HANDBOOK OF OPERATIONS

OF THE

JUVENILE OFFENSE BUREAU

46484

SUBMITTED TO: Hon. Mario Merola, District Attorney, Bronx County
BY: Eric Warner, Chief, Juvenile Offense Bureau
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PREFACE

A new bureau has been created within the Office of the Bronx District Attorney. It will be called the Juvenile Offense Bureau. It is designed to bring additional resources to bear against the burgeoning problem of juvenile violence.

The project is new; the legislation authorizing it is recent. The purpose of this handbook, therefore, is twofold. First, it is designed to provide orientation for the assistant district attorney newly assigned to the Bureau. Second, it is intended to be informational for those with a need or desire to understand the workings of the family court in general and the Juvenile Offense Bureau in particular.

This book assumes no prior knowledge of the law or procedures applicable to the present system of juvenile justice. It is not exhaustive in scope, nor is it so intended. Hopefully, it is a practical explanation of the operations of family court which will be encountered and the manner in which this office will operate in that context.

There is every reason to believe that this Bureau will help to improve our system of juvenile justice. It is hoped that the reader will make any comments or suggestions which may further that result.

I BACKGROUND

Until the enactment of the Juvenile Justice Reform Act of 1976, the treatment of juvenile offenders in New York State followed a traditional course. When an individual between the ages of seven and sixteen was arrested for a "criminal" act, he was taken to family court and subjected to various quasi-civil proceedings. His presence there, it was thought, was solely for his own good. His interests were paramount to the needs of the community; protection of society was not a consideration. While the Corporation Counsel presented the case against him, the adversarial line was often blurred. Since the juvenile could never be held criminally responsible for his actions, the evidentiary and procedural rules of the criminal courts were suspended. Because responsibility was not an issue, the age of the individual, if it was within the given range, was insignificant. And since there were no gradations within the concept of juvenile delinquency, the nature of the offense was largely irrelevant.

The provisions of the Reform Act of 1976, however, reflect a notable departure from the historic view of juvenile justice. While delinquency proceedings will continue under the jurisdiction of the family court, those proceedings will now be quasi-criminal in nature. Certain rules of evidence and procedure applicable to the criminal courts will now apply in family court as well. Classification will be made between juvenile delinquents based on their age and the nature of the offense. Consideration by the court will have to be given to the community's need for protection. Finally, and from our viewpoint most significantly, the Bronx District Attorney's Office will now be committed to active participa-tion in the promulgation and enforcement of laws relating to our system of juvenile justice.

II DISTRICT ATTORNEY'S RIGHT TO PROSECUTE

Pursuant to Law (F.C.A. Sec. 254c) the Corporation Counsel of the City of New York and the District Attorneys of Bronx, Kings, Queens and New York Counties entered into an agreement providing for the assignment of assistant district attorneys to the Family Court in the respective counties for the purpose of presenting the petition in juvenile delinquency proceedings in which a "designated felony act" has been alleged. Each assistant so assigned assumes the title of Assistant Corporation Counsel, but continues to remain an employee of the District Attorney and subject to the rules and policies of that office.

III "DESIGNATED FELONY ACT"

The Juvenile Justice Reform Act of 1976 embodies two important legislative determinations: first, that certain juvenile offenders require extraordinary treatment within the family court system; second, that the need for protection of the community is equal in importance to the needs and best interests of the offender (F.C.A. Sec. 711).

The concept of the designated felony act is designed to isolate the older individuals who commit acts of extreme violence. Consequently, a designated felony act is defined as an act by a person fourteen or fifteen years old which, if done by an adult, would be one of the crimes enumerated (F.C.A. Sec. 712(h)(i)):

A. Designated Class A Felony Act:

1.	Murder 1	(P.L. 125.27)
2.	Murder 2	(P.L. 125.25)
3.	Kidnapping 1	(P.L. 135.25)
4.	Arson 1	(P.L. 150.20)

B. Designated non-class A Felony Act:

1. Assault 1 (P.L. 120.10)
2. Manslaughter 1 (P.L. 125.20)
3. Rape 1 (P.L. 130.35)
4. Sodomy 1 (P.L. 130.50)
5. Kidnapping 2 (P.L. 135.20)
a. but only where abduction involved use or threatened use of deadly physical force.
6. Arson 2 (P.L. 150.15)
7. Robbery 1 (P.L. 160.15)
8. Attempted Murder 1 or 2 (P.L. 110/125.27 or P.L. 110/125.25
9. Attempted Kidnapping 1 (P.L. 110/135.25)[1]

1. On August 17, 1977, Governor Carey signed a bill adding a category involving crimes against the elderly to the list of designated felonies. This addition is sui generis and has no counterpart in the Penal Law.

IV DESIGNATED FELONY ACT PART

While the designated felony act provides conceptual isolation of a class of juvenile offenders, it is also essential that such offenders be physically separated within the court system. Pursuant to law (F.C.A. Sec. 117b(i)) one designated felony act part (part 4) has been established in the New York City Family Court in Bronx County. This part is to have sole jurisdiction over the designated felonies. All such proceedings shall be originated in or be transferred to this part as they are made known to the court, and such part shall be held separate from all other proceedings of the court.

V DISTRICT ATTORNEY"S FUNCTION IN FAMILY COURT

As a result of the agreement between the Corporation Counsel and the District Attorney (F.C.A. 254c), the former no longer retains exclusive jurisdiction over the entire spectrum of juvenile crime. In fact, the legislature has delegated the power to assume original and exclusive authority over the most serious offenses to the District Attorney.

Following this agreement, grant funding was provided to establish "Special Juvenile Units" in each County. In the Bronx, this unit is denominated the Juvenile Offense Bureau.

The co-existence of this Bureau with the Corporation Counsel will now result in dichotomous prosecution of juvenile offenses. As a result of this dichotomy, the District Attorney's office will be able to direct its resources at a narrow, though critical, range of activity. The natural form of selective prosecution which results combined with the skill and experience of the Bureau's staff, should certainly help to effectuate the legislative purpose of reform.

While the District Attorney's office and the Corporation Counsel remain autonomous in their respective spheres of influence, frequent inter-action between the two is anticipated. It is extremely important, there-fore, that any contact be harmonious and cooperative in nature. In this regard, the representatives of the District Attorneys and the Corporation Counsel agreed upon basic guidelines for the resolution of questions potentially involving overlapping or conflicting jurisdiction. While elaborations will be made later where necessary, a summary of these guide-lines will now be set forth in the following section.

VI GUIDELINES ESTABLISHED BY DISTRICT ATTORNEY AND CORPORATION COUNSEL

1. The Juvenile Offense Bureau has the power to screen its cases. A determination by an assistant district attorney that a designated felony petition should not be drawn may not be unilaterally re-evaluated by the corporation counsel.

2. When the Juvenile Offense Bureau has determined that a case should be presented as a designated felony, all petitions, affidavits and subsequent proceedings shall be drafted and handled by the Bureau.

3. The assistant district attorneys acting as assistant corporation counsel have the responsibility for presenting cases against all parties acting in concert with a designated felon.

4. Where a respondent has multiple petitions pending against him, one or more of which alleges a designated felony and the remainder allege other offenses, the designated felony petition may not be covered by a "plea"[1] to another without the express consent of an assistant district

1. The term "plea" is not used in family court. A respondent either admits or denys the allegation. Consequently a "plea" of guilty is referred to as an admission.

attorney. Consultations between the two agencies will be held, however, with the aim of obtaining a satisfactory disposition.

5. When multiple petitions have been covered by a "plea" to one, the dispositional hearing will be handled by the agency which drew the petition to which the respondent entered his "plea". The other agency is to be notified of the time and date of the hearing.

6. All Writs of Habeas Corpus and motions for stays filed in connection with a drawn designated felony petition will be handled by an assistant district attorney.

7. When non-designated felons under the age of 14 have been joined with designated felons for the fact finding hearing, the corporation counsel will retain the obligation for conducting the dispositional hearing with respect to the non-designated felons.

8. All appeals initiated by respondents will be handled by the Corporation Counsel unless the District Attorney elects other-wise. The Corporation Counsel will not be responsible for appeals from adverse preliminary determinations.

VII CASE SCREENING

As was previously noted, the designated felony act is an extraordinary classification. By empowering the District Attorney's Office to use its resources, skill and experience in the prosecution of such acts, the legislature has declared war on the gravest aspects of juvenile violence.

Yet not all of those charged with having committed designated felony acts require the extraordinary procedures provided for by

statute. It would be wasteful and unfair to the prosecution and defense alike to institute designated felony proceedings unless the evidence clearly warrants such action.

Furthermore, the possibility of restrictive placement as a dispositional alternative, and the involvement of experienced assistant district attorneys in the juvenile process may stimulate overcharging by the police. Designated felony complaints must therefore be rigorously screened at intake.[1] At this point the intake procedures should be explained.

When a juvenile offender is brought to family court his case is immediately sent to probation intake for analysis and review. Under the Family Court Act Sec. 734, as augmented by Court Rule, the Probation Department may "adjust" cases, i.e., mediate disputes or refer a case for counseling service without filing a petition. If the case is adjusted, a petition is never filed (although a prospective petitioner who disputes the Probation Department's decision to adjust may demand access to the Court for the purpose of filing a petition, (F.C.A. Sec. 734(b)). If the case is not adjusted, the matter is ordinarily referred to the Corporation Counsel.

Pursuant to the Reform Act, no case in which the potential respondent is accused of having committed a designated felony act may be adjusted by probation without the prior written approval of a family court judge (F.C.A. Sec. 734(a)(ii)).

1. It is obvious that the criteria used in the screening process depends almost entirely upon what motivated the screening in the first instance. Where the concern is with overcharging or similar problems, then the case must be screened in order to determine if a designated felony act may in fact be proved. This must be done by an assistant district attorney in every case referred to the Bureau. Where, however, the issue is whether a petition should be drawn alleging a designated felony act, even assuming that it may be proved, the analysis must be sophisticated and the screening refined to consider a number of qualitative variables. Criteria for this type of screening will be formulated as the program develops.

Thus far the court has refused to permit probation interviews in cases where designated felony acts are alleged. Confronted with a designated felony accusation, the Probation Department will now refer it forthwith to the Juvenile Offense Bureau. The assistant district attorney who receives the complaint in the Bureau drafting room must be particularly diligent in his screening technique, since the facts and circumstances of the case have not been previously scrutinized.

If the case appears to warrant designated felony treatment the assistant district attorney should draft the petition (see chapter VIII). If the evidence warrants the institution of non-designated felony proceedings, the petitioner should be referred back to probation intake. If the facts do not warrant any action, the case should be declined and the complainant advised that a petition will not be prepared.[2] In effect, this involves screening by the Bureau on behalf of the Corporation Counsel, but mere pro forma referral back to that agency would seem to involve an unnecessary duplication of effort.

2. It must be noted that no statutory provision specifically provides for screening cases. Prior to 1972 petitions were prepared by the Clerk of the Court and no attempt was made to screen cases. Since that time the Corporation Counsel has drawn the petitions and screened cases de facto. If a person persists in his efforts to have a petition drawn despite the persuasive efforts of the assistant district attorney, it may be necessary to advise him that he may see a judge or the assistant district attorney himself may obtain the "prior written approval" of the court. Our position, however, would be that Sec. 734 applies only to the Probation Department and that no provision of law mandates that a designated felony petition be drawn. Nevertheless, each member of the Bureau must be familiar with the adjustment process and should establish a working relationship with probation officials.

VIII DRAFTING ROOM PROCEDURES: PREPARATION OF PETITIONS

As previously noted, the probation department will immediately refer all potential designated felony act petitions to the Juvenile Offense Bureau. These cases must be screened in accordance with the principles enunciated in Chapter VII, supra. If the decision is made to accept the matter for prosecution, the assistant district attorney will assume control of the case.

At this point, the assistant must prepare an intake fact sheet[1] while commencing a preliminary investigation. Furthermore, he should have the arresting officer determine if the respondent has a prior court record.[2]

1. See appendix A. Accurate record keeping is crucial to the operation of the Bureau, and it is incumbent upon each Assistant to reflect in his notes the work that he has done. While the Bureau will be structured on a concept of vertical prosecution (one assistant handling the case from beginning to end, Chapter XII, infra), these notes may prove invaluable to an assistant who temporarily handles the case, and will be of assistance in documenting the accomplishments of the Bureau.

2. At the present time this will require a visit to room 8B17 where Bronx Family Court records are kept. I am devising a system that will enable us to obtain a respondent's record from other counties as well.

Once the interviews and preliminary investigations are completed, the assistant must draft the petition and supervise its preparation. In every instance where a designated felony act is alleged the petition must be prominently marked to that effect (F.C.A.Sec. 731(2)).

Discounting unusual situations, it is clearly in our best interest to have cases ready for "trial" as soon as the petition is filed.[3] All witnesses must be interviewed and all interviews should be conducted in depth to avoid unnecessary recall. If further investigation is required, or if certain analyses are incomplete, the assistant should take whatever personal action is necessary to see that the matter is handled efficiently. Once this is accomplished, the case may be referred to "Intake A" of the Family Court for arraignment.

3. Case readiness is particularly significant in detention situations, see Chapter IX, INFRA.

IX ARRAIGNMENT PROCEDURES

Two particularly significant events should occur during the course of arraignment. First, the respondent must either admit or deny the allegations. Second, a decision is made as to whether to remand the respondent or to place him on parole.[1] This second event has important ramifications.

Traditionally, the presumption in family court has been against detention. It is anticipated, however, that the frequency of detention will be high in the cases which this office prosecutes because of the nature of the offense in question, the age of the respondent, the need for protection of the community, and the nature of the prosecution. Since the likelihood of detention is increased, the consequences of detention upon the case must be considered.

If the court elects to remand the respondent, such detention may not last more than three days from the date of filing of the petition, exclusive of weekends and holidays, unless a hearing is held to determine whether there is probable cause to believe that the respondent is a juvenile delinquint (F.C.A. Sec. 728, 729,739). Furthermore, where the respondent is in detention, the fact finding hearing must be commenced within fourteen days after the filing of a petition alleging that a class A, B or C felony act has been committed (F.C.A. Sec. 747). The letter and spirit of the Family Court Act is apparently more rigidly enforced than that of the Criminal Procedure Law (CF. Sec. 180.80).

1. There is no concept of bail in the family court system.

It is obvious, therefore, that where detention is imposed, the case must be handled with extreme dispatch. In order to avoid the harassment of witnesses, by involving them in multiple proceedings, the Bureau should attempt to commence the fact finding proceeding in time to foreclose the necessity for a prior hearing on the issue of probable cause.

Once the arraignment is concluded, the matter must be transferred to Part 4 for further proceedings.[2]

2. At this, and every other stage of the proceedings, the assistant should make appropriate entries on the Juvenile Offense Bureau Case Record. (Appendix B). The assistant must also be certain to place all applicable statutory notices on the recond. These might include those pursuant to C.P.L. 710.30(1)(a) (STATEMENTS): C.P.L. 710.30(1)(b) (PRIOR IDENTIFICATIONS); 250.20 (DEMAND FOR ALIBI NOTICE).

X FACT-FINDING HEARING

Historically, the vast majority of cases in family court have been resolved by fact-finding hearings. Limited dispositional alternatives and the general philosophy of juvenile justice strongly militated against the plea bargaining used so extensively in the criminal courts. While the Juvenile Justice Reform Act should lead to an increase in negotiated dispositions most cases will still be determined by fact-finding hearings.

Since the fact-finding hearing may commence no later than fourteen days after the filing of the designated felony petition (F.C.A. Sec. 747), and since the grounds for adjournment are extremely limited where the respondent is in detention (F.C.A. Sec. 748) it will be necessary for the prosecution to be ready for "trial" virtually at the case's inception.[1] Consequently, it is anticipated that the Bronx District Attorney's policy of full disclosure, which will be applicable to all family court proceedings, will be given effect at least by the time the matter is transferred into Part 4 for "trial".

The fact-finding hearing itself is conducted before a judge and is governed by the same evidentary principles and requisite standards of proof applicable to a criminal trial (F.C.A. 744). While the courts have ruled that a juvenile is not entitled to a jury trial regardless of the charges involved, the basis for that decision has always been that family court proceedings are essentially "paternal" rather than adversarial in nature. Now that the District Attorney's Office is involved in the establishment of policy and litigation of certain family court cases, those

1. See chapters VIII and IX, supra.

decisions may have to be re-examined. Consideration should be given at this point to several issues which may occur in connection with the fact-finding hearing.

To begin with, a jurisdictional problem may arise where two or more individuals are charged with committing a designated felony act while acting in concert, but at least one respondent is below the age of fourteen. Between the District Attorney and the Corporation Counsel, of course, the matter has been resolved by the guidelines.[2] The issue may be raised, however, by a respondent who is under the requisite age and objects to being prosecuted by an Assistant District Attorney.

It seems clear that efficient prosecution, judicial economy and consideration of witnesses militate against multiple trials of charges stemming from a single transaction. This is particularly true since the fact-finding proceeding is identical for designated felonies and other delinquencies. The Bureau should see, therefore, that separate petitions are filed against each respondent and then present all related petitions at a joint fact-finding hearing. The legal justification for this position is as follows:

> 1. The letter and spirit of the statute (F.C.A. Sec. 254) authorizes this result since it specifically empowers the assistant district attorney to act as assistant corporation counsel.
>
> 2. To require separate proceedings would waste valuable but limited resources and lead to harassment of witnesses.
>
> 3. The respondent who is under the age prescribed by statute (F.C.A. 712(h)) suffers no prejudice as the result of a joint trial since he can never be found guilty of a "designated felony act", and the harsh dispositional alternative applicable thereto may never be applied to him.[3]

2. Chapter VI, sec. 3, supra.

3. Restrictive placement may only be imposed upon those found guilty of a designated felony act. (F.C.A. Sec. 753(a)).

> In fact, he may actually benefit from the joint trial by enjoying procedures not otherwise available to him without risking additional penalties. This is perhaps the most compelling argument[4] in the prosecution's favor.

Another subject of importance with respect to the fact-finding process is the litigation of certain "pre-trial" issues (e.g. identification, search and seizure, etc.). In the family court system it is common, and from the prosecution's viewpoint desireable, to resolve these matters as part of the fact-finding hearing itself.

The question here is when it might be advisable to request that the evidentiary issues be considered apart from the fact-finding hearing. The answer revolves around the likelihood that the court will exclude the evidence involved and that the prosecution will appeal the court's determination. If pre-trial issues are resolved in the same proceeding where guilt is adjudicated, then the principles of double jeopardy would preclude an appeal where the respondent is acquitted. Consequently, where the right to appeal from an adverse evidentiary decision must be preserved, the issues should be litigated before jeopardy is attached.

At the conclusion of the fact-finding hearing the court must determine whether the allegations of the petition have been established (F.C.A. Sec. 752). If so, the court must find that the respondent is a juvenile delinquint, enter an order to that effect, and set the matter down for a dispositional hearing.

4. The alternatives are (a) charging all respondents in one petition. This would almost certainly violate F.C.A. Sec. 731; (b) separate petitions could be presented separately by an assistant district attorney and an assistant corporation counsel at one fact-finding hearing. This is clearly unsatisfactory as is (c) separate hearings. This would place an intolerable burden on the courts, prosecutors, victims and witnesses.

XI DISPOSITIONAL HEARING

While the dispositional hearing may commence immediately after the required findings are made (F.C.A. Sec. 746), it may not commence more than thirty days thereafter where the respondent is detained, and has been found to have committed a designated felony act. No additional adjournment may be granted in the absence of special circumstances, and the court may not order an adjournment in contemplation of dismissal (F.C.A. Sec. 749(d)).

Pursuant to statute (F.C.A. Sec. 743) the counsel presenting the petition shall be notified of all dispositional hearings and shall have the right to participate in those proceedings. This statutory provision must be analyzed together with the guidelines in Chapter VI. To do this, it is necessary to set forth the four basic situations in which a jurisdictional question could arise:

1. The respondent is charged in one petition with having committed designated and non-designated felony acts. The judge finds him guilty of any charge. Clearly, the Bureau will conduct the dispositional hearing if an assistant district attorney drew that petition.[1]

2. The respondent has multiple petitions pending against him, some, but not all of which were drawn by an assistant district attorney. The respondent enters a "plea" to one of those latter petitions. The dispositional hearing will be conducted by the Bureau.[2]

1. Chapter VI, (2), supra.

2. Chapter VI (5), supra.

3. Same situation as in (2), but the respondent, with the express consent of an assistant district attorney, enters a "plea" to a petition drawn by the Corporation Counsel to cover all the petitions. The dispositional hearing will be conducted by the Corporation Counsel.[3]

4. The respondent is a non-designated felon under the age of fourteen who was tried jointly with a designated felon at the fact-finding hearing. According to the guidelines, the dispositional hearing with respect to the former will be conducted by the Corporation Counsel, and an assistant district attorney will handle the hearing with respect to the latter.[4] The statute,[5] however, permits participation in these proceedings only by the counsel that presented the petition. In this situation, that would be an assistant district attorney. Hopefully, any dispute would be resolved along the lines used to justify the joint trial in the first instance.[6]

Turning now to the dispositional hearing itself, it must be clearly understood that this proceeding bears only slight resemblance to the sentencing aspect of a criminal case. Where the latter is always quick and often anti climactic, the former is a lengthy and complex proceeding that frequently requires more time than did the adjudication of respondent's guilt.

Following the determination that the respondent committed a designated felony act, but prior to the dispositional hearing, the court must order an extensive probation investigation and diagnostic assessment.[7] Copies of all reports and assessments must be given to the appropriate counsel at least five days prior to commencement of the hearing.[8]

3. Ibid.
4. Chapter VI (7), supra.
5. F.C.A. Sec. 743.
6. Chapter X, supra.
7. F.C.A. 750(3).
8. F.C.A. 750(4)

At the hearing, witnesses may be called by either side and their testimony may be cross-examined. It is clear that the assistant district attorney handling the matter must be extremely well-prepared. While expert testimony may be presented by either side, it is anticipated that the large part of the prosecutor's case will rest on the skill of his cross-examination. When necessary, experts from the Bureau of Mental Health Services and other public agencies will be available. In extraordinary cases an expert may be retained for the occassion.

At the conclusion of the hearing, the court must consider various alternative dispositions. Basically these include a. restrictive placement;[9] b. suspended judgement;[10] c. placement (agency or private);[11] d. probation;[12] or e. commitment under the Mental Hygiene Law.[13]

Particular attention is called here to the concept of restrictive placement. Essentially what is involved is a series of placements for a limited time in secure and non-secure facilities. Where restrictive placement is ordered following a "conviction" of a designated class "A" felony act (e.g. murder) the respondent must be placed in a secure facility for eighteen months after which he may be placed in a non-secure facility. Where the order follows a conviction of a designated non-class "A" felony (e.g. Rape) placement in a secure facility must be for one year.[14]

9. F.C.A. Sec. 753-a
10. F.C.A. Sec. 755
11. F.C.A. Sec. 756
12. F.C.A. Sec. 757
13. F.C.A. Sec. 760
14. The periods of confinement in a secure facility reflect an increase signed by the Governor on August 17, 1977.

It must be noted that restrictive placement is never mandatory regardless of the offense involved or the individual's prior record. Consequently, the "convicted" murderer or rapist may be released on probation or the judgment against him may even be suspended. In light of the Reform Act, however, it is anticipated that the court will be receptive to well-reasoned and logically persuasive arguments setting forth the grounds why restrictive placement is appropriate in a given case.

XII VERTICAL PROSECUTION

In recent years, the concept of vertical prosecution has achieved a large measure of popularity. Simply stated, it involves assigning a single assistant district attorney to handle the prosecution of a case from beginning to end. The benefits to be derived from this system are considerable. First, it increases efficiency by eliminating duplicated efforts both in and out of court. Second, it reduces the strain on witnesses and victims by eliminating unnecessary interviews and impositions. Third, it eliminates unnecessary delays which can only work to the benefit of the defense. Finally, it permist the assistant to better understand the theory of his case, and to formulate long term strategies consistent with that approach.

Each Assistant in the Juvenile Offense Bureau, therefore, will abide by the precepts of vertical prosecution. Unless exceptional circumstances arise, the Assistant who draws the petition will also conduct the fact-finding and dispositional hearings, as well as any intermediate proceedings. When an Assistant is unable to personally handle some aspect of his case for any reason, it still will be his responsibility to assure that the matter is properly resolved.

Whenever an Assistant acquires a case, he will arrange to meet with the Bureau Chief to discuss it. At this point the Assistant will be asked for a recommendation as to an appropriate disposition, and this recommendation will be reviewed. This will ensure a measure of consistency in the prosecution of cases without the necessity of devoloping more formal and rigorous guidelines. Periodic meetings will be held during which the policies of the Bureau, and the progress of the cases will be evaluated and assessed.[1]

1. When a case comes into the Bureau's system, an index card containing all relevant information will be prepared and kept on file. See Appendix C.

XIII INTERROGATION OF JUVENILES

It is anticipated that at some point an assistant district attorney will be called upon to either personally interrogate a juvenile in connection with an investigation, or to advise another individual as to how such an interrogation should be conducted. For a statement to be found admissible, thereafter, certain specific procedures must be followed. These procedures, which differ somewhat from those applicable to the interrogations of adults, are set forth immediately below.

1. Before a juvenile may be questioned he must be taken to one of the facilities designated by the Appellate Division.[1]

2. Diligent efforts must be made immediately to notify at least one of the juvenile's parents concerning the arrest and the prospective interrogation.

3. If a parent cannot be reached then diligent efforts must be made to notify the juvenile's nearest relative. A court will attach primary significance to the efforts made to notify the parent or relative. Consequently, diligence in this regard cannot be overemphasized.

4. If the parent or relative is notified and comes to the interrogation facility, that person, as well as the juvenile, must be advised of the latter's constitutional rights.[2] If an interpreter is needed for any such party, one must be obtained. When each party fully understands the rights then both must make a knowing and intelligent waiver before questioning may begin.

1. See Appendix D.

2. The "Miranda warnings" are sufficient.

5. If the parent or relative cannot be reached after diligent efforts have been made, the interrogation may begin nonetheless. On a motion to supress the mere fact that a parent or relative was not present, in and of itself, will not render the statement invalid assuming that the statement was voluntarily made, and otherwise in accordance with law. The court will consider the absence of such person as one factor to be considered along with all of the other facts and circumstances.

6 If the parent or relative is notified but refuses to come to the facility, a police officer should be dispatched and reasonable efforts made to bring that person to the appropriate facility. If these efforts fail, or if the person when brought in is intoxicated or otherwise unable to participate, then the interrogation may begin as indicated above. The presence of a parent or relative is for the purpose of providing emotional stability to the juvenile. However, where such persons are unable or unwilling to discharge their responsibility the juvenile may be asked to make the decision for himself. If that decision is knowingly, intelligently and voluntarily rendered, and a statement made thereafter, a motion to suppress should be denied.

XIV WRITS AND APPEALS PROCEDURES

It seems inevitable that some challenge will be mounted against the District Attorney's legal or constitutional authority to participate in delinquency proceedings. The attack, whether it is directed at a particular particular proceeding or at the very concept itself, will most likely be manifested in the form of a Writ.

All Writs of Habeas Corpus and motions for stays will be handled by the Office of the District Attorney.[1] Obviously, the responses formulated in opposition to the proposed attacks must be extremely well-prepared since the very existence of this innovatiive concept may hang in the balance.

All Writs are returnable in Supreme Court. For the sake of efficiency, the assistant district attorney assigned to the case will assume responsibility for answering the Writ although the aid of an Assistant in another Bureau may, at times, be enlisted.

The office of the District Attorney will also have the responsibility for prosecuting appeals from adverse preliminary determinations.[2] To ensure that the limited resources of the Office are utilized in the most efficient fashion, the Chiefs of the Juvenile Offense and Appeals Bureau will consult together about the procedures to be followed in prosecuting such appeals, and about the advisability of taking an appeal in a given case.

One problem which has not been completely resolved by the guidelines at this time is the respective authority of the District Attorney and the Corporation Counsel to prosecute a respondent's appeal.[3]

1. Chapter VI, Sec. 6.
2. Chapter VI, Sec. 8.
3. Ibid.

The procedure presently contemplated is for the Corporation Counsel to handle all such appeals unless the District Attorney elects otherwise. If such election is made, this Office will notify the Chief of the Appeals Bureau of the Corporation Counsel of any appeal we intend to pursue and he will be provided with a copy of our brief prior to its filing.

SUMMARY

For many years, the juvenile justice system of New York State has been a source of frustration for those who have been most intimately involved with it. Through numerous amendments culminating in the Reform Act of 1976, the Legislature has desperately sought to bring about a change.

Perhaps the most significant feature of the newest amendment is that which empowers the Bronx District Attorney to actively participate in the prosecution of certain cases in the Family Court by entering into an agreement with the Corporation Counsel. Pursuant to this enabling legislation, the District Attorney and the Corporation Counsel have agreed that the entire spectrum of felonious acts designated by the Legislature shall be prosecuted in the Bronx by the Office of the District Attorney.

In order to meet the particularized demands of the family court, a specialized Juvenile Offense Bureau has been created within the Office. This Bureau shall have two primary goals:

The first end sought to be achieved is to give dramatic effect to the legislative intent to consider the needs and best interests of the community. One avenue of reform is to change any basic presumption against detention or restrictive placement. It is anticipated that this attitude will change at least with respect to those cases prosecuted by this Office. While the initial shift will be motivated by the serious nature of the offense in question, the age of the respondent, and the interests of the community, this trend will continue only so long as we retain the confidence of the judiciary. To do this, of course, we will have to attain a significant measure of success in the prosecution of our cases.

The second result to be achieved is to establish our reputation as a dynamic and viable force within the community. While bringing the guilty to justice, we should also bring respect and dignity to those who are innocently involved with the family court. We must be sure that the victims are not further victimized by the system and that the guilty are brought to account.

APPENDICES

APPENDIX A

PROTOTYPE
BRONX DISTRICT ATTORNEYS OFFICE
JUVENILE OFFENSE BUREAU INTAKE FACT SHEET

A.D.A:_____ DOCKET#_____

I - RESPONENT(s)

A- Respondent:_____D.O.B:_____

Address:_____

Parents Names:_____

Address (if Different)_____

Prior Court History:_____

_____

_____

_____

_____

_____

B- CO-RESPONDENTS:

1._____ Docket#_____

2._____ Docket#_____

3._____ Docket#_____

II - CRIME FACTS

A. Charge:_____

B. Offense Committed: Date_____Time_____Loc._____

_____

C. Arrest: Date_____Time_____Location_____

_____

III - EVIDENCE

A. Weapon Used?_____ Recovered: Where/When/Who

B. Property Taken?_____ Recovered: Where/When/Who

C. Was Evidence Vouchered? Y____ N____ Describe_____

1 - If yes, Precinct Voucher No._____

2 - Property CLERK Voucher No._____

D. Evidence Sent to Police Lab.? Y_____ N_____

1 - If yes,Lab. Voucher No._____

2 - Lab. Technician_____

Date Lab. Report Ordered_____Date Received_____

E. Statements Made: Y_____ N_____ If yes, By Whom_____

To Whom_____Date_____Time_____

Location_____

Nature:_ _____

Steno_____

_____

_____

Parent Present _____Problems? (Explain)_____

_____

_____

_____

_____

_____

_____

F. Hospital Records: Y____ N_____

If yes, Who was Treated?_____For What_____

_____

Date(s)_____ Inpatient?. Y_____ N_____ Name of Hospital_____

_____Name of Physician_____

Date Requested_____Date Rec'd_____

H. Grand Jury: Y_____ N_____ Name of Accused_ _____

Name(s) of Witnesses_____

A.D.A._____ _____Reporter_ _____

Date Requested_ _____Date Rec'd_____

IV WITNESSES

I - Arresting Officer_____Shield_____

Pct._____Tele._____

Assisting Officer_____Shield_____

Pct._____Tele._____

K. Other Officers:

1._____Shield_____Pct_____

Tele._____

2._____Shield_____Pct_____

Tele._____

L. Was Any Officers an Eyewitness? Y_____N_____If yes, Who_____

_____ _____

M. Complainant Name _ _____

Address_____Phone(H)_____

(O)_____

N. Witness (1) Name_ _____Address_____

Phone(H)_____(O)_____

0 - Witness (2) Name_____

1 Address_____Phone_____(O)_____

V - IDENTICATION FOR WITNESSES

A. Name_____Type_____Date_____

Name_____Type_____Date_____

B. Wade Problems? Explain:_____

_ _____

_____

_____

_____

_____

VI - FACTUAL ANALYSIS AND COMMENT

_____

_____

_____

_ _____

_ _____

_____

_____

APPENDIX B

PROTOTYE
OFFICE OF THE BRONX DISTRICT ATTORNEY
JUVENILE OFFENSE BUREAU CASE RECORD

Docket #_____

Law Guardian_____Other Counsel_____

Address_____ Tel.-_____

Detention Recommended?_____Reasons:_____

_____

Preliminary Motions and Court Actions:

Date	Attorney	COURT ACTIONS AND REMARKS

Discovery Material Provided_____Date_____

Admission_____Hearing_____Judge_____

Finding Limited to:_____

Disposition_____Judge_____

Date_____

APPENDIX C

Respondent
Name

D.O.B.
Docket#

Parents Names:

A.D.A.
Date of Arrest
Date of Petition
Charge
Date to Intake A:
Date to Part 4
Date of Disposition
Disposition:

APPENDIX D

The following facilities have been approved by the Appellate Division (First and Second Departments) for interrogation of juveniles: (Rooms are subject to change — confer with Desk Officer before using any room)

KINGS COUNTY

Pct.	Location	Pct.	Location
60	Room 119	75	Room 254, Y.A.U.
62	Community Affairs Office	76	Room 112
63	Clerical Office	77	Room 108B
66	Clerical Office	78	Room 312, Y.A.U.
67	Auxiliary Police Room	79	Rooms 210 & 215
68	Room 125	81	Room 204, Y.A.U.
69	Room 101	83	Room 204
70	Community Affairs Office	84	*Clerical Office, 1st fl.
71	Room 203	88	Community Relations Office
72	Room 114	90	Room 136
		94	Room 19 (2nd floor)

* (Sitting Room, (Room 127) if three or more children in custody at same time or during hours of 4:00 p.m. to 8:00 a.m.)

QUEENS COUNTY

100	Y.A.U. Office	108	Community Affairs Room
101	Clerical Office	109	Room 244, Y.A.U.
102	Community Affairs Office	110	Room 103
103	Room 302,. Y.A.U.	111	Room 106
104	Community Affairs Office	112	Room 101
105	Room 109	113	Room 111
106	Community Affairs Office	114	Room S-44
107	Clerical Office, 1st floor		

RICHMOND COUNTY

120	Room 302	123	Former Det. Sqd.
122	Room 136		Commander's Office

BRONX COUNTY

40	Y.A.U. Office	46	Community Affairs Office
41	Y.A.U. Office	48	Community Affairs Office
42	Community Affairs Office	50	Y.A.U. Office
47	Room 124	52	Y.A.U. Office
45	Room 119	44	Community Relations Office

NEW YORK COUNTY

1	Clerical Office	20	Room 107
6	Room 103	Cent. Pk.	Planning Office
7	Interview Room, 1st Flr.	23	Y.A.U. Office
10	Y.A.U. Office, Rm. 205	24	Community Affairs Office
13	Community Affairs Office	25	Room 128 & 129
Mid. So.	Rooms 218 & 219	26	Room 129
17	Room 206A	28	Y.A.U. Office (New 28 Pct.)
Mid. No.	Clerical Office	30	Room 218 (2 Rms.) Y.A.U.
Youth Aid Div.	34½ East 12th St., Room 307	34	N.P.T. Sgt.'s Office 2nd Floor

END