ACCUSED'S IMMEDIATE FAMILY AND DEFENSE WITNESSES.

8-290.21 Motion to revoke release

IF THE PROSECUTOR DECIDES NOT TO MOVE TO REVOKE THE RELEASE OF THE JUVENILE DEFENDANT, THE PROSECUTOR SHALL INFORM THE VICTIM THAT THE VICTIM MAY PETITION THE COURT TO REVOKE THE RELEASE OF THE JUVENILE DEFENDANT BASED ON THE VICTIM'S NOTARIZED STATEMENT ASSERTING THAT HARASSMENT, THREATS, PHYSICAL VIOLENCE OR INTIMIDATION AGAINST THE VICTIM OR THE VICTIM'S IMMEDIATE FAMILY BY THE JUVENILE DEFENDANT OR ON BEHALF OF THE JUVENILE DEFENDANT HAS OCCURRED.

8-290.22. Victim's right to refuse an interview

A. UNLESS THE VICTIM CONSENTS, THE VICTIM SHALL NOT BE COMPELLED TO SUBMIT TO AN INTERVIEW ON ANY MATTER, INCLUDING AN ALLEGED DELINQUENT ACT WITNESSED BY THE VICTIM THAT OCCURRED ON THE SAME OCCASION AS THE DELINQUENT ACT AGAINST THE VICTIM, THAT IS CONDUCTED BY THE JUVENILE DEFENDANT, THE ATTORNEY FOR THE JUVENILE DEFENDANT OR AN AGENT OF THE JUVENILE DEFENDANT.

B. THE JUVENILE DEFENDANT, THE ATTORNEY FOR THE JUVENILE DEFENDANT OR ANOTHER PERSON ACTING ON BEHALF OF THE JUVENILE DEFENDANT SHALL ONLY INITIATE CONTACT WITH THE VICTIM THROUGH THE PROSECUTOR'S OFFICE. THE PROSECUTOR'S OFFICE SHALL INFORM THE VICTIM OF THE JUVENILE DEFENDANT'S REQUEST FOR AN INTERVIEW WITHIN TEN DAYS AFTER THE REQUEST AND SHALL ADVISE THE VICTIM OF THE VICTIM'S RIGHT TO REFUSE THE INTERVIEW.

C. IF THE VICTIM CONSENTS TO AN INTERVIEW, THE PROSECUTOR'S OFFICE SHALL INFORM THE JUVENILE DEFENDANT, THE ATTORNEY FOR THE JUVENILE DEFENDANT OR AN AGENT OF THE JUVENILE DEFENDANT OF THE TIME AND PLACE THE VICTIM HAS SELECTED FOR THE INTERVIEW. IF THE VICTIM WISHES TO IMPOSE OTHER CONDITIONS ON THE INTERVIEW, THE PROSECUTOR'S OFFICE SHALL INFORM THE JUVENILE DEFENDANT, THE ATTORNEY FOR THE JUVENILE DEFENDANT OR AN AGENT OF THE JUVENILE DEFENDANT OF THE CONDITIONS. THE VICTIM HAS THE RIGHT TO TERMINATE THE INTERVIEW AT ANY TIME OR TO REFUSE TO ANSWER ANY QUESTION DURING THE INTERVIEW. THE PROSECUTOR HAS STANDING AT THE REQUEST OF THE VICTIM TO PROTECT THE VICTIM FROM HARASSMENT, INTIMIDATION OR ABUSE AND, PURSUANT TO THAT STANDING, MAY SEEK ANY APPROPRIATE PROTECTIVE COURT ORDER.

D. UNLESS OTHERWISE DIRECTED BY THE VICTIM, THE PROSECUTOR MAY ATTEND ALL INTERVIEWS. IF A TRANSCRIPT OR TAPE OF THE INTERVIEW IS MADE AND ON REQUEST OF THE PROSECUTOR, THE PROSECUTOR SHALL RECEIVE A COPY OF THE TRANSCRIPT OR TAPE AT THE PROSECUTOR'S EXPENSE.

E. FOR THE PURPOSES OF THIS SECTION, A PEACE OFFICER SHALL NOT BE CONSIDERED A VICTIM IF THE ACT THAT WOULD HAVE MADE THE OFFICER A VICTIM OCCURS WHILE THE PEACE OFFICER IS ACTING IN THE SCOPE OF THE OFFICER'S OFFICIAL DUTIES.

8-290.23 Victim's right to privacy

THE VICTIM HAS THE RIGHT AT ANY COURT PROCEEDING NOT TO TESTIFY REGARDING THE VICTIM'S ADDRESSES, TELEPHONE NUMBERS, PLACE OF EMPLOYMENT OR OTHER LOCATING INFORMATION UNLESS THE VICTIM CONSENTS OR THE COURT ORDERS DISCLOSURE ON FINDING THAT A COMPELLING NEED FOR THE INFORMATION EXISTS. A COURT PROCEEDING ON THE MOTION SHALL BE IN CAMERA.

8-290.24. Speedy adjudication

A. IN ANY DELINQUENCY PROCEEDING, THE COURT, PROSECUTOR AND LAW ENFORCEMENT OFFICIALS SHALL TAKE APPROPRIATE ACTION TO ENSURE A SPEEDY ADJUDICATION FOR THE VICTIM.

B. IN ANY DELINQUENCY PROCEEDING IN WHICH A CONTINUANCE IS REQUESTED, THE COURT SHALL CONSIDER THE VICTIM'S VIES AND THE VICTIM'S RIGHT TO A SPEEDY ADJUDICATION. IF A CONTINUANCE IS GRANTED, THE COURT SHALL STATE ON THE RECORD THE REASON FOR THE CONTINUANCE.

8-290.25. Effect of failure to comply

A. THE FAILURE TO USE REASONABLE EFFORTS TO PERFORM A DUTY OR PROVIDE A RIGHT IS NOT CAUSE TO SET ASIDE AN ADJUDICATION OR DISPOSITION.

B. THE FAILURE TO USE REASONABLE EFFORTS TO PROVIDE NOTICE AND A RIGHT TO BE PRESENT OR BE HEARD PURSUANT TO THIS ARTICLE AT A PROCEEDING THAT INVOLVES POSTADJUDICATION RELEASE IS A GROUND FOR THE VICTIM TO SET ASIDE THE POSTADJUDICATION RELEASE UNTIL THE VICTIM IS AFFORDED THE OPPORTUNITY TO BE PRESENT OR BE HEARD.

C. IF THE VICTIM SEEKS TO HAVE A POSTADJUDICATION RELEASE SET ASIDE PURSUANT TO SUBSECTION B, THE CUSTODIAL AGENCY OR THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION SHALL AFFORD THE VICTIM A REEXAMINATION PROCEEDING AFTER THE PARTIES ARE GIVEN NOTICE.

D. A REEXAMINATION PROCEEDING CONDUCTED PURSUANT TO THIS SECTION OR ANY OTHER PROCEEDING THAT IS BASED ON THE FAILURE TO PERFORM A DUTY OR TO PROVIDE A RIGHT SHALL BEGIN NOT MORE THAN THIRTY DAYS AFTER THE APPROPRIATE PARTIES HAVE BEEN GIVEN NOTICE THAT THE VICTIM IS EXERCISING THE VICTIM'S RIGHT TO A REEXAMINATION PROCEEDING PURSUANT TO THIS SECTION OR TO ANOTHER PROCEEDING BASED ON THE FAILURE TO PERFORM A DUTY OR PROVIDE A RIGHT.

8-290.26. Standing to invoke rights; recovery of damages

A. THE VICTIM HAS STANDING TO SEEK AN ORDER OR TO BRING A SPECIAL ACTION MANDATING THAT THE VICTIM BE AFFORDED ANY RIGHT OR TO CHALLENGE AN ORDER DENYING ANY RIGHT GUARANTEED TO VICTIMS UNDER THE VICTIMS' BILL OF RIGHTS, ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA, THIS ARTICLE OR COURT RULES. IN ASSERTING ANY RIGHT, THE VICTIM HAS THE RIGHT TO BE REPRESENTED BY PERSONAL COUNSEL AT THE VICTIM'S EXPENSE.

B. A VICTIM HAS THE RIGHT TO RECOVER DAMAGES FROM A GOVERNMENTAL ENTITY RESPONSIBLE FOR THE INTENTIONAL, KNOWING OR GROSSLY NEGLIGENT VIOLATION OF THE VICTIM'S RIGHTS UNDER THE VICTIMS' BILL OF RIGHTS, ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA, ANY IMPLEMENTING LEGISLATION OR COURT RULE. NOTHING IN THIS SECTION ALTERS OR ABROGATES ANY PROVISION FOR IMMUNITY PROVIDED FOR UNDER COMMON LAW OR STATUTE.

C. AT THE REQUEST OF THE VICTIM, THE PROSECUTOR MAY ASSERT ANY RIGHT TO WHICH THE VICTIM IS ENTITLED.

8-290.27 Construction of article

THIS ARTICLE SHALL BE LIBERALLY CONSTRUED TO PRESERVE AND PROTECT THE RIGHTS TO WHICH VICTIM ARE ENTITLED.

Sec. 2. Section 13-1415, Arizona Revised Statutes, is amended to read:

13.1415. Human immunodeficiency virus testing; victim's rights; petition; definitions

A. DEFENDANT, INCLUDING A DEFENDANT WHO IS A MINOR, WHO IS ALLEGED TO HAVE COMMITTED a sexual offense or other crime which involved significant exposure IS SUBJECT TO A COURT ORDER THAT REQUIRES THE DEFENDANT to submit to a test for the human immunodeficiency virus and to consent to the release of the test result to the victim.

B. Pursuant to subsection A of this section, the prosecuting attorney, if requested by the victim, or, if the victim is a minor, by the parent or guardian of the minor, shall petition the court for an order requiring that the person be tested by the state department of corrections or the department of health services for the presence of the human immunodeficiency virus. The court shall, WITHIN TEN DAYS, determine if sufficient evidence exists that indicates that significant exposure occurred. If the court makes this finding or the act committed against the victim is a sexual offense it shall order that the test be performed in compliance with rules adopted by the department of health services.

C. The department of health services shall notify the victim and person tested of the results of the test conducted pursuant to subsection B of this section and shall counsel them regarding the health implications of the results.

D. Notwithstanding any other law, COPIES OF THE test results shall be released only to the victim of the crime, the person tested and the department of health services.

E. For purposes of this section,—:

1. "SEXUAL OFFENSE" MEANS ORAL SEXUAL CONTACT, SEXUAL CONTACT OR SEXUAL INTERCOURSE AS DEFINED IN SECTION 13-1401.

2. "Significant exposure" means contact of the victim's ruptured or broken skin or mucous membranes with a person's blood or body fluids, other than tears, saliva or perspiration, of a magnitude that the centers for disease control have epidemiologically demonstrated can result in transmission of the human immunodeficiency virus.

Sec. 3. Section 13-4405, Arizona Revised Statutes, is amended to read:

13-4405. Information provided to victim by law enforcement agencies

A. As soon after the detection of a criminal offense as the victim may be contacted without interfering with an investigation OR Arrest, the law enforcement agency that has responsibility for investigating the criminal offense shall PROVIDE THE VICTIM WITH A MULTI-COPY FORM:

1. THAT ALLOWS THE VICTIM TO REQUEST OR WAIVE APPLICABLE RIGHTS TO WHICH THE VICTIM IS ENTITLED, ON REQUEST, UNDER THIS ARTICLE.
2. THAT PROVIDES THE VICTIM A METHOD TO DESIGNATE A LAWFUL REPRESENTATIVE IF THE VICTIM CHOOSES PURSUANT TO SECTION 13-4403, SUBSECTION A OR SECTION 13-4404.
3. THAT PROVIDES NOTICE TO THE VICTIM OF ALL OF THE FOLLOWING INFORMATION:
   (a) The victim's rights under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, TO BE TREATED WITH FAIRNESS, RESPECT AND DIGNITY AND TO BE FREE FROM INTIMIDATION, HARASSMENT OR ABUSE THROUGHOUT THE CRIMINAL OR JUVENILE JUSTICE PROCESS.
   (b) The availability, if any, of crisis intervention services and emergency and medical

services and, where applicable, that medical expenses arising out of the need to secure evidence may be reimbursed pursuant to section 13-1414.

(c) IN CASES OF DOMESTIC VIOLENCE, THE PROCEDURES AND RESOURCES AVAILABLE FOR THE PROTECTION OF THE VICTIM PURSUANT TO SECTION 13-3601.

(d) THE NAMES AND TELEPHONE NUMBERS OF PUBLIC AND PRIVATE VICTIM ASSISTANCE PROGRAMS, INCLUDING THE COUNTY VICTIM COMPENSATION PROGRAM AND PROGRAMS THAT PROVIDE COUNSELING, TREATMENT AND OTHER SUPPORT SERVICES.

(e) THE POLICE REPORT NUMBER, IF AVAILABLE, OTHER IDENTIFYING CASE INFORMATION AND THE FOLLOWING STATEMENT;

IF WITHIN THIRTY DAYS YOU ARE NOT NOTIFIED OF AN ARREST IN YOUR CASE, YOU MAY CALL (THE LAW ENFORCEMENT AGENCY'S TELEPHONE NUMBER) FOR THE STATUS OF THE CASE.

(f) WHETHER THE SUSPECT IS AN ADULT OR JUVENILE, A STATEMENT THE VICTIM WILL BE NOTIFIED BY THE LAW ENFORCEMENT AGENCY AT THE EARLIEST OPPORTUNITY AFTER THE ARREST OF A SUSPECT.

(g) IF THE SUSPECT IS AN ADULT AND HAS BEEN ARRESTED, OF THE VICTIM'S RIGHT, ON REQUEST, TO BE INFORMED OF THE SUSPECT'S RELEASE, OF THE NEXT REGULARLY SCHEDULED TIME, PLACE AND DATE FOR INITIAL APPEARANCES IN THE JURISDICTION AND OF THE VICTIM'S RIGHT TO BE HEARD AT THE INITIAL APPEARANCE AND THAT TO EXERCISE THESE RIGHTS, THE VICTIM IS ADVISED TO CONTACT THE COURT IMMEDIATELY TO REQUEST NOTICE OF ALL OF THE FOLLOWING:

(i) THE SUSPECT'S RELEASE.

(ii) ANY CHANGES TO THE INITIAL APPEARANCE SCHEDULE.

(iii) IF THE VICTIM CHOOSES TO EXERCISE THE RIGHT TO BE HEARD THROUGH A WRITTEN STATEMENT, HOW THAT STATEMENT MAY BE SUBMITTED TO THE COURT.

B. THE LAW ENFORCEMENT AGENCY SHALL SUBMIT ONE COPY OF THE VICTIM'S REQUEST OR WAIVER OF PRECONVICTION RIGHTS FORM TO THE CUSTODIAL AGENCY IF A SUSPECT IS ARRESTED, AT THE TIME THE SUSPECT IS TAKEN INTO CUSTODY. IF THERE IS NO ARREST, THE FORM COPIES SHALL BE SUBMITTED TO THE PROSECUTOR AT THE TIME THE CASE IS OTHERWISE PRESENTED TO THE PROSECUTOR FOR REVIEW. THE PROSECUTOR SHALL SUBMIT A COPY OF THE VICTIM'S REQUEST OR WAIVER OF PRECONVICTION RIGHTS FORM TO THE DEPARTMENTS OR SECTIONS OF THE PROSECUTOR'S OFFICE, AS APPLICABLE, THAT ARE MANDATED BY THIS ARTICLE TO PROVIDE VICTIMS' RIGHTS SERVICES ON REQUEST.

C. IF THE SUSPECTED OFFENDER IS CITED AND RELEASED, THE LAW ENFORCEMENT AGENCY RESPONSIBLE FOR INVESTIGATING THE OFFENSE SHALL INFORM THE VICTIM OF THE COURT DATE AND HOW TO OBTAIN ADDITIONAL INFORMATION ABOUT THE SUBSEQUENT CRIMINAL PROCEEDINGS.

Sec. 4. Section 41-191.06, Arizona Revised Statutes, is amended to read:

41-191.06. Victims' rights implementation revolving fund; use; exemption from lapsing; report

A. A victims' right implementation revolving fund is established in the state treasury. The attorney general shall administer the fund. Monies in the fund are subject to legislative appropriation and

shall be used for the purpose of implementing the provisions of title 13, chapter 40 AND TITLE 8, CHAPTER 2. The victims' rights implementation revolving fund shall consist of monies collected pursuant to SECTIONS 12-116.01 AND 8-290.28.

B. The attorney general shall establish procedures necessary to assess the financial impact on and the need of entities affected by title 13, chapter 40 AND TITLE 8, CHAPTER 2 and each entity's level of performance in implementing title 13, chapter 40 and TITLE 8, CHAPTER 2. Based on the information derived from the assessment, the attorney general shall disburse funds as appropriate. An entity financially impacted by the implementation of title 13, chapter 40 and TITLE 8, CHAPTER 2 may apply to the attorney general for funds.

C. Monies in the fund shall be exempt from the lapsing provisions of section 35-190.

Sec. 5. Section 41-2818, Arizona Revised Statutes, is amended to read:

41-2818. Conditional liberty; notification

A. After a determination by the department that a youth is not likely to be a threat to the public safety if released and that the youth's continued treatment, rehabilitation and education in a less restrictive setting ARE consistent with the public's safety and interest, the youth may be granted conditional liberty and placed under the care of the youth's parent or legal guardian or a resident of this state of good moral character or placed in a community based treatment center.

B. Each youth who is placed on conditional liberty is subjected to the conditions imposed by the department. When conditional liberty is granted, the youth shall receive and sign a copy of the terms of conditional liberty.

C. The department shall notify the committing court,—AND the county attorney in the county in which the youth has been granted conditional liberty. The notice shall include a copy of the youth's terms of conditional liberty.

Sec. 6. Transfer and renumber

Section 8-230.03. Arizona Revised Statutes, is transferred and renumbered for placement in title 8, chapter 2, article 7, Arizona Revised Statutes, as added by this act, as section 8-290.28.

Sec. 7. Appropriation; purpose

The sum of $1,000,000 is appropriated from the state general fund to the attorney general for deposit in the victims' rights implementation revolving fund established by section 41-191.06, Arizona Revised Statutes.

Sec. 8. Delayed effective date

A. Section 1 through 6 of this act are effective from and after March 31, 1996.

B. Section 8-290.26. Arizona Revised Statutes, as added by section 1 of this act is effective from and after June 30, 1996.

Sec. 9. Conditional enactment

This act is effective only if Senate Bill 1158, forty-second legislature, first regular session, relating to fees assessed against juveniles adjudicated delinquent, is enacted into law.

Texas Legislation
House Bill 327

Preface

With few exceptions, House Bill 327 has an effective date of January 1, 1996. It applies only to "conduct that occurs on or after January 1, 1996." Even if the amendment is procedural only, it applies only to cases in which the offense occurred on or after January 1, 1996.

Amendments to Chapter 55 and to section 61.077 Human Resources Code became effective when the Bill was signed by the Governor on May 31, 1995. Those amendments apply only to conduct that occurs on or after that date.

The provisions of Local Government Code sections 341.904, 351.903 and 370.002, dealing with the authority of a general law municipality and a county to enact juvenile curfew ordinances or orders, went into effect when signed on May 31, 1995.

Section 52.028, defining a juvenile curfew processing office, went into effect May 31, 1995. The designation of a juvenile curfew processing office by a municipality before May 31 is retroactively validated if the facility otherwise meets the requirements of section 52.028.

A. Family Code Title 3
Title 3. Juvenile Justice Code
Chapter 51. General Provisions
Section 51.01. Purpose and Interpretation

This title shall be construed to effectuate the following public purposes:

(1) to provide for the protection of the public and public safety;
(2) consistent with the protection of the public and public safety:
  (A) to promote the concept of punishment for criminal acts;
  (B) to remove, where appropriate, the taint of criminality from children committing certain unlawful acts; and
  (C) to provide treatment, training, and rehabilitation that emphasizes the accountability and responsibility of both the parent and the child for the child's conduct;
(3) to provide for the care, the protection, and the wholesome moral, mental, and physical development of children coming within its provisions;
(4) to protect the welfare of the community and to control the commission of unlawful acts by children;
(5) to achieve the foregoing purposes in a family environment whenever possible, separating the child from the child's parents only when necessary for the child's' welfare or in the interest of public safety and when a child is removed from the child's family, to give the child the care that should be provided by parents; and
(6) to provide a simple judicial procedure through which the provisions of this title are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

Section 51.02 Definitions

In this title:

(1) "Aggravated controlled felony" means an offense under Subchapter D, Chapter 481, Healthy and Safety Code, that is punishable by:
  (A) a minimum term of confinement that is longer than the minimum term of confinement for a felony of the first degree; or
  (B) a maximum fine that is greater than the maximum fine for a felony of the first degree.

(2) "Child" means a person who is:
  (A) ten years or older and under 17 years of age; or
  (B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent control or conduct indicating a need for supervision as a result of acts committed before coming 17 years of age.

(3) "Custodian" means the adult with whom the child resides.

(4) "Guardian" means the person who, under court order, is the guardian of the person of the child or the public or private agency with whom the child has been placed by a court.

(5) "Judge" or "juvenile court judge" means the judge of a juvenile court.

(6) "Juvenile court" means a court designated under Section 51.04 of this code to exercise jurisdiction over proceedings under this title.

(7) "Law enforcement officer" means a peace officer as defined by Article 2.12, Code of Criminal Procedure.

(8) "Nonoffender" means a child who:
  (A) is subject to jurisdiction of a court under abuse, dependency, or neglect statutes under Title 5 for reasons other than legally prohibited conduct of the child; or
  (B) has been taken into custody and is being held solely for deportation out of the United States.

(9) "Parent" means the mother, the father whether or not the child is legitimate, or an adoptive parent, but does not include a parent whose parental rights have been terminated.

(10) "Party" means the state, a child who is the subject of proceedings under this subtitle, or the child's parent, spouse, guardian, or guardian adlitem.

(11) "Prosecuting attorney" means the county attorney, district attorney, or other attorney who regularly serves in a prosecutory capacity in juvenile court.

(12) "Referral to juvenile court" means the referral of a child or a child's case to the office or official, including an intake officer or probation officer, designated by the juvenile court to process children within the juvenile justice system.

(13) "Secure correctional facility" means any public or private residential facility, including an alcohol or other drug treatment facility, that:
  (A) includes construction fixtures designed to physically restrict the movement and activities of juveniles or other individuals held in lawful custody in the facility; and
  (B) is used for the placement of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.

(14) "Secure detention facility" means any public or private residential facility that:
  (A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and
  (B) is used for temporary placement of any juvenile who is accused of having committed an offense, any nonoffender, or any other individual accused of having committed a criminal offense.

(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:
  (A) truancy under Section 51.03(b)(2);
  (B) running away from home under Section 51.03(b)(3);
  (C) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not

have been criminal if engaged in by an adult;
(D) failure to attend school under Section 4.251, Education Code;
(E) a violation of standards of student conduct as described by Section 51.03(b)(6);
(F) a violation of a juvenile curfew ordinance or order;
(G) a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or
(H) a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

(16) "Traffic offense" means:
(A) a violation of a penal statute cognizable under Chapter 302, Acts of the 55th Legislature, Regular Session, 1957, amended (Article 6701l-4, Vernon's Texas Civil Statutes; or
(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(17) "Valid court order" means a court order entered under Section 54.04 concerning a child adjudicated to have engaged in conduct indicating a need for supervision as a status offender.

Section 51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision

(a) Delinquent conduct is:
(1) and (2) unchanged.
(3) conduct that violates a lawful order of a municipal court or justice court under circumstances that would constitute contempt of that court; or
(4) renumbered from (3).

(b) Conduct indicating a need for supervision is:
(1) through (5) unchanged.
(6) an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 21.3011, Education Code; or
(7) conduct that violates a reasonable and lawful order of a court entered under Section 264.305.

Section 51.031. Habitual Felony Conduct.

Habitual felony conduct is conduct violating a penal law of the grade of felony, other than a state jail felony, if:
(1) the child who engaged in the conduct has at least previous adjudications as having engaged in delinquent conduct violating a penal law of grade of felony; and
(2) the second previous adjudication is for conduct that occurred after the date the first previous adjudication became final.

Section 51.041. Jurisdiction after Appeal.

The court retains jurisdiction over a person, without regard to the age of the person, for conduct engaged in by the person before becoming 17 years of age if, as a result of an appeal by the person under Chapter 56 of an order of the court, the order is reversed or modified and the case remanded to the court by the appellate court.

Section 51.042. Objection to Jurisdiction Because of Age of the Child.

(a) A child who objects to the jurisdiction of the court over the child because of the age of the child must raise the objection at the adjudication hearing or discretionary transfer hearing, if any.

felony, other than a state jail felony, under section 22.04, Penal Code;
(viii) deadly conduct defined by Section 22.65(b), Penal Code (discharging firearm at persons or certain objects);
(ix) an offense that is a felony of the first degree or an aggravated controlled substance felony under Subchapter D, Chapter 481, Health and Safety Code (certain offenses involving controlled substances);
(x) criminal solicitation;
(xi) indeceny with a child that is punishable under 5 Section 21.11(a)(T), Penal Code;
(xii) criminal solicitation of a minor (Section 15.031, Penal Code); or
(xiii) criminal attempt to commit any offenses listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure, which include murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, and aggravated robbery; and

(G) unchanged.

(2) and (3) unchanged.

(c) A warning under Subsection (b)(1)(E) or (b)(1)(F) is required only when applicable to the facts of the case. The failure to warn a child under Subsection (b)(1)(E) does not render a statement by the child inadmissible unless the child is transferred to a district court under Section 54.02. A failure to warn a child under Subsection (b)(1)(F) does not render a statement made by the child inadmissible unless the state proceeds against the child on a petition approved by a grand jury under Section 53.045.

Section 51.10 Right to Assistance of Attorney; Compensation

(a) and (b) unchanged.

(c) If the child was not represented by an attorney at the detention hearing required by Section 54.01 of this code and a determination was made to detain the child, the child shall immediately be entitled to representation by an attorney. The court shall order the retention of an attorney according to Subsection (d) or appoint an attorney according to Subsection (f).

(d) through (i) unchanged.

Section 51.115 Attendance at a Hearing: Parent or Other Guardian

(a) Each parent of a child, each managing and possessory conservator of a child, each court-appointed custodian of a child, and a guardian of the person of the child shall attend each hearing affecting the child held under:
(1) Section 54.02 (waiver of jurisdiction and discretionary transfer to criminal court);
(2) Section 54.03 (adjudication hearing);
(3) Section 54.04 (disposition hearing);
(4) Section 54.05 (hearing to modify disposition); and
(5) Section 54.11 (release or transfer hearing).

(b) Subsection (a) does not apply to:
(1) a person for whom, for good cause shown, the court waives attendance;
(2) a person who is not a resident of this state; or
(3) a parent of a child for whom a managing conservator has been appointed and the parent is not a conservator of the child.

(c) A person required under this section to attend a hearing is entitled to reasonable written or oral notice that includes a statement of the place, date, and time of the hearing and that the attendance of the person is required. The notice may be included with or attached to any other notice required by this chapter to be given the person. Separate notice is not

required for a disposition hearing that convenes on the adjournment of an adjudication hearing. If a person required under this section fails to attend a hearing, the juvenile court may proceed with the hearing.

(d) A person who is required by Subsection (a) to attend a hearing, who receives the notice of the hearing, and who fails to attend the hearing may be punished by the court for contempt of a fine of not less than $100 and not more than $1,000. In addition to or in lieu of contempt, the court may order the person to receive counseling or to attend an educational course on the duties and responsibilities of parents and skills and techniques on raising children.

Section 51.116. Right to Reemployment

(a) An employer may not terminate the employment of a permanent employee because the employee is required under Section 51.115 to attend a hearing.

(b) An employee whose employment is terminated in violation of this section is entitled to return to the same employment that the employee held when notified of the hearing if the employee, as soon as practical after the hearing, gives the employer actual notice that the employee intends to return.

(c) A person who is injured because of violation of this section is entitled to reinstatement to the person's former position and damages, but the damages may not exceed an amount equal to six months' compensation at the rate at which the person was compensated when required to attend the hearing.

(d) The injured person is also entitled to reasonable attorney's fees in an amount approved by the court.

(e) It is a defense to an action brought under this section that the employer's circumstances changed while the employee attended the hearing so that reemployment was impossible or unreasonable. To establish a defense under this subsection, an employer must prove that the termination of employment was because of circumstances other than the employee's attendance at the hearing.

Section 51.12 Place and Conditions of Detention

(a) Except as provided by Subsection (h), a child may be detained only in a:
 (1) juvenile processing office in compliance with Section 52.025;
 (2) place of nonsecure custody in compliance with Section 52.027; or
 (3) certified juvenile detention facility that complies with the requirements of Subsection (f).

(b) unchanged.

(c) In each county, the judge of the juvenile court and the members of the juvenile board shall personally inspect the detention facilities and any public or private secure correctional facilities used for post-adjudication confinement that are located in the county and operated under authority of the juvenile board at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that they are suitable or unsuitable for the detention of children in accordance with:
 (1) the requirements of Subsection (a), (f), and (g); and
 (2) minimum professional standards for the detention of child in pre-adjudication or post-adjudication secure confinement promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board, the current standards promulgated by the American Correctional Association.

(d) and (e) unchanged.

(a) A child may be taken into custody:
  (1) pursuant to an order of the juvenile court under the provisions of this subtitle;
  (2) pursuant to the laws of arrest;
  (3) by a law-enforcement officer, including a school district peace officer commissioned under Section 21.483, Educational Code, if there is probable cause to believe that the child has engaged in:
    (A) conduct that violates a penal law of this state or a penal ordinance of any political subdivision of this state; or
    (B) delinquent conduct or conduct indicating a need for supervision;
  (4) by a probation officer is there is probable cause to believe the child has violated a condition of probation by the juvenile court; or
  (5) pursuant to a directive to apprehend issued as provided by Section 52.015.
(b) through (d) unchanged.

ection 52.015. Directive to Apprehend

(a) On the request of a law-enforcement or probation officer, a juvenile court may issue a directive to apprehend a child if the court finds there is probable cause to take the child into custody under the provisions of this title.
(b) On the issuance of a directive to apprehend, any law-enforcement or probation officer shall take the child into custody.
(c) An order under this section is not subject to appeal.

ection 52.027. Children Taken Into Custody for Traffic Offenses, Others Fineable Only ffenses, or as a Status Offender

(a) A child may be released to the child's parent or guardian, custodian or other responsible adult as provided in Section 52.02(a)(1) if the child is taken into custody:
  (1) for a traffic offense;
  (2) for an offense other than public intoxication punishable by fine only; or
  (3) as a status offender or non-offender.
(b) A child described by Subsection (A) must be taken only in a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children unless the child:
  (1) is released under Section 52.02(a)(1);
  (2) is taken before a municipal court or justice court; or
  (3) for truancy or running away, is taken to a juvenile detention facility.
(c) A place of nonsecure custody for children must be an unlocked, multipurpose area. A lobby, office, or interrogation room is suitable if the area is not designated, set aside, or used as a secure detention area and is not part of a secure detention area. A place of nonsecure custody may be a juvenile processing office designated under Section 52.025 if the area is not locked when it is used as a place of nonsecure custody.
(d) The following procedures shall be followed in a place of nonsecure custody for children:
  (1) a child may not be secured physically to a cuffing rail, chair, desk, or other stationary object;
  (2) the child may be held in the nonsecure facility only long enough to accomplish the purpose of identification, investigation, processing, release to parents, or the arranging of transportation to the appropriate juvenile court, juvenile detention facility, municipal court, or justice court;
  (3) residential use of the area is prohibited; and
  (4) the child shall be under continuous visual supervision by a law enforcement officer or

facility staff person during the time the child is in nonsecure custody.

(e) Notwithstanding any other provision of this section, a child may not, under any circumstances, be detained in a place of nonsecure custody for more than six hours.

(f) A child taken into custody for a traffic offense or an offense, other than public intoxication, punishable by fine only may be presented or detained in a detention facility designated by the juvenile court under Section 52.02(a)(3) only if:

(1) the child's non-traffic case is transferred to the juvenile court by a municipal court or justice court under Section 51.08(b); or

(2) the child is referred to the juvenile court by a municipal court or justice court under Subsection (h).

(g) A law enforcement officer may issue a field release citation, as provided by Article 14.16, Code of Criminal Procedure, in place of taking a child into custody for a traffic offense or an offense, other than public intoxication, punishable by fine only.

(h) A municipal court or justice court may not hold a child in contempt for intentionally refusing to obey a lawful order of disposition after an adjudication of guilt of a traffic offense or other offense punishable by fine only. The municipal court or justice court shall instead refer the child to the appropriate juvenile court for delinquent conduct for contempt of the municipal court or justice court order.

(i) In this section, "child" means a person who is at least 10 years of age and younger than 18 years of age and who:

(1) is charged with or convicted of a traffic offense or an offense, other than public intoxication, punishable by fine only as a result of an act committed before becoming 17 years of age;

(2) is a status offender and was taken into custody as a status offender for conduct engaged in before becoming 17 years of age; or

(3) is a nonoffender and became a nonoffender before becoming 17 years of age.

Section 52.028. Children Taken Into Custody for Violation of Juvenile Curfew Ordinance or Order

(a) A peace officer taking into custody a person under 17 years of age for violation of a juvenile curfew ordinance of a municipality or order of the commissioners court of a county shall, without unnecessary delay:

(1) release the person to the person's parent, guardian, or custodian;

(2) take the person before a municipal or justice court to answer the charge; or

(3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(b) A juvenile curfew processing office must observe the following procedures:

(1) the office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area;

(2) the person may not be secured physically to a cuffing rail, chair, desk, or stationary object;

(3) the person may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to parents, guardians, or custodians, and arrangement of transportation to school or court;

(4) a juvenile curfew processing office may not be designated or intended for residential purposes;

(5) the person must be under continuous visual supervision by a peace officer or other person during the time the person is in the juvenile curfew processing office; and

(6) a person may not be held in a juvenile curfew processing office for more than six hours.

(c) A place designated under this section as a juvenile curfew processing office is not subject to the approval of the juvenile board having jurisdiction where the governmental entity is located.

Section 52.03. Disposition Without Referral to Court

(a) A law-enforcement officer authorized by this title to take a child into custody may dispose of the case of a child taken into custody without referral to juvenile court, if:

(1) guidelines for such disposition have been issued by the law-enforcement agency in which the officer works;

(2) the guidelines have been approved by the juvenile board of the county in which the disposition is made;

(3) the disposition is authorized by the guidelines; and

(4) the officer makes a written report of his disposition to the law-enforcement agency, identifying the child and specifying the grounds for believing that the taking into custody was authorized.

(b) unchanged.

(c) A disposition authorized by this section may involve:

(1) referral of the child to an agency other than the juvenile court;

(2) a brief conference with the child and his parent, guardian, or custodian; or

(3) referral of the child and the child's parent, guardian, or custodian for services under Section 264.302.

Section 52.031. First Offender Program

(a) A juvenile board may establish a first offender program under this section for the referral and disposition of children taken into custody for:

(1) conduct indicating a need for supervision; or

(2) delinquent conduct other than conduct that constitutes:

(A) a felony of the first, second, or third degree, an aggravated controlled substance felony, or a capital felony; or

(B) a state jail felony or misdemeanor involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or a prohibited weapon, as described by Section 46.05, Penal Code.

(b) Each juvenile board in the county in which a first offender program is established shall designate one or more law enforcement officers and agencies, which may be law enforcement agencies, to process a child under the first offender program.

(c) The disposition of a child under the first offender program may not take place until:

(1) guidelines for the disposition have been issued by the agency designated under Subsection (b); and

(2) the juvenile board has approved the guidelines.

(d) A law enforcement officer taking a child into custody may refer the child to the law enforcement officer or agency designated under Subsection (b) for disposition under the first offender program and not refer the child to juvenile court only if:

(1) the child has not previously been adjudicated as having engaged in delinquent conduct;

(2) the referral complies with guidelines for disposition under Subsection (c); and

(3) the officer reports in writing the referral to the agency, identifying the child and

specifying the grounds for taking the child into custody.

(e) A child referred for disposition under the first offender program may not be detained in law enforcement custody.

(f) The parent, guardian, or other custodian of the child must receive notice that the child has been referred for disposition under the first offender program. The notice must:
  (1) state the grounds for taking the child into custody;
  (2) identify the law enforcement officer or agency to which the child was referred;
  (3) briefly describe the nature of the program; and
  (4) state that the child's failure to complete the program will result in the child being referred to the juvenile court.

(g) The child and the parent, guardian, or other custodian of the child must consent to participation by the child in the first offender program.

(h) Disposition under a first offender program may include:
  (1) voluntary restitution by the child or the parent, guardian, or other custodian of the child to the victim of the conduct of the child;
  (2) voluntary community service restitution by the child;
  (3) educational, vocational training, counseling, or other rehabilitative services; and
  (4) periodic reporting by the child to the law enforcement officer or agency to which the child has been referred.

(i) The case of a child who successfully completes the first offender program is closed and may not be referred to juvenile court, unless the child is taken into custody under circumstances described by Subsection (j)(3).

(j) The case of a child referred for disposition under the first offender program shall be referred to juvenile court if:
  (1) the child fails to complete the program;
  (2) the child or the parent, guardian, or other custodian of the child terminates the child's participation in the program before the child completes it; or
  (3) the child completes the program but is taken into custody under Section 52.01 before the 90th day after the date the child competes the program for conduct other than the conduct for which the child was referred to the first offender program.

(k) A statement made by a child to a person giving advice or supervision or participating in the first offender program may not be used against the child in any proceeding under this title or any criminal proceeding.

(l) The law enforcement agency must report to the juvenile board in December of each year the following:
  (1) the last known address of the child, including the census tract;
  (2) the gender and ethnicity of the child referred to the program; and
  (3) the offense committed by the child.

Section 52.041. Referral of Child to Juvenile Court After Expulsion

(a) A school district that expels a child shall refer the child to juvenile court in the county in which the child resides.

(b) The board of the school district or a person designated by the board shall deliver a copy of the order expelling the student and any other information required by Section 52.04 on or before the second working day after the date of the expulsion hearing to the authorized officer of the juvenile court.

Chapter 53. Proceedings Prior to Judicial Proceedings

Section 53.01. Preliminary Investigation and Determinations; Notice to Parents

(a) On referral of a person believed to be a child or on referral of the person's case to the office or official designated by the juvenile court, the intake officer, probation officer, or other person authorized by the court shall conduct a preliminary investigation to determine whether:

(1) the person referred to juvenile court is a child within the meaning of this title; and

(2) there is probable cause to believe the person engaged in delinquent conduct or conduct indicating a need for supervision.

(b) If it is determined that the person is not a child or there is no probable cause, the person shall immediately be released.

(c) unchanged.

(d) Unless the juvenile board approves a written procedure proposed by the office of the prosecuting attorney and chief juvenile probation officer which provides otherwise, if it is determined that the person is a child and, regardless of a finding of probable cause, or a lack thereof, there is an allegation that the child engaged in delinquent conduct of the grade of felony, or conduct constituting a misdemeanor offense involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or prohibited weapon, as described by Section 46.05, Penal Code, the case shall be promptly forwarded to the office of the prosecuting attorney, accompanied by:

(1) all documents that accompanied the current referral; and

(2) a summary of all prior referrals of the child to the juvenile court, juvenile probation department, or juvenile detention facility.

(e) If a juvenile board adopts an alternative referral plan under Subsection (d), the board shall register under the plan with the Texas Juvenile Probation Commission.

(f) A juvenile board may not adopt an alternate referral plan that does not require the forwarding of a child's case to the prosecuting attorney as provided by Subsection (d) if probable cause exists to believe that the child engaged in delinquent conduct that violates Section 19.03, Penal Code (capital murder), or Section 19.02, Penal Code (murder).

Section 53.012. Review by Prosecutor

(a) The prosecuting attorney shall promptly review the circumstances and allegations of a referral made under Section 53.01 for legal sufficiency and the desirability of prosecution and may file a petition without regard to whether probable cause was found under Section 53.01.

(b) If the prosecuting attorney does not file a petition requesting the adjudication of the child referred to the prosecuting attorney, the prosecuting attorney shall:

(1) terminate all proceedings, if the reason for lack of probable cause; or

(2) return the referral to the juvenile probation department for further proceedings.

(c) The juvenile probation department shall promptly refer a child who has been returned to the department under Subsection (b)(2) and who fails or refuses to participate in a program of the department to the prosecuting attorney for review of the child's case and determination of whether to file a petition.

Section 53.013. Progress Sanctions Program

Each juvenile board may adopt a progressive sanctions program using the guidelines for progressive sanctions in Chapter 59.

Section 53.02 Release from Detention

(a) unchanged.

(b) A child taken into custody may be detained prior to hearing on the petition only if:
 (1) he is likely to abscond or be removed from the jurisdiction of the court;
 (2) suitable supervision, case, or protection for him is not being provided by a parent, guardian, custodian, or other person;
 (3) he has no parent, guardian, custodian, or other person able to return him to the court when required;
 (4) he may be dangerous to himself or he may threaten the safety of the public if released; or
 (5) he has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

(c) unchanged.

(d) A release of a child to an adult under Subsection (a) must be conditioned on the agreement of the adult to be subject to the jurisdiction of the juvenile court and to an order of contempt by the court if the adult, after notification, is unable to produce the child at later proceedings.

Section 53.03. Deferred Prosecution

(a) Subject to Subsection (e), if the preliminary investigation required by Section 53.01 of this code results in a determination that further proceedings in the case are authorized, the probation officer or other designated officer of the court, subject to the direction of the juvenile court, may advise the parties for a reasonable period of time not to exceed six months concerning deferred prosecution and rehabilitation of the child if:
 (1) deferred prosecution would be in the interest of the public and the child;
 (2) the child and his parent, guardian, or custodian consent with knowledge that consent is not obligatory; and
 (3) the child and his parent, guardian, or custodian are informed that they may terminate the deferred prosecution at any point and petition the court for a court hearing in the case.

(b) except as otherwise permitted by this title, the child may not be detained during or as a result of the deferred prosecution process.

(c) An incriminating statement made by a participant to the person giving advice and in the discussions or conferences incident thereto may not be used against the declarant in any court hearing.

(d) The court may adopt a fee schedule for deferred prosecution services and rules for the waiver of a fee for financial hardship in accordance with guidelines that the Texas Juvenile Probation Commission shall provide. The maximum fee is $15 a month. If the court adopts a schedule and rules for waiver, the probation officer or other designated officer of the court shall collect the fee authorized by the schedule from the parent, guardian, or custodian of a child for whom a deferred prosecution is authorized under this section or waive the fee in accordance with the rules adopted by the court. The officer shall deposit the fees received under this section in the county treasury to the credit of a special fund that may be used only for juvenile probation or community-based juvenile corrections services or facilities in which a juvenile may be required to live while under court supervision. If the court does not adopt a schedule and rules for waiver, a fee for deferred prosecution services may not be imposed.

(e) A prosecuting attorney may defer prosecution for any child. A probation officer or other designated officer of the court:

(1) may not defer prosecution for a child for a case that is required to be forwarded to the prosecuting attorney under Section 53.01(d); and

(2) may defer prosecution for a child who has previously been adjudicated for conduct that constitutes a felony only if prosecuting attorney consents in writing.

(f) The probation officer or other officer designated by the court supervising a program of deferred prosecution for a child under this section shall report to the juvenile court any violation by the child of the program.

Section 53.04. Court Petition and Answer

(a) through (c) unchanged.

(d) The petition must state:

(1) through (4) unchanged.

(5) if the child is alleged to have engaged in habitual felony conduct, the previous adjudications in which the child was found to have engaged in conduct violating penal laws of the grade of felony.

(e) unchanged.

Section 53.045. Violent or Habitual Offenders

(a) Except as provided by Subsection (e) of this section, the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes habitual felony conduct as described by Section 51.031 or that included violation of any of the following provisions:

(1) Section 19.02, Penal Code (murder);

(2) Section 19.03, Penal Code (capital murder);

(3) Section 20.04, Penal Code (aggravated kidnapping);

(4) Section 22.011, Penal Code (sexual assault) or 22.021, Penal Code (aggravated sexual assault);

(5) Section 22.02, Penal Code (aggravated assault);

(6) Section 29.03, Penal Code (aggravated robbery);

(7) Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;

(8) Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);

(9) Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);

(10) Section 15.03, Penal Code (criminal solicitation);

(11) Section 21.11 (a)(1), Penal Code (indecency with a child);

(12) Section 15.031, Penal Code (criminal solicitation of a minor); or

(13) Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder) or Section 19.03, Penal Code (capital murder), or an offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal Procedure.

(b) through (d) unchanged.

(e) The prosecuting attorney may not refer a petition that alleges the child engaged in conduct that violated Section 22.011(a)(2), Penal Code, or Sections 22.021(a)(1)(B) and (2)(B), Penal Code, unless the child is more than three years older than the victim of the conduct.

Section 53.05. Time Set for Hearing

(a) unchanged.

(b) The time set for the hearing shall not be later than 10 working days after the day the petition was filed if:

(1) the child is in detention; or

(2) the child will be taken into custody under Section 53.06(d) of this code.

Section 53.06. Summons

(a) and (b) unchanged.

(c) The court may endorse on the summons an order directing the person having the physical custody or control of the child to bring the child to the hearing. A person who violates an order entered under this subsection may be proceeded against under Section 53.08 or 54.07 of this code.

(d) unchanged.

Section 53.08. Writ of Attachment

(a) The juvenile court may issue a writ of attachment for a person who violates an order entered under Section 53.06 (c).

(b) A writ of attachment issued under this section is executed in the same manner as in a criminal proceeding as provided by Chapter 24, Code of Criminal Procedures.

Chapter 54. Judicial Proceedings

Section 54.01. Detention Hearing

(a) through (g) unchanged.

(h) A detention order extends to the conclusion of the disposition hearing, if there is one, but in no event for more than 10 working days. Further detention orders may be made following subsequent detention hearings. The initial detention hearing may not be waived but subsequent detention hearings may be waived in accordance with the requirements of Section 51.09 of this code. Each subsequent detention order shall extend for no more than 10 working days.

(i) through (k) unchanged.

(l) The juvenile board or, if there is none, the juvenile court, may appoint a referee to conduct the detention hearing. The referee shall be an attorney licensed to practice law in this state. Such payment or additional payment as may be warranted for referee services shall be provided from county funds. Before commencing the detention hearing, the referee shall inform the parties who have appeared that they are entitled to have the hearing before the juvenile court judge or a substitute judge authorized by Section 51.04(f) of this code. If a party objects to the referee conducting the detention hearing, an authorized judge shall conduct the hearing within 24 hous. At the conclusion of the hearing, the referee shall transmit written findings and recommendations to the juvenile court judge or substitute judge. The juvenile court judge or substitute judge shall adopt, modify, or reject the referee's recommendations not later than the next working day after the day that the judge receives the recommendations. Failure to act within that time results in release of the child by operation of law. A recommendation that the child be released operates to secure his immediate release, subject to the power of the juvenile court judge or substitute judge to reject or modify that recommendation. The effect of an order detaining child shall be computed from the time of the hearing before the referee.

(m) unchanged.

(n) An attorney appointed by the court under Section 51.10(c) because a determination was made under this section to detain a child who was not represented by an attorney may

request on behalf of the child and is entitled to a de novo detention hearing under this section. The attorney must make the request not later than the 10th working day after the date the attorney is appointed. The hearing must take place not later than the second working day after the date the attorney filed a formal request with the court for a hearing.

(o) The court or referee shall find whether there is probable cause to believe that a child taken into custody without an arrest warrant or a directive to apprehend has engaged in delinquent conduct or conduct indicating a need for supervision. The court or referee must make the finding within 48 hours, including weekends and holidays, of the time the child was taken into custody. The court or referee may make the finding on any reasonable reliable information without regard to admissibility of that information under the Texas Rules of Criminal Evidence. A finding of probable cause is required to detain a child after the 48th hour after the time the child was taken into custody. If a court or referee finds probable cause, additional findings of probable cause are not required in the same cause to authorize further detention.

ection 54.011. Detention Hearings for Status Offenders and Nonoffenders

(a) The detention hearing for a status offender or nonoffender who has not been released administratively under Section 53.02 shall be held before the 24th hour after the time the child arrived at the designated detention facility, excluding hours of the weekend or holiday. Except as otherwise provided by this section, the judge or referee conducting the detention hearing shall release the status offender or nonoffender from secure detention.

(b) The judge or referee may order a child in detention accused of the violation of a valid court order as defined by Section 51.02 detained not longer than 72 hours after the time the detention order was entered, excluding weekends and holidays, if:

(1) the judge or referee finds at the detention hearing that there is probable cause to believe the child violated the valid court order; and

(2) the detention of the child is justified under Section 54.01(e)(1), (2), or (3).

(c) Except as provided by Subsection (d) a detention order entered under Subsection (b) may be extended for one additional 72-hour period, excluding weekends and holidays, only on a finding of good cause by the juvenile court.

(d) A detention order for a child under this section may be extended on the demand of the child's attorney only to allow the time that is necessary to comply with the requirements of Section 51.10(h), entitling the attorney to 10 days to prepare for an adjudication hearing.

(e) A status offender may be detained for a necessary period, not to exceed five days, to enable the child's return to the child's home in another state under Chapter 60.

ection 54.012. Interactive Video Recording of Detention Hearing

(a) A detention hearing under Section 54.01, other than the first detention hearing, may be held using interactive video equipment if:

(1) the child and the child's attorney agree to the video hearing; and

(2) the parties to the proceeding have the opportunity to cross-examine witnesses.

(b) A detention hearing may not be held using video equipment unless the video equipment for the hearing provides for two-way communication of image and sound among the child, the court, and other parties at the hearing.

(c) A recording of the communications shall be made. The recording shall be preserved until the earlier of:

(1) the 91st day after the date on which the recording is made if the child is alleged to have engaged in conduct constituting a misdemeanor;

(2) the 120th day after the date on which the recording is made if the child is alleged to

have engaged in conduct constituting a felony; or

(3) the date on which the adjudication hearing ends.

(d) An attorney for the child may obtain a copy of the recording on payment of the reasonable costs of reproducing the copy.

Section 54.02 Waiver of Jurisdiction and Discretionary Transfer to Criminal Court

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal district court for criminal proceedings if:

(1) the child is alleged to have violated a penal law of the grade of felony;

(2) the child was:

(A) 14 years of age or older at the time he is alleged to have committed the offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree, and no adjudication hearing has been conducted concerning that offense; or

(B) 15 years of age or older at the time the child is alleged to have committed the offense, if the offense is a felony of the second or third degree or a state jail felony, and no adjudication hearing has been conducted concerning that offense; and

(3) after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.

(b) through (e) unchanged.

(f) In making the determination required by Subsection (a) of this section, the court shall consider, among other matters:

(1) whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;

(2) the sophistication and maturity of the child;

(3) the record and previous history of the child; and

(4) the prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.

(g) If the petition alleges multiple offenses that constitute more than one criminal transaction, the juvenile court shall either retain or transfer all offenses relating to a single transaction. A child not subject to criminal prosecution at any time for any offense arising out of a criminal transaction for which the juvenile court retains jurisdiction.

(h) If the juvenile court waives jurisdiction, it shall state specifically in the order its reasons for waiver and certify its action, including the written order and findings of the court, and shall transfer the person to the appropriate court for criminal proceedings. On transfer of the person for criminal proceedings, the person shall be dealt with as an adult and in accordance with the Code of Criminal Procedure. The transfer of custody is an arrest.

(i) A waiver under this section is a waiver of jurisdiction over the child and the criminal court may not remand the child to the jurisdiction of the juvenile court.

(j) The juvenile court may waive its exclusive original jurisdiction and transfer a person to the appropriate district court or criminal district court for criminal proceedings if:

(1) the person is 18 years of age or older;

(2) the person was:

(A) 14 years of age or older and under 17 years of age at the time he is alleged to

have committed a capital felony, an aggravated controlled substance felony, or a felony of the first degree; or

(B) 15 years of age or older and under 17 years of age at the time the person is alleged to have committed a felony of the second or third degree or a state jail felony;

(3) no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted;

(4) the juvenile court finds from a preponderance of the evidence that:

(A) for a reason beyond the control of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person; or

(B) after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(i) the state did not have probable cause to proceed in juvenile court and new evidence has been found sine the 18th birthday of the person;

(ii) the person could not be found; or

(iii) a previous transfer order was reversed by an appellate court or set aside by a district court; and

(5) the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged.

(k) and (l) unchanged.

(m) Notwithstanding any other provision of this section, the juvenile court shall waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal court for criminal proceedings if:

(1) the child has previously been transferred to a district court or criminal district court for criminal proceedings under this section, unless:

(A) the child was not indicted in the matter transferred by the grand jury;

(B) the child was found not guilty in the matter transferred;

(C) the matter transferred was dismissed with prejudice; or

(D) the child was convicted in the matter transferred, the conviction was reversed on appeal, the appeal is final; and

(2) the child is alleged to have violated a penal law of the grade of felony.

(n) A mandatory transfer under Subsection (m) may be made without conducting the study required is discretionary transfer proceedings by Subsection (d). The requirements of Subsection (b) that the summons state that the purpose of the hearing is to consider discretionary transfer to criminal court does not apply to a transfer proceeding under Subsection (m), it is sufficient that the summons provide fair notice that the purpose of the hearing is to consider mandatory transfer to criminal court.

Section 54.021. Justice or Municipal Court Truancy

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to an appropriate justice or municipal court, with the permission of the justice or municipal court, for disposition in the manner provided by Subsection (b) of this section if the child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code is effective for a period of one year.

(b) A justice or municipal court may exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision by engaging in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where the juvenile court has waived its original jurisdiction under this section. A justice or municipal court may exercise jurisdiction under this section without regard to whether the justice of the peace or municipal judge for the court is a licensed attorney or the hearing for a case is before a jury consisting of six persons.

(c) On a finding that a person has engaged in conduct described by Section 51.03(b)(2), the justice or municipal court shall enter an order appropriate to the nature of the conduct.

(d) On a finding by the justice or municipal court that the person has engaged in truant conduct and that the conduct is of a recurrent nature, the court has jurisdiction to enter an order that includes one or more of the following provisions requiring that:

  (1) the person attend a preparatory class for the high school equivalency examination provided under Section 7.11, Education Code, if the court determines that the person is too old to do well in a formal classroom environment;
  (2) the person attend a special program that the court determines to be in the best interests of the person, including an alcohol and drug abuse program;
  (3) the person and the person's parents, managing conservator, or guardian attend a class for students at risk of dropping out of school designed for both the person and the person's parents, managing conservator, or guardian;
  (4) the person complete reasonable community service requirements;
  (5) the person's driver's license be suspended in the manner provided by Section 54.042 of this code;
  (6) the person attend school without unexcused absences; or
  (7) the person participate in a tutorial program provided by the school attended by the person in the academic subjects in which the person is enrolled for a total number of hours ordered by the court.

(e) An order under Subsection (d)(3) that requires the parent, managing conservator, or guardian of a person to attend a class for students at risk of dropping out of school is enforceable in the justice court by contempt.

(f) A school attendance officer may refer a person alleged to have engaged in conduct described in Section 51.03(b)(2) of this code to the justice court in the precinct where the person resides or in the precinct where the person's school is located if the juvenile court having exclusive original jurisdiction has waived its jurisdiction as provided by subsection (a) of this section for all cases involving conduct described by: Section 51.03(b)(2) of this code.

(g) A court having jurisdiction under this section shall endorse on the summons issued to the parent, guardian, or custodian of the person who is subject of the hearing an order directing the parent, guardian, or custodian to appear personally at the hearing and directing the person having custody of the person to bring the person to the hearing.

(h) A person commits an offense if the person is a parent, guardian, or custodian who fails to attend a hearing under this section after receiving notice under Subsection (g) of this section that the person's attendance was required. An offense under this subsection is a Class C misdemeanor.

Section 54.022. Justice or Municipal Court: Certain Misdemeanors

(a) On a finding by a justice or municipal court that a child committed a misdemeanor offense punishable by fine only other than a traffic offense or public intoxication or committed a

violation of a penal ordinance of a political subdivision other than a traffic offense, the court has jurisdiction to enter an order:

(1) referring the child or the child's parents, managing conservators, or guardians for services under Section 264.302; or

(2) requiring that the child attend a special Program that the court determines to be in the best interest of the child and that is approved by the county commissioners court, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement. Parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program.

(b) On a finding by a justice or municipal court that a child committed an offense described by Subsection (a) and that the child has previously been convicted of an offense described Subsection (a), the court has the jurisdiction to enter an order that includes one or more of the following provisions, in addition to the provisions under Subsection (a), requiring that:

(1) the child attend a special program that the court determines to be in the best interest of the child and that is approved the county commissioners court;

(2) the child's parents, managing conservator, guardian attend a parenting class or parental responsibility program if the court finds the parent, managing conservator, or guardian, by willful act or omission, contributed to, caused, or encouraged the child's conduct; or

(3) the child and the child's parents, managing conservator, or guardian attend the child's school classes or functions if the court finds the parent, managing conservator, or guardian, by willful act or omission, contributed to, caused, or encouraged the child's conduct.

(c) The justice or municipal court may order the parents, managing conservator, or guardian of a child required to attend a program under Subsection (a) or (b) to pay an amount not greater than $100 to pay for the costs of the program.

(d) A justice or municipal court may require a child, parent, managing conservator, or guardian required to attend a program, class, or function under this section to submit proof of attendance to the court.

(e) A justice or municipal court shall endorse on the summons issued to a parent, managing conservator, or a guardian an order to appear personally at the hearing with the child.

(f) An order under this section involving a child is enforceable under Section 51.03(a)(3) by referral to the juvenile court.

(g) Any other order under this section is enforceable by the justice or municipal court by contempt.

Section 54.03. Adjudication Hearing

(a) through (c) unchanged.

(d) Except as provided by Section 54.031 of this chapter, only material, relevant, and competent evidence in accordance with the Texas Rules of Criminal Evidence and Chapter 38, Code of Criminal Procedure, may be considered in the adjudication hearing. Except in detention or discretionary transfer hearing, a social history report or social service file shall not be viewed by the court before the adjudication decision and shall not be viewed by the jury at any time.

(e) through (h) unchanged.

Section 54.032. Deferral of Adjudication and Dismissal of Certain Cases on Completion of Teen Court Program

(a) through (f) unchanged.

(g) In addition the fee authorized by Subsection (e), the court may require a child who requests a teen court program to pay a $10 fee to cover the cost to the teen court for performing its duties under this section. The court shall pay the fee to the teen court program, and the teen court program must account to the court for the receipt and disbursal of the fee. A child who pays a fee under this subsection is not entitled to a refund of the fee, regardless of whether the child successfully completes the teen court program.

Section 54.04 Disposition Hearing

(a) The disposition hearing shall be separate, distinct, and subsequent to the adjudication hearing. There is no right to a jury at the disposition hearing unless the child is in jeopardy of a determinate sentence under Subsection (d)(3) or (m) of this section, in which case, the child is entitled to a jury of 12 persons to determine the sentence.

(b) and (c) unchanged.

(d) If the court or jury makes the finding specified in Subsection (c) of this section allowing the court to make a disposition in the case:

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042 of this code, place the child on probation on such reasonable and lawful terms as the court may determine:

(A) in his own home or in the custody of a relative or other fit person:

(B) subject to the finding under Subsection (c) of this section on the placement of the child outside the child's home, in:

(i) ~~a suitable foster home; or~~

(ii) a suitable public or private institution or agency, except the Texas Youth Commission; or

(C) after an adjudication that the child engaged in delinquent conduct and subject to the finding under Subsection (c) on the placement of the child outside the child's home, in an intermediate sanction facility operated under Chapter 61, Human Resources Code;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct and if the petition was not approved by the grand jury under Section 53.045 of this code, the court may commit the child to the Texas Youth Commission without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct; that included a violation of a penal law listed in Section 53.045(a) of this code and if the petition was approved by the grand jury under Section 53.045 of this code, the court or jury may sentence the child to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a term of:

(A) not more than 40 years if the conduct constitutes:

(i) a capital felony;

(ii) a felony of the first degree; or

(iii) an aggravated controlled substance felony;

(B) not more than 20 years if the conduct constitutes a felony of the second degree; or

(C) not more than 10 years if the conduct constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided

by the assignment guidelines in Section 59.003; or

(5) if applicable, the court or jury may make a disposition under Subsection (m) of this section.

(e) The Texas Youth Commission shall accept a person properly committed to it by a juvenile court even though the person may be 17 years of age or older at the time of commitment.

(f) unchanged.

(g) If the court orders a disposition under Subsection (d)(3) or (m) of this section and there is an affirmative finding that the defendant used or exhibited a deadly weapon during the commission of the conduct or during immediate flight from commission of the conduct, the court shall enter the finding in the order. If there is an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in the order.

(h) At the conclusion of the dispositional hearing, the court shall inform the child of:

(1) the child's right to appeal, as required by Section 56.01 of this code; and

(2) the procedures for the sealing of the child's records under Section 58.003 of this code.

(i) and (j) unchanged.

(k) Except as provided by Subsection (m), the period to which a court or jury may sentence a person to commitment to the Texas Youth Commission with a transfer to the Texas Department of Criminal Justice under Subsection (d)(3) of this section applies without regard to whether the person has previously been adjudicated as having engaged in delinquent conduct.

(l) unchanged.

(m) The court or jury may sentence a child adjudicated for habitual felony conduct as described by Section 51.031 to a term prescribed by Subsection (d)(3) and applicable to the conduct adjudicated in the pending case if:

(1) a petition was filed and approved by a grand jury under Section 53.045 alleging that the child engaged in habitual felony conduct, and

(2) the court or jury finds beyond a reasonable doubt that the allegation described by Subsection (l) in the grand jury petition is true.

(n) A court may order a disposition of secure confinement of a status offender adjudicated for violating a valid court order only if:

(1) before the order is issued, the child received the full due process rights guaranteed by the Constitution of the United States or the Texas Constitution; and

(2) the juvenile probation department in a report authorized by Subsection (b):

(A) reviewed the behavior of the child and the circumstances under which the child was brought before the court;

(B) determined the reasons for the behavior that caused the child to be brought before the court; and

(C) determined that all dispositions, including treatment, other than placement in a secure detention facility or secure correctional facility, have been exhausted or are clearly inappropriate.

(o) A status offender may not, under any circumstances, be committed to the Texas Youth Commission for engaging in conduct that would not, under state or local law, be a crime if committed by an adult.

Section 54.041. Orders Affecting Parents and Others

(a) unchanged.

(b) If a child is found to have engaged in delinquent conduct or conduct indicating a need for supervision arising from the commission of an offense in which property damage or loss or personal injury occurred, the juvenile court, on notice to all persons affected and on hearing, may order the child or a parent to make full or partial restitution to the victim of the offense. The program of restitution must promote the rehabilitation of the child, be appropriate to the age and physical, emotional, and mental abilities of the child, and not conflict with the child's schooling. And practiable and subject to court supervision, the court may approve a restitution program based on a settlement between the child and the victim of the offense. An order under this subsection may provide for periodic payments by the child or a parent of the child for the period specified in the order but that period may not extend past the date of the 18th birthday of the child or past the date the child is no longer enrolled in an accredited secondary school in a program leading toward a high school diploma, whichever date is later.

(c) Restitution under this section is cumulative of any other remedy allowed by law and may be used in addition to other remedies; except that a victim of an offense is not entitled to receive more than actual damages under a juvenile court order.

(d) A person subject to an order proposed under Subsection (a) of this section is entitled to a hearing on the order before the order is entered by the court.

(e) An order made under this section may be enforced as provided by Section 54.07 of this code.

(f) If a child is found to have engaged in conduct indicating a need for supervision described under Section 51.03(b)(2) of this code, the court may order the child's parents or guardians to attend a class provided under Section 21.035(h), Education Code, if the school district in which the child's parents or guardians reside offers a class under that section.

(g) On a finding by the court that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court shall waive any requirement for restitution that may be imposed on a parent under this section.

Section 54.042. License Suspension

(a) unchanged.

(b) The order under Subsection (a)(1) of this section shall specify a period of suspension or denial that is until the child reaches the age of 19 or for a period of 365 days, whichever is longer.

(c) unchanged.

(d) A juvenile court, in a disposition hearing under Section 54.04 of this code, may order the Department of Public Safety to suspend a child's driver's license or permit, or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 months if the court finds that the child has engaged in conduct in need of supervision or delinquent conduct other than the conduct described by Subsection (a) of this section.

(e) A juvenile court that places a child on probation under Section 54.04 of this code may require as a reasonable condition of the probation that if the child violates the probation, the court may order the Department of Public Safety to suspend the child's driver's license or permit or, if the child does not have a license or permit, to deny the issuance of a license or permit to the child for a period not to exceed 12 months. The court may make this order if a child that is on probation under this condition violates the probation. A

suspension under this subsection is cumulative of any other suspension under this section.

Section 54.044. Community Service

(a) If the court places a child on probation under Section 54.05(d), the court shall require as a condition of probation that the child work a specified number of hours at a community service project approved by the court and designated by the juvenile board as provided by Subsection (e), unless the court determines and enters a finding on the order placing the child on probation that:

(1) the child is physically or mentally incapable of participating in the project;

(2) participating in the project will be a hardship on the child or the family of the child; or

(3) the child has shown good cause that community service should not be required.

(b) The court may also order under this section that the child's parent perform community service with the child.

(c) The court shall order that the child and the child's parent perform a total of not more than 500 hours of community service under this section.

(d) A municipality or county that establishes a program to assist children and their Parents in rendering community service under this section may purchase insurance policies protecting the municipality or county against claims brought by a person other than the child or the child's Parent for a cause of action that arises from an act of the child or parent while rendering community service. The municipality or county is not liable under this section to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute. The liability of the municipality or county for a cause of action that arises from an action of the child or the child's parent while rendering community service may not exceed $100,000 to a single person and $300,000 for a single occurrence in the case of personal injury or death, and $10,000 for a single occurrence of property damage. Liability may not extend to punitive or exemplary damages. This subsection does not waive a defense, immunity, or jurisdictional bar available to the municipality or county or its officers or employees, nor shall this section be construed to waive, repeal, or modify any provision of Chapter 101, Civil Practice and Remedies Code.

(e) For the purposes of this section, a court may submit to the juvenile probation department a list of organizations or projects approved by the court for community service. The juvenile probation department may:

(1) designate an organization or project for community service only from the list submitted by the court; and

(2) reassign or transfer a child to a different organization or project on the list submitted by the court under this subsection without court approval.

(f) A person subject to an order proposed under Subsection (a) or (b) is entitled to a hearing on the order before the order is entered by the court.

(g) On a finding by the court that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court shall waive any requirement for community service that may be imposed on a parent under this section.

(h) An order made under this section may be enforced as provided by Section 54.07.

Section 54.045. Admission of Unadjudicated Conduct

(a) During a disposition hearing under Section 54.04, a child may:

(1) admit having engaged in delinquent conduct or conduct indicating a need for supervision for which the child has not been adjudicated; and

(2) request the court to take the admitted conduct into account in the disposition of the child.

(b) If the prosecuting attorney agrees in writing, the court may take the admitted conduct into account in the disposition of the child.

(c) A court may take into account admitted conduct over which exclusive venue lies in another county only if the court obtains the written permission of the prosecuting attorney for that county.

(d) A child may not be adjudicated by any court for having engaged in conduct taken into account under this section, except that, if the conduct taken into account included conduct over which exclusive venue lies in another county and the written permission of the prosecuting attorney of that county was not obtained, the child may be adjudicated for that conduct, but the child's admission under this section may not be used against the child in the adjudication.

Section 54.05. Hearing to Modify Disposition

(a) through (e) unchanged

(f) A disposition based on a finding that the child engaged in delinquent conduct may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that ~~the child engaged in habitual felony conduct as described by Section 51.031 of this code~~ or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) of this code may be modified to commit the child to the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) of this code if the original petition was approved by the grand jury under Section 53.045 of this code and if after a hearing to modify the disposition the court or jury finds that the child violated a reasonable and lawful order of the court.

(g) through (i) unchanged.

Section 54.06 Judgments for Support

(a) and (b) unchanged.

(c) A court may enforce an order for support under this section by ordering garnishment of the wages of the person ordered to pay support or by any other means available to enforce a child support order under Title 5.

(d) An order for support may be enforced as provided in Section 54.07 of this code.

(e) The court shall apply the child support guidelines under Subchapter C, Chapter 154, in an order requiring the payment of child support under this section. The court shall also require in an order to pay child support under this section that health insurance be provided for the child. Subchapter D, Chapter 154, applies to an order requiring health insurance for a child under this section.

(f) An order under this section prevails over any previous child support order issued with regard to the child to the extent of any conflict between the orders.

Section 54.061. Payment of Probation Fees

(a) through (c) unchanged.

(d) If the court finds that a child, parent, or other person responsible for the child's support is financially unable to pay the probation fee required under Subsection (a), the court shall

enter into the records of the child's case a statement of that finding. The court may waive a fee under this section only if the court makes the finding under this subsection.

Section 54.08. Public Access to Court Hearings

(a) Except as provided by Subsection (b), the court shall open hearings under this title to the public unless the court, for good cause shown, determines that the public should be excluded.

(b) The court may not prohibit a person who is a victim of the conduct of a child from personally attending a hearing under this title relating to the conduct by the child unless the victim is to testify in the hearing or any subsequent hearing relating to the conduct and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at trial.

Section 54.11. Release or Transfer Hearing

(a) On receipt of a referral under Section 61.079(a), Human Resources Code, for the transfer to the institutional division of the Texas Department of Criminal Justice of a person committed to the Texas Youth Commission under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a request by the commission under Section 61.081(g), Human Resources Code, for approval of the release under supervision of a person committed to the commission under Section 54.04(d)(3), 54.04(m), or 54.05(f), the court shall set a time and place for a hearing on the release of the person.

(b) unchanged.

(c) Except for the person to be transferred or released under supervision and the prosecuting attorney, the failure to notify a person listed in Subsection (b) of this section does not affect the validity of a hearing conducted or determination made under this section if the record in the case reflects that the whereabouts of the persons who did not receive notice were unknown to the court and a reasonable effort was made by the court to locate those persons.

(d) At a hearing under this section that court may consider written reports from probation officers, professional court employees, or professional consultants, in addition to the testimony of witnesses. At least one day before the hearing, the court shall provide the attorney for the person to be transferred or released under supervision with access to all written matter to be considered by the court.

(e) At the hearing, the person to be transferred or released under supervision is entitled to an attorney, to examine all witnesses against him, to present evidence and oral argument, and to previous examination of all reports on and evaluations and examinations of or relating to him that may be used in the hearing.

(f) A hearing under this section is open to the public unless the person to be transferred or released under supervision waives a public hearing with the consent of his attorney and the court.

(g) A hearing under this section must be recorded by a court reporter or by audio or video tape recording, and the record of the hearing must be retained by the court for at least two years after the date of the final determination on the transfer or release of the person by the court.

(h) The hearing on a person who is referred for transfer under Section 61.079(a), Human Resources Code, shall be held not later than the 60th day after the date the court receives the referral.

(i) On conclusion of the hearing on a person who is referred for transfer under Section 61.079(a), Human Resources Code, the court may order:

motion or on receipt of certification from the Department of Public Safety of the State of Texas that the records of a person are eligible for sealing under this section, the court shall order the sealing of the records in the case if the court finds that:

(1) two years have elapsed since final discharge of the person or since the last official action in the person's case if there was no adjudication; and

(2) since the time specified in Subdivision (1), the person has not been convicted of a felony or a misdemeanor involving moral turpitude or found to have engaged in delinquent conduct or conduct indicating a need for supervision and no proceeding is pending seeking conviction or adjudication.

(b) A court may not order the sealing of the records of a person who has received a determinate sentence for engaging in delinquent conduct that violated a penal law listed in Section 53.045 or engaging in habitual felony conduct as described by Section 51.031.

(c) Subject to Subsection (b), a court may order the sealing of records concerning a person adjudicated as having engaged in delinquent conduct that violated a penal law of the grade of felony only if:

(1) the person is 21 years of age or older;

(2) the person was not transferred by a juvenile court under Section 54.02 to a criminal court for prosecution;

(3) the records have not been used as evidence in the punishment phase of a criminal proceeding under Section 3(a), Article 37.07, Code of Criminal Procedure; and

(4) the person has not been convicted of a penal law of the grade of felony after becoming age 17.

(d) The court may grant the relief authorized in Subsection (a) at any time after final discharge of the person or after the last official action in the case if there was no adjudication. If the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, the court shall immediately order the sealing of all files and records relating to the case.

(e) Reasonable notice of the hearing shall be given to:

(1) the person who made the application or who is the subject of the records named in the motion;

(2) the prosecuting attorney for the juvenile court;

(3) the authority granting the discharge if the final discharge was from an institution or from parole;

(4) the public or private agency or institution having custody of records named in the application or motion; and

(5) the law enforcement agency having custody of files or records named in the application or motion.

(f) A copy of the sealing order shall be sent to each agency or official named in the order.

(g) On entry of the order:

(1) all law enforcement, prosecuting attorney, clerk of court, and juvenile court records ordered sealed shall be sent to the court issuing the order;

(2) all records of a public or private agency or institution ordered sealed shall be sent to the court issuing the order;

(3) all index references to the records ordered sealed shall be deleted;

(4) the juvenile court, clerk of court, prosecuting attorney, public or private agency or institution, and law enforcement officers and agencies shall properly reply that no record exists with respect to the person on inquiry in any matter; and

(5) the adjudication shall be vacated and the proceeding dismissed and treated for all purposes other than a subsequent capital prosecution, including the purpose of showing a prior finding of delinquent conduct, as if it had never occurred.

(h) Inspection of the sealed records may be permitted by an order of the juvenile court on the petition of the person who is the subject of the records and only by those persons named in the order.

(i) On the final discharge of a child or on the last official action in the case if there is no adjudication, the child shall be given a written explanation of the child's rights under this section and a copy of the provisions of this section.

(j) A person whose records have been sealed under this section is not required in any proceeding or in any application for employment, information, or licensing to state that the person has been the subject of a proceeding under this title and any statement that the person has never been found to be a delinquent child shall never be held against the person in any criminal or civil proceeding.

(k) A prosecuting attorney may, on application to the juvenile court, reopen at any time the files and records of a person adjudicated as having engaged in delinquent conduct that violated a penal law of the grade of felony sealed by the court under this section for the purposes of Sections 12.42(a)-(c) and (e), Penal Code.

(l) On the motion of a person in whose name records are kept or on the court's own motion, the court may order the destruction of records that have been sealed under this section if:

(1) the records relate to conduct that did not violate a penal law of the grade of felony or a misdemeanor punishable by confinement in jail;

(2) five years have elapsed since the person's 16th birthday; and

(3) the person has not been convicted of a felony.

ection 58.004. [Related to the creation of gang books and is not passed.]

ection 58.005. Confidentiality of Records

(a) Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to:

(1) the professional staff or consultants of the agency or institution;

(2) the judge, probation officers, and professional staff or consultants of the juvenile court;

(3) an attorney for the child;

(4) a governmental agency if the disclosure is required or authorized by law;

(5) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;

(6) the Texas Department of Criminal Justice and the Texas Juvenile Probation Commission for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or

(7) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(b) This section does not apply to information collected under Section 58.104.

ection 58.006. Destruction of Certain Records

The court shall order the destruction of records relating to the conduct for which a child is taken

into custody, including records contained in the juvenile justice information system, if:

(1) a determination that no probable cause exists to believe the child engaged in the conduct is made under Section 53.01 and the case is not referred to a prosecutor for review under Section 53.012; or

(2) a determination that no probable cause exists to believe the child engaged in the conduct is made by a prosecutor under Section 53.012.

Section 58.007. Physical Records or Files

(a) This section applies only to the inspection and maintenance of a physical record or file concerning a child and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. This section does not apply to a record or file relating to a child that is required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state.

(b) Except as provided by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) a juvenile justice agency as that term is defined by Section 58.101;

(3) an attorney for a party to the proceeding;

(4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child shall:

(1) be kept separate from adult files and records; and

(2) be maintained on a local basis only and not sent to a central state or federal depository.

(d) The law enforcement files and records of a person who is transferred from the Texas Youth Commission to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice may be transferred to a central state or federal depository for adult records on or after the date of transfer.

(e) Law enforcement records and files concerning a child may be inspected by a juvenile justice agency as that term is defined by Section 58.101 and a criminal justice agency as that term is defined by Section 411.082, Government Code.

(f) If a child has been reported missing by a parent, guardian, or conservator of that child, information about the child may be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

Subchapter B. Juvenile Justice Information System

[This chapter is not reprinted here. It describes the nature of information that must be kept on a juvenile offender for purposes of maintaining a database of information about prior contacts by a juvenile with the law in order to permit more informed decision-making respecting subsequent cases; assisting in the solution of crimes by enabling comparisons of fingerprints; and facilitating research concerning the juvenile justice system. The information required by the system is comprehensive and addresses all steps in the processing of a juvenile case from arrest to discharge from parole. Informa-

ion is only included if it relates to delinquent conduct that would be a criminal offense if committed by an adult other than an offense punishable by a fine only. Information is subject to being sealed; is confidential for the use of the department and limited others.]

Chapter 59. Progressive Sanctions and Guidelines

Section 59.001. Purposes

The purposes of the progressive sanctions guidelines are to:

(1) ensure that juvenile offenders face uniform and consistent consequences and punishments that correspond to the seriousness of each offender's current offense, prior delinquent history, special treatment or training needs, and effectiveness of prior interventions;

(2) balance public protection and rehabilitation while holding juvenile offenders accountable;

(3) permit flexibility in the decisions made in relation to the juvenile offender to the extent allowed by law;

(4) consider the juvenile offender's circumstances; and

(5) improve juvenile justice planning and resource allocation by ensuring uniform and consistent reporting of disposition decisions at all levels.

Section 59.002. Sanction Level Assignment by Probation Department

(a) The probation department may assign a sanction level of one to a child referred to the probation department under Section 53.012.

(b) The probation department may assign a sanction level two to a child for whom deferred prosecution is authorized under Section 53.03.

Section 59.003. Sanction Level Assignment Guidelines

(a) Subject to Subsection (e), after a child's first commission of delinquent conduct or conduct indicating a need for supervision, the probation department may or the juvenile court may, in a disposition hearing under Section 54.04, assign a child one of the following sanction levels according to the child's conduct:

(1) for conduct indicating a need for supervision, other than a Class A or B misdemeanor, the sanction level is one;

(2) for a Class A or B misdemeanor, other than a misdemeanor involving the use or possession of a firearm, or for delinquent conduct under Section 51.03(a)(2) or (3), the sanction level is two;

(3) for a misdemeanor involving the use or possession of a firearm or for a state jail felony or felony of the third degree, the sanction level is three;

(4) for a felony of the second degree, the sanction level is four;

(5) for a felony of the first degree, other than a felony involving the use of a deadly weapon or causing serious bodily injury, the sanction level is five;

(6) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury or for an aggravated controlled substance felony, the sanction level is six or, if the petition has been approved by a grand jury under Section 53.045, seven; or

(7) for a capital felony, the sanction level is seven.

(b) For a child's refusal to comply with the restrictions and standards of behavior established by the parent or guardian and the court, a parent or guardian may notify the court of the child's refusal to comply, and the court may place the child at the next level of sanction. Notification of the court by the parent or guardian of the child's refusal satisfies the requirement of the parent to make a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision.

(c) Subject to Subsection (e), if the child's subsequent commission of delinquent conduct or

conduct indicating a need for supervision involves a violation of a penal law of a classification that is the same as or greater than the classification of the child's previous conduct, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level, unless the child's previously assigned sanction level is seven.

(d) Subject to Subsection (e), if the child's previously assigned sanction level is four or five and the child's subsequent commission of delinquent conduct is of the grade of felony, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level.

(e) A juvenile court or probation department that deviates from the guidelines under this section shall state in writing its reasons for the deviation and submit the statement to the juvenile board. Nothing in this chapter prohibits the imposition of appropriate sanctions that are different from those provided at any sanction level.

(f) The probation department may extend a period of probation specified under sanction levels one through five if the circumstances of the child warrant the extension and the probation department notifies the juvenile court in writing of the extension and the period of and reason for the extension. The court may on notice to the probation department deny the extension.

Section 59.004. Sanction Level One

(a) For a child at sanction level one, the juvenile court or probation department may:
  (1) require counseling for the child regarding the child's conduct;
  (2) inform the child of the progressive sanctions that may be imposed on the child if the child continues to engage in delinquent conduct or conduct indicating a need for supervision;
  (3) inform the child's parents or guardians of the parents' or guardians' responsibility to impose reasonable restrictions on the child to prevent the conduct from recurring;
  (4) provide information on other assistance to the child or the child's parents or guardians in securing needed social services;
  (5) require the child or the child's parents or guardians to participate in a program for services under Section 264.302;
  (6) refer the child to a community-based citizen intervention program approved by the juvenile court; and
  (7) release the child to the child's parents or guardians.

(b) The probation department shall discharge the child from the custody of the probation department after the provisions of this section are met.

Section 59.005. Sanction Level Two

(a) For a child at sanction level two, the juvenile court or the probation department may
  (1) place the child on court-ordered or informal probation for not less than three months or more than six months;
  (2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;
  (3) require the child's parents or guardians to identify restrictions the parents or guardians will impose on the child's activities and requirements the parents or guardians will set for the child's behavior;
  (4) provide the information required under Section 59.004(a)(2) and (4);
  (5) require the child or the child's parents or guardians to participate in a program for

services under Section 264.302;
(6) refer the child to a community-based citizen intervention program approved by the juvenile court; and
(7) if appropriate, impose additional conditions of probation.

(b) The juvenile court or the probation department shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Section 59.006. Sanction Level Three

(a) For a child at sanction level three, the juvenile court may:
(1) place the child on probation for not less than six months;
(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;
(3) impose specific restrictions on the child's activities and requirements for the child's behavior as conditions of probation;
(4) require a probation officer to closely monitor the child's activities and behavior;
(5) require the child or the child's parents or guardians to participate in programs or services designated by the court or probation officer; and
(6) if appropriate, impose additional conditions of probation.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Section 59.007. Sanction Level Four

(a) For a child at sanction level four, the juvenile court may:
(1) require the child to participate as a condition of probation for not less than three months in a highly intensive and regimented program that emphasizes discipline, physical fitness, social responsibility, and productive work;
(2) after release from the program described by Subdivision (1), continue the child on probation supervision for not less than six months or more than 12 months;
(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;
(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;
(5) require a probation officer to closely monitor the child;
(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and
(7) if appropriate impose additional sanctions.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Section 59.008. Sanction Level Five

(a) For a child at sanction level five, the juvenile court may:
(1) require the child to participate as a condition of probation for not less than six months or more than nine months in a highly structured residential program that emphasizes discipline, accountability, physical fitness, and productive work;
(2) after release from the program described by Subdivision (1), continue the child on

probation supervision for not less than six months or more than 12 months;
(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;
(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;
(5) require a probation officer to closely monitor the child;
(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and
(7) if appropriate, impose additional sanctions.

(b) The juvenile court shall discharge the child from the custody of the probation department on the date the provisions of this section are met or on the child's 18th birthday, whichever is earlier.

Section 59.009. Sanction Level Six

(a) For a child at sanction level six, the juvenile court shall commit the child to the custody of the Texas Youth Commission. The commission may:
(1) require the child to participate in highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than nine months or more than 24 months unless the commission extends the period and the reason for an extension is documented;
(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of the harm caused and according to the child's ability, if there is a victim of the child's conduct.
(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and
(4) if appropriate, impose additional sanctions.

(b) On release of the child under supervision, the Texas Youth Commission parole programs may:
(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;
(2) require a parole officer to closely monitor the child for not less than six months; and
(3) if appropriate, impose any other conditions of supervision.

(c) The Texas Youth Commission may discharge the child from the commission's custody on the date the provisions of this section are met or on the child's 19th birthday, whichever is earlier.

Section 59.010. Sanction Level Seven

(a) For a child at sanction level seven, the juvenile court shall sentence the child to commitment to the Texas Youth Commission under Section 54.04(d)(3), 54.04(m), or 54.05(f). The commission may:
(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the commission extends the period and the reason for the extension is documented;
(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability, if there is a victim of the child's conduct;
(3) require the child and the child's parents or guardians to participate in programs and

services for their particular needs and circumstances; and
(4) impose any other appropriate sanction.

(b) On release of the child under supervision, the Texas Youth Commission parole programs may:
(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;
(2) require a parole officer to monitor the child closely for not less than 12 months; and
(3) impose any other appropriate condition of supervision.

The remainder of Chapter 59 is not reprinted here — it refers to the duty of the juvenile board in eporting, reports by the criminal justice policy council, liability, appeal rights, waiver of sanctions on arents or guardians.]

An Initiative Measure

Proposing an amendment to the Constitution of Arizona: amending Article IV, Part II, Constitution of Arizona, by adding Section 22: repealing Article VI, Section 15, Constitution of Arizona; and amending Article VI, Constitution of Arizona, by adding a new Section 15; relating to the Judicial Department in Juvenile Proceedings.

Be it enacted by the People of the State of Arizona:

The Constitution of Arizona is proposed to be amended as follows if approved by a majority of the qualified electors voting thereon and on proclamation of the Governor:

Section 1. Article IV, part II. Constitution of Arizona, is amended by adding section 22, to read:

22. Juvenile justice: certain chronic and violent juvenile offenders prosecuted as adults; community alternatives for certain juvenile offenders; public proceedings and records

Section 22. In order to preserve and protect the right of the people to justice and public safety, and to ensure fairness and accountability when juveniles engage in unlawful conduct, the legislature, or the people by initiative or referendum, shall have the authority to enact substantive and procedural laws regarding all proceedings and matters affecting such juveniles. The following rights, duties, and powers shall govern such proceedings and matters:

1. Juveniles 15 years of age or older accused of murder, forcible sexual assault, armed robbery or other violent felony offenses as defined by statute shall be prosecuted as adults. Juveniles 15 years of age or older who are chronic felony offenders as defined by statute shall be prosecuted as adults. Upon conviction all such juveniles shall be subject to the same laws as adults, except as specifically provided by statute and by article 22, section 16 of this constitution. All other juveniles accused of unlawful conduct shall be prosecuted as provided by law. Every juvenile convicted of or found responsible for unlawful conduct shall make prompt restitution to any victims of such conduct for their injury or loss.

2. County attorneys shall have the authority to defer the prosecution of juveniles who are not accused of violent offenses and who are not chronic felony offenders as defined by statute and to establish community-based alternatives for resolving matters involving such juveniles.

3. All proceedings and matters involving juveniles accused of unlawful conduct shall be open to the public and all records of those proceedings shall be public records. Exceptions shall be made only for the protection of the privacy of innocent victims of crime, or when a court of competent jurisdiction finds a clear public interest in confidentiality.

Section 2. Article VI, section 15, Constitution of Arizona, is repealed.

Section 3. Article VI, section 15, Constitution of Arizona, is amended by adding a new Section 15, to read:

15. Jurisdiction and authority in juvenile proceedings

Section 15. The jurisdiction and authority of the courts of this state in all proceedings and matters affecting juveniles shall be as provided by the legislature or the people by initiative or referendum.

Proposed Arizona Legislation on Restorative Justice

Article 7. Restorative Justice Centers

8-291. Restorative justice centers; jurisdictions; board; definition

A. The County Attorney shall establish Neighborhood Restorative Justice Centers in designated geographical areas within the county for the purposes of operating a deferred prosecution program for juvenile offenders who are not prosecuted in Superior Court pursuant to Section 8-202, Subsection A. The County Attorney may establish more than one Restorative Justice Center Board in each geographical area.

B. Except for juveniles who are prosecuted pursuant to Section 8-202, Subsection A, the County Attorney may refer any juvenile who has been accused of committing an incorrigible or delinquent act to a Restorative Justice Center.

C. The participation of a juvenile in the deferred prosecution program through a Restorative Justice Center is voluntary. In order to participate in the deferred prosecution program the juvenile who is referred to a Restorative Justice Center shall admit responsibility for the essential elements of the accusation and shall cooperate with the Board in all the Board's proceedings.

D. The County Attorney shall appoint Restorative Justice Boards consisting of at least five members who are appointed by the County Attorney. The County Attorney shall appoint a Chairman for each Board. Members of the Board serve at the pleasure of the County Attorney.

E. The Restorative Justice Board has jurisdiction to hear all matters involving juveniles who are alleged to have committed an incorrigible or delinquent act within the geographical area covered by the Board.

F. If the County Attorney refers a juvenile matter to a Restorative Justice Center, the Restorative Justice Board shall convene a meeting within fifteen days after receiving a referral.

G. The Restorative Justice Board may require the parent or legal guardian of a juvenile who is referred to a Restorative Community Justice Center to appear with the child before the Restorative Community Justice Board at the time set by the Board.

H. All meetings held by the Board are open to the public and all records of the Board are public.

I. The Restorative Justice Board shall serve notice of a Board meeting on the juvenile who is alleged to have committed an incorrigible or delinquent act, the juvenile's parent or guardian and the victim of the alleged offense. These persons and their representatives have the right to appear and participate in any meeting conducted by the Board, including the Board's review and deliberation of the matter. The Board shall determine all its actions by majority vote. The victim or a person representing the victim may vote with the Board.

J. After holding a hearing pursuant to Subsection I, the Board may impose any of the following sanctions:

1. Require the juvenile to make restitution to the victim.
2. Require the juvenile to perform work for the victim.
3. Require the juvenile to make restitution to the community.
4. Require the juvenile to perform work for the community.
5. Recommend that the juvenile participate in counseling, education or treatment services that are coordinated by the County Attorney.
6. Require the juvenile to surrender the juvenile's driver's license to the County Attorney. The County Attorney shall invalidate the driver's license and forward a copy of the Board's resolution to the Department of Transportation. The Department of Transportation on receipt of the license shall suspend the driving privilege of the juvenile.
7. Recommend that the matter be referred to the Juvenile Court.

8. Impose any other sanction exept detention that the Board determines is necessary to fully and fairly resolve the matter.

K. The Board, on behalf of the community, and the juvenile, the juvenile's parent or guardian and the victim shall sign a written contract in which the parties agree to the Board's resolution of the matter and in which the juvenile's parent or guardian agrees to insure that the juvenile complies with the contract. The contract may provide that the parent or guardian shall post a bond payable to the state to secure the performance of any sanction imposed on the juvenile pursuant to Subsection J.

L. If the juvenile disagrees with the resolution reached by the Board, within three working days after the Board makes its resolution, the juvenile may file a notice with the Board that the juvenile rejects the Board's resolution. The Board shall notify the County Attorney that the juvenile has rejected the Board's resolution. After receiving notice of the juvenile's rejection, the County Attorney may file a petition in the Juvenile Court.

M. If the juvenile accepts the resolution reached by the Board and successfully completes the sanctions imposed on the juvenile by the Board, the County Attorney shall not file a petition in Juvenile Court and the Board's resolution shall not be used against the juvenile in any further proceeding and is not an adjudication of incorrigibility or delinquency. The resolution of the Board is not a conviction of crime, does not impose any civil disabilities ordinarily resulting from a conviction and does not disqualify the juvenile in any civil service application or appointment.

N. If the juvenile accepts the resolution reached by the Board but fails to successfully complete the sanctions imposed on the juvenile by the Board, the County Attorney may file the matter with the Juvenile Court and the juvenile's admission of responsibility pursuant to Subsection B may be used in any subsequent Juvenile Court proceeding.

O. On the successful completion of the sanctions imposed by the Board, the juvenile shall submit to the Board proof of completion. The Board shall determine the form and manner in which a juvenile presents proof of completion.

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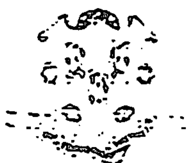

State of Connecticut
HOUSE OF REPRESENTATIVES
LEGISLATIVE OFFICE BUILDING
HARTFORD, CONNECTICUT 06106-1591

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CHAIRMAN
JUDICIARY COMMITTEE

MEMBER
APPROPRIATIONS COMMITTEE

MEMORANDUM

TO: Interested Parties

FROM: Mike Lawlor

RE: Connecticut's Juvenile Justice Reform Package

During this past legislative session, the Connecticut General Assembly passed a comprehensive and historic reform of our state's juvenile justice system. Our current juvenile justice system was designed forty years ago to deal with shoplifters and truants. In the 1990's, this system broke down as fourteen and fifteen year old youths commit violent crimes with increasing frequency and intensity.

Last year, House Speaker Thomas Ritter asked us to focus on reforming the juvenile justice system. We met with all parties involved in the system -- counselors, lawyers, probation officers, prosecutors, teachers, treatment specialists, and victims. By listening to the people who work within the system and who know its faults and strengths, we hoped to create a system that would actually work.

This 1995 juvenile justice reform balances the need to be tough on violent young offenders with diversion and intervention efforts aimed at diverting younger delinquents from a life of crime and violence.

Attached is a summary of the bill that was prepared by our non-partisan Office of Legislative Research, a summary that was prepared by the House Democrats for press purposes and several newsclips tracking the progress of the reform efforts.

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The OAS must design and make available to the Judicial Department probation treatment programs based on individual or family assessments and case management plans. Treatment must cover drug and alcohol addiction, emotional and behavior problems, physical or sexual abuse, health needs, and education. It must include counseling and programs using various federal social service funds.

Judicial Department Plan

In developing its juvenile justice programs, the Judicial Department must create "risk and assessment instruments" to evaluate a juvenile's need for detention and a case classification process with program levels and management standards. A program level is based on the needs of the juvenile, his potential to be dangerous, and his risk of offending further.

The department must develop a purchase-of-care system that uses private and local public-sector agencies to provide a diversity of services, funded at least in part by new Medicaid, federal foster care and adoption assistance, and other community-based services funding.

Professional Evaluation Team Plan

Whenever a juvenile is referred to the juvenile probation unit (located within the Family Division of Superior Court), the unit must do an intake risk assessment and make a case classification evaluation. The unit may submit the proposed probation plan for the juvenile to a professional evaluation team made up of a juvenile probation officer; an OAS or contracted agency representative; and, when applicable, a school employee and other interested parties chosen by the court. The team must develop a probation treatment plan within 15 days of the juvenile's referral, unless the court orders otherwise.

The plan must include the type of residential or nonresidential placement, projected length of care and cost, and services needed. The plan must be submitted to the court for approval prior to its entering an order. The court can order medical and psychological testing and charge the costs to the family, based on its ability to pay. The court may "reasonably designate" programs under contract with the OAS to be included in the plan. The OAS must implement the plan upon the court's approval.

OAS Programs and Contract Authority

The OAS must develop programs to prevent and reduce delinquency and cooperate with existing agencies to establish new programs and provide services to juvenile offenders not requiring incarceration. Programs must be tailored to the types of juveniles being served, including their ages, gender, mental health, offense history, chemical dependency, and other problems. Services must at least include education, with an individualized education plan for each juvenile; anger control and nonviolent conflict management; drug treatment; mental health treatment; and sexual offender treatment.

The OAS may contract to establish regional secure residential facilities and high supervision residential and nonresidential facilities for juveniles on probation. The act exempts such facilities from licensure by the DCF as child care facilities, but requires them to have a capacity set by contract.

The OAS must also collaborate with private residential facilities and community-based nonresidential post-release programs.

Early Intervention Programs

The OAS must fund projects for a program of early intervention for juvenile offenders. These may include peer

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tutoring for offenders who are required to perform community service, specialized residential services for juveniles expelled from school, social services and counseling for female offenders, cognitive skill training, an entrepreneurship program, and a mentor program. The projects are to provide a network of community services for juveniles. The OAS must develop evaluation protocols to assess their effect on deterring juvenile crime and report to the General Assembly by January 1, 1998.

Juvenile Justice Reorganization Plan

The act requires the chief court administrator, the DCF commissioner, and OPM secretary, in consultation with the chairmen and ranking members of the Judiciary and Appropriations committees, the attorney general, the treasurer, the chief state's attorney, and the Division of Public Defender Services, to develop a juvenile justice reorganization plan for submission to the governor and the General Assembly by February 1, 1996. This study group must cooperate and coordinate with the prosecutor-public defender study task force that the act also establishes. The reorganization plan must address allocation of staff and responsibilities for delinquency cases between the DCF and the Judicial Department and include recommendations for the FY 1996-97 budget to implement it.

The plan must include recommendations on:

1. a feasibility plan to transfer juvenile detention centers from the Judicial Department to DCF;
2. policy concerning convicted delinquents, including release criteria and supervision standards;
3. OAS's establishment of programs and improvement of existing programs;
4. preparation and maintenance of a written probation treatment plan for any convicted juvenile, if the juvenile probation unit considers it appropriate;
5. contracts with service providers;
6. reducing the number of long-term and out-of-home placements;
7. a plan for intensive home-based monitoring;
8. a plan for community-based residential facilities to provide education and treatment;
9. the operation of Long Lane School and the juvenile detention centers;
10. establishment of specialized probation and parole units;
11. development of nonresidential, post-release follow-up services;
12. a cost-effective comprehensive mental health plan for delinquent juveniles that favors community-based mental health evaluations and treatment;
13. a comprehensive plan for juveniles who are substance abusers;
14. an integrated long-range plan of staff development, training, and education;
15. pretrial and post-conviction incarceration of children (under age 16) committed to the commissioner of the Department of Correction (DOC); and
16. other reallocation of duties and resources for the Judicial Department and the DCF.

The act stipulates that the plan require no increase in budget allocations for FY 1996-97 for the Judicial Department, DCF, DOC, and OPM but allows staff and funding to be redirected among the agencies.

Definitions

The act adds five crimes to the list of offenses categorized as "serious juvenile offenses." Juveniles convicted of such offenses are already subject to longer commitment to the DCF and can be released from detention only on a judge's order, among other things. The added offenses are (1) illegal sale or transfer of a handgun, (2) false statement to obtain a handgun or sale or delivery of one to someone under age 21, (3) risk of injury to or impairing the morals of a child, (4) possession of an assault weapon, and (5) sale or transfer of an assault weapon.

The act also defines a "delinquent act" as a violation of any (1) federal or state law; (2) municipal or local

ordinance, other than a family with service needs one; or (3) Superior Court order. (A "family with service needs" is one with a child who has run away from home, is habitually truant from school or defiant of school authorities, or is beyond the control of his parents.)

Juvenile Court Jurisdiction

The act divides juvenile matters in Superior Court into (1) civil matters, covering neglect, families with service needs, termination of parental rights, and emancipation of minors and (2) criminal matters, covering delinquency. The act specifically authorizes the court to make and enforce orders to punish a child, deter him from further delinquency, assure the safety of other people, and provide victim restitution.

The act authorizes the victim of a delinquent act, his parents or guardian, or any court-appointed victim advocate to be present in the delinquency proceeding unless the judge specifically excludes them. It also removes a prohibition on delinquency hearings being held in rooms normally used for criminal business.

Juvenile Records

The act changes the law on access to juvenile delinquency records. It specifies that such records include those of law enforcement agencies (including fingerprints, photographs, and physical descriptions) and reports of public or private institutions and various medical, psychological, and social welfare studies. It keeps such records confidential, for the most part, but allows them to be disclosed to all agencies and their employees involved in delinquency proceedings or providing services to the child. It specifically makes records disclosable to law enforcement agencies, state and federal prosecutors, school officials (pursuant to the law governing a felony arrest report of a student being sent to the superintendent of schools), court officials, the DCF, the Criminal Justice Division, victim advocates, adult probation, bail commissioners, the Board of Parole, and agencies under contract with the OAS. Previously, school officials did receive some information about juveniles who committed felonies. The act limits the availability of the records to law enforcement and prosecutorial officials who are conducting legitimate criminal investigations. The act also makes records available to a state agency trying to collect money due the state but only to the extent needed to collect the money. The record of the case may also be disclosed upon order of the court to anyone with a legitimate interest in the information.

The act makes information from a juvenile's case record available to the victim to the same extent it would be available from an adult's case record. In adult cases, victims basically have access to criminal justice records and files to the same extent that any member of the public does, but in certain, limited circumstances they can obtain some information from erased records. The act requires the court to designate an official from whom a victim can get juvenile case information. Under prior law, the victim could obtain the child's identity only in order to file a civil suit or, after adjudication, by making a written request to the court.

The act authorizes law enforcement officials to disclose (presumably to the public) information concerning a child who (1) has escaped from a detention center or a facility to which the court has committed him or (2) has had a felony arrest warrant issued against him.

The act specifies that its provisions do not prohibit juvenile and adult prosecutors, inspectors, and investigators from sharing information in their files and records with one another.

Transfers to Adult Court

The act makes it easier to transfer a child charged with certain felonies from the juvenile to the regular criminal docket.

Under prior law, the court had to transfer children charged with murder and certain serious crimes, including

assault, sexual assault, kidnaping, burglary, robbery, and some firearm-related crimes, if it made certain specified findings. Unless the charge was murder, the prosecutor had to consider whether the child was mentally retarded or suffered from a mental disorder, and, before it could transfer any child, the juvenile court had to make written findings, after a hearing, that there was probable cause to believe that the child committed the offense.

Under the act, the court must automatically transfer from juvenile to adult court any child charged with a capital felony, a class A or B felony, or arson murder, if the offense was committed after the child turned age 14. The child must be arraigned in adult court at the next court date following transfer.

The file of the transferred case must remain sealed for 10 working days following arraignment unless the state's attorney moves to transfer a child charged with a B felony back to juvenile court, in which case the file remains sealed until the court rules on the motion. The court must act on such a motion within 10 working days.

A child charged with a C, D, or unclassified felony must be transferred if (1) the juvenile prosecutor moves for the transfer and the judge approves it, (2) the child was at least age 14 when the crime was committed, and (3) the court finds *ex parte* (without the defendant child's presence) probable cause that he committed the crime. In such a case, the child's file must remained sealed until the regular court accepts the transfer, and the regular criminal court can return any such case to the juvenile court for proceedings there. The child must be arraigned in adult court at the next court date following transfer.

Juvenile's Parents and Treatment of Arrested Juveniles

The act allows a juvenile's parents who are being served with a subpoena to appear at a delinquency proceeding in connection with orders directed at them to be served by restricted delivery mail or by first class mail, rather than only by personal service. If the service is by first class mail, it must include a notice that appearance may subject them to the court's jurisdiction, and if they fail to appear, the court cannot issue orders in the case (presumably orders to the parents). The court may use its contempt power to punish any summoned parent who fails to appear at the hearing.

The act extends the length of time supervision of a juvenile is allowed in a nonjudicial disposition from three months to 180 days and specifies that the exact length of time is set by the juvenile probation supervisor.

Instead of requiring that a child 14 or older charged with a felony have a photograph and description taken and be fingerprinted by police, the act allows these things to be done to a child charged with any crime regardless of his age. It authorizes the photograph of any child arrested for a capital or class A felony to be disclosed to the public, despite the general restrictions on disclosure of juvenile records.

When a child is arrested or referred for a delinquent act but not placed in a detention center, the act directs the police to serve a written complaint and summons on the child and his parents or guardian. The parent or guardian must execute a written promise to appear. If they willfully fail to appear, the court can issue an arrest warrant to ensure that the child appears and a court order to assure that the parents appear. The court may punish them for contempt if they willfully do not appear in response to such an order.

The act also allows the court to require periodic alcohol, as well as drug, testing as a condition of release from detention and limits the admissibility of the test results to enforcement of the detention release.

Serious Juvenile Repeat Offenders

The act defines a "serious juvenile repeat offender" as any child (under age 16) charged with a felony who has previously been convicted as a delinquent at any age for two penal code felonies. Since, under prior law, juveniles were "adjudicated delinquents" rather than convicted, it appears that the act's provisions will apply only to juveniles who are convicted of two felonies in the future and are then charged with a third.

When a child is a serious juvenile repeat offender and has committed a felony after reaching age 14, the act allows a juvenile prosecutor to ask the court to make the proceeding a serious juvenile repeat offender (SJRO) prosecution.

The court must hold a hearing on the request within 30 days, unless the juvenile can show good cause why it should be delayed, and then it must be held within 90 days. The court must reach a decision within 30 days of the hearing, and it must grant the request if the prosecutor shows by clear and convincing evidence that an SJRO prosecution will serve public safety. The decision is not a final judgment and thus not immediately appealable.

If the child waives his right to a jury trial, the SJRO prosecution must be held before the judge. If the child is convicted or pleads guilty to a felony, he must be sentenced under both the juvenile and adult sentencing laws with execution of the adult sentence stayed if he follows the conditions imposed under the juvenile sentence and does not commit another crime. If he is convicted or pleads guilty to a misdemeanor, he must be sentenced according to the juvenile sentencing laws.

If the child subsequently violates the conditions of his sentence or commits another crime, the court can immediately order him taken into custody by a juvenile probation officer. The court must give the child and his parents or guardian, and attorney if he has one, written notice of the reasons the stay of sentence is being lifted. The child can challenge this action and the court must hold a hearing at which he is entitled to an attorney. If the court finds against the child and there are no mitigating circumstances, it must order the child to begin serving a sentence no longer than the adult one imposed. Time served in a juvenile facility under the juvenile sentence must be credited against any time the child must serve under the adult sentence. If the court continues the stay, it must state in writing on the record what the mitigating circumstances are.

If the child does not waive his right to a jury trial, the SJRO prosecution must be transferred to the regular criminal docket of Superior Court and the child must be tried and sentenced as an adult. The child cannot be placed in an adult correctional facility until he reaches age 16 or is sentenced, whichever occurs first. The child must receive credit against any imposed sentence for time served in a juvenile facility prior to transfer. The court can allow a juvenile knowingly and voluntarily to plead guilty to a lesser offense but such a plea does not allow the child to resume his status as a juvenile. If the action is dismissed or nolled or the child is found not guilty, he retains his status as a juvenile until he reaches age 16.

Disposition of the Juvenile's Case

The act requires the court, in deciding its disposition of a child convicted as a delinquent, to consider the seriousness of the offense and any aggravating factors, such as the use of a firearm; the effect of the offense on the victim; the child's delinquency record and willingness to participate in programs; any other mitigating factors; and the child's culpability, including his level of participating, planning, and carrying out the crime.

In addition to the options already available, the act allows the court to order the child to participate in a community service program or the child or his parents or guardian to make restitution. Under prior law, the court could order the child to make restitution or do work in public buildings and on public property only if the parents and child consented. Under the act, the court can supervise the community service itself or place a minor under the supervision of any organization to carry out community service. The act specifies that such service is not employment and thus does not subject the child to child labor or other employment laws.

If the child's conduct has resulted in property damage or personal injury, the act allows the court to order restitution from the child, his parents or guardian, or both. The court can order the parents or guardian to pay restitution in place of the child only if they knew of and condoned the child's conduct. The parents' or guardians' liability cannot exceed their civil liability for their children's actions ($5,000 in 1995).

The act allows the court to make alcohol testing a condition of probation.

It also increases the time a juvenile who has committed a serious juvenile offense must be placed outside the town where he lives by removing a six-month limit on such placements.

Drug and Alcohol Testing and Convictions

The act allows the court to order periodic drug and alcohol testing of a child during any period when the delinquency proceeding is suspended to allow treatment for the child's drug or alcohol problem. It also generally uses the term "convicted" to refer to juvenile offenders, rather than "adjudged a delinquent child." The effect of this change is, among other things, to require a juvenile to make an affirmative response to an employment inquiry about "conviction" for a crime and to forfeit his ability to vote once he reaches age 18 (if the crime was a felony) until he completes his sentence.

Pre-Disposition Investigation

The act requires the mandatory pre-disposition probation investigation of a delinquent child to include information on the circumstances of the offense; the victim's attitude; the child's criminal record and condition; and any damages suffered by the victim, including medical expenses, loss of earnings, and property loss.

Confessions

The act limits the admissibility of confessions or statements the child makes to the police or a juvenile court officer, instead of to anyone, if they are made without a parent present who has been warned about the child's rights.

Victim's Statement

The act gives a court-appointed victim rights advocate or the victim's counsel the right to appear before the court and make a statement and removes a requirement that these appearances, and those of victims or their parents, occur outside the presence of the alleged delinquent child.

Commitment

The act allows a delinquent child's commitment to DCF to be extended beyond 18 months, or four years in the case of a serious juvenile offender, if it is in the best interest of the community, rather than just in the best interest of the child. The act also replaces a requirement that certain delinquents be committed for an indeterminate period with an authorization allowing them to be so committed.

Erasure of Juvenile Record

By law, when a delinquent child has been discharged from court supervision or DCF custody, the parents or child can file a petition for erasure of the juvenile and police records. Under prior law, the court could order erasure if two years elapsed since the discharge, the child reached age 16 during that two-year period, no further juvenile proceedings were initiated, and he was not found guilty of a crime during that time. This act extends the time that must elapse before an erasure can take place from two to four years after discharge.

Emancipation of Minors

The act allows the court to emancipate a minor when that is in the best interest of the minor's child, as well as of the minor or his parents. It also specifies that emancipation of minors is part of the civil session of juvenile matters.

State Referees

The act allows state referees who have been Superior Court judges to hear juvenile matters. Any hearing must be conducted according to existing law, and referees have the powers of Superior Court in these matters.

The act specifies that juvenile matters may only be referred to referees specifically designated to hear them.

Accelerated Rehabilitation

Youthful offender status allows the court to erase the criminal records of first-time offenders who successfully complete a court-imposed sentence, such as probation or community service. The act prohibits the court from granting accelerated rehabilitation (AR) to anyone previously adjudged a youthful offender. Under prior law, if the court found good cause for doing so, it could grant AR to someone who had previously been a youthful offender.

Defendants granted AR go on probation for up to two years. The act authorizes the court to require 16 or 17 year-olds, as a condition of probation, to accept referral to a youth service bureau, if an assessment shows that they need and would likely benefit from such services. Youth service bureaus are municipal or private nonprofit agencies that provide services and programs for delinquent and troubled children and youth.

Bail Commission and Adult Probation Reports

The act authorizes disclosure of Bail Commission reports and files to the Office of Adult Probation for purposes of conducting youthful offender investigations, presentence investigations, and supervising people on probation. The act also allows information held by the Office of Adult Probation in its files or presentence investigation reports to be disclosed to the Bail Commission for purposes of its bail investigations.

Youthful Offenders

The act prohibits anyone who has been "adjudged" a serious juvenile offender or serious juvenile repeat offender from being granted youthful offender (YO) status. Because the act also requires serious juvenile repeat offenders to be "convicted" rather than "adjudged," it does not appear that this provision has any affect.

The act specifically makes youthful offender records confidential and disclosable only under its provisions. The act makes access to YO records similar to those in the act for juvenile records. It grants access to records to people and agencies and their employees "providing services directly to the youth" and lists specific agencies including the Division of Criminal Justice, the Parole Board, the Bail Commission, the court-appointed victim advocate, state and federal prosecutors, the Office of Adult Probation, school officials, and law enforcement and court officials. The act also allows the same access to those with a legitimate interest and to victims.

In addition, the act authorizes referral of youthful offenders to youth service bureaus.

OAS Evaluation

The act requires the OAS to oversee alternative sanctions for the juvenile court and to evaluate the effectiveness of alternative sanctions on juvenile offenders.

OAS Advisory Committee

The act creates a nine-member advisory committee to the OAS concerning juvenile offenders, to be appointed by the chief court administrator. The committee must include a Superior Court judge; representatives from the DCF, the divisions of Criminal Justice and Public Defender Services, and private nonprofit agencies serving juvenile offenders and providing alternative sanction programs; and public members. The existing OAS advisory board continues for

adult programs.

Juvenile Justice Centers

The act moves the juvenile justice centers, which are within OPM for administrative purposes, to the Judicial Department as of July 1, 1996 or when federal funds expire, whichever is later.

Division of Criminal Justice and Attorney General

The act gives the Division of Criminal Justice charge of family with service needs and all criminal juvenile matter proceedings and the attorney general charge of all civil juvenile matters. It changes the name of the person responsible for prosecuting juveniles from the "court advocate" to the "juvenile prosecutor" and transfers them along with inspectors, investigators, and associated staff from the Judicial Department to the Division of Criminal Justice on July 1, 1996.

Reimbursement

The act allows the Judicial Department to require the parents or guardian of any child who receives probation to fully or partially reimburse the supervision costs and to pay a monthly supervision fee. The department must waive the fee for those unable to pay.

Child Protection Network

The act requires the Department of Public Safety to study the feasibility of assembling and distributing to municipalities, on request, "Child Protection Network" information packages. Patterned after Middlefield's program, the packets must contain a child-identification system, instructions, informational brochures, and signs. The department can set and charge municipalities a reasonable fee for the packets.

Mediation Services

The act specifically allows private agencies under contract with the Judicial Department to provide mediation in cases referred to the Superior Court's criminal mediation program. This program allows the court to refer appropriate domestic cases to an impartial mediator for dispute resolution in the hope of avoiding a criminal prosecution.

Division of Criminal Justice-Public Defender Task Force

The act creates a task force made up of the chairmen and ranking members of the Judiciary Committee and six legislators, one each appointed by the speaker and president pro tempore and the Senate and House majority and minority leaders. The task force study must include (1) staffing levels; (2) training; (3) prosecutorial discretion in charging offenses, plea negotiations, and plea agreements; (4) variation in prosecutorial discretion between and within judicial districts; (5) the role of prosecutors and public defenders in the juvenile justice system; and (6) the eligibility of defendants to receive public defender services.

The task force must collaborate and coordinate with the juvenile justice study group and it must report findings and recommendations to the Judiciary Committee by February 1, 1996. The act allocates $50,000 from the funds collected from bonds forfeited to the state to the Legislative Management Committee to pay for the study.

02/07/96 WED 12:40 FAX 202 514 6383 OVC 012

SUMMARY OF JUVENILE JUSTICE REFORM, sHB 7025

PUNISHMENT

- **Treats people who commit adult crimes as adults**

Today's juvenile court is not a criminal court. Under this bill, "juvenile advocates" will become prosecutors and work for the Division of Criminal Justice. They will have the power to transfer any felony case to adult court and that transfer will take one day. A similar transfer in the Cluny double murder case in Norwich took 17 months. Automatic transfers will be mandatory for all cases of murder and A and B felonies. All felony transfers will be at the option of the prosecutors and judges.

FLEXIBILITY

- **Juvenile judges and prosecutors will have many more options for punishment and treatment of juvenile offenders**

Today's juvenile justice system is only able to focus on the most serious crimes and is forced to virtually ignore less serious crimes committed by younger offenders. Judges and prosecutors asked for the power to place younger, less serious offenders under supervision or treatment immediately. This bill gives courts the same wide array of punishment and supervision options that are available in adult courts. Short-term residential placement, community work and drug treatment are effective tools in stopping a career of crime before it starts.

JUSTICE

- **Victims will have all of the same rights in juvenile court as in adult court**

In today's juvenile justice system, victims can't find out if criminals who victimized them are in jail, under treatment or subjected to a protective order. Victims are not allowed to attend court hearings or to be consulted about plea bargains. In most cases, they are not even allowed to know the juvenile's name. The new law will give victims of crime all the rights they have in the adult court system, including the right to be consulted on plea bargains, speak at sentencing and be notified whenever an offender is released from jail.

OPENNESS

- Old-fashioned confidentiality rules eliminated

Today's juvenile justice system prevents teachers from talking to local police about pending investigations involving juveniles. Under this bill, teachers may talk to police, state officials may talk to each other and all prosecutorial activities will be placed in one office: the Division of Criminal Justice, which will be able to coordinate the prosecution of juveniles and adults without bureaucratic obstacles.

EFFICIENCY

A legislative task force will work with executive and judicial branch officials to complete a plan for bureaucratic reorganization and budget changes before the beginning of the next legislative session February 1996. Anticipated changes will free up resources, personnel and funds so that violent juveniles can be punished and at-risk juveniles diverted from a life of crime.

sHB 7025, "An Act Concerning Juvenile Justice"

This legislation represents the most sweeping change to the juvenile justice system since the 1940s. It creates the type of system that can respond to the more serious, violent crimes that juveniles commit today, places more emphasis on community safety and provides greater accountability for juveniles who break the law. At the same time, it provides a balanced approach that encompasses a comprehensive continuum of sanctions and programs designed to intervene and prevent young people from becoming serious juvenile offenders. This legislation recognizes that spending money on prevention saves lives and saves money in the long run. It also proposes consolidating various programs that are now located in the Department of Children and Families, the Judicial Department and the Office of Policy and Management, thus ending the fragmentation that has plagued the juvenile justice system for too long.

REORGANIZATION AND PREVENTION/INTERVENTION:

The legislation gives the Office of Alternative Sanctions within the Judicial Department the responsibility for developing a continuum of intermediate sanctions, probation treatment plans, and prevention/intervention programs for juveniles. Probation treatment programs must be based on individual or family assessments and case management plans. Treatment must cover drug and alcohol addiction, emotional and behavioral problems, physical or sexual abuse, health needs and education. It must include counseling and programs using various social service funds. The OAS has received national recognition for its success in performing similar functions in the adult justice system.

Juvenile prosecutors, formerly called "court advocates," will now be within the Division of Criminal Justice instead of the Judicial Department.

The bill provides a framework for a reorganization of the juvenile justice system and then asks the Chief Court Administrator, the commissioner of Children and Families, and the Office of Policy and Management in consultation with the Attorney General, the Chief State's Attorney, and the Division of Public Defender Services with the co-chairs of the Judiciary and Appropriations committees to work out the details of this juvenile justice reorganization plan by Jan. 1, 1996. The bill also states what specific areas of recommendations the reorganization plan must include.

CHANGES TO THE JUVENILE COURT AND NEW SANCTIONS:

The bill divides juvenile matters in Superior Court into a civil docket and a criminal docket. The civil docket includes cases of abuse and neglect, families with service needs, termination of parental rights and emancipation of minors. The criminal docket includes criminal matters covering delinquency.

The bill changes the confidentiality law by allowing the disclosure of juvenile delinquency records to agencies involved in delinquency proceedings or providing services to the child.

The bill also creates new victims' rights by making the information from the juvenile case record available to the victim. The legislation also provides for restitution to the victim by the juvenile delinquent and/or his parent or guardian.

A new offender classification is created, the "serious juvenile repeat offender." This type of offender is any juvenile under the age of 16 charged with a felony, that has been convicted of two prior felonies.

Serious juvenile repeat offenders can be subject to double sentencing (the juvenile receives both a juvenile sentence and an adult suspended sentence). If the juvenile violates the terms of the juvenile sentence, the adult sentence is imposed. SJROs also are not eligible for youthful offender status.

Fourteen and fifteen year old juveniles who have committed a Class A or B felony will automatically be transferred to adult court.

The bill also prohibits prior youthful offenders from receiving accelerated rehabilitation.

U.S. Supreme Court cases have had an impact on the character and procedures of the juvenile justice system

The Supreme Court has made its mark on juvenile justice

Issues arising from juvenile delinquency proceedings rarely come before the U.S. Supreme Court. Beginning in the late 1960's, however, the Supreme Court decided a series of landmark cases that dramatically changed the character and procedures of the juvenile justice system.

Kent v. *United States* 383 U.S. 541, 86 S.Ct. 1045 (1966)

In 1961, while on probation from an earlier case, Morris Kent, 16, was charged with rape and robbery. Kent confessed to the offense as well as to several similar incidents. Assuming that the District of Columbia juvenile court would consider waiving jurisdiction to the adult system, Kent's attorney filed a motion requesting a hearing on the issue of jurisdiction.

The juvenile court judge did not rule on this motion filed by Kent's attorney. Instead, he entered a motion stating that the court was waiving jurisdiction after making a "full investigation." The judge did not describe the investigation or the grounds for the waiver. Kent was subsequently found guilty in criminal court of 6 counts of housebreaking and robbery and given a sentence of 30 to 90 years in prison.

Kent's lawyer sought to have the criminal indictment dismissed arguing that the waiver had been invalid. He also appealed the waiver and filed a writ of *habeas corpus* asking the State to justify Kent's detention. Appellate courts rejected both the appeal and the writ, refused to scrutinize the judge's "investigation," and accepted the waiver as valid. In appealing to the U.S. Supreme Court, Kent's attorney argued that the judge had not made a complete investigation and that Kent was denied constitutional rights simply because he was a minor.

The Court ruled the waiver invalid, stating that Kent was entitled to a hearing that measured up to "the essentials of due process and fair treatment," that Kent's counsel should have had access to all records involved in the waiver, and that the judge should have provided a *written* statement of the reasons for waiver.

Technically, the *Kent* decision applied only to D.C. courts, but its impact was more widespread. The Court raised a potential constitutional challenge to *parens patriae* as the foundation of the juvenile court. In its past decisions, the Supreme Court had interpreted the Equal Protection Clause of the 14th Amendment to mean that classes of people could receive less due process *if* a "compensating benefit" came with this lesser protection. In theory, the juvenile court provided less due process but a greater concern for the interests of the juvenile. The Court referred to evidence that this compensating benefit may not exist in reality and that juveniles may receive the "worst of both worlds" — "neither the protection accorded to adults nor the solicitous care and regenerative treatment postulated for children."

In re Gault 387 U.S. 1, 87 S.Ct. 1428 (1967)

Gerald Gault, 15, was on probation in Arizona for a minor property offense when, in 1964, he and a friend made a crank telephone call to an adult neighbor, asking her, "are your cherries ripe today?" and "do you have big bombers?" Identified by the neighbor, the youth were arrested and detained.

The victim did not appear at the adjudication hearing and the court never resolved the issue of whether Gault made the "obscene" remarks. Gault was committed to a training school fo the period of his minority. The maximum sentence for an adult would hav been a $50 fine or 2 months in jail.

A lawyer obtained after the trial filed writ of *habeas corpus* that was eventu ally heard by the U.S. Supreme Court The issue presented in the case was that Gault's constitutional rights (to notice of charges, counsel, questionin of witnesses, protection against self-incrimination, a transcript of the proceedings, and appellate review) were denied.

The Court ruled that in hearings that could result in commitment to an institution, juveniles have the right to notice and counsel, to question witnesses, and to protection against self-incrimination. The Court did not rul on a juvenile's right to appellate revi or transcripts, but encouraged the States to provide those rights.

The Court based its ruling on the fac that Gault was being punished, rathe than helped by the juvenile court. T Court explicitly rejected the doctrine *parens patriae* as the founding principle of juvenile justice, describi the concept as murky and of dubious historical relevance. The Court concluded that the handling of Gault's c violated the Due Process Clause of t 14th Amendment: "Juvenile court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequentl poor substitute for principle and procedure."

[Continued on page 3-92]

In re Winship
397 U.S. 358, 90 S.Ct. 1068 (1970)

Samuel Winship, 12, was charged with stealing $112 from a woman's purse in a store. A store employee claimed to have seen Winship running from the scene just prior to finding the money missing; others in the store stated that the employee was not in a position to see the money being taken.

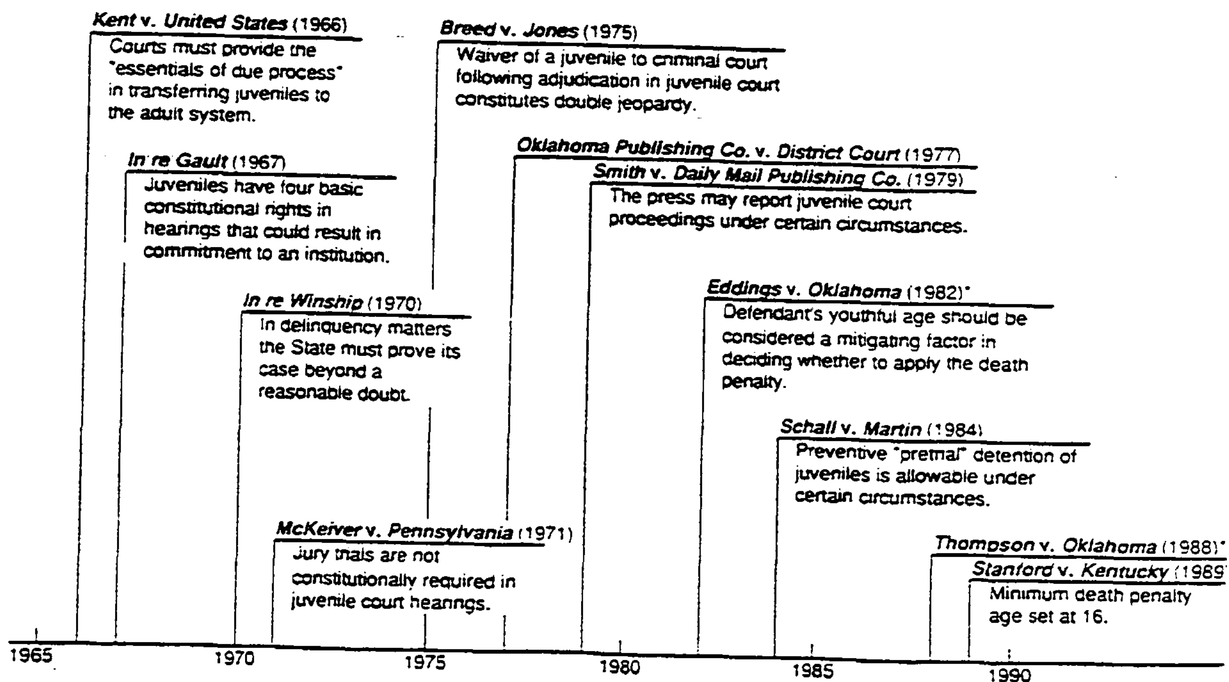
Winship was adjudicated delinquent and committed to a training school. New York juvenile courts operated under the civil court standard of a "preponderance of evidence." His attorney elicited agreement from the court that there was "reasonable doubt" of Winship's guilt, but that the court's ruling was based on the "preponderance" of evidence.

Upon appeal to the Supreme Court, the central issue in the case was whether "proof beyond a reasonable doubt" should be considered among the "essentials of due process and fair treatment" required during the adjudicatory stage of the juvenile court process. The Court rejected lower court arguments that juvenile courts were not required to operate on the same standards as adult courts because they were designed to "save" rather than to "punish" children. The Court ruled that the "reasonable doubt" standard should be required in all delinquency adjudications.

McKeiver v. *Pennsylvania*
403 U.S. 528, 91 S.Ct. 1976 (19

Joseph McKeiver, 16, was charged with robbery, larceny, and receiving stolen goods after he and 20–30 oth youth chased 3 youth and took 25 c from them. McKeiver met with his attorney for only a few minutes bef his adjudicatory hearing. At the hearing his attorney's request for a j trial was denied by the court. He w subsequently adjudicated and place on probation.

A series of U.S. Supreme Court decisions made juvenile courts more like criminal courts but maintained some important differences



* Death penalty case decisions are discussed in chapter 7.

Juvenile Offenders and Victims: A National Report

The State Supreme Court cited recent decisions of the U.S. Supreme Court that had attempted to include more due process in juvenile court proceedings without eroding the essential benefits of the juvenile court. It affirmed the lower court, arguing that of all due process rights, trial by jury is most likely to "destroy the traditional character of juvenile proceedings."

The U.S. Supreme Court found that the Due Process Clause of the 14th Amendment did not require jury trials in juvenile court. The impact of the *Gault* and *Winship* decisions was to enhance the accuracy of the juvenile court process in the fact finding stage. The Court argued that juries are not known to be more accurate than judges in the adjudication stage and could be disruptive to the informal atmosphere of the juvenile court, tending to make it more adversarial.

Breed v. *Jones*
421 U.S. 519, 95 S.Ct. 1779 (1975)

In 1970, Gary Jones, 17, was charged with armed robbery. Jones appeared in Los Angeles juvenile court and was adjudicated delinquent on the original charge and two other robberies.

At the dispositional hearing, the judge waived jurisdiction over the case to criminal court. Counsel for Jones filed a writ of *habeas corpus*, arguing that his waiver to criminal court violated the Double Jeopardy Clause of the Fifth Amendment. The court denied this petition, saying that Jones had not been tried twice because juvenile adjudication is not a "trial" and does not place a youth in jeopardy.

Upon appeal, the U.S. Supreme Court ruled that an adjudication in juvenile court, in which a juvenile is found to have violated a criminal statute, is equivalent to a trial in criminal court. Thus, Jones *had* been placed in double jeopardy. The Court also specified that jeopardy applies at the adjudication hearing when evidence is first presented. Waiver cannot occur after jeopardy attaches.

Oklahoma Publishing Company v. *District Court in and for Oklahoma City*
480 U.S. 308, 97 S.Ct. 1045 (1977)

In the *Oklahoma Publishing Company* case, the Supreme Court ruled that a court order prohibiting the press from reporting the name and photograph of a youth involved in a juvenile court proceeding that it legally obtained elsewhere was an unconstitutional infringement on Freedom of the Press.

Smith v. *Daily Mail Publishing Company*
443 U.S. 97, 99 S.Ct. 2667 (1979)

The *Daily Mail* case held that State law cannot stop the press from publishing a juvenile's name that it obtained independently of the court. Although the decision did not hold that the press should have access to juvenile court files, it did hold that if information regarding a juvenile case is lawfully obtained by the media, the First Amendment interest in a free press takes precedence over the interests in preserving the anonymity of juvenile defendants.

Schall v. *Martin*
467 U.S. 253, 104 S.Ct. 2403 (1984)

Gregory Martin, 14, was arrested in 1977 and charged with robbery, assault, and possession of a weapon. He and two other youth allegedly hit a boy on the head with a loaded gun and stole his jacket and sneakers.

Martin was held pending adjudication because the court found there was a "serious risk" that he would commit another crime if released. Martin's attorney filed a *habeas corpus* action challenging the fundamental fairness of preventive detention. The lower appellate courts reversed the juvenile court's detention order, arguing in part that pretrial detention is essentially punishment because many juveniles detained before trial are released before, or immediately after, adjudication.

The U.S. Supreme Court upheld the constitutionality of the preventive detention statute. It stated that preventive detention serves a legitimate State objective in protecting both the juvenile and society from pretrial crime and is not done solely to punish the juvenile. The Court found there were enough procedures in place to protect juveniles from wrongful deprivation of liberty. The protections were provided by notice, a statement of the facts and reasons for detention, and a probable cause hearing within a short time. The Court also reasserted the *parens patriae* interests of the State in promoting the welfare of children.

Access to juvenile court records is generally limited

State statutes often specify exceptions to the confidentiality of juvenile court records

Although legal and social records maintained by law enforcement agencies and juvenile courts are generally confidential, the juvenile code in many States specifies individuals or agencies who are allowed access to such records. However, access is typically neither unlimited nor automatic. Access may be restricted to certain parts of the record, and often a court order is required.

Juvenile codes in 30 States indicate that persons or agencies with a "legitimate interest" may have at least partial access to juvenile court or law enforcement records. Often this broad category of "interested persons" must obtain the court's permission to gain access. Most States also specify those individuals or agencies within the justice system who may access juvenile records without a court order, although the access may be restricted to parts of the record or to certain purposes. In this way juvenile records are made available to the following individuals/agencies:

- Juvenile court judges and professional court staff (34 States).
- Criminal court staff (24 States).
- Probation officers (26 States).
- Prosecutors (33 States).
- Institutions or agencies with custody (37 States).
- Law enforcement (26 States).

Many States specifically allow inspection of the juvenile's record by the juvenile who is the subject of the proceedings (29 States), the juvenile's parents or guardian (30 States), or the juvenile's attorney (36 States).

Several States also allow victims (24 States) or other people in danger from the juvenile (4 States) to access the legal record or at least be informed of the juvenile's name and address and the outcome of the case. In 13 States, school officials are specifically given at least limited access to the records of juvenile offenders who are their students.

In some States the public has access to juvenile records

About half the States specify circumstances in which juvenile records are open to the public. Statutes specify certain crimes or cases for which juvenile records will be made part of the public record or otherwise made public. The crimes specified are typically violent or otherwise serious crimes, but sometimes include more minor offenses such as traffic violations. In some States, statutes specify that records are open to the public for any public court proceedings. In these States, statutes often further specify that cases involving serious crimes shall be open to the public.

In several States, the court is required to release the names of juveniles adjudicated delinquent for committing serious offenses or repeat offenses, well as the nature of the crimes involved.

Many State statutes also include provisions for using juvenile record for research or statistical purposes. Generally, researchers allowed acc either may not receive information identifying individual juveniles or a prohibited from releasing identifyin information to others.

Juveniles' names may be released to the media under certain circumstances in more than half the States

Juvenile codes in 29 States allow names (and sometimes even picture of juveniles involved in delinquenc proceedings to be released to the media. In 19 of these States, the juvenile's identity may be released in cases involving certain crimes and/or if the juvenile is a repeat offender. A court order is required in of the 29 States.

Only two States, Illinois and Wisco sin, specifically include the media among those who may access juver records. In Illinois, such media acc requires a court order and in Wisco sin, media are prohibited from reve ing the identity of the juvenile involved.

A majority of States have established at least some time limits regarding the processing of juvenile delinquency cases

Time limits for processing delinquency cases in juvenile court are set either by statute or court rule in 35 States

Deadlines for holding adjudication hearings are specified in 31 States. The majority of these States "start the clock" with the filing of the petition and specify a maximum number of days until the adjudicatory hearing. Many States establish specific deadlines for cases involving detained youth. Deadlines for cases involving detention range from 10 to 180 days from petitioning to adjudication. For cases not involving detention or where no detention distinction is made, the range is 30 to 180 days. Some States limit the number of days until adjudication, starting from the time of detention (rather than petitioning) — time limits range from 7 to 63 days.

Deadlines for holding disposition hearings are specified in 25 States. In 24 of these 25 States, the time limits are set starting at the time of adjudication. Again, many of these States have established shorter timeframes for handling cases involving detention — ranging from 10 to 35 days. For cases not involving detention or where no detention distinction is made, time limits range from "immediately" to 90 days.

A few States set processing deadlines for cases scheduled for waiver hearings

In nine States separate time limits are set for cases in which a waiver hearing, rather than an adjudicatory hearing, is requested. Most States establish a deadline for holding the waiver hearing. Some also limit the time between a denial of waiver and the adjudicatory hearing. As with other deadlines, several States have set specific limits for cases involving detention. The established timeframes for each of these phases range from 20 to 45 days for cases involving detention, and from 28 to 90 days for cases not involving detention. In one State a 1-day maximum is allowed between the juvenile's admission to an adult jail and the filing of a transfer motion.

There is more than one way to think about case processing time in the juvenile court

Issues of case processing time and delay are applicable to all court proceedings but are especially important in the juvenile court. Children and adolescents often experience the passage of time differently from adults. To be effective, the response to a juvenile's negative behavior must be made quickly. If that response is significantly delayed, its corrective impact is apt to be reduced.

In addition, the juvenile court's jurisdictional authority is bounded by the youth's age and is, thus, time-limited. Each day a case is in process is a day of potential intervention lost.

One researcher has described some different ways to think about case processing time in juvenile court:

- **Case time** — the time elapsed between the initiation of a case and its final disposition.
- **Court time** — the time available to a court to handle the cases on its daily calendar or docket.
- **Child time** — the passage of time as it relates to the quality and impact of the process from the juvenile's perspective.
- **Intervention time** — the limited time window during which a youth is amenable or susceptible to the court's intervention.

Source: Mahoney, A. (1985). Time and process in juvenile court. *The Justice System Journal.*

All States allow juveniles to be tried as adults in criminal court under certain circumstances

There is more than one path to criminal court

A juvenile's delinquency case can be transferred to criminal court for trial as an adult in one of three ways:

- Judicial waiver.
- Prosecutorial discretion.
- Statutory exclusion.

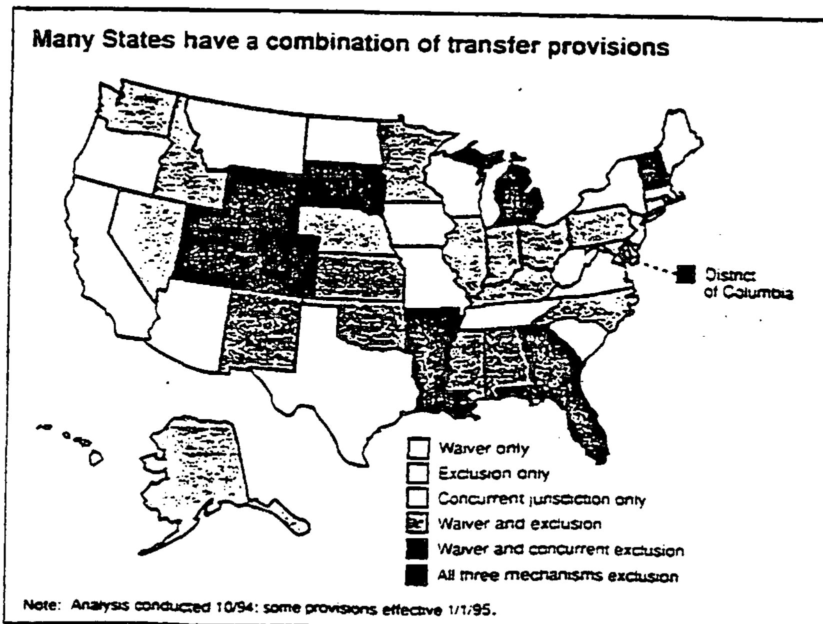
In a given State, one, two, or all three transfer mechanisms may be in place.

Transfers to criminal court have been allowed in some States for more than 70 years

Some States have permitted juvenile offenders to be transferred to criminal court since before the 1920's — Arkansas, California, Colorado, Florida, Georgia, Kentucky, North Carolina, Ohio, Oregon, and Tennessee. Other States have permitted transfers since at least the 1940's — Delaware, Indiana, Maryland, Michigan, Nevada, New Hampshire, New Mexico, Rhode Island, South Carolina, and Utah.

Traditionally, the decision to transfer a youth to criminal court was made by a juvenile court judge and was based upon the individual circumstances in each case. Beginning in the 1970's and continuing through the 1990's, however, State legislatures increasingly moved young offenders into criminal court based on age and offense seriousness without the case-specific assessment offered by the juvenile court process. In half the States, laws have been enacted that exclude some offenses from juvenile court and a number of States have also expanded the range of excluded offenses. One-quarter of the States have given prosecutors the discretion to charge certain offenses either in juvenile or criminal court.

Many States have a combination of transfer provisions



Note: Analysis conducted 10/94; some provisions effective 1/1/95.

Judicial waiver is the most common transfer provision

In all States except Nebraska and N York, juvenile court judges may w jurisdiction over a case and transfe to criminal court. Such action is usually in response to a request by prosecutor; however, in several Sta juveniles or their parents may requ judicial waiver. In most States, sta limit waiver by age and offense.

Statutes establish waiver crit other than age and offense

Most State statutes also limit judic waiver to juveniles who are "no lo amenable to treatment." The speci factors that determine lack of amei bility vary, but typically include th juvenile's offense history and prev dispositional outcomes. Many sta instruct juvenile courts to consider availability of dispositional altern for treating the juvenile and the tir available for sanctions, as well as public safety and the best interests the child when making waiver dec sions. The waiver process must ac to certain constitutional principles fairness (see Supreme Court decis earlier in this chapter).

Criminal courts often may re transferred cases to juvenile court or order juvenile sanct

Several States have provisions for transferring "excluded" or "direct cases from criminal court to juver court under certain circumstances This procedure is sometimes refe to as "reverse" waiver or transfer. many States juveniles tried as adu criminal court may receive dispos involving either criminal or juven court sanctions.

Most States have broad age and offense provisions for judicial waiver

Key: ■ Provision is specifically mentioned in State's Juvenile Code.
□ Provision applies only if the other condition similarly shaded is also met.

See Example below for information on how to read the graphic.

State	Minimum age	Any criminal offense	Capital crimes	Murder	Certain offenses: Person offenses	Certain offenses: Property offenses	Certain offenses: Drug offenses	Certain offenses: Weapon offenses	Certain offenses: Felony offenses	Prior delinquency adjudication or criminal conviction
AL	14	14								
AK		■								
AZ		■								
AR	14	□	14	14	14			14	16	
CA	14	16		14	14	14		14		
CO	14								14	
CT	14								14	□
DE	14	16							14	
DC		16[a]						■	15	
FL		14								
GA	13	15	13			15				□
HI	16								16	
ID	14	14								
IL	13	13								
IN		14		10					16	□
IA	14	14								
KS	14	16					14		14	
KY	14		14						14	
LA	15			15	15	15				
ME				■					■	
MD		15	■							
MA				■	14	14			14[b]	
MI	15								15	
MN	14	14								
MS	13	13								
MO	14								14	
MT	12			12	12	16	16	16		
NV	16								16	
NH									■	
NJ	14	14		14	14	14	14	14		□
NM	15			15[c]	15[c]	15[c]		15[c]	15[c]	□
NC	13								13	
ND	14	16			14					
OH				□					15	□
OK									■	
OR				■	■	15			15	
PA	14								14	
RI									■	
SC		16		■	■	14				□
SD		■								
TN	14	16		14	14					
TX	15								15	
UT	14								14	
VT	10			10	10	10				
VA	14								14	
WA		■								
WV				■	■	■			16	□
WI	14	16		14	14	14	14		14	
WY		■								

Example: Alabama permits judicial waiver for any delinquency case involving a juvenile 14 or older. Connecticut permits waiver of juveniles age 14 or older charged with certain felonies if they have been previously adjudicated delinquent.

[a] Waiver conditional on the juvenile being under commitment for delinquency.
[b] Waiver conditional on a previous commitment to the Department of Youth Services.
[c] Provisions differ from traditional judicial waiver in that juveniles are adjudicated in juvenile court and at disposition are "subject to adult or juvenile sanctions."

Note: Analysis conducted 10/94; some provisions effective 1.1.95. Ages in the minimum age column may not apply to all the restrictions indicated, but represent the youngest possible age at which a juvenile may be waived to criminal court. For States with a blank minimum age cell, at least one of the offense restrictions indicated is not limited by age. When a provision is conditional on prior adjudications, those adjudications are often required to have been for the same offense type (e.g., class A felony) or a more serious offense.

Source: Szymanski, L. (1994). *Waiver transfer certification of juveniles to criminal court: Age restrictions-crime restrictions (1994 update).*

Few States allow prosecutorial discretion, but many juveniles are tried as adults in this way

In some States, prosecutors are given the authority to file certain juvenile cases in either juvenile or criminal court under concurrent jurisdiction statutes. Thus, original jurisdiction is shared by both criminal and juvenile courts. State appellate courts have taken the view that prosecutor discretion is equivalent to the routine charging decisions made in criminal cases. Thus, prosecutorial transfer is considered an "executive function," which is not subject to judicial review and is not required to meet the due process standards established in *Kent*.

Prosecutorial discretion is typically limited by age and offense criteria. Often concurrent jurisdiction is limited to those charged with serious, violent, or repeat crimes. Juvenile and criminal courts often share jurisdiction over minor offenses such as traffic, watercraft, or local ordinance violations as well.

There are no national data at the present time on the number of juver cases tried in criminal court under concurrent jurisdiction provisions. There is, however, some indication in States allowing such transfers, th are likely to outnumber judicial waivers. Florida, which has both judicial waiver and concurrent juris diction provisions, filed two cases directly in criminal court for each o judicially waived in 1981. By 199: there were more than six direct filir for each case judicially waived.

Several States allow prosecutors to try juveniles charged with serious offenses in either criminal or juvenile court

Key: [shaded box] Provision is specifically mentioned in State's Juvenile Code.
[open box] Provision applies only if the other condition similarly shaded is also met.
See Example below for information on how to read the graphic.

State	Minimum age	Any criminal offense	Capital crimes	Murder	Certain offenses: Person offenses	Property offenses	Drug offenses	Weapon offenses	Felony offenses	Prior felo adjudicat
AR	14		14	14	14				16	
CO	14				14			14	14	
DC	16			16[a]	16[a]	16[a]				
FL		16[b]	c	14	14	14		14	16	
GA										
LA	15				15	16				
MI										
NE		16[b]								
NH										
SD										
UT	16		16	16					16	
VT	16	16								
WY	13	13								

Example: In Florida prosecutors have discretion to file in criminal court those cases involving juveniles 16 or older charged with felony offenses (or misdemea they have prior felony adjudications) as well as those 14 or older charged with murder, certain other person offenses, or certain property crimes. Juveniles of a age charged with capital crimes are tried in criminal court following grand jury indictment. In New Hampshire prosecutors may file in criminal court any juvenile involving a felony charge.

[a] Statutory exclusion language interpreted as concurrent jurisdiction provision.
[b] Provision applies to misdemeanors only.
[c] Provision is conditional on grand jury indictment.

Note: Analysis conducted 10/94; some provisions effective 1/1/95. Ages in the minimum age column may not apply to all the restrictions indicated, but repres the youngest possible age at which a juvenile's case may be filed directly in criminal court. For States with a blank minimum age cell, at least one of the offen restrictions indicated is not limited by age. When a provision is conditional on previous adjudications, those adjudications are often required to have been for t same offense type (e.g., class A felony) or a more serious offense.

Source: Szymanski, L. (1994). *Concurrent jurisdiction (1994 update).*

Statutory exclusion accounts for the largest number of juveniles tried as adults in criminal court

Legislatures "transfer" large numbers of young offenders to criminal court by statutorily excluding them from juvenile court jurisdiction. Although not typically thought of as transfers, large numbers of youth under age 18 are tried as adults in the 11 States where the upper age of juvenile court jurisdiction is 15 or 16. An estimated 176,000 cases involving youth under the age of 18 were tried in criminal court in 1991 because they are defined as adults under State laws.

Many States exclude certain serious offenses from juvenile court jurisdiction. State laws typically also set age limits for excluded offenses. The serious offenses most often excluded are capital and other murders, as well as other serious offenses against persons. Several States exclude juveniles charged with felonies if they have prior felony adjudications or convictions. Minor offenses, such as traffic, watercraft, fish, or game violations, are often excluded from juvenile court jurisdiction in States where they are not covered by concurrent jurisdiction provisions.

Currently there are no national data on the number of juvenile cases tried in criminal court as a result of these types of statutory exclusions. In States where they are enacted, however, the number of youth affected may exceed those transferred via judicial waiver. For example, Illinois lawmakers amended the jurisdiction of the juvenile courts in 1982 to exclude youth aged 15 or older charged with murder, armed robbery, or rape. In the 7 years prior to 1982, the Cook County juvenile court judicially waived an average of 47 cases annually to criminal court. In the first 2 years following the enactment of the exclusion legislation, criminal prosecutions of juveniles more than tripled, climbing to 170 per year, 151 of which resulted from the exclusion provision.

Most States have at least one provision for transferring juveniles to criminal court for which no minimum age is specified

Minimum possible transfer age specified in section(s) of juvenile code specifying transfer provisions							
No age minimum		7	10	13	14	15	16
Alaska	Nebraska	New York	Vermont	Illinois	Alabama	Louisiana	Hawaii
Arizona	Nevada			North Carolina	Arkansas	New Mexico	
Delaware	New Hampshire				California	Texas	
District of Columbia	Ohio				Colorado		
Florida	Oklahoma				Connecticut		
Georgia	Oregon				Idaho		
Indiana	Pennsylvania *				Iowa		
Maine	Rhode Island				Kansas		
Maryland	South Carolina				Kentucky		
Massachusetts *	South Dakota *				Minnesota		
Michigan	Washington				Missouri		
Mississippi *	West Virginia				New Jersey		
Montana	Wyoming				North Dakota		
					Tennessee		
					Utah		
					Virginia		
					Wisconsin		

* Other sections of the juvenile code specify a minimum age of juvenile court delinquency jurisdiction. In Mississippi, Pennsylvania, and South Dakota, this minimum age is 10; in Massachusetts it is age 7.

Note: Analysis conducted 10/94; some provisions effective 1/1/95.

Sources: Szymanski, L. (1994). *Waiver/transfer/certification of juveniles to criminal court: Age restrictions-crime restrictions (1994 update).* Szymanski, L. (1994). *Statutory exclusion of crimes from juvenile court jurisdiction (1994 update).* Szymanski, L. (1994). *Concurrent jurisdiction (1994 update).* Szymanski, L. (1995). *Lower age of juvenile court jurisdiction (1994 update).*

Many States exclude certain serious offenses from juvenile court jurisdiction

Key: Exclusion is specifically mentioned in State's Juvenile Code.

} Exclusion applies only if the other condition similarly shaded is also met.

See Example below for information on how to read the graphic.

State	Minimum age	Murder	Certain offenses: Person offenses	Property offenses	Drug offenses	Weapon offenses	Felony offenses	Capital crimes	Previous: Felony adjudi-cation(s)	Criminal conviction
AL	16				16		16	16		
AK	16		16	16						
CT	14	14					14			
DE										
GA	13	13	13	15						
HI	16	16								
ID	14	14	14		14					
IL	15	15	15		15	15	15			
IN	16	16	16			16				
KS	16		16*	16*			16			
KY	14						14			
LA	15	15	15							
MD	14		16			16		14		
MN	14	16					14			
MS										
NV										
NM	16	16								
NY	7	13	13	13			7			
NC	13						13			
OH										
OK	15	16	16	16	16	16	16			
PA										
RI	16				16					
UT	16	16								
VT	14	14	14	14						
WA	16		16							

Example: In North Carolina, juveniles age 13 or older charged with certain felonies are excluded from juvenile court jurisdiction. In Hawaii, juveniles age 16 or older charged with murder are excluded if they have prior felony adjudications, as are those 16 or older charged with certain felonies who have prior felony adjudications.

* Exclusion applies only to juveniles charged with committing offenses while in custody in juvenile institutions.

Note: Analysis conducted 10/94; some provisions effective 1/1/95. Ages in the minimum age column may not apply to all the exclusions indicated, but represent the youngest possible age at which a juvenile may be excluded from juvenile court. For States with a blank minimum age cell, at least one of the exclusions indicated is not restricted by age. When an exclusion is conditional on previous adjudications, those adjudications are often required to have been for the same offense type (e.g., class A felony) or a more serious offense.

Source: Szymanski, L. (1994). *Statutory exclusion of crimes from juvenile court jurisdiction (1994 update).*

How does the organization and administration of juvenile services vary across States?

Probation supervision tends to be administered by local juvenile courts or by a State executive branch agency

State administration		Local administration	
Judicial branch	Executive branch	Judicial branch	Executive branch
Connecticut	Alaska	Alabama	**California**
Hawaii	**Arkansas**	Arizona	Oregon
Iowa	Delaware	**Arkansas**	**Idaho**
Kentucky	District of Columbia	**California**	**Kentucky**
Nebraska	Florida	Colorado	**Minnesota**
North Carolina	**Georgia**	**Georgia**	**Mississippi**
North Dakota	**Idaho**	Illinois	New York
South Dakota	**Kentucky**	Indiana	**Washington**
Utah	**Louisiana**	Kansas	**Wisconsin**
West Virginia	Maine	**Kentucky**	
	Maryland	**Louisiana**	
	Minnesota	Massachusetts	
	Mississippi	Michigan	
	New Hampshire	**Minnesota**	
	New Mexico	Missouri	
	North Dakota	Montana	
	Oklahoma	Nevada	
	Rhode Island	New Jersey	
	South Carolina	Ohio	
	Tennessee	**Oklahoma**	
	Vermont	Pennsylvania	
	Virginia	**Tennessee**	
	West Virginia	Texas	
	Wyoming	**Virginia**	
		Washington	
		Wisconsin	
		Wyoming	

Note: In bolded States, probation is provided by a combination of agencies. Often larger, urban counties operate local probation departments while in smaller counties probation is State operated.

Source: Hurst, H., and Torbet, P. (1993). *Organization and administration of juvenile services: Probation, aftercare, and State institutions for delinquent youth.*

State institutions for delinquents are administered by executive branch agencies — most often by a social services agency

Human services		Adult corrections	Juvenile corrections	Children & families
Alaska	Missouri	Colorado	Alabama	Delaware
Arkansas	Nevada	Illinois	Arizona	Montana
DC	New Hampshire	Indiana	California	Rhode Island
Florida	North Carolina	Louisiana	Connecticut	New Mexico
Hawaii	Oklahoma	Maine	Georgia	Virginia
Idaho	Oregon	Minnesota	Maryland	Wyoming
Iowa	Pennsylvania	Nebraska	New York	
Kansas	Utah	New Jersey	Ohio	
Kentucky	Vermont	North Dakota	South Carolina	
Massachusetts	Washington	South Dakota	Tennessee	
Michigan	Wisconsin	West Virginia	Texas	
Mississippi				

Note: Agencies were grouped as follows: 1) broad-based social services/welfare agencies, 2) adult corrections, 3) juvenile corrections, and 4) children and family services/protective services.

Source: Hurst, H., and Torbet, P. (1993). *Organization and administration of juvenile services: Probation, aftercare, and State institutions for delinquent youth.*

In 10 States a single agency administers probation, State institutions for delinquents, and aftercare services

In Alaska, Florida, New Hampshire, and Vermont, State social service agencies administer probation supervision, State institutions for delinquent youth, and aftercare. In Delaware, New Mexico, and Rhode Island, State children and family service agencies provide these juvenile services. In Maryland and South Carolina, juvenile services are the responsibility of State youth service agencies. In Maine, the State adult corrections department administers juvenile services.

In most States aftercare services are provided by the same agency that runs the State training school

In 38 States and the District of Columbia, the State executive branch agency that administers the State's institutions for delinquent youth also provides aftercare services. In two States aftercare is a local judicial function and in two it is a State judicial function. In eight States a combination of agencies provide aftercare services, which may include local agencies in some counties and State agencies in other counties.

Disproportionate minority confinement often stems from disparity at early stages of case processing

Federal mandates have focused attention on disproportionate minority confinement

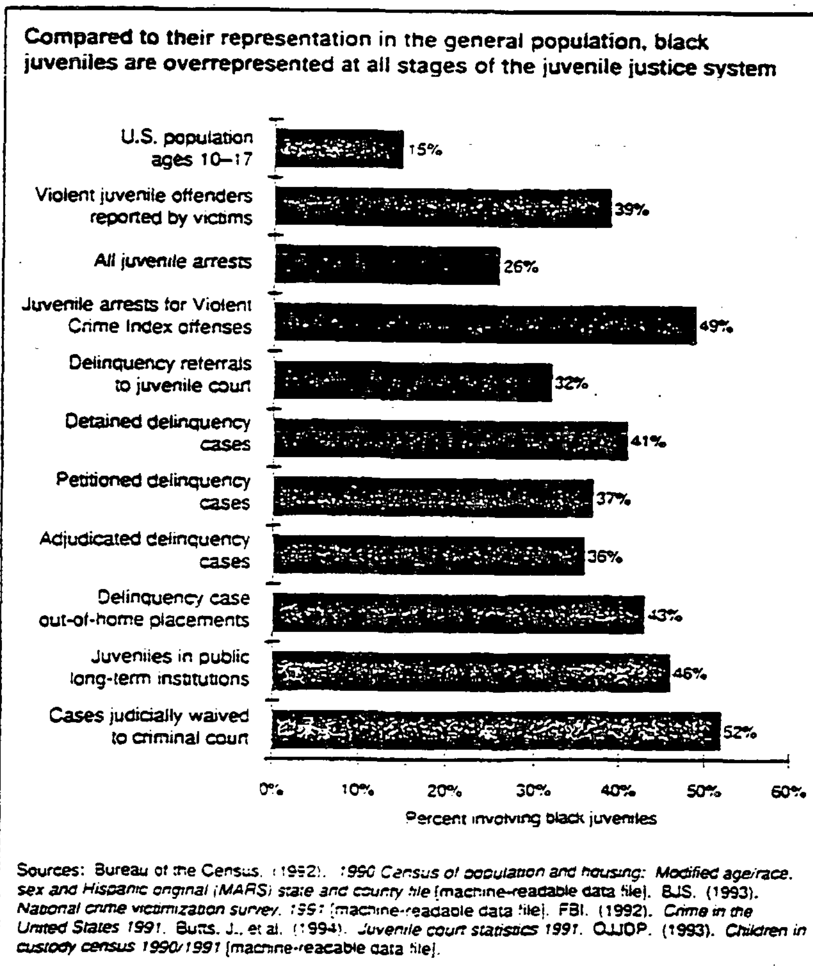
The "disproportionate minority confinement" mandate in the Juvenile Justice and Delinquency Prevention Act requires that States determine whether the proportion of minorities in confinement exceeds their proportion in the population. If such overrepresentation is found, States must demonstrate efforts to reduce it.

Overrepresentation, disparity, and discrimination differ

Overrepresentation refers to a situation in which a larger proportion of a particular group is present at various stages within the juvenile justice system — such as intake, detention, adjudication, and disposition — than would be expected based upon their proportion in the general population.

Disparity means that the probability receiving a particular outcome (for example, being detained in a short-te facility versus not being detained) differs for different groups. Disparit may in turn lead to overrepresentatic

Discrimination occurs if and when juvenile justice system decisionmak treat one group of juveniles different than another group of juveniles base wholly, or in part, upon their gender racial, and/or ethnic status.



Sources: Bureau of the Census. (1992). *1990 Census of population and housing: Modified age/race, sex and Hispanic original (MARS) state and county file* [machine-readable data file]. BJS. (1993). *National crime victimization survey, 1991* [machine-readable data file]. FBI. (1992). *Crime in the United States 1991*. Butts, J., et al. (1994). *Juvenile court statistics 1991*. OJJDP. (1993). *Children in custody census 1990/1991* [machine-readable data file].

Neither overrepresentation no disparity necessarily implies discrimination

One possible explanation for dispari and overrepresentation is, of course, discrimination. This line of reasoni suggests that because of discriminat on the part of justice system decisio makers, minority youth face higher probabilities of being arrested by th police, referred to court intake, held short-term detention, petitioned for formal processing, adjudicated deli quent, and confined in a secure juve nile facility. Thus, differential actic throughout the justice system may account for minority overrepresent tion.

However, disparity and overreprese tation can result from factors other discrimination. Factors relating to nature and volume of crime commi by minority youth may also explai disproportionate minority confinen This line of reasoning suggests tha minority youth commit proportion more crime than white youth, are involved in more serious incidents have more extensive criminal histc they will be overrepresented in sec facilities, even if no discrimination occurred by system decisionmaker Thus, minority youth may be overrepresented within the juvenil

justice system because of behavioral and legal factors.

In any given jurisdiction, either or both of these causes of disparity may be operating. Detailed data analysis is necessary to build a strong case for one or the other causal scenario. On a national level such detailed analysis is not possible with the data that are available. For example, national data use broad offense categories — such as larceny-theft, which includes both felony and nonfelony larcenies. More severe outcomes would be expected for juveniles charged with felony larceny. Disparity in decisions regarding transfer to criminal court would result if one group of offenders had a higher proportion of felony larcenies than another group (since transfer provisions are often limited to felony offenses). However, the national data do not support analysis that controls for offense at the felony/nonfelony level of detail.

Similarly, although prior criminal record is the basis for many justice system decisions, criminal history data are not available nationally. Thus, at the national level, questions regarding the causes of observed disparity and overrepresentation remain unanswered.

There is substantial evidence of widespread disparity in juvenile case processing

While research findings are not completely consistent, data available for most jurisdictions across the country show that minority (especially black) youth are overrepresented within the juvenile justice system, particularly in secure facilities. These data further suggest that minority youth are more likely to be placed in public secure facilities, while white youth are more likely to be housed in private facilities or diverted from the juvenile justice system. Some research also suggests that differences in the offending rates of white and minority youth cannot explain the minority overrepresentation in arrest, conviction, and incarceration counts.

Further, there is substantial evidence that minority youth are often treated differently than are majority youth within the juvenile justice system. A recent review by Pope and Feyerherm of existing research literature found that approximately two-thirds of the studies examined showed that racial and/or ethnic status did influence decisionmaking within the juvenile justice system. Since that review, a rather large body of research has accumulated across numerous geographic regions that reinforces these earlier findings. Thus, existing research suggests that race/ethnicity does make a difference in juvenile justice systems in some jurisdictions at least some of the time.

However, because juvenile justice systems are fragmented and administered at the local level, race/ethnic differences exist in some jurisdictions but not in others. Therefore, one would not expect research findings to be consistent given geographical variation and variation across timeframes.

Racial/ethnic differences occur at various decision points within the juvenile justice system

Pope and Feyerherm found that when racial/ethnic effects do occur, they can be found at any stage of processing within the juvenile justice system. However, they found across numerous jurisdictions, a substantial body of research suggesting that disparity is most pronounced at the beginning stages. The greatest disparity between majority and minority youth court processing outcomes occurs at intake and detention decision points. Existing research also suggests that when racial/ethnic differences are found, they tend to accumulate as youth are processed through the justice system.

Pope and Feyerherm also found that research reveals a large amount of variation across rural, suburban, and urban areas. Correspondingly, the concept of "justice by geography" introduced by Feld suggests that there are marked differences in outcome depending upon the jurisdiction in which the youth is processed. For example, cases in urban jurisdictions are more likely to receive severe outcomes at various stages of processing than are cases in nonurban areas. Because minority populations are concentrated in urban areas, this effect may work to the disadvantage of minority youth and result in greater overrepresentation.

In nearly all States, a disproportionate number of minorities were confined in public juvenile facilities in 1991

State	Proportion of minorities: 1990 Juvenile population	Short-term facilities 1987	Short-term facilities 1991	Long-term facilities 1987	Long-term facilities 1991
U.S. Total	**30%**	**56%**	**65%**	**57%**	**66%**
Alabama	34	49	57	54	60
Alaska	30	41	44	36	50
Arizona	39	36	55	45	57
Arkansas	24	23	45	46	60
California	54	64	74	73	82
Colorado	25	55	57	56	53
Connecticut	23	60	75	58	83
Delaware	27	52	83	62	80
District of Columbia	88	98	100	100	100
Florida	37	55	67	55	69
Georgia	36	55	73	62	80
Hawaii	75	81	100	96	94
Idaho	9	5	14	3	16
Illinois	32	67	75	70	70
Indiana	13	42	49	31	32
Iowa	5	8	20	15	24
Kansas	15	31	35	28	37
Kentucky	10	35	40	25	26
Louisiana	42	69	75	74	82
Maine	2	*	*	1	4
Maryland	37	45	65	66	80
Massachusetts	17	54	71	39	67
Michigan	22	46	53	49	61
Minnesota	9	33	41	33	45
Mississippi	47	58	75	79	84

State	Proportion of minorities: 1990 Juvenile population	Short-term facilities 1987	Short-term facilities 1991	Long-term facilities 1987	Long-term facilities 1991
Missouri	16%	52%	68%	44%	49
Montana	11	17	29	22	34
Nebraska	10	27	49	25	38
Nevada	28	37	44	25	47
New Hampshire	3	0	0	2	5
New Jersey	33	74	81	76	84
New Mexico	60	58	73	72	76
New York	38	74	82	74	80
North Carolina	32	46	61	54	69
North Dakota	8	50	33	42	39
Ohio	16	35	44	43	55
Oklahoma	25	31	58	45	53
Oregon	12	14	26	13	21
Pennsylvania	16	60	64	68	65
Rhode Island	15	17	36	57	61
South Carolina	40	49	58	57	70
South Dakota	13	31	39	35	30
Tennessee	22	67	71	41	56
Texas	49	62	73	57	77
Utah	9	26	29	30	44
Vermont	2	0	0	*	
Virginia	28	47	60	46	59
Washington	17	24	35	28	42
West Virginia	5	13	13	5	12
Wisconsin	12	59	61	53	62
Wyoming	11	*	*	13	20

- Nationally, the proportion of minorities in custody in public facilities increased between 1987 and 1991.
- The increase in the proportion of minorities was virtually the same for long- and short-term public facilities.

* Not applicable — no facilities of this type were publicly operated.

Note: Minorities includes blacks, Hispanics, American Indians, and Asian/Pacific Islanders. Juvenile population is the number of juvenile ages 10 through the upper age of juvenile court jurisdiction.

Source: OJJDP. (1993). *Children in custody census 1990/1991* [machine-readable data file].

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Arizona Criminal Justice Commission

YOUTH AND CRIME TASK FORCE

Working Groups' Recommendations

December 21, 1993

Pursuant to ARS § 41-2405, et. seq., the Arizona Criminal Justice Commission is charged to prepare a regular analysis and "overall review of the criminal justice system including crime prevention, criminal apprehension, prosecution, court administration and incarceration at the state and local levels, as well as funding needs for the system."

The Commission is also statutorily authorized to "form subcommittees, make studies, conduct inquiries and hold hearings."

The statutes mandate the Commission to recommend "constitutional, statutory and administrative revisions necessary. . . to maintain and develop a cohesive and effective criminal justice system" and to provide to the governor and legislature supplemental reports on "criminal justice issues of special timeliness."

No issue is of more "special timeliness" than the issue of youth and crime.

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PC = Protecting Children
PS = Protecting Society
SC = Schools and Crime
FC = Funding Choices

INTRODUCTION

by
Stephen D. Neely
Task Force Chairman

The Youth and Crime Task Force is comprised of four separate working groups. This is the original output of the Protecting Society and Protecting Children working groups. These two groups responded admirably to a short term deadline of December 21,1993, in the hope that their efforts might be of value to the Legislature during this session. The Schools and Crime Working Group and Funding Working Group have final recommendations due in the near future.

Despite the brevity of these recommendations, they provide rough guidelines for Arizona to redesign the way in which it deals with children as offenders and children as victims. Because of the considerable expertise of the members of our groups we were tempted to include extensive observations, justification and commentary. Ultimately, we decided our initial role was not to advocate or to condemn, but to observe and suggest. This introduction is the only embellishment.

Our recommendations reflect adherence to several guiding principles:

1. Cohesion - We believe that fragmentation within the system has impeded effective service delivery. We suggest creation of a single state children's agency with "one stop shopping" through locally controlled, multi-disciplinary centers and centralized case and information management.

2. Integrity - We refer here to promises made and kept. We suggest that much of the mistrust and ineffectiveness of our systems designed to protect children and society can be attributed to exercises of discretion without adequate guidelines, accountability or predictability. Our recommendations "draw the line" in advance and focus on that line to determine outcomes. For example, we suggest that emergency removal of children from homes be predicated upon the existence of a set of predetermined, written, endangering conditions. Removal would be subjected to administrative review of the cited conditions within 24-48 hours.

   Prosecution of young people (under 18) will be dictated by conduct, not age. Upon a first apprehension for a violent crime, or apprehension for a third non-violent crime after two previous non-criminal deferrals, prosecution will occur as for any adult offender.

   We propose that the government simply say what it will do and then do it.

3. Accountability - We do not necessarily use accountability as a synonym for punishment or in conjunction with state authoritarianism. We use the term in the context of choice and reparation; *being* accountable, not *holding* accountable. A young person may choose, for example, to participate or to refuse to participate fully in a family/group conference. In the event he or she chooses to participate, family, neighbors and resource centers are available to provide support to assist him or her to develop a productive, law abiding life. Conciliation with the victim may even be achieved.

   In some cases of child neglect or abuse, parents also will have the option to participate in a family conference to design and secure support for a safe environment for their child(ren). Our recommended "safety of the child" standard levels the playing field between abusive parents and endangered children. Parental responsibility and a child's right to live become as significant as parental "property" rights to their children.

4. Early intervention - Howard Snyder of the National Center for Juvenile Justice reported to the Task Force that if minors between 10 and 17 have a third police contact, the probability of further contacts is 67%. By the time of the fifth contact, that figure has increased to 74%. If the child is under 14, the risks increase to 90% and 95%, respectively (See Appendix A). Our focus for youthful offenders is on the first three encounters with law enforcement.

   Risk/needs assessments for youngsters and abandonment of the adversary system at the front end are critical elements of our proposals. Assessments allow participants to make decisions with their eyes open. We also do not need to begin our encounter with these kids as adversaries - teaching them the "value" of silence, denial and beating the system. Family/group conferences are about resolution, not winning or losing.

   Similarly, we recommend that *all* cases of child abuse or neglect that meet written guidelines be investigated by interdisciplinary teams. This requirement needs no elaboration other than to say that current haphazard investigative practice gives the lie to Arizo-

nan's claims that we care about our children. The proof of this lie is the battered bodies and broken spirits of hundreds, perhaps thousands, of our babies.

The terms "paradigm shift" and "empowerment" have become almost trite by now, but I believe it would be a disservice to our group members not to revive them for this occasion. These proposals express the working groups' commitment to empower families and neighborhoods to offset crude governmental intervention where history has shown it to be either unnecessary or unsuccessful. The paradigm shift is embodied in our notion that families, neighbors and government working together through neighborhood centers can promote accountability and strengthen values where 30 years of bureaucratic and judicial paternalism have had a very different effect. Lawyer's offices and court systems offer little promise as incubators for family values.

While we cannot promise that our suggestions will reduce offending by or against youngsters, we think we can promise that continuing, even enhancing, current practices surely will not. We believe the model we submit here is an idea whose time has come. We know, at minimum, it is a powerful stimulant for discussion among people who have seen the need for change.

PROTECTING SOCIETY WORKING GROUP

Recommendations to the Commission[1]:

1. We recommend that every county have at least one "Children's Action Center" that has jurisdiction over the child and his family for matters referred to it. A Children's Action Center is an interdisciplinary agency consisting of:

   a) intake and case management services, to receive, investigate, track and record all referrals of antisocial behavior against or by children and any resultant action taken by or on behalf of the center;

   b) children's and family services, to provide or broker, as well as monitor, all government funded services to children and their families;

   c) administrative hearing services, to provide independent hearing officers to resolve disputes relating to family/group conferences and to conduct proceedings as recommended by the Protecting Children Working Group.

2. We recommend that each Children's Action Center be governed by a board of directors responding to a state and/or regional coordinating authority that sets policy, oversees funding and measures results produced by the centers. The state and/or regional authorities should be part of the executive branch of government and should be exclusively dedicated to the

[1] Justice Holohan has submitted separate recommendations which are included in Appendix B of this document.

safety and welfare of children. Those authorities should have no managerial control over the day to day operation of the children's action centers.

3. We recommend that services provided directly to children and families be provided, whenever possible, through neighborhood district centers in neighborhood districts. Neighborhood district centers may be located in schools, churches or other appropriate facilities within the jurisdiction of the Children's Action Center and in close proximity to the children and families to be served. Neighborhood district councils should be responsible for the creation, development and acquisition of services consistent with the needs of the neighborhood with the assistance and concurrence of the governing body of the Children's Action Center. Neighborhood centers should make liberal use of effective private sector and nonprofit programs.

4. We recommend that all minors accused of acts currently characterized as "incorrigible" or "delinquent" (whether misdemeanor or felony) be referred to the Children's Action Center for intervention as follows:

   a) Summary resolution - If the intake service determines that: 1) there was no probable cause for the referral; or 2) the act in question can be characterized as a petty or incorrigible offense, or less, the Children's Action Center, after a preliminary risk assessment and absent a request by the minor, his or her parent(s), or guardian(s) for a family/group conference, may summarily terminate its involvement. Summary resolution requires a written finding that the minor does not pose a threat to himself, herself or others. All other cases should be resolved by family/group conference or prosecution.

   b) Family/group conference - After a full risk/needs assessment by the Children's Action Center, including input from the minor's teacher(s), a family/group conference will be conducted at the neighborhood district center determined by the residence of the child. Invitees will include the child, his parent(s) or guardian(s), members of his extended family, the victim or victim's representative, a representative of the relevant investigative or law enforcement agency, a youth service representative from the Children's Action Center and a representative from the neighborhood district. One of the latter two people will act as mediator. The conference should be open to the public, but the risk/needs assessment will only be available to the participants. Conference participants will be asked to decide by consensus whether intervention best serves the needs of the child, the victim and the community and what form any intervention should take. Intervention may include, but is not limited to, counselling or other service offered by the centers, community service, restitution, or referral for prosecution. If consensus cannot be reached, the recommendations will be referred for resolution to the administrative hearing service. Administrative resolutions will be advisory and will not be subject to the coercive power of the state.

5. We recommend that restitution laws and procedures be modified to facilitate victim recovery from the minor *and* his or her parents. The victim should be fully informed of those laws and procedures prior to the family/group conference so that the conference can, if necessary, focus on other issues.

6. We recommend that prosecutors be authorized to file misdemeanor or felony charges in the appropriate adult court directly against minors accused of such offenses. The prosecutor will, however, be precluded from directly charging any minor accused of a nonviolent offense who has not been: a) offered, or the subject of, at least two family/group conferences; or b) referred for prosecution by a family/group conference or subsequent administrative hearing. In the case of a violent offense, the prosecutor will be required to charge directly. "Violent offense" means a sexual assault, infliction of death or serious bodily injury, or the use or attempted use of a deadly weapon.

7. We recommend that in the event a minor is convicted as an adult, the trial court, for the first conviction only, have the option to sentence the defendant either as an adult or to a youth corrections program. If the court elects to utilize the youth corrections program, mandatory incarceration provisions will not apply. The duration of sentence to the youth corrections program, however, will coincide with the adult range of sentence and will not depend on the age of the offender. If an offender attains his or her eighteenth birthday while under the jurisdiction of a youth corrections program he or she will be transferred into an appropriate adult program. If, during the term of the sentence, a minor is found to be unsuitable for youth corrections, the court must resentence him or her as an adult.

8. We recommend that youth corrections programs be administered by the executive branch of state government and include probation and (re)habilitation services, boot camps, incarceration, etc. Youth corrections should make liberal use of effective private sector and nonprofit programs.

PROTECTING CHILDREN WORKING GROUP

Recommendations to the Commission:

1. **We recommend** that a single statewide agency be created to:

   a) Oversee the equitable funding and delivery of all available family and youth services; and

   b) Set policy relative to the safety and well-being of Arizona's children.

   This interdisciplinary agency should combine resources traditionally provided by Child Protective Services, the Administrative Office of the Courts, Juvenile Court, Regional Behavioral Health entities, Comprehensive Medical and Dental Plans, Healthy Families and other similar programs[2].

2. **We recommend** that at least one interdisciplinary Children's Action Center (CAC) be created in each county to serve children and families. Each Children's Action Center should consist of an Intake Unit, a Family and Youth Services Unit, and an Administrative Hearing Unit. Interagency collaboration should be enhanced by the Children's Action Center where it exists, and created where it does not. The Intake Unit should include a "child friendly" component staffed by law enforcement, child abuse investigators, a deputy

[2] Some terms and concepts differed slightly between the two working groups. These drafts attempt to preserve those differences despite the risk of appearing redundant in places.

county attorney, and medical personnel. The focus of this component will be on joint investigations of child abuse.

3. We recommend that the paramount standard for all decisions made by CACs and any ancillary administrative or judicial processes or service providers be *the safety of the child.*

4. We recommend that the Children's Action Center have jurisdiction over both the youth and his or her family for all matters referred to it.

5. We recommend that all information relating to child welfare be retained on a common, networked computer system that is accessible both within the region covered by the Children's Action Center and statewide. These data should be available to law enforcement, CAC staff, prosecuting authorities and the courts.

6. We recommend that all services provided to children and families by or through the CAC Family and Youth Services Unit be provided by neighborhood districts in neighborhood centers designated for this purpose. Neighborhood centers may be located at school sites within the region covered by the CAC or at some other suitable location. Neighborhood districts should be responsible for the creation, development, operation and delivery of all CAC service programs within the district, subject to the approval of the CAC Board of Directors. The selection of any CAC staff personnel to coordinate service delivery within a district should be controlled by the CAC board.

7. We recommend that an 800 or 911-type telephone number be operated by the Intake Units of the Children's Action Centers to accept complaints and

requests for assistance to children. This telephone hotline should also perform an information and referral function for those seeking children and family services. The hotline must operate 24 hours a day, 7 days a week. If the hotline is regional or statewide, calls should be referred to the appropriate CAC. Intake and "triage" of telephonic complaints and all other cases to determine what action is warranted should be based on written guidelines. *Every case where probable cause exists to believe that a child's safety is at risk must be investigated.*

8. We recommend that a system of notification similar to that used for crime victims be adopted to inform reporting sources of the action taken on their complaints or requests.

9. We recommend that in cases where CAC investigators determine that death or serious bodily injury has been inflicted on a child by parents or guardians, or their significant others where the parent or guardian is aware of the risk, severance proceedings on behalf of surviving children be instituted immediately regardless of the status of prosecution. The standard of proof for severance should remain "clear and convincing" evidence and should focus on *the safety of the child(ren).*

10. We recommend that upon an investigative finding that intervention other than severance of parental rights is warranted, the matter be referred to the Youth and Family Services Unit for a family conference. Family conferences should be held in the neighborhood center where the family resides. The conference should be open to members of the public with personal involvement with the family, and should include: the youth (if

12 or older); the parent(s) or guardian(s); extended family members likely to have involvement or influence with the family; the CAC investigative agent (or a law enforcement representative); the CAC intake or family service worker advocating for the child; and a neighborhood center representative trained in mediation. The latter will serve as mediator. The conference participants will explore the need for intervention and will generate resolutions to protect the safety of the child in the future and to determine what, if any, services are necessary.

11. We recommend that in the event intervention is found to be justified and the child has remained in the home, those families refusing to participate or reach agreement in a family conference, or to accept services or otherwise cooperate, be referred to the Administrative Hearing process for proceedings to determine if the child should be removed from the home.

12. We recommend that services deemed appropriate by the family conference be provided, whenever possible, through the neighborhood district center with the proviso that the case remain with the same CAC family service worker whenever possible. Continuing eligibility for child related government services should be conditioned upon maintaining a drug-free, child abuse-free home.

13. We recommend that after a family has received services and the case is closed with the child in the home, follow-up checks be done by CAC staff for three years to insure the safety of the child and to keep statistics on the results of services provided. Follow-up checks may be made by phone, school visits, questionnaires, collateral contacts, etc. Checks will be quarterly for

the first year, bi-annually the second year, and annually the third year. Each check will include a computer check on the family to see if other agencies have had contact with them. If any check reveals risk to the child as defined by CAC guidelines the case will be re-opened.

14. We recommend that the Administrative Hearing process be used to determine the following:

    a) Whether the emergency removal of a child from the home was consistent with written CAC guidelines and should continue temporarily. This hearing should occur automatically within 24-48 hours after removal;

    b) Whether conditions justify transfer of long term temporary custody to the CAC, or severance of parental rights, or how the child's safety will otherwise be guaranteed. This hearing can occur as a second part of the process in emergency removal cases, or as an original hearing when intervention has been unsuccessful following a family conference or when the family has failed to participate in a family conference. In the event severance is deemed appropriate, the matter should be referred to legal counsel to be filed immediately in superior court;

    c) Whether a removed child should be returned home. If the case had progressed beyond the investigative stage when the child's removal occurred, the intake worker should be notified of the hearing.

15. We recommend that the principal hallmarks of the Administrative Hearing process be that:

    a) Attorneys are not required;

    b) Hearing officers are members of the community, nominated by neighborhood districts or the CAC Board, familiar with the dynamics of at risk children and families, and trained in basic administrative due process associated with custody hearings;

    c) Whenever possible hearings are conducted in the neighborhood center determined by the residence of the family;

    d) Decisions are governed by overriding consideration for *the safety of the child.*

16. We recommend that the Superior Court be used for severance proceedings, for last-ditch intervention where severance is denied and for appellate review of CAC administrative determinations. Appellate review should be expedited by the court and based on the transcribed record of the administrative proceedings. Severance actions should be filed in Superior Court upon a finding by a CAC administrative hearing or upon recommendation of a CAC intake or family services worker based on written guidelines. *The overriding standard for severance should be the safety of the child.*

17. We recommend that time frames for seeking severance of parental rights be significantly shorter than current time frames and that facilitating appropriate placement or adoption weigh heavily in the process.

18. We recommend that CAC staffers be required to meet high standards for hiring and continued employment, including:

    a) Background check (local and state);

    b) Drug Testing (for hiring and maintenance of employment);

    c) Minimum of a Bachelors' Degree, with three years of experience;

    d) Passing a battery of testing and assessment procedures designed to measure good judgment and common sense including the use of oral and written processes relating to actual or simulated case situations; and

    e) Specialized certification and ongoing educational requirements (e.g., ALEOAC and medical/forensic classes).

19. We recommend that new CAC staffers be assigned field training officers, be on probation for the first year of employment and be subject to quarterly evaluations for at least the first year.

20. We recommend that CAC staffers work in a merit-based, rather than a tenure-based, system and that their compensation reflect the high professional and performance standards against which we recommend they be measured.

21. We recommend that all CAC investigations and interventions be accomplished with discretion and respect. However, in the event that a matter within the jurisdic-

tion of the CAC becomes a public issue, CAC representatives should be authorized to discuss it fully and candidly in any forum.

22. We recommend that information on CAC investigations and/or CAC records, be made available to the public upon written request for legitimate purposes serving the interests of children such as employment or volunteer service with children, babysitters, etc. The CAC must be permitted to refuse requests for public information that are for the purpose of harassment, that jeopardize an ongoing investigation or that endanger a child.

23. We recommend that the sex offender registry be readily accessible through some public source.

24. We recommend that every hospital in Arizona with a maternity ward have a Healthy Start program and request that all new parents complete a Family Stress Checklist. If the family fits the criteria for being high risk, Healthy Start services will be offered. If the family refuses services, a referral should be made to the Regional CAC for investigation.

APPENDIX A

Arizona Criminal Justice Commission

In-Court Careers of Juvenile Offenders

Percentage of youth who returned to juvenile court. Breakdown by age at referral and the current number of referrals in the juvenile's court career.

Age at referral	1 %	2 %	3 %	4 %	5 %	6 %	7 %	8 %	9 %	All referrals %
10	61	84	96	97	99	96	93	94	95	71
11	60	85	91	92	98	99	99	96	100	72
12	59	83	89	97	98	95	98	96	98	72
13	57	82	90	93	95	97	96	98	98	73
14	53	77	86	91	92	94	96	95	95	70
15	45	69	80	84	89	89	91	93	92	66
16	33	55	68	73	77	81	82	83	86	54
17	16	27	36	41	45	48	50	53	51	30
Ages 10 through 17	41	59	67	71	74	77	77	79	79	56

Note: To interpret the values in this table it may help to provide a few examples: Seventy-seven percent of all youth whose second referral to court occurred at age 14 were referred again. Fifty-nine percent of all youth with two referrals had a subsequent referral to juvenile court. Seventy percent of all youth referred at age 14 were referred later for a new offense.

Source: Howard Snyder, Office of Juvenile Justice and Delinquency Prevention.

APPENDIX B

Arizona Criminal Justice Commission

Youth and Crime Task Force
"Protecting Society" Working Group
December 21, 1993
Alternative Proposal

Recommendations to the Commission:

General Introduction:

The number of violent crimes committed by juveniles has increased significantly in recent times, and the juvenile court system has been unable to deal effectively with violent juvenile offenders. Despite the increase in the commission of violent crimes by juveniles, the fact remains that the great majority of juvenile offenders are not involved in the commission of violent crimes. It is, therefore, essential to distinguish between the two types of juvenile offenders in making recommendations for the improvement of the criminal justice system. In general, the juvenile court system has a long history of dealing effectively with most non-violent juvenile offenders. The break down in the system has occurred in the futile efforts by juvenile court to control violent offenders. The remedy, however, is to remove violent offenders from the jurisdiction of the juvenile court. The juvenile court system should continue, but its resources should be concentrated in dealing with non-violent juvenile offenders where there is a reasonable opportunity for rehabilitation.

Recommendation 1:

The juvenile court system should allocate greater efforts and resources to first time juvenile offenders, so the juvenile's first encounter with the criminal justice system should make the impression that justice is swift and certain. Corrective measures should be taken which are both meaningful and predictable, and all juvenile offenders must be made aware that they are accountable for their conduct.

Recommendation 2:

All non-violent first time juvenile offenders should receive service in the juvenile justice system. The juvenile courts are not able to provide corrective action for all juveniles referred for criminal violations, but the juvenile courts should use and develop diversion programs to deal with first time non-violent juvenile offenders. Diversion programs should not be viewed as a matter of leniency, but rather they should be used and recognized as a resource for more individualized attention and treatment for such

juveniles. In diverting juveniles to community based programs, the juvenile courts should require that such programs follow objective standards and accepted methods of rehabilitation, and there should be annual review of the programs to assure that they are providing effective services for juvenile rehabilitation.

Recommendation 3:

The Arizona Constitution (Article 6, Section 15) should be amended to provide that suspension of criminal prosecution of juveniles should be governed, not by judicial discretion, but by standards established by law. Such a change in the Constitution is necessary to provide for an automatic withdrawal of violent juvenile offenders from the juvenile court system. The constitutional change could be broad enough to allow also for the removal of chronic juvenile offenders from juvenile court jurisdiction.

Recommendation 4:

Detention facilities must be provided for juveniles being prosecuted as adults. The State of Arizona should provide such facilities or the State should provide funding to the counties for the construction and operation of such facilities.

Comment: The Arizona Constitution (Article 22, Section 16) provides that minors under the age of 18 may not be confined with adults. The removal of violent juvenile offenders from the juvenile court system requires that facilities for the detention of such juveniles be provided either by the State or the counties. County jail facilities were not designed to house juvenile offenders, and any significant number of juveniles being prosecuted as adults would cause a severe burden on county detention facilities. Either the State should assume this new responsibility for the detention of violent juvenile offenders, or the State should provide the financial aid to counties for the construction and maintenance of such facilities.

The recommendations submitted by the Working Group dealing with juveniles in the adult court system are acceptable and no changes are recommended at this time.

Submitted by:
William Holohan
Task Force Member
December 7, 1993

Arizona Criminal Justice Commission

YOUTH AND CRIME TASK FORCE

Schools and Crime Working Group
Funding Working Group
Recommendations

July 20, 1994

INTRODUCTION

The Youth and Crime Task Force is comprised of four separate working groups. On December 21, 1993, the Youth and Crime Task Force released the recommendations of the Protecting Society and Protecting Children working groups. Those recommendations provided rough guidelines for Arizona to redesign the way in which it deals with children as offenders and as victims.

The following Youth and Crime Task Force recommendations are the original output of the Schools and Crime and Funding working groups. They provide strategies for action for Arizona to redesign its educational environments so they are safe and crime free. They also acknowledge that the funding needed for any redesign to take place requires a holistic and multi-disciplinary approach. These recommendations provide the possibility of a more cost-effective system for addressing child abuse, neglect and juvenile crime.

SCHOOLS AND CRIME WORKING GROUP

We recognize that all children have a fundamental right to a public education and to be safe in their schools. We, therefore, recommend that the following proposals be implemented consistent with these rights and with our vision that Arizona's schools are:

- safe and secure educational environments where learning is the primary focus;
- safe havens for children to escape from homes if they are abused, neglected, abandoned;
- safe havens for children to escape from the terror of neighborhood violence and crime;
- places which maximize opportunities for kids to be safe; and
- centers where children and families can access multiple services.

1. **We recommend** that the Arizona Department of Education establish a state-wide violence prevention vision/mission statement creating Arizona schools as safe sanctuaries for children.

2. **We recommend** that the Arizona Department of Education implement and fund a statewide media campaign against drugs, gangs and violence in schools.

3. **We recommend** that the Arizona State Board of Education require violence-prevention training as part of teacher training preparation for state certification.

4. **We recommend** that the Arizona State Board of Education mandate and fund the establishment of comprehensive school safety action plans in all public school districts.

5. **We recommend** that students expelled and/or suspended from school be placed in alternative education programs. The Arizona State Legislature shall mandate, and each school district, shall establish, alternative educational settings requiring compulsory attendance for all students suspended, expelled, or who pose a danger to others or are a threat to the learning process. Funding streams shall follow all expelled students.

6. **We recommend** that the Arizona Legislature, the State Superintendent of Public Instruction, the State Board of Education, and local governing boards adopt the *safety of the child* as the paramount standard for all educational decisions, and work to abolish:

    a. all laws and/or regulations (federal, state and local) which prevent or prohibit the sharing of student information regarding criminal activity, violent behavior and/or classroom disciplinary problems;

    b. the "stay-put" laws which allow students who pose a threat to others or to the educational environment to remain in the classroom while a hearing is conducted to determine whether their conduct was caused by a "disability," and recommend that they be placed in an alternative education setting until the resolution or conclusion of the hearing; and

    c. the disability laws and regulations which permit mentally ill students who pose a danger or threat to others to remain in the classroom.

7. **We recommend** that the State Board of Education mandate that all school districts establish and implement measurable violence prevention goals and objectives consistent with the statewide vision/mission statement creating schools as safe sanctuaries.

8. **We recommend** that the State Board of Education require each school district to establish school level violence prevention teams to assess each school's violence and discipline problems, and to design and implement violence prevention policies and programs. The teams shall include, but not be limited to, administrators, faculty, students, parents, classified staff, representatives from the business community, the Children's Action Center, Neighborhood/School Centers, the neighborhood and law enforcement.

9. **We recommend** that the State Board of Education require that each school district implement violence prevention curricula for children at all grade levels which will include, but not be limited to conflict resolution, social skills development, peer mediation, peer counseling and student courts.

10. **We recommend** that each school district provide on going in-service teacher training on violence prevention, and training on issues of drugs, gangs and crime. Each school district shall provide on-going parent training and instruction in parenting skills, the risk factors and early indicators of drugs, gangs, crime and violence at school. Coordination of these classes shall be through the Neighborhood/School Center in collaboration with the schools.

11. **We recommend** that each school district establish school activity and recreation programs that address the needs of all students, and provide a safe haven at the school for students both before and after school. These programs shall encourage the use of peers as tutors and mentors, and shall be well balanced between academics, special interest activities and sports. Schools shall be open on extended schedules and be available well before and after the school day begins and ends. Transportation to and from the activity programs shall be provided for all students who wish to participate. Coordination of these programs shall be through the Neighborhood/School Center in collaboration with the schools.

12. **We recommend** that each school district create and support "safe zones of passage" for students between home and school through such measures as Drug-and-Weapon-Free School Zones, enhanced law enforcement, and neighborhood/community patrols.

13. **We recommend** that each school implement parent partnerships for violence prevention, including establishing programs such as Parents on Patrol, bus-stop watch, parking lot watch, and neighborhood/community patrols.

14. **We recommend** that each school establish business/community partnerships to assist in promoting school safety, reducing and preventing school violence and discipline problems, as well as creating mentorships and employment apprenticeship programs for students and their families at each school. Corporations, businesses and service organizations shall be encouraged to "adopt-a-school."

15. **We recommend** that each school modify its physical environment to promote security and reduce the risk of violence by regulating entrance and exits, close monitoring of visitors, installing telephones in classrooms, providing portable radios, installing better lights and increasing campus security, closing campuses, removing lockers, acquiring and installing metal detectors, when deemed necessary.

16. **We recommend** that all schools become central to the lives of the families they serve and become an expanded community resource through the creation of Neighborhood/School Centers.

17. **We recommend** that all Neighborhood/School Centers be created as collaborative interagency efforts between schools, government and the community. These centers shall be school-linked "one-stop shopping" resources for families in their designated area. They shall facilitate the delivery of educational, health, social and recreational services to the children and families living within the school boundaries, and shall incorporate the following: flexible hours, maximum availability to families, provision of multiple services, a director/coordinator, and community representatives. The Resource Centers shall be used as the site for family conferences and administrative hearings.

18. We recommend that each Neighborhood/School Center include, but not be limited to, the following services: 1) social services, 2) mental health and counseling services, 3) health services, 4) continuing education programs, crime/violence prevention, 5) information and referral services, 6) food and clothing banks, 7) resource library, 8) child care, 9) coordination of before after school programs, summer activity programs, etc.

FUNDING WORKING GROUP

Recommendations to the Commission:

1. **We recommend** that eligibility and entry for all programs in the Arizona children's service delivery system be through a single point of access which would be the regional Children's Action Centers. This change would reduce duplicate systems and administrative overhead. Full system access through these locations would allow early intervention which would include interdisciplinary case management.

2. **We recommend** that a multi-agency multi-jurisdictional task force be established to remove restrictions on funds and services for children that result from existing law, policy, and procedure. Federal and state funding must be decategorized or pooled into combinations of funding and services which become models for effective service delivery. Approaches which attach funds to children rather than particular services or agencies should be required. Additionally, this task force recommends law, policy, and planning changes to increase Arizona's share of underutilized Federal funds and services.

3. **We recommend** that all state and local funding for children's services be non-lapsing.

4. **We recommend** that state and local agencies be required to cooperate to identify and eliminate barriers to interagency resource sharing including personnel, space, equipment, and funding. Policies and legislation shall be developed which reward agencies for cooperative efforts.

which improve service delivery. Agency missions and performance standards must include direct references to resource sharing and greater overall system effectiveness.

5. **We recommend** that all children's justice services for prevention and treatment be examined to determine the most cost effective balance of these services. Once basic treatment needs are met, prevention programs which have long term cost saving potential shall become the first priority.

6. **We recommend** that menus of services be developed and funded that meet, not only the needs of urban children and youth, but also the unique needs of children and youth from Arizona's rural communities.

7. **We recommend** that early screening for risk factors be conducted in conjunction with Arizona's elementary schools. The results of this screening shall be used to guide budgeting for children's services as well as assist in the provision of case management services for each child. Both individual case management and the overall system shall be driven by a prospective and preventive view.

8. **We recommend** that all necessary policy and legislative action be taken to eliminate restrictions and market conditions which increase the cost of providing children's services over those of adults. The validity of requirements which mandate family involvement, child psychiatrists, and education and certification requirements shall be examined. All services be evaluated in terms of achieved results.

9. **We recommend** that a unified process for purchasing and contracting for children's services be developed and implemented. The process must allow purchase in the most economical lots and locations and from the most effective service suppliers. The need for a stable availability of services through financially healthy providers shall be a major priority. Principles of managed care and capitation shall be followed so that no child is without a minimum level of services.

10. **We recommend** that rigorous program performance monitoring and evaluation be a mandatory component of all purchases of services and all programs funded. Additionally, a single state agency shall be required to compile an annual report of spending for children which identifies the sources and uses of funds and reports the effectiveness of that spending.

11. **We recommend** that a coherent state planning and funding mechanism for children's services be developed. That mechanism must, at minimum, include a state level Office of Children's Justice Services responsible for maintaining the state Children's Justice Plan, state level policy, service standards, licensing, contracting standards and procedures, federal funds coordination, funds distribution, and program evaluation and research. At the intermediate level of counties or multiple counties, there shall be regional children's service contracting entities governed by local boards and responsible for regional fund distribution, policy, contracting for services, regional plans, and local agency coordination. The lowest level of this structure should be the Neighborhood/School Resource Center with its multiple service delivery function.

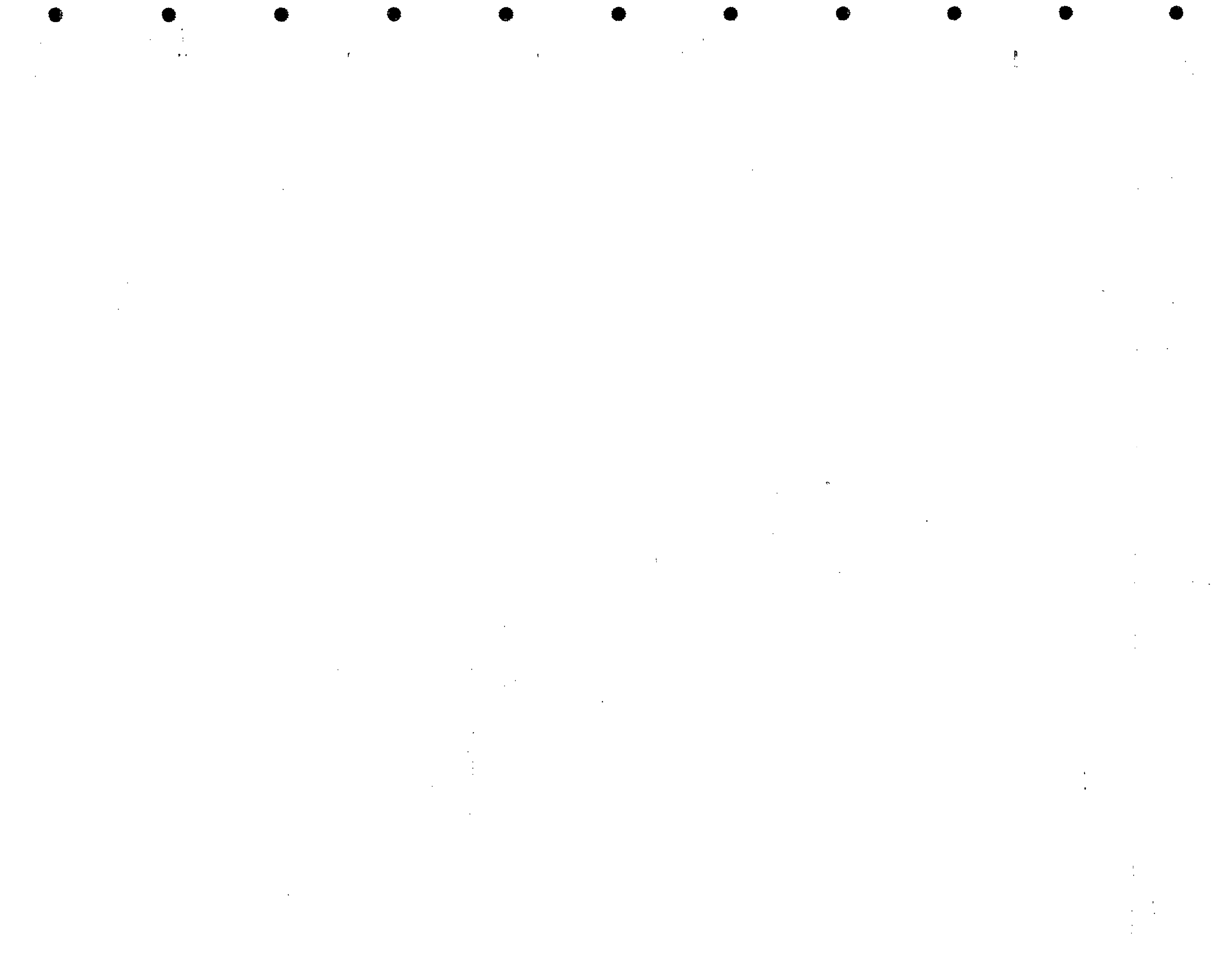
12. **We recommend** regional contracting entities have special district taxing powers so that localities, at their option, could provide additional funding for services for children. Such local efforts should be rewarded through a formula which provides state matching funds.

13. **We recommend** that all funds for youth corrections, Department of Youth Treatment and Rehabilitation (except secure care), and treatment funds including those for probation be consolidated for administration by an appropriate Executive agency. That agency should allow maximum use of professionals to deal with delinquent and at-risk children outside the traditional criminal justice system.

14. **We recommend** that a statewide information service be implemented to provide local grant writers with timely information regarding government and private funding opportunities. It should be an easily accessible computer based system that allows its users to both provide and receive information.

15. **We recommend** that the State require juvenile service providers to form managed care organizations to provide a continuum of care for delinquent children and those children at risk of becoming delinquent. These organizations shall then compete for statewide or regional contracts with special incentives available for providers who operate in under-served areas.

16. **We recommend** development of a statewide service tracking system for individual children and families which provides necessary information for sound decisions regarding individual treatment and fiscal responsibility. Each child shall have a specific service "cap" developed based on their individual need and risk assessment. When that "cap" is exceeded a review should be conducted and a determination made of whether the particular child could benefit from remaining in the juvenile system.



Recommendations from Parents of Murdered Children National Conference: Victims of Juvenile Offenders — Issues and Recommendations, Concord, CA, August 7, 1993

1. Victims of juvenile offenders find it nearly impossible to get case status information. This "veil of secrecy" needs to be lifted for crime victims so they can participate in the hearings, receive notification of plea bargains, probation or parole consideration, program assignments, and parole/probation special conditions.

2. The release of juveniles on "own recognizance" is appalling for violent offenses; there should be the same protections and restrictions as exist for adult offenders.

3. In general there is an over protection of offender rights for juveniles and the system including the courts concern about protecting the juveniles at the expense of the victim.

4. There should be determinate sentencing for juveniles to mirror the adult sentencing structure for violent crimes; there should be truth in sentencing for all crimes but particularly for juveniles since there is such wide disparity in sanctions and questionable objectivity on the part of the court.

5. Victims of adult offenders have more rights than the victims of juvenile offenders. State Constitutions and statutes need to be revised to add the word juvenile to all victim rights.

6. Assaults on staff working with juveniles are not taken seriously, thereby demeaning the work of the staff and not holding the juvenile accountable.

7. The age of remand should be lowered for violent offenses.

8. The victim/survivor notification system needs to be studied for model statutes and procedures and to document the lack of consistency from state to state.

9. There is pre-trial leniency for juveniles.

10. Parole Boards are not held liable for their decisions.

11. The entire juvenile justice system is in need of revamp based on the violence by juveniles in today's world and the need to assist the victims of their crimes, including removing the top age restrictions which limit the juvenile court jurisdiction to age 18, 21, 23, or 25 based on the state laws, (specific to homicide cases)

12. Witness protections do not exist or are less available for the victims and witnesses of juvenile offenses.

13. More resources are needed for prevention and intervention strategies.

14. There should be jury trials for juveniles to control the secrecy and subjectivity of the court personnel.

15. Victims of juveniles are not routinely or consistently notified of actual charges, court proceedings, or final dispositions.

16. Research is needed on the rights of victims of juveniles including release of information, allocution (impact statements), and restitution.

17. Restitution is seldom ordered because it is assumed that the juvenile has no financial resources.

18. The media should not be prohibited from identifying juveniles in homicides,

19. Felons, including juveniles who have committed felonies, should not be allowed to own or possess guns.

20. Research is needed on "what works" with juveniles to better control recidivism.

21. The "Impact of Crime on Victims" efforts pioneered by California need to be expanded and supported to offer victims the opportunity to speak with offenders about the long term impact of the crime.

22. Systems dealing with juvenile offenders need to develop informational materials about their system and provide that information to the victims and their survivors.

23. Court hearings for homicide cases should be open to the victims and their survivors.
24. There should be some attempt to standardize how juveniles are handled nationwide.
25. Juvenile justice and correctional personnel need training on victim awareness.
26. Victim/Witness and other victim service providers need training on the juvenile justice system and each victim assistance organization should have at least on specialist on juvenile matters on their staff.
27. Training courses are needed for crime victim advocates, including "self-help" groups on the unique impact juvenile crime has on a victim. (This refers to the deeply emotional issue of being hurt by "a kid," someone an adult should be able to handle.)
28. All national and statewide organizations, associations, and networks serving crime victims should have a juvenile offender emphasis to keep the issues clear and to not "lose" the victim in the larger adult system.
29. The POMC should join with the American Correctional Association (ACA) in their "Victims of Juvenile Offenders" project.
30. POMC members should testify to the ACA Crime Victims Committee at their public hearings in Orlando and St. Louis during 1994.
31. The Department of Justice, specifically OVC and OJJDP, should be approached for fiscal and personnel resources to assist with this project.
32. Each annual POMC training conference should have a workshop on victims of juvenile offenders.

Draft of American Corrections Association Victims Committee Recommendations on Victims of Juvenile Offenders (Revised January 16, 1994)

1. The rights of victims of juvenile offenders should mirror the rights of victims of adult offenders, and crime victims should not be discriminated against based upon the age of their offenders.
   a. Notification.
   b. Restitution.
   c. Return of property.
   d. Victim impact statements and allocution.
   e. Protection from intimidation, harassment and harm.
   f. Information and referral services.
   g. Professional education.

(NOTE: The Committee will also examine cases with multiple offenders that include juvenile and adult offenders.)

2. Crime data and statistics must be better categorized and analyzed according to the age of the offender, the classification of crime, and the type of victims.

3. Victims must have access to information about their offenders' status. Therefore, restrictions on confidential information relevant to the victim must be removed from juvenile offenders and the agencies that serve them.

4. Any treatment and/or education programs for juvenile programs must include a victim awareness component.

(NOTE: The Committee will address community and institutional corrections, i.e. intermediate sanctions, mediation, diversion and detention.)

5. Mutual education programs must be developed and implemented that increase victims' and victim service providers' understanding of and input into intermediate sanctions for juvenile offenders.

6. Victim/witness programs and victim assistance programs must be expanded to serve victims of juvenile offenders, and be housed in juvenile courts, probation and corrections for easy access by victims and witnesses.

7. Officials in the juvenile justice system need victim sensitivity and victim awareness training included as part of their basic and continuing education.

8. Juvenile corrections agencies must adopt protocol, programs, policies and training for field and custody staff on how to respond to staff victimization and critical incidents.

9. There must be a comprehensive literature review and research into existing statutory and constitutional protections affecting victims of juvenile crime, along with existing programs and policies that pertain to victims of juvenile crime.

10. Existing victim service and victim awareness programs within the juvenile justice and juvenile corrections systems must be evaluated, with the data utilized to enhance, expand and replicate effective programs nationwide.

11. There must be improved efforts to network and provide comprehensive cross-training among local, state and national juvenile justice officials, juvenile corrections professionals and professional associations, and local, state and national victim service professionals and organizations.

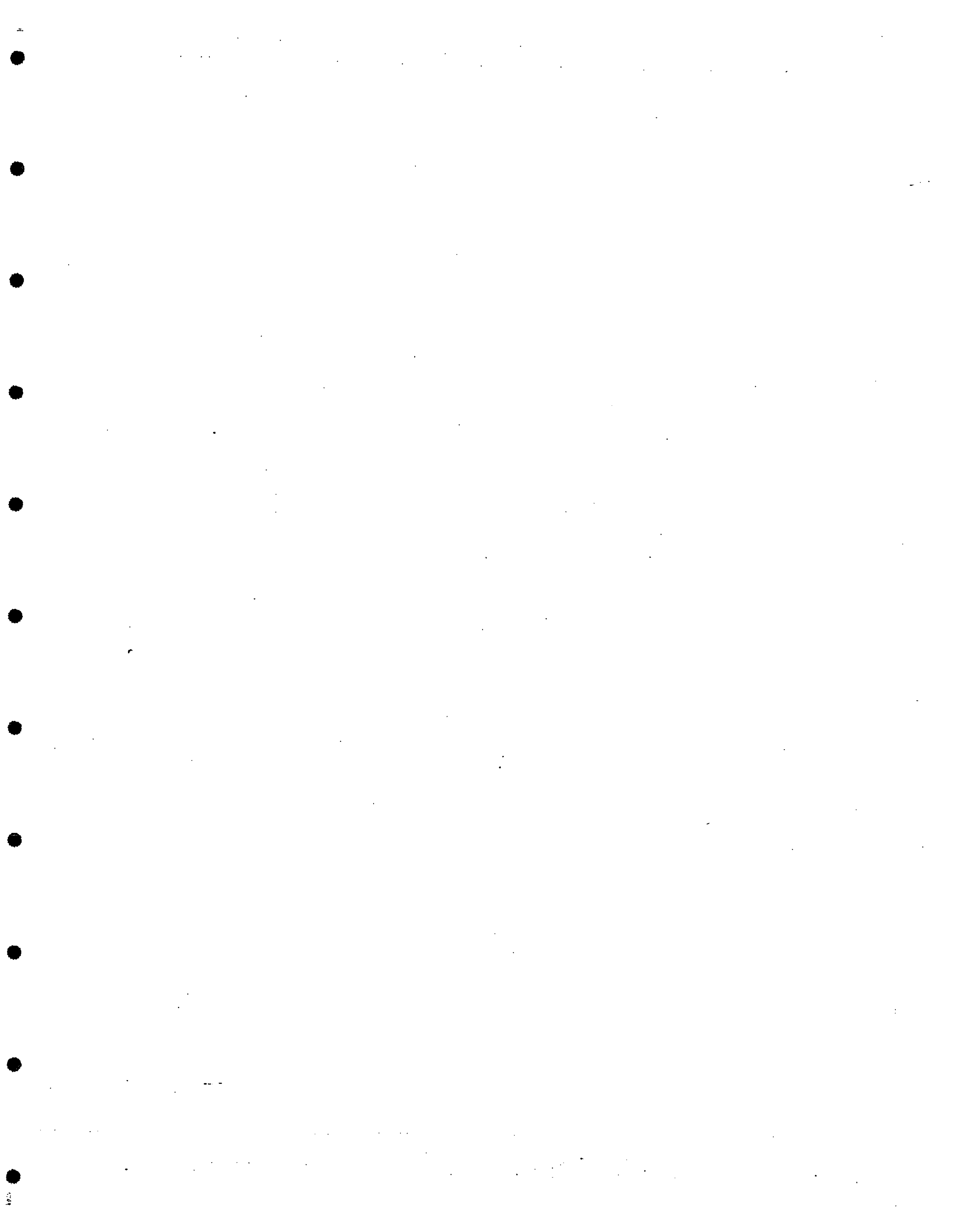
12. All professional organizations and associations dedicated to juvenile justice and improving services to juvenile offenders should establish victim advisory committees similar to the American Correctional Association Victims Committee.

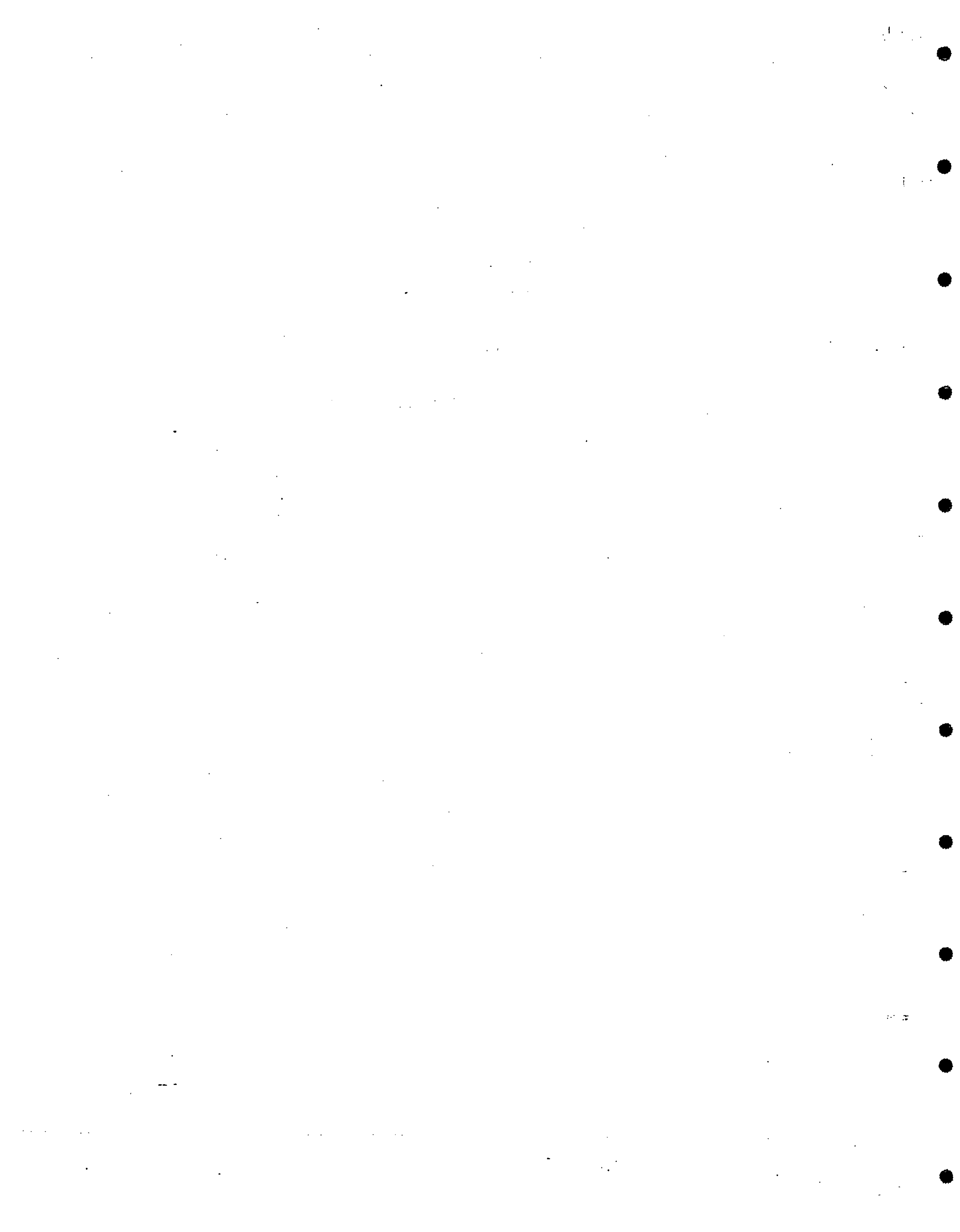
13. All U.S. Department of Justice agencies that serve either juvenile offenders or crime victims (including OJJDP, OVC, NIC, and NIJ) should designate a staff position specific to victims of juve-

nile offenders.

14. The ACA Victims Committee should conduct public hearings to receive testimony from juvenile corrections professionals, juvenile justice officials, victim service providers and crime victims about all topics relevant to victims and victim services within the juvenile justice system.

15. The American Correctional Association should adopt these recommendations as a foundation for an Association policy on victims of juvenile offenders.





Chapter Four: Victim Services in the Juvenile Justice System

A. Victim services in the juvenile justice today

- Orientation to the juvenile court and to the rights of victims
- Assistance to victims who must testify
- Crisis intervention and referral
- Information about case status and outcome
- Assistance with compensation and restitution
- Facilitating participation in the juvenile justice process
- Facilitating the return of property
- Information and referral
- Witness coordination and support
- Post-disposition services

B. Proposed Program Model for Juvenile Justice Victim Services

1. Crisis intervention

- Emergency aid and practical assistance
- Defusing
- Information and referral for social and community services
- Information on victim compensation
- Information on victim rights
- Information on legal options: civil legal remedies; dispute resolution services; criminal justice remedies

2. Counseling and advocacy

- Supportive counseling
- Assistance with compensation applications
- Assistance with insurance applications
- Advocacy for victim rights
- Information and referrals on justice and social service options

3. Support during investigation

- Information on victim rights

- Support and accompaniment to critical events in the criminal justice system such as photo or line-up identifications and interviews

- Counseling and advocacy

- Support during diversion or restorative justice processes

4. Support during prosecution

- Information on victim rights
- Support and accompaniment to critical events in the criminal justice system
- Counseling and advocacy
- Assistance and advocacy for restitution
- Assistance and advocacy for victim participation in critical events in the criminal justice system
- Information and referrals to allied agencies

5. Support after case disposition

- Information on victim rights
- Counseling and advocacy
- Assistance and support with victim-offender dialogue sessions, victim impact panels, or victim education classes
- Assistance with enforcement of restitution claims
- Involvement in community monitoring or corrections panels

Chapter 2: Key Decisions in Designing Victim Witness Assistance Programs for the Juvenile System

Answers to the following set of interrelated questions drive the design of victim assistance programs:

1. What organization will sponsor the program?
2. What are the program goals?
3. What is the target population?
4. How and when will the program identify the target population?
5. What services will the program offer?
6. Where will the program's offices be located?
7. What resources -- money, staff, arrangements with other agencies -- will be needed to support the program?
8. Who will provide the resources?

The descriptions on the following pages show how eight pioneer programs addressed these questions. These particular examples reflect some of the diversity in organizational arrangements, geographical location, size of jurisdiction, and statutory environments found among juvenile victim assistance programs. We intentionally describe a range of programs -- from modest programs that offer a limited array of services to more comprehensive and expensive programs.

Case Study 1:

The Boulder County (CO) District Attorney's Victim/Witness Assistance Unit provides services to victims and witnesses in cases that are referred to the prosecutor in Boulder County, a suburban jurisdiction of about 217,900 people. Services provided to victims juveniles do not differ much from those provided to victims of adults because court procedures in the two systems are quite similar and the juvenile code recognizes a num of victim rights -- disclosure of the juvenile's name, attendance at disposition and resti hearings, and presentation of an oral or written impact statement.

Since its inception in 1976, the program has grown to seven full-time and one part-tim staff. Since 1986, one full-time staff member has been assigned to work primarily wit victims and witnesses in juvenile cases. The cost of the juvenile component is approximately $30,000, supported about equally by the district attorney and federal Jus Assistance Act funds (through a state block grant).

The juvenile specialist identifies clients primarily by screening police referrals to the prosecutor. She sends every victim a letter that describes the charges that were filed, delineates basic victim rights, and directs the victim to the program for more informati She also sends a victim impact form to victims of property crimes involving losses ov $50. The specialist calls all victims of violent or exceptional crimes within 24 hours c referral. She also telephones all witnesses who are scheduled to appear in court and a victims who have not returned their restitution or impact forms within 10 days.

In the course of these mail and telephone contacts, the specialist provides most of the program services: crisis counseling and referral, orientation to the court process, resol of appearance problems, placement of witnesses on call, and assistance in documentin victim impact and restitution and compensation claims. When victims must appear in the specialist arranges courtroom tours and accompanies them to court, especially for children or particularly apprehensive individuals. She greets each victim and witness comes to court in the unit's waiting area. At the close of the case, she notifies all vic and significant witnesses of the outcome by mail or telephone.

One staff person, with clerical assistance from the D.A.'s staff, is able to handle all th filing letters and witness notifications, averaging about 40 each a month. In addition, contacts about 80 victims a month by telephone and 20 a month in person at court.

2. Key Decisio

Case Study 2:

The Columbia (SC) Department of Youth Services Victim Assistance Program for victims of juvenile crime is operated by the Richland County Office of South Carolina's Department of Youth Services (DYS) and serves the six-county area that composes DYS Region IV. Over half of the area's population of 513,400 resides in Richland County, where the program is based.

The program began in January 1987 with support from the Victims of Crime Act (VOCA) and made the transition to local support in October, 1989. Its full-time staff member is now funded entirely from the DYS budget. An additional part-time position was terminated when the VOCA grant expired. Currently the cost of the program is approximately $26,000 annually, excluding office space.

The program identifies clients by screening all juvenile cases referred to DYS intake in Richland County. Additional clients, especially from the outlying areas, are referred by DYS satellite offices, solicitors, and law enforcement agencies. The program primarily targets victims of 10 violent or serious felonies, but to the extent that resources permit, it also handles lesser offenses that involve physical injury or potential psychological trauma. In addition, it handles all referrals from victims or solicitors.

If a juvenile has been detained, the coordinator contacts the victim by telephone within 24 hours. In other cases, she notifies the victim by mail that the case is under review by the solicitor's office and encloses the program's brochure. She follows up by telephone within about a week. Thereafter, the program notifies victims about each stage in the proceedings -- from the decision to file charges to the final disposition. In very serious cases, the program also notifies victims of parole hearings.

Routine services include crisis counseling, assistance with compensation, and orientation to the juvenile justice process. In cases of serious physical injury, the coordinator provides in-depth crisis intervention, assessment, and referral services as needed. The coordinator accompanies all victims to court in Richland County and victims in the outlying counties as time permits. She actively solicits written impact statements and informs victims that they may appear at court hearings and make a statement at disposition.

The juvenile coordinator works closely with a DYS arbitration program aimed at diverting cases from the juvenile justice system. The coordinator's role is to alert a victim that the solicitor has referred the case for arbitration, which will go forward if both the victim and the offender agree to participate. She also ensures that the arbitrator has restitution documents and other information pertinent to the case.

Case Study 3:

The Delaware County (PA) Juvenile Court Victim Services Unit exclusively serves victi of juvenile crime. Located in a suburban Philadelphia county of 556,900 residents, the is operated by Juvenile Court Services, the agency responsible for administering the juv court, juvenile probation, and the youth detention center.
Pennsylvania statutes afford victims of juvenile crime the same rights as victims of adul crime, including the right to present impact information, to be awarded restitution, and t informed of the release of the offender from a correctional facility. Standards develope the Pennsylvania Juvenile Court Judges Commission extend these rights and place responsibility for implementing them in the juvenile system with the juvenile court.

The program began in 1981, staffed by a part-time graduate student intern, who soon w hired to do the job full-time. Since then, the unit has added a part-time victim services The agency's supervisor of community relations and other probation staff provide additi assistance, equivalent to another half-time employee. The total annual cost of the progr excluding office space, is about $38,000. Except for a $4,000 grant from state block gr funds, the unit's funding comes from the county Juvenile Court Services budget.

The program serves victims in filed cases. It employs two methods to locate target clie Victims refer themselves in response to information about the victim assistance unit ser when they are notified that a petition has been filed, and the court receptionist steers al victims who appear to testify to the program's waiting area where they are greeted by a victim assistant.

The program's primary services are appearance support and orientation for victims who subpoenaed to testify. The program provides a private waiting area for victims, counse them individually about what to expect in the courtroom, accompanies them to court, a provides supportive services, such as child care, when required. A more general orient to the juvenile justice system and the court process is provided to all victims in filed c through a program brochure that is sent along with the official notification that a petiti has been filed. For victims who request additional assistance -- crisis counseling, information on case status and outcomes, help with compensation or restitution -- the program tries to provide whatever the victim needs, either directly or by referral. In addition, in selected cases the unit arranges a face-to-face meeting between victim and offender after adjudication.

On the average, the program accompanies 46 victims a month to court, sends 100 orientation brochures, and telephones 135 victims.

2. Key Decision

Case Study 4:

The Lutheran Social Services Victim Witness Services in Milwaukee County, Wisconsin serves an urban jurisdiction of 930,100 residents, which contains one of the nation's 20 largest cities. In 1975, the county's district attorney was one of the first in the nation to implement a major program to assist victims and witnesses of adult crime, and in 1980, Wisconsin became the first state to pass a victim bill of rights. The state's juvenile code explicitly extends the bill's provisions to the juvenile system.

The victim witness program for the juvenile system was established by the not-for-profit Lutheran Social Services (LSS) in 1980, with support from the local United Way and full encouragement from the district attorney's office, which provides space and equipment at the juvenile court complex. The original staff of one has grown to five. They work exclusively with victims and witnesses in delinquency cases (about 5,000 filings in 1987), but do not handle victims age 60 and older because the district attorney's office directly supports another victim assistant for this special population. The annual budget for the LSS program is about $157,000, exclusive of in-kind support.

Ordinarily, clients are identified from the district attorney's records, once charges have been filed. The staff contact most clients by phone – within 24 hours of charging in serious cases, and within 10 to 14 days in the remainder. The exceptions are sexual assault cases, in which the sexual assault counselor usually meets with the victim before charging and participates in the charging conference.

The staff provide a range of services to victims, including crisis counseling and referral, orientation to the court process, and information about the status and outcome of cases. The program routinely obtains information about victim impact and forwards it to the probation department for use in the pre-sentence report and also informs victims of their right to make an oral or written statement at the time of disposition. In addition, the program subpoenas witnesses, orients them to the court process, and provides other assistance necessary to promote witness appearance. Sexual assault cases and those involving young or apprehensive victims tend to involve the most face-to-face contact, with most other services delivered by telephone.

The bulk of the program's services are delivered by telephone, with a monthly average of 360 contacts. The program contacts an average of 24 victims a month in person, and an average of 86 a month by mail.

2. Key Decisions/ page 9

Case Study 5:

The Community Service Programs, Inc. (CSP) Victim/Witness Assistance Program in Orange County, California, serves a jurisdiction of 2.3 million people in one of the faste growing counties in the United States. CSP, an independent not-for-profit organization, been designated by the county as the provider of victim services to the community. Bec of its independent status, CSP initially had to obtain court approval for access to juvenil court proceedings and files.

The program began in 1978 with federal support and was continued by the county when federal funds dried up. The county support comes entirely from a Penalty Assessment F composed of fees paid by convicted offenders. The program expanded services into juv court in 1981 with two full-time staff and has grown to four full-time staff and as many six volunteers. The juvenile court component operates on a $96,360 annual budget, whic about 11 percent of the total program budget. In addition to the county grant, the progr is under contract to Orange County to provide witness coordination at the juvenile court

In 1982 California passed a victim bill of rights that provides for mandatory restitution, notification and participation in sentencing, and notification of parole hearings, and spell out the services to be provided by victim assistance programs. Although the bill makes explicit mention of victims of juveniles, local officials read it to apply to them.

Probation intake and the district attorney's office provide most of the referrals. Intake s the program all sexual assaults and other violent crimes that warrant immediate attentior before they are sent to the prosecutor. In addition, intake refers all cases that have been diverted. Once a case is filed, the district attorney sends the program a copy of the subpoena. A victim specialist calls the victim to discuss and evaluate needs within two or one day for violent crimes.

The staff provide a comprehensive range of services for victims including: crisis intervention and follow-up counseling; emergency assistance; help with restitution and compensation claims and impact statements; information on case status and outcome; an court reception and accompaniment. Other services, such as on-the-scene crisis intervei and crime prevention instruction, are provided by the adult component of CSP. In addit the program coordinates all witnesses in juvenile court for the district attorney. This involves reminder phone calls the day before an appearance is required as well as opera an on-call system and resolving any logistical problems.

Staff make 1,500 victim and witness contacts a month, mostly by telephone. Staff mak personal contact with all victims who appear to testify -- about 160 a month -- and with witnesses who use the program's waiting area.

2. Key Decisions/ p

Case Study 6:

The Philadelphia (PA) District Attorney's Victim Witness Unit serves victims and witnesses of juvenile crime in Philadelphia, the nation's fourth largest city with a population of 1,647,000. As is the case for the Delaware County (PA) program, the victim bill of rights affords victims of juvenile crime the same rights as victims of adults, and court standards designate the juvenile court as the agency responsible for assuring that these rights are honored.

The Family Court Victim Witness Unit began in 1980 when the district attorney's juvenile division received a federal grant for witness coordination and support. The unit consists of a coordinator, a part-time driver and a part-time secretary/receptionist. Since 1983, the district attorney has funded the unit directly at an annual cost of about $55,000. The juvenile unit is loosely affiliated with the district attorney's adult Victim Witness Services Program that was begun in 1985 and is located several blocks away.

Clients are identified from petitions sent by court intake to the district attorney. A computer generates subpoenas for all victims and civilian witnesses; the program adds an insert explaining the juvenile justice process. Elderly victims, victims and witnesses in cases scheduled for detention hearings, and victims with injuries or financial losses are singled out for special attention.

The unit primarily serves as an information and referral resource for victims and witnesses. The unit is responsible for notifying witnesses of hearing dates, usually through mail subpoenas, but in cases scheduled for detention hearings or involving a change of the hearing date, through telephone calls. The unit notifies victims of the disposition in cases resolved before trial; the district attorneys are responsible for notifying victims in other cases. The unit also mails victim impact forms and information about restitution and compensation to victims with injuries or property losses.

Victims who must testify are offered transportation to court in a van owned by the district attorney. There are specific procedures to protect witnesses from intimidation and harassment, and a separate waiting area is available at court for fearful witnesses, child victims, and victims of sex offenses.

The coordinator refers victims who express a need for additional help to a network of six community-based victim assistance organizations. These agencies are funded partially by the district attorney's office to provide information, support, and court accompaniment.

Because of high caseloads in Philadelphia, the unit relies heavily on mail contacts with victims, averaging 400 a month. In addition, the program talks with about 60 victims a month by telephone, allows an average of 150 to use the waiting area, and arranges transportation for an average of 10.

2. Key Decisions/ page 11

Case Study 7:

The Washington County (MD) Department of Juvenile Services Victim Services Unit is : small-scale program, serving victims of juvenile crime only. Located in a predominantly rural county of 117,800 residents in western Maryland, it is one of very few juvenile vict assistance programs operating in small jurisdictions.

The program began in 1981 when the Department of Juvenile Services, the state agency responsible for providing and coordinating court services, began victim assistance and restitution programs in each of its ten regions. Many of the rights afforded victims of juveniles by these programs were later incorporated in the state's 1989 victim bill of righ This legislation guarantees victims the right to know the identity of the accused, to be notified of and attend all hearings, and to provide an oral or written statement of the imp of the crime.

One part-time victim coordinator handles the annual caseload of about 400 victims of juveniles referred for felony offenses. The coordinator shares office space and supervisio and materials with other Juvenile Services staff, in offices located several blocks from th court. The annual budget for the unit is $8,500.

The program identifies victims by checking the docket to find cases scheduled for trial a reviewing court intake's list of cases handled informally (misdemeanors only) to find the involving financial losses. For these target cases, the coordinator calls victims a few we before a scheduled hearing to explain the system, encourage their attendance, and provid assistance preparing information for restitution decisions.

Assistance preparing victim impact statements for the court is the primary service. The coordinator telephones victims to alert them to approaching hearings, to explain how to document losses, and to encourage victims to write an impact statement. On the basis o information provided by the victim, the coordinator prepares an impact report for the co file and is available at all juvenile hearings (held once a week) to clarify the information When victims request it, the coordinator notifies them of case progress and accompanies them to court. When offenders come before the court for release from probation or aftercare, the coordinator checks the status of their restitution payments and relays that information to the court.

In contrast to many other programs operating in the juvenile system, the program does n use mailings or other written materials to reach and orient target victims. It reaches vict almost entirely through telephone contacts (about 70 a month) and personal contact whe victim arrives to testify (about 40 a month).

2. Key Decisions/ p

Case Study 8:

The Yakima County (WA) Prosecuting Attorney's Victim Witness Assistance Unit serves a countywide jurisdiction of 185,500 persons in south central Washington. The program began in 1978 with federal funds and has been funded by the county through the prosecutor's office since 1981. The program began by providing notification services, court orientation, and administration of restitution.

In 1986, the program added a staff member to administer restitution in the juvenile court. Gradually, she started to emphasize more direct services to victims and witnesses. Since then, programs in both the adult and juvenile systems have turned the responsibility for administering restitution back to the court.

The juvenile victim witness unit continues to operate with one staff member. The annual budget is $18,000, funded entirely by the prosecutor's office. Office space, supplies, and some clerical support are contributed by the court.

Services provided in the juvenile court are modeled after the services provided in the adult system. Juvenile court proceedings are open to the public and offenders' names are a matter of public record. The primary services are providing information about the court process and case outcome, crisis intervention, and advocacy.

About 520 clients per year are served. They are identified from cases referred for filing to the deputy prosecutor in juvenile court. All victims identified through the referrals are notified through the mail of the filing decision. If the case is filed, victims also receive a request to complete restitution information and a victim impact statement. Staff also screen impact statements and police reports to identify victims who may need crisis intervention or other specialized services. The juvenile court specialist calls these victims and provides information and support.

The juvenile court specialist also provides assistance with restitution, orientation to the courtroom, preparation for testimony, notification of court dates, witness coordination, and accompaniment to court. She delivers most services by mail, making about 100 to 250 contacts per month. Telephone contacts require about 4 to 6 hours per week, and face-to-face contacts, involving victims and witnesses who appear in court, average 40 to 50 per month.

We summarize the characteristics of the eight programs in Table 1. Consult the table to identify those programs that most closely match your circumstances and therefore merit particular attention.

Table 1. Key Features of Eight Juvenile Programs

Program Location	Provider	Size of Jurisdiction, 1988	Number of Delinquency Petitions per Year	Provider Serves Juvenile System Only?	Services in Same Location as Services for Adult System?	Primary Target Group	Point of Intervention
Boulder County, Colorado	Boulder County District Attorney's Office	217,900	530	No	Yes	Victims & witnesses	After petition is filed
Columbia, South Carolina (6 counties)	South Carolina Dept. of Youth Services, Region IV	513,400	2,800	Yes	NA	Victims of serious offenses	After referral to youth services intake
Delaware County, Pennsylvania	Delaware County Juvenile Court Services	556,900	1,200	Yes	NA	Victims	After petition is filed
Milwaukee County, Wisconsin	Lutheran Social Services	930,100	5,000	Yes	NA	Sexual assault victims Other victims & witnesses	After referral to prosecutor for sexual assault victims After petition is filed for others
Orange County, California	Community Services Program, Inc.	2,257,000	8,000	No	No	Victims & witnesses	After referral to intake
Philadelphia Pennsylvania	Philadelphia District Attorney's Office	1,647,000	8,700	No	No	Victims & witnesses	After referral to prosecutor
Washington County, Maryland	Juvenile Services Agency	117,800	400	Yes	NA	Victims	After referral to prosecutor
Yakima County, Washington	Yakima County Prosecuting Attorney's Office	185,500	520	No	No	Victims & witnesses	After referral to prosecutor

Core Service Component 1:

Orientation to the Juvenile Court and to the Rights of Victims

The Purpose of the Service:

- let victims and witnesses know what to expect
- encourage them to participate in the juvenile justice process
- explain their rights

A Description of the Service:

Orientation is an integral part of a program's initial contact with a victim or witness. An effective orientation should:

- **Thank the victim for reporting the case.** If victims are to believe that theirs is an important role in the juvenile justice system, they need some feedback from the system that they did the right thing in reporting the crime and that the system cannot work without their participation. In Delaware County a brochure for victims of juveniles opens with the statement that "cooperation is commendable, and reporting a crime demonstrates community responsibility vital to the operation of our system."
- **Explain how juvenile court is different.** You should alert victims and witnesses to the distinctive role and function of the juvenile court and to the fact that these differences are incorporated in state law. In Milwaukee, language from the Children's Code is used to explain that the juvenile court emphasizes the "best interests of the child" and rehabilitation of juvenile offenders. Information on confidentiality restrictions and the jurisdiction of the juvenile court can be part of this description.
- **Explain what will happen.** Victims and witnesses will need to know some of the proceedings and terminology of the juvenile process, even though you may reserve some explanations for later in the case. To provide effective orientation, the program staff should be prepared to:

- Offer simple definitions of all juvenile court terminology, such as delinquen adjudicatory hearing, detention hearing, and disposition.

- Describe the process for each eventuality; for instance, when a petition is fil the case is diverted, or the defendant enters a plea. (A flow chart depicting these events and outcomes can be a useful tool.)

- Outline the possible dispositions; for example, consent decrees, probation, restitution, residential placements.

- **Explain the victim's rights in the process.** You should tell victims of the rig that the state law provides. For example, in Washington State, victims have the right to give an impact statement; in California, victims have the right to a restitution order when feasible and the right to be informed of the offender's rel from a residential placement; in Pennsylvania, victims have the right to compensation for injuries suffered from the crime.

- **Tell people how to get more information.** However complete the initial orientation, victims or witnesses may have additional questions. Make sure that program's telephone number is displayed prominently. In addition, list other sources of information in the community that may be helpful.

Options for Providing Service:

Programs typically rely on written materials, telephone calls, or both to orient clie to the juvenile justice process and their roles and rights in it. In-person contacts are rar used to provide the initial orientation for victims or witnesses, but can provide an opportunity to expand on earlier information.

Written communication, including letters and brochures, may be less effective tha personal contacts, particularly with people who have limited literacy. Once you develop these original materials, however, they provide a relatively low-cost way to reach large numbers of people. Telephone contacts, while more time-consuming overall, allow staff reach some victims faster and to tailor the orientation content to the needs and knowled level of the particular victim or witness.

Many programs provide personal orientation to high-priority victims and rely on written materials to reach the vast majority of other victims.

- Following standards set by Pennsylvania's juvenile court judges, the court-base Delaware County program has developed a 5-page brochure for victims in the juvenile system. Staff mail the brochure with the letter stating that charges hav

3. Program Structure/ p

been filed and handle any calls that come in as a result. Waiting room staff repeat the orientation for victims who come to court.

- In Columbia, the program coordinator orients all victims in her caseload by telephone. She makes these calls within 24 hours for detention cases and within a week for other victims. In addition, the program sends victims an initial letter and a program brochure.

- Because of the large case volume in Philadelphia, the coordinator provides telephone orientation only to victims in detention cases. Staff send other victims and witnesses a one-page information sheet along with their subpoenas. The coordinator provides additional orientation to those who request it.

If your jurisdiction has large numbers of people who don't speak English, strongly consider developing written orientation materials for them. Programs like the one in Orange County also find that a multicultural and bilingual staff makes it easier to orient victims and meet their diverse needs. Diversification of staff may not be possible for a small program, but consider it for a longer term objective.

Tips for Developing Service:

Whether or not you develop a brochure or send an orientation letter, give staff a script or checklist of items to cover whenever they provide an oral orientation to the system.

In developing your materials, consult the state juvenile code, the rules governing juvenile procedure, and other state statutes that mention victims, such a comprehensive bill of rights for victims or state compensation laws. Juvenile court judges, prosecutors who handle juvenile cases, and probation staff are also excellent sources of information. Have these officials review any orientation materials you develop.

Once the materials are developed, all staff who participate in orienting victims should become thoroughly familiar with them. Make this part of your staff training program.

Core Service Component 3:

Crisis Intervention and Referral

The Purpose of the Service:

- assess the emotional state of the victim
- provide psychological first aid
- refer for longer term counseling, if needed

A Description of the Service:

Crisis intervention and victim assistance are frequently mentioned in tandem. In fact, much of crisis theory was built on the experience of victims of violent crime. Unlike many other victim witness assistance services, crisis intervention cannot be delivered by mail. It requires telephone or face-to-face contact.

Programs define crisis intervention differently. Some programs consider crisis intervention to be offering a sympathetic ear to victims on the telephone and attempting to allay their fears about participating in the criminal justice process. Other programs, particularly those that target victims of violent crime, try to assist victims in moving through several identified stages of crisis during the course of short-term counseling. At a minimum, a crisis intervention component in the juvenile justice system should:

- Train staff in crisis counseling and listening skills. There are generally accepted guidelines for interviewing a person who may be in crisis. All staff who have regular contact with victims should be familiar with these guidelines so that they avoid exacerbating the problem with well-meaning, but potentially harmful statements (for example, "You were so lucky that you weren't killed." or "At least you didn't have a lot of money in your purse."). Victims need to know that victim advocates are sorry that the crime happened, that they will recover from it in time, and that it was not their fault.

- Identify victims who may need more intensive counseling. While many victims cope reasonably well with the trauma of victimization, some do not. The victim assistance program should flag those victims who need more help than the program

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can give and make appropriate referrals. Some programs use checklists to help make this determination.

- Establish a referral mechanism. There are three steps involved: identifying the community resources for referral, developing relationships with the community providers to accept referrals, and regularly following up on referrals. (See Core Service Component 8 for more about information and referral.)

Options for Providing Service:

Most programs integrate crisis intervention into their routine contacts with victims. Upon the first personal contact and in each subsequent contact, victim assistance staff provide a friendly ear, assist in solving the immediate problems that preoccupy victims, and assess whether further counseling intervention may be warranted. Referrals to counseling may be made at any point in the process.

Recognizing that some victims may be at particular risk of traumatic reactions (victims of sexual assault, children, or elderly people, for example), programs often classify them as high-priority clients, so that the initial contact occurs relatively early in the juvenile justice process and crisis intervention can start promptly.

Most crisis intervention occurs by telephone, since this is the most common form of personal contact with victims. Face-to-face contacts usually occur when victims are called to testify or meet with prosecutors or investigators. Most programs have made home visits in exceptional cases.

Programs in the juvenile justice system rarely provide crisis intervention at the crime scene. (In some cases, law enforcement agencies or other community agencies provide on-scene intervention to victims of serious crime, regardless of whether perpetrators are juveniles or adults. This is true in Boulder and in Orange County, for example. In fact, in Orange County, the same agency provides both juvenile victim witness assistance and on-scene intervention, but the programs are separate.)

Typically programs do not provide continuing counseling because they do not have the staff resources and training to do so. In addition, most communities have suitable counseling resources for victims elsewhere. In practice, programs make occasional exceptions -- for victims who resist referral to longer term counseling or who have established a special rapport with a staff member over the course of their court involvement.

The Orange County program is an exception in that it systematically follows up with clients to see how they are doing and provides short-term counseling, if needed. Staff routinely call victims within one to seven days after the initial contact with the program and at least monthly thereafter if victims appear to need support.

The Orange County program gives to staff and volunteers 30 hours of training in crisis intervention techniques. Staff may also take an intensive training course in sexual assault/rape crisis assistance offered by the parent agency. Most other programs rely primarily on training offered by national victim organizations or statewide networks, or they hire staff who already have the requisite training.

Tips for Developing Service:

The type of crisis intervention service you provide has major repercussions for your staffing pattern, staff training, and costs. Unless your program is already providing continuing counseling or on-scene services, a more cost-effective approach is to train staff to assess needs and refer to agencies with the appropriate capabilities.

Examples that Follow:

Core Service Component 4:

Information About Case Status and Outcome

The Purpose of the Service:

- provide timely information to victims about the status of their cases
- provide timely notification of case outcomes
- comply with legislative or administrative mandates for notifying victims

A Description of the Service:

Victims are frequently frustrated by the juvenile justice system's failure to provide information about the status and outcome of their cases. As legislators in some states have recognized, victims who are uninformed receive the message that they are irrelevant to the process and that their participation is unnecessary.

At a minimum a program should notify all victims that a juvenile case has been filed and ask them to indicate whether they are interested in receiving further updates about case status and outcomes. For those victims who indicate further interest in the case, the program should ensure that they are informed of

- the date of the adjudicatory hearing and any changes in that date;
- the disposition or sentencing date;
- the outcome of the case, including any decision to drop the case, divert it, or transfer it to the adult criminal court; and
- the sentence, insofar as the court permits it to be divulged.

If resources permit or state legislation requires it, provide this same information to all victims, whether they have expressly requested it or not.

Program staff need not take direct responsibility for all these notifications if other agencies -- the court, the prosecutor's office, or the probation department -- are satisfactorily

handling them already. Concentrate on filling any gaps in the notification system, and coordinate with the agencies to ensure that victims know where to call with questions abo the notifications they receive.

Programs may notify victims of other events as well, including the decision to rejec case for prosecution or divert the offender, a detention or preliminary hearing date, a paro hearing date, the outcome of a detention decision, a plea bargain, and a parole decision.

Options for Providing Service:

The scope of your notification system will depend on the number of events already routinely covered by juvenile justice agencies, the extent to which information systems an notification procedures are computerized, and how aggressively you plan to elicit victim participation. (See Core Service Component #6 for more information on facilitating victi participation, pages 49-53.)

Most programs depend heavily on form letters to notify victims of upcoming events and final outcomes, supplementing mail contacts with telephone calls under some circumstances. But there are a wide range of approaches.

- An extensive notification system is the cornerstone of the Yakima program. By tapping into the prosecutor's computerized information system and using it to generate letters, the program notifies all victims of juvenile crime of filing decisions, case outcomes, and sentences, and dates for trials, restitution hearings, disposition, and appellate proceedings. In addition, the program calls all victims about pre-trial hearing dates, court continuances, and plea hearings. In non-property crimes, victims are notified of the defendant's detention status and plea negotiations as well.

- In Milwaukee, program staff call victims to explain that a juvenile has been char and to give the date of the next court event (usually a detention or initial hearing The victim is told to call the day after that hearing for an update and information about the next scheduled court event. The same procedure is followed for each succeeding event until the case is closed. Ordinarily, staff do not follow up with victims who don't call for updates, unless their appearance will be required in co

- The Philadelphia program notifies all witnesses of case filing and adjudicatory hearing dates by mail. Because cases in which defendants are detained move so quickly, the program also notifies those victims and witnesses by telephone. The program is responsible for sending disposition letters in cases that are resolved before trial; the district attorney sends disposition letters in cases that go to trial.

- The Columbia program uses form letters to notify the victim of: the referral of a

- the restitution policy of the jurisdiction or the office. (For instance, in Boulder, letters to victims state, "Our Juvenile Division [Office of the District Attorney] will request that the court order the juvenile to repay you for any compensable loss. . .");
- how to document losses;
- the deadline and its importance (If the restitution information is to be used for diversion or consent decree cases, the deadline will be quite short.); and
- whom to contact for assistance.

Information about compensation may be provided in a separate letter because fewer victims are eligible. You should:

- distribute a brochure or other information from the compensation program detailing eligibility criteria and application procedures. Relying on victims to pick up brochures when they appear at court is inadequate, since the vast majority of victims are not required to attend court.
- tell victims that compensation differs from restitution (and does not cover property loss), that it is operated through another office, and that you can help with the application or refer them to someone who can help.

You also should tell victims of other potential avenues to recoup losses in your jurisdiction, such as civil suits against offenders and their families.

Assist victims in documenting losses. If you help victims document their claims, develop a simple form for recording restitution losses. (Some programs integrate restitution information into their victim impact form. See Core Service Component 6, Facilitating Victim Participation.) If victims must complete the form themselves, provide clear instructions and explain what bills and receipts are required as documentation. (Compensation programs usually have their own standard forms and instructions.)

Remind victims of the deadlines for sending information. Some programs routinely send out reminders, others call victims a few days before the disposition hearing if the forms have not been received.

Because filing for compensation is complicated in many states, you must tailor your involvement to your particular local circumstances. Larger programs (or those attached to an adult victim witness program) may have a designated compensation expert who can help victims negotiate the process.

Respond to victim requests. Whatever the program's earlier involvement in restitution or compensation, staff are likely to receive questions when payments are delinquent or when other problems arise. Staff should check with the appropriate agencies about the status of the claims or payments, relay that information to victims, and where appropriate, bring instances of nonpayment of restitution to the attention of the prosecutor or the court. Alternatively, the program may refer victims directly to the appropriate official (e.g., the offender's probation officer), but encourage victims to call the program if the official's response is unsatisfactory or confusing.

<u>Options for Providing Service:</u>

Restitution. In deciding how to shape your restitution services, consider several questions: At what stage of the process will the information be used? Which agency will present the information to the court? How aggressively will the program elicit the information?

- In Milwaukee, the program obtains restitution information from victims by phone. This information and any later amendments are forwarded to the probation officer for use in preparing the pre-sentence report.

- In Boulder, the program sends victims a letter and a form to fill out. If the program does not receive the materials ten days before the expected disposition, staff contact victims by telephone.

- In Hagerstown, the program originally obtained restitution information by phone and relayed it to the prosecutor. Victims are now asked to provide information in writing, along with receipts. Staff use this documentation to prepare a written statement for the case file, which is reviewed by the judge before sentencing.

- In Delaware County, the program sends victims the restitution forms, but victims return the documentation to the probation department. The program provides other assistance only as the victims request it.

Compensation. After notifying victims that a compensation program exists, programs provide varying levels of assistance:

- The Orange County program assists victims in filling out the forms, acts as a liaison between the compensation board and the victims, and attends compensation hearings.

- In Philadelphia, the program refers victims to community-based victim assistance programs partially funded by the district attorney. These programs provide direct services such as assistance with compensation claims.

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petition to intake, the filing decision, the adjudicatory hearing date, the disposition hearing date, continuances, the case outcome and sentence, and the transfer of a case to adult court. The initial letter is almost always supplemented by a phone call; other notifications are done by phone at the coordinator's discretion. In selected cases, the program also notifies victims of detention and parole hearings.

- The Hagerstown program relies almost entirely on telephone communication with victims. Staff call victims to notify them that a summons is coming, to alert them to changes in the court schedule, and to explain the outcome of the case.

Tips for Developing Service:

You will need procedures to ensure that you have timely information from court or prosecution records for each event and outcome that is included in your notification system. In establishing the system, make sure you understand the ground rules for handling confidential juvenile information.

Check the juvenile code and victim rights legislation for any notifications that are mandated or encouraged. Also, consider whether you want to absorb notification responsibilities previously handled by others. Agencies may be quite happy to relieve themselves of any paperwork burden if their replacement is competent.

Clear and complete letters are essential for programs that rely on mail communication. Based on the experience of the programs we visited, we suggest that you:

- Develop English and Spanish versions of letters. In jurisdictions with large numbers of Spanish-speaking people, every letter should be in both languages, one on the front and one on the back. Take the same approach if you have any other significant linguistic minorities in your area.

- Keep the language as simple as possible and limit the amount of criminal justice jargon. When you must use jargon, explain it. For instance, when you notify victims that the offender has been placed on probation, you might explain that "This means that a probation officer is assigned to monitor the offender's behavior to ensure that he stays out of trouble."

- Always include a number to call for more information.

- When notifying victims of decisions, make it clear who made the decision, otherwise victims may assume that you made it.

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Core Service Component 5:

Assistance Obtaining Compensation and Restitution

The Purpose of the Service:

- let eligible victims know how to file compensation claims or document losses for restitution
- ameliorate the victim's financial losses
- hold juvenile offenders more accountable for their actions

A Description of the Service:

Compensation and restitution mechanisms vary from community to community and state to state. As a general rule, victim witness assistance programs in the juvenile justice system do not administer victim compensation or restitution payments, but they do inform victims that restitution and compensation are available, and assist them when problems arise with documentation or payment of claims. Many programs take the further step of assisting victims in applying for compensation or restitution.

Inform victims. The first time you have contact with a victim, you should tell him or her about restitution and compensation. Some programs screen cases and send information only to those victims who might fit local eligibility criteria. Keep in mind, however, that police reports and other records may not reflect the full extent of financial loss or injury that victims have suffered.

When you tell victims about restitution, tell them:

- what restitution is;
- what types of losses they can recover (i.e., property loss, medical expenses, counseling expenses, insurance deductibles, etc.);
- limits to restitution (dollar ceilings, the juvenile's ability to pay, etc.);

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- The Columbia program sends victims a letter and brochure describing compensation and refers victims directly to the compensation office for further information. Staff assist victims with the forms and documentation upon request and answer questions from the compensation office.

- Both the Boulder and Delaware County programs inform victims about compensation and refer them to a specialist in the district attorney's office.[1]

Tips for Developing Service:

Check the statutes that govern restitution and compensation in your jurisdiction. They may spell out some of the eligibility criteria and procedures. Also, consult with the agencies and personnel who currently administer these programs to clarify how the statutes are interpreted in practice and the local ground rules that apply.

Find out what victims can realistically expect from the current compensation and restitution systems. Victims are frequently disappointed with the handling of restitution and compensation, and this may be a source of broader dissatisfaction with the juvenile justice system. Try to determine how often restitution and compensation are awarded and what proportion of the losses are typically covered. How long does it take to obtain compensation and restitution? In the case of restitution, how often do youth default on their payments and what action is taken? You may want to improve some aspects of the current systems, but in the interim, do not give victims an unduly optimistic picture of their potential.

This is one area where you may be able to reduce the workload of other agencies or staff. No agency likes to hound victims to provide timely documentation of losses. By taking responsibility for some of the restitution functions, you may relieve the burden on other juvenile justice personnel and buy goodwill for the program.

Examples that Follow:

1. Letters and court order from Yakima.
2. Restitution form from Philadelphia.
3. Letter from Columbia.
4. Restitution form from Boulder.

[1]The Boulder program is unusual in having the state compensation administrator on the District Attorney's staff. This is a function of Colorado's unique compensation system, which is administered at the local level.

Core Service Component 6:

Facilitating Victim Participation in the Juvenile Justice Process

The Purpose of the Service:

- inform victims of their rights to participate
- give victims an opportunity to be heard
- assist juvenile justice personnel in meeting their statutory obligations to present victim impact information
- educate offenders about the emotional, financial, and medical consequences of victimization
- increase the probability that offenders will be held accountable

A Description of the Service:

State statutes and local policies generally permit, encourage, or mandate some victim participation in the juvenile justice process. The most common avenues of participation include: providing a written statement about the effects of the crime -- called an "impact statement" -- for presentation at the disposition hearing; attending the adjudicatory and disposition hearings; and presenting an oral impact statement at the disposition hearing. Other forms of participation may include consulting about plea agreements and attending other court proceedings.

At a minimum, the victim witness assistance program should provide the following services:

Inform victims about their opportunities to participate in the process. This information can be incorporated into other communications with victims -- in the initial orientation materials and in letters or telephone calls that notify victims of upcoming court hearings.

Assist victims in attending court hearings. If victims are interested in exercising their rights to attend court hearings, offer them the same supportive services that you would

give victims who are summoned to testify (see Core Service Component 2, Assistance to Victims Who Must Testify). However, make sure you tell victims about the usual content of each hearing and the amount of waiting and in-court time that may be involved, so that they can make an informed decision about whether to attend.

Assist victims in providing an impact statement. At a minimum, a victim impact statement should include:

- information about the "physical, emotional, or financial effects of the crime on the victim and the victim's family";
- facts about the victim that rendered him or her "particularly vulnerable to the crime" (handicap, age, etc.); and
- "circumstances surrounding the crime and the manner in which it was perpetrated, such as particular cruelty".[2]

In addition, in some jurisdictions the statement may include a subjective statement of opinion about the crime and the criminal and a sentencing recommendation.

Written statements. Many programs send victims a form outlining the types of information that may be presented to the court. (Often this form incorporates restitution information, as well. See Core Service Component 5, Assistance With Compensation and Restitution.) The accompanying letter should explain

- the purpose of the impact statement,
- where to send it,
- what will be done with it, and
- what types of information it should contain.

As an alternative, the program staff may use the form as a guide to recording impact information obtained from the victim by telephone.

Along with other approaches, some programs also encourage victims to write a letter to the judge stating their feelings about the crime in their own words. This should not be

[2]Susan Hillenbrand, "Victim Impact Statements: Elements of a Model Statement," in Crime Victims Report, February 1987, p.11.

your sole approach, however, because only the most literate and involved victims are likely to respond.

Oral statements. Many advocates believe that judges are more likely to consider victim impact data if victims appear at disposition, especially if victims deliver an oral impact statement. At a minimum, make sure that victims know of their right to appear and speak, and assist them in preparing oral statements when they request help.

In practice, most victims do not choose to make oral impact statements, even when they attend the disposition hearing. Program staff may routinely attend disposition hearings and present impact information anyway. If this is not your usual practice, you should be prepared to speak on the victim's behalf if the victim, the prosecutor, or the judge requests you to do so.

Options for Providing Service:

The ways in which a program informs victims of their rights to participate in the system are in part a function of how the program chooses to orient victims to the juvenile court process (see Core Service Component 1, Orientation to the Juvenile Court and the Rights of Victims) and how it notifies them of significant court events (see Core Service Component 4, Provide Information About Case Status and Outcome).

Several questions arise in connection with victim impact statements, however:

1. At what stage of the proceedings will the impact information be used? If the information is to be used in detention, diversion, or plea deliberations, as well as in sentencing, you must consult victims early in the process and pass the information on to those involved in the decisions. Eliciting information by letter probably will prove to be too slow.

- The quickest procedure is the one used in Milwaukee, where staff contact victims by telephone within a few days of the referral and on that basis, prepare a short impact statement for transmittal to probation and the prosecutor. Staff also inform victims that they can write a letter and appear at sentencing.

2. Who will provide the information to the court?

- In Philadelphia, staff place impact statements in the district attorney's file for review before sentencing. The prosecuting attorney may choose to present the information or not.

- In Delaware County, the impact statements are appended to the pre-sentence reports prepared by probation. In addition, the program forwards a "victim services report" to the probation officer.

- In Boulder, copies of impact statements are placed in the district attorney's and the probation department's files.

- In Hagerstown and Columbia, staff routinely attend the disposition hearings and answer questions about victim impact. In Columbia, staff also provide victim impact forms to the prosecutor and the judge.

3. How aggressively will the program elicit victim impact statements? Given that initial return rates for victim impact statements can be low and most victims do not choose to appear at sentencing, some programs attempt to encourage greater participation.

- In Boulder and Columbia, the program calls all victims who have not sent impact forms by the week before disposition.

- In Milwaukee, staff take the primary initiative by preparing impact information on the basis of telephone conversations with victims.

Tips for Developing Service:

Check statutory provisions governing victim impact statements and participation at disposition and other points of the process. Where the legislation does not specify victim rights in these areas, consult with the juvenile court judge and prosecutors.

If yours is one of the small number of jurisdictions that does not allow victims to submit a written impact statement or to appear at sentencing, be creative. You may be able to arrange to have the prosecutor or the probation department review impact information and incorporate it in their own statements to the court. Agencies often welcome victim input when it does not require any of their time to collect.

Some judges may resist having victims at the disposition hearing because they may hear confidential information about the offender's record, background, and family situation. Explore whether victims can make statements and then be excused during the period when confidential information is discussed.

Make it easy for victims -- give timely notifications of deadlines and hearings, clear instructions as to what is needed and how it will be used, extra assistance when necessary, and follow-up notices. As in other areas, clear letters and forms are important.

Core Service Component 7:

Facilitating the Return of Property

The Purpose of the Service:

- expedite the return of property to victims

Description of the Service:

Jurisdictions vary in their procedures for handling property recovered by the police. Some routinely retain it until a case has been closed, others photograph most property and return it to the victims much earlier.

Whatever the local system, at a minimum, programs should assist victims when there has been some unusual delay in property return or when victims need the property before the case has been disposed of, as might occur with prescription eyeglasses or car keys.

Options for Providing Service:

There are two primary approaches to providing this service: arranging for property return for all victims or intervening only when there is a snag in the return of property. Most programs choose the latter approach, but there are exceptions.

- When a victim has problems obtaining property in Philadelphia, the program writes a return of property order, hand-carries it to the judge to sign, and then sends it to the victim along with a letter explaining where to pick up the property.
- When property is not returned in Orange County, the program calls a contact in the police records department who will meet and guide victims through the property return process.
- Upon case disposition in Boulder, the program routinely obtains the prosecutor's signature on the property release form and forwards it to the police. The program also arranges to have property returned before disposition in hardship cases.

Tips for Developing Service:

Obviously, it is more convenient for victims to get their property back before disposition. It also can cut down on a program's need to intervene in the process. If your jurisdiction does not provide for early property return, explore alternatives with prosecutors and police. Police may be especially receptive to an early release policy if there is a shortage of storage space.

Examples that Follow:

Core Service Component 8:

Information and Referral

The Purpose of the Service:

- ensure that victims and witnesses receive the help they need
- make effective use of community resources for victims and witnesses and avoid unnecessary duplication of services

A Description of the Service:

When a victim's needs are beyond the program's service capability, the program will make a referral to other resources in the community. Most programs rely on outside programs to assist victims who need:

- Long-term psychological treatment. Most communities have non-profit organizations that provide treatment on a sliding fee basis, and many have private therapists who specialize in treating victims as well. Counseling is frequently available to sexual assault victims through rape crisis programs. Some jurisdictions may have special counseling programs for other types of victims as well.
- Legal information and services. Programs usually refer victims to legal aid, to the local bar association, or to attorneys who have worked with similar cases in the past.
- Emergency assistance (e.g. money, shelter, locksmiths). Public agencies, such as the Department of Social Services, may be able to help some victims. Most programs also have located community non-profit organizations that provide some emergency assistance. For example, some programs arrange for emergency shelter in domestic violence "safe houses". A number of programs have found churches to be good resources for emergency funds.
- Support from other victims. Programs commonly refer victims to support groups, such as Mothers Against Drunk Driving, Parents of Murdered Children, and Women Against Rape.

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Options for Providing Service:

Programs differ in the numbers of victims they refer, how closely they monitor referrals, and the types of agencies to which they refer, but all programs should build a referral network.

The Philadelphia District Attorney's program has established a unique referral system, which may be of particular interest to larger communities.

- The district attorney's office, which receives a state allocation from the federal Victims of Crime Act (VOCA), helps fund six community-based victim services programs -- one in each of the city districts where adult preliminary hearings are held. These programs provide information and support to all victims at the preliminary hearing stage and accompany victims to court. The Philadelphia program frequently refers victims in the juvenile justice system to these community-based providers. Observers believe they are more alert to cultural and language issues among victims in their particular areas and can make more appropriate referrals to neighborhood-based organizations.

Tips for Developing Service:

Review the materials on building a referral network (pages 80-81, 83-84) for suggestions such as:

- using existing resource manuals developed by the governor's office, the city or county government, or other social service agencies in the community;
- tapping referral networks developed by other local victim assistance programs;
- conducting a telephone survey of agencies to determine what services they would provide to victims; and
- conducting follow-up interviews with victims for feedback on the appropriateness of referrals.

As part of your recordkeeping, keep track of the number and type of referrals you have made. Include them in any summary statistics you prepare.

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To help in future planning for your own program and the broader community, consider keeping notes on "difficult" referrals -- instances where the program was unable to find an appropriate resource.

Encourage victims to let you know how the referrals worked out. If possible, consider following up more systematically with both victims and referral agencies -- by telephoning a sample of victims and/or agencies, for example.

Core Service Component 9:

Education and Training

<u>The Purpose of the Service:</u>

- educate the public, juvenile justice personnel, and other local service providers about the problems, needs, and rights of victims
- encourage appropriate referrals to the victim witness assistance program
- educate the public about the juvenile justice process
- obtain community support for the program

<u>A Description of the Service:</u>

A program working with victims of juveniles should educate juvenile justice officials and law enforcement officers as well as the general public.

Public education efforts generally consist of presentations to community organizations. Commonly, audiences include senior citizens groups, Kiwanis and other service groups, neighborhood organizations, crime prevention organizations, hospitals, and schools.

Programs also can use their regular contacts with juvenile justice personnel and human service providers to provide informal education about victim needs and services. Some programs conduct more formal training of justice personnel -- most commonly law enforcement officers or prosecutors. Others participate in "cross-training" with other agencies in the community.

<u>Options for Providing Service:</u>

The content and goals of education and training programs for professional audiences can vary considerably. Some programs attempt to build the skills of personnel in recognizing and responding to victim trauma. Others use training opportunities primarily to elicit referrals from agency personnel.

Below are some examples of how programs approach professional education and training:

- In Philadelphia, one day of the in-service training workshop conducted for all ne prosecutors is set aside for victim witness assistance, including assistance in juv court.

- In Columbia, South Carolina, the program sent initial information packets on vic assistance services to all local law enforcement and criminal justice agencies.

- In Orange County, the program conducts crisis intervention training for police officers, probation officers, and California Youth Authority officials.

- In Milwaukee, the program director worked together with the adult victim witne assistance program to develop a training film for police.

Tips for Developing Service:

Even if time and staff are limited, actively seek out speaking opportunities when t program is new or if the program routinely uses volunteers. Once the program is known the community, active outreach often becomes less necessary.

3. Program Structure/ p

Developing Program Standards

Preface

Of all the efforts to fashion performance standards for victim assistance programs, probably the most intense has been the development of the "Model Victim Assistance Program" for the United States Justice Department. The latest version of that document follows in its entirety.

As is explained in the introduction of the model, it, like others in the series, was designed to help planners, prospective grantees, and administrators begin and operate one of the criminal justice innovations named in the Justice Assistance Act in the mid-1980s. While it has served that purpose, the Model Victim Assistance Program has been used in other ways as well, as is noted in the Introduction:

> "While the Victim Assistance Program Model has been used as the planning tool it was intended to be, it is far more frequently used by existing service programs in a narrower way: to use the 'performance guidelines' in Part III, arguably the heart of the Model, to assess the progress of their own programs and communities, to explore service innovations and expansion, and, most important of all, to help build a case for increased resources for those who control their state or community purse-strings."

However readers intend to use them, it is the performance standards in Part III which are the principle focus of NOVA's training in this area.

As a convenience to readers, the title page, table of contents, and rest of the document is reproduced in the chapter that follows so that it may serve as a "stand-alone" document.

Model Victim Assistance Program

A "Program Brief"
prepared for the

Bureau of Justice Assistance
and the
Office for Victims of Crime
of the
Office of Justice Programs,
United States Department of Justice

by

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Introduction

A. Background

The "Model Victim Assistance Program" has played an interesting role in the history of the victims' movement, for it has served as an evolving tool to help define and describe a major service innovation and, indeed, a new profession. The way this document was developed is also part of that history.

In the mid-1980s, the U.S. Justice Department, responsible for administering the "Justice Assistance Act," wrote or commissioned "program models" for each of the criminal justice innovations named by Congress as eligible to receive JAA funding. These were to serve as guides to applicants, grantees, and grant administrators. Of the nearly twenty such program models prepared in this way, by far the most elaborate was the one on victim assistance—because that innovation, unlike, say, a "career criminal" prosecution unit, was an extended family of related services, typically housed in a network of agencies.

The Model Victim Assistance Program was not only the most elaborate in length, it also became the most elaborate in design. It is a synthesis of knowledge and experience gained over the last two decades from work with prosecutor-, police-, and corrections-based victim/witness service programs, and from community-based victim assistance projects, notably those serving victims of sexual assault programs and family violence. The Model incorporates policies from the 1982 report of the President's Task Force on Victims of Crime, information gained from practitioners, and research on the needs of underserved victims.

Moreover, most of its details, especially in the standards, came from a panel of experienced program managers, later tested by about 100 of their colleagues nationwide, when the model was first developed from 1986 to 1988 under a Bureau of Justice Assistance-sponsored project. Later, with support from the Office for Victims of Crime, the model has been expanded to incorporate such developing services to victims of drug-related crime.

The thinking behind, and the philosophy of, the model was also developed in a consensus manner. It can be stated this way:

The concern for the victim is paramount. There is strong research evidence to indicate that when program goals focus on recovery of the victim, criminal justice performance is improved. The experience of the more effective programs, which have benefited from consistent administrative and funding support since the early 1970's, has shown that establishing a primary goal of humanitarian concerns for victims benefits, rather than hinders, criminal justice goals. These proven programs have been found to be helpful to police officers, investigators, prosecutors, judges, and probation officers.

That primary focus on the victim was significant, because all the other "program models" published in this series were quite properly focused on criminal justice agencies. The fact

that the Victim Assistance Program necessarily described services to victims who had little or no contact with the justice system also made it unusual.

In other respects, the publication follows the format of the "program model" series. It is addressed to those who would like to start the innovation in question, and so its "critical elements," as the Justice Department calls them, include: assessing existing victim services in the community; defining the parameters of the program; establishing the service delivery system; establishing a management system; and evaluating the program's progress and effects.

While the Victim Assistance Program Model has been used as the planning tool it was intended to be, it is far more frequently used by existing service programs in a narrower way: to use the "performance guidelines" in Part III, arguably the heart of the Model, to assess the progress of their own programs and communities, to explore service innovations and expansion, and, most important of all, to help build a case for increased resources for those who control their state or community purse-strings.

The balance of this introductory section follows the format of the program model series.

B. Goal and Objectives

Goal: The goal of the Victim Assistance Program is to improve the treatment of all victims of crime by providing victims with the assistance and services necessary to speed their recovery from a criminal act, and to support and aid them as they move through the criminal justice process.

Objectives: The objectives of the program are to:

1. Increase the commitment of state and local government to do all that is possible to assist victims of crime;
2. Increase the range and availability of services for victims of crime from the time of the criminal act and throughout the aftermath;
3. Expand the victim's opportunity to participate at all critical stages of the criminal justice process, and to ensure consideration of the impact of the crime upon the victim in all major criminal justice decisions; and
4. Increase coordination and networking of all appropriate agencies, organizations, and groups providing services to victims of crime or affecting the treatment of victims of crime in order to develop an integrated community system of victim assistance.
5. Increase the attention and the quality of outreach and treatment of underserved victims of crime such as victims of drug-related crime, victims who are members of racial minorities, victims of hate crime, victims of family violence and others.

C. The Problem and the Challenge it Presents

The Problem

After hearing the testimony of over 1,000 victims and the professionals who serve them, the President's 1982 Task Force on Victims of Crime concluded that the neglect and mistreatment of crime victims is a national disgrace. While the laws and services addressing crime victims have changed radically over the past decade, and the criminal justice system is in a state of reform in its treatment of victims, there are still many jurisdictions that fail to assist victims either within or outside of the criminal justice process. In addition, it has become apparent that a variety of other institutions often add insult to injury for victims in the aftermath of the criminal event, and that these institutions too are in need of reform.

The Challenge

There should be established in appropriate government and community agencies separate victim service units or programs, which should be solely dedicated to providing services to victims of crime, helping them cope with the traumatic effects of the criminal act and the aftermath.

The programs should be well organized, with clearly defined goals; staffed by trained, competent personnel; adequately funded; and visibly supported by host agencies or governmental authorities in state and local jurisdictions.

Programs should have the capability of providing a comprehensive system of service to victims, or their more limited services should complement an existing victim service system to ensure continuity of support for victims. It is important that program actions be coordinated with those of other victim service programs, agencies within the criminal justice system, community social service agencies, and business organizations.

And it is vital that programs seek to ensure that traditionally underserved victims be given special attention, appropriate outreach, and services that address their unique needs. Such underserved victims include victims of drug-related crime, racial and ethnic minorities, victims of hate or bias crimes, the homeless, the differently-abled, and so forth.

I. Assess existing victim needs and services in the community.

It is recommended that assessment takes place prior to the initiation of a victim service program in a community and that it is then updated as needed. While it is advisable to conduct a reassessment annually, the scope of the reassessment may be far more limited than in the original assessment.

A. Implementation Steps:

1. Establish an advisory body to oversee the needs assessment of victim services in the community. Ideally the advisory body should be drawn from the broadest base possible. A broad base promotes inter-agency cooperation and provides a better picture of the needs and resources in a community. However, some programs may not be able to work with such an advisory body due to host agency restrictions. As a practical matter, even if the advisory body is a large broad-based entity, it may be wise to establish a steering committee or executive committee as a working group that reports back to the advisory body. It should be emphasized that this body is advisory only and not decision-making.

2. Define goals of the assessment. The goals of a needs assessment should be clearly identified and written. Goals may vary from year to year.

3. Define the scope of the assessment. The first year the scope of the assessment should include the entire community or jurisdiction that your program serves. However, programs that serve only one type of victim may limit the assessment to the needs of that particular population group. The broader the scope of the needs assessment, the more useful it will be in community wide planning. In later years, the program may find it useful to modify the scope of the assessment.

4. Implement assessment of needs and services.

   a. Identify sources of data to be used for needs assessment portion of study. Police report data is basic information but may leave out non-reported crime. Existing research data may amplify such information, but, alone may still not be complete. The more different types of data that are used, the more likely it is that the assessment will reflect what is going on in your community.

   b. Identify sources of data to be used for services portion of study. Seeking information from the service agencies themselves is a must. However, it may be useful to integrate this data with interviews or questionnaires of those who have been served. Another dimension to consider is the perspective of other service providers.

   c. Identify the individual or group to do assessment. While some programs choose to do assessments in-house due to resource limitations or political reasons, it is usually more useful to have an outside group or individual do the assessment. However, if you choose someone from outside your agency, be sure he or she is well versed in victim services and victimology. And, be sure you spend adequate time defining the goals of your assessment.

d. Decide upon guidelines for analysis of data. What are the standards for interpreting the compilation of data. Will it be a straightforward reporting of the questionnaire results. Will there be an effort to compare the results with standards developed by your program and its advisory body, by the state, by the federal government, or by independent state or national organizations?

e. Set the schedule for assessment. It is important to review and conduct needs and service assessments on a regular basis. Funding, leadership, legislation and other things affect the delivery of services. Environmental changes, the influence of drugs, changes in school standards, and the like may affect the nature of crime itself. Hence ongoing assessment efforts are to be applauded.

f. Establish a budget for the assessment. If an assessment budget is not a part of the regular action plan for the organization, it will often not receive the attention it deserves.

B. Performance Guidelines for the assessment.

The performance guidelines for this program element are necessarily brief since each community and each agency may function differently.

1. Membership of the advisory body. The more groups that are represented in this body, the better.

2. Schedule for advisory body's meetings. The advisory body should meet as often as necessary to ensure that there is a quality assessment product. Some advisory groups may only need to meet once or twice because the members have input and other methods of communication with the individual responsible for the needs assessment. Other groups may want to meet monthly.

3. Goals for the assessment. All of the following goals are legitimate goals for the assessment: identification of gaps in services; documentation of accomplishments and problem areas in service delivery; monitoring and redefinition of service priorities; defining the basis for a long-term plan and annual action plan. Goals may vary from time to time.

4. Scope of the assessment. The assessment will be improved as the scope is broadened.

5. Type of data used for needs assessment. The following types of data are useful: police report data; volunteered testimony from victims and others in the community through hearings; existing research data and newspaper reports; and victim surveys in the community. The more sources of data used, the more useful the needs assessment.

6. Types of data used for service assessment. The following types of data are useful: questionnaires or interviews of all victim-serving agencies in the community that summarize the scope of their services; user questionnaires or interviews of selected victims; questionnaires or interviews of service providers regarding their colleague agencies; and local, state, or federal records and documentation of services provided through required reports. The effort will be improved if many different data sources are used effectively.

7. Individuals or agencies conducting the assessment. In-house assessments are often the least useful if they are not conducted with an outside consultant. They are vulnerable to bias and accusations of self-interest. If an outside consultant is used, they are improved. If the consultant is supplemented with outside interviewers, the assessments can be even more useful. If resources are available, it is most useful to hire an outside assessment team.

8. Standards for analysis of data. Standards might be drawn from those promulgated by state, federal, or outside organizations. However, if they are the basis for analysis, it is better to modify them to reflect local needs. If resources are available, the preferable method would be to develop standards locally and then compare and modify they in light of independently developed standards.

9. Schedule for assessments. An needs assessment should be made prior to the initiation of a program. If that has not occurred, it is useful to do a comprehensive assessment at any-time to ensure that the program is meeting the needs of the community. Once a broad assessment has been done, it should be updated as needed. Those updates should be done on an annual basis even if they are not based on an assessment with the breadth or depth of the first investigation and analysis of data.

II. Define program parameters.

This element is designed to analyze program resources, obstacles and barriers to program development, and philosophy and goals of program sponsors and directors. It should help new and existing programs recognize their strengths and weaknesses and plan how they might phase in changes and improvements.

A. Implementation Steps.

1. Analyze existing gaps and priorities in victim services and identify which missing services are appropriate for your agency to implement now and in the future, and which are appropriate for other groups. Consider the following issues (these are not designed to be exclusive, but to encourage your own questions):

a. How does the criminal justice system work in my community?

- How do privacy laws affect law enforcement and other criminal justice records?
- How are law enforcement reports made?
- How are cases processed?
- What laws or policies govern the information a victim receives or the participation that s/he may be afforded?
- What are the alternatives to trial, for example, diversion programs, plea agreements and the like?
- What happens at sentencing?
- What happens after case disposition?
- What happens when someone is on probation or when someone is up for parole or clemency?

- Are there special victim services targeting criminal justice staff who are victimized — law enforcement officers, prosecutors, correctional personnel, or members of the judiciary?
- What are the differences between the adult criminal justice system and the juvenile justice system?
- Do the criminal justice professionals receive special training on victim issues, violence prevention, substance abuse, and cross-cultural service delivery?

b. How are mental health services provided in my community?
- Is there a twenty-four hour crisis number for the non-chronically mentally ill?
- Are there twenty-four hour walk-in services?
- Is there a community mental health center and who does it serve? What are the fees?
- What resources are there available among private mental health professionals?
- How are referrals made to mental health professionals or the community mental health center?
- What role does the clergy play in local mental health services?
- Are mental health professionals, the clergy, or professionals in substance abuse prevention and treatment trained in basic victim issues, violence prevention and cross-cultural service delivery?

c. How are services provided to substance abusers in my community?
- Are there twenty-four hour crisis services?
- Are there residential treatment centers at no cost to the abuser? If so, how many beds are available at any one time?
- What is the philosophy of substance abuse treatment?
- What is the range of substance abuse treatment services?
- How are referrals made to treatment facilities?
- Do the substance abuse professionals receive special training in victim issues and providing cross-cultural service delivery?

d. What are the substance abuse prevention programs that exist in my community?
- Are there grassroots or community-based organizations that are fighting drugs and substance abuse? If so, where do they exist?
- What are the range of substance abuse prevention programs, for example, school based, law enforcement driven, church-based?
- What elements of substance abuse prevention are addressed?
- Are those involved in substance abuse prevention trained in dealing with victim issues and providing cross-cultural service delivery?

e. What other victim services exist in the community at this time?
- Who do they serve?
- What hours are they available?
- What types of service do they provide?
- Are there eligibility requirements?

- What services need to be provided as a part of a comprehensive network?
- What services are particularly appropriate for my agency?
- Based on community and agency resources, what can be implemented now, one year from now, and at an unspecified time in the future?
- What services are particularly appropriate for other agencies and which agencies can provide them?

f. What kind of services are provided by hospitals for victims of crime?

- Are there specialized services for survivors of homicide, catastrophic physical injury, sexual assault, or family violence that are offered in local hospitals?
- Have doctors established any specialized protocols for identifying and responding to family violence victims, victims of child sexual abuse or physical abuse, victims of elderly abuse, or victims of sexual assault?
- Are there different treatment protocols for dealing with victims who are also substance abusers?
- Do hospital personnel receive special training in responding to victims of crime, substance abusers, and providing cross-cultural service delivery?

g. Are there special services, curricula, or programs in the school system to address victimization, violence prevention, substance abuse, and cross-cultural issues?

- Do the schools involve law enforcement officers in educational programs with children in substance abuse?
- Are there special classes or presentations made to children and adolescents on sexual assault, family violence, child abuse and the like?
- Are there special classes dealing with anger management or conflict resolution?
- Are there victim assistance programs for school staff or victims of school violence?
- Are teachers and counselors trained in dealing with victims of crime?

2. Analyze the barriers to implementation of the services you wish to implement. Consider the following issues.

a. Do or will I have access to all the data I need?
b. Do or will I have cooperation from all allied agencies that are necessary to providing effective service?
c. Do or will I have adequate staff?
d. Do or will I have adequate in-kind or financial resources?
e. Are there people in my office that will be opposed to the institution of these additional services?
f. Does the placement of the program within a specific agency or as an independent project assist or limit the implementation of services?
g. Do or will program logistics assist or limit the implementation of services?

3. Define what type of victim will be served and any eligibility requirements. Consider the following issues.

a. Will service be restricted to a particular type of victim such as those who have suffered sexual assault, spouse abuse, child abuse, or survived homicide victims?
b. Will the service be restricted to a certain number of victims?
c. Will the services be restricted to victims who meet certain eligibility standards such as: age, geographical location, income level, and so on?
d. Will the services target any particular population group such as: children, the elderly, racial minorities, gays and lesbians, victims of drug-related crime, and so on?

4. Identify the sources of victim access to your agency.

a. Service providers are called directly by victims of crime.
b. Service providers are called by law enforcement and hospitals to respond to crime scene or to location of victim.
c. Service providers review law enforcement reports and call victims to offer service.
d. Service providers are given referrals by law enforcement, other criminal justice agencies, medical agencies, social service agencies, educational institutions and others.

5. Analyze how you can help other agencies provide services for which you are not equipped.

a. Review the service needs to which you will not be able to directly respond.
b. Meet with other agencies to discuss how they might be able to help fill those service needs.
c. Work with other agencies to promote each other's services and to develop an active referral network for services.
d. Avoid duplication of services or efforts.

6. Summarize your analysis in a brief program outline of strengths and weaknesses of your program.

B. Performance Guidelines for setting program parameters:

1. Agency goals and objectives should be clearly written.
2. A written program description should exist that addresses the questions raised above.
3. Where appropriate, an annual action plan should be written and address program purposes, strategies for action, clients to be served, and coordination activities.

III. Establish a service delivery system.

The implementation steps listed below are a check list of what needs to be in place prior to the initiation of services. It is followed by an outline of the components of the service delivery system. There are four basic components to be addressed: who receives services; when services are available; types of services that may be provided; and the types of training that the providers should receive.

A. Implementation Steps:

1. Establish service goals (see analysis below).
2. Develop annual program outline as indicated above.
3. Define budget needs and funding sources.

4. Locate office space.
5. Develop job descriptions for paid and unpaid staff.
6. Establish a case management system.
7. Establish service delivery protocols with special attention to the safety of paid and unpaid staff.
8. Hire or recruit paid and unpaid staff.
9. Train staff or volunteers.
10. Establish regular telephone service and long-distance service where appropriate.

    a. Try to obtain an easy to remember telephone number to aid victims or referral agencies in accessing the service.
    b. Establish no-cost long distance service if possible.

11. Contract with or establish a twenty-four hour answering service to respond to and screen all calls for service where appropriate.
12. Contract for twenty-four hour beeper service to alert victim counselors/advocates to emergency calls where appropriate.
13. Identify transportation methods that will be used to provide response service where appropriate.
14. Furnish or update office equipment.
15. Identify emergency and follow-up referral agencies in your community and state.
16. Alert referral agencies and the public to the availability of your services, the nature of those services, and how to contact the service. Make sure that the protocols for referral address safety for your staff.
17. Train personnel at referral agencies in crisis assessment and referral techniques.

B. Components of Service Delivery System, with Performance Guidelines:

1. Services are offered to the following types of victims.

The types of victims served should be examined in two ways. First, what types of victims are served in your entire community (include those served in your own program and those served by others)? To assess the level of performance in this area, the guidelines listed in "a," below, have been developed. Second, what types of victims are served in your own program? Performance guidelines in response to this question are listed under "b". You will note that the intent of these guidelines is to encourage the promotion of community-wide services for all victims. However, if your program serves only one type of victim, you may still meet the standard for excellence if you are part of a community-wide network that addresses the needs of other victims.

a. Performance guidelines for community-wide services.

Basic:
- Victims of sexual assault.
- Child victims and their families.
- Victims of spouse abuse.
- Surviving families of homicide victims.
- Victims of severe physical injury.

Good:
- All of the above; and
- At least two additional victim populations—examples include victims of drug-related crime, victims of robbery, burglary victims, elderly victims, victims of vandalism, gay or lesbian victims, racial minority victims, the differently abled, the chronically mentally ill, or the homeless.

Very Good:
- All victims of crime.

Excellent:
- All victims of crime but the program has special outreach programs for underserved victims in the community and a special emphasis on providing effective cross-cultural service delivery.

b. Program-specific services performance guidelines.

Basic:
- Program serves one or more victim populations and promotes services for the other groups.

Good:
- Program serves one or more victim population, plus provides emergency aid to all victims for whom no other services exist.

Very Good:
- The above plus the program actively works to establish services for victims for whom no program exists.

Excellent:
- Program serves all victims or is part of a community-wide system of comprehensive aid to all victims with a special issue on providing effective cross-cultural service delivery.

2. Availability of services.

a. Performance guidelines for immediate crisis intervention response.

Basic:
- Twenty-four hour answering service with call-forwarding or beeper to trained counselor.
- Victim crisis counselor responds by telephone to caller within fifteen minutes of victim call.

Good:
- The above, enhanced by crisis counselors who screen police reports within forty-eight hour of receipt and send letters to priority victims notifying them of service.
- Upon request victim crisis counselor goes to hospital, crime scene, victim's house, or other designated point and arrives within:
  - 15-30 minutes in an urban area.
  - As soon as possible in rural areas.

Very Good:
- The above enhanced by twenty-four hour availability of trained staff to go to crime scene, victim's house, or other designated point and arrive within:
  - 15-30 minutes in an urban area.
  - As soon as possible in rural areas.
- Crisis counselors screen all police reports within twenty-four hours of report, and send counselor to or telephone all priority victims to offer services.
- Community-based walk-in services as well as a central headquarters for the program.

Excellent:
- The above, enhanced by trained crisis counselors who answer all crisis calls directly.

b. Performance guidelines for "day-after" crisis response.

Basic:
- Crisis counselors respond by telephone or home visits to victim self-referrals or referrals from law enforcement within 24 hours.

Good:
- The above, plus crisis counselors who are trained in screening protocols screen police reports twice weekly, if possible under laws of privacy. If not possible, police reports are screened twice weekly by the law enforcement agency and sent to the agency. In either case, the program notifies priority victims of services via letter sent within 24 hours.

Very Good:
- The above except that police reports are reviewed with 48 hours.

Excellent:
- The above, except that police reports are reviewed within 24 hours and a crisis counselor immediately contacts priority victims by phone or in person. Community-based walk-in services are also available.

c. Performance guidelines for all other services:

Basic: ◦ Services are available 9 a.m.–5 p.m., Monday-Friday.

Good: ◦ The above, plus emergency services are available on request.

Very Good: ◦ The above, except that office hours are seven days a week.

Excellent: ◦ Twenty-four hour services. Community-based walk-in services are also available.

3. Types of services provided.

In reviewing the kinds of services provided, the guidelines are based on one of two forms of service delivery. In each cluster of services, programs should either provide the types of services listed themselves, or in conjunction with other programs that they know do quality work. Hence, if the service exists in the community and is used as regular referral, an individual program should not duplicate it. If it does not exist, then either the program should provide it, or help promote its provision through another agency.

a. Crisis intervention services - performance guidelines:

Basic:
- Crisis intervention counseling.
- Emergency referrals or direct assistance for medical care, shelter, and food.
- Emergency referrals or direct assistance for substance abuse treatment.
- Accessible services for the hearing impaired, seeing impaired, other people with disabilities, and populations whose first language is not English.

Good:
- All of the above, enhanced by:
- Emergency referrals or direct assistance for at least 3 of the following:
  - clothing.
  - money.
  - child care.
  - property repair.
  - transportation.
  - death notification.
  - body identification.
  - crime scene clean-up.
  - protection through temporary restraining orders.
  - notification of loved ones.

Very Good: ◦ The above plus at least 3 more of the above list.

Excellent: ◦ All of the above. In addition, special outreach to underserved victim populations and attention to effective cross-cultural service delivery.

b. Counseling and general advocacy services- performance guidelines.

Basic:

- Supportive individual counseling:
  - generally not longer than six months at any one time unless there is a criminal prosecution.
  - may be renewed counseling of a victim if the crisis is renewed due to a trigger event.
- General advocacy services include:
  - assistance with victim compensation applications.
  - creditor, landlord, and employer intervention.
  - intervention with hospitals, medical, and mental health professionals— particularly where a forensic examination is involved, a concern about HIV infection exists, or where family violence is involved.
  - assistance with protective relocation or shelter for victims of drug-related crime or family violence.
- Information and referral services include:
  - general victimization information.
  - crime and violence prevention information.
  - referrals to all available social services.
  - substance abuse treatment services.
- All services should be available to the hearing impaired, the seeing impaired, other people with disabilities, and those populations whose first language is not English.

Good:

- All of the above, enhanced by at least 6 of the following additional services:
  - assistance with private insurance claims.
  - support groups for peer victims/survivors.
  - document replacement.
  - arrangements for property repair.
  - mental health referrals.
  - specific victimization information concerning the crime which the victim survived, i.e. survivors of homicide, sexual assault victims, spouse abuse victims, and so on.
  - referrals to competent mental health professionals for long-term care when necessary.
  - publish and distribute a directory of all available referral services.
  - legal referrals concerning civil redress or assistance with the enforcement of victim rights in a criminal proceeding.
  - victim activist group referrals.
  - translator services.
  - group counseling services.

Very Good:

- The above plus 6 more of the services above or other services to be added by program.

Excellent:

- All the above, enhanced by: [illegible]
- Specific victim information concerning the crime which the victim endured, as well as [illegible] other specific circumstances in survival, i.e. materials addressing the concerns of a father of a murdered daughter, or a sister of a sexually abused brother.
- An emphasis on outreach programs and services for under-served population groups and attention to effective cross cultural service delivery.

c. Support services during criminal justice investigation—performance guidelines:

Basic:

- Program provides at least the following services:
  - accompaniment to line-ups or photo line-up review sessions.
  - accompaniment to interviews.
  - information about case status.*
  - brochures about criminal justice process and victim rights handed out at the scene of the crime or at first contact.
  - information on status of any property stolen or removed and on procedures and regulations governing property return.
  - information on arrest status, bail and bond, and pre-trial release.
  - accompaniment to forensic examination** available and forensic examination paid for.
  - information given to victim about victim compensation.
  - information given to victim about available protection, and restraining orders.
  - information on crime prevention.
  - emergency shelter available.
  - social services referral.
- Services should be accessible to the hearing impaired, the seeing impaired, people with other disabilities, and populations whose first language is not English.

Good:

- The above, enhanced by at least 4 of the following:
  - available crime-scene assistance for street-side identification.
  - assistance with obtaining property return.
  - assistance with victim compensation forms as needed.
  - restraining orders made an automatic condition of bail and prepared with complaint.
  - confidential emergency shelter available and relocation services.

*"Case status" includes the following types of information: if there is the case is closed or open, if there is an active investigation being pursued, if there are suspects, if there is an arrest, and so forth.

**All references to "forensic examinations" refer to sexual assault forensic examinations.

Very Good:
- All of the above, enhanced by
  - crisis intervention capability.
  - death notification assistance and body identification accompaniment.
  - in-person, case-specific explanation of criminal justice process.
  - assistance with obtaining property return within seven days unless evidentiary requirements prohibit it.
  - accompaniment at forensic examination available and cost of exam paid for by agency or other service and victim should never see bill.
  - assistance with victim compensation forms and filing of claim.

Excellent:
- The above, plus special programs to address needs of underserved victim population groups including attention to effective cross-cultural service delivery.
- Special protection programs addressing safety and privacy for certain groups such as victims of drug-related crime, victims of gang violence, victims of hate violence and the like.

d. Support services during prosecution - performance guidelines:

Basic:
- Program provides information on all victim rights available in the criminal justice system at first contact.
- Program provides at least 10 of the following services:
  - coordination of victim and witness appearances at hearings, interviews, and trial with goal of minimizing number of appearances.
  - victim and witness given timely information about case status by mail.
  - victim and witness is provided with personal support through hearings, interviews and trial.
  - victim and witness is provided information about transportation options that are available to facilitate appearances.
  - employer, landlord, creditor intercession services.
  - information on restitution and jurisdictional procedures for requesting it is made available to victim.
  - appropriate clothing is provided to the victim if necessary.
  - all victim cases are profiled and selected victims are given opportunity to have input in decisions on diversions, dismissals, and plea bargains.
  - all victims are allowed opportunity to have input on continuances and sentencing.
  - victims are provided with information on what is expected of them in the criminal justice process at each stage of the proceedings.
  - a safe place is provided for victims and witnesses separate from the accused and defense witnesses.
  - information given to victim about witness fees.
  - a call-in system is in place.

Basic: [continued]

- All services should be accessible to the hearing impaired, the seeing impaired, other people with disabilities, and those populations whose first language is not English.

Good:

- All services described above, enhanced by at least 5 of the following services:
  - in priority cases victims and witnesses are given up to date information by telephone where possible.
  - victims and witnesses are provided with counseling as necessary.
  - actual transportation is provided for sensorially or physically disabled, the elderly, and the infirm.
  - restitution requests are made routinely by the prosecutor.
  - all victims are provided assistance in preparing a victim impact statement for use at plea bargains and at sentencing.
  - victims are provided with oral and written information on what is expected of them in the criminal justice process at each stage of the proceedings. Rehearsals and court-room walk-throughs are available for priority victims and all child witnesses.
  - staff and volunteers are available to "call off" victims and witnesses and in off hours, a recorded on-call system is in place.

Very Good:

- All services described above plus 7 of the following:
  - case status information is provided by telephone and mail in all cases.
  - transportation or reimbursement for mileage and parking is provided in all cases.
  - restitution requests are based on interviews with, and receipts from, victims.
  - victims selected from "profiles" are provided with opportunities to have input on bail and charging decisions. (Profiling is done to avoid endangering certain types of victims such as those who are victim of drug-related crimes, partner abuse, elderly abuse, or child abuse.)
  - all victims are provided opportunities to allocute at plea bargains or sentences if they so desire.
  - Rehearsals and court-room walk-throughs are available to all victims.
  - special waiting rooms are provided for victims and witnesses away from the accused and defense witnesses.
  - information is given about witness fees if they are available, and if so, fees are routinely disbursed. If not available, victims are provided vouchers to cover costs of meals that must be taken at the courthouse.
  - childcare is available at the courthouse for victims and witnesses or appropriate arrangements of childcare are made outside the courthouse.

Excellent:
- All the above, plus special programs to address the needs of underserved victim population groups including attention to effective cross-cultural service delivery.
- Special protection programs addressing safety and privacy for certain groups such as children, victims of gang violence, victims of hate violence and the like.

e. <u>Support services after case disposition</u> - performance guidelines:

Basic:
- Program provides victim with information on all victim rights in the aftermath of case disposition on first contact after disposition.
- The program provides at least 5 of the following services:
  - upon request, informing the victim about the offender's status or release following case disposition by letter.
  - enforcement of restitution orders through monitoring restitution payments.
  - informing the victim of their right to provide a victim impact statement at parole and notifying the victim when a parole hearing will take place.
  - provision of personal support and accompaniment during all appeals or motions for retrials.
  - social service referrals.
  - long term counseling referral.
  - provision of information concerning legal options.

Good:
- All services listed above, enhanced by at least 3 of the following:
  - upon request, informing the victim in critical cases about the offender's status by telephone.
  - revoking probation when restitution payments are not made.
  - assisting victims of their right to provide a victim impact statement at parole.
  - upon request, assistance with victim-offender intervention services.
  - provision of crisis and supportive counseling as necessary.

Very Good:
- All services listed above enhanced by the following
  - if restitution payments are not complete by the end of the probationary period, assisting the victim in enforcing a civil judgment.
  - accompanying the victim to parole hearings.

Excellent:
- All services listed above, plus special programs to address needs of underserved victim population groups including attention to effective cross-cultural service delivery.
- Special protection programs addressing safety and privacy for certain groups such as victims of drug-related crime, victims of gang violence, victims of hate violence and the like.

f. Training services for allied professionals—performance guidelines

Basic:
- Conduct needs assessment of four of the following allied professional groups: law enforcement agencies, prosecutors, judges, corrections officers, substance abuse professionals, emergency room personnel, mental health professionals, medical and other hospital personnel, local educators, social service personnel, community organizers and the media to determine training needs.
- Develop or acquire training materials or packages to provide training to selected four groups—materials should include information on victim issues, substance abuse, cross-cultural service delivery, and staff victimization.
- Develop reciprocal training agreements with four target groups.
- Train trainers or arrange for outside trainers to provide two days a year of training to each of the four target groups.
- Provide follow-up educational materials to each of the four target groups.

Good:
- The above, but includes an additional three groups.

Very Good:
- All of the above, but includes an additional three groups.

Excellent:
- The above, plus organize and present at least one inter-disciplinary training conference per year for allied professionals and at least one training conference on special issues in victim services such as gang violence, victims of drug-related crime, cross-cultural service delivery, racial minority victims, victims of hate crimes and the like.

g. Public education services—performance guidelines

Basic:
- Develop and implement a public education plan that includes a minimum of three public education projects each year.

Good:
- The above, plus accomplish at least five of the following annually.
  - develop or acquire three new public service announcements for the radio and one new public service announcement for television each year.
  - organize an annual community event in conjunction with National Victim Rights Week.
  - solicit a proclamation for National Victim Rights Week from the governor of the state.
  - arrange for community education presentation to civic groups at least six times a year.
  - develop or acquire two new brochures each year to promote awareness of victim issues.
  - obtain coverage in the local print media for four news or feature stories each year.

Very Good: • All of the above, but twice the number of activities.

Excellent: • All of the above, plus organize a public awareness committee that includes key media representatives who can assist with public education efforts. Also provide public education programs on underserved victim populations.

h. <u>Community crime, violence and substance abuse prevention services</u> - performance guidelines.

Basic: • Establish a crime, violence and substance abuse prevention committee with all agencies providing public education in the community to conduct an annual prevention campaign.

Good: • The above, enhanced by at least 3 of the following annually:
- Support the National Crime Prevention Coalition's new public education campaign by establishing a local tag line providing a state or local referral source of information and ways to develop community involvement.
- Set up or create a formal liaison with neighborhood watch groups.
- Arrange for the inclusion of victim assistance information in at least four prevention events. If there is no prevention education activities in the community, arrange for at least crime prevention education community-wide seminars each year.
- Develop or acquire a child safety educational program for 6 different grades from K-12 and arrange for teaching at least one class per grade during the school year.

Very Good: • All the above, but with twice the number of activities.

Excellent: • All the above, plus special crime, substance abuse and violence prevention projects targeted at high-risk, underserved populations.

4. Training of service providers.

a. Crisis counselor training—performance guidelines:

i. Pre-service training:

Basic:
- 40 hours of training. Content to include:
  - trauma of victimization.
  - crisis and stress theory.
  - crisis intervention counseling.
  - values clarification.
  - use of local resources, services.
  - case management.
  - cross-cultural service delivery.
  - substance abuse treatment and prevention.
  - sexual assault victims.
  - spouse abuse victims.
  - survivors of homicide victims.
  - child victims.
  - additionally underserved population groups such as racial minorities, gays and lesbians, victims of drug-related crime, differently-abled, homeless, chronically mentally ill and so forth.
  - advocacy.
  - personal safety training for counselors.
- Internship of at least 10 crisis calls.
- One police ride-a-long.

Good:
- All the above, enhanced by an additional 20 hours each of classroom training on two population groups underserved in this particular jurisdiction. For instance, 20 hours on victims of drug-related crime including appropriate referrals, visits to treatment centers, cross-cultural issues in dealing with drug-related crime, problems in compensation and such.

Very Good:
- The above, enhanced by 20 hours of classroom training on cross-cultural issues in this jurisdiction.
- an enhanced internship of 10 additional crisis calls.

Excellent:
- The above, enhanced by an additional 20 hours each of classroom training on two different kinds of victims — such as a intensive training on children or the elderly as victims.

ii. Continuing education:

Basic:
- 3 hour continuing education seminar each month.
- 2 police ride-alongs a year.

Good:
- The above, plus an average of 12 hours additional continuing education during the year (may be through conferences, training seminars, or in-house training.)

Very Good:
- The above, plus attendance at a minimum of one national conference during each year.

Excellent:
- The above plus, once every 4 years, a 3-month internship/exchange at a relevant agency, e.g., domestic violence center, law enforcement, prosecution, and so on.

b. Counselor/general advocate training - performance guidelines.

i. Pre-service training

Basic:
- 40 hours of training. Content to include:
  - trauma of victimization.
  - crisis and stress theory.
  - crisis intervention counseling.
  - values clarification.
  - use of local resources, services.
  - conflict management.
  - case management.
  - working with substance abusers.
  - supportive counseling.
  - advocacy.
  - negotiation.
  - working with other professionals and their agencies.
  - characteristics of certain victims, e.g. sexual assault, spouse abuse, survivors of homicide.
  - underserved populations, e.g., racial minorities, victims of drug-related crime, gays and lesbians, differently-abled, homeless.
  - personal safety training for counselor/advocates.
- Intern with experienced staff on at least ten actual or simulated cases.

Good:
- All the above, enhanced by an additional 20 hours each of classroom training on two kinds of underserved victims.

Very Good:
- The above, enhanced by 20 hours of classroom training on cross-cultural service delivery.
- an enhanced internship of 10 additional crisis calls.

Excellent: ◦ The above, enhanced by an additional 20 hours each of classroom training on two different kinds of systems.

ii. Continuing education:

Basic: ◦ 3 hour continuing education seminar each month.
◦ 2 police ride-alongs a year.

Good: ◦ The above, plus an average of 12 hours additional continuing education during the year (may be through conferences, training seminars, or in-house training).

Very Good: ◦ The above, plus attendance at a minimum of one national conference during each year.

Excellent: ◦ The above plus, once every 4 years, a 3-month internship/exchange at a relevant agency, e.g. domestic violence center, law enforcement, prosecution, and so on.

c. Criminal justice advocacy training – performance guidelines

i. Pre-service training

Basic: ◦ 40 hours of training. Content to include:
- trauma of victimization;
- crisis and stress theory;
- crisis intervention counseling;
- values clarification;
- elements of criminal justice system;
- who's who in the community and the system;
- inter-agency co-operation;
- community referrals;
- public policy and legislation;
- use of local resources, services;
- substance abuse treatment;
- problem solving, diplomacy, and case management.
- characteristics of certain victims, e.g. sexual assault, spouse abuse, survivors of homicide
- traditionally underserved population groups such as racial minorities, gays and lesbians, differently-abled, homeless, mentally ill, etc.;
- personal safety training for advocates.

◦ Work as intern with experienced staff supervising while monitoring an entire trial as well as work as a team with a senior partner on a minimum of ten actual or simulated cases.

Good: ~ All the above, enhanced by an additional 20 hours each of classroom training on two different kinds of underserved populations.

Very Good: ~ The above, enhanced by 20 hours of classroom training on cross-cultural service delivery;
~ an enhanced internship of 10 additional crisis calls.

Excellent: ~ The above, enhanced by an additional 20 hours each of classroom training on two different kinds of victims.

ii. Continuing education:

Basic: ~ 3 hour continuing education seminar each month;
~ 2 police ride-alongs a year.

Good: ~ The above, plus an average of 12 hours additional continuing education a year (may be through conferences, training seminars, or in-house training.)

Very Good: ~ The above, plus attendance at a minimum of one national conference during each year.

Excellent: ~ The above plus, once every four years, a three-month internship/exchange at a relevant agency, e.g. domestic violence center, law enforcement, prosecution, and so on.

d. Trainers of other professionals training - performance guidelines:

i. Pre-service training:

Basic: ~ Three years of experience as a victim service provider in all aspects of counseling and advocacy;
~ Forty hours of pre-service training in training techniques, public speaking, use of audio-visual aids, and workshop evaluation.
~ Two years of experience in workshop presentation and public speaking.

Good: ~ All the above enhanced by
~ Bachelor's degree or experience in field of an allied profession (e.g., law enforcement officer, social worker, nurse, substance abuse and so on).
~ an additional twenty hours training on training techniques

Very Good: ~ All the above enhanced by
~ An additional twenty hours of training

Excellent: ~ All the above enhanced by
~ One year of experience as a victim service provider with a particular victim population group.
~ Three years of experience in workshop presentation and public speaking.

ii. Continuing education:

Basic: ◦ 3 hour continuing education seminar each month.

Good: ◦ The above, plus presenting a workshop or speech at least once a month.

Very Good: ◦ The above, plus making presentations at a minimum of one national conference during each year.

Excellent: ◦ The above, plus presenting at least twenty-four workshops or speeches throughout the year.

e. Public education/awareness training—performance guidelines.

i. Pre-service training:

Basic:
- One year of experience as a victim counselor/advocate.
- Twenty hours training in public relations.
- Twenty hours training in public speaking and writing.

Good:
- All the above enhanced by:
- An additional year of experience as a victim counselor/advocate.
- An additional twenty hours training in public relations.
- An additional twenty hours training in public speaking and writing.

Very Good:
- All the above enhanced by:
- An additional twenty hours training in public relations.
- An additional twenty hours training in public speaking and writing.

Excellent:
- All the above enhanced by:
- An additional twenty hours training in public relations.
- An additional twenty hours training in public speaking and writing.

ii. Continuing education:

Basic: ◦ Three-hour continuing education seminar each month

Good: ◦ The above, plus presenting a speech or writing a media release, public service announcement, or editorial at least once a month.

Very Good: ◦ The above, plus an additional twelve hours of training throughout the year.

Excellent: ◦ The above, plus presenting or writing at least twenty-four speeches or public relations pieces throughout the year.

f. Crime, violence and substance abuse prevention services training - performance guidelines.

i. Pre-service training:

Basic:
- 40 hours of training. Content to include:
  - crime and violence prevention.
  - crisis and stress;
  - substance abuse prevention and intervention techniques;
  - programs and policies that have been successful in other communities;
  - victimization issues unique to this jurisdiction;
  - analysis of crime and substance abuse patterns in jurisdiction.

Good:
- All of the above, enhanced by
- An additional twenty hours of pre-service training in crime prevention, substance abuse prevention, and victim advocacy.

Very Good:
- All of the above enhanced by
- Twenty more hours of training in speech and workshop presentations.

Excellent:
- All of the above enhanced by
- An additional twenty hours of training in violence prevention curricula.

ii. Continuing education:

Basic:
- 3 hour continuing education seminar each month.

Good:
- The above, plus presenting a workshop or speech on crime prevention, violence prevention, or victim services at least once a month.

Very Good:
- The above, plus an additional twelve hours of training throughout the year.

Excellent:
- The above, plus attendance at a minimum of one national or regional training conference during the year.

IV. Establish a Program Management System.

A. Implementation Steps:

1. Develop short, succinct statement of agency purpose.
2. Develop organizational chart of flow of responsibility, accountability for agency action.
3. Define management responsibilities

   a. Relationship of program manager to board or boss.
   b. Duties of board or boss.
   c. Duties of program manager.
   d. Duties of other members of management team.

e. Relationship of managers to other staff members.
f. Relationship of managers to constituencies served.

4. Develop policies and procedures that reflect agency purpose and agency plan.

a. Staff recruitment policies.
b. Staff performance policies and expectations.
c. Agency procedures.
d. Standard contracts.
e. Performance review procedures and policies.
f. Training review procedures and policies.
f. Policies affecting promotions, grievances, disciplinary actions, and dismissals.
g. Salary policies and scales.
h. Procurement policies.
i. Travel policies.

5. Train management team in scope of responsibilities, agency history, agency plans, and management techniques (time management, personnel management, paper management, information management and so on).

B. Management system - performance guidelines

1. Management plan

a. Mission statement and goals

Basic: ◦ The statement and goals are well defined and understood by the manager of the organization;

Good: ◦ The above, but the statement and goals are in writing and are understood by the staff and the supervisor/board;

Very Good: ◦ The above, but the statement and goals are incorporated into an action plan;

Excellent: ◦ The above but the action plan has been developed in conjunction with the staff and the supervisor/board, and is understood by both entities.

b. Organizational structure

Basic: ◦ The duties of program actors are well defined and understood by the actors and the manager;

Good: ◦ The above, but the duties are expressed as written job descriptions;

Very Good: ◦ The above, plus an organizational flow chart exists and is followed, and job descriptions are accompanied by written contracts where appropriate;

Excellent: ◦ The above, plus the structure is contributed to and understood by manager, staff, and supervisor/board.

c. Policies and procedures

Basic:	• The policies are set by the supervisor/board and are known by the manager;
Good:	• The above, plus the guidelines have been expressed as written procedures;
Very Good:	• The above, plus the procedures are regularly reviewed and revised;
Excellent:	• The above, plus policies and procedures are contributed to and understood by manager, staff, and supervisor/board.

d. Written organizational policies.

This addresses the types of organizational policies that are in writing. Ideally, all policies should be documented in writing and revised regularly. If all the policies below are in writing, it is excellent.

- Personnel policies
- Travel and procurement policies
- Affirmative action or equal opportunity policies
- Ethical code

2. Communication system

a. Communication between supervisor/board-president and the program manager. This addresses the method and frequency of communication.

Basic:	• Weekly communication between the two actors;
Good:	• The above, plus the manager provides written progress reports monthly to the boss/board president;
Very Good:	• The above, plus the two actors meet monthly to discuss program progress;
Excellent:	• The above plus all important issues in communication are documented in writing.

b. Communication between the program manager and staff. This address the method and frequency of communication.

Basic:	• Manager or delegate holds at least bi-weekly staff meetings.
Good:	• The above, plus manager or delegate meets with individual staff members on a regular basis.
Very Good:	• The above, plus the manager or delegate is easily accessible at all times—at least by telephone.
Excellent:	• The above, plus manager or delegate provides informal discussion time for staff to share information.

3. Motivation system

a. Reviews of manager by supervisor/board president.

Basic: ◦ Annual written performance evaluations are given to the manager.

Good: ◦ The above, plus manager is given performance objectives and incentives, should she or he achieve them, or immediate warnings, if she or he falls short;

Very Good: ◦ The above, plus manager receives public recognition for superior work; admonishments are provided confidentially

Excellent: ◦ The above, plus the manager assists in designing her own incentive system (within the budget) and own disciplinary system.

b. Reviews of staff by manager or delegate.

Basic: ◦ Semi-annual written performance evaluations are given to the each staff member.

Good: ◦ The above, plus staff members are given performance objectives and incentives, should they achieve them, or immediate warnings, if they falls short;

Very Good: ◦ The above, plus staff members receives public recognition for superior work; admonishments are provided confidentially

Excellent: ◦ The above, plus the staff members assist in designing their own incentive systems (within the budget) and own disciplinary systems.

c. Training and development system:

Basic: ◦ The agency is committed to on-going staff development and has it within its action plan.

Good: ◦ The agency includes a travel and training budget for its staff in its annual budget to support on-going staff development.

Very Good: ◦ The staff is required to participate in continuing education programs and a standard number of training hours is required per year.

Excellent: ◦ Improvement of knowledge and skill is monitored through performance reviews.

d. Benefits of employment.

Basic: • Salaries are comparable to other jobs requiring the similar backgrounds and time commitments, and a fringe benefit package is provided that includes basic health insurance, 10 days of vacation, 10 days of vacation, and customary holidays.

Good: • As above, but fringe benefits include expanded health benefits such as a dental or eye care plan, disability insurance, and increasing vacation or sick leave as staff seniority increases.

Very Good: • As above, but salary increases are based on merit and cost of living considerations and fringe benefits should include a pension or retirement plan.

Excellent: • As above, except the fringe benefit plan includes a cafeteria plan of benefits at a minimum of 20% of salary.

e. Organizational stress reduction plan.

Basic: • Stress management is considered an important part of the staff development programs, and materials are provided to the staff on methods of stress management.

Good: • Opportunities for exercise and participation in health programs are available to staff.

Very Good: • The organization encourages service providers to participate in counseling programs and provides mental health days when appropriate.

Excellent: • The organization has a written stress management plan that is implemented.

4. Volunteer management plan.

a. Volunteer involvement.

Basic: • The organization maintains a volunteer program and has a written volunteer management plan.

Good: • The above, plus the volunteer program contributes hours equivalent to 25% of overall staff time.

Very Good: • The above, plus the volunteer program contributes hours equivalent to 50% of overall staff time.

Excellent: • The above, plus the volunteer program contributes at least 25% of its hours for "professional" services.

b. Volunteer integration.

Basic: ◦ Volunteers have employment contracts and duties similar to paid staff's.

Good: ◦ The above, plus volunteers and paid staff routinely interact.

Very Good: ◦ The above, plus volunteers are actively recognized by paid staff for their contributions.

Excellent: ◦ The above, plus volunteers have the same access to information, training, and opportunities as paid staff.

c. Volunteer training and development.

Basic: ◦ An orientation training program is provided to all volunteers prior to their serving the organization.
◦ Monthly in-service training sessions are also presented.

Good: ◦ The above, plus there are several different training programs that provide the background and skills for specialized jobs within the organization.

Very Good: ◦ The organization maintains a training budget for volunteers so that there is support for them to attend outside training seminars or conferences.

Excellent: ◦ The organization regularly sends volunteers to regional and national training conferences.

d. Volunteer recruitment.

Basic: ◦ The organization has at least one annual recruitment drive each year.

Good: ◦ The annual recruitment drive is accompanied by media coverage and outreach to civic groups, churches, educational organizations and the like.

Very Good: ◦ The above, and the organization actively recruits interns from high schools and colleges.

Excellent: ◦ The above and the organization has a minimum of two recruitment drives throughout the year.

e. Volunteer motivation

Basic: • The organization has an annual recognition day for volunteers and gives out awards, certificates, pins or the like as acknowledgment of their effort.

Good: • The above, plus the organization promotes its volunteer program through media events on a regular basis.

Very Good: • The above, plus the organization has additional methods of recognizing individual volunteers and uses them on a regular basis.

Excellent: • The above, plus the organization does a regular analysis of its volunteers and selects tailor made methods of acknowledging efforts of each.

5. Financial management plan

The financial management plan may not be applicable to some programs if they are located in a state or county agency. On the other hand, it is recommended that programs are aware of their budgets and monitor their expenses even if they do not have control over final appropriations or expenditures.

a. Budget management

Basic:
- Revenues and Expenditures are forecast annually by source and cost categories;
- when revenues are on target, expenditures are within 10% of category projections.
- The organization has an annual audit of program financial status.

Good: • The above, plus the budget is monitored quarterly for variances.

Very Good: • The above, plus the budget is monitored monthly for variance.

Excellent: • The above, except costs are within 5% of projections by category.

b. Resource development

Basic: • The organization has a short and long-term development plan. Non-profit and other independent agencies are encouraged to have multiple sources of funding. For some state or local programs this may also be advisable. However, some programs are solely funded by state or local funds which are secure and hence do not have to worry about funding source issues.

Good: • The above, plus the agency has a secure funding base covering at least 75% of its annual maintenance budget.

Very Good: • The above, plus the agency has an annual fundraising plan, including an "innovation" budget;

iii. if the service is a referral service, is monitoring taking place to make sure that the victims receive service from the referral source?

iv. is there a feedback system such that:

- if services are not being delivered or are being delivered ineffectively that there can be modification in the service system?
- if services are delivered efficiently and effectively there can be a reinforcement of personnel morale and agency excellence?

B. Performance Guidelines

1. Program evaluation or assessment integration.

a. Program evaluation plan.

Basic: ◦ Goals and objectives of the evaluation plan are well understood.

Good: ◦ The above, and the evaluation plan is in writing.

Very Good: ◦ The above, and the evaluation plan has an operational budget.

Excellent: ◦ The above, and the importance of the plan and its implementation is accepted by the board/supervisor, the organization and the staff.

b. Evaluation and assessment implementation.

Basic: ◦ Organizational action plan includes time allocation for evaluation.

Good: ◦ Adequate resources are given to evaluators.

Very Good: ◦ Written reports are developed as a results of the evaluation.

Excellent: ◦ Evaluation is used to provide feedback and to suggest modifications when necessary to the agency.

2. Types of program evaluation or assessment.

a. Case management

Basic: ◦ A "Management Information System" (MIS) is in place.

Good: ◦ The above, plus MIS is used to aggregate data on number types of cases, and number and types of services provided.

Very Good: ◦ The above, plus MIS is used to modify the emphasis on service based on client needs and case data.

Excellent: ◦ The above, plus MIS is used to give staff feedback on service workloads.

b. Service outcome measures:

Basic: • Client satisfaction surveys are used to monitor service quality.

Good: • The above, plus skills of service staff are regularly "tested" to assure use of current knowledge and appropriate interventions.

Very Good: • The above, plus cost-effectiveness measures are analyzed annually.

Excellent: • The above, plus an outside "outcome" evaluation is conducted annually.

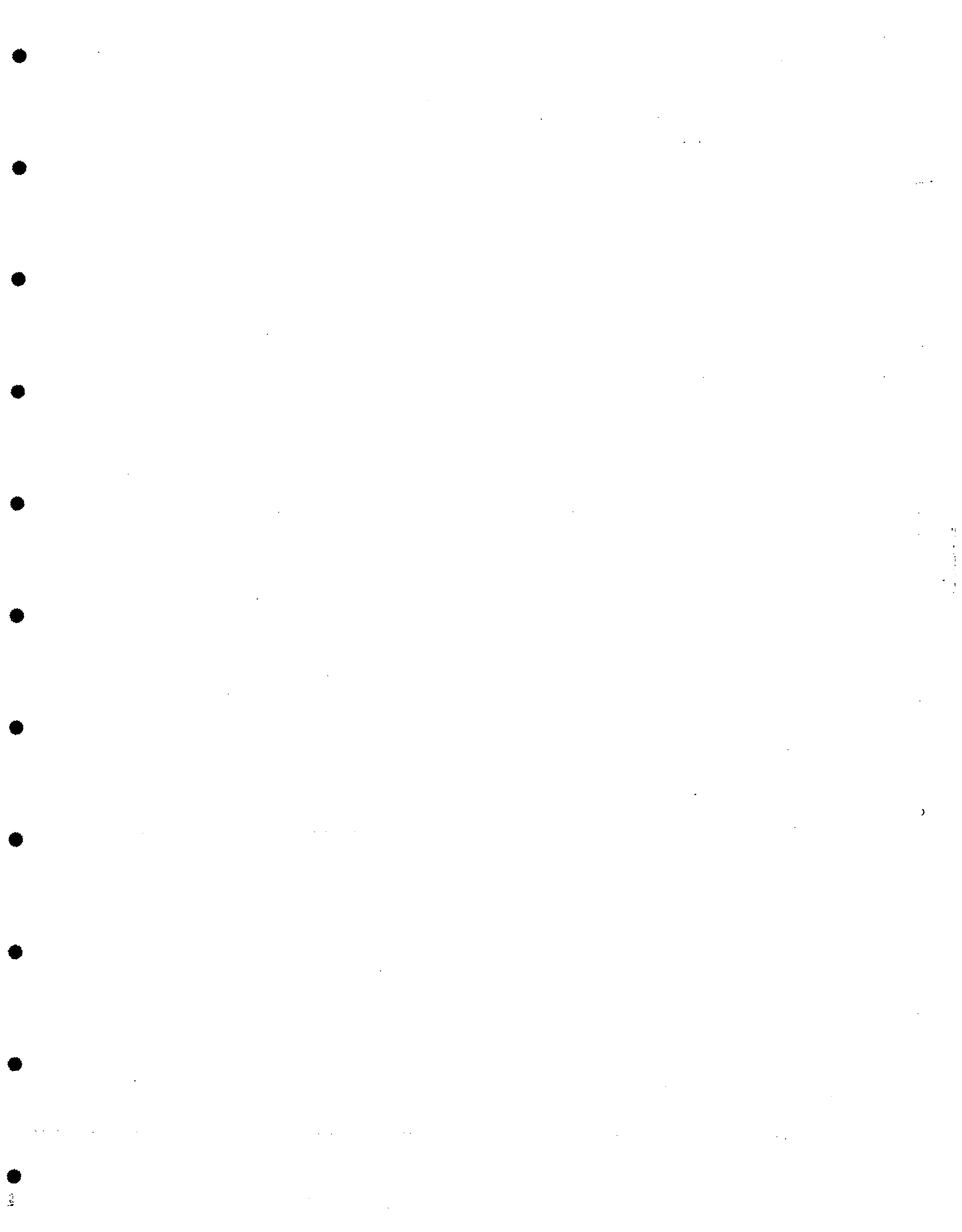
c. General program assessment:

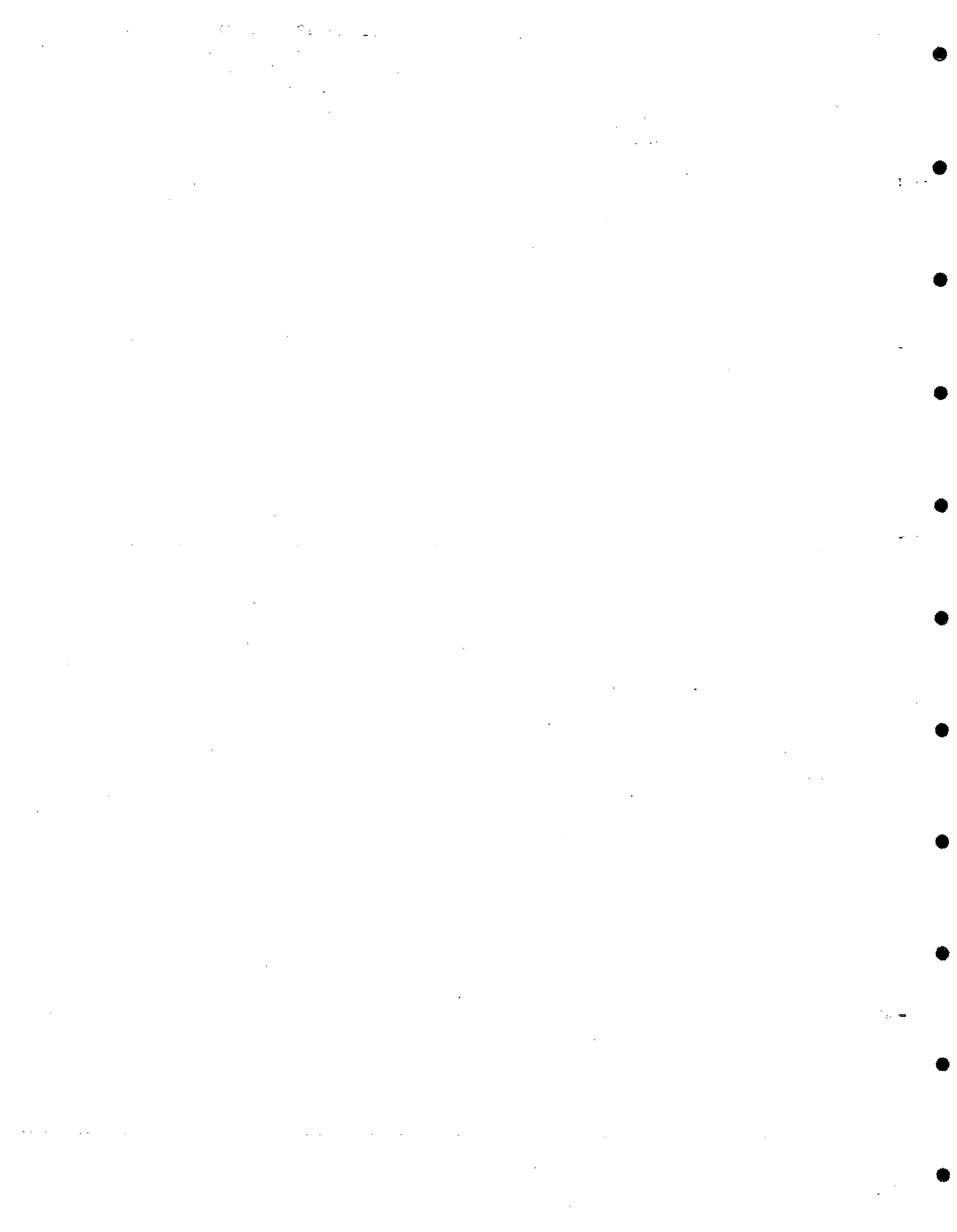
Basic: • The case management system is reviewed annually to identify gaps in service and problems in service delivery.

Good: • The above, plus a full assessment of the program is administered by staff based on generic performance guidelines and appropriate measures.

Very Good: • The above, plus an outside observer annually assesses the program on the same measures and with an open-ended interview with the key actors.

Excellent: • The above, plus an outside evaluation is conducted on same and other performance measures.





Excellent: ◦ The above, plus the agency has at least 85% of its annual maintenance budget secure.

C. Program manager training.

1. Pre-service training or experience

Basic:
- ◦ A minimum of two years experience in supervision, victim services, or a bachelors degree.
- ◦ Completion of training requirements of victim counselors and advocates or equivalent experience.
- ◦ Forty hour of pre-service training in management techniques, supervision, and community relations.

Good:
- ◦ The above, but two years experience in either victim services or supervision and a bachelors degree.
- ◦ An additional forty hours of training in management techniques, supervision, and community relations.

Very Good:
- ◦ The above, but a minimum of two years of experience in supervision and two years experience in victim services experience.
- ◦ And an additional forty hours of training in management techniques, supervision, and community relations.

Excellent: ◦ The above, plus an additional forty hours of leadership training.

2. Continuing education

Basic: ◦ 3 hour continuing education seminar each month

Good: ◦ The above, plus an average of 12 hours additional continuing education during the year (may be through conferences, training seminars, or in-house training.)

Very Good: ◦ The above, plus attendance at a minimum of one national conference during each year.

Excellent: ◦ The above plus, once every 4 years, additional college level education equivalent to 1 semester of work on a topic relevant to management, or experience in a job exchange program at the management level.

V. Evaluation Process

A. Implementation Steps

1. Obtain baseline data on victim needs, existing services, public awareness of victim issues,

inter-agency cooperation, and training needs.

2. Clearly establish goals of service and performance measures for each goal the program seeks to accomplish.
3. Performance measures should be defined in quantifiable terms or according to tested and understandable questions.
4. Well defined procedures, standards, guidelines for accountability, and documentation of case management should be established.
5. Identify areas for which evaluation and monitoring are desired.
6. Establish an evaluation budget.
7. Establish a timetable for planning the evaluation, a data collection period, and analysis of data.
8. Establish a method of feedback by which evaluation results may be reviewed and modification of program components can be implemented.
9. Establish types of evaluation that are desired. Consider the following options:

   a. Effectiveness of services

      i. victim/client satisfaction with services.
      ii. do services accomplish goals they are designed to, i.e. if assistance with victim compensation forms is an offered service in order that victims can receive victim compensation when they are eligible for it, is victim compensation being awarded when victims are eligible to receive it; if assistance with restitution is being offered, is restitution routinely requested, ordered and collected?
      iii. are the service providers adequately trained?
      iv. are the service providers regularly reviewed and monitored in terms of their jobs and their training levels?
      v. is the community aware of victim issues and aware of services offered?
      vi. are the services cost effective for criminal justice agencies, medical personnel, mental health professionals, social service personnel, and the community at large?
      vii. is the criminal justice system aware of victim issues, aware of services offered, and satisfied with service?
      viii. are victim/witnesses reporting more as a result of more effective treatment of victims?
      ix. are victim/witnesses more cooperative with investigation and prosecution as a result of more effective treatment of victims/
      x. are victim/witnesses participating more in criminal justice proceedings?

   b. Efficiency of service system

      i. are the services offered being delivered?
      ii. are services being delivered in a timely manner?

Chapter Five: Restorative Community Justice

A. Background to Understanding Restorative Community Justice

a. Principles

- Accountability of the offender
- Restoration of the victim
- Responsibility of the community

b. Offender accountability

- Retribution: sanctions and penalties
- Restitution to the victim
- Restitution to the community
- Repentance and remorse
- Restoration of the offender's connection to the community

c. Restoration of the victim

- Crisis intervention and emotional support for long range trauma
- Full participation in the justice process ensured by victim rights
- Assistance with practical needs

d. Responsibility of the community

- Equal rights for victims and the accused

- Crime and victimization prevention strategies

- Community involvement in community justice through community policing, community prosecution, community courts, and community corrections

e. Restorative Community Justice

- Victim centered
- Community driven
- Offender focused

B. Critical victim rights in the Restorative Community Justice Model

a. Redefinition of victim:

- individual direct victim
- family and friends of victim
- neighborhood or communityChapter Five: Restorative Community Justice

b. Increased protection:

- crime and violence prevention
- community participation in law enforcement
- community participation in corrections

c. Restitution for the victim

d. Restitution for the community

e. Information and notification to the victim and community on case status post-arrest

f. Participation through victim statements to the juvenile court

g. Involvement in diversion, sentencing, probation decision-making

h. Opportunity for involvement, at the victims' option, in offender restoration through such vehicles as victim impact education, victim impact panels, and victim-offender dialogue

Restorative Justice Issues:
Four Community Models
A Conference held in Saskatoon, Saskatchewan, Canada
March 17 & 18, 1995
Organized by the Saskatoon Community Mediation Services and the Mennonite Central Committee Ministry

"Alternatives to Court System Explored"

There may be "more appropriate" ways of dealing with offenders than through the conventional conflict-based court system — ways that focus on redemption rather than revenge — and which cut across cultural and linguistic boundaries.

A "restorative justice" conference held here recently organized by Saskatoon Community Mediation Services (SCMS) and the Mennonite Central Committee (MCC) Ministries brought together a wide variety of people from across Canada who work directly with offenders and victims of crime. Judges, lawyers, prisoners' rights advocates and clergy were among the delegates.

What emerged from the conference was a fresh perspective on how offenders, victims and communities an benefit in the long run by emphasizing reintegration of the offender, rather than simply relegating them to prisons where they receive their "higher education" in criminal techniques.

Drawing on the experiences of Australian and New Zealand family conferencing models; the traditional Japanese victim-offender mediation system which has been a part of that country's culture for centuries and the Native "Sentencing Circle" experiments in Saskatchewan; the conference aimed to explore the common links between these diverse approaches.

According to Carol Riekman, Executive Director of SCMS, the models share the same essential values; and the conference provided a forum where those commonalities became clearer to participants. "We had three basic objectives in organizing the conference, she explained. The first was to listen to Aboriginal perspectives on restorative justice; the second was to get specific information on what's happening in different contexts, including the sentencing circles in Saskatchewan, as well as family conferences circles in Australia, New Zealand and Japan. The third objective was to provide a forum for people involved in victim-offender mediation services across Canada to look at issues and developments in their areas."

There are a variety of reasons why community based alternatives to the court system are being explored now, she concluded, including the growing recognition that incarceration is often not appropriate.

Another aspect which governments are keen on is that community-based alternatives are less expensive and more effective than courts and prisons.

Is justice achievable?

It is debatable whether a truly "just society" has ever existed, according to Sakej Youngblood Henderson, a professor of Native Studies at the University of Saskatchewan.

Speaking at a conference on restorative justice in Saskatoon recently, Henderson said definitions of "justice" have varied across cultures throughout history, but one thing all these different societies have in common is that they were unjust.

"No one has ever been in a just society," he contended. "I've been around the world and every place I go it's the same story. People talk about a word like justice that they can't experience as if it was like heaven and will come automatically."

Henderson pointed out that the two "icons" of eurocentric thought, namely Socrates and Jesus Christ, "were both executed by the finest justice systems of their day. No one realizes that when we

take a stand for justice, we're in the same cosmic battle against oppression; against domination; against a system that tries to pass off its need for order and sovereignty from above as a justice system."

Henderson said the eurocentric view of justice was imposed on North American aboriginal people from the day the first immigrants landed. The records of Nova Scotia and Massachusetts indicate that they tried to set up Indian courts and have Indian constables. There was not one treaty that didn't deal with the issue of justice and the relationship between what Indians and non-Indians do," he said. "It's not a new issue, it's just that no one seemed to like our solution."

Henderson said the first treaty with the Micmacs on the east coast, in 1727, contained a clause that specified that disputes between Micmacs and British subjects would be resolved according to Her Majesty's law. "But the first time they hung three Micmacs, that definitely changed the Native people's view of the utility of Her Majesty's law," he explained. In 1753, the treaty was extensively revised.

Despite the resistance of Native people, treaties were imposed province by province, resulting in "systemic discrimination" by governments through the legal system. "The question comes back to us," Henderson said. "Is this thing you call justice one of your ideas you can't live up to, like Christianity, or are you trying to make it actual practice in society?"

Henderson said the symptoms of a skewed and unjust society are many, but the most serious is the presence of violent crime. These crimes, he said, flow "from the wellspring of frustration: the need to be powerful in a powerless situation; where you indulge in all the white man's vices in order to prove you're human."

Henderson said traditional native societies were far from perfect, but were based on the idea of "preventive justice" which focused on child-rearing. "It's becoming more and more apparent to me that our system of justice is deeply indebted to how we raise our children. It's not an abstract theory. We try and teach children how to behave and respect us. They don't need a concept of justice. It is in their heart and in their behaviour that justice comes from. When we come to justice, we have no other concept than healing."

Henderson said because Indian languages are verb-based, rather than noun-based, like English, the concept of restorative justice incorporates a holistic attitude that stems from one's actions. "You can't be unjust in one part of your life and just in another." He concluded.

Existing justice system can't be "indigenized"

There's a major contradiction inherent in the phrase, "aboriginal justice system," says Patricia Monture-Okanee, a professor of Native Studies at the University of Saskatchewan.

Speaking at a conference on "Restorative Justice" in Saskatoon recently, Monture-Okanee explained that the traditional aboriginal system for maintaining order in society is fundamentally different from the dominant "areocentric" model.

The two systems start in fundamentally different places," she contended. "Canadian law starts with the presumption that there will be conflicts; that there will be disputes; and we need a system to prevent chaos. But historically aboriginal systems started on the presumption that people in communities wish to live nicely together."

There were definitely "rules of social order" in aboriginal communities prior to colonization, she continued, "but the mechanisms for keeping order were very different than one involving courts, lawyers, police and magistrates. Consequently, efforts to create a so-called aboriginal justice system by integrating more aboriginal people into the existing structure are bound to fail, she added.

"You can't indigenize the existing system," Monture-Okanee stated. The problem isn't that we don't have enough brown lawyers or police officers or enough prisons on Indian land. Seventy-five

percent of federal offenders in this province are Aboriginal, and you can't convince me that's a just system when we only make up twelve percent of the population."

With such a high percentage of Aboriginal people in prisons, Monture-Okanee said the effects of the penal system also impact families. "These people," she said, "are my brothers and sisters, aunts, uncles — but hopefully never my children. I've survived many things in my life, but I don't think I can survive that one. When you take the children from this body and put them in a cage."

She said many parts of the justice system are, in fact, dependent on aboriginal people. "If you pulled all the indigenous people out of the prison system, it would simply cave in. The system was built on the backs of my people through colonization."

Originally from Ontario, Monture-Okanee is a member of the Mohawk Nation and Turtle Clan. She studied law and graduated from the University of Western Ontario and Queen's University. She taught law in Canadian schools for five years before the Native Studies Department at the University of Saskatchewan.

"I went to law school thinking it was about justice and fairness," she explained. "But my study of law was difficult because it was a study of oppression." The legal system, through the Indian Act, made the Potlatch and the Sundance illegal and legitimized residential schools and the theft of land.

Monture-Okanee said it is important that Aboriginal values and concepts become a recognized and legitimate basis for the legal system. "At one time I was excited about things like "alternative dispute resolutions (ADR)," she said, but added that such programs actually work to keep aboriginal people marginalized. "These processes that present an alternative to courts and police are simply that: an alternative," she stated. "If you don't do what you're suppose to do in this alternative, then the 'legitimate' court system is the big stick you have to face."

Monture-Okanee said she, like other aboriginal activists, are "tired of being marginalized and having to speak from a place that's not legitimate. Our way of keeping order in our communities is legitimate. It's the real thing."

Despite the difficulties of working with a system that "fuses around the edges" of the entrenched legal order, Monture-Okanee says there are signs of hope. "Real change in aboriginal communities is coming from the women," she concluded. "If you see any aboriginal justice project that doesn't centrally involve the women, then you're not looking at real justice."

Australian model reduces court system caseload

An Australian "restorative justice" model that allows victims and offenders to talk face to face has dramatically reduced the caseload of the court system by 50% and encouraged offenders to take responsibility for their actions and reinforced victims' perceptions that justice has been served.

But what may be surprising is that this highly successful "family conferencing" model originated with a police force.

Terry O'Connel is a sergeant in the Waga Waga police department, and the initiator of the "family conferencing " model for resolving incidents ranging from assault to crimes against property. Waga Waga is a community of 70,000 just west of Canberra in New South Wales. In 1991, the Waga Waga police department noted a significant rise in the incidence of crime by young people, and that the conventional legal system didn't seem to be working.

"We discovered our greatest problem was with young people," O'Connell told a conference on restorative justice in Saskatoon recently. Basing its program on a similar model introduced in New Zealand two years earlier, the Waga Waga police department implemented a "family conferencing" process which directly involves not only the offender, but also the victim, the victim's family, the offender's family and other members of the community impacted by the incident. Out of these "talking circle," which allow everyone to release their anger, remorse and other emotions, a resolution

emerges which is satisfactory to all parties. If the agreement is broken by the offender, he must answer to the conventional court system.

O'Connell said the approach adopted by the Waga Waga department is innovative because it is helping "redefine" the role and function of police force within a community.

Offenses, he pointed out, are often defined as "crimes against the state," a term which divorces the adversarial-based legal system from community perceptions of justice and fairness. "In almost every country in the world, the police have embraced the dominant views of government," O'Connell stated. "Police are the most effective instrument governments have for social control, and we're seeing a 'law and order' mentality on the rise."

By redefining the role of the police so that they become more accountable to "the community" rather than the state, O'Connell says police officers will be viewed more as legitimate mediators in disputes, rather than simply enforcers of laws. Police officers, he added, are members of a profession that is very different from other professions in that they "have extraordinary powers while at the same time are very constrained." Australia, he noted has the most over-regulated police force in the world — a fact which has led to greater push among policemen for more professional autonomy.

"Of all the people involved with victims of crime, police officers are the most directly involved," he explained. "If the criminal justice system is unsatisfying for police and for victims, then what have we got? What we do in policing can make a difference. I believe we need to redefine the role of the police."

In the conventional legal system, "we set aside our responsibility to the victim" in terms of emotional and material restitution by simply punishing the offender, O'Connell stated. The offender too often fails to learn from the punishment because they remain divorced from their victim's experience.

A "family conference" — which usually takes place two to four weeks following an incident such as an assault or break-in — draws in those people directly and indirectly affected by the event. It can be run with as few as 8 people, but it is more common to involve as many as 40 people, according to O'Connell.

The focus of the gathering is to achieve a satisfactory resolution through consensus, he stated, adding the emphasis is not on the individual offender, but on that offender's action. In this way, the dignity of the individual is protected while at the same time allowing him to experience shame and remorse for the action. The conference coordinator, who is usually a police officer, ensure the meeting remains constructive and focused. "If you shame people within a continuum of respect and support, then the process of reintegration can begin," he explained. "What we're dealing with is a process of shaming the act while reaffirming the intrinsic worth of the individual."

Most courtroom procedures are a "ceremony of degradation" that "don't make a distinction between the individual's act and who they are," he added. "Family conferencing is an inclusionary process of reintegration, while the court system is a stigmatic, exclusionary process that makes outcasts of offenders." Many offenders are already marginalized people with low self-esteem and few support structures, so "exposing them to more and more shame without affirming their innate dignity only makes the situation worse."

Family conferencing in Australia is similar to Aboriginal-based "conferencing" models in New Zealand, Aboriginal sentencing circles in North America, and traditional social "shaming" techniques in Japan.

Restorative justice part of Japanese culture, law

Japan is the only modern industrialized country to experience decreasing crime rates over the past fifty years, a trend attributable to widespread cultural acceptance of "restorative justice" concepts, says John Haley, a Seattle law professor who specializes in the Japanese legal system.

"Between 1948 and 1988, penal code offenses per 100,000 fell by 30 percent," he told a conference on restorative justice in Saskatoon recently. "At the same time, the number of offenders officially decreased by 27 percent. There were impressive decreases in homicide of 40 percent, robbery 60 percent and rape 80 percent."

Haley said many reasons for the decreasing crime rate are offered, such as the fact that Japan has a relatively homogenous society with strong social cohesion and social welfare programs, but these do not adequately explain the phenomenon. "Sweden, for example, shares many of those characteristics, but its crime rate is increasing," he pointed out.

"The decreasing crime rates can only be explained by something the Japanese are doing inside society and inside their criminal justice systems that others aren't doing," Haley suggested. The underlying factor is the Japanese cultural acceptance of what he termed "communitarian" values.

Haley said the seeds of this "communitarianism" were planted centuries ago in Japan's history. Japan was never conquered by its larger neighbor, China, but it was heavily influenced by the Chinese model of bureaucratic state authority and control, Haley pointed out.

"Japan in the fourth or fifth century AD was an isolated, and probably a very clannish, tribal society with no written language," he explained. "Its communitarian organization and kinship relations were the glue that cemented the society together. People predominantly lived in villages, and because of the nature of their agrarian economic activity, there was a great deal of economic interdependence."

Into that society, the civilization, law and arts of China were imposed, Haley noted, adding that the ruling elite held political power through the presence of an occupying army. Local villagers, however, retained a degree of autonomy and were governed internally by village elders — headmen who were answerable to the military. "As long as the villagers paid taxes and maintained the peace they were more or less left alone," he explained. "Consequently a set of social controls evolved to ensure social control; the first rule being don't squeal to the authorities. This prevented unwanted intrusion by the elite warrior class. These social controls were of great significance throughout Japan but they existed outside the formal legal system."

Japan continued to be dominated by Chinese civilization till the mid-19th century, when it opened itself to European political institutions and westernized law. This system of police, judges, courts, parliament and codes of criminal and civil law replaced the Chinese-influenced structure, but had little effect on the informal communitarian-based set of social controls.

Re-integration back into community

In essence, what Japan is doing is "using the criminal justice system in conjunction with its communitarian orientation to develop a mechanism in which conduct which society considers wrongful is condemned," explained Haley. "There is a symbiotic relationship between the state and the community. The community recognizes the authority of the state, and the state understands its authority would be undercut if it went against the informal system of social controls."

As a result, the state relies heavily on community controls and resorts to formal criminal institutions and processes only when necessary. "There is a built-in community orientation within the system," he explained. "Being an outcast carries a severe stigma in Japanese society, and that's the product of centuries of cultural tradition. So there's a built-in incentive for offenders to accept responsibility for their actions, repair the hurt they've caused and to adopt more appropriate behaviour."

What makes Japan different from many other societies is that the formal criminal justice authorities understand this informal process and the major pragmatic concern is not to punish, but to ensure the offender doesn't re-offend and to correct the harm he has done. "The offender is expected to compensate the victim," he explained. "As long as the victim can't forgive, then the offender hasn't given back enough."

There are checks and balances to prevent abuses in the informal system, but overall it is beneficial to

both the community and the state. "Fewer than 5 percent of all convicted persons in Japan go to prison, despite a 95.5 percent conviction rate," Haley stated. "There is no guilty plea in the Japanese system. The prosecutor must show guilt irrespective of confession. The offender's confession simply says the offender will not defend and it eases the burden of the prosecutor.

"The only cases where the convicted person goes to prison is to secure the safety of the community over the short term. But we all know that prisons are higher education institutions for crime. Anyone who goes in comes out a better criminal as a result of the experience. The prison also disrupts the social organizations that are most likely to correct and control wrongful behaviour."

Haley noted that the more "lenient" the treatment of the offender and the higher the involvement of the community, the lower the rate of recidivism. "The rate is less than 20 percent for cases the police don't report; less than 30 percent for cases where the prosecution doesn't prosecute," he stated. "It doesn't reach the 50 percent until you put people in prison. It increases with the more severe the penalty."

Haley concluded that the Japanese system "tells us how restorative justice works" and that its primary goal is to actually reduce crime rates.

Communitarian values common to Japanese, aboriginal systems

The Japanese system of restorative justice is in some ways similar to that practised by North American aboriginal societies, according to Seattle law professor John Haley.

At the heart of both systems is a set of "communitarian values" that focus on re-integrating offenders back into society, rather than on enforcing prescribed punishments. Haley told a conference on restorative justice in Saskatoon recently that it is no coincidence that non-western cultures do not have a word for "justice" in the conventional European meaning for the term.

"In both the Japanese and aboriginal cultures, righteous or moral conduct has been defined in religious terms, such as 'harmony' or 'healing,' he explained. "In western, particularly English speaking countries, the legal system derived from Britain and continental Europe; which in turn was based on Roman law and prior to that, Greek civilization. 'Justice' is not an English word, but rather a combination of Latin and Greek words used to denote notions of fairness and righteousness. Those civilizations had a fundamental conception of combining morality and law into one word — 'justice'. This concept was unique to those civilizations, so it is not illegitimate that non-western societies would not have a word for justice."

In Japan, "law" was a term which was not used in the same context, he explained. "It denoted the rules laid down by the state to protect the interests of the state. It was quite separate from notions of fairness or righteousness."

New Zealand adopts Maori-based restorative justice process

Changes in New Zealand's young offenders legislation in 1989 have had a dramatic impact on the way that country is now viewing its entire legal system according to Marie Sullivan, Manager of Youth Justice Services for the capital city of Auckland.

Speaking at a conference on restorative justice in Saskatoon recently, Sullivan said the introduction of the Children, Young Persons and their Families Act in 1989 ushered in some very fundamental changes to the way in which youth offenders were handled.

While much of the impetus for changes came from the Labour government's overall ideological push to privatize and cut back on social spending, the results have also been shaped by an increased awareness and respect for traditional Maori culture.

While the Maori make up only 12 percent of New Zealand's 3.5 million population, they are "vastly over-represented" in the prison system, stated Sullivan. "Sadly, New Zealand is one of the most

incarcerating societies in the western world," she said. "We are second only to the United States in the number of people per capita we imprison. Our crime statistics show that imprisonment doesn't work. It is a curious irony therefore, that it is in New Zealand that this unique legislation for the management of juvenile offending has emerged."

For sixty years prior to 1989, she noted, "We in New Zealand operated under the welfare model of justice for young offenders. The basic theoretical presumption was that juvenile offending was symptomatic of dysfunction in the individual offender and/or his family. Treatment or therapy was the answer and if this didn't work, ultimately it was likely to result in the young person spending much of their adolescent life in social welfare institutions being rehabilitated." The trouble was, social workers already faced with a large number of caseloads involving abuse or other urgent matters were hard pressed to devote sufficient time to young offenders. "So young offenders and their families were often more or less left to sort themselves out," and if they didn't, the young person was often placed in an institution."

She said 34 percent of the children in institutions are of Maori descent, and "43 percent of the known juvenile offender population is described as Maori." The Maori are also "over-represented in various indices of social and economic deprivation including higher infant mortality rates, lower life expectancy, higher unemployment and lower income than the dominant (Pakeha or European) group," stated Sullivan. During the 1980s, a growing awareness among New Zealanders of institutional racism and discrimination in the provision of social services led to calls for a revamping of the system, particularly with regard to young offenders. Attempts were also made to redress some of the injustices perpetrated against the Maori people over the last 150 years, stated Sullivan.

"Meanwhile the Social Welfare Department was considering developments overseas, particularly the offender victim mediation schemes here in Canada and the US and also in England," commented Sullivan. "Policy focus was clearly being directed to a justice approach to offending with its emphasis on holding young people accountable for their behaviour." Coupled with this was a decision to "learn from the Maori and other Polynesian traditions, and apply the principles of restorative justice to the whole community regardless of culture."

Goals of the Legislation:

The goals of the 1989 young offenders act, according to Sullivan include: *Diversion* — keeping young people out of courts and preventing the use of stigmatizing labels; *Accountability* — emphasizing the importance of young people making restitution; *Enhancing well-being and strengthening families*; *Due process* to protect young people's rights; *Family participation* — involving families and young people in reintegrating them back into the community; *Victim involvement* - involving victims in the decisions about what will happen and enabling their healing; *Consensus decision-making* — reaching agreement among all those involved in the Family Group Conference on the outcome; *Cultural appropriateness* — providing for different ways of resolving matters depending on the culture of the young person.

"Underlying the legislation are some key principles," she continued. "The principle of *proportionality* seeks to limit both excessive punishment and excessive efforts at rehabilitation. The principle of *frugality of sanction* infers that the sanction should be the least restrictive option — it is that the sanction should not prevent the ongoing development of a child or young person in his or her family. The principle of *determinancy of sanction* ensures the young person knows the length of the order; and the principle of *specificity* requires that the young person knows what he has to do to comply with the order.

Children under fourteen can't be prosecuted except in extreme cases such as murder or manslaughter. "If circumstances are considered serious enough, they may be referred to Social Welfare or

matter can be dealt with in the Family Court," explained Sullivan. "The vast majority (80 to 90 percent) of young offenders over the age of 14 are dealt with by way of police diversion. The intention underlying the 1989 Act is to encourage the police to adopt low key responses to juvenile offending except where the nature and circumstances of the offending mean that stronger measures are required to protect the safety of the public."

The foundation for the Act is the "family group conference" — which allows for a means of avoiding prosecution; and also serves as a means of determining how young people who commit offences will be dealt with. "It is mandatory for a family group conference to be held to consider the case whenever criminal proceedings are contemplated. A judge will not usually deal with any matter brought before the Youth Court until a family group conference is held."

Family group conferences reflect the traditional Maori cultural system, where there was a "clear cut code of behaviour" within the extended family context. "Definitions of unacceptability were based not so much on the fact that people had individual rights, but rather they had collective responsibilities," explained Sullivan. "The re-assertion of traditional Maori cultural values is of symbolic as well as of practical importance. The 1989 Act seeks to involve Maori directly in decisions about their young people and thus acknowledge their identity as people of the land. The incorporation of the indigenous elements is achieved mainly through the key mechanism of the family group conference, and it is within this that the main elements of a restorative process are expressed."

Family group conferences are meetings "at a time and place chosen by the family in consultation with the victim and attended by the young person, the family, the victim and his or her support, the police and the Youth Advocate, where one has been appointed," explained Sullivan.

Sullivan concluded that "it is fascinating to reflect on the fact that what took us in New Zealand towards a restorative model of justice was the desire to reflect indigenous processes rather than the conscious reference to the efficacy of the restorative model as it was practiced elsewhere."

How a Family Group Conference works

The following is an excerpt from a speech by Marie Sullivan to the Restorative Justice conference in Saskatoon recently.

The Family Group Conference is a meeting at a time and place chosen by the family in consultation with the victim and attended by the young person, the family (including the extended family), the victim and his or her support, the Police and the Youth Advocate, where one has been appointed. The Youth Justice Coordinator acts as facilitator and mediator between the family and the police, although the coordinator can invite others to act as facilitator, especially if this is culturally important. It is also relevant in terms of empowering the family.

This happens in a significant number of cases and the coordinator's role becomes one of supporting the process and recording the information. And where is the victim in all this? It is our experience that when a respected member or elder of the offender's extended family facilitates the process, the victims' needs are attended with more grace and sincerity than when the professional facilitates. Besides, restoring and respecting the dignity of the victim is part of the Maori process.

Usually after the introductions and greetings, which may include introductory prayers, the police describe the offence and the young person admits or denies involvement. If there is no denial the conference proceeds with the victim describing the impact on him or her of the offense.

The crux of the Youth Justice system is *direct* involvement of the offender and the "offended against," eyeball-to-eyeball. In the process of the Family Group Conference, the young offender in the presence of his family is confronted directly by the people his actions have affected. The violated person is able to express her or his anger and resentment directly to the violator; the victim has begun the process of being back in control, of being "re-empowered" something she or he was robbed of by

the event of the offence. This is the first step in the healing process.

The offender's reaction to this event is clearly visible to all present. The most frequent response, clearly demonstrated by her/his demeanour, is one of shame and remorse. When the victim stops speaking there is almost always a most powerful silence, a stillness, while the eyes and thoughts of all those present are focused on the young person. Occasionally, a spontaneous verbal response will happen; more often, after a time, I will ask the young person how he feels about what has been said. This will elicit an indication of shame — even the most inarticulate will admit to feeling "stink." I may ask them whether there is anything they want to say to the victim. The majority will then proffer an apology. The victim then has the opportunity to accept the apology and often in doing of begins to display the first signs of forgiveness, and compassion.

They will often now say what it is they want from the offender by way of reparation — not just in the financial sense, but what is needed to "make things right" between them. In situations where the victim has suffered physical harm, or is left with a residue of fear from the offence, they will need reassurance that they are not going to be at risk from the offender in the future, and they will need time to recover their confidence. If they wish, this can be addressed by further contact with the young person, or reports as to her/his progress, or provision for a further meeting together when time has passed.

By focusing on the needs of victims for healing, *their* need to be restored to the feeling of being in control of their own lives, of being re-empowered, the young person and her/his family when proposing a plan to deal with the matters can offer a creative, constructive solution. The best solution is that proposed by the young offender, through his family, having taken into account the requirements of the victim. Constantly in my work, where the behaviours and situations of our young people, many jobless and ill-educated, have the potential to induce a depressing effect on my own outlook on life, I am affirmed in by belief in the innate goodness of people by the common sense, the compassion and the cooperation of victims. A conference without victims present lacks the power (and consequently sometimes the effectiveness) of a conference where they are present. I always regret a victim's absence as a healing opportunity lost.

Views are then shared about how matters can be put right. The family deliberates privately after which the meeting reconvenes with the professionals and the victim to see if all are agreed on the recommendations and plans proposed by the family. Most referrals (80%) come from the police, but if the referral has come from the Youth Court the plan is put before the Youth Court Judge who in most cases endorses it. A Youth Justice Social Worker generally monitors the plan through to completion. In court referrals, in the event of satisfactory completion of the plan, the matter is likely to be discharged at Youth Court. In the event of a non-agreed conference, the Youth Court Judge will make a determination.

An example of restorative justice in New Zealand

The following is an excerpt from a speech by Marie Sullivan to a restorative justice conference in Saskatoon recently.

There is one more story I'd like to tell. It is a fine example of restorative justice in action and while it did not involve a Family Group Conference as the offending youth was 20 and therefore in adult jurisdiction, had he been under Youth Justice jurisdiction the process would have largely been the same.

One hot summer afternoon two little Tongan boys aged five were let out of school earlier than usual after a swim in the school pool. They were walking home together within metres of the school when a car travelling at high speed careened down the road, swerved near the boys and ran into them, killing them. This ghastly scene unfolded in front of pupils, school teachers and parents.

One boy's father always collected him in the car but on this occasion, because the boys were let out early, he was not waiting at the gate for his son as usual. Some minutes after the accident the father arrived on the scene to collect his son. The mother of the other little boy always walked to collect her son from school. On this occasion she too happened on the scene minutes after the tragedy had occurred.

Meanwhile, the driver of the car who had not stopped had disappeared from sight.

The entire nation seemed paralyzed with grief in this week before Christmas at the haunting images of the mother whose face was contorted in agony as she clung to the lamppost at the foot of which her little boy had died. People everywhere were fuelled by anger and outrage at the cowardly devil who had caused such tragedy and fled. Radio talkback lines were jammed with callers all proffering their views on the type of punishment that was fit for such an animal.

The weekend intervened and by Monday morning news reports were saying the offender had been located and was helping the police with inquiries.

It emerged that the youth had fled in panic to his sister's house. His sister had harboured him for several hours and had then contacted the elders in her Samoan community.

The Samoan elders met with the Tongan elders and indicated their intent to hand the boy over to the police. What occurred on the weekend out of the media spotlight was the Samoan youth being brought by his elders to face up to the grieving Tongan families.

The news report of Monday read as follows:

"The families of two South Auckland boys killed by a car welcomed the accused driver yesterday with open arms and forgiveness. The young man, who gave himself up to the police yesterday morning, apologized to the families and was ceremonially reunited with the Tongan and Soman communities at a special church service last night.

"The 20-year old Samoan had visited the Tongan families after his court appearance yesterday to apologize for the deaths of the two children in Mangere last Tuesday. The Tongan and Samoan communities of Mangere later gathered at the Tongan Methodist Church in a service of reconciliation. The young man sat at the feast table flanked by the mothers of the dead boys." (NZPA, Dec. 21, 1993).

To quote Jim Consedine in writing of this sad event: "One of the most lasting television images of 1993 had to be that of the families of two South Auckland boys killed by a car welcoming, with open arms and forgiveness, the accused driver and his family.

"What a contrast to the normal reaction we have come to expect via the media to such highly-charge deaths of young children. Time and again, admittedly often in more dramatic circumstances, an enraged family (and sometimes it seems a whole township) has gathered outside the home of the accused calling for vengeance, and on several occasions forcing the family to flee for their own safety. Here all the pent-up violence, frustration and fear of a community can be unleashed in an orgy of name-calling, rock-throwing and threats of physical violence to the families of the accused.

"How different the scene in Mangere was! Here several important values came into play to create a constructive mechanism to deal with the grief the community was experiencing. Two major threats interwove to build reconciliation and forgiveness. Firstly, both Tongan and Samoan communities have a tradition of restorative justice when it comes to offending in the community. This means that the well-being of the community and its restoration to peace and harmony are the primary values sought in the justice process.

"So restoring the young man to his family and restoring the good bonds between the two communities were the primary objects. The offer of a sincere apology and its acceptance through forgiveness and mercy form the natural flow-on from such a tradition. Sanction forms a less important part of the proceedings. Secondly, the deeply held Christian beliefs of both communities meant that they recog-

nized each other as belonging to one family of God that even national boundaries and culpable action should not place at risk. Hence the faith of the families and the communities generally meant that reconciliation and healing could be achieved even before the processes of the law got fully underway.

"In Christian terms, the Word did become flesh in South Auckland in its Christmas-week tragedy. In seeking true justice based on values of honesty, forgiveness and mercy leading to reconciliation and healing, the Tongan and Samoan communities became midwives to the birth of Christ in their midst. No amount of tinsel - not even Santa - could deny the truth of that birth."

This episode has provoked intense soul searching in the wider community and remains in the forefront of people's minds as discussion continues about the possibility of working towards restorative justice in the adult system. Here when grieving families could find forgiveness within at such a tragic time, how could the rest of the community possibly still hang on to their anger and outrage? How could they not possibly learn from the example provided by the grieving families. There is certainly a readiness in the New Zealand community at this time to contemplate restorative principles and how they may be applied in the adult system.

Training workshops part of mediation program

With a population of nearly three-quarters of a million people, Winnipeg is a city with its share of social strife and criminal offenses — problems that the court system alone can't handle adequately.

That's where Winnibeg Mediation Services (WMS) comes in, serving as a community-based diversion program with a mandate both to reintegrate offenders back into the community and help prevent offenses through conflict-resolution education programs.

During a panel discussion on mediation programs across the country at a restorative justice conference in Saskatoon recently, Jan Schmidt and Yvone Lesage of WMS explained how their program works and the challenges it faces in the future.

Schmidt said WMS grew out of a meeting in 1981 between judges, crown attorneys and members of the Mennonite Central Committee (MCC) who were concerned about the high rate of incarceration in the city. "As a result of the meeting, MCC sponsored our program," she explained. "Initially it started out as a post-plea mediation in that they were trying to divert people after a plea had been entered and before there was any sentencing. At the time it was incorporated we had a fair amount of support from our judges and crown attorneys."

Unfortunately, that institutional support evaporated as the sympathetic judges and crown attorneys "moved on to other positions." Scarcely a year after it began, WMS was in financial difficulty and did not enjoy support from many within the court system. In 1982, WMS restructured itself to become a "community-based organization," relying on volunteer mediators drawn from across the community. Its future was still in jeopardy, however, until 1983 when the Winnibeg Police Fore's Victim Services approached WMS with the intention of working together. "As a result of that, we were able to screen police reports and start diverting cases before a plea was even entered," continued Schmidt. "As of now that's the majority of our cases." WMS mediates cases involving a range of 35 charges, but the vast majority involve some sort of assault.

While the number of referrals involving adults has declined over the past year, the percentage of youth offenders in the program has increased dramatically, according to Yvonne Lesage. "I suspect this year there will probably be close to 300 youth referrals." The growing number of young people in conflict with the law is one of the reasons the staff at WMS is actively looking at ways of "offering mediation within the criminal justice system in a much broader range of situations than we presently do," added Schmidt. Incorporating some form of "family conferencing" model within neighbourhoods and schools may be a worthwhile experiment.

As Schmidt explained, WMS "has 60 volunteer mediators from the community that we have

trained, and they come in and do the actual mediation. Then the case goes back to the caseworker for follow-up. We're also responsible for doing all the follow-up on the program; reporting back to the crown attorney's office on the status of the case; and recommending whether further restitution or counseling is needed. We give a recommendation as to whether the charges should proceed to the crown attorney."

In addition to providing mediation services directly, WMS is actively involved in training community organizations and individuals in conflict-resolution techniques through workshops tailored to specific needs. "We work quite actively in the area of training," explained Lesage. "We have provided training and support for conflict manager programs in elementary schools as well as getting mediation programs happening in high schools. I would love us to promote the idea of family conferencing in some of the situations that have happened in some of the schools on an ongoing basis."

Of the major challenges facing WMS in the future, Schmidt said the "law and order" mentality that emphasizes a uniform "get tough policy" on offenders regardless of the situation is a concern. The other major problem facing the organization is chronic underfunding. Five of the centre's ten staff are MCC volunteers, and while they bring enthusiasm and commitment to their work, the high turnover rate can be a drawback at times, according to Schmidt.

On the positive side, added Lesage, the philosophy of restorative justice appears to be gaining momentum.

Mediation can make communities safer

Do more jail cells make a community safer?

Dave Gustafson of Community Justice Initiatives (CJI) in Langley, BC, doesn't think so. And he has evidence to back up his assertion.

Speaking during a panel discussion at the restorative justice meeting, Gustafson said innovative mediation techniques can be far more effective in creating a safe environment than simply throwing offenders into prison. He cited an example of two neighbouring counties in New York: one of which, Genesee County, has a ground-breaking approach to victim-offender mediation.

"In Genesee County, their program brings together victims and offenders very close to the crime, almost immediately after the crime, within hours. It's got volunteers and staff that work to do victim assistance that is very intensive — right down to the crime scene cleanup. They create comprehensive victim impact statements, and then they bring everyone involved, including the district attorney, together; and the mediators begin putting together a sentencing package that makes sense to the victim, the offender and the community."

In comparison, the neighbouring county has gone the more conventional route of building more jail cells at great cost to the taxpayers. "They built 300 jail cells four or five years ago," commented Gustafson. They cut ribbon in February and by July all 300 cells were full. Genesee County, by contrast, had 36 cells. They renovated another 6 old ones for a total of 42. Genesee has been selling jail space to the feds and to the state for years now, bringing in hundreds of thousands of dollars a year in revenue. They don't need 300 cells because they've got a community that feels safer than the one beside it, because the community is tremendously involved at virtually every level. The community placements for offenders are very visible. There's tremendous accountability to the community and it's working marvelously well."

That kind of model is what CJI is striving toward, and it is accomplishing a great deal since it began as an adult victim-offender mediation program in 1982. An independent evaluator last year indicated there was a "virtually unanimous response" among all those involved — including victims and offenders — that CJI programs promote an effective and "healing" intervention. The "fulfillment rate" for

contracts between victim and offender ranges around 95 percent — "about 4 times better than the best statistics posted by the criminal justice system when restitution is ordered by the courts."

Yet despite its success, Gustafson said CJI is feeling the funding pinch as governments cut back at a time when innovative mediation programs are more necessary than ever. He said the people that work at CJI are always being challenged "in some fundamental places — especially in regard to our youth victim-offender mediation programs."

"It may take interventions currently beyond what we've got going in our face to face mediated programs," he stated. "We need to look at a wider context. Family conferencing may be part of the answer to that.

CJI "started in the middle with adult alternatives to incarceration" in the early 1980s, and has since "moved in both directors," according to Gustafson. "We've become involved in mediations that involve fairly minor disputes, all the way up to the most serious and violent crimes in the criminal code. We're trying to train and assess and certify our mediators at three different levels so we have people trained and equipped to handle a vast range of disputes — from relatively minor incidents to the kind of things that require some real therapeutic acumen."

Gustafson himself works with some very violent offenders. "There's a very definite therapeutic component," he explained. "What's beginning to emerge is a program that really is giving them an internal deterrent and creating victim empathy and creating tremendous healing outcomes for victims — who in many cases have been suffering post-traumatic stress for as long as twenty or twenty-five years. It's joy to watch that healing happen and see these people flourish and begin to take life again with joy and panache.

Ultimately, he notes, a program that "reintegrates" offenders back into the community is most beneficial for individuals and society. "What's going to happen to those people doing fifteen to twenty-five years sentences — who have paid their debt to society but who are hounded from community to community and have no place to go? They're going to end up back in their old familiar haunts from sheer loneliness if nothing else — back at the bar; back where drugs are flowing; and back in prison. We can't let that happen."

Gustafson said one way to picture how a more just future would look is to "imagine the future history that would get us to where we want to go." This process, he said, "can be a very liberating experience for people who feel trapped in an unyielding present."

Transformative justice tackles structural inequality

There's a big difference between the "retributive" brand of justice dispersed through the court system, and a "restorative or transformative" type of justice that tackles the underlying issues of social inequality.

That was the message the Dr. Ruth Morris of Toronto brought to the restorative justice conference recently in Saskatoon. During a panel discussion, Morris said while "restorative justice" alternatives represent a positive trend, they won't be enough if "the roots of injustice" remain intact.

"Too often we still accept the underlying parts of our justice system that are based on racism and classism," she contended. "Restorative justice is not enough if it doesn't address, fundamentally, the issue of racist and classist injustice which lies at the root of every one of our systems."

Morris said one way to describe the legal system is "a system of formalized nastiness." She added that there are really "two stages" of victimization in society. The first stage is structural inequities which are what I call distributive injustice. This injustice creates two kinds of victims: the haves and the have-nots. The haves are victims because their lives are smaller, more fearful and more constricted. Out of that distributive injustice arises street crime which we call criminal injustice. We've devised a system that only looks at that secondary kind of injustice — street crime and crimes against

the law. This system very rarely looks back to the real issue."

Morris said "restorative justice" can't simply restore people to a position where they continue to be victims of structural injustice.

She challenged conference delegates to go beyond what she termed "misery justice and zero-sum justice to create real and lasting transformative justice."

Misery justice, she explained, involves punishing the offender so they are as miserable as the victim. Zero sum justice dictates that offenders must take total responsibility for restitution to the victim — which generally makes for a less-than-satisfying outcome.

"Transformative justice" is built on four foundations, Morris concluded. "The first principle is that it should be healing, not hurting, all the parties involved; the second principle is that it should build the community rather than simply support the state; the third is that it should restrain wrongful behaviour without disempowering individuals and groups; and the fourth is that it needs to have a built-in structural fairness rather than be based on some hierarchical order."

Crime, she said, represents "an opportunity to change the community, the offender and the victim and all those affected by it. But we don't have to wait for crime to take advantage of that opportunity and start the transformation.

Sentencing Circles part of community healing

For the past three years, several communities in northern Saskatchewan have periodically utilized informal "sentencing circles" to determine appropriate ways of dealing with offenders.

According to Judge Bria Hucaluk, these traditional native circles are a "small step along a long road" toward positive changes in the legal system.

"I could sentence somebody in three minutes, so if I didn't think the sentencing circles were a benefit to the community and to the process of justice, I wouldn't spend four hours each time participating in them," she told the restorative justice conference in Saskatoon during a workshop session.

Judge Hucaluk, who was appointed to the Provincial Court in 1992, served three years as a judge in northern Saskatchewan. Shortly after she was first appointed, she helped initiate sentencing circles as an alternative to conventional court proceedings.

"It costs 8 billion dollars a year to support the Canadian criminal justice system," she told conference delegates. "The courts, judges' salaries and the capital costs of prisons are all part of that expense. It's obvious that's a monumental amount of money, yet there are very limited resources for treatment.

"I spent fourteen years as a legal aid lawyer trying to keep individuals out of jail," she added.

"I guess I've always been rebellious against authority, and certainly it is unusual for a judge to be against authority. But having grown up in the sixties and seventies, an era of questioning the status quo, perhaps that makes me more open minded in dealing with change."

She said the legal system was "very good at making sausages" where "accused people came in one door and went out the other," but it "wasn't particularly satisfying" because recidivism rates are high and there is no way to tackle the "root causes." One of her colleagues, Judge Fafard, initiated the first sentencing circle in July, 1992, and "we haven't looked back since."

"I began the process by approaching communities to see if they were interested, and almost every northern community has had a sentencing circle of some type," she explained.

"Some of them have dissolved for various reasons, but there are five communities where their role has expanded" to include pre-charge referrals from the RCMP. In many ways, these "pre-charge circles" — which have been operating since last fall — are similar to the "family conferencing" models in Australia and New Zealand and the informal diversionary process in Japan.

"I wanted to keep things out of court," Hucaluk related. "A lot of cases that came to me could

clearly be dealt with more effectively by the community." Out of one hundred sentencing circles over the past three years, "not one has been appealed," because there was a general consensus among communities that the sentences were appropriate.

"Clearly there's nothing to lose by trying it," she added. "The system has not worked up to now. It hasn't resolved the issues and reintegrated people into the community. Traditionally, if somebody is charged with assault, the barrier between the victim and the accused will never heal within the traditional court process because there's no mechanism for that to happen. But if you involve the community, you open up an opportunity for something very positive to happen. You open up the possibility of forgiveness and reconciliation so people can get on with their lives. In small communities this is absolutely critical."

The sentencing circles can be initiated by the judge, the defense lawyer or the prosecutor, and are completely voluntary for the victim and offender. The question of the guilt of the offender is not an issue in the post-trial sentencing circles," Hucaluk explained, adding that certain criteria are applied to people who choose to go before a sentencing circle. "The offender must have deep roots in the community from which the participants are drawn; there have to be elders and non-political community leaders included in the circle; they have to be willing to participate and not agree through coercion; there is no obligation on the part of the victim to participate. If the victim is a battered woman, she must be accompanied by a support team and have counselling. All this has to be resolved in advance."

But the main criterion the judge applies to the case is "whether we're willing to take a calculated risk" by asking the community to determine the sentence.

The goals of the sentencing circle, according to Hucaluk, include "restitution to the victim, reparation to the community, responsibility being accepted by the offender, reconciliation between victim, offender and community members, restoration of harmony, reintegration of the offender back into the community, and recidivism — not."

She said sentencing circles are held in an informal setting away from a traditional courtroom. "We start out with a prayer and introductions; and then I generally start with the accused given the opportunity to say something initially. The accused usually won't say anything, so we go around with everyone given the opportunity to speak. Sometimes they're not ready. There's no pressure on anyone. We keep coming back until everyone who wants to speak has had the opportunity to say what they want to say. The goal is to come to a consensus or resolution for the most appropriate way of dealing with this person in the context of the community and the victim.

"This process might take three or four hours, but after repeated talkings by a large number of people, there's a healing that happens. It's not a healing circle in the traditional native sense of the word, but by the dynamics that happen within the group, a healing process starts. It's a very emotional and painful experience. It's one thing to appear before a white middle class judge who flies in and is gone. There's a moment of discomfort, but it's not the same as facing the victim, your own family and your own community. That's why it's more effective."

Don McKay, a teacher, alderman and community coordinator at Cumberland House, plays a key role in establishing and maintaining both post-trial and pre-charge sentencing circles in that community. He told conference delegates that " the positives far outweigh the negatives" for those involved.

"In the north we've the benefit of the participation of elders," he explained. "It hasn't been without problems. Some of the elders feel it's not their role to dish out punishment, but those that do participate see it as appropriate. Some elders are in their eighties, and even though they're still going great guns, it takes a lot of effort and the strain can lead to burn-out."

McKay also said concern over whether the sentencing circles are "political" is a legitimate worry. "For these programs to work, we have to have confidence that the people involved in the process

have the support of the community. If they don't, then the whole thing will crumble very quickly. To maintain credibility in the community, they have to be seen as being fair. If they're not seen as fair, then it's game over."

McKay said some people come into the circles to promote their own agenda, but the dynamics within the group invariably expose that agenda and it "becomes secondary" to the overall purpose. "There's usually a balance," he stated. "There will always be cases where there's a problem — that's part of the growing experience and there will be mistakes, but for the most part there's checks and balances."

McKay said a perception among some people that the accused will ask for a sentencing circle in the belief that he'll get off easy generally find it doesn't work that way. "Unless the accused comes into the circle sincerely wanting to change, the community knows. It will come out. It can't be hidden. In a small community everybody knows each other. Cumberland House has a population of between 1600 and 2000 people, and virtually everybody is inter-related."

He said the first few sentencing circles in Cumberland House started off tentatively because everyone involved was still intimidated by the process. "It was like court all over again," he explained. "The judge was there, lawyers, policemen in uniform. It started off really slow. Everyone was so used to the court system as it was then, when the judge and lawyers would fly in, hold court and fly out again once or twice a month. Neither victim nor offender would speak up because they were intimidated. In court the offender would just want to get it over with so he would plead guilt. It was only after the trial was over and the judge had sentenced him that he started asking questions."

After a foundation of trust and credibility had been laid down for the sentencing circles in Cumberland House, however, the people involved began opening up. "They were less intimidated," he stated. "We were able to communicate in our own language and because everyone knew family histories of the offender and victim, things were placed in context. Sometimes there was no sentence imposed on the offender because the reconciliation and restitution took place in the circle. Also, alcohol, drug and other counsellors are included in the circle so if the offender has to take treatment, everyone knows. If young offenders are involved, we always include the parents in the circle."

McKay said there have only been a couple of instances where the case had to be referred back to the courts because the offender refused to follow the conditions imposed by the circle.

Since last fall, there have been about six pre-charge circles per month that are referred directly from the RCMP without having to go through court. Recommendations from those circles are then passed on to the court. This type of circle, concluded Judge Jucaluk, "has more potential. That's the direction we should be going."

"Restorative Justice in the Third Decade: Retrospective and Prospective"

["Restorative Justice in the Third Decade: Retrospective and Prospective" is the title given to a number of artices published in *Accord*, (Volume 14, Number 1, June, 1995) "A Mennonite Central Committee Canada publication for Victim Offender Ministries," Clearbrook, British Columbia. Six of those articles follow — two by Howard Zehr and one each by Matt Hakiaha, Judge Barry Stuart, John O. Haley, and Harry Mika.]

Reflections on Family Group Conferences, New Zealand Style
Howard Zehr

In the early days of VORP, Dutch law professor Herman Bianichi chided us that the approach was too individualized and private. Many cultures are accustomed to addressing their conflicts and problems in larger family and community groups, he said, and would finally find simple diads of victim offender encounter too incomplete.

I filed this away as one of those interesting but marginal ideas that seemed sensible but hard to apply within the existing model. I consoled myself with the assurance that the community was involved through volunteer mediators and the organization's community base. Besides, in those offenses where there were special community ramifications, presumably we would find ways to include representatives of the community in an encounter. The Batavia, New York, program has been doing that with some regularity, in fact.

In the case of juveniles, families have always been a factor to consider although their role has been problematic. Some programs see families as a potential nuisance; they must be informed but should be kept out of the actual encounter. Others encourage their attendance but try to make sure that the essential dialogue is between young offender and victim. Here the parents have a role but it is largely a supportive one.

Family and community have been recognized to have some role, in other words, but it has been ambiguous and often episodic or marginal rather than integral.

Now tow restorative approaches that operate within a western legal context but were developed out of indigenous cultures have forced me to reconsider radically these assumptions.

Family Group Conferences (FGCs) emerged in New Zealand in the late 1980's as a response to concerns and traditions of the indigenous Maori population. According to new law, all juvenile cases with the exception of a few very serious crimes, primarily homicide, are diverted from police or court into Family Group Conferences. As a result, judges report substantial drops in case loads. Instead of a court hearing, a youth justice coordinator facilitates a meeting which includes not just victim and offender, but caregivers and/or supporters, a special youth advocate, a police representative (the police are the prosecutors) and, most important, the immediate and possibly even extended family of the offender. In broken and dysfunctional families, more distant relatives or other significant people may be included. This group, which includes participants usually assumed to be adversaries, is expected to come to consensus on the entire outcome for the case, not just a restitution agreement. Families play an integral roe in this process.

Family Group Conferences work and proposals are now being considered to adapt the process to adults. To be sure, the particular application in New Zealand needs fine-tuning: restitution follow-up is often inadequate, for example, and the legislation does not adequately recognize the centrality of victims. In spite of these glitches, the stories emerging from six years of experience are often dramatic.

The involvement of the families in FGCs maximizes the possibilities of what Australian criminolo-

gist John Braithwaite calls "reintegrative shame." The potential for denouncing the wrong through shame is tremendous within the circle of the family; it is bad enough to be shamed in front of victim, but imagine facing your grandmother or grandfather! At the same time, however, it provides encouragement for affirming the offender. Family members will often articulate their dismay and anger at the behavior, yet affirm the essential worth and gifts of the young person who has offended. Strategies emerge from the discussion which allow offenders to take responsibility and make things right.

In addition, family involvement in determining the outcome of the case gives a sense of ownership in its success, making it more likely that they will provide encouragement and support as the agreement is carried out.

Another set of lessons emerges from Circle Sentencing being used in First Nation Communities in some parts of Canada. Like FGC's, Sentencing Circles operate within the` legal framework, developing sentencing plans for the court through consensus. Here the emphasis includes families but is especially upon community involvement. The meetings are often larger, with many community members attending. In fact, Judge Barry Stuart, in whose jurisdiction such circles operate, emphasizes that the community-building and problem-solving that occurs is one of the main advantages. Problems and conflicts, when handled properly, are primary building-block of community, he says.

"The principal value of Community Sentencing Circles cannot be measured by what happens to offenders, but rather by what happens to communities. In reinforcing and building a sense of community, Circle Sentencing improve(s) the capacity of communities to heal individuals and families and ultimately to prevent crime. Sentencing Circles provide significant opportunities for people to enhance their self-image by participating in a meaningful way in helping others to heal."

These two models should provide a serious challenge to the classic "diadic" VORP model as we look toward the future. Can we find ways to involve the family and the community in our mediation process? I believe we can and must, but this will require a willingness to dream and experiment.

Reflections from a New Zealand Restorative Justice Conference: May, 1995
Howard Zehr

John Braithwaite was younger than I expected, very amiable, a kindred spirit. The Australian criminologist's writings on shame had earlier unlocked secrets for me. Now, this time in New Zealand and in person, he did it again with rough sketch on an overhead.

He sketched a pyramid divided into three parts: a large, broad base, the bulk of the pyramid; a smaller middle zone; and a tiny triangle at the peak. With this simple diagram he began to answer for me several persistent questions about the role of some of the traditional aims of justice within a restorative system of justice.

The pyramid represents a system of justice based on restoration. Its large base represents truly restorative approaches. In this zone lie multiple approaches with a restorative focus. In this zone are the approaches which are preferred and those which must be tried first. Sometimes multiple options from within the restorative zone must be tried before moving to the next zone.

There are some situations, and some offenders, where true restorative justice may not seem to work. At that point, then, we must move to the smaller zone of deterrence. There is a role for penalties, for example, if drivers persist in driving drunk or to discourage corporation wrong doing.

Finally, when deterrence fails, in a tiny proportion of cases we must incapacitate. He reminded us though that incapacitation does not always equate imprisonment. In the case of drunken driving, for example, it might mean denial of the possibility of driving. The nursing home which persists in wrongdoing might have its license removed.

The fact that system is built upon a restorative base implies that the other options, deterrence and incapacitation, must be used very sparingly, as a last resort. Even in these unusual circumstances, however, the application must be informed by restorative principles. The ultimate aim should be to heal; it should encourage both responsibility and restoration through reintegrative shame; the least intrusive option must be moved back into the restorative zone. In a restorative system, restorative values should inform all we do.

This is significantly different from trying to impose on the present retributive system certain limits to the administration of pain. A major failing of the retributive model, I have been arguing, is that it does not contain within its value system any standards for treating people humanely. If our primary business is to punish, then why treat people decently? Why use the principle of least drastic interaction? To limit our use of pain, we have to bring in additional values from outside the ethical system to serve as limits. Unfortunately, limits imposed from outside are not very effective.

A restorative approach to justice, on the other hand, contains within its value system a vision of good. It provides a vision of the goal we are working for. It provides from within the motives and limits which encourage us to treat people with respect.

Even when we are forced to use options of deterrence and incapacitation, then, we are more likely to do so in a limited and humane way if we are based in restorative values. It is time for a standard of what is normal, one based on a restorative rather than a retributive framework.

Family Group Conferences: Promises, Challenges, and Pitfalls of an Emergent Model of Restorative Justice

Russ Immarigeon

In 1989, after 25 years of dialogue, New Zealand enacted The Children, Young Persons and Their Families Act 1989 which established the presumptive use of family group conferences (FGCs) for juvenile offending and care and protection cases. In that year, too, Australia and England and Wales passed child welfare legislation that gave authority to involving families more intimately in

decision making processes that were previously controlled by social work and legal professionals. In 1989, John Braithwaite also published his important book, *Crime, Shame and Reintegration* (Cambridge University Press) which staked the theoretical territory for the use of what Braithwaite calls community reintegratiôn meetings.

These, and subsequent developments, have created a ground swell of international interest and use of FGCs, probably the most innovative and important forum for designing and implementing restorative justice since the emergence of victim-offender mediation or reconciliation meetings, first initiated in the mid-1970's.

FGCs are not a program. Rather, they are mediating structures within which families are empowered to establish penalty of child placement plans after consultation with victims, social workers, neighbors, police and other relevant persons. In New Zealand, FGCs modeled on Maori extended family practices, were designed, amongst other things, to reduce the number of juvenile detentions, introduce culturally-sensitive practices, and revamp the role of professional intervention.

The basic form for FGCs differs slightly with juvenile offending and care and protection cases. And, as the practice has expanded worldwide, the original model, has experienced other alternations. Basically, in simplified form, here's what happens: When a case is referred to court, it is in turn given over to a coordinator, ideally an independent agent, who investigates the situation, identifies relevant parties, and explores various intervention alternatives. Extended family and others (including victims) are inviting to a family group conference, which is actually two meetings. In the first, the offenders speak, the coordinator presents information, victims provide their voice, and professionals give specific information of particular issues related to the situation(s) under review. Then, the family and extended family retreat to a private meeting wherein they prepare a disposition or placement plan. The court then reviews the plan and approves or rejects it. In New Zealand, 90 percent of plans are approved by the courts. If the plan is rejected, the case returns to court for traditional processing.

Processing issues are very important both for establishing FGC programs and for conducting actual FGC meetings. As mentioned above, in New Zealand meetings were held over many years to identify concerns and disagreements and to fashion an overall vision along with practical objectives. On a smaller scale, an initiative in Newfoundland and Labrador that uses FGCs for domestic violence cases made certain, coming partially from a feminist perspective that women's groups were involved from the start with planning how to use, and how not to use, FCGs when domestic violence is an issue. At the case level, it is vital that victims and offenders alike have support persons to accompany them to meetings.

Interest in the practice of FGCs has now spread around the world. In Australia, several states are operating initiatives in both child protection and juvenile offending cases. In Canada, British Columbia is drafting comprehensive legislation and Newfoundland and Labrador have just completed a demonstration project in three rural and urban communities. A demonstration project was completed for juvenile offending cases *[article drops the end of this sentence.]* In the U.S., Oregon is well out in front regarding this initiative. A half dozen years ago, enterprising Oregonians devised a Family Unity Program that mirrors FGCs in many ways. FGCs themselves are now established in several Oregon communities. Kansas, Michigan and Vermont are currently working on plans to set up new programs. Arizona is exploring use of FGCs for juvenile cases. In England and Wales up to 25 local authorities are piloting FGC programs, and the Family Rights Group, a national lobby group, is steering development of the whole initiative.

In New Zealand and other places, research evaluation is seen as an important vehicle not just for assessing what is done in practice, but also for supporting the development and expanded use of FGCs. Research to date has focused more on procedural concerns, but forthcoming investigations are exploring outcome measures. Research has consistently shown that families routinely reach not

only creative but also practical plans. Court acceptance is up to 90 percent in New Zealand where FGCs are used for large numbers of cases and up to 100 percent in pilot project sites at other locations. Some evidence exists that FGCs can be more cost-effective than traditional processing, although further research is needed. So far, the use of FGCs seems to slightly diminish recidivism rates. And there is strong, convincing evidence that FGCs increase quite significantly, diversion from court processing, juvenile detention, and foster care. Also important is the satisfaction of victims participating in FGCs.

It is important to note that these evaluations are also establishing what does not work and how things can be fixed. In New Zealand, for instance, researchers found that in juvenile offending conferences professionals tended to overtake FGCs, families were poorly informed about FGC process, young persons' rights were often inadequately protected, victims were not invited as frequently as hoped, and resources were commonly lacking to address family and young people's needs.

Negative findings have apparently been seen to indicate matters that require repair, not stopping.

FGCs or community conferences as Braithwaite calls them, are not a panacea. "There are no criminal justice utopias to be found, just better or worse directions to head in," Braithwaite and his colleague Stephen Mugford cautiously suggest. But FGCs have proven themselves sufficiently, I think, to satisfy skeptics and dawdlers alike that it is a reform worth pursuing.

Beyond their own merits, FGCs have other implications that deserve some attention. FCGs have similarities with victim-offender mediation or reconciliation meetings. To a lesser extent, they have similarities with such proceedings as family planning conferences. In this context, FGCs raise questions concerning what differences exist between the various models, what these differences portend, and what implications these differences have for future developments in these models.

Suzanne M. Retzinger and Thomas J. Scheff, in an unpublished paper, recently reported on the dynamics of shaming they witnessed in nine conferences they observed in Adelaide, Campbelltown, and Canberra, Australia in December, 1994. They found at least a dozen "tactics" that can be used to reduce "impediments to symbolic reparation." These include maximizing the number of participants, conducting conferences as quickly as possible after the offence, the counter productiveness of highlighting indirect consequences of offender actions, the use of silence to match silence coming from the participants, and the importance of training.

The slow, gradual spread of FGCs to different geographical and governmental locations raises concerns about the faithfulness of adaptations and replications of FGCs to major components of the original model. One advantage of FGCs, for instance, is that its flexibility allows different cultures, as well as different individuals and families, to use its format to devise the most appropriate and feasible plans. But there are key components of FGCs, such as empowering families, shifting the focus and control of professional intervention, and diverting cases from more restrictive options (detention, foster care, etc.), that can nonetheless be deemphasized if new efforts are unfamiliar with the fullness of the original concept or are less than careful in the implementation of FGCs.

Rethinking Justice: A Maori Perspective
Matt Hakiaha

At the recently held conference titled "Rethinking Justice" organised by the Legal Research Foundation, held at Auckland's College of Education on 11-12 May, 1995 were numerous infamous speakers, of which tow were from overseas.

With restorative justice as the principle focus, one of the keynote speakers presented an impressive commentary regarding restorative justice as opposed to retributive justice. In summary Dr. Howard Zehr (Mennonite Central Committee, USA) stated that those who have high interest with Social Justice, needed to seriously consider restorative principles as opposed to retributive justice.

On a domestic level, they were equally infamous and impressive commentators.

A cultural component which featured noted commentators as Dr. Pita Sharples (Ngati Kahunungu) and Naida Pou (Ngati Whatua) proved to be stimulating particularly with their anecdotes. Naida Pou commenced her commentary with this Maori proverb.

"*Tukua ma te whakamaa e patu...*"

Derivation of this Maori proverb is associated with a branch of the Nagati Awa, in particular, one of their feared Tohunga named *Te Tahi o Te Rangi*(1)(2).

In summary, these people, a branch of *Nagati-Awa*, were once troubled with a *Tohunga, Te Tahi o Te Rangim* whom they feared for the intensity of his *Tapu* and because they thought he was using magic to destroy their crops. Since it was contrary to custom to shed the blood of *Tohunga*, it seemed appropriate to rid themselves of *Te Tahi* (3) by marooning him on *Whakaari* (4).

Te Tahi was deceived by their elaborate plot, and he presently found himself alone on Whakaari but unknown to his people, *Te Tahi* possessed a *Mauri* – the embodiment of a life force – which gave him the power to call up the *Taniwha* he mounted the back of the their leader *Tuutara Kauika* and he was taken across the water.

On the way he passed Ngati Awa, who were still returning in their canoes(A). *Te Tahi* (6) chose not to revenge himself upon them, telling the *Taniwha* that his people's shame would be sufficient punishment(B).

Ka whakahokia iho e Te Tahi. "WAIHO A NGATI AWA HAI MAATAKITAKI I A TAAUA. WAIHO MA TE WHAKAMAA E PATU" (C).

And when *Ngati Awa* saw *Te Tahi*(7) sitting on the shore, returned to land before them, they were deeply ashamed of what they had done(8).

Naida Pou, expertly extracted this traditional Maori proverb and was able to contextualise its reference for Maori in the 21st century.

Several weeks prior to the "Rethinking Justice" conference, I was the Youth Justice Coordinator (YJC) presiding over a Family Group Conference (FGC) on one of our local *Marae(s)* situated in Auckland.

Briefly a young Maori male was arrested, allegedly charged with "Wilful Damage", to the local high school. Reparation of $4000.00 was sought by the victims. The youth having been arrested, the Youth Court Judge ordered that a FGC be convened(9).

The Social Worker(10) initiating the pre-FGC was informed by the young person and *Whanau* that they would prefer a Maori YJC to convene the FGC, and furthermore requested that the FGC be held on their local *Marae*.

Victims were informed of the FGC process as well as the date, time and venue. At this juncture, victims were more than content to be involved with the FGC process and date time and venue. Accordingly other significant and relevant personnel were informed of the FGC.

At the FGC there was a large number of *Whanua* in support of their *tamaiti*. During the FGC process the young person was given the opportunity to admit the offence(11). At this juncture the

young person admitted to the alleged offence.

During the FGC discourse it was established that the young person had some prominence with the local High School Maori Cultural Group. He was their *Kaea* and *Kai Taataki Tane*.

As the FGC discourse continued, the young person had come to the realisation that his deleterious behaviour had brought shame upon himself but more so upon his *whanau*.

After their private deliberations(12) the *whanau* presented their recommendations to the total FGC participants. There were minimal negotiations regarding the *whanau* FGC recommendations, hence within a short time span, FGC participants had resolved matters and established a auitable and amicable FGC plan.

Prior to the YJC closing the FGC the young person's whanau had decided during the private deliberations that their tamaiti should publicly apologise to those gathered at the FGC.

The young person was encouraged by his *whanau* to stand in front of members gathered at the FGC. As the young person proceeded to apologise, he bent his head and amidst the tears and snicels he managed to chokingly apologise initially to the victims followed by an apology to his *whanau* for the shame that he had brought upon himself and his family. As the young person continued to apologise amidst the tears and nasal mucus dripping down his face, his *whanau* stood surrounded him and embraced him.

Following the tears from all, the *whanau* amazingly formed themselves in two rows and proceeded to sing a *Waiata*, as a sign to the YJC of their deeply felt thanks and appreciation for such a process.

John Braithwait overseas key note speaker for the "Rethinking Justice" conference, and author of *Crime, shame and reintegration* has this to say about shame and reintegration. "The crucial distinction is between shaming that is reintegration and shaming that is disintegrative stigmatisation. Reintegrative shaming means that expressions of community disapproval, which may range from a mild rebuke to degradation ceremonies, are followed by gestures of reacceptance in this community of law abiding citizens. Disintegrative shaming (stigmatisation) in contrast divides the community by creating a outcast. Shame is more deterring when administered by persons who continue to be of importance to us, when we become outcasts we can reject our rejecters and the shame no longer matters to us."(13)

Family life teaches us that shaming and punishment are possible while maintaining bonds of respect. Two hypotheses are suggested: first families are the most effective agents of social control in most societies. Secondly those families that are disintegrative rather than reintegrative in their punishment processes have not learnt the trick of punishing with the continuum of love, are families that fail in socialising their families(14).

As 21st century Maoris, do traditional Maori proverbs have a relevant and pertinent place in this *Te Ao hurihui* (The changing world) and furthermore do they fall within boundaries of Restorative Justice?

I would suggest to you that there are many more traditional and contemporary Maori proverbs. that should be given the opportunity for more prominence, and perhaps be given a wider opportunity to be translated and developed into principles and practice for dealing with Criminal Justice.

Kia Ora Naida Pou moo too whakahuamai I te whakatauki "Waiho, ma te whakamaa e patu".
Leave them, let shame be their punishment.

References

(1) As told by Timi-Wata Rimini (1890)
(2) Traditional Maori stories by Margaret Orbell(page 41).
(3) *Te Tahi*.- shorted for *Te Tahi O Te Rangi*: refer to glossary

(4) *Whakaari* - Active volcano situated 34 kilometres north east of the *Whakatane* township.
(5) *Tuutara Kauika* - refer to glossary
(6) *Ibid*
(7) *Ibid*
(8) Traditional Maori stories by Margaret Orbell (page 40).
(9) 247(d) *Children Young Persons and Their Families Act 1989.*
(10) Peter Hepburn Youth Justice Social Worker, situated in Grey Lynn office Auckland.
(11) 259(1) *Children Young Persons and Their Families Act 1989.*
(12) Section 37(4) *Children Young Persons and Their Families Act 1989.*
(13) Braithwaite J. Page 55 *Crime, shame, and reintegration.*
(14) Braithwaite J. Page 56 *Crime, shame, and reintegration.*

FOOTNOTES

(A)(B) Translation commencing from (A) through to (B) is taken from page 44 of Traditional Maori Stories by Margaret Orbell.
(C) Maori proverb quoted by Naida Pou in commencement of commentary.

GLOSSARY

Kaea - Leader
Kaitaataki Tane - Male leader
Mauri - Life forces
Marae - Meeting area of *Whanau, Hapu, Iwu.*
Focal point of settlement Central Area of village, building and courtyard.
Tamaiti - Young Person
Taniwha - Water monster(whale)
Tapu - Sacredness, holy
Te Taht o Te Rangi - One of the children of Rangi(nui)
Tohunga - Expert High Priest
Tuutara Kauika - Revered traditional name for one of the children of Tangaroa (Sea God)
Waiata - Song
Whakaari - White Island
Whakatauki - Proverb
Whanau - Family and extended family

Circle Sentencing: Mediation and Consensus — "Turning Swords into Ploughshares"
Judge Barry Stuart

Introduction

The experiment of the Circle is not new, its principles, concepts and similar practices can be found in the history of all cultures. Only in the last two centuries have our societies transferred responsibility for conflict within communities from the community to professionals and the State. The formal justice system is the "new" experiment in resolving conflict. An experiment that is failing in part because it aspires to do too much. In assuming too much control over responsibility for conflict within communities, the professional justice system needlessly disempowers communities, undermines conflict resolution skills within communities, and robs communities of the invaluable building block of any community — active involvement in constructively resolving conflict. In assuming too much responsibility the justice system severely hinders its ability to do what it is best suited to do.

This paper focuses on some aspects of Circle Sentencing Hearings that illustrate the use of consensus and mediation principles. Before discussing the Hearing, a brief summary of the overall Circle Sentencing process may assist in appreciating the content of a Circle Sentencing Hearing.

a) Different Circle Processes

There are many different Circle processes. The differences chiefly arise from the purpose of the Circle, who participates, and the role of participants. Healing and Talking Circles focus on a particular concern common to all parties (Men or Women's Healing Circles, Substance Abuse Groups) or are constituted to help someone with their healing journey (Support Groups for victims or for offenders). Such Circles rarely involve Justice professionals but may include professional counsellors. Community Sentencing Circles do not include lawyers or Judges but depend upon lay Justices of the Peace, Court Workers and local police officers. Community Court Sentencing Circles involve all the players found in Court. These Circles may be organized in one large Circle or split into an inner and outer Circle. The inner Circle, composed of the victim, the offender, supporters or members of their respective families, and all Justice professionals normally involved in Court. The outer Circle consists of professionals who may be called upon for specific information and interested members of the community.

These are but a few of the different structures of a Circle Hearing. In each community, the process before, during and after the Hearing has evolved in ways unique to each community. This discussion draws on the collective experience of several different Yukon community processes using a Community Court Sentencing Circle, wherein everyone sits in one large circle.

b) Acceptance of Cases into the Circle

Each community has established a number of requirements governing acceptance into the Circle. Preconditions to entry into the Circle common to all communities include an acceptance of responsibility by the offender, a plea of guilty, a connection to the community, a desire for rehabilitation, concrete steps toward rehabilitation, support within the community for the offender and the input of the victim. Acceptance into the Circle is decided by the Community Justice Committee or Circle Support Group. Some communities have or are establishing application procedures which impose significant tasks upon the offender to gain entry into the Community Circle Sentencing process.

c) Participation of Victim

Victim participation immeasurably enhances the ability of the process to realize all Circle objectives.

All communities encourage victim participation, and if the victim decides not to participate, steps are taken to ensure the victim's interests are addressed. Communities, in developing support groups for victims, are endeavouring to ensure the Circle process responds to the needs of both victim and offender. Victims, if they do not wish to participate or attend, have the same options available in Court to participate (victim impact statement, spokesperson to address Circle or testifying in Court under oath).

d) Nature of Cases

Any offence can be sent to a Circle. Whether the Circle involves serious crimes: robbery, sexual assaults, significant property crimes, or minor crimes: drinking under age, shoplifting, or joy riding, the process is substantially the same. The more serious or complex the case, the longer, the more difficult the Circle process may be. However, while less serious crimes such as drinking under age may be sentenced within a matter of minutes in Court, in a Circle, the case will take much longer as the community may employ the crime as a catalyst to explore what can be done to prevent substance addiction by the young offender, and by other young people within the community. As Circle attempt to address the underlying causes of crime, both the family and community circumstances surrounding the young person's drinking are examined for causes and solutions.

e) Steps Before Hearing

The steps taken before a Circle hearing profoundly affect the success of the Hearing. Communities are increasingly investing more time and effort into pre-hearing work with the offender, the victim, and with the families and support groups. Pre-hearing work reduces anxiety by the victim and offender over what might happen by exchanging information, developing plans, and preparing all parties to participate. Pre-Circle preparation also significantly reduces the time of the hearing.

f) Who Participates

Who attends significantly influences the process. The attendance of Elders, people with mediation skills and people with access to resources (teachers, health officials, business people) all enhance the process. While the Circle is open to all, some communities assess the nature of the case to be heard and specifically invite key people who can contribute to the specific issues raised in the case.

g) Location of the Hearing

Some Circles have been held in the Court, but most are held in a community building (school, community centre, church hall, municipal or First Nation office). Location is important in generating a comfortable environment, and especially in recognizing the process belongs to the community.

Mediation and Consensus Principles in Circle Sentencing Hearings

The process for resolving any conflict profoundly influences how and who participates, whether an agreement will be reached, the content of any agreement, the success of implementing the agreement, and the nature of the ongoing relationship among all parties. Yet, in all conflicts, we rarely pause to evaluate which process best serves the interests of all parties in reaching a viable agreement capable of embracing all issues.

For crime, no matter what the offence, or who the offender or victims may be, we persistently assume "one process fits all". For victim and offenders, and others affected by the crime, how crime is processed can be more important than the results; "not only what happens but also how it is decided is important". (1) How we process crime directly impacts upon our success in achieving rehabilitation, in addressing the needs of the victim, in preventing crime, and in fostering community.

In many cases the success of a Circle is not simply the agreement or goals reached at the end of the process, but the conciliation of interests and rebuilding of relationships that occur *during* the process. There is much wisdom in the belief that rebuilding health relationships through processes that reconnect people to each other and the community is a vital step in peacemaking.

"*Problems flow from people being or feeling disconnected . . . If people can be reconnected. . . the reconnecting processes, the mental, spiritual and physical dimensions will work themselves out.*" (Rupert Ross, *Surfing* @ pg. 22)

"*Gotta be healthy people but to be healthy, need to have healthy relationships with others, if (the Circle) does this, that is build good relationships, if we get that the other problems will take time but they'll get done.*" (Carcross Support Worker, 1992)

I am not trying to suggest within a single Circle that fear, hatred and the myriad of strong emotions crime precipitates, miraculously disappear. The Circle does not convert all to a union of purpose and principle by instantly evaporating all differences. The Circle can in many cases fracture and dissolve the barriers preventing the growth of healthy relationships and can plant the seeds that time may nurture into new beginnings. The sharing of pain and hope, the respect and understanding fostered within Circle discussions can generate the first tentative steps to establishing new relationships between offenders and victims, offenders and their families, offenders and their community.

Why is this so? I'm not sure. Some of the seemingly magical occurrences in Circles defy explanation by social scientists, or students of decision making. At times, the manner in which a Circle breaks down barriers or reaches consensus suggests the existence of a natural propensity for all to share each person's pain, and for finding solutions embracing everyone's interests. Could there be within our psychological make-up an innate desire to seek the common good? A desire principally buried by the conditions of contemporary society, but tapped within a Circle process?!

I will endeavour to discuss some of the elements I believe shape the curative dynamics of Circle sentencing. My understanding is enhanced by each new Circle Sentencing, and by the insights of all participants, especially of offenders, victims and community resource people. It is as yet early in the development of this community initiative. An openness to the constructive criticism and input of all must be welcomed to ensure the process evolves to maximize its ability to accommodate all interests. The inherent flexibility within the process ideally suits innovation and enables each community to adapt the process to the particularities of their community and to the circumstances of each case. Consequently, not only is the Circle process different in each community, but within each community the Circle process can be changed to accommodate the special factors in each case. Within each community, the Circle process has evolved to incorporate sufficient procedural clarity to enable any stranger to the process to determine how the process functions and what will be required of them in whatever capacity they participate.

. . . By highlighting some of the principal features of the Circle process, hopefully others may be induced to develop the use of consensus based processes in sentencing.

Employing consensus and mediation processes can never replace the need for formal justice processes, nor should they, but they can significantly enhance the range of options for processing crime, and in many cases realize the over-arching objectives of Justice much more effectively than professionally dominated adversarial processes.

The Circle Hearing is built upon the principles of mediation and the fundamental principles of a consensus decision making process (see NRTEE Guidelines to Consensus (2)). To the extent possible in each case, adversarial practices are replaced by practices common to a consensus process. This transition does not, in Circle Sentencing any more than in other consensus process, ignore the fundamental differences among participants, but seeks to move parties, and to focus less on personalities or roles, and more on the merits of issues advanced by all participants.

There are many differences between the Circle process built on consensus and mediation principles, and the formal justice process built on adversarial principles, too many to purposefully discuss in this paper. The most important differences in Circle Sentencing flow from empowering the offender, the victim and particularly the community to take primary responsibility for advancing their interests, to take ownership of the process, and to develop solutions incorporating their values, objectives and resources.

The following discussion describes examples of important differences arising from shifting to consensus principles and notes some of the advantages and difficulties these principles introduce in processing crime.

[NOTE: Mainly headings only are included, due to length of the article. *(Author's note.)*]

1. **Circle Sentences Take Too Long! . . .**
2. **Creating Comfortable Environments For Resolving Disputes: . . .**
   a. **Place: . . .**
   b. **Physical setting: . . .**
   c. **Community Control of Process: . . .**
   d. **Opening Prayer: . . .**
   e. **Welcome and Introduction: . . .**
   f. **Teachings of the Circle: . . .**

Summary

The welcome, prayer, introductions and explanations of teachings and guidelines of the Circle, all combine to promote a tone, attitude and perception conducive to working together to find solutions to difficult problems in a manner that respects all participants. Some communities may spend considerable time in these opening procedures before "getting to the hard issues". I have been taught by communities that moving too quickly to "hard issues" ensures a hardening of opposing positions.

As in any consensus process, spending time at the outset to achieve a wide-spread familiarity with the process, to acquire consensus on procedures and to generate a comfortable environment pays dividends throughout the process.

In the Closing Rituals of a Circle, summarizing what has or has not been agreed, outlining the next steps, thanking everyone for their participation and the Closing Prayer, are particularly important to retain the constructive tone set by Opening Rituals.

In developing community based justice initiatives, the importance of physical settings and procedures are often overlooked, especially by professionals within the Justice system attempting to reach out to communities.

"*I wondered when you would take off your robe and dress like we do — you acted as an equal but didn't dress like one — is it because Judging, like policing, can only be done in a uniform?*" (Support Worker, Kwanlin Dun Circle, 1994)

3. **Scope of Participation**
   a) **Offender: . . .**
   b) **Victims: . . .**
   c) **Community Members: . . .**
   d) **Professionals: . . .**
4. **Expands Scope of Issues: . . .**

Conclusion

These are exciting times. In the midst of many voices crying for greater public investment in a professional system, many communities are reaching out to take responsibility for conflict and crime

within their midst. Community based justice processes existed before society began abdicating authority to a State sponsored justice system. In various forms, community based processes have survived, although progressively marginalized by the burgeoning bureaucracies of State justice agencies.

The inadequacies of State justice agencies to cope with crime within communities have been documented for years. Society has for decades accepted justice agencies' reasons for failure — we need more police, more Courts, more jails, more professional resources of all kinds — and each year the public actively encourages the State to respond with more resources. In many jurisdictions, justice budgets are growing at a faster rate than most other State investments in social and economic services. Yet crime and the many problems related to crime persist, in many communities the problems have worsened.

What makes now for exciting times is the recognition by increasing numbers of communities and justice professionals that predominant reliance upon the state will not diminish crime, will not remove the underlying causes of crime, will not build healthy, safe communities, will not re-establish family values and responsibilities and will not rebuild individuals who have fallen into crime, and will not restore the lives of victims ravaged by crime. This mutual recognition has spawned a search for new partnerships between justice agencies and communities, and for developing opportunities for communities to resume responsibility for conflict. It is the courage of communities to get involved, and the wisdom of many in justice agencies to recognize the value of community involvement that generates this exciting time of change, of moving away from an exclusive reliance upon the professional justice system to resolve social ills that are far beyond its capacity no matter how much the public invests in public resources.

The continued support of justice agencies, their willingness to share responsibility with communities, their patience with the growing pains of community innovation, and their recognition of the ultimate advantage to all arising from community initiatives, immeasurably adds to the ability of community based initiatives to develop healthier communities.

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(1) Howard Zehr, *Changing Lenses*, Herald Press, Scottsdale, PA (1990) @ p. 203.
(2) "*Building Consensus for a Sustainable Future. Guiding Principles,*" an initiative undertaken by Canadian Round Tables, August, 1993.

Restorative Justice: The Japanese Model

John O. Haley

Japan has been uniquely successful in dealing with crime during the past forty years. Alone among all industrial countries Japan has managed not merely to contain criminal conduct but actually to reduce crime in nearly all categories. Japan's success in preventing crime is well-known. The number of major crimes per capita in Japan is significantly lower than in any other industrial country, except for Korea. In 1990, for example, only 1,324 major offences per 100,000 persons were reported in Japan and a mere 912 in Korea as compared to 5,820 for the United States, 8,630 for the United Kingdom, 7,108 for Germany, and 6,169 for France (1992 White Paper: 8). More significant, however, is Japan's (and Korea's) achievement in reducing crime. . . . Japan's crime rates for the most serious non-traffic offences (homicide, rape, arson, assault, and burglary) have steadily fallen during the postwar period.

Some urge that Japan's record of crime reduction is a product of cultural factors, ranging from ethnic homogeneity to postwar prosperity (see, e.g., Suzki, 1983:46). Such explanations are less persuasive when other societies with similar attributes but rising crime rates, such as Sweden (see Stack, 1982), are compared or when the reality that most crimes, especially the most violent crimes, are committed even in Japan within subcultures and between persons who are not strangers (Ministry of Justice, 1982:63). In other words, profiles of crime do not support conventional cultural explanations. Whatever merit cultural factors — from social cohesion or ethnic and cultural homogeneity to family stability or high rates of literacy and educational achievement — may have in determining Japan's relative lack of crime, unless these variables are conceded to have become increasingly stronger and more pervasive during the past 40 years, they do not explain the reduction of crime in postwar Japan. Not only is Japan different, the Japanese must also be doing something different. That "something" is the focus of this essay.

The Japanese experience demonstrates the effectiveness of a restorative model of criminal justice. Although the Japanese emphasis on a restorative approach can be explained as a product of Japanese culture — particularly its communitarian orientation — as well as the trial-and-error experience of Japanese criminal justice authorities (Haley, 1991:134-35), it is neither unique nor exclusive. Much that we and others actually do outside of our formal criminal justice system is similar in both the approach and the results. What is exceptional about Japan is the centrality of a restorative approach in the formal system. In effect, Japanese authorities have discovered a set of responses that tend to work better than what we (all western industrial societies) tend to do in our formal systems of criminal justice. The good news is that the "Japanese" approach not only works but it also can be replicated. As evidenced by a variety of programs . . . the Japanese experience can be adapted to other cultures and formal systems of criminal justice.

Restorative Justice Defined

The label "restorative justice" can be applied to any approach or program within a system of criminal justice that emphasizes the offender's personal accountability to those harmed and the community in a process in which the victim and community participate directly in determining what the offender should do to make reparation and to allow reintegration. There is a precondition. For this or any other crime control effort to be successful, it should be emphasized, the community must condemn the conduct. What has been done must be acknowledged as a wrong especially by those who surround the offender. A community that condones certain behavior cannot expect its "criminalization" to be effective. Indeed, our everyday experience teaches us that conduct condemned as wrongful by those whose approval counts is generally in fact prevented and controlled. Restorative justice builds on such disapproval to correct future behavior through the restoration or reintegration of remorseful offenders back

into the community, maintaining or even enhancing the effectiveness of community control. (See Braithwaite, 1989; Zehr, 1990.) The aim therefore is correction not punishment of the offender in a process that promotes and protects the interests of victims and the community. A group of 13 and 14 year olds in Seattle asked to design a justice program they thought would work came up with essentially the same approach: The offender should admit wrong-doing and demonstrate remorse and acceptance of responsibility for any injury caused by being willing (wanting) to compensate the victim. In turn the victim should participate in determining the appropriate compensation and in return be willing to pardon the offender. Finally, the justice system should respond to the offender under these circumstances with extreme leniency in penalty coupled with efforts to ensure the offender can be reintegrated into a community (family, friends) who can provide effective support and control.

The first element of a restorative approach is offender accountability. This begins with acknowledgment by the offender of the wrong committed with apology and remorse expressed to the community and to those harmed by the wrong. Offender accountability also requires a willingness to compensate or otherwise make reparation to those harmed and to take measures necessary to prevent future misconduct and reoccurring wrongs. The second, and equally crucial, element is a reciprocal acceptance of the offender's expression of remorse by those injured and a willingness to allow the restoration of relationships between the accountable offender and the community — in other words, to pardon. If the offender is reintegrated into the community and given the opportunity to regain self-respect and a sense of self-worth by means of correction, there is greater hope of reform. To effect both reparation and pardon, however, victim and community participation — with perhaps mediated confrontation — is necessary.

The state and its law-enforcing representatives cannot stand in as a fictitious surrogate for real people who have been personally affected by the crime. The debts offenders owe are not to "society" in the abstract but to their victims and their actual community. In short, restorative justice is therefore a process through which remorseful offenders accept responsibility for their misconduct to those injured and the community who in response allow the reintegration of the offender into the community. The emphasis is restoration: restoration of the offender in terms of his or her self-respect, restoration of the relationships between offender and any victims, as well as restoration of both offender and victims within the community. It is not surprising therefore that "restorative justice" is the prevalent pattern in most if not all of the most social organizations, whether religious or secular, from families to other closely knit communities in which there is a high degree of mutual interdependence, collective identity, and cooperation among their members.

Defined in this manner, no contemporary criminal justice system in any industrial state is as "restorative" as the Japanese. As I have described elsewhere, the Japanese have institutionalized within its particular culture a process of confession, repentance, and absolution in which at every stage of the formal criminal justice process offenders are diverted and restored to the community for corrective support (Haley, 1990; 1991; 1995).

Lessons Learned

Remarkably, few Japanese or outside observers seem yet to recognize the implications of the Japanese experience. Typical is a study of Tokyo undertaken in the early 1970s by the Citizen's Crime Commission of Philadelphia (1975). Ironically entitled *Tokyo: One City where Crime doesn't Pay*, the study identified two dozen differences between Japan and the United States that would account for significantly lower crime rates in Japan. Some were purely cultural: Japan's ethnic homogeneity, its insularity, the cohesion of the family unit, a sense of self-discipline, the influence of meditative religions, high literacy rates. Other explanations were more structural or institutional: the accommo-

dation of unskilled workers in the work-force, a unified, national crime control system, and emphasis on counseling and mediation of disputes, police recruitment and training, the family court system. Nowhere, however, did the report mention how offenders or victims of crime are actually treated within the system. Nor did it explain how crime in Japan has been reduced. Apparently no statistics are kept by Japanese authorities on confessions or compensation; nor have Japanese criminologists displayed much interest in assessing the positive impact of confession and compensation on either offender or victim. Studies by the principal criminological research programs in Japan, such as the National Research Institute of Police Science, typically concentrate on the clarification of factors that contribute to criminal behaviour, rather than rehabilitation. One searches their voluminous publications in vain for even a description of the informal process, much less its effects. Academic criminologists and criminal law specialists have also been preoccupied with Western approaches to the neglect of indigenous patterns. Haruo Abe, for example, excoriates judges for being too lenient (Abe, 1963). Others adopt Western concerns and approaches (Miyazawa, 1970). The Japanese no less than their counterparts in the West tend to view Japan's expertise in static, cultural terms, seemingly buttressed by the somewhat smug belief that Japan's success is largely the product of a unique cultural identity.

The evidence nevertheless continues to mount that the Japanese pattern — acknowledgment of guilt, expression of remorse including direct negotiation with the victim for restitution and pardon as preconditions for lenient treatment, and sparing resort to long-term imprisonment — does contribute to a reduction in crime. Within Japan the most recent empirical study of recidivism in relation to the disposition of offenders — 1980 Ministry of Justice study (Haley, 1995) — confirms prior research (detailed in Haley, 1990, Kawada, c. 1978: 19-20; Dando, 1970, 527-8; George, 1984; 59). Recidivism rates decrease corresponding to the early diversion of offenders and their restoration to the community. Those who serve prison terms are considerably more likely to become repeat offenders. And outside of Japan a growing literature on the importance of acknowledgment of guilt and restitution of victims to the psychological rehabilitation of offenders and attitudes of victims toward the offender and the criminal justice system. Studies by Elaine Walster, Ellen Berscheid, and G. William Walster (1967, 1970, 1973) seem especially noteworth for evaluating the Japanese approach (Macauley and Walster, 1971). They and others (Sykes and Matza, 1957) have found that offenders attempt to relieve distress experienced after committing a crime involving harm to others by justification, derogating the victim and denying responsibility or restitution. Although decades of research on recidivism have yielded few conclusive findings (Maltz, 1984), studies that deal even with discrete facets of a restorative approach to criminal justice note similar results (van Voorhis, 1985; Baxter, Salzberg and Kleyn, 1993). Limited intervention — for example, a few hours of victim-offender mediation — cannot be expected, however, to have significant effect on the offender (see Marshall, 1995; Umbreit, 1995; 1994). Such caveats noted, there is in conclusion considerable empirical support for the notion that in lieu of incentives for denial, encouraging offender remorse, acceptance of the need for correction — often including medical treatment — victim reparation, but with the prospect of being able to rejoin and participate as an accepted member of the community does tend to reduce recidivism.

An arguable added benefit of the Japanese approach is that the emphasis on victim reparation and restoration reduces societal demands for revenge and retribution and thus facilitates efforts by law enforcement authorities to provide effective means for offender correction. In other words, societal demands for punishment as retribution are reduced and the authorities are then able to respond with greater leniency. The now abundant empirical evidence on victim participation in the legal process in the United States and Canada indicates that victims who have some voice in the process are not only more satisfied with the process itself (Goldstein, 1982; Haley, 1995; Umbreit, 1992; 1995) but also, if

negotiated restitution is attempted, may be less inclined to view whatever penalty imposed as inadequate. This would also explain why the Japanese are more tolerant of leniency and are more willing to accept whatever punishment the law prescribes. In any event, as Hamilton and Sanders note, Japanese surveyed were considerably more likely to prefer a response to criminal behavior that tends to restore relationships in comparison to the Americans who favored sanctions that tend to isolate and outcast offenders (Hamilton and Sanders 1992; 155). It appears therefore that the Japanese approach contributes a process of positive reinforcement in which correction is more likely both to succeed and to be a more socially acceptable and politically feasible objective.

Many of our most effective programs to correct or prevent behavior operate on similar principles. One of the most familiar, strikingly effective, and cost efficient — Alcoholics Anonymous. Other examples include a variety of treatment programs for drug abuse as well as violence control that are similarly premised on the patient's acknowledgment of the need for correction and submission. Closer to the Japanese model and more thoroughly restorative are initiatives in Canada designed to deal with offences in indigenous First Nation communities. By means of "circle sentencing" the community, including those in authority, the victims and their supporters, as well as the families and friends of offenders join together to deal with the offence, its causes, and the accountability of the offender (LaPrairie, 1994; Stuart, 1994). In New Zealand a similar program of "Family Group Conferences" is being used nationwide for all juvenile offenders under the 1989 Children Young Persons and their Families Act (Brown, 1994; Braithwaite and Mugford, 1994). The most noteworth of all is the Australian "family conferencing" program, which was influenced by both the New Zealand example and John Braithwaite's theory of social control, a model explicitly based on Japan (Braithwaite, 1989; Braithwaite and Mugford, 1994). As in the case of Japan, the Australian program is managed by criminal justice authorities — the police. It expands more familiar North American victim-offender mediation efforts by including the widest feasible circle of those hurt by the offence, potentially anyone affected negatively as well as the extended family and friends of the offender. The process proceeds in a manner that is otherwise nearly the same as victim-offender mediation with a trained police officer as facilitator. Each participant relates how he or she was affected. The offender is thus confronted with the fullest possible accounts of the consequences of the act but is also given the opportunity to explain and to express remorse. The family becomes an important source of disapproval as well as restoration. The offender is not left as an outcast, but is enabled by the experience to begin to earn his or her way back into the community by accepting responsibility, including corrective future action, and making acceptable amends. Each program demonstrates that nearly all of the most effective efforts to correct offenders reflect elements of the Japanese approach as a model of "restorative justice" and into a coherent system of criminal justice is possible. [sic]

The lesson of Japanese experience is being learned. Whether directly related, as in the case of Australia, or simply coincidental, as in New Zealand, an increasing number of experimental programs based on a restorative approach are demonstrating the efficacy of the Japanese approach in very different cultural and institutional contexts. This is not to say that the Japanese criminal justice system can or should be fully replicated. What we have to learn from Japan is simpler and more basic — that restorative approaches are successful in correcting offenders, empowering and healing victims, and restoring the community. The Japanese experience thus provides insights for other industrial societies seeking to establish a more humane and just system of criminal justice, one free from the human and economic costs of overcrowded prisons, increasing crime, and victim alienation. The less learned is that restorative justice works.

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Social conflict, local justice: Organizational responses to the astructural bias
Harry Mika

Consider the possibility that the major impediments to social justice include the most basic elements of community organization -- the entire sweep of institutionalized social, economic and political cleavages. A related possibility is that romantic images of 'community' do not fare well when compared to real life conditions of individuals and groups.

Such images reveal less about reality than they reveal about the ambitious agenda hat lies ahead if social justice is to be realized. And what is to become of the contemporary practice of informal justice?

Like those other basic elements of community organization, will the practice and organization of alternative dispute resolution be itself biased and unresponsive to human needs? Or will community-based, informal justice programs aggressively confront and respond to local trouble that is embedded in broader institutional failures?

Informal justice: Prospects vs practice

The vast social scientific, behavioral, legal, management and policy literatures that have evolved over the past 20 years speculate about the prospects of mediation programs and informal justice. Most of these discussions attempted to forecast developments in community-based mediation programs in the context of existing social institutions, social movements and societal needs.

The claims made for ADR (Alternative Dispute Resolution) were magnanimous. For example, the ADR "movement" would increase participation in the creation of community justice, respond to societal needs rather than abstract rule appliance, increase accountability from existing justice organizations and the courts, humanize responses to predicaments of individuals and groups, deliberately intervene on behalf of historically disadvantaged groups, reduce coercion and stigma in the resolution process, and erode professionalization, legalization and concentration of justice services. This litany would appear, on its face, to include some reasonable requisites for social justice.

More recent literatures, however, have hurled stinging indictments at the practice of mediation and informal justice, criticisms that tend to undermine all the foregoing claims.

These criticisms include: low levels of community participation; preferences for effective strategies and procedures divorced from the social realities of conflict; suspension of legal rights and safeguards; and negation of the need for adjudication of group conflict; precarious political and economic realities of informal justice organizations; imposition of select interests and values in the process of informal justice (e.g., perpetuation of dominant gender roles, and of the dominant interests in labour and environmental disputes); second class justice; lack of perceptible decrease in community conflict; evolving bureaucratization, professionalization, and "turf" conflict in informal justice programs; increasing coercion and a widening net of social control (e.g., trivial cases which previously received no official attention have been directed to victim/offender reconciliation programs, thus increasing the number of people involved in the criminal justice system).

It is important to note that even the indictments remain focused at the level of the "big picture". That is, the barometer of success or failure of ADR remains its impact on societal-level needs and contemporary problems with institutions.

Given all this, it is puzzling that the focus of ADR research literature has been overwhelmingly on the interpersonal dynamics of the mediation process, stripped of a larger social context. The discrepancy between the debates about informal justice goals, strategies, and outcomes, and the largely micro-level focus of research on mediation dynamics, is not easily reconciled.

These fundamentally different levels of discourse, as well as the content of recent indictments of

mediation practice, might provide clues about a far more insidious problem of alternative dispute resolution. This may be referred to as the astructural bias.

The astructural bias

A basic premise of mediation is that conflict is social. By the mere fact of advocating face-to-face negotiations between disputants, the mediation process accentuates the relational aspects of conflict and conflict resolution. But how is the resulting inter-personal focus and response related to the resolution of community conflict?

But conflict being social, is also socially organized. It is rooted in human relationships and their organizational and institutional attributes of markets, stratification, ideological systems and power. The larger social matrix gives meaning to the social organization of conflict resolution. How, then, is third-party intervention (mediation, conciliation) connected in form and process to the larger spheres of human activity it seeks to address?

It is proposed that the contemporary practice of mediation reveals an astructural bias. It lacks deliberate strategies to address the interdependence of broad social factors that give rise to conflict, and impede or shape its resolution. Such social factors are simply ignored.

The astructural bias of mediation practice appears to impede social action -- where "disputants" in similar situations become sensitized and act upon collective problems -- that might address and change the root sources of community conflict. While mediation highlights the personal consequences of conflict for disputants, the process may ignore the predicaments of persons affected by trouble, and the larger social contexts where peace or conflict occurs. Too often, peace and conflict in an individual disputant's life are assumed to be a personal responsibility and choice, despite a broader system of interdependent relationships within which each individual's life is embedded.

The character of conflict

In the many vineyards where third-party neutrals toil -- education, criminal justice, labour/management, consumer, family/divorce, farmer/lender, environment, church, business, cross-cultural -- the astructural bias of mediation practice colours the quality of justice. At a minimum, the use of interpersonal, effective strategies to accommodate structural trouble may create what has been described as a "false peace" or "neutralized conflict".

Consider for a moment the mediation of neighborhood conflict. The profile of such conflict in urban settings reveals a sobering, even intimidating gauntlet for responsive ADR practice. Neighborhood conflict -- even the much-maligned "barking dog" case -- is usually protracted in nature, a mosaic of multi-party disputes, often bearing racial, ethnic, religious and gender imprints, and characterized by the use or threat of violence. "Official" intervention of public agencies is often extensive. Public remedies may themselves become public nuisances. Arbitrary rule compliance and enforcement may breed cynicism and hopelessness among neighborhood residents. Formal justice responses to neighborhood conflicts have typically failed, and referral to ADR organizations is an afterthought, a last resort, or a desperate appeal. Hence, the "barking dog" is unmasked: the social context is complex. It will not be muzzled.

Can informal justice be more responsive to the dimension, character and source of conflict in communities? If ADR strategies are mindful of the structural context of conflict and peace, they may serve more directly as catalysts for the collective reapportionment of responsibilities, resources and skills to enhance creative problem-solving in local communities. There may be some plausible, intermediate strategies for ADR organizations to facilitate this mission. While these middle-range possibilities will not resolve the astructural bias, their composite implementation suggests a better alignment of the social organization of conflict resolution to the social organization of conflict.

Attributes of intervention

What organizational attributes might help to reconcile the sobering limitations of current ADR practice (i.e., the astructural bias) with the character of community conflict? Three conceptual contrivances are proposed: environment, organization and function. While interrelated, each speaks generally to a significant dimension of ADR organizational reality. Neither the categories nor the specific attributes are exhaustive of all or even most possibilities. They are only intended to be suggestive.

Environment: Linkages with larger community structures

Environment refers to the social and political "location" of a program or service within the larger community structure, including its organizational linkages and referral networks. Some selective features of environment that might characterize more responsive programs include:

Community Control: programs respond to community needs and local culture, planning and implementation remain local initiatives, services make use of, or work closely with, local resources;

Continuum of Justice Services: programs are respected participants in the provision of justice services in the community (i.e., they have their "niche", despite an alternative vision of philosophy of justice); control over eligibility criteria is maintained to ensure the significance of service impact;

Broker of Resources: programs work closely with existing services and professions to broker resources on behalf of clients/referrals, in a mutual effort to address root sources of community conflict;

Repository of Expertise: programs accept responsibility for facilitating the implementation of their vision -- their paradigm of justice -- in other organizations (courts, schools, etc.);

Predisposition to Group Conflict: programs have become deliberately prepared to be involved in groups in conflict (individual members of which may have disputes); and

Catalyst for Change: programs are disposed to developing new strategies for addressing evolving community needs, and proactively seeking out opportunities to intervene in group conflict.

Organization: Program characteristics

Organization refers to intra-program characteristics, including goals, processes, personnel, division of labour, and utilization of community volunteers. A selective inventory of organizational factors that characterize more responsible programs include:

Program Philosophy: programs with clearly articulated statements of who they are and what they stand for (alternative values for alternative programs);

Targeting Structural Sources of Conflict: an organizational capacity to recognize and respond to conflict that is beyond the control of disputants (e.g., racism, organizations that fail);

Proactive Interventions: an organizational disposition and designed capacity (known publicly) to proactively offer services to a community, responsible to persistent and emerging needs;

Articulated Interagency Strategies/Alliances: formal and deliberate (even contractual) relationships between a host of community organizations/resources-including mediation services - regarding responsibilities and accountability for conflict resolution strategies and interventions.

Protracted Conflict, Incremental Reconciliation: an organizational disposition of modesty, to accept the possibility that episodes of conflict may be only instances of larger webs of conflict that may require protracted efforts to resolve; and

Predisposition for Evaluation: the ability to be self-critical and open to the evaluation of others, particularly regarding the congruence of an organizational philosophy, and organizational practice.

Function: Services and output.

Function refers to the range of program services including education, information and referral, mediation, conciliation, training and program development. Selected features of function that charac-

terize most responsive programs include:

Qualities of Negotiations: negotiations that involve all relevant parties to a conflictual event; negotiations that range beyond the law to address other needs (e.g., fear); negotiations that address - squarely - sources of conflict.

Qualities of Agreements: agreements that are sufficiently broad to speak to persistent and chronic difficulties that are likely to give rise to conflict in the future; agreements that capitalize on community resources that empower disputants to reconcile;

Technical Assistance: a significant programmatic activity that empowers other organizations to intervene in conflict (e.g., courts, social and human service agencies);

Quality vs Quantity of Output: a deliberate effort, over time, to increase the significance of interventions by limiting -- through more restrictive eligibility criteria -- trivial disputes in favour of more serious conflict;

Community Outreach: a community education component that emphasizes an alternative paradigm of justice, for the purpose of literacy in dispute resolution and peacemaking, grassroots ownership of local dispute resolution programs, volunteer recruitment, and the like; and

Dispute vs Conflict Resolution: a modest organizational goal that underscores the limitation of mediation strategies (and informs disputants) where episodes of conflict are rooted to larger social structural issues.

An inventory of attributes, such as the one proposed here, is seductive for the simplicity of its presentation. Fashioning responsive ADR practice for diverse programs and communities is considerably more complicated.

The core impediment to social justice is a crisis of all human settlements, namely, the failure of institutions that are obsolete, biased, and impenetrable. Informal justice programs must disentangle themselves from such institutional failure. If not, then community based initiatives will merely enfranchise a different style of social control, one that buttresses class and gender roles, placates diffuse dissatisfaction, and misery, and reinforces individualism. At a minimum, such an agenda lacks ambition. At its worst, the potential of ADR practice to address the challenges of creative self-management and problem solving in communities in service of social justice, will be wasted.

THE ROLE OF COMMUNITY JUSTICE IN THE NEXT CENTURY

By Hon. Myron Steele
Thomas J. Quinn

I. BACKGROUND

The demographic and caseload trends across the United States portend more cases, piled on top of already overburdened agencies of justice. It is apparent that the adjudication system as it is now structured will continue to be under stress. Though clearly increases in resources are needed, we cannot foresee the resources increasing sufficiently to meet the need without some structural changes. Despite modest increases in funding, despite management innovations, despite a genuine desire to provide a speedy and fair process, there continues to be delay in bringing offenders to justice and a sense of helplessness on the part of the victims.

The fault may be the focus of the system itself, which now all but ignores victims, when in fact for many purposes they should be the centerpiece of the process. Somehow "justice" and "punishment" have become synonymous. Left largely out of the equation is the victim or the community which has been harmed. Without fundamental changes, these problems will be exacerbated in the next century.

Some agencies of justice have begun to respond to the challenge; to try to better meet the expectations of the public with an emerging community-based philosophy - "restorative justice" - as an adjunct to the retributive model. In the restorative model, the victim is the paramount concern and the process geared to making the victim whole, using the offender as the vehicle where possible. In a sense it is a return to ancient cultures, the legal systems which form the foundation of Western law, who viewed crime as an intensely personal event. Although crime breached the common welfare so that the community had an interest and responsibility in addressing the wrong

and punishing the offender, the offense was not considered primarily a crime against the state as it is today. The offense was considered principally a violation against the victim and the victim's family. Thus, ancient cultures held offenders and their families responsible to settle accounts with victims and their families as evidenced in ancient legal codes such as the Babylonian Code of Hammurabi (c. 1700 B.C.); the Sumerian Code of Ur-Nammu (c. 2050 B.C.); the Roman Law of the Twelve Tables (449 B.C.); the earliest surviving collection of Germanic tribal laws (the Lex Salica, promulgated by King Clovis soon after his conversion to Christianity in A.D. 496); and, the Laws of Ethelbert in Kent, England (c. A.D. 600).

Crime was understood to break the peace, destroying right relationships within a community and creating harmful ones. Justice, then, aimed to restore relationships to wholeness.[1]

The Norman invasion of Britain in 1066 marked the beginning of a "paradigm shift," a turning away from the understanding of crime as a victim-offender conflict within the context of community. William the Conqueror and his descendants found the legal process an effective tool for centralizing their own political authority. They competed with the church's influence over secular matters and effectively replaced local systems of dispute resolution.[2]

In 1116, William's son Henry I issued the Legis Henrici, securing royal jurisdiction over "certain offenses against the king's peace, arson, robbery, murder, false coinage, and crimes of violence."[3] Anything that violated this peace was interpreted as an offense against the king, and offenders were thus subject to royal authority. Under this new approach, the king became the paramount victim, and the actual victim was denied any meaningful place in the justice process.

The purpose of criminal justice underwent a parallel shift. Rather than centering on making the victim whole, the system now focused on upholding the authority of the state. Instead

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1 Van Ness, Daniel Carlson, David L. Jr.; Crawford, Thomas, Strong, Karen, 1989, Restorative Justice: Theory, Washington, DC, Justice Fellowship

2 Berman, Harold, 1983. Law and Resolution:The Formation of Western Legal Tradition, Cambridge, MA: Harvard University; as quoted in Van Ness, Ibid.

3 Day, Frank B., and Gallati, Robert R. 1978. Introduction to Law Enforcement and Criminal Justice, p.50. Springfield, IL Charles C. Thomas: as quoted in Van Ness, Ibid

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of addressing the past harm, criminal justice became future-oriented, attempting to make offenders and potential offenders law-abiding. Punishment in the forms of fines and corporal punishment took its place. Since these punishments were administered in public (in hopes of deterring would-be criminals), they caused great humiliation as well.[4]

In reaction to the increasingly brutal treatment of offenders, the rehabilitation model and its principal tool, the prison, evolved. Prior to 1790, prisons were used primarily to hold offenders until trial, but the Quakers in Philadelphia converted the local jail into what they called the "penitentiary." They aimed not only to save offenders from de-humanizing punishment, but also to rehabilitate them. Unfortunately, many of the prisoners, completely deprived of contact with their loved ones and the outside world, went mad. The cure proved worse that the disease.

But this did not discourage prison advocates. If isolation did not achieve the goals of repentance and rehabilitation, then perhaps other measures would work.

Succeeding generations moved from theories of repentance to theories of hard work, then to discipline and training, and eventually to medical and psychological treatment. But this search for an approach that guaranteed that governments would "graduate" all offenders as law-abiding citizens from their prisons has met with disappointing results. In the last 20 years, many criminal justice policy makers have concluded that rehabilitation is simply an impossible goal, a failed policy.[5]

Treatment programs will play an important role in restorative justice, as we will see. While the rehabilitation model has also used treatment programs, its basic flaws have undermined them, producing a wave of disappointment and disillusionment in the last 20 years.

Unfortunately, the failure of the rehabilitation model has not yet led to a rejection of the current paradigm: that crime is only an offense against the state. Instead, it has prompted

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4 Cullen, Francis T. and Gilbert, Karen E. 1982. Reaffirming Rehabilitation, Cincinnati; Anderson Publishing; as quoted in Van Ness, Ibid.

5 Van Ness. Ibid.

governments to impose increasingly repressive and punitive sanctions against those who commit crimes. The goal has become incapacitation. The wave of "get tough" measures has been no more successful than the rehabilitation model in controlling crime, and they are actually contributing to the breakdown of the criminal justice system itself.

II. RE-EMERGENCE OF RESTORATIVE JUSTICE

Changing the goal of the justice system from rehabilitation to retribution and incapacitation has not solved the crisis in criminal justice, nor will it. Crime is not merely an offense against the state, and justice is more than punishment. Van Ness argues that if we are going to find solutions to this crisis in criminal justice, we will have to start over, beginning with the very foundation.

In the past 15 years proposals have evolved which: 1) define crime as injury to victims, 2) includes all parties in the response to crimes, and 3) addresses the injuries experienced by all parties as well as the legal obligations of offenders. Following is an overview of these new proposals.

In his 1977 paper, "Beyond Restitution: Creative Restitution,"[6] psychologist Albert Eglash identified three types of criminal justice: retributive justice based on punishment, distributive justice based on therapeutic treatment of offenders, and restorative justice. Both the punishment and treatment models, he noted, focus on the actions of offenders, deny victim participation in the justice process, and require merely passive participation by the offender. Restorative justice on the other hand focuses on the harmful effects of offenders' actions and actively involves victims and offenders in the process.

Howard Zehr, a pioneer in the victim-offender reconciliation movement, has been a highly influential advocate for a restorative justice paradigm shift. He notes that retributive justice

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[6] Eglash, Albert, 1977. "Beyond Restitution: Creative Restitution" in Restitution in Criminal Justice, edited by Joe Hudson and Burt Galloway, 91-99. Lexington, MA: Lexington; as quoted in Van Ness, Ibid.

focuses on establishing the guilt of offenders; restorative justice focuses on solving the problems created by crime. Restorative justice requires the participation of all the parties. Furthermore, retributive justice holds offenders accountable for their crimes by punishing them. In restorative justice, said Zehr, offender accountability is defined as "understanding [the] impact of [the offender's] action and helping decide how to make things right."[7] The process empowers the victim to play a meaningful role in determining the outcome.

Victim-offender mediation (also sometimes called victim-offender reconciliation or VORP) began anew in 1974 in a Kitchener, Ontario program, founded by two Mennonite church members (one a probation officer) who were seeking better means of dealing with young criminal offenders. The first program in the United States was in Elkhart, Indiana in 1978, through the leadership of the Mennonite church there, acting with a local judge, probation officers, and a local community corrections organization. By 1989, there were at least 171 such programs in the United States.[8] A referred case is screened for acceptance; it may be rejected, for example, if there is overt hostility between the parties or there is no need for reconciliation or restitution. If accepted, the case is referred to mediation, which may be conducted by a single mediator or a pair of co-mediators. Mediators usually are trained, unpaid volunteers; in difficult cases a paid staff member may take over the mediation or assist the volunteer.[9]

In the victim-offender mediation meeting, the mediator explains the process and then encourages each party to relate the facts of the crime from his or her point of view. This is meant to help the victim to understand the offender's motivation and the offender to understand the

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7 Zehr, Howard, 1985. "Retributive Justice, Restorative Justice." New Perspectives on Crime and Justice: Occasional Papers of the Mennonite Central Committee Canada Victim Offender Ministries Program and the MCC U.S. Office of Criminal Justice, Vol. 4, Elkhart, IN: MCC U.S. Office of Criminal Justice, as quoted in Van Ness, Ibid.

8 Umbreit, Mark S. 1993. How to Increase Referrals to Victim Offender Mediation Programs, Ontario, Canada; The Funds for Dispute Resolution.

9 Hughes, S.P. and A.C. Schneider, 1989. "Victim Offender Mediation: A Survey of Program Characteristics and Perceptions of Effectiveness." Crime and Delinquency Vol 46, No.2 as quoted in Clarke, below.

crime's hurtfulness to the victim, including the victim's physical losses, fear, suspicion, and anger.[10] The formal adversarial court system does not allow this level of interaction, this depth of discussion.

Some states have systematically attempted to divert cases from the formal court process. On July 27, 1981, the New York State Legislature unanimously passed Chapter 847, Laws of 1981 establishing the Community Dispute Resolution Centers Program (CDRCP).

The program was placed within the Unified Court System under the supervision of the Chief Administrative Judge of the Courts (Judiciary Law, Article 21A). In the first fiscal year, 1981-82, seventeen private not-for-profit agencies serving fifteen counties were awarded grants. Over the course of the next seven years additional agencies were evaluated and awarded grants, and currently, there are dispute resolution centers in all 62 New York counties, which mediate both misdemeanors and felonies.

In fiscal year 1992-93, the Centers served 106,388 people involved in 43,688 cases which were screened as appropriate for direct services by the Centers. Indirect services in the form of assistance, referrals to appropriate resources and other helpful information are also provided by the Centers each day. In 83 percent of the matters that reached to mediation stage, a voluntary agreement was achieved by the parties. The Centers reported $2,543,692 awarded in the form of restitution and mutual agreements to New York State citizens. The average award per case was $680. Forty-seven percent (47%) of the referrals to the Centers were from the courts. Forty-four percent (44%) of the conflicts involved matters of a criminal nature, 51 percent were civil and 5 percent involved juvenile problems. Two hundred and seven (207) felony cases were mediated.

It took 15 days from intake to final disposition for the average single-hearing dispute resolution case (16,497 cases) and 46 days for the average multiple-hearing case (802 cases). The average time per mediation/arbitration was one hour and twelve minutes, at an average state cost

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[10] Clarke, Stevens H. 1993. Community Justice and Victim-Offender Mediation Programs. "A Working Paper for the National Symposium on Court Connected Dispute Resolution Research, October 15-16, 1993." State Justice Institute.

per individual directly served through the intervention of the mediation program of $26. The Centers are now teaching conflict management skills to young people in many schools across the state.

Tennessee has also recently attempted to institutionalize community based mediation. The Victim-Offender Mediation Center Act of 1993 makes appropriations to implement this act for fiscal year 1993-1994. Victim-offender mediation centers can meet the needs of Tennessee's citizens by providing forums in which persons may voluntarily participate in the resolution of disputes in an informal and less adversarial atmosphere. A victim-offender mediation center may be created and operated by a corporation organized to resolve disputes, making use of public facilities at free or nominal cost. The grant from the state of Tennessee may not exceed 50 percent of the approved estimated cost of the program.

III. PUBLIC SUPPORT FOR COMMUNITY SERVICE/RESTORATIVE JUSTICE

Despite the "get tough" attitude prevalent in criminal justice policy and practice, there appears to be widespread support among the public for repaying the community.

Four our of five Minnesotans favor spending on education, job training, and community programs rather than on prisons in order to reduce crime. More than four our of five Minnesotans indicate an interest in participating in a face-to-face meeting with the offender in the presence of a trained mediator to let the offender know how the crime affected them, to discuss their feelings and to work out a plan for repayment of losses. Nearly three out of four Minnesotans chose restitution as more important than jail time in sentencing for a burglary of their own home. The results were consistent across age, income, gender, race, and education level subgroups.[11]

A public opinion research project conducted in Hennepin County, Minnesota, in 1991 by Imho Bae, University of Minnesota, found strong public support for restitution as an alternative

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[11] Pranis, Kay and Umbreit, Mark, 1992. "Public Opinion Research Challenges Perception of Widespread Public Demand for Harsher Punishment." Minneapolis, MN: Minnesota Citizens Council

penalty to incarceration for property offenders. This research also found a significant lack of awareness by criminal justice officials of public support for restitution and found that crime victims seem to be less punitive than non-victims. Bae concludes that his findings imply that citizens perceive crime issues in a broader social context and independently from reports of the mass media.[12]

In 1991, the Public Agenda Foundation completed a study of public attitudes in Delaware. The public felt that alternatives were a tough, appropriate punishment that would better serve the community, and that alternatives improve the chances of rehabilitation, a principle that Delawareans believe in deeply. The specific alternative for community service was well liked because it is seen as a way for offenders simultaneously to learn job skills and internalize the work ethic, thereby improving their chances of rehabilitation. Respondents to the survey also liked the fact that work done by the offenders would benefit the community; they see it as a way for offenders to give something back to society. A number of respondents felt that community service could be a suitable alternative for offenders who are unemployed or otherwise unable to make restitution.[13]

Respected researchers and authors, Norval Morris and Michael Tonry, state in their widely acclaimed book, Between Prison and Probation: "The services performed by those sentenced in this way are welcomed by the recipients of those services and...the sentenced offenders provide to be more diligent workers than had been anticipated." They proffer that community service - either alone or as part of a more complex punishment - provides for an appropriate proportionate sanction in a comprehensive continuum of correctional options, and is growing in popularity across the United States.[14]

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12 Ibid.

13 Doble, John; Stephen Immerwahr, Amy Richardson. 1991. Punishing Criminals: The People of Delaware Consider the Options, NYC, NY: Edna McConnell Clark Foundation

14 Morris, Norval, and Tonry, Michael, 1989. Between Prison and Probation, New York, Oxford, Oxford University Press

IV. DELAWARE SENTAC LAWS 1984 AND 1987

In 1987 the Delaware criminal justice system embraced a philosophy of sentencing and punishment based on the premise that certainty of punishment is more effective in controlling criminal behavior than severity of punishment (66 Del.C. 134). Delaware's system, promulgated by the Sentencing Accountability Commission (SENTAC) and endorsed by the General Assembly, is designed to sentence offenders to the least restrictive (and therefore least costly) sanction commensurate with the seriousness of the offense, with consideration to prior criminal behavior, and with due regard to public safety.

The goals of SENTAC (64 Del.C. 402), in priority order, include:

1. Incapacitation of the violence-prone offender;
2. Restoration of the victim as nearly as possible to his/her pre-offense status; and,
3. Rehabilitation of the offender.

The early years concentrated on expanding intermediate sanctions, adding rehabilitative programs, and refining guidelines. We already had a community service program, as well as a restitution law that requires a judge to order restitution unless a reason is provided on the record why it is not appropriate. In the past 2 years, we began to focus more clearly on the goal of restoring the victim. We started with the problems surrounding collection of restitution and other court collectibles.

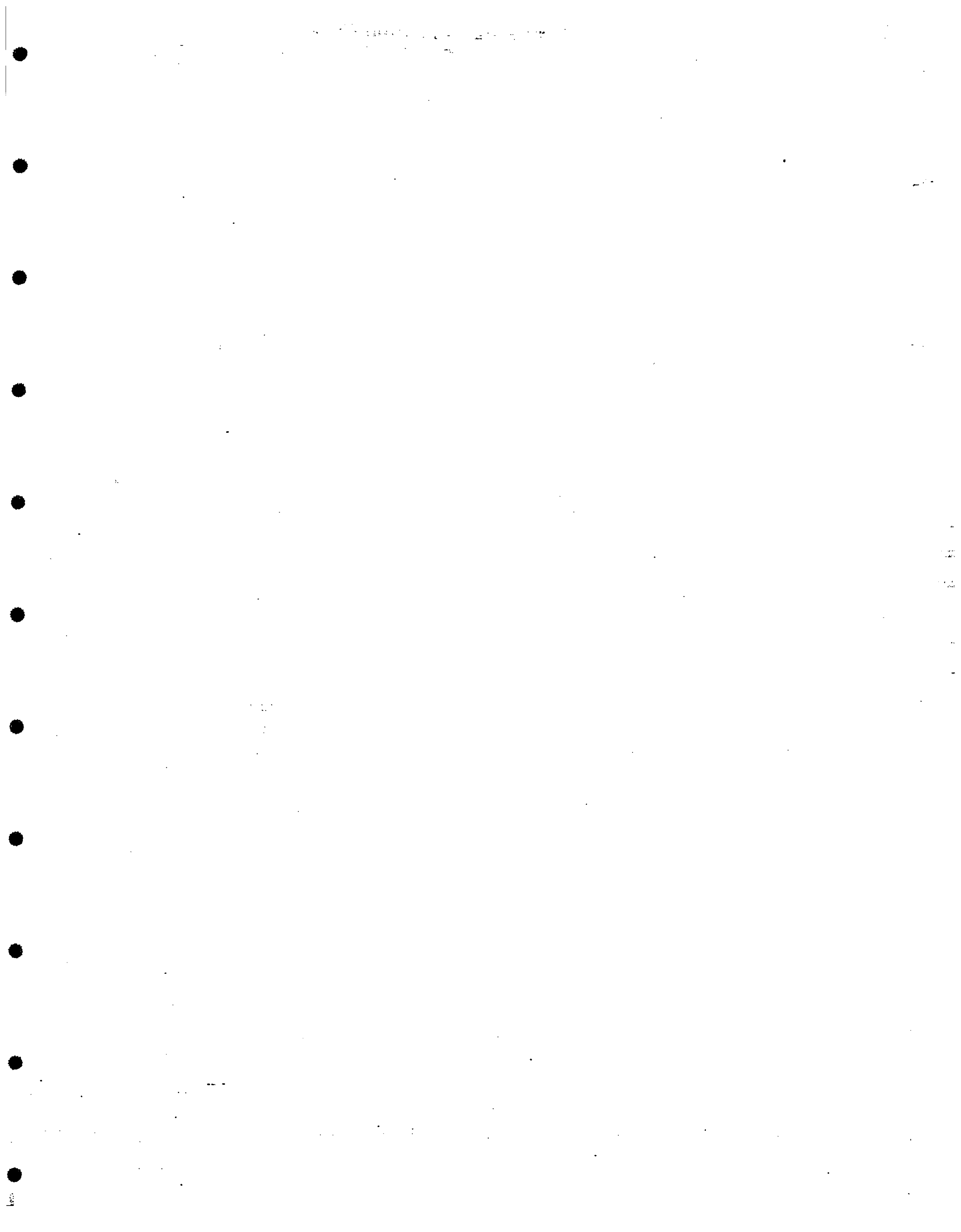
A Committee of SENTAC determined, after a year of planning and testing, that a Centralized Collection System should be developed to have responsibility and authority over collection of all court-ordered payments. The current system is badly fragmented and inefficient, partly because each court has its own system for tracking and collection of the funds, and partly because almost everyone involved has other primary duties and responsibilities which detract from the effort available to devote to collections. A test project, completed with the assistance of MBNA Corporation, indicated that use of a computerized, proactive collection effort could increase the amount of collections by as much as three fold.

The General Assembly approved the transfer of one position from the Department of Correction to the Administrative Office of the Courts to administer the collection system; to determine necessary staffing, procedures, training requirements; and to create a central agency which can operate as a proactive collection unit for all court-ordered funds --restitution, fines, costs, surcharges, etc. Over $600,000 was also appropriated for improving the court information system, including the automation of collections.

With that mechanical progress underway, SENTAC turned to the philosophical underpinnings of our system of justice. We embraced the paradigm shift suggested by Zehr and others cited earlier, and the concept of community justice was discussed with community leaders and criminal justice personnel in Kent County. They found the use of trained mediators to process cases in place of the formal court process to be a potential solution to many problems facing the court. Numerous individuals in Kent County, including representatives of community and business organizations, criminal justice agencies, and private and public social service groups, developed a proposal to begin a pilot, and received federal seed funding from the state Criminal Justice Council. The project will be fully operational by late 1994.

The vision will hopefully lead to a re-focusing of justice, from the offender in the courts to the victim in the community. The victim will play a much fuller role than is now the case, and the offender will be held accountable to the victim and the community more quickly than the current system allows. This will lead to a greater satisfaction with the justice system on the part of the victim involved, and speedier justice. It will operate similar to victim mediation programs elsewhere, with trained volunteer mediators, operating in conjunction with the police, prosecution, court, probation office, and service providers. It is also hoped that by the last month of the project year, it will reduce by a significant percentage the monthly cases filed in the Court of Common Pleas and in Superior Court, and increase restitution received by victims by a monthly average of 20 percent.

Funds will be used to hire a coordinator and administrative assistant, purchase curricula,



adapt a management information system, and pay for training and administrative costs.

As now envisioned by the planning committee, the cases would be primarily referred by the prosecutor as a form of "Prosecutor's Probation." That is, the defendant, if he/she agrees to enter this mediation process, would waive "speedy trial" and be referred to the mediation center. The victim would likewise have to agree to this process, and would be initially referred by the police or the prosecutor, then screened by the trained staff before the mediation process. In the typical case, this would occur by the time of the preliminary hearing, perhaps on recommendation of the police officer. Within one week of referral, the center staff would have interviewed both the victim and the offender to verify their willingness to partake of the process, and to further explain it. If screening indicates either is inappropriate for the process, the case will be immediately referred back to the prosecutor for normal processing.

The mediation process itself will allow the victim to explain the personal impact of the crime, and to ask questions of the offender. Both parties will be required to treat each other with respect during the process. The mediator will try to fashion a satisfactory agreement that repays the victim either directly or symbolically; restores the community in some symbolic way using the offender as vehicle to accomplish this, and refers the offender to whatever appropriate treatment program seems needed.

Project staff will monitor the agreement and insure the victim is repaid, and report back to the court. They will also publish monthly reports summarizing the number and nature of cases referred and how they were disposed.

It is expected that while the majority of the referrals initially will come from the prosecutor, some will occur after conviction if so desired by the victim. In some jurisdictions this mediation can and does take place inside a prison. Victims report it to be very settling for them, as it answers questions they never could get answered otherwise. On the other extreme, it is expected that some cases will be self referrals from the community, seeking the mediation process to resolve a dispute, before it grows into an offense or a court case. The project staff will keep track of these

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categories separately.

Finally, it is likely that some offenders in need of service will receive that service more quickly through this expedited system, but that will not be tracked beyond referral as it is beyond the scope of this project.

Thus far the following agencies have agreed to serve on the advisory committee and cooperate with the program: Superior Court, Attorney General's Office, Delaware State Police, Dover Police, People's Place II, Inc., Community and Education Foundation, Inc., Catholic Charities, Chamber of Commerce, Department of Health and Social Services, Division of Consumer Affairs, Office of Probation and Parole, Delaware Council on Crime and Justice, SENTAC Victims Committee.

V. RESULTS OF RESEARCH AND EVALUATIONS

A growing body of research in North America and Europe is finding that the process of mediating conflict between crime victims and offenders provide many benefits to the parties involved, the community, and the justice system. It has also been found that many victims and offenders want to meet, when given the opportunity, and work things out in a manner than is perceived to be fair to both parties.[15]

Preliminary research suggests that "restorative" approaches to justice may serve as effective alternatives to incarceration-alternatives which often cost far less than prison, hold offenders personally accountable for the pain they have inflicted and which work to repair the economic, psychological, and emotional trauma which crime represents to both victim and community.[16]

The first large cross-site evaluation of victim offender mediation programs to occur in the US involving multiple data sets, research questions, comparison groups, and multiple quantitative

[15] Umbreit, Ibid. p.2

[16] Pact Institute of Justice Brochure on "Restorative Justice Resources"

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and qualitative techniques of analysis was initiated by the Citizens Council Mediation Services in Minneapolis through a grant from the State Justice Institute in Alexandria, Virginia.[17] It was conducted in cooperation with the School of Social Work at the University of Minnesota with Dr. Mark Umbreit serving as the principal investigator.

Program sites examined worked closely with juvenile courts in Albuquerque (NM), Austin (TX), Minneapolis and St. Paul (MN), and Oakland (CA). The results are encouraging.

Victim offender mediation results in very high levels of client satisfaction (victims, 79%; offenders, 87%) and perceptions of fairness (victims, 83%; offenders, 89%) with the mediation process for both victims and offenders. This is consistent with a number of previous studies.

Victim offender mediation also makes a significant contribution to reducing fear and anxiety among crime victims. Prior to mediation, nearly 25 percent of victims were afraid of being victimized again by the same offender. After mediation only 10 percent were afraid of being re-victimized.

Juvenile offenders seem to not perceive victim offender mediation to be a significantly less demanding response to their criminal behavior than other options available to the court. The use of mediation is consistent with the concern to hold young offenders accountable for their criminal behavior.[18]

Considerably fewer and less serious additional crimes were committed within a one-year period by juvenile offenders in victim offender mediation programs when compared to similar offenders who did not participate in mediation. Consistent with two recent English studies[19] this important finding, however, is not statistically significant because of the size of program samples.

Victim offender mediation has a significant impact on the likelihood of offenders

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17 Umbreit, Mark. 1992. "Cross-Site Analysis of Victim Offender Mediation." Victim-Offender Mediation, Newsletter, Vol.4 No.1, Fall 1992, U.S. Association for Victim-Offender Mediation.

18 Bazemore, 1990,1992; Schneider, 1985; Schneider & Schram, 1986; as quoted in Umbreit, Ibid.

19 Marshall & Merry, 1990; Digman, 1991; as quoted in Umbreit, Ibid.

successfully completing their restitution obligation to the victim (81%) when compared to similar offenders who completed their restitution in a court administered program (58%) without mediation. Many more victims and offenders must have access to mediation if the well documented potential of victim-offender mediation is to move from the margins to the mainstream of how we understand and respond to crime in modern, industrialized societies.

VI. CONCLUSION

The fear of crime and violence is expected to continue, and the Clinton Administration has plans to increase police manpower on the streets through its Police Supplemental Hiring Program. This can only translate to more arrests, and more cases to be placed on the judicial threshold.

This trend will run headlong into the resource limitations which will be required by concerns over the budget deficit. No longer can the courts, nor other agencies of justice, expect to take greater than their share of the modest growth available in the state coffers. The public and their elected officials will demand ever greater efficiency, requiring fundamental changes in the way justice is dispensed. Fortunately, other trends are surfacing which should help progressive judicial change agents meet the demands of the next century.

David Osborne is his well read book Reinventing Government predicts that the organizations and agencies that survive in this fast changing world will reflect more flexibility, less bureaucracy, more interdisciplinary collaboration, and greater emphasis on solving problems closer to the source. These are precisely the elements of community based mediation which offer hope for dealing effectively with the anticipated caseload growth, and they are principles which should drive the courts' preparation for the future. A more complete and rapid sorting of cases will be required, and the traditional hierarchical bureaucracy will no longer suffice.

There is also a growing recognition that prisons do not work for all offenders; that other options can be more effective; that offenders in need of treatment should get that treatment as quickly as possible. These acknowledgments will ease the transition to community based

alternatives to the formal court process, with a concomitant reduction in cost of processing and increase in speed of disposition, payment of restitution, and referral to treatment where needed. The need for such community based, informal mechanisms to resolve disputes and settle some crimes will become increasingly important, and hopefully increasingly sought by the general public.

January 13, 1994

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Restorative Community Justice: A Call To Action

Marlene A. Young

There is an increasing consensus that the current paradigms used by the criminal justice system are proving ineffective. Simply looking for more of the same criminal justice interventions is misleading and depressing because we are asking more of the legal system than it can provide.

—A. Robert Denton

All across the United States can be heard expressions of theoretical and practical disillusionment concerning the way society addresses issues of maintaining a just social order, of violence and its prevention, and of the victimization of its citizenry. That disillusionment is the result of twenty years of relatively stable, high crime rates, and also of the impotence of government to respond effectively to that antisocial and criminal behavior. It is a disillusionment that sees violence as a result of a breakdown in community structure and its tenets of reciprocal rights and responsibilities. It is a disillusionment that springs from the fact that most adult citizens will have become a victim of violent crime in their lifetimes, and they see little redress or remorse either from their agencies of government or from their offenders.

The consequences of this disillusionment have been manifested in disparate ways.

On the one hand, there have been efforts to get tough on violent and drug-involved offenders in ways one might call punitive, through legislation increasing sentences for certain crimes, reimposing the death penalty, imposing "three strikes and you're out" sanctions on certain repeat offenders, and paying for a huge increase in prison space.

On the other hand, there have been efforts to try less traditional approaches, ones that address criminal violence, its perpetrators, and its victims in novel, perhaps more holistic, ways:

- The last twenty years have been witness to the revolution that has established bills of rights for crime victims in all fifty states and has led to a movement to amend state constitutions to give victims the right to be informed of, present, and heard at every critical stage of the criminal justice process. The voters in seven states had adopted such amendments by 1991. In 1992, the electorates in five more states ratified such amendments. In 1993, Wisconsin joined those states. In November, 1994, six more states became part of the trend. (In addition, it should be noted that California has adopted an amendment that addresses certain victim issues, and Georgia has adopted an amendmen in order to establish a victim compensation program.) Arguably, these legislative accomplishments can be seen as part of a broader "human rights" or "consumer" agenda to allow previously disenfranchised and wronged individuals greater participation in institutional decisions that affect their lives.
- For a little over fifteen years, there has been an effort to refocus the criminal justice response to offenders to address not only retribution but offender accountability. Models of "restorative justice," as this approach is generically called, have focused on victim/offender mediation or reconciliation, dispute-resolution programs, victim restitution, the use of victim impact panels, and so forth. Such models have emphasized that the goal is for victims to feel empowered through a process whereby offenders acknowledge the harm they have done and participate in a process to provide personal redress to their victims.
- Crime- and violence-prevention programs have increased, as illustrated by the establishment of the National Crime Prevention Council, the development of educational curricula on violence prevention and conflict resolution in schools, the development of treatment

programs for perpetrators of violence within the family, the use of crime prevention through environmental design in urban settings, and the move to establish community-wide citizen task forces to address crime and violence as quality-of-life concerns.

While the "law-and-order" and "holistic" camps often argue or talk past each other, it is the position of this monograph that through the use of a new paradigm of justice — Restorative Community Justice — the primary goals of both camps can be reconciled.

For if a local community's known offenders (all of them, for a significant change) are brought to account, and if, in the process, they are both punished and required to settle accounts with the victims and community they have hurt — and if these judicial interventions, punitive and rehabilitative alike, are all executed quickly — and if, finally, all this transpires under the gaze of concerned neighbors, then "swift and certain punishment" may finally get a fair test, using less punitive sanctions than some would prefer yet with increased prospects that victim justice and offender rehabilitation will be achieved.

The purposes of this monograph are, first, to present a theoretical description of Restorative Community Justice (RCJ), contrasting its concepts to those of other models; second, to describe the program elements that would be found in a community that had implemented the model; and third, to suggest areas of legal change that might be desirable to speed the establishment of such programs.

Restorative Community Justice: Constructing A New Paradigm

1. The first principle of RCJ is that criminal justice must be conceived not only as the imposition of justice on the criminal but also as the doing of justice for the victims. This means that a violation of the social order must be seen as an offense against society generally — the traditional "social compact" view — but also as an action that harms individuals. The concern here is on any wrong, even a noncriminal offense, that contributes to the weakening of social ties or interferes with community living. The victims of such violations may be defined as the individual whom we traditionally describe as the complaining witness in a criminal prosecution, but they may, in addition, or in the alternative, include community members harmed by the wrongdoing. It should be stressed that, in this expansive concern about violations beyond those traditionally prosecuted as crimes, the model does not seek to sanction extralegal controls on individual conduct. Rather, it seeks to sanction the greater use of near-moribund civil and criminal laws dealing with trespass, nuisance, harassment, and the like.

2. The second principle is that, while governments must establish criminal laws that set the standards of behavior for the general society, the community should often be the locus of implementing those standards in order to be responsive to the cultural nuances that vary by racial, ethnic, geographic, religious, and other backgrounds — all provided that certain equal protection and due process norms are maintained.

3. Third, the "community" from this perspective is more than a cultural filter for sorting out and prioritizing crimes in its midst; the community and its justice partners are to become engaged in defining and attacking community problems, a process that strengthens the important role of community institutions in a democratic society.

4. The fourth principle is that, by responding to crime skillfully, quickly, and locally, those administering community justice improve the chances that offenders and their victims alike will be restored to harmonious relationships with their neighbors.

5. The fifth principle is that all citizens, individually and collectively, have responsibilities for supporting peace and justice within the social order. These can be framed as reasonable expectations (not duties) that are clearly expressed in the RCJ model to three audiences:

- *Offenders should be held accountable for their actions.*

  One element of accountability is retribution or "just desserts." Such sanctions should be

just and equitable. Care should be taken to fashion culturally-appropriate punishments and to ensure that punishments are proportionate to the criminal action. The perpetrator of a heinous criminal attack has certainly earned the sanction of a lengthy incarceration, and not just to prevent that offender from committing another such attack. But fines, restrictions of privileges, home confinement, temporary exiles or exclusions, work details (not to be confused with community restitution, described below) and the like may be more appropriate for minor infractions.

While accountability should include measured punishment for its own sake, it should go beyond punishment. It should include full restitution to victims. Such restitution should be mandated by law, and should involve a full accounting of damages, past and projected. It should be ordered and, once ordered, remain enforceable until fulfilled. While the courts hold to the legal fiction that restitution is a form of punishment — a designation that has pragmatic benefits to victims in the justice system — one should recognize that payment of restitution is no more a punishment than the repayment of a loan or the expungement of any other debt, however incurred.

Accountability should also involve restitution to the community as a whole. A violation of the social order through crime or other proscribed behavior very often harms a describable community wherein the wrongdoing took place, as when it tears at the social fabric of a neighborhood and drains the larger society's resources to enforce the social order and to ensure that justice prevails. Hence, offenders should be held to perform constructive actions on behalf of the community. While the law and the criminological literature calls this kind of activity "community service," the appropriate name should be "community restitution" in order to stop confusing these activities with services voluntarily given by law-abiding citizens.

Accountability also should involve asking the offender to demonstrate remorse. The act of saying "I'm sorry" may seem trivial in the aftermath of a violent crime, but if the act is accompanied by contrition, it can sometimes help victims begin to reconstruct their own lives. Victims often feel that somehow they have contributed to their own victimization. Demonstrations of remorse help to vitiate the victims' self-blame. Remorse may also be coupled with admissions of shame for violating the social order. Indeed, in a New Zealand model of restorative justice, shame on the offender is considered an integral part of the restorative process.

Plainly, to be ashamed of one's actions is both to acknowledge that they were blameworthy and to be sorry that they caused harm. Many offenders cannot find within themselves the sorrow needed to express genuine remorse, yet can honestly take responsibility for having broken a legitimate societal norm and are prepared to be punished for that upon entering a guilty plea. For some, the lesson learned from that punishment is to go straight; for others, it is, don't get caught again. The RCJ model would continue the long practice of accepting guilty pleas as grounds for imposing lesser sanctions, but would still hold to the principle that remorseful admissions of guilt are better for all concerned than ones delivered with a certain bravado.

- *Victims also have responsibilities to the community.*

They may not be able to assume those responsibilities due to incapacities brought on by the crime or other circumstances, but ultimately the victims' rights to participate involve parallel responsibilities for participation.

The responsibilities which we may fairly ask victims to accept are nothing more than the responsibilities of citizenship that we should all assume in the justice arena. As citi-

zens (and victims), we should report violations of the social order to the proper authorities, at least when we believe it safe to do so; we should support legal change to improve the administration of justice in the future, if only by exercising our voting rights; we should participate in community crime prevention activities; and we should participate in the administration of justice as witnesses, jurors, and volunteers.

- *The affected communities also bear responsibilities.*

  These responsibilities are of two kinds — those of the state, and those of the local community or neighborhood. .

  The responsibilities of the state should include ensuring that appropriate laws and policies are in place in order to effect Restorative Community Justice and to pay for its implementation. Those legal policies should include the establishment of parallel rights for victims to those available to accused and convicted offenders, notably rights according victims participatory status in the justice system.

  The responsibilities of the local community should include establishing and maintaining a practical system of programs and procedures that support Restorative Community Justice. Such a system would include: community policing, community prosecution, community courts, community corrections, local programs of victim services and violence prevention, and citizen participation in all these efforts. The citizenry here, in most instances, are not just the residents of a neighborhood wherein the community justice system operates but its merchants, office workers, visitors, and friends.

6. The sixth principle of Restorative Community Justice is that justice should aspire to the restoration of both individual dignity and community bonds.

- Restoration for offenders involves an act of will on their part as well as support from society. The act of will includes their willingness to acknowledge their participation in the violation of the social order, their acceptance of sanctions, their act of contrition through remorse and shame, and their act of reparations to victims and the community.

  The support from society should involve providing them with opportunity to return to their community with appropriate benefits — such as medical or substance abuse treatment, or social or employment skills — as well as an acknowledgment of their status as a community member. It does not mean that society or victims have to forgive their past behavior or exonerate them, only that they should support opportunities for offenders to construct a new life as law-abiding citizens. Indeed, in some traditional societies where restoration is an integral part of the justice system, community members are not allowed to talk of the crime or the punishment if the offender successfully fulfills the conditions of accountability.

  Again, it is not proposed that all offenders deserve an opportunity for restoration. Some may be excluded from restoration permanently through imprisonment, or a form of exile or ostracism, because the offense or pattern of offensiveness was serious enough that their return would only continue the process of community destruction.

- Restoration for the victim should involve the provision of appropriate crisis and supportive counseling, full restitution from the offender and, where that is not forthcoming or immediate, compensation from the state. It should include medical or substance abuse treatment as necessitated by the crime, as well as vocational or other forms of rehabilitation. And victim restoration should include participation rights roughly equal to those of the accused in any criminal justice proceedings (whether in the formal court process or other alternative proceedings).

- Restoration for the community should also involve participation in the decision-making

processes of restorative justice and the implementation of its decisions. Groups of community members should be afforded appropriate crisis and supportive counseling, as needed, full restitution from the offender, and the establishment or reestablishment of community structures as the community adjusts to the impact of the social violations.

The purpose of Restorative Community Justice is to take into account that the well-being and integrity of communities as well as individuals are harmed by violations of the social order. The new justice paradigm would help restore the community through the restoration of all its injured individuals and groups, a process whereby they can once again contribute to the maintenance of a just social order by helping others.

Restorative Community Justice: Program Elements

While no jurisdiction has implemented a full model of Restorative Community Justice, there are examples of one or more of its program elements that have implemented over the last five years. The following review of the elements gives examples of those experimental activities, a great many of them formalized by written community partnerships. A sample partnership agreement from Portland, Oregon, is included in the appendix.

1. Community Policing

The United States is undergoing the most massive reformation of policing since the anticorruption and "professionalization" reform movements of the first half of this century. In some ways, so-called community policing might be called a "counter-reformation," bringing back the old cop on the beat —a more-or-less permanent beat for a specific officer or deputy, on a more-or-less permanent shift —and often involving the opening of mini-stations not unlike the neighborhood precincts of an earlier time.

But the models involve more than the friendly, peacekeeping officer affectionately portrayed in black-and-white movies of the 1930s. Community policing teaches officers how to round up neighbors to form a block club, or revive a local merchants' association, or encourage students to treat their school and each other with greater respect. In the typical community policing project, there are squad cars still responding to the more urgent calls for service, and investigators still working on felony cases, but the newly assigned officers are more focused on preventing crime than "chasing crooks." The National Institute of Justice has highlighted some of these crime- and violence-prevention efforts. Among the NIJ findings:

- Boston, Massachusetts. As part of its neighborhood policing strategy, the Boston Police Department recently announced the deployment of 10 youth service officers, 1 for each of the city's 10 police districts. All 10 officers had volunteered for the position. With 112 hours of training behind them, the officers' job is to reach out to young people by serving as positive role models, speaking against drugs in fifth-grade classes, and referring high-risk youths to public and private social services agencies. The officers are also expected to develop their own after-school and weekend programs for elementary and middle-school children. Extra hours, without overtime compensation, are considered part of the job.
- Columbia, South Carolina. The Columbia Police Department operates substations at several city housing developments. Over time, the substations have emerged as a nexus for a variety of activities that enhance the life of the community. Officers participate in youth athletic activities, make school visits, and cosponsor social activities such as camping trips, community talent shows, dances, movie matinees, and puppet shows. The officers also serve as mentors, taking special interest in the children and their school work.

- Houston, Texas. In Houston, the police department assigned four full-time officers to run a year-round Police Activities League (PAL) program for high-risk youth aged 12-17 from inner-city communities. In addition to sports, the program also features numerous educational field trips and community service projects such as neighborhood cleanups.
- Jacksonville, Florida. With its Youth Intervention Program, officers from the Jacksonville sheriff's office meet informally after school with young men aged 12 to 18 from low-income, gang-plagued neighborhoods. The emphasis is on talking and listening, with the officers working as mentors to strengthen the young men's self-esteem, increase their awareness of the consequences of violence, and provide informal guidance on a range of safety and health topics. The program also provides vocational training, with several community business partners creating work opportunities for the participants.

The scope of this reform movement is enormous. Spurred on by the U.S. Department of Justice, the leaders of the American law enforcement establishment, notably the International Association of Chiefs of Police, the National Sheriffs' Association, the Police Executive Research Forum, and the Police Foundation, have separately pioneered these approaches and collectively pooled their views and experience through the "Community Policing Consortium." The consortium's "Understanding Community Policing: A Framework for Action," spells out the two "core components" of these hundreds, if not thousands, of projects:

- The first component, and perhaps the overarching goal, is problem-solving. Indeed, a few departments embrace a "problem-oriented" style of policing, freeing up a kind of "flying squad" to, say, tackle a rash of local burglaries rather than retool the functions of the regular patrol force. The more typical community police officer is encouraged to be problem-oriented too — often acting as a kind of ombudsman to, say, get city agencies to remove abandoned cars.
- The second component is creating community partnerships — usually in formal documents like the one in the appendix. The roles and assignments meted out between the police, a block club, a group of shops, a school, or other participants, are typically the product of many hours of meetings — ones that often identify problems that the police, on their own, might not have rated in the first tier of community concerns.

The hope of this massive social experiment — fueled by a major Congressional subsidy for new police hires in departments subscribing to community policing precepts (if the Clinton Administration's "Cops on the Beat" program retains Congressional support) — is that bonds of communication and trust will be forged between community leaders and representatives of their front-line criminal justice agencies so that an ethic of law-abiding civility may be restored to community life.

There are interesting by-products of this new style of law enforcement — the antithesis of cool, "just-the-facts-ma'am" professionalism promoted by O.W. Wilson and his admirers two generations ago — that are of interest to those seeking to establish a more ambitious Restorative Community Justice model. First, parallel to the community policing reformation is the advent of victim assistance programs within law enforcement agencies. For two decades, it was America's prosecutors who led the inclusion of such services within criminal justice, but by 1990, over one-third of America's larger law enforcement agencies had established their own victim assistance units. The process of placing these advocates (or advocates in outside, cooperative service programs) into community-policing neighborhoods involves a natural partnership that may well become a commonplace feature of community policing in the future.

Second is the somewhat novel victim assistance program housed in the Delaware State Police, many of whose victim advocates are specially-trained, sworn officers — and some of whose commu-

nity police officers are graduates of that assignment, and employ the skills and insights of crisis counselors in their community policing assignments.

Third is the interesting partnership of the Redmond, Washington, police department and the state's corrections department. Volunteer police officers have significantly increased the visits to parolees' homes over what community corrections officers can do — and all of the police officers have become, in effect, eyes and ears of the corrections department so that, for example, the nighttime disturbance that the police quelled without an arrest may nonetheless inform a community corrections officer that a probationer had violated a curfew condition of his release.

As a last example, experimental programs in Native Alaskan villages expect their Public Safety Officers to function not just as law enforcement officers but also as informal judges and as welfare officers. That last role is a reminder that RCJ programs may take on governmental tasks that are seen to be supportive of community cohesion but quite distant from the operations of criminal justice.

2. Community Prosecution

Proposals and programs on community policing have been in existence for the last twenty years. It was only recently, however, that there has been an initiative to develop community prosecution programs that could work with community police and move prosecutorial functions out of a merely reactive role in prosecuting to a proactive role in preventing crime. Two examples of such programs are exemplary: the Neighborhood District Attorney's Program in Multnomah County (Portland), Oregon, and the Community Prosecution Program in Brooklyn, New York.

Michael Shrunk, Multnomah County District Attorney, chose to name his program the "Neighborhood District Attorney" to emphasize that prosecution is not the primary activity of the attorneys assigned to the program. As one of his deputies said, "We are attorneys for our districts, seeking to solve problems, and using the law only when necessary." Prosecutors elsewhere are more drawn to a title like "Community Prosecutor" to reflect its law enforcement and criminal justice function. Whatever the name of the program, the mission and mandates for the Multnomah County and Brooklyn programs are similar.

The role of the Neighborhood District Attorney is to help develop and implement long-term strategies that address problems in the community in order to enhance its quality of life. To accomplish that purpose, the following sets of activities are encouraged.

a. Problem-solving.

- Community problems must first be identified. The community prosecutors must do this based on citizen and community participation. A serious problem for one community may be objectively just as bad in another community, but not one that will motivate those community members to act. Problem identification can be done through meetings with community members, environmental observations, attendance at civic or community events, or more formal assessment procedures.
- Once problems are identified, the community, with the help of the Neighborhood District Attorney, must prioritize the problems in order to more efficiently analyze the relationship between one problem and another, mobilize resources, and establish a timeline for action.
- The Neighborhood District Attorneys may help the community maximize resources in a number of ways. They may serve as the facilitator of communications. Due to their perceived status and power, they may be able to establish communications between parties where none existed. They can serve as leaders in establishing community partnerships. They can persuade groups to work together that had previously distrusted or were unaware of each other. They can help to coordinate resource development

and implementation by exercising a "global vision" in their neighborhoods. By looking at the community as a whole, not just block by block or building by building, they can suggest ways in which different social and economic groups can create synergistic solutions to existing problems.

- After problems are identified and prioritized, and resources are identified or developed, Neighborhood District Attorney can work with the community to design and implement a plan of action to solve the problems. It is imperative that citizens be the primary force behind these plans so that neighborhoods have a long-term commitment to their success. Neighborhood District Attorneys can serve as resources for ideas, advisors with regard to the law, and law enforcers when necessary, but citizen participation is the key to community commitment to the new social order.

b. Applying the law to problem-solving.

Just as with community policing, the first goal of the community prosecution concept is to solve problems that contribute to the destruction of social order and community life before they become criminal in nature. However, a feature critical to the role of the community prosecutors is their ability to use their knowledge of the law — both civil and criminal — to help the community maintain the social order. There are several ways this legal knowledge and skill has proved useful in Portland:

- The Neighborhood District Attorney can assist community police officers in the enforcement of civil orders and the active prosecution of misdemeanor arrests based on the violation of social order.
- The Neighborhood District Attorney can coordinate with other criminal justice agencies, like the U.S. Attorney's office, the Federal Bureau of Investigation, and the Immigration and Naturalization Service, to ensure that expeditious and aggressive prosecution takes place when crime does occur.
- The Neighborhood District Attorney can assist community involvement in prosecutions through organizing court watches and facilitating victim advocates in informing victims and communities about case status and their rights under the law.
- The Neighborhood District Attorney can ensure that fair and accurate assessments of the impact of crime on individual victims and communities is represented in any case disposition and that full restitution is a part of plea bargains and sentencing requests.

c. A sample of results.

Problem-solving with prosecutorial authority as part of the strategy is the essence of community prosecution. Multnomah County's program has been in existence for almost five years. It has expanded from one neighborhood district attorney to five. The program has divided the County into six districts and a final district attorney for the sixth district will be assigned in the coming year. The following is a sampling of the results of the program.

- Citizen-Initiated Search Warrants

  Problem: The community identified lower-level drug houses in the neighborhood as a source of irritation and a degradation of community standards.

  Solution: The Neighborhood District Attorney and community police officers put together a program in which neighbors were trained to keep detailed logs of suspected activities. The police department conducted buys at the suspected house. The logs alone were enough to obtain a probable-cause search warrant from the judge. Two people were arrested. They were prosecuted and the neighbors are now willing to be "junior probation officers" to monitor future compliance to probation. The Neighbor-

hood District Attorney is now working with the property owner to resolve the remaining problems at the house.

- Operation No Drugs

Problem: The community identified that the illegal drug activity that occurred on the sidewalks and streets had converted the neighborhood into an open air drug market, seriously affecting the lives of businesses, agencies, and residents.

Solution: The Neighborhood District Attorney and a broad base of partners developed and implemented the following elements of their strategy: increased lighting; increased public awareness of what could be done when illegal activities took place; expanded police patrols; enforcement of "civil exclusions" from the area; and worked with the Immigration and Naturalization Service and the U.S. Attorney's office to aggressively prosecute drug cases and to identify and initiate deportation proceedings where an undocumented alien had been convicted of a drug-related crime. The program was begun in the Spring of 1993. By October of that year, there were 200 arrests on drug abuse charges, but in October of 1994, there were only 21 such arrests — evidence of the partnership's success in closing down the open drug market.

- Trespass Authorization Program

Problem: The downtown business community identified the problem of trespass by vagrants and juveniles during non-business hours. The private premises were accessible because police officers have no right to be there without the owner's permission.

Solution: The Neighborhood District Attorney worked with the owners and police officers to design and implement the following strategy. The owners would designate all precinct officers as the "persons in charge of the property," with authority to exclude people on the premises at unauthorized times or if they were engaged in destructive behaviors. A common exclusion form was developed and police officers were trained in the exclusion policy. Persons found on the premises under the specified conditions were given notice to leave. If they refused to leave, they were arrested. Even if they agreed to leave, those who were regular trespassers were given a "notice of exclusion," as authorized by a city ordinance, and if they were seen on the premises again, they were arrested for violating the exclusion order. In both kinds of arrests. the Neighborhood District Attorney agreed to file complaints on all such arrests, and the misdemeanor staff agreed to prosecute them.

- Unlawful Camping

Problem: The community identified unlawful camping on public access areas as a source of neighborhood distress due to its unsightliness and the garbage that was distributed around the makeshift campsites.

Solution: The Neighborhood District Attorney worked with the individual residents, the business community, law enforcement, and others to develop a partnership agreement that involved the following. The local Sheriff's Department in conjunction with the Parks Department cleaned up the area. It was then divided up into small territories and certain individuals were identified to monitor those areas for camping activities. Large pink signs saying "no camping" were erected to help the monitoring activities. Businesses agreed to destroy all large container boxes so that they could not be used for shelter. When someone erected a campsite, citizens confronted them and asked them to leave. If they did not or the monitors wanted assistance in the confrontation, sheriff's deputies would be summoned to effect removal or arrest. The program was one of the first ones established by a Neighborhood District Attorney. In

1989, there were 60 arrests in the area. By 1992, there was only one such arrest — the problem was effectively solved.

- Miscellaneous Results

In one area where prostitution was a problem, the Neighborhood District Attorney was able to work with local motels to persuade them to end a "one-hour" rental policy.

Where a burnt-out building was identified as a hangout for unsupervised juveniles, the prosecutor notified the Bureau of Buildings which cited the owner for a building code violation and ordered him to abate the violation.

Where trees and bushes provided a cover for drug deals and drug usage along a state highway, the Oregon Department of Transportation agreed to replant the area with ground cover that would meet standards for crime prevention through environmental design.

3. Community Courts

"Community courts" involve both new ideas and old ones merged in several ways. When judges rode circuit, most judicial proceedings had a high level of citizen participation in that a "jury of one's peers" was sometimes made up of friends or antagonists of the parties, and certainly of acquaintances. Minor disputes or crimes, heard by a local magistrate or a justice of the peace, were typically resolved around the kitchen table of the judge's house.

The gradual urbanization and centralization of the American justice system left most of the citizen litigants, witnesses, and jurors strangers to one another, which suited those who kept pressing for ever more disinterested methods of decision-making. Ours has become an antiseptic system, and our judges, largely by design, aloof and distant figures.

In many traditional cultures, the judge is expected to be knowledgeable about the parties involved. The judge may be an elder to whom wisdom is attributed and of whom is expected considerable understanding of the parties and of their family and community connections. Or the judicial function may devolve to a kinship or tribal group. Either way, the process is conducted in a manner that seeks to affirm the norms of a familiar community, not a distant society, and, often, to restore both the offender and the offended to the good graces of that community.

The new paradigm would call for integrating such community connections into the court system again. There are several ways that courts might change to accommodate such a system.

a. The judicial system could become more responsive to community and victim interests.

Today's judiciary could be trained to recognize and enforce various bills of rights for victims and their constitutional rights under the nineteen states that have established them. Some would argue that this will eventually entail the recognition of the victim as a third party with standing in the courtroom. That would seem to be the course that the State of Arizona is pursuing as it implements its state constitutional amendment, and where victims have standing and a right to have a lawyer in the criminal justice process.

Even without express legal mandates, judges have the power to ensure victim and community participation through victim impact statements and impact statements from larger communities. The former are now commonplace, while the latter are almost unheard of. Not surprisingly, one of the Multnomah County Neighborhood District Attorneys was among the first to offer such a community impact statement (in a plea-bargained burglary case.) That the court accepted the statement is a reminder that most courts have inherent authority to receive information that may guide their sentencing decisions and

may, in most jurisdictions, effect full restitution to both the victim and any other party manifestly harmed by the criminal act.

b. Another model for an RCJ approach to judicial decision-making can be derived from New Zealand's "Children, Young Persons and Their Families Act of 1989." The goals of youth justice in that country are described as follows:

"(1) Achieving justice

"Accountability — emphasizing the importance of young people paying an appropriate penalty for their crime and making good the wrong they have done to others.

"Reducing time frames — making time frames realistic given the age of the child or young person.

"Protecting rights — emphasizing the protection of young people's rights.

"Diversion — keeping young people out of Courts and preventing the use of labels that make it difficult for young people to put early offending behind them.

"(2) Responding to needs

"Enhancing well-being and strengthening families — making available services that will assist the young person and their family.

"(3) Providing for participation

"Family involvement — including families and young people in making the decisions for themselves and taking charge of their lives.

"Victim involvement — involving victims in the decisions about what will happen.

"Consensus decision making — arriving at decisions which are agreed to by the family, the young person, police and victims.

"(4) Being culturally appropriate

"Culturally appropriate ways of resolving matters — allowing families to choose their own procedures and their time and place of meetings."

(Judge M.J.A. Brown, Principal Youth Court Judge, New Zealand)

It is notable that Judge Brown went on to write, "The philosophies and principles which are being used in the Youth Justice field in New Zealand are, I believe, inextricably based on the communitarian concept. With a greater involvement of families and wider families we have seen a recognition of the strength of interdependencies — attachments which evoke personal obligation to others within a community of concern. These attachments are not perceived as isolated relationships of convenience but as matters of profound group obligation."

This perspective is unabashedly in harmony with the Maori culture in which Judge Brown was raised. But the statute he drafted and Parliament enacted has been applied to New Zealand's young descendants of Polynesian and European immigrants alike. In the first instance, it has successfully affirmed the legitimacy of the Maori "marae" — a council of one's extended family which, among other things, seeks through consensus to vindicate its victims and bring its transgressors, repentant, back into the fold.

The system has also worked well with young New Zealanders of European descent, sometimes with the effect of bringing into productive service an extended family that had previously gathered together only to celebrate holidays, not to take collective responsibility for one of their members. In any event, since the law does not impose a definition of the "family group" to whom the sanctioning and reconciliation is delegated, it can be a nuclear family of three or a marae of over a hundred kinfolk.

The procedures for the resolution of justice under these principles involves the following features.

- When a young person is charged with an offence, the case must be referred by the prosecutor to a Youth Justice Coordinator who must investigate the case and arrange for a family group conference before any further action is taken. A family group conference must be convened in cases where a young person has been arrested prior to any plea, although an exception is made when the young person indicates a non-guilty plea due to legal advice or on certain specific offenses. Similarly, if a child is alleged to have been abused or neglected, the child may be assigned a Care and Protection Coordinator who must convene a family group conference to address the issue.
- There are three stages to the family group conference: the information-giving stage, the family meeting, and the decision stage. At the first stage, the Coordinator provides the background information and may be questioned by the family. At stage two, the family group is entitled to meet in private to decide what must be done, but the victim or representative of the victim is entitled to be present, and there is currently legislation before the New Zealand Parliament proposing an amendment to allow the victim to be accompanied by any reasonable number of persons for the purpose of support. The family arrives at a proposed decision and a plan of action which then must be discussed with the designated officials. In cases of a youthful offender, the plan should be an alternative to prosecution. In the case of a youthful victim, the plan should be a solution to protecting the child from abuse in the future. If there is not agreement on the plan, the matter will go to court for further adjudication. Even at adjudication, the family has a role in advising the court on its wishes or appropriate sanctions.
- The court must approve and monitor any eventual plan of action or sentence. Community or family members are also responsible for any alternative sentencing or action plan.

While there have been problems in the implementation of youth justice, more remarkable have been its successes. Judge Brown reports, "I would be the first to acknowledge that ours is a very young system. There have been all the teething problems and we will never achieve the level of perfection which theorists would like to see. Perhaps the most satisfactory response to date, however, has been the complaint expressed by such bodies as the New Zealand Police Association that the system is only working in 90 percent of cases."

While the New Zealanders' culturally-flexible use of "family" might serve some applications of the Restorative Community Justice model, so might an equally-flexible use of "community," which might also borrow from the experience of other kinds of courts, discussed below, operated in, of, or by a community of whatever description.

As will be seen, the primary theme in most of these models is on the sanctioning dimensions of the judiciary, not its fact-finding duties. It is assumed that any case wherein a criminal defendant persists in pleading not guilty will continue to be wrapped up in procedural protections that may demand access to the "efficiencies" of a centralized court system. Yet the fact that the vast majority of prosecutions in the U.S. are resolved with guilty pleas should be taken into account, as this seems to be the foundation on which localized adjudicative systems are being built.

c. A third model for community courts can be derived from the experiments in using youth or teen courts as alternatives to judicial processing of juvenile cases. These courts address the goal of using peer community members as participants in the decision-making process. There are over 70 such courts in the United States and, while their procedures differ, some of the guidelines are very similar.

- They are based on a philosophy that young offenders are less likely to recidivate if peers are involved in deciding the appropriate consequences of their acts.
- They are activated after a plea of guilty so that peers in the judicial process do not face as much likelihood of retaliation from the adjudicated offender.
- They attempt to dispense swift and sure sanctions. In order to effect that, they meet often and usually work under predetermined sentencing guidelines. Such guidelines usually include some mandatory community restitution hours, substance abuse testing and treatment, educational or counseling hours, and restitution to the victim.
- If the sentence is successfully completed, the charges are dropped, but if it is not completed, prosecution is resumed in court or through the school administrative process.
- Peers may serve in roles of defense attorney, prosecuting attorney, or the jury. Usually an adult serves in the role of the judge in order to insure neutrality and fairness but there are models in which youth serve in that role as well.

d. Another model of community oriented restorative justice decision-making is that found in victim/offender mediation programs or dispute-resolution programs. There are three general kinds that can inform the model of Restorative Community Justice more generally and offer alternatives for dealing with violations of the social order and criminal violence.

- School-based violence prevention and conflict resolution programs.

  One of the more successful programs in this area is the Resolving Conflict Creatively Program (RCCP) started in the New York City Public Schools in 1985. RCCP is in place in 250 elementary, junior high, and high schools in the nation, with 4,000 teachers and 120,000 students participating.

  The goal of RCCP is to create school change such that there are "peaceable schools" which are characterized by community cooperation and communication and shared decision-making. While much of RCCP is devoted to implementing special curricula at all grade levels, teacher training and support, and parent training, it is the student mediation component which is particularly relevant for Restorative Community Justice. This component attempts to use peers in the mediation process and non-violent conflict resolution under the supervision of trained faculty coordinators. It also relies upon strong school discipline policies to act as a final deterrent to actual violence. This tends to mirror the community prosecutor approach to enhancing the quality of life in a community through problem-solving but utilizing swift and sure prosecution to enforce the social order when violations of it are criminal.
- The second kind of dispute resolution model is the Neighborhood Justice Centers and Community Board programs begun in the late 1970s and continuing today. The essential goals of these programs have been to encourage community members to resolve disputes themselves through problem-solving techniques and to discourage disputes from escalating from community conflict resolution to formal judicial or law enforcement institutions.
- The third kind of program is the Victim-Offender Reconciliation Project — known by its unlovely acronym "VORP" — that embodies what such proponents as Albert Eglash, Dan Van Ness, and Howard Zehr call "restorative justice." The first of the pioneering VORP projects was started in Kitchener, Ontario, in 1974, followed by one in Elkhart, Indiana, in 1978, and many dozens of others were established thereafter. The early programs were inspired by the teachings of the Mennonite Church and other Christian denominations, and are meant to help the victim to understand the offender's motivation and the offender to understand the victim's losses. VORP programs, with

their stress on restoration, not punishment, have been used as a diversion from the adversarial system, or as part of the court's sentencing process, or even after the outlines of a sentence are set. In their form as a diversion program, they serve to mediate "disputes." In cases where the court retains its sentencing authority, the VORP process has been used to further the understanding of the victim and offender as to the meaning of the violation, and to provide the court additional information as to appropriate sanctions, including restitution.

All of the programs that borrow the techniques of mediation to fashion a sentence have their critics in the victims' movement. It begins with language: to say that two strangers whose only interaction was the criminal violation of one by the other have a "relationship" seems bizarre, and then to say that the relationship suffers from a "conflict" or a "dispute" can sound deeply offensive to victims.

It often doesn't help matters when the parties do have a previous or even an ongoing relationship with one another. Victim advocates almost universally insist on calling the violence committed by one intimate on another a crime, not a "domestic dispute" or some other palliative.

This is not just a question of semantics. Victim advocates cite many cases in which the mediating agency clearly (if unwittingly) manipulated reluctant victims into cooperating, and then turned a blind eye to the fact that the victim came in — and left — the mediation process in a position subservient to the offender.

Thus, Ms. Smith, a gentle woman who lives by herself, is asked if she would be willing to have mediated the case against the thirteen-year-old whom she caught leaving her apartment with her television; her religious faith silently compels her to agree to the session, and since her property had already been returned, she raised no objections to the suggestion that the offender's sentence be limited to forty hours of unspecified community service. At no time in the session did she reveal that she is plagued with nightmares of her offender sneaking into her apartment and attacking her, or that her constant fear has caused her to abandon all evening activities at her church, once her favorite pastime.

Though a hypothetical composite, "Ms. Smith" represents actual victims erroneously brought into — or clumsily misused by — well-meaning mediation programs. Likewise, there have been too many schoolyard bullies, abusive spouses, and other chronic predators who have bent a mediation forum to their own ends, defeating the interests of their victims and of justice.

Nonetheless, it has been shown that less formal means of intervention may offer a legitimate method of resolving a public offense when the mediator, judicial officer, or community board is able to balance the process such that all parties are able to make their case with equal force and with an understanding of what their options are (including the option of returning the case to the court). Mediation-type programs which are more selective in the cases they seek to handle and have the knowledge and skill to fortify all the parties to the task ahead have often produced very gratifying results for victims and their advocates as well as for offenders and *their* advocates.

From the Restorative Community Justice perspective, the salient question is not whether mediation models have applicability to the RCJ model but whether they can be used to go beyond the legal facts of a law violation to address issues of social order and its violation.

The Delaware Criminal Justice Council is seeking to do just that in a pilot project it hopes to establish in Kent County. As it is being developed, the plan is that cases would

be referred by the prosecutor to the mediation process as a form of "prosecutor's probation." Defendants interested in entering the mediation process must waive their right to a speedy trial. The victim must agree to the process as well, and be screened by trained staff prior to the mediation. If either the victim or defendant is perceived to be inappropriate for the process, the case will go back to the prosecutor for normal processing.

The mediation process will focus on the harm done to the victim and on the victim's questions of the offender. The mediator will work to design an agreement that restitutes the victim, restores something to the community from the offender, and provides the offender with appropriate treatment if necessary. Project staff will monitor the agreement and its progress. Most referrals will come from the prosecutor, although the plan allows for some cases to come after conviction, from inside a prison, or from self-referrals if mediation is sought to resolve civil disputes before they become a criminal case. A partnership of criminal justice agencies, community groups, and victim representatives has been formed to assist with the program.

e. A final model for community decision-making is that established in two experiments in New York: the Midtown Community Court in Manhattan, which was opened in October, 1993, and the Red Hook Community Justice Center which is currently being developed. These experiments have been inspired by such phenomena as drug courts, the victims' movement, and community policing, and are demonstrating the efficacy of the judiciary's contribution to Restorative Community Justice. The following precepts guide the New York experiments:

- By arresting, arraigning, and sentencing offenders all in the same neighborhood, justice is swift.
- By paying back the community through community restitution projects, justice is visible.
- By placing drug treatment, health care, education, and court processing under one roof, justice is constructive.
- And by improving communication between the court and the community, the energies of the local police, residents, and businesses are harnessed to improve the delivery of justice.

The goals of the New York courts are to offer community restitution, help steer offenders from further involvement with the criminal justice system, solve community problems, and increase the level of public involvement in court proceedings. John Feinblatt, administrator of the Midtown Community Court, has expanded on the philosophy behind these goals. His views may be summarized as follows:

- Community Restitution

Community courts recognize that individuals are often victims of crime, but it is equally important that communities be considered victims as well. A priority is placed on having offenders perform needed community-oriented work as part of the sentencing process. Community restitution is ordered to be performed immediately. Such restitution makes a significant contribution to the quality of life in the community. The public performance of the work assures community members that there is a swift response to crime. In its first year, the Midtown Community Court arraigned over 9,000 defendants and nearly 80 percent received sentences of community restitution, social services, or both. Court hearings were held within 17 hours of arrest, and most sentences began within 24 hours of arraignment. Seventy-five percent of the offenders complied with the conditions of their sentences. Community restitution activities in-

cluded scrubbing graffiti off the walls of 200 businesses and residences, stuffing and sorting over 700,000 pieces of mail for local non-profits, clearing and replacing 6,000 "tree pits" along neighborhood sidewalks, working in soup kitchens, assisting with recycling efforts, and cleaning the court and police precinct.

- Offender Treatment

  Treatment efforts are based on the premise that an arrest creates a crisis in an offender's life, and that such crises make most people vulnerable to change — for better or worse, depending upon other circumstances in the defendant's life. The community court views the arrest as a potential turning point should the defendant want to take advantage of related services. The Midtown Community Court provides opportunities for drug counseling, education, job training, and health care — all on site. More than a dozen city agencies and local non-profit organizations teach English, provide counseling, provide substance abuse treatment, help locate housing, help defendants get jobs, and test for diseases. One mark of success of the court in the first year was that over 1,000 defendants voluntarily returned to the court for further assistance after they had completed their sentences.

- Problem Solving

  Just as the Neighborhood District Attorney focuses on solving noncriminal problems that affect the quality of life in a neighborhood, the community court addresses problems that erode community pride and safety. Court mediators facilitate communication and dispute resolution to restore and build community spirit, as when a bar owner agrees to take steps to keep the noise level down in the late hours.

- Public Involvement

  Often members of the judiciary and court administrators eschew involvement in community activities because they feel such activities would impair the impartiality and neutrality of the court processes. Community courts are designed to mobilize public interest and to provide leadership in developing new partnerships to enhance community life. The Midtown Community Court encourages residents to visit the court, watch proceedings, and participate in designing community restitution opportunities. Information is disseminated through community advisors, a court newsletter, and even a visible wide-screen video-display of the daily court schedule.

f. It is suggested that a Restorative Community Justice model of community courts or decision-making processes would be an amalgam of the examples above. It might include the following elements.

- Location in the community.
- Swift justice with community and victim participation in the process. (Representatives of the Midtown Community Court emphasize that the immediacy of sanctions has far more impact on offenders than severity of sanctions.)
- Community and victim participation in the selection of sanctions and in the determination of victim and community restitution.
- Twenty-four accessibility.
- Alternative methods of decision-making, including traditional adjudication, community consensus-building, and peer adjudication, plus dispute resolution, mediation, or victim offender reconciliation. The alternatives would be matched to the type of violation of social order or crime that occurred, the age of the victim or offender, and the advice of the community or victim.

The Red Hook Community Justice Center will attempt to take the idea of a commu-

nity court to its logical conclusion. The community in question is on the Brooklyn side of the New York waterfront, home to some 12,000 people —two-thirds African-American and Hispanic public housing tenants, the rest white and Puerto Rican residents, mostly blue-collar workers. As the Center's mission statement summarized:

"The vision is ambitious: once completed, the Justice Center will be a multifaceted, multi-service facility, breaking down the walls of distrust, fear and misunderstanding that have traditionally divided courts from low-income communities. By hosting community meetings, mediating quality-of-life problems, offering a variety of social services and attracting new resources to the community, the Justice Center hopes to transform the nature of a court. In the years ahead, the Justice Center will be an important community resource, a responsible institutional citizen, and a force for positive change in Red Hook."

4. Community Corrections

The concept of "community corrections" originally embraced the normal work of probation and parole supervision. The term has taken on new meaning when it is used to describe new initiatives in non-incarceration sentencing. The "goals and objectives" of the Model Adult Community Corrections Act show how certain ideas of restorative justice are already found in modern correctional thinking:

"1) To enhance public safety and achieve economies by encouraging the development and implementation of community sanction as a sentencing option;

"2) To enhance the value of criminal sanctions and ensure that the criminal penalties imposed are the most appropriate ones by encouraging the development of a wider array of criminal sanctions;

"3) To increase the community's awareness of, participation in, and responsibility for the administration of the corrections system;

"4) To ensure that the offender is punished in the least restrictive setting consistent with public safety and the gravity of the crime;

"5) To provide offenders with education, training and treatment to enable them to become fully functional members of the community upon release from criminal justice supervision;

"6) To make offenders accountable to the community for their criminal behavior, through community service programs, restitution programs, and a range of locally developed sanctions; and

"7) To foster the development of policies and funding for programs that encourage jurisdictions to minimize the use of incarceration where other sanctions are appropriate."

While most "community corrections" agencies supervise just probationers, at least some also supervise parolees or those who have completed a determinate prison term. Typically, community corrections officers have extensive powers of search and seizure, and can issue their own arrest warrants for violations.

Under the Model Act, a statewide community corrections plan would be developed and monitored by a State Criminal Justice Council made up of criminal justice officials and members of the public. Communities would also establish a local Community Corrections Board with responsibilities for developing and implementing a community corrections plans. That Board would be composed of local criminal justice officials and members of the public. Over a dozen states have instituted community corrections in the manner envisaged by the Model Act.

Its suggested sentencing alternatives include supervised probation, community restitution (or "community service" in the Model Act), home confinement, electronic surveillance, treatment and

counseling (either through residential or outpatient facilities), vocational training or mandatory employment, restitution to the victim, fines, and victim-offender education or reconciliation programs.

While the concept of community corrections has been successfully implemented in some jurisdictions, implementation in others has been impeded by structural problems. Community corrections agencies are often understaffed. They do not have formal patrol duties or twenty-four hour on-scene capabilities. While a community corrections officer may supervise offenders who are placed in a community, the officer may not be based there, and in most cases community members are not actively involved in the supervision or monitoring. Victim participation is also minimal. It is significant that the kind of State Criminal Justice Council or local Community Corrections Board proposed by the Model Act does not designate a role for victim participants. Finally, community service and restitution to individual victims are suggested sanctions rather than debts that the courts must order to be repaid. From the RCJ perspective, this confuses the ideas of restitution, restoration, and retribution.

In the Restorative Community Justice model under review, community corrections can have a much larger role than the Model Act would suggest. Communities and victims can participate in the corrections process in several meaningful ways:

a. Community corrections officers can develop partnerships with community members and other criminal justice agencies to develop community-wide monitoring and reporting of suspicious activities. The Volunteer Community Corrections Monitor Program described in the community policing section above could itself be expanded to have not only police officers monitor those under community corrections supervision but also trained citizens. That idea was again suggested in Portland's Neighborhood District Attorney Program in the guise of citizen volunteer "junior probation officers."

b. Community boards comprised of citizens, including victims, can be used in violation hearings as well as in the establishment of appropriate sentences. Community residents often know far more about the day-to-day activities of people on probation or under community custody status than do community corrections officers.

c. Community members can also be used to support offenders as they move through the process of providing restitution to the community and the restoration of their own status as a member of that community. A 1991 Public Agenda Foundation study of public attitudes in Delaware revealed strong public support of community restitution because it was a way for offenders to improve job skills, do productive work, and be held accountable by giving something back to the community. It is important to recognize that community restitution in a restorative sense is more than simply doing a designated task. It is critical that the restitution be work that is constructive and restorative in nature for the community, the victim, and the offender. This means that sanctioners need to be creative in their restitution plans.

d. Finally, community members and victims can be involved in community corrections efforts by participating and supporting victim impact panels and other kinds of victim education programs for offenders. These programs contribute to offenders' understanding the harm done to their victims and to their understanding of the wounds they too have suffered at the hands of others. One of the merits of bringing up an offender's own history of victimization in an educational or treatment setting is that, properly managed, the issue can be addressed without offering the slightest sense of exoneration for their own criminal conduct.

Two examples serve to illustrate creative uses of communities involved in correctional functions.

- In Detroit, Save Our Sons and Daughters (SOSAD) was initially established to help surviving relatives of homicide victims. But soon after its inception, its goals were broadened to address both young victims and offenders involved in inner-city violence. Staff and volunteers work

with survivors of violence as they deal with the trauma of victimization. They also work in prisons to encourage offenders to return to the community in good standing after serving their sentences. SOSAD has been successful in promoting the use of Peace Zones in which violence prevention is a priority and reintegrating or restoring young offenders back to their neighborhoods is a major objective.

• In El Paso, Texas, Judge Phillip Martinez handles all juvenile offenses in the court system. When a first-time juvenile offender comes before him, he works with a community organizer to bring together the offender, his family, and representatives of the community and the victim to establish an appropriate sentence. Under this "Conference Committee Program," a probation officer is assigned to each school in his or her district to monitor the implementation of the sentences developed in this way. The community members, school officials, and other students are all involved in holding the juvenile accountable. This has resulted in an 80 percent success rate in handling first-time juvenile offenders (plus a few re-offending property offenders) and has been in operation for almost six years.

5. Victim Service Programs in the Restorative Community Justice Model.

There are three primary roles for victim service programs in the RCJ model. The first is to help victims and communities address the immediate and long-term trauma of victimization; the second is to help victims and communities access and participate in opportunities to restore justice; and the third is to establish and maintain training and education programs for all agencies and members of the community on victim issues.

a. When victims and communities are afflicted by crime, emotional trauma is a likely result. It may be greatly exacerbated by financial losses, physical injury, or the death of a loved one, but the impact of sudden, random arbitrary violence, is, in itself, crisis-inducing. Victim advocates play an initial role at the community level in providing immediate practical aid to victims and their families and assisting them with filing for compensation or other forms of financial aid. They also may play a role in connecting them to sources of additional forms of assistance, such as transportation, alternate shelter, document replacement, and the like. But in the course of any other kind of help, the victim advocate's primary goal is to help defuse the psychological crises that face those traumatized by crime.

b. For victims and communities involved in the restorative justice process, and hence involved in the criminal justice system, perhaps a summary of the victim advocate's role is to "explain, reassure, and support" the victim and community member at every stage of the justice proceedings. This may mean working with law enforcement to defuse victims at the scene of a crime; it may mean working with prosecutors to ensure that there is court accompaniment to individual victims as well as court watchers; it may mean working with victims to translate their thoughts and reactions into a victim impact statement that effectively states their case to a court or decision-making body; it may mean providing accompaniment to victims appearing on victim impact panels or notification of an offender's status upon release.

c. Finally, victim service programs must be engaged in constant training and education of their allied professionals in current victim needs and rights as well as the training of communities in violence prevention and public awareness of victim assistance. This training and education should be done in collaboration with other agencies but the victim service provider is uniquely placed to continue to ensure that the refocusing of justice from the offender in the courts to the victim and victims in the community takes place.

In fact, it may not too broad a statement to say that the role of the victim advocate can

be the glue that makes all the components of the RCJ model hold together. By continuing to express the concerns of the individuals and groups who have been harmed by crime, the advocate can keep the model's principles of responsibility and accountability at the forefront of the day-to-day operations of the cooperative enterprise.

6. Community Participation in the Restorative Community Justice Model

The sixth program element in the implementation of Restorative Community Justice is the involvement of community citizenry through volunteer work and partnerships. This element has been integrated in the earlier discussions of the five more formalized roles and functions.

However, there are two concerns to which community members should pay special attention.

a. There is a need to establish as priorities for all community justice agencies a focus on the quality of life, on violence prevention, and on victim assistance issues. Those priorities should be the ultimate goals of every community action plan. If those are priorities and a global vision is maintained, it is easy to see why planting and maintaining a public garden (for example) may improve the aesthetics of the area, prevent the development of an open air drug market, and provide healing opportunities for victims to join with other community members to reconstruct their lives.

b. In order to maintain those priorities, communities should establish a permanent task force (with rotating memberships) to coordinate specific partnerships in conjunction with their Restorative Community Justice agencies, and also help forge partnership agreements that address specific problems. Such coordination and agreements assist in ensuring accountability of the community as well as individual agencies and people.

Restorative Community Justice: Policy Initiatives

To establish a system of Restorative Community Justice, it is probable that a number of changes in legislation might be required at the state or local level. Two immediate changes are called for.

First, there is a need to change the legislative terminology of "community service" as a sanction to "community restitution". Community restitution should be defined as activities done by offenders that contribute to the quality of life of a community and that "pay back" the community for the harm done. It should not be used or confused with retribution or punishment on the one hand or voluntary service on the other.

And second, in all legislation addressing elements of Restorative Community Justice such as community policing, community prosecution, community courts, or community corrections, an explicit role for victims — as individual and collective consumers of the justice system — should be defined and provided for.

In addition, the following are some policy issues to be considered.

1. Are there violations of social order that should be sanctioned through ordinances or civil processes such that there are legal methods to give notice and establish grounds for more serious arrests and prosecution if those violations occur?

Portland established "drug-free zones" in 1992 as a part of its ordinances to secure public peace, safety, and morals. In 1994, the ordinance was amended to provide for "civil exclusions" for certain crimes or infractions. If these exclusion orders are violated, wrongdoers are subject to immediate arrest for criminal trespass in the second degree under Oregon law. This provides community police and prosecutors with a potent tool to "hassle" individuals consistently contributing to community disorder. The use of the vernacular here is a reminder that communities should have the ability to respond appropriately to those who crudely despoil community life. But the vernacular is also a re-

minder that communities and their agents of justice have in the past used such authority to infringe on the rights of individuals whose appearance or conduct may not conform to community norms but whose misconduct does not properly rise to a police matter.

2. What types of crimes or criminals should be processed through alternative courts or decision-making processes with community involvement?

Some have suggested that alternative courts and their like should primarily be used in cases involving first offenders, juveniles or misdemeanants. However, Judge F.W.M. McElrea, in reviewing the Youth Justice system in New Zealand, has a more ambitious view:

"My conclusion therefore is that we indeed do have a new paradigm of justice. It is not simply an old model with modifications . . . It is a spirit which I would characterise as responsible reconciliation. The term 'reconciliation' connotes a positive, growing process where strength is derived from the interaction of victim, offender and family in a supportive environment. It is a 'responsible' process in that those most directly affected take responsibility for what has happened and for what is to happen. In the process most of the power previously vested in the court is transferred to the local community which now carries this new responsibility.

"Perhaps when the real strengths of the new model have been understood we will be able to take it beyond the Youth Court, find a mechanism for defining a relevant community group for adult offenders, involve victims and the wider process in finding solutions, and in the process remove from the courts and our prisons much of the burden of unrealistic expectation under which they labour." (Emphasis added.)

3. Should judges be mandated to order community restitution whenever communities make a showing of negative impact due to crime? Should personal restitution be mandated to fully compensate all known victims for all losses as a part of any plea? And should "community service" be legislatively redefined to designate voluntary services in the community contributed by citizens in good standing while "community restitution" be used to denote activities that offenders do to satisfy restoration mandates?

4. Should communities be allowed to submit victim impact statements concerning violations of social order and crimes processed in the Restorative Community Justice process?

5. Should communities be given standing to sue drug-related nuisances such that successful plaintiffs can enjoin continuation of the drug nuisance, force a judicial sale of property used in the nuisance, and recover damages from the sale proceeds?

This is a concept proposed by Congressman Charles E. Schumer in a proposed Community Empowerment Against Crime Act. The cause of action is similar to current civil forfeiture provisions which target property used to facilitate crime without necessitating a criminal prosecution, and to "private attorneys general" statutes that induce private citizens to bring suits enforcing federal law and keep a share of the recovery.

Perhaps in the development of Restorative Community Justice, one should look increasingly to these and other civil-law tools of redress and accommodation as ways to assert legitimate community interests while seeking to prevent increases in crime and violence.

Appendix

The following is the sample partnership agreement referred to in the monograph that was developed by the groups described in the document at the initiative of the Neighborhood District Attorney program in Portland, Oregon.

Old Town/Chinatown
Community Policing Problem-Solving Action Plan and Partnership Agreement

Operation No Drugs

I. Introduction:

The Old Town/Chinatown Community Policing Steering Committee was formed for the purpose of brining all responsible organizations/stakeholders together to develop a plan on how to improve the quality of life in the area commonly known as Old Town. This committee has drafted an action plan which had as one of its priorities to make Old Town a drug-free zone. Operation No Drugs is the name for the Community Partnership Agreement/Problem Solving Action Plan that seeks to make that priority — to make Old Town a drug-free zone — a reality. This agreement addresses only priority number 6 of the Old Town/Chinatown Community Policing Project Action Plan which is to make Old Town a Drug-Free Zone (DFZ). This agreement complements the efforts of the Old Town/Chinatown Community Policing Steering Committee, as well as other organizations, to address quality of life issues and problems that affect the Old Town/Chinatown area.

II. Stakeholders:

Old Town/Chinatown Neighborhood Association (OTCTNA)
Pearl District Neighborhood Association (PDNA)
Downtown Community Association (DCA)
Historic Old Town Association (HOT)
Portland Metropolitan Chamber of Commerce
Association for Portland Progress (APP)
Chinese Chamber of Commerce
Chinese American Citizens' Alliance
Hispanics in Unity for Oregon
Hispanic Services Roundtable
Old Town Social Service Agencies
Portland Police Bureau
Multnomah County District Attorney's Office (DA)
Multnomah County Sheriff's Office Corrections Branch
Immigration and Naturalization Service (INS)

III. Problem As Agreed Upon By Stakeholders:

Illegal drug activity occurs on the sidewalks and streets of the Old Town/Chinatown neighborhood. This neighborhood has become an open-air drug market with the drug dealers and drug users taking over the sidewalks and streets. This has seriously impacted the way of life of the business, social service agencies, and residents.

IV. Major Goal:

To diminish illegal drug activity. To make business, social service agencies, residents, and visitors feel safe on the sidewalks and streets of Old Town/Chinatown neighborhood. To change the image of the neighborhood from an open-air drug market to a safe place to live, work, and visit. To truly make Old Town/Chinatown a Drug-Free Zone (DFZ).

V. Strategies/Actions To Be taken By Each Stakeholder:
A. Starting Date: April 1, 1993
B. Review Date: October 1, 1993

The Old Town/Chinatown Neighborhood Association Agrees to:

1. Work with the Volunteer Coordinator for the Citizen Crime Reporting Project in developing a pool of volunteers to become Volunteer Crime Reporters (VCR's).
2. Participate in procuring equipment and materials necessary to implement the Citizen Crime Reporting Project, such as cellular phones, etc. along with the PDNA, DCA, HOT, and APP.
3. Work with the APP in finding an office space to become the Citizen Crime Reporting Project Office.
4. Develop and implement on a monthly basis a Public Safety Education and Training Program for the people who live and work in the neighborhood. To the extent possible, this program will attempt to be available in several different languages to accommodate the diverse population of the Old Town/Chinatown area.
5. Develop and distribute a Drug-Free Zone Guide and User Card which explains what citizens can do when they see illegal activity occurring in the entire area of the downtown Drug-Free Zone.
6. Develop and distribute a poster which will identify the entire area of the downtown Drug-Free Zone as a drug-free area.
7. Continue to develop the "Jasper lantern" project.
8. Work with APP, Hispanics In Unity For Oregon, and the Hispanic Services Roundtable in developing a list of qualified people who speak Spanish who would be willing to volunteer their time to (a) translate for the PPB officers who have an arrested person in custody at the Old Town Precinct who only speaks Spanish, and (b) educate Spanish speaking people about the Drug-Free Zone.
9. Monitor the neighborhood for any increases or decreases in illegal drug activity.
10. Work with the PPB Old Town Detail sergeants in distributing a selected number of photographs of the excluded subjects under the Drug-Free Zone ordinance to appropriate businesses in the neighborhoods and to encourage those businesses who receive those photographs to watch for those subjects and to call PPB if an excluded subject is seen in the DFZ area.

The Pearl District Neighborhood Association Agrees to:

1. Work with the Volunteer Coordinator for the Citizens Crime Reporting Project in developing a pool of volunteers to become Volunteer Crime Reporters (VCR's).
2. Participate in procuring equipment and materials necessary to implement the Citizens Crime Reporting Project, such as cellular phones, etc. along with the OTCTNA, DCA, HOT, and APP.
3. Develop and implement the Pearl District's Cellular Watch Foot Patrol. The Watch Patrol volunteers will patrol the Pearl District neighborhood at varying times of the day. They will be equipped with a cellular phone to report criminal activity directly to the police.
4. Work with the police to monitor any increases or decreases in illegal drug activity.
5. Work with the Portland Police Bureau Old Town Detail sergeants in distributing to the members of the foot patrol photographs of the excluded subjects under the Drug-Free ordinance.

The Downtown Community Association Agrees to:

1. Work with the Volunteer Coordinator for the Citizens Crime Reporting Project in developing a pool of volunteers to become Volunteer Crime Reporters (VCR's).
2. Participate in procuring equipment and materials necessary to implement the Citizen Crime Reporting Project, such as cellular phones, etc. along with the OTCTNA, PDNA, HOT, and APP.
3. Monitor the neighborhood for any increases or decreases in illegal drug activity.
4. Work with the PPB Old Town Detail sergeants in distributing a selected number of photographs of the excluded subjects under the Drug-Free Zone ordinance to appropriate businesses in the neighborhood and encourage those businesses who receive those photographs to watch for those excluded subjects and to call PPB if an excluded subject is seen in the DFZ area.

The Historic Old Town Associations Agrees to:

1. Work with the Volunteer Coordinator for the Citizens Crime Reporting Project in developing a pool of volunteers to become Volunteer Crime Reporters (VCR's).
2. Participate in procuring equipment and materials necessary to implement the Citizen Crime Reporting Project, such as cellular phones, etc. along with the OTCTNA, PDNA, HOT, and APP.
3. Monitor the neighborhood for any increases or decreases in illegal drug activity.
4. Work with the PPB Old Town Detail sergeants in distributing a selected number of photographs of the excluded subjects under the Drug-Free Zone ordinance to appropriate businesses in the neighborhood and encourage those businesses who receive those photographs to watch for those excluded subjects and to call PPB if an excluded subject is seen in the DFZ area.
5. Develop and implement a facade lighting project with the goal to light up the Historic Old Town district by installing lighting that in some cases back-lights the buildings and in others shines light down onto the sidewalks and streets. This will be an ongoing project that will attempt to light up the entire Historic Old Town area by the end of 1994.
6. Develop and implement a crime watch program which will include the installation of video cameras and signs to deter and monitor illegal drug activity with the Drug-Free Zone area.

The Portland Metropolitan Chamber of Commerce Agrees to:

1. Help identify sources of equipment and materials necessary to help the stakeholders implement Operation No Drugs.
2. Continue to encourage Multnomah County and the State of Oregon to maintain adequate resources for local and state corrections programs.

The Association for Portland Progress Agrees to:

1. Provide one or more Portland Progress patrol officers to work as Volunteer Crime Reporters in the Citizen Crime Reporting Project.
2. Work with the Old Town/Chinatown Neighborhood Association in finding and office space to become the Citizen Crime Reporting Project Office.
3. Work with the DA DFZ Coordinator and the PPB DFZ Coordinator in finding a citizen to be the Volunteer Coordinator for the Citizen Crime Reporting Project.
4. Participate in procuring equipment and materials necessary to implement the Citizen Crime Reporting Project, such as cellular phones, etc. along with the OTCTNA, PDNA, DCA, and HOT.
5. Work with the Old Town/Chinatown Neighborhood Association, Hispanics In Unity for Oregon, and the Hispanic Services Roundtable in developing a list of qualified people who

speak Spanish who would be willing to volunteer their time to (a) translate for PPB officers who have an arrested person in custody at the Old Town Precinct who only speaks Spanish, and (b) educate the Spanish-speaking people about the Drug-Free Zone.

6. Monitor the Drug-Free Zone area through the Portland Progress guides and patrol officers for any increases or decreases in illegal drug activity.
7. Through the Portland Progress guides and officers, watch for and report if seen all excluded subjects under the Drug-Free Zone ordinance to the PPB district car.
8. Develop and implement a program whereby the Portland Progress Field Office phone number will be provided to those people who live and work in the downtown Drug-Free Zone areas as well as the number to call when they see illegal drug activity occurring. The Portland Progress dispatcher would act as the relayor of that information to the on-duty PPB district car by cellular phone.

The Chinese Chamber of Commerce Agrees to:

1. Encourage their individual members to become involved in the Old Town/Chinatown Neighborhood Association and to participate in the implementation of the association's programs as outlined in this partnership agreement.
2. Translate into Chinese the Drug-Free Zone Guide and User Card produced by the Old Town/Chinatown Neighborhood Association and distribute it to the Chinese-owned businesses in the Old Town/Chinatown area.
3. Work with the Old Town/Chinatown Neighborhood Association in presenting their Public Safety education and Training Program to the Chinese people who live and work in the Old Town/Chinatown area.
4. Monitor the Chinatown area for any increases or decreases in illegal drug activity.

The Chinese-American Citizens' Alliance Agrees to:

1. Encourage their individual members to become involved in the Old Town/Chinatown neighborhood Association and to participate in the implementation of the association's programs as outlined in this partnership agreement.
2. Translate into Chinese the Drug-Free Zone guide and User Card produced by the Old Town/Chinatown Neighborhood Association and distribute it to the Chinese-owned businesses in the Old Town/Chinatown area.
3. Work with the Old Town/Chinatown Neighborhood Association in presenting their Public Safety Education and Training Program to the Chinese people who live and work in the Old Town/Chinatown area.
4. Monitor the Chinatown area for any increases or decreases in illegal rug activity.

Hispanics In Unity For Oregon Agrees to:

1. Provide volunteers and other resources to aid the Hispanic Access Center's outreach program in the Old Town/Chinatown area.
2. Seek both government and private funding for the Hispanic Access Center's outreach program in the Old Town/Chinatown area.
3. Work with the Old Town/Chinatown Neighborhood Association, APP, and the Hispanic Services Roundtable in developing a list of qualified people who speak Spanish who would be willing to volunteer their time to (a) translate for PPB officers who have an arrested person in custody at the Old Town precinct who only speaks Spanish, and (b) educate Spanish-speaking people about the Drug-Free Zone.
4. Work with the Portland Police Bureau in developing a program to encourage and attract Hispanic people to apply to become police officers with the bureau.
5. Translate into Spanish the Drug-Free Zone Guide and User Card produced by the Old

Town/Chinatown neighborhood Association and distribute it to the Hispanic-owned businesses in the Old Town/Chinatown area.

The Old Town Social Service Agencies Agree to:

1. Social Service Agencies will work through the Old Town/Chinatown Neighborhood Association's Housing and Community Service Committee to meet their commitments under this agreement.
2. Social Service Agencies will work with the PPB Old Town Detail sergeants in distributing the photographs of the excluded subjects under the Drug-Free Zone ordinance to the social service agencies and encourage those agency staff members who receive those photographs to watch for those excluded subjects and to call PPB if an excluded subject is seen at their respective agency or anywhere else in the DFZ area.
3. Social Service Agencies will identify the drug problems that most significantly affect the operation of their programs and develop and implement a Drug Problem Plan that will identify the agency actions needed to eliminate the problem.
4. Social Service Agencies will develop a Physical Facility Plan to secure their buildings and reduce the opportunities for drug use and/or dealing which may include increased security personnel, better lighting, and environmental changes to reduce access to unsecured areas.

The Portland Police Bureau Agrees to:

1. Assign an officer to work with the DA DFZ Coordinator and the Volunteer Coordinator in the implementation of the Citizen Crime Reporting Project.
2. Assign a two-person bike patrol on both the day and afternoon shifts to act as the DFZ Bike Patrol which will respond to calls from the Volunteer Crime Reporters on a daily basis when available.
3. Create a Tactical Drug intervention Team which will undertake either "Spotting Missions" and/or "Undercover Buy Missions" in the Drug-Free Zone on a continual basis starting April 1, 1993 and continuing through October 1, 1993.
4. Coordinate the use of outside agencies in doing drug investigations and missions in the Drug-Free Zone area on an available basis.
5. Assign two horse patrol teams to patrol the Drug-Free Zone area on a daily basis as part of their routine functions.
6. Assign the PPB Drug Dog to work in the Drug-Free Zone and patrol the area several times a month.
7. Distribute up-to-date photographs of the excluded subjects under the DFZ ordinance to the social service agencies in the Drug-Free Zone area, and distribute a selected number of photographs of excluded subjects under the Drug-Free Zone to the OTCTNA, PDNA, DCA, HOT, and APP.
8. Implement the Drug-Free Zone ordinance both by excluding people who qualify and arresting those who return for Criminal Trespass.

The Multnomah County District Attorney's Office Agrees to:

1. Aggressively prosecute all prosecutable drug crimes that are committed in the Drug-Free Zone area.
2. Aggressively prosecute all prosecutable violations of a DFZ exclusion order.
3. Facilitate the processing and monitor the outcome of all illegal drug cases and DFZ trespass cases which occur in the Drug-Free Zone area.
4. Assign the Central Businesses District DDA to be the DA DFZ Coordinator and work with the Volunteer Coordinator in the implementation of the Citizen Crime Reporting Project.
5. Organize court watches of any illegal drug cases arising in the Drug-Free Zone at the

request of any stakeholders.

6. Coordinate with the Multnomah County Sheriff's Office Corrections Branch and the Immigration and Naturalization Service to develop and implement an efficient and expedient system for processing INS deportation cases.
7. Coordinate with the Multnomah County Sheriff's Office Corrections Branch and the Immigration and Naturalization Service to ensure that upon resolution of all local charges and sentences, that all undocumented aliens with pending INS deportation proceedings will, at the discretion of the Portland INS office, either be kept temporarily at MCDC, or relocated to another county jail or INS service processing facility while pending determination of the deportation proceedings.

The Multnomah County Sheriff's Office Corrections Branch Agrees to:

1. Coordinate with the Multnomah County District Attorney's office and the Immigration and Naturalization Service to develop and implement an efficient and expedient system for processing INS deportation cases.
2. Allow the Portland Police Bureau officers to book all suspects arrested for Criminal Trespass II for violating a DFZ exclusion order in the Drug-Free Zone area into the Multnomah County jail facility.
3. Coordinate with the Multnomah County District Attorney's office and the Immigration and Naturalization Service to ensure that upon resolution of all local charges and sentences all undocumented aliens with pending INS deportation proceedings will, at the discretion of the Portland INS office, either be kept temporarily at MCDC, or relocated to another county jail or INS service processing facility while pending determination of the deportation proceedings.
4. Allow the Portland Police Bureau officers to book all suspects arrested for felony Delivery of a Controlled Substance (DCS) and/or felony Possession of a Controlled Substance (PCS) in the Drug-Free Zone area into the Multnomah County jail facility.

Immigration and Naturalization Service Agrees to:

1. Agents will review as early as possible information concerning all drug arrests in the Drug-Free Zone area and determine which of those arrested subjects are undocumented aliens and place INS holds on all those who qualify for deportation.
2. Initiate deportation proceedings as resources permit where an undocumented alien has been convicted of a drug-related crime which was committed in the Drug-Free Zone area.
3. Coordinate with the Multnomah County District Attorney's office and the Multnomah County Sheriff's Office Corrections Branch to ensure that upon resolution of all local charges and sentences all undocumented aliens with pending INS deportation proceedings will, at the discretion of Portland INS office, either be temporarily kept at MCDC, or relocated to another county jail or INS service processing facility while pending determination of the deportation proceedings.
4. On a case-by-case basis, coordinate with the United States Attorney for Oregon the initiation of federal criminal illegal reentry proceedings against undocumented aliens who return to Oregon illegally after being deported for committing an illegal drug crime.
5. Coordinate with the Multnomah County District Attorney's office and the Multnomah County Sheriff's Office Corrections Branch to develop and implement an efficient and expedient system for processing INS deportation cases.

VI. Evaluation:

The Old Town/Chinatown Community Policing Steering Committee will be responsible for the general oversight of Operation No Drugs. Each stakeholder will report to the committee at the first

meeting of each month starting in May of 1993 on the progress of their projects under Operation No Drugs. The committee will review and evaluate the success of each project and make necessary changes or additions to this partnership agreement on a monthly basis to ensure that Operation No Drugs achieves its goal.

On October 1, 1993, the Old Town/Chinatown Community Policing Steering Committee will review the overall success of Operation No Drugs and determine whether to extend, modify, and/or terminate this partnership Agreement.

VII. Partnership Agreement Signature Block:

We, the undersigned on behalf of the stakeholders we represent, have agreed upon the above listed problems and strategies. We have made a commitment to dedicate the necessary resources from our respective organizations to ensure that our goal of making Old Town/Chinatown and the surrounding neighborhoods a Drug-Free Zone is achieved, that Operation No Drugs is a success.

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Appendix B

The following was drafted by the author at the request of criminal justice reformers in Arizona to spur legislative interest in applying principles of restorative community justice to that state's juvenile justice system. Since then, a citizens' initiative has received sufficient signatures to be placed on the November, 1996, ballot. If adopted by the voters, that initiative will overhaul the juvenile justice system, including the creation of authority the use of a restorative community justice model to adjudicate admitted acts of delinquency.

An Act to Establish Restorative Community Justice in the Juvenile Justice System

Title I - Purpose of Act

Serious and violent crime rates among juveniles has increased sharply in the past few years. Juveniles account for an increasing share of all violent crimes in the United States. While a small portion of juvenile offenders accounts for the bulk of all serious and violent juvenile crimes, delinquent behavior, violation of ordinances or school regulations are also on the increase. The existing juvenile justice system is already strained without adequate fiscal or programmatic resources to prevent, deter, or intervene effectively with juvenile delinquents and offenders.

Therefore, this Act establishes a new system of justice that is based on community participation in all phases of the justice processes, restoration and redress for the victims of crime and the community itself, and offender retribution and restoration to the community.

II. Definitions

A. Juvenile refers to a person under age of ___. Delinquent juveniles refers to those pleading to or adjudicated delinquent for committing a school violation, an ordinance offense or a misdemeanor. Serious juvenile offenders are those pleading to or adjudicated for committing the following felony offenses: ______________________. Violent juvenile offenders are those pleading to or adjudicated for committing the following felony offenses: ______________________. Chronic juvenile offenders are juveniles pleading to or adjudicated delinquent for committing three or more delinquent offenses. Serious chronic juvenile offenders are juveniles pleading to or adjudicated delinquent for committing three or more felony offenses.

B. Community refers to a geographic district within an urban, suburban, or rural area for which designated boundaries have been established and in which there are community members bound together through economic, social, or other kinds of relationships.

C. Victims refer to individual victims, their families and, where communities can show cause, the community as a whole.

D. Community restitution is defined as services provided to a community by an offender as a part of his community restoration sentence.

E. Victim restitution is defined as services or financial remuneration given to victims by an offender as part of his restorative justice sentence.

III. Community Justice Program

A. Authorizes state prosecutors to establish RCJ community task forces to assist in identifying problems, developing resources, and implementing action plans to promote and enhance the quality of life of the community.

B. Authorizes state prosecutors to identify a RCJ community representative(s) to repre-

sent community interests when communities have a right to be represented in a court or decision-making proceeding under this act.

C. Mandates coordination between police, prosecutors, the judiciary, corrections, and victim service providers in responding to all juvenile cases such that cases are diverted, adjudicated, disposed of and monitored with full information and notification to all criminal justice personnel involved.

D. Allows the establishment of RCJ community boards to provide alternative decision-making authority in delinquent juvenile offender cases involving ordinance violations and to serve as advisors in probation and parole proceedings.

E. Extends all rights of victims under state legislation or constitutions explicitly to all juvenile proceedings and allows those rights to be applied to community entities where the community can show cause to be considered as victims.

F. Mandates full restitution to victims in the aftermath of an offense and that all juvenile offenders be ordered to provide community restitution.

IV. Juvenile Proceedings

A. All cases involving violent juvenile offenders will be disposed of consistent with current state juvenile law except that under Section III of this Act, rights of victims will be observed in those proceedings.

B. All cases involving chronic violent juvenile offenders will be disposed of consistent with the laws and proceedings in adult courts.

C. In cases involving serious juvenile offenders will be referred to the juvenile court for a decision on whether they should be processed of consistent with current state juvenile law or in through the decision-making bodies in the community justice program.

D. Cases involving delinquent juvenile offenders and those of serious juvenile offenders referred by the juvenile courts will be processed in the following manner.

1. Where a juvenile is charged with an offense, the matter will be referred to an independent investigator to make a determination of whether there are sufficient grounds for the charge (except in cases where the offender was referred by the juvenile courts).

2. If there is sufficient grounds for the charge, the prosecutor will facilitate the convening of a community meeting to consider the merits of the charge and possible alternatives to prosecution. Participants in the community meeting shall include members of the juvenile's immediate family, the official community representative(s), the victim and a reasonable number of his or her family support groups or a designated victim advocate, and the individual making the charge. The meeting will be authorized to be convened without the presence of the prosecutor or other criminal justice representatives. The community meeting will make a decision on whether prosecution should occur or an alternative to prosecution should be acted upon. Some alternatives may include referral to a peer court, referral to the mediation process, or immediate sanctions based on the sentencing guidelines contained in this Act. If immediate sanctions are proposed, the community must also propose the monitoring methods and authorities to supervise the sanctions.

3. Community proposed alternatives to prosecution will be implemented unless the prosecutor can show good cause why they should be implemented to the juvenile court.

4. If alternatives to prosecution cannot be agreed upon, the matter will proceed to the RCJ community board (ordinance violation) juvenile court (misdemeanor or felony) or school administrative authorities as appropriate.

5. In all delinquent juvenile offense proceedings where sentencing occurs, the sentence must include full victim restitution, a designated number of hours of community restitution, attendance at a designated number of hours of victim impact education classes or panels, specific but age appropriate punishment, and a requirement that the offender demonstrate remorse to the victim and the community. The sentence may also include participation in substance abuse treatment, counseling, or skills development activities should the decision-making authority deem such appropriate.

6. When a sentence is dispensed, it must be accompanied with a designated of the appropriate monitoring authority for ensuring its enforcement. It is appropriate for community boards to be used for this purpose.

7. Should the alternatives to prosecution be pursued and the delinquent juvenile complete his or sentence successfully, formal charges will not be pursued. Should s/he not complete the sentence successfully, formal charges will be invoked under ordinary judicial proceedings.

IV. Victim Rights in the Juvenile Justice System.

All rights of victims under state legislation or constitutions shall apply to juvenile justice system and nothing in this Act shall be construed to infringe upon those rights.

Chapter Six: Tools for Critically Analyzing Issues and Recommendations for the Juvenile Justice System

Questions for Review in Small Groups

Session 1. Review existing recommendations in Chapter Three, Section C:

- Arizona Criminal Justice Commission Youth and Crime Task Force Working Groups' Recommendations
- Arizona Criminal Justice Commission Youth and Crime Task Force Schools and Crime Working Group Funding Working Group Recommendations
- Recommendations from Parents of Murdered Children National Conference, Victims of Juvenile Offenders — Issues and Recommendations
- Draft of American Corrections Association Victims Committee Recommendations on Victims of Juvenile Offenders

Session 2. What public policy changes should be made to implement victim rights in the juvenile justice system?

- Should names and addresses of the juvenile accused remain confidential?

- Should juvenile records be public information?

- Should juvenile records be expunged? If so, in what kinds of cases?

- Should victim rights in the juvenile system mirror those in the adult criminal justice system?

  — Rights to information and notification of proceedings

  — Rights to participation in decision-makingprocesses

  — Rights to protection

  — Rights to compensation and restitution

- Should communities be notified of the release of juvenile sex offenders and other types of dangerous juvenile offenders?

- Under what conditions should juveniles be tried in adult courts?

- What are reasonable sentencing policies for juvenile cases?

  — Juvenile burglary

  — Juvenile vandalism

  — Juvenile sexual assault

  — Juvenile homicide

  — Juvenile drunk driving

Session 3. What innovative program strategies and practices can be employed to involve victims in the juvenile justice system?

- Victim services similar to victim services in adult crimes.
- Family Group Conferencing
- Sentencing Circles
- Victim Centered Restorative Community Justice
- Victim Centered Victim-Offender Dialogue