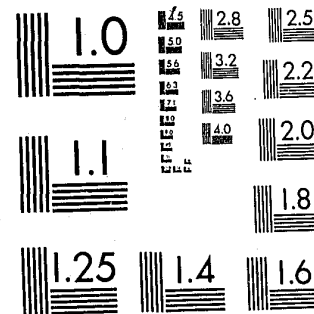


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Office of Juvenile Justice and Delinquency Prevention  
National Institute for Juvenile Justice and Delinquency Prevention

MF-1

# Reports of the National Juvenile Justice Assessment Centers

## A Comparative Analysis of Juvenile Justice Standards and the JJDP Act

*Volume I*

- Delinquency Prevention
- Diversion

76581



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*Publications in the Juvenile Justice Standards  
Series*

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**Standards for the Administration of Juvenile Justice**

Report of the National Advisory Committee for  
Juvenile Justice and Delinquency Prevention

**Juvenile Justice Standards Symposium: A Summary**

**A Comparative Analysis of Juvenile Justice Standards  
and the JJDP Act (four volumes)**

*Volume I*

- Delinquency Prevention
- Diversion

*Volume II*

- Deinstitutionalization of Status Offenders and  
Nonoffenders
- Separation of Juveniles From Incarcerated Adults

*Volume III*

- Reducing Detention and Commitments
- Community-Based Alternatives to Incarceration

*Volume IV*

- Advocacy for Services
  - Due Process/Procedural Safeguards
- 

U.S. Department of Justice  
Office of Juvenile Justice and Delinquency Prevention  
*National Institute for Juvenile Justice and Delinquency Prevention*

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**A Comparative Analysis of  
Juvenile Justice Standards  
and the JJDP Act**

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*Volume I*

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- Delinquency Prevention
  - Diversion
- 

Robert W. McCulloh

U.S. Department of Justice  
National Institute of Justice

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November 1981

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## Preface

The National Institute for Juvenile Justice and Delinquency Prevention set up an Assessment Center Program in 1976 in partial fulfillment of its mandate, under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (JJDP Act) to collect and synthesize information from available literature on all aspects of juvenile delinquency. Topical Assessment Centers were established on delinquent behavior and its prevention (University of Washington), the juvenile justice system (American Justice Institute), and alternatives to the juvenile justice system (University of Chicago). A fourth center (at the National Council on Crime and Delinquency) was created for integrated data analysis of the work of the other centers.

The present report is one of a four-volume series titled A Comparative Analysis of Juvenile Justice Standards and the JJDP Act, which was developed by the American Justice Institute. Each volume in this series examines two separate issues important to the juvenile justice system. (A listing of the subjects discussed is found on the inside front cover of each report.) Individual issues are analyzed by identifying pertinent provisions of the JJDP Act and then comparing relevant standards adopted by four nationally prominent organizations: The National Advisory Committee for Juvenile Justice and Delinquency Prevention, the Task Force on Juvenile Justice and Delinquency Prevention of the National Advisory Committee on Criminal Justice Standards and Goals, the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project, and the American Correctional Association's Commission on Accreditation for Corrections.

Like other papers in the series of Reports of the National Juvenile Justice Assessment Centers, these analyses are intended to facilitate better understanding and action by policymakers, operational personnel, researchers, and the public on how the juvenile justice system can contribute to enhanced and enlightened child development and control.

David J. Berkman  
Director  
National Juvenile Justice  
System Assessment Center

## Foreword

Consistent with the purposes of the Juvenile Justice and Delinquency Prevention Act (P.L. 93-415, as amended), Section 102(a)(5), this Office has supported the development of national standards for the administration of juvenile justice which address virtually every facet of the juvenile justice system. Included are standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention, the National Advisory Committee on Criminal Justice Standards and Goals Task Force on Juvenile Justice and Delinquency Prevention, and the Institute of Judicial Administration/American Bar Association Joint Commission on Juvenile Justice Standards. In addition, national professional organizations, such as the American Correctional Association's Commission on Accreditation for Corrections, the National Council of Juvenile and Family Court Judges, the American Medical Association, and others have recently promulgated standards related to their specific disciplines.

With the existence of these various sets of standards representing diverse interests and experience, the National Institute for Juvenile Justice and Delinquency Prevention recognizes the enormous task it is for a State or local jurisdiction, agency, or program to review each of these comprehensive works, to sort out what each group recommends, and to decide where to begin in terms of implementation. Therefore, NIJJDP commissioned this Comparative Analysis to assist in the review of national standards, using the JJDP Act as a framework for structuring the review.

One of the major purposes of this Comparative Analysis is to identify the various recommendations adopted by national standards-setting groups which present options for implementing the major policy thrusts of the JJDP Act. While the Act clearly provides specific direction for improvements in the juvenile justice system, it does not spell out how such goals are to be achieved. Although none of the standards development efforts was undertaken, nor purports, to serve this specific purpose, most of the standards do reflect a substantial agreement with the major policy directions contained in the Act, even though the particular approaches may vary.

It is anticipated that this kind of analysis will be extremely useful to the juvenile justice field, not only because it includes all of the major sets of standards, but also because it provides a focus for standards implementation. It also serves as a means of highlighting major areas of agreement rather than disagreement and controversy. One may hope it will shift the debate from "whose standards get implemented" to "what are the priority areas in which standards can be used as an effective tool for generating and maintaining improvements in the quality of justice for juveniles."

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## Introduction

This first volume of the four-part series A Comparative Analysis of Juvenile Justice Standards and the JJDP Act examines two major issues:

- Delinquency Prevention
- Diversion.<sup>1</sup>

Like its three companion publications, the present review takes as its point of departure the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act).<sup>2</sup> This introduction will briefly outline the structure of that legislation and describe the procedure employed in preparing these reports.

### JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974, AS AMENDED\*

The JJDP Act represented a major Federal initiative in response to the "enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources" caused by juvenile delinquency.<sup>3</sup> The Act culminated a considerable history of Federal assistance in this area with an attempt to provide "for the first time, a unified national program to deal with juvenile delinquency prevention and control within the context of the total law enforcement and criminal justice effort."<sup>4</sup> Following the original passage in 1974, minor amendments were added to the Act in 1976, and more substantial revisions were made in 1977.<sup>5</sup>

As amended, the JJDP Act is broad-scoped, addressing a diverse range of subjects affecting various levels of government. For example, at the Federal level, it creates, within the U.S. Department of Justice, the Office of Juvenile Justice and Delinquency Prevention along with other, related organizations. In addition to delineating the powers and responsibilities of these agencies, the Act also sets forth several directives intended to achieve greater coordination in Federal efforts to improve juvenile justice.

Of particular importance in the present context, the JJDP Act establishes two different types of Federal grant programs. These are designed "to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs."<sup>6</sup> The first grant mechanism, the "formula grant program" described in Sec. 223 of the Act,<sup>7</sup> accounts for the major portion of Federal financial

\*After these volumes were completed and while they were undergoing final editorial review, the 1980 Amendments to the JJDP Act were approved. The text in the individual analyses (as well as the text above) discusses the Act, as amended through 1977--the date of the last amendments prior to those of 1980. An Appendix A has been inserted at the end of each volume, identifying those portions of the 1980 Amendments pertinent to the issues discussed in each analysis.



assistance. Sec. 223 outlines certain requirements for the State planning process and directs that the lion's share of formula grant funding be devoted to specified "advanced techniques." The "advanced techniques" contemplated are described in rather general, flexible terms, amenable to adaptation by individual jurisdictions. This is in keeping with the JJDP Act's overall philosophy of providing States and localities considerable latitude in designing their own programs. In two areas, however, Sec. 223 is a good deal more specific: The deinstitutionalization of status offenders and nonoffenders and the separation of confined juveniles from "regular contact" with adults accused or convicted of crimes are identified as objectives of particularly high priority involving special monitoring and reporting requirements.\*

The other major grant program is outlined in Sec. 224 of the Act.<sup>8</sup> It authorizes Federal funding of "special emphasis prevention and treatment programs." While the grants under the two sections differ in several respects, there is a similar delineation of the types of projects eligible for support--here designated "special emphasis programs," rather than "advanced techniques." These, too, are described in flexible terms, affording grant recipients substantial leeway in tailoring programs to local conditions.

In preparing these analyses, the first task was to survey the JJDP Act, as amended--paying particular attention to the grant programs--and identify its major policy thrusts. A comprehensive listing would have been quite lengthy, since the Act alludes to myriad important subjects at least once, while dwelling on others in several different sections. Therefore, the decision was made to sketch only the major contours of the Act. A selective list of eight issues was formulated:

- Delinquency Prevention
- Diversion
- Deinstitutionalization of Status Offenders and Nonoffenders
- Separation of Juveniles From Incarcerated Adults
- Reducing Detention and Commitments
- Community-Based Alternatives to Incarceration
- Advocacy for Services
- Due Process/Procedural Safeguards.

The Act was thoroughly reviewed, and its positions in each of these areas were recorded.

#### STANDARDS GROUPS

The next task was to examine the work of several nationally prominent organizations that have issued standards for juvenile justice. The reports of the following four groups were reviewed:

- The National Advisory Committee for Juvenile Justice and Delinquency Prevention (itself established by the JJDP Act)

\*As is noted in Appendix A in Volume II, the 1980 Amendments to the JJDP Act added a third item to this list: the removal, within specified parameters, of juveniles from adult jails and lockups. The Amendments also modified somewhat the requirements applicable to deinstitutionalization and separation from adults.

- The Task Force on Juvenile Justice and Delinquency Prevention of the National Advisory Committee on Criminal Justice Standards and Goals
- The Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project
- The American Correctional Association's Commission on Accreditation for Corrections.

The first three groups addressed, with varying degrees of detail, the full spectrum of juvenile justice issues. The Commission on Accreditation for Corrections, on the other hand, confined its recommendations almost exclusively to juvenile correctional programs. All relevant reports of the 4 groups--a total of 31 publications--were examined in some detail.<sup>9</sup>

#### PURPOSE OF THE COMPARATIVE ANALYSIS

This four-part series attempts to identify linkages between the usually very general directions of the JJDP Act and the often rather detailed recommendations of the standards groups. The volumes do not attempt to champion the positions of any one group, to label one set of policy judgments "right" and another "wrong." Certainly the differences, as well as the similarities, in the four groups' positions on key issues are pointed out. But the purpose here is simply to outline options for implementing programs and policies that comply with the JJDP Act.

Indeed, choosing among the recommendations of these four groups need not be considered the only way of fulfilling the Act's directives. It is likely, though, that the publications of the four collectively represent the most thorough and professional examination of these issues to date. Thus, analyzing them comparatively should assist Federal, State, and local policymakers and operational personnel who undertake statutory revision, policy formulation, and program development.

#### FORMAT OF THE INDIVIDUAL ANALYSES

Each analysis consists of six principal parts:

- Description of the Issue
- Pertinent Provisions of the Act
- Summary of Positions Recommended by Standards Groups (Table 1)
- Analysis of the Standards
- Matrix of Interrelated Standards (Table 2)
- Appendix A, Relevant Provisions of the 1980 Amendments to the JJDP Act.

In addition, notes at the end of each paper provide extensive references to primary sources and occasional explanations of minor issues. An Appendix B in each volume sets forth a key to abbreviations, outlining the short-form titles used in the citations of the standards publications.

This format should enable different categories of readers to use these materials as they wish. For example, although the sometimes fairly lengthy Analysis of the Standards section is in many ways the heart of each analysis, the general reader can get a good overview of the discussion merely by reading the first three, usually brief, sections--particularly the summary in Table 1. Readers desiring a more

thorough treatment of the issues can review these analyses in detail. Finally, those who wish to explore individual subjects in depth will, of course, want to consult the original sources themselves. Even these readers, though, may be able to shorten a sometimes rather formidable research task by using the extensive annotations provided here and the reasonably detailed Matrix of Interrelated Standards.

#### NOTE TO THE READER

Since this Comparative Analysis examines the IJA/ABA Joint Commission's standards as they appeared in the 1977 Tentative Drafts, the reader is advised to consult the final volumes subsequently revised and/or approved by the ABA House of Delegates for changes in the standards reviewed here. In some instances this will result in modifications of the analysis conducted herein. The specific changes in the standards are noted in the "Addendum of Revisions in the 1977 Tentative Draft," which can easily be found in the section preceding the Table of Contents in the final IJA/ABA publications.

#### NOTES TO INTRODUCTION

1. For a definition of terms and a clarification of the scope of the subjects discussed, see the brief Description of the Issue sections at the beginning of the individual analyses.
2. 42 U.S. Code Sec. 5601 et seq. (1979 Supp.).
3. Id., Sec. 5601(b).
4. Office of General Counsel, Law Enforcement Assistance Administration, U.S. Department of Justice, Indexed Legislative History of the Juvenile Justice and Delinquency Prevention Act of 1974, p. 2 (1974). For a thorough review of the legislative history of the Act, see generally id. For brief discussions of prior Federal efforts in this area, see, e.g., id., pp. 1-2; IJA/ABA Youth Service Agencies, pp. 14-18.
5. For the legislative history of the amendments, see Committee on the Judiciary, U.S. House of Representatives, House Report No. 94-1155 Accompanying H.R. 13636 (1976); Committee of Conference, U.S. House of Representatives, House Report No. 94-1723 (1976); Committee on the Judiciary, U.S. Senate, Senate Report No. 94-847 (1976); Committee on Education and Labor, U.S. House of Representatives, House Report No. 95-313 (1977); Committee of Conference, U.S. House of Representatives, House Report No. 95-542 (1977); Committee on the Judiciary, U.S. Senate, Senate Report No. 95-165 Accompanying S. 1021 (1977); Committee of Conference, U.S. Senate, Senate Report No. 95-368 (1977).
6. 42 U.S. Code Sec. 5602(b)(4) (1979 Supp.).
7. See id., Sec. 5633.
8. See id., Sec. 5634.
9. For a full listing of the literature surveyed, see Appendix B.

## Delinquency Prevention

#### DESCRIPTION OF THE ISSUE

This analysis adopts the following definition of delinquency prevention, which was formulated by the National Advisory Committee:

A process and the activities resulting from that process directed at encouraging law-abiding conduct and reducing the incidence of criminal activity of all youth under eighteen years of age except those who are receiving services on other than a voluntary basis as a result of contact with the juvenile justice system.<sup>1</sup>

Two important features of this definition should be emphasized. First, it views prevention activities in the context of an overall process of planning, coordination, service delivery and evaluation, recognizing the importance of appropriate organizational structures designed to facilitate this process. Second, it restricts consideration of social service programs to those where the services are provided on a voluntary, noncoercive basis.<sup>2</sup>

The history of attempts at delinquency prevention is uneven and disappointing. Prevention programs have been underbudgeted and largely unconnected with other juvenile justice operations. Or there have been large amounts of funds expended upon one specific program model with questionable results.<sup>3</sup>

Moreover, it should be candidly recognized that the state of the art is less well developed regarding prevention programs than it is in other areas of the juvenile justice system--even at a time when that system often cannot lay claim to a particularly high level of sophistication.<sup>4</sup>

Nevertheless, numerous commentators see great promise in delinquency prevention efforts, and two of the four standards groups surveyed here address prevention activities in considerable detail, while a third discusses the subject peripherally. The two groups that devote the most attention to this area--the National Advisory Committee and the Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention--both recognize existing limitations on our knowledge regarding the effectiveness of particular types of programs in preventing delinquency. As a result, while both groups do tender a wide array of specific programmatic recommendations, they also set forth at some length their views on the proper framework and procedure for formulating prevention strategies, endeavoring thereby to encourage carefully considered experimentation and enhance the state of the art. In fact, both groups contend that numerous benefits may be derived from undertaking the process described, even if it culminates in the development of individual programs which differ substantially from those which they themselves have endorsed.<sup>5</sup>

Therefore, it seems appropriate that this analysis should consider delinquency prevention in terms of three dimensions: (1) the organizational structure for formulating prevention programs; (2) the process to be undertaken to determine which prevention programs should be employed; and (3) the nature and content of the specific programs selected. The bulk of this review will focus on the first two of these factors. While the general contours of the programmatic standards will be set forth, and full citations will be supplied, the myriad specifics of these latter, rather particularized recommendations will not be detailed here.

#### PERTINENT PROVISIONS OF THE ACT\*

Given its title, one would rightly expect the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, to place considerable emphasis on prevention programs. For example, in Sec. 102(b) of the Act it is specified as the "declared policy of Congress" to "provide the necessary resources, leadership, and coordination":

(1) to develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency;...and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention...programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.<sup>6</sup>

The portion of the JJDP Act that outlines the "advanced techniques" to which the bulk of the States' formula grant funding is to be devoted likewise stresses the importance of "developing, maintaining and expanding programs and services designed to prevent juvenile delinquency."<sup>7</sup> As to specific "advanced techniques" pertinent to prevention, Sec. 223(a)(10)(A) urges support of the following:

[C]ommunity-based programs and services for the prevention...of juvenile delinquency through the development of...homemaker and home health services,...volunteer and crisis home programs...<sup>8</sup>

Moreover, Sec. 223(a)(10)(C) endorses "youth service bureaus and other community-based programs" designed to

support, counsel, or provide work and recreational opportunities for delinquents and other youth to help prevent delinquency.<sup>9</sup>

In addition, Sec. 223(a)(10)(G) expresses approval of the following as "advanced techniques":

[Y]outh initiated programs and outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs.<sup>10</sup>

\* After this Comparative Analysis was completed and while it was undergoing final editorial review, the 1980 Amendments to the JJDP Act were approved. The text above discusses the Act, as amended through 1977. Appendix A on pages 81 and 82 of the present volume identifies those portions of the 1980 Amendments relevant here.

The JJDP Act's "special emphasis" section (Sec. 224) also attaches great importance to prevention programs. Thus, Sec. 224(a)(4) authorizes "special emphasis" grant funding of programs designed to

improve the capability of public and private agencies and organizations to provide services for delinquents and other youth to help prevent delinquency.<sup>11</sup>

It might also be mentioned that two particular types of prevention strategies--educational programs and efforts to encourage youth employment--are mentioned specifically in several portions of the Act. Sec. 223(a)(10)(E), for example, identifies as "advanced techniques":

[E]ducational programs or supportive services designed to keep delinquents and to encourage other youth to remain in elementary and secondary schools or in alternative learning situations.<sup>12</sup>

This is in keeping with the congressional finding in Sec. 101(a)(5) that:

[J]uvenile delinquency can be prevented through programs designed to keep students in elementary and secondary schools through the prevention of unwarranted and arbitrary suspensions and expulsions.<sup>13</sup>

Among the Act's several references to the importance of meaningful employment opportunities in efforts to prevent delinquency, perhaps the most succinct is that in Sec. 224(a)(8). This section authorizes the Administrator of the Law Enforcement Assistance Administration to provide "special emphasis" grant funding to

develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies and organizations and business and industry programs for youth employment.<sup>14</sup>

#### SUMMARY OF POSITIONS RECOMMENDED BY STANDARDS GROUPS

Table 1 on page 8 summarizes, in a general fashion, the recommendations of the four standards groups surveyed here which are pertinent to delinquency prevention. The subsequent discussion in the Analysis of the Standards section elaborates the positions identified summarily in Table 1.



Table 1

Summary of Positions Recommended by Standards Groups<sup>15</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
In General	Places substantial emphasis on delinquency prevention efforts.	Devotes considerable attention to delinquency prevention.	"Delinquency prevention, except as an ultimate and greatly cherished consequence of providing voluntary services and of an effective juvenile justice system, is not one of the permissible criteria for decision making in the IJA-ABA standards because of the project's policy of rejecting the reliability of predictive behavior judgments."	Because of the correctional focus of the project, does not address the issue.
Organizational Structure	Local "Juvenile Justice and Delinquency Prevention Planning and Coordinating Authority" to play a major role re: prevention planning. State agency (not involved in service provision) to assist and coordinate local efforts.	"An Office of Delinquency Prevention Planning should be established within appropriate units of local general purpose government." State agency to provide coordination and support.	Planning standards assign principal role for juvenile justice planning to a decentralized State agency; local boards to play a largely advisory role. Standards on Youth Service Agencies call for local planning and administration.	
Process	Identifies step-by-step planning, implementation, and evaluation process to be undertaken on an ongoing basis by prevention agencies.	Describes steps to be followed in formulating and implementing a "comprehensive delinquency prevention plan."	Outlines recommendations re: juvenile justice planning generally.	
Program Content	Sets forth a wide array of programmatic standards.	Outlines a considerable number of specific recommendations re: program content.	Makes brief mention of types of services to be provided (or brokered) by youth service agencies.	

Summary of Positions: I. In General

Two groups are strongly supportive of delinquency prevention efforts; one group expresses philosophical reservations regarding prevention but offers standards re: voluntary services which are pertinent.

## II. Organizational Structure

Two groups assign primary responsibility re: prevention planning to local agencies, with a State agency to coordinate and support local efforts. One group (apparently) assigns principal responsibility re: juvenile justice planning to a decentralized State agency, with local boards being largely advisory.

## III. Process

Two groups discuss planning and implementation of prevention programs in some detail; one group addresses planning for juvenile justice generally.

## IV. Program Content

Two groups set forth extensive programmatic standards re: prevention; one group briefly discusses the service mix of youth service agencies.

## ANALYSIS OF THE STANDARDS

The Report of the Task Force laments the fact that:

Prevention continues to be viewed by many public officials and criminal justice personnel as a luxury to be considered only after established agency budgets have been approved. There is almost no evidence of meaningful statewide plans to organize and deliver prevention services. This situation is quite critical given the emphasis placed upon prevention in the Federal Juvenile Justice and Delinquency Prevention Act of 1974.<sup>16</sup>

As to the Task Force's own views in this area, the Report states that:

It is believed that no issue is of greater import in the field of juvenile justice than the prevention of delinquency. It seems clear that efforts aimed at the early delivery of services to young people who may be headed for careers of crime have more promise as a method for reducing crime than attempts to control delinquency solely by strengthening various components of what is normally considered the juvenile justice system. It is likely that, even through increased efficiency, the normal processes of the juvenile justice system cannot have a major impact upon delinquency.<sup>17</sup>

In keeping with this view, the Task Force directs considerable attention to delinquency prevention efforts, devoting the whole of the first three chapters of its Report to this subject alone.<sup>18</sup> The overall posture of the National Advisory Committee (NAC) on this subject is basically very similar; and, indeed, the NAC draws very extensively from the Task Force's recommendations in this area, making sundry modifications to accommodate its own views.<sup>19</sup>

On the other hand--notwithstanding the Task Force's assertion that "virtually every national commission on crime and criminal justice has endorsed the idea of prevention as a priority"<sup>20</sup>--the IJA/ABA adopts a different stance. Its Summary and Analysis volume is frequently quite critical of delinquency prevention.<sup>21</sup> For example, (to reiterate the excerpt set forth above in Table 1) it states:

Delinquency prevention, except as an ultimate and greatly cherished consequence of providing voluntary services and of an effective juvenile justice system, is not one of the permissible criteria for decision making in the IJA-ABA standards because of the project's policy of rejecting the reliability of predictive behavior judgments.<sup>22</sup>

Indeed, the Summary volume suggests that the IJA/ABA project as a whole is premised on, among other things, a "repudiation of predictive interventions to prevent delinquency."<sup>23</sup>

Despite such broadly phrased statements as that just cited, though, a careful reading of the IJA/ABA's comments in this area reveals that it may be not so much prevention programs--as here defined--but rather the coercive imposition of services (in the absence of an adjudication of delinquency)<sup>24</sup> which this group views as anathema.<sup>25</sup> Thus, the Introduction to the IJA/ABA's Youth Service Agencies volume, addressing voluntary participation in its proposed programs, indicates that:

The youth service agencies discussed in this volume are designed to provide delinquency prevention services.<sup>26</sup>

Given the usage in the present review of the NAC's above-cited definition of delinquency prevention, which limits consideration to those programs where the juvenile's participation is voluntary,<sup>27</sup> the difference between the IJA/ABA's posture in this area and those of the Task Force and the National Advisory Committee is perhaps not so marked as it initially appears. Still, there is a very real difference in philosophical position here. And it is illustrated by the fact that, while the Task Force and the NAC both devote considerable space and attention to their recommendations for prevention programs, the IJA/ABA addresses prevention directly only in the Reporter's Introduction to just one of its 23 volumes (Youth Service Agencies)--and this in a discussion focusing mainly on diversion.<sup>28</sup> Moreover, the standards and commentary approved by the IJA/ABA Joint Commission deliberately refrain from making any reference to delinquency prevention as an authorized activity for components of the juvenile justice system.

Before closing these preliminary remarks regarding the three groups' overall approaches, it should also be noted that the Report of the Task Force, observing the "uneven history" of past prevention undertakings, emphasizes that:

[T]his report reiterates the need for a careful and honest assessment of the existing state of the art in delinquency prevention and recommends that new efforts proceed according to reasonable and valid criteria. Only through a clearcut confrontation with past failures can the necessary knowledge and understanding be gained for positive delinquency prevention efforts.<sup>29</sup>

Furthermore, the Report identifies four fundamental principles that "guided the development of these delinquency prevention standards, [and are] indicative of the basic philosophy of the Task Force."<sup>30</sup> Specifically, these principles are:

1. Action should be based upon knowledge.
2. A local or community approach is best in developing prevention programming.
3. Prevention efforts should permit maximum community and citizen involvement in all aspects of program planning, implementation and evaluation.
4. Clearly identifiable structures should be established for the organization and planning of prevention efforts.<sup>31</sup>

While the two groups sometimes adopt slightly different positions with regard to the particulars, it seems accurate to state that the National Advisory Committee is in essential agreement with the Task Force as to each of these basic premises.<sup>32</sup>

#### Organizational Structure

The Task Force suggests that:

Delinquency prevention requires the commitment and participation of a broad range of institutions, agencies and individuals from both the public and private sectors. A major problem in this area, however, has been the absence of an organizational structure in which comprehensive and coordinated planning for delinquency prevention can take place. This lack has most often resulted in piecemeal delinquency prevention programs. Many agencies have tended to duplicate services, while other needed services go

neglected. Very often, prevention efforts by various agencies have worked at such cross purposes that the overall positive effect has been minimal.<sup>33</sup>

Therefore, the Task Force concludes that prevention programs "must be organized, continuous, and ongoing."<sup>34</sup> In keeping with its previously noted principle of viewing prevention as primarily a local function, the Task Force specifies in its Standard 2.1 that:

Localities should be responsible for the operation of direct service programs for delinquency prevention. This responsibility should include identifying local needs and resources, developing programs to resolve the needs, and delivering the services needed.<sup>35</sup>

Furthermore, Task Force Standard 2.2 provides that:

An Office of Delinquency Prevention Planning should be established within appropriate units of local general purpose government. This office should be responsible for coordination of local prevention efforts on an ongoing and permanent basis.<sup>36</sup>

The commentary to Standard 2.1 emphasizes that "[e]ach community is unique" and states:

Arguments for local control of delinquency prevention programs relate to the following elements:

1. A feeling of ownership and smallness, hence, closeness to the project at hand;
2. Direct accountability by those who support programs and who are involved in the programs;
3. An increased understanding and capacity at the local level for people to communicate through personal relationships;
4. Legislative competence borne out of personal awareness and firsthand knowledge of local conditions;
5. Knowledge about the community and its resources, providing an opportunity for policy input by local citizens; and
6. The maintenance of a personal atmosphere in which local residents and citizens can become personally involved in major public undertakings.<sup>37</sup>

Also pertinent here is Task Force Standard 2.6, which stipulates that:

All agencies affecting youth in any community should cooperate and coordinate with others in the delivery of services to insure that each agency:

1. Clarifies its interdependent relationship with others;
2. Standardizes its exchanges of communication;

3. Has a complete description of the volume and frequency of linkages and exchanges with other agencies; and
4. Is aware of which of its goals are competitive with those of other organizations and which are facilitative.<sup>38</sup>

Task Force Standard 2.3 addresses the State's role in prevention programs, calling on the State to establish "a single agency to coordinate delinquency prevention programs."<sup>39</sup> Among the specified responsibilities of the State agency are:

Administration and granting of subsidy funds for all youth service agencies, along with the establishment of standards for both quality and quantity of services offered.<sup>40</sup>

The Task Force notes in commentary that:

The State's role is to assist in determining broad goals and objectives and to provide the financial assistance, training and technical capacity to local agencies. Specifically, the State's role is to facilitate, while the community or local role is to operate.<sup>41</sup>

Task Force Standard 2.5, titled Organizational Capacity to Act, is important for prevention activities on both the State and the local level. It directs that:

States and local units of government should establish delinquency prevention coordinating bodies, such as interagency councils or inter-governmental standing committees, with the capacity to provide people, money and support for delinquency prevention. This capacity should be derived through the active participation of persons who serve on these bodies and represent general purpose government, statutory agencies, the private sector, citizen representatives of the community to be served, policy advisory groups, and technical support units.<sup>42</sup>

The commentary to Standard 2.5 stresses the importance of such interagency liaison mechanisms, particularly for local service delivery programs. It states:

Because of fiscal pressures, local agencies appear to be increasingly willing to cooperate and to subordinate their traditional independence by entering into agreements with policymaking interagency boards. Inter-agency bodies, in turn, support the budgetary requests of specific member agencies that are submitted to various higher levels of government.<sup>43</sup>

To sum up: The Task Force urges that primary responsibility for delinquency prevention activities be assigned to the localities themselves, concluding that:

The need for community involvement and participation cannot be overstressed. Without such involvement and development of shared community values, the likelihood of a successful outcome is small.<sup>44</sup>

Thus, the Task Force calls (in Standard 2.2)<sup>45</sup> for the establishment of a local Office of Delinquency Prevention Planning to provide a permanent focal point for formulating a carefully considered, communitywide prevention strategy. It also charges localities (in Standards 2.1 and 2.5) with principal responsibility for the actual delivery of prevention services, emphasizing (in Standards 2.5 and 2.6)<sup>46</sup>

the importance of effectively coordinating service programs and clarifying the respective roles of the numerous agencies involved. The State is to establish (per Standard 2.3) a single, unified agency to oversee local prevention activities. This State agency is to function mainly in a supportive, coordinating capacity, its major duties being the issuance of general, statewide program standards and the allocation of subsidy funds to the local communities.<sup>47</sup>

While the National Advisory Committee's recommendations occupy fewer standards (and are perhaps more concisely stated) than those formulated by the Task Force, the positions of the NAC in this area are very similar to those endorsed in the Task Force standards just reviewed. The NAC sets forth its views regarding the proper organizational structure for local prevention efforts in its Standard 1.111, which stipulates that:

The local community, in conjunction with the state agency described in Standard 1.121, should develop a juvenile justice and delinquency prevention planning and coordinating authority. The planning authority should be responsible for identifying and assessing all of the local juvenile service needs and should possess the capability for developing strategies to meet those needs according to established state standards and guidelines.

The composition of the local authority should consist of youth, the policy-making officials of the major juvenile service agencies including schools, local executive management and budget agencies, other governmental entities, citizen groups, businesses, and private nonprofit organizations providing services for juveniles.<sup>48</sup>

In comments very similar to those of the Task Force, the National Advisory Committee notes that:

The proposed organizational framework assigns the decision-making responsibilities to the local community, the level of government which is closest to the problems of youth and youth crime and most familiar with immediate resources and programs available.<sup>49</sup>

The NAC also stresses that:

While the state agency should assist the local communities in the initiation, maintenance, and evaluation of their planning and coordinating responsibilities, considerable latitude should be given to the local authorities to fulfill their responsibilities in accordance with their needs and resources and established standards and guidelines.<sup>50</sup>

The NAC's view on the State's role in delinquency prevention is outlined in its Standard 1.121, which recommends that:

The state government should establish an executive agency for juvenile justice and delinquency prevention with the responsibility for leadership and coordination of the local and state juvenile service system. The agency should be empowered to:

- a. Plan, coordinate, and facilitate the implementation of all state juvenile services related to juvenile justice and delinquency prevention;
- b. Assist local agencies upon request to perform such services;
- c. Monitor all services provided directly by the state; and
- d. Advocate for the development of supplemental services as necessary at the state and local levels.

The planning, coordination, and implementation activities of the state agency should take into consideration the services provided by private groups and organizations and coordinate all services into an overall plan.<sup>51</sup>

The commentary to Standard 1.121 indicates:

This standard calls for the creation of an executive agency to serve as the focal point for the planning, development, and coordination of juvenile justice and delinquency prevention programs and services....

Through the consolidation of state and local-level decision making, resource allocation, and policy analysis, the agency will be able to provide greater visibility to the numerous problems of troubled youth and to integrate the myriad of services now being offered to such juveniles by the various human service agencies within the state. Thus, the organizational structure recommended by this standard can increase the accountability of the juvenile service system to the local community and the legislature.<sup>52</sup>

In general, then, the NAC standards in this area track the recommendations of the Task Force rather closely.<sup>53</sup> Like the Task Force, the National Advisory Committee concludes that the major responsibilities for prevention programs should rest with the localities and the "State role should be that of a facilitating and supporting agent rather than directly controlling local planning and activities."<sup>54</sup>

A different approach is proposed in the IJA/ABA's Planning volume. At the outset, it should be noted that the standards in this volume differ from the directives of the Task Force and the NAC reviewed above in two key respects. First, whereas the latter speak quite explicitly to prevention programs, the standards in the IJA/ABA's Planning volume--consistent with this group's general repudiation of prevention efforts--focus mainly on the planning of programs for juveniles formally involved in the juvenile justice system--apparently permitting, but not requiring, those charged with planning responsibilities to consider services for other juveniles also.<sup>55</sup> Second, it should be noted that:

Rather than focusing on the professional practice of an emerging class of formally titled "juvenile justice planners," [the IJA/ABA's Planning volume]...views planning as a process of innovation and reform which is properly the province of many officials of juvenile justice agencies.<sup>56</sup>

As a result, the IJA/ABA's volume tends to assign major responsibilities for planning to agencies concerned with the actual delivery of services<sup>57</sup>--an approach directly at variance with that of the National Advisory Committee.<sup>58</sup>

The IJA/ABA's Planning standards differ from those of the National Advisory Committee--and of the Task Force, as well--in another important respect, too. Since responsibility for planning is, under the IJA/ABA's standards, viewed (in large measure, at least) as an adjunct to responsibility for service delivery, and since a decentralized State agency is responsible for the provision of services, the bulk of the authority regarding planning is vested in this same State agency, rather than at the local level.<sup>59</sup> The Planning volume does make provision for "local juvenile justice boards," but these are to function largely in an advisory capacity.<sup>60</sup>

The picture regarding the IJA/ABA's standards is complicated by the Youth Service Agencies volume. The latter--the only IJA/ABA volume to speak directly to the provision of voluntary services for purposes of delinquency prevention--calls for the formation of community-based youth service agencies to be governed by local managing boards.<sup>61</sup> And it specifically charges these local youth service agencies with responsibilities regarding planning, resource evaluation, and service development.<sup>62</sup> Yet, as the IJA/ABA's Summary and Analysis volume notes:

[T]he Youth Service Agencies standards...seem blithely unaware of the existence of the local juvenile justice boards in the Planning for Juvenile Justice volume.<sup>63</sup>

Nor does the Youth Service Agencies volume recognize the State agency's responsibilities outlined in the Planning standards. Still, the IJA/ABA's Summary volume concludes that these "cross-volume discrepancies are not substantial or important"<sup>64</sup> and that, while the inconsistencies between the volumes have not been rectified, they easily could be.

In any case, as they presently stand the proposals in the Planning volume differ from the NAC and Task Force standards in that they assign primary responsibility for planning and coordination to a State, rather than a local, agency; and, while the recommendations in the Youth Service Agencies volume are probably closer to the other two groups' directives, the relationship of these local youth service agencies to the overall structure contemplated in the Planning volume is not entirely clear.

#### Process

Once the appropriate organizational structure for formulating and implementing delinquency prevention programs has been clarified, the question of what process should be followed in designing and executing these programs comes into play. Emphasizing that its own rather detailed programmatic recommendations "are intended as a road map showing important possible routes to consider rather than as a compass indicating the one direction to effective prevention," the National Advisory Committee remarks that:

The recommended tool for states and communities to determine the routes which they will take is the coordinated planning process delineated in the administration chapter.<sup>65</sup>

The NAC also indicates that it recognized that

the integration of state and local planning efforts into a coordinated planning process, and the extension of that process to delinquency prevention activities, would take time and dedication to achieve. Conflicts in



values and goals will have to be accommodated and/or resolved, and institutional and individual relationships forged. However, it concluded that the creation of a more effective, more rational, and fairer juvenile service system was worth the effort involved.<sup>66</sup>

In a similar fashion, the Report of the Task Force--though it, too, presents a considerable number of recommendations regarding the content of prevention programs--states:

The Task Force has not put forth its own theory of delinquency but wishes to underscore the critical importance for prevention planners to make their theories explicit and to build prevention programs from well thought-out statements of objectives and explanations which link program activity to desired program outcome.<sup>67</sup>

In fact, in its introductory remarks on formulating a "comprehensive delinquency prevention plan," the Report suggests that:

The plan itself, however, should not overshadow the benefits that are derived from the process in which the plan is developed. Comprehensive planning affords a framework for examining the numerous relationships that exist within the scope of delinquency prevention. Differences in operating philosophies among the relevant groups and agencies and disagreements between citizens and agencies may be openly discussed. Hopefully, a better understanding of each set of problems will be reached. Participants in the planning process may be forced to resolve a number of conflicts in order to reach collective agreement about delinquency prevention.<sup>68</sup>

Moving to specifics, NAC Standard 1.112, titled Development of a Local Juvenile Service Plan, states:

The local planning and coordinating authority should develop a juvenile service plan in accordance with the requirements of the state agency described in Standard 1.121.

The local juvenile service plan should address those aspects of the services provided to juveniles related to delinquency prevention, law enforcement, adjudication, and supervision, and should contain the following components:

- a. Background data;
- b. An inventory of local juvenile service resources;
- c. Problem identification and analysis;
- d. A statement and prioritization of needs;
- e. A statement of juvenile service system goals; and
- f. A description of program strategies.<sup>69</sup>

NAC Standard 1.122 calls upon the proposed State agency, "with the active participation of the local planning authorities," to "integrate the local juvenile service plans into a cohesive state strategy" in a State Juvenile Service Plan.<sup>70</sup>

A rather intricate array of subsequent standards (1.21 through 1.29) "delineate the necessary components of the process which the local community and the state can use

to develop a plan to carry out the planning responsibilities described above."<sup>71</sup> Instead of reciting the specifics of these detailed directives, it will perhaps suffice to set forth the following (rather lengthy, but generally very concise and helpful) summary from the commentary to Standard 1.21:

The planning process described in Standards 1.21-1.29 is comprehensive and largely sequential. The steps enumerated first should ideally be carried out first since they provide facts or value judgments which are prerequisite to later steps in the planning process. In a nutshell, the planning process proposed is the following. First, this standard [1.21] requires that an adequate uniformly classified data base must be developed. Standard 1.22 requires that all existing state and local juvenile justice services must be inventoried, analyzed, and initially assessed for effectiveness. Next, Standard 1.23 recommends that state and local problems in the juvenile justice area should be identified, both by their character and by their relative importance. The needs of the system should then be identified. (Standard 1.24.) Fundamental systemic goals and specific preventive or corrective strategies to meet those goals should be developed. (Standards 1.25 and 1.26.) Finally, specific programs which are consistent with the strategies adopted should be developed and implemented. (Standards 1.28 and 1.29.)<sup>72</sup>

The commentary further specifies:

All of these recommended planning steps should be carried out cooperatively by local planning authorities together with the state agency...to enhance coordination, continuity, and cohesiveness within the statewide juvenile service system.<sup>73</sup>

In addition to their relevance in formulating the local and State Juvenile Service Plans required by Standards 1.112 and 1.122, the standards governing the planning process--particularly Standards 1.27 through 1.29 on coordinating, developing, and implementing juvenile service programs--are also pertinent to NAC Standard 1.113.<sup>74</sup> The latter, titled Coordination, Development, and Implementation of Local Juvenile Service Programs and Guidelines, states that:

Pursuant to the local juvenile service plan, the planning authority should facilitate the design, development, and coordination of appropriate programs, policies, and service system modifications. In conjunction with the state agency described in Standard 1.121, it should designate which local juvenile service agencies, organizations, and programs should be responsible for the provision of specific services and the methods of providing those services either through the development of new programs or the expansion, redirection, and/or coordination of existing programs.<sup>75</sup>

Rounding out the directives targeted to the proposed local planning and coordinating authority is Standard 1.114, which calls for a "regular and ongoing" evaluation and modification process. It specifies:

The local planning and coordinating authority in accordance with the local juvenile service plan and established standards and guidelines should evaluate, monitor, and, when necessary, recommend modification of:

- a. New and expanded juvenile service programs, policies, and system changes resulting from the planning process;
- b. The existing local juvenile service system; and
- c. The local planning process.

The evaluation and monitoring function should be conducted on a regular and ongoing basis by the local planning authority and the state agency described in Standard 1.121.<sup>76</sup>

Standard 1.125 elaborates the State agency's role in the evaluation process with greater particularity.<sup>77</sup>

This, in brief, is the process to be followed by the local and State planning and coordinating authorities, as set forth in the standards of the National Advisory Committee. It endeavors to provide a coherent, easy-to-follow procedure for bringing together all of the key participants in the juvenile justice system and in delinquency prevention efforts; and it seeks to outline, in some detail, the steps to be undertaken by these groups in initially formulating, then implementing, and ultimately evaluating and modifying juvenile service programs.

Since many of the NAC's recommendations are built around the earlier Task Force standards, the process described in the Report of the Task Force is, predictably, very similar. Task Force Standard 1.1 on Developing a Comprehensive Delinquency Prevention Plan, for example, is generally parallel to the previously cited NAC Standard 1.112, which calls for the development of a Local Juvenile Service Plan.<sup>78</sup> The Task Force standard provides that:

A comprehensive delinquency prevention plan should be developed by an appropriate level of general purpose government. The comprehensive plan should include the following components:

1. A detailed analysis of the delinquency problem in the community;
2. An inventory of current programs and resources available for delinquency prevention;
3. A clear statement of institutional and agency responsibilities for delinquency prevention;
4. A mechanism for institutionalizing coordination of delinquency prevention programs and efforts; and
5. A planned strategy for reducing the incidence of delinquency through prevention.<sup>79</sup>

The commentary to Standard 1.1 stresses, among other things, the benefits which the Task Force believes can be derived from carefully executing the process involved in formulating such a plan--a theme that this group emphasizes frequently.<sup>80</sup> The commentary states, in part:

A comprehensive delinquency prevention plan provides an excellent mechanism for crystallizing a communitywide working consensus for successful prevention efforts. Planning can be a means of educating key decision-makers about the delinquency problem. It also provides a way for various community agencies to learn about one another as they discuss common problems and objectives.

Planning community prevention efforts demands that participants clarify their goals and set priorities for action. This often requires that group or agency conflicts be resolved before decisions are reached. The planning process itself underscores the seriousness of the delinquency problem and encourages community organizations and agencies to seek collective and imaginative solutions. Actual planning should involve all interested groups and agencies to insure support for prevention efforts and to promote necessary cooperation to operate successful programs.<sup>81</sup>

Just as the NAC supplements its directives on establishing comprehensive plans with a series of standards articulating the individual steps of the planning process, so, too, does the Task Force. The remainder of the standards in Chapter 1 of the Task Force's Report (Standards 1.2 through 1.7) are devoted to this subject.<sup>82</sup> Thus, Standard 1.2 emphasizes the importance of developing a sound data base for planning and programming decisions.<sup>83</sup> Standard 1.3 urges planners to utilize the data collected to develop a profile of local delinquency problems.<sup>84</sup> Standard 1.4, titled Clarifying Delinquency Prevention Goals, is particularly significant, given the Task Force's recurrent theme of using the planning process as a vehicle for clarifying values and forging a communitywide consensus. It is also important for the Task Force's hope that careful execution of a well-considered planning process (together with competent evaluation of the resultant programs) can advance the state of the art of delinquency prevention efforts. The standard urges those involved in the planning process to explore and make explicit their assumptions regarding the causes of and possible solutions for the community's delinquency problems. And it suggests self-assessment surveys as a technique to facilitate this process. The commentary notes that:

Planners can use the survey technique to compare their own values with those of other community groups and organizations, thus giving themselves a better grasp of which programmatic approaches are likely to meet resistance and which programs will have strong community support.<sup>85</sup>

Standards 1.5 and 1.6 address inventorying the community's delinquency prevention resources and assessing these (as well as proposals for developing new resources) in terms of the comprehensive prevention plan. Standard 1.5 outlines a technique for executing the inventory of community resources to be incorporated in the comprehensive plan.<sup>86</sup> Its logical sequel, Standard 1.6, stipulates that:

The merits of an individual agency's prevention program should be compared with the overall community plan. Planners should appraise a program in terms of the following criteria:

1. The purpose and policy assumptions of the program proposal;
2. The nature of the target population for which the program is intended;
3. The goals of the comprehensive community prevention plan that are satisfied by the program;
4. Alternative methods of accomplishing these goals; and
5. Information about the experiences and results of similar programs in other communities.<sup>87</sup>

The accompanying commentary indicates that:

Comprehensive community prevention planning should provide a basis for decisions about the allocation of delinquency prevention funds....

Proposals should contain information about the purposes and policy assumptions of each program. These should be reviewed in relation to goals and positions set forth in the comprehensive plan.<sup>88</sup>

The commentary further notes that "[p]rograms must strive toward measurable outcome objectives"<sup>89</sup>--a statement which previews Standard 1.7, the final standard in this series.

Task Force Standard 1.7, titled Evaluation, states:

All delinquency prevention programs should be carefully evaluated and the results should be used to refine and improve the community's comprehensive delinquency prevention plan.<sup>90</sup>

The commentary elaborates upon this standard as follows:

Evaluation is an integral component of the community delinquency prevention effort. Given the present state of the art, most programs will likely be experimental in nature and designed to provide more accurate data to improve subsequent programming. Evaluation establishes the criteria for measuring performance and provides useful data to upgrade the level of planning and program design.<sup>91</sup>

In sum, although they are organized in a slightly different fashion and there are minor variations in wording, the Task Force recommendations describe procedures for planning, implementing, and evaluating delinquency prevention programs that are generally similar to those proposed by the National Advisory Committee. Both groups recognize existing limitations on the state of the art in this area, but both are hopeful that adherence to a carefully considered process such as that just described can generate improvements.

The IJA/ABA's Youth Service Agencies volume addresses planning and resource development in the context of community-based prevention and diversion programs. Its Standard 7.1 states, in part:

Planning is a continuing process. No agency should begin operation without at least three months of preliminary planning. During this preliminary planning period, the organizational structure should be developed and attention given to:

- A. service priorities;
- B. service mix;
- C. community resources.<sup>92</sup>

Standard 5.5 in the same volume<sup>93</sup> directs the youth service agency to evaluate the community's existing resources--a procedure quite similar to the inventories called for by the NAC and the Task Force. And Standard 5.6 indicates that the agency should utilize this resource evaluation as a basis for developing needed service programs.<sup>94</sup>

While the planning process described in the Youth Service Agencies volume is probably compatible with that described in the IJA/ABA's Planning volume, the latter, as noted earlier,<sup>95</sup> apparently assigns the bulk of planning responsibility to a decentralized State agency, rather than to community-based entities. Like the standards of the other two groups--indeed, to an even greater extent--the recommendations of the IJA/ABA's Planning volume emphasize planning as a process. Thus, the commentary to its Standard 3.5, for example, states, in part:

[I]t is the perspective of this volume that planning is a process carried out in many places within the network of people and institutions which focus on juvenile justice. Thus, the plan itself (as distinct from the institutional implementation of policies) may be of relatively minor importance.<sup>96</sup>

The Planning volume recommends utilization of what it characterizes as three different "planning modes."<sup>97</sup> The first is "agency planning," which is basically just what the name implies, and which, when undertaken by the State agency, the volume characterizes as "central, overall planning" for the juvenile justice system, to be supplemented by the planning efforts of the individual components of the system.<sup>98</sup> The second is "advocacy planning."

Advocacy planning should be defined as the process of building a constituency for juvenile justice and promoting the shared interests of that constituency in funding, programmatic, and other decisions affecting juvenile justice.<sup>99</sup>

Advocacy planning is viewed as "a legitimate but informal element of the overall planning process"<sup>100</sup> to be undertaken by the State agency, its decentralized components, and the proposed local juvenile justice boards. The third planning mode is "program planning."

Program planning should be defined as the application of the planning process to innovation of approaches to juvenile justice. It is a process cutting across agency and interest group constituencies and responsibilities and is not directed toward the maintenance of any particular organization.<sup>101</sup>

The volume stresses that program planning is "problem-focused," that it "should be accomplished through the establishment of temporary task forces, special project teams, or commissions," and that it "must not be viewed as a luxury but as a necessary adjunct" to the other planning modes.<sup>102</sup>

While the IJA/ABA's Planning standards elaborate upon this typology of planning modes, they are generally less specific--or, in any case, less prescriptive--of the individual steps involved in the planning process than the standards of the other two groups. As to the nature and content of the actual plans themselves, the Planning standards direct that they be "simple," "focused," and "flexible."<sup>103</sup>

#### Program Content

The remaining task is to highlight the specific programmatic recommendations of those two groups that dwell on this subject at some length.<sup>104</sup> It will be recalled that the NAC characterizes its comments regarding program content as "a road map showing important possible routes" rather than "a compass indicating the one

direction to effective prevention."<sup>105</sup> Thus, it emphasizes that its list of suggested strategies "is not exhaustive nor intended to constitute a definitive 'national youth policy.'"<sup>106</sup> The Task Force tenders similar qualifications regarding the particulars of its programmatic recommendations.<sup>107</sup> Still, both of these important groups have devoted substantial attention to the subject--the NAC formulating 37 specific "prevention strategies" and the Task Force outlining 41 standards on the subject--and the general character of these recommendations should be explored here briefly.

The Report of the Task Force indicates that this group commissioned papers from behavioral scientists examining the following topics:

1. The Biological Bases of Delinquency and Crime.
2. Psychological Theories of Delinquency.
3. Subcultural Theories and Delinquency Prevention.
4. Labeling and Conflict Theory.
5. The Social Control Perspective on Juvenile Delinquency.<sup>108</sup>

On the basis of its review of these papers and other pertinent literature, the Task Force developed standards focusing on the content of possible delinquency prevention programs in nine general areas: the health system,<sup>109</sup> family services,<sup>110</sup> the educational system,<sup>111</sup> employment opportunities,<sup>112</sup> the justice system,<sup>113</sup> recreation,<sup>114</sup> housing,<sup>115</sup> religion,<sup>116</sup> and the media.<sup>117</sup> The Task Force states:

These programmatic proposals represent a present state of knowledge which, although imperfect, does have concrete implications for public and private action.<sup>118</sup>

In general, the standards call for improved social services and expanded opportunities for juveniles.

Rather than recounting all of the specifics here, the standards on youth employment (3.22 through 3.28) may be selected as illustrative. Standard 3.22, for example, urges all levels of government to "initiate or expand programs that develop job opportunities for youth." It calls for "a comprehensive employment and manpower strategy" that includes job training and the elimination of discriminatory hiring practices.<sup>119</sup> Standard 3.23 addresses the development of programs for juveniles in community job placement and information centers.<sup>120</sup> A corollary standard (3.24) focuses on employment counseling and work-study programs in the schools.<sup>121</sup> And Standard 3.25 urges individual communities to make special efforts to develop programs of summer employment opportunities for youth.<sup>122</sup> The two standards which follow (3.26 and 3.27) speak to expanding employment opportunities for juveniles with a prior history of delinquency.<sup>123</sup> And the final standard in the series (3.28), titled Age and Wage Restrictions, urges Federal and State governments to "examine thoroughly their legislation that affects youth employment."<sup>124</sup> It concludes:

Laws that restrict youth employment opportunities without real risks to health or development should be removed or revised.<sup>125</sup>

The National Advisory Committee has organized its prevention strategies in a somewhat different fashion than the Task Force standards, reflecting a slightly different thought process. The NAC states:

The framework is divided into four levels:

Theoretical Focal Point  
Type of Prevention  
Areas of Emphasis  
Possible Strategy.<sup>126</sup>

There are three Theoretical Focal Points: The Individual, Social Institutions, and Social Interaction. And the NAC identifies and defines four Types of Prevention: Corrective, Instructional, Mechanical, and Redefinition.<sup>127</sup> This schema is probably intended to identify more clearly the strategies' underlying assumptions regarding the causes of delinquency and the outcomes that the suggested programs are designed to achieve. In any event, the specifics of the recommendations are very similar to those of the Task Force, since the Areas of Emphasis cover precisely the same nine subjects addressed by the latter group (viz., the family,<sup>128</sup> health,<sup>129</sup> education,<sup>130</sup> employment,<sup>131</sup> recreation,<sup>132</sup> religion,<sup>133</sup> the justice system,<sup>134</sup> housing,<sup>135</sup> and the media<sup>136</sup>), and many of the NAC's prevention strategies are built upon the earlier Task Force standards.

Again by way of illustration, some of the particulars of the several strategies on education may be explored here. Nine of the 37 NAC prevention strategies are pertinent to this subject. Among the Focal Points, three of the strategies are directed to The Individual, five to Social Institutions, and one to Social Interaction. As to Type of Prevention, all nine are classified as Corrective. This is in keeping with the NAC's characterization of Corrective strategies in the following terms:

Corrective prevention strategies address the conditions which are believed to cause or lead to delinquent or criminal activity--e.g., poverty or a lack of adequate educational opportunities. This category constitutes the most common types of prevention. It is based on the principle that deviant behavior can be corrected through the elimination or neutralization of the causes of that behavior, and that juveniles exhibiting deviant behavior tendencies can be prevented from becoming adjudicated delinquents through the correction of the conditions responsible for generating the delinquent behavior.<sup>137</sup>

Under Focal Point: The Individual, Strategies Cor. Ed-1 and Cor. Ed-2 discuss learning disabilities and problems in learning, respectively. Each encourages the provision of an array of diagnostic, treatment, and educational services for juveniles suffering from these problems; and the former endorses "support of research to ascertain the relationship of learning disabilities to delinquency."<sup>138</sup> The other strategy in this series (Cor. Ed-3), titled Supportive Services, recommends that educational systems provide "a continuum of supportive services to all children and their families with particular emphasis on troubled or troubling children."<sup>139</sup> The accompanying commentary observes that:

Supportive services have traditionally been taken to mean counseling. This strategy, however, contemplates a broader interpretation which includes educational and supportive social services....

Supportive services include testing and diagnostic services, academic planning, remedial programs, tutorial assistance, medical and dental

screening, nutritional programs, consumer education, and counseling. Different types of counseling such as career, personal, health, legal, and welfare counseling may be necessary.<sup>140</sup>

As noted above, there are five Social Institutions strategies pertinent to education.

The Social Institutions Focal Point includes those theories which address the manner in which cultural and/or social patterns and institutions influence individuals to conform or deviate from societal norms. This perspective supports efforts for societal and institutional reform which will allow families to raise children who will act in a prosocial manner.<sup>141</sup>

Strategy Cor. Ed-1 under this Focal Point urges close cooperation between students, parents, and teachers "in establishing and achieving agreed-upon objectives of academic proficiency at each level of educational development."<sup>142</sup> Strategy Cor. Ed-3, captioned The Home as a Learning Environment, is essentially a corollary to the first strategy in this series. The commentary to Cor. Ed-3 describes a number of techniques for involving parents both in the formal educational process and the child's informal learning experience.<sup>143</sup> Strategy Cor. Ed-2 urges the development of "alternative educational experiences which encourage experimentation and diversity in curriculum, instructional methods and administrative organization of the learning process," and the accompanying commentary outlines a series of examples of alternative educational programs.<sup>144</sup> Strategy Cor. Ed-4 suggests the utilization of school facilities and resources by the local community during nonschool hours, and the attendant commentary is, again, replete with examples of the types of programs that are contemplated.<sup>145</sup> The last strategy in this series, Cor. Ed-5, addresses career education. It recommends that the educational system "in conjunction with other appropriate community resources" provide educational experiences in specific areas of employment. The commentary notes the importance of satisfying employment opportunities in avoiding or curtailing delinquent behavior and states:

Relating education to employment makes learning more than an intellectual exercise. It prepares a juvenile for an entrance into the world of adults. Career education generally includes teaching job skills, offering placement services and on-the-job training.<sup>146</sup>

Finally, one strategy under Focal Point: Social Interaction concerns education. This strategy, titled De-emphasis on Labeling, predictably addresses the emerging literature on labeling theories. It urges

[t]he development of methods to limit and restrict the labeling of youth in the educational setting due to [the youth's] social, physical, emotional, intellectual, and economic limitations.<sup>147</sup>

Other Task Force standards and NAC prevention strategies could, of course, have been selected instead of, or in addition to, those reviewed here. But the foregoing will perhaps suffice to convey the general tenor and direction of the standards and strategies in the other areas, as well.

#### MATRIX OF INTERRELATED STANDARDS

For readers who wish to explore individual issues in greater detail, Table 2 on the following pages uses the National Advisory Committee's prevention strategies and standards as bases for comparison and identifies the interrelationships of all of the major directives on delinquency prevention that were surveyed in this review.

Immediately following the matrix are index pages, together with instructions for their use. These will permit ready identification of the subject-matter being compared.



TABLE 2  
Interrelated Standards on Delinquency Prevention

Prevention Strategies	Report of the Task Force																																																									
	1.1	1.2	1.3	1.4	1.5	1.6	1.7	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3.1	3.2	3.3	3.4	3.5	3.6	3.7	3.8	3.9	3.10	3.11	3.12	3.13	3.14	3.15	3.16	3.17	3.18	3.19	3.20	3.21	3.22	3.23	3.24	3.25	3.26	3.27	3.28	3.29													
Cor. F-1																					•	•																																				
Cor. F-2																				•																																						
Cor. F-3																					•																																					
Cor. H-1																		•	•																																							
Cor. H-2																		•	•																																							
Cor. H-3																		•	•		•	•																																				
Cor. Ed-1																																																										
Cor. Ed-2																																																										
Cor. Ed-3																																																										
Cor. Em-1																																																										
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Cor. Ed-4																																																										
Cor. Ed-5																																																										
Cor. Em-1																																																										
Cor. Em-2																																																										
Cor. Em-3																																																										
Cor. J-1																																																										
Cor. Re-1																																																										
Cor. Ho-1																																																										
In. J-1																																																										
In. J-2																																																										
In. M-1																																																										





TABLE 2  
Interrelated Standards on Delinquency Prevention (Cont'd)

NAC Final Report (Cont'd) Prevention Strategies	Report of the Task Force (Cont'd)																		IJA/ABA Planning					IJA/ABA Youth Service Agencies																															
	3.30	3.31	3.32	3.33	3.34	3.35	3.36	3.37	3.38	3.39	3.40	3.41	3.42	3.43	3.44	25.1	25.2	25.3	25.4	26.1	26.2	26.3	26.4	26.5	27.1	27.2	27.3	27.4	2.1	2.2	2.4	3.1	3.2	3.3	3.4	3.5	2.1	3.1	4.1	4.2	4.3	5.5	5.6	5.7	7.1										
	3.30	3.31	3.32	3.33	3.34	3.35	3.36	3.37	3.38	3.39	3.40	3.41	3.42	3.43	3.44	25.1	25.2	25.3	25.4	26.1	26.2	26.3	26.4	26.5	27.1	27.2	27.3	27.4	2.1	2.2	2.4	3.1	3.2	3.3	3.4	3.5	2.1	3.1	4.1	4.2	4.3	5.5	5.6	5.7	7.1										
Mec. J-1	●															●	●																																						
Mec. J-2				●																																																			
Mec. Ho-1	●	●								●	●																																												
Mec. F-1	●	●	●							●	●																																												
Cor. J-1																																																							
Cor. J-2																																																							
Cor. Ed-1																																																							
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NAC Final Report

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Parent Training	Cor. F-2
Protective Services	Cor. F-3
Diagnostic Services	Cor. H-1
Preventive and Maintenance Services	Cor. H-2
Treatment Services	Cor. H-3
Learning Disabilities	Cor. Ed-1
Problems in Learning	Cor. Ed-2
Supportive Services	Cor. Ed-3
Preparative and Supportive Counseling	Cor. Em-1
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NAC Final Report (Cont'd)

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- 1.4 Clarifying Delinquency Prevention Goals
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- 2.4 The Federal Role in Delinquency Prevention
- 2.5 Organizational Capacity to Act
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- 3.38 Recreation--Selection of Staff
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- 3.40 Housing--Street Safety
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- 3.42 Religion--Contributions to Delinquency Prevention
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- 5.7 Service Provision
- 7.1 Planning

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(Cont'd)

IJA/ABA  
PLANNING

IJA/ABA  
YOUTH SERVICE  
AGENCIES

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## NOTES

For a complete listing of the abbreviations used in these notes,  
see Appendix B on pages 83-85.

1. NAC Final Report, Introduction to the Prevention Function. For a slightly different definitional approach, see Report of the Task Force, pp. 23-25.
2. The National Advisory Committee stipulates that its definition of prevention programs should not be read as excluding juveniles alleged to have committed delinquent acts, who are diverted from formal processing in the juvenile justice system--provided "this diversion occurs without continuing supervision or the threat of prosecution if an offer of services is declined either initially or over a period of time." NAC Final Report, Introduction to the Prevention Function. See also Report of the Task Force, pp. 24-26, 142-44 (accord). This stipulation seems intended primarily to ensure that juveniles who are diverted are not barred from voluntary participation in service programs available to the juvenile community at large--a position with which the IJA/ABA, an organization which expresses rather sharply its philosophical reservations about prevention programs generally, is in agreement. See IJA/ABA Youth Service Agencies, Standard 2.1 (pp. 37-38). See also IJA/ABA Summary and Analysis, pp. 28, 35-36, 265.

As the following Comparative Analysis on Diversion will note, diversion: (1) is based upon the commission of a legally proscribed act; and, (2) may (or may not) involve some degree of coercion in the provision of services--stemming, for example, from retention for a specified period of time of the authority to file formal charges against the juvenile, depending upon the outcome of the diversionary effort. By contrast, prevention programs (while they do, indeed, allow for diverted juveniles' voluntary involvement) do not presuppose previous illegal conduct; and, under the terms adopted here, insofar as participation is secured coercively, such services may not accurately be characterized as prevention programs.

3. Report of the Task Force, p. 27.
  4. See, e.g., id., pp. 21-30.
  5. See id., pp. 23-30, 51-54; NAC Final Report, Foreword, Introduction to the Prevention Function, Introduction to the Administration Function.
  6. 42 U.S. Code Sec. 5602(b) (1979 Supp.). See also id., Sec. 5601(a)(5), 5601(b), 5602(a)(6), 5603(3).
- For some specifics regarding the Federal role in prevention activities, see, e.g., id., Sec. 5611, 5614(a), 5614(b)(2), 5614(b)(5), 5614(i), 5614(1)(2), 5617, 5618, 5651 through 5654, 5657, 5659, 5660.
7. Id., Sec. 5633(a)(10). The Act also specifies that the advisory group called for in the State planning process should include personnel with expertise in prevention. See id., Sec. 5633(a)(3)(C). See also id., Sec. 5633(a)(3)(F).
  8. Id., Sec. 5633(a)(10)(A). See also id., Sec. 5633(a)(10)(B).

9. Id., Sec. 5633(a)(10)(C). See also id., Sec. 5633(a)(10)(E).
10. Id., Sec. 5633(a)(10)(G). See also id., Sec. 5633(a)(15).
11. Id., Sec. 5634(a)(4). See also id., Sec. 5634(a)(1).
12. Id., Sec. 5633(a)(10)(E). See also id., Sec. 5634(a)(6). The Act also makes specific mention of programs designed to assist juveniles with learning disabilities. See, e.g., id., Sec. 5634(a)(11).
13. Id., Sec. 5601(a)(5).
14. Id., Sec. 5634(a)(8). See also id., Sec. 5633(a)(10)(C), 5655(c)(5).
15. Sources: NAC Final Report, Prevention Strategies: Focal Point The Individual--Strategies Cor. F-1 through Cor. F-3, Cor. H-1 through Cor. H-3, Cor. Ed-1 through Cor. Ed-3, Cor. Em-1, Cor. Rc-1, Cor. R-1; Focal Point Social Institutions--Strategies Cor. F-1 through Cor. F-3, Cor. Ed-1 through Cor. Ed-5, Cor. Em-1 through Cor. Em-3, Cor. J-1, Cor. Rc-1, Cor. Ho-1, In. J-1 and In. J-2, In. M-1, Mec. J-1 and Mec. J-2, Mec. H-1, Mec. F-1; Focal Point Social Interaction--Strategies Cor. J-1 and Cor. J-2, Cor. Ed-1, Re. J-1; Standards 1.111 through 1.114, 1.121 through 1.126, 1.21 through 1.29, 1.31 and 1.32.  
  
Report of the Task Force, Standards 1.1 through 1.7 (pp. 35-48), 2.1 through 2.9 (pp. 55-75), 3.1 through 3.44 (pp. 84-174), 25.1 through 25.4 (pp. 730-36), 26.1 through 26.5 (pp. 741-50), 27.1 through 27.4 (pp. 755-65).  
  
IJA/ABA Planning, Standards 2.1 (pp. 42-52), 2.2 (pp. 52-58), 2.4 (pp. 70-74), 3.1 through 3.5 (pp. 74-94); IJA/ABA Youth Service Agencies, Standards 2.1 (pp. 37-38), 3.1 (p. 39), 4.1 through 4.3 (pp. 39-42), 5.5 through 5.7 (pp. 52-61), 7.1 (p. 65), 7.4 (pp. 65-67); IJA/ABA Summary and Analysis, pp. 22-23, 27-37, 234-35, 264-65, 270.
16. Report of the Task Force, p. 27.
17. Id., p. 13.
18. See id., pp. 23-174. See also id., pp. 727-65.
19. See generally NAC Final Report, The Prevention Function and Standards 1.111 through 1.32.
20. Report of the Task Force, p. 23.
21. See, e.g., IJA/ABA Summary and Analysis, pp. 22-23, 27-37, 234-35, 264-65, 270.
22. Id., p. 265.
23. Id., p. 270. See also id., p. 267.
24. As the subsequent Comparative Analysis on Deinstitutionalization of Status Offenders and Nonoffenders will illustrate, the IJA/ABA also rejects the position that such noncriminal misbehavior as truancy or running away can

accurately be characterized as "predelinquent" conduct or predictive of subsequent delinquent activity. Thus, it urges that the court's traditional jurisdiction over status offenses be revoked and that (with limited exceptions) coercive intervention not be authorized in cases of this nature. Nevertheless, the IJA/ABA both approves and encourages the voluntary provision of services in such circumstances.

25. See note 21.
26. IJA/ABA Youth Service Agencies, p. 3.
27. See notes 1 and 2 and accompanying text.
28. See generally IJA/ABA Youth Service Agencies, pp. 1-23.
29. Report of the Task Force, p. 23 (footnote omitted).
30. Id., p. 28.
31. Id.
32. See, e.g., NAC Final Report, Foreword, Introduction to the Prevention Function, Introduction to the Administration Function, Standards 1.111 through 1.114.
33. Report of the Task Force, p. 29.
34. Id., p. 25.
35. Id., p. 55.
36. Id., p. 57.
37. Id., p. 55. See also id., Standard 25.1 (pp. 730-31).
38. Id., p. 66.
39. Id., p. 59.
40. Id.
41. Id., p. 56.
42. Id., p. 63. Subsequent standards also stress the importance of including representatives of the juvenile population in all important decisionmaking bodies. See id., Standards 2.7 (pp. 68-70) and 25.3 (pp. 733-34).
43. Id., p. 64. For the Task Force's comments on the importance of providing adequate resources for prevention programs, see id., Standards 2.8 (pp. 71-73), 2.9 (pp. 74-75), and 25.2 (p. 732).
44. Id., p. 53.

45. See also *id.*, Standards 25.1 (pp. 730-31) and 25.3 (pp. 733-34).
46. See also *id.*, Standard 25.3 (pp. 733-34).
47. For the Task Force's view on the appropriate Federal role in delinquency prevention activities, see *id.*, Standard 2.4 (pp. 61-62).
48. NAC Final Report, Standard 1.111.
49. *Id.*, Introduction to the Administration Function.
50. *Id.*, Commentary to Standard 1.111.
51. *Id.*, Standard 1.121.
52. *Id.*, Commentary to Standard 1.121. In this commentary (and in the commentary to its Standard 4.11), the NAC emphasizes that this proposed State planning and coordinating agency should be "separate from [State] agencies responsible for direct service provision." What is at issue here is not State agencies providing prevention services--since those are viewed as primarily a local concern--but rather the State agency charged with administering correctional programs which is proposed in a subsequent standard. See *id.*, Standard 4.11.
- Incidentally, all three of the groups surveyed here concur in the view that juvenile correctional services should be administered under the aegis of a single State agency. But--in contrast to the NAC position--the Task Force standards would (apparently) permit, and the IJA/ABA standards would (apparently) require, the State agency responsible for those correctional programs to also undertake planning functions for the juvenile justice system as a whole. See Report of the Task Force, Standards 2.3 (pp. 59-60), 19.2 (pp. 613-14), 19.3 (pp. 615-16), and 25.1 (pp. 730-31); IJA/ABA Planning, Standards 2.1 (pp. 42-52) and 2.2 (pp. 52-58); NAC Final Report, Commentary to Standards 1.121 and 4.11. See also IJA/ABA Summary and Analysis, pp. 234-35.
53. The NAC standards are a bit more precise, though, in their stipulation that the same agencies should plan (though not administer) both prevention programs and services delivered within the formal structure of the juvenile justice system itself. Compare NAC Final Report, Standards 1.111 and 1.21, and Commentary with Report of the Task Force, Standards 2.2 (pp. 57-58), 2.3 (pp. 59-60), 19.2 (pp. 613-14), 19.3 (pp. 615-16), 25.1 (pp. 730-31), and 25.3 (pp. 733-34). Also, of course, there is the difference of views mentioned in note 52.
54. NAC Final Report, Commentary to Standard 1.111. For the NAC's views on the appropriate Federal role in prevention programs, see *id.*, Standards 1.131 through 1.134.
55. See IJA/ABA Planning, pp. 42-43, 49-50.
56. IJA/ABA Planning, p. 1. This approach is "based on the observation that change in services to juveniles has historically tended to arise from the efforts of others than those formally mandated as planners." *Id.*
57. See generally *id.*, Standards 3.1 through 3.5 (pp. 74-94). See also *id.*, Standards 2.1 (pp. 42-52) and 2.2 (pp. 52-58).

- Probably, the statement in the text is correct. But, as the IJA/ABA Summary and Analysis volume notes, the different volumes in the project are not fully consistent in outlining the State agency's duties. See *id.*, pp. 234-35. And see, e.g., IJA/ABA Corrections, Standards 2.1 (pp. 49-52), 2.2 (pp. 52-53), 2.3 (pp. 53-55), and 3.1 (pp. 62-63); IJA/ABA Juvenile Probation, Standards 4.1 through 4.4 (pp. 123-36); IJA/ABA Interim Status, Standards 11.1 and 11.2 (pp. 102-05); IJA/ABA Youth Service Agencies, Standards 1.1 (pp. 35-37), 3.1 (p. 39), and 7.1 through 7.5 (pp. 65-67).
58. See note 52.
59. The caveat in paragraph two of note 57 is, of course, applicable here also.
60. See IJA/ABA Planning, Standards 2.4 (pp. 70-74), and 3.1 through 3.5 (pp. 74-94).
61. See IJA/ABA Youth Service Agencies, Standards 1.1 (pp. 35-37) and 3.1 (p. 39).
62. See *id.*, Standards 5.5 (pp. 52-53), 5.6 (p. 53), and 7.1 (pp. 65-67).
63. IJA/ABA Summary and Analysis, p. 270.
64. *Id.*
65. NAC Final Report, Foreword.
66. *Id.*, Introduction to the Administration Function.
67. Report of the Task Force, pp. 28-29.
68. *Id.*, p. 33.
69. NAC Final Report, Standard 1.112.
70. See *id.*, Standard 1.122 and Commentary. See also *id.*, Standards 1.121 and 1.123 and Commentary.
71. *Id.*, Introduction to the Administration Function. See generally *id.*, Standards 1.21 through 1.29 and Commentary.
72. *Id.*, Commentary to Standard 1.21.
73. *Id.*
74. In addition, the NAC's Standards 1.27 through 1.29 are relevant to its Standard 1.123 on Development of State Standards and Guidelines.
75. *Id.*, Standard 1.113.
76. *Id.*, Standard 1.114.
77. See *id.*, Standard 1.125. For the NAC's view of the specifics of the evaluation process, see *id.*, Standards 1.31 and 1.32.

78. One difference should perhaps be noted: NAC Standard 1.112 is more explicit, as are the other NAC standards reviewed above, in emphasizing that delinquency prevention planning should be integrated with planning and coordinating efforts for the juvenile justice system as a whole. By contrast, Task Force Standard 1.1 is, strictly speaking, related only to planning for prevention programs, as are all of the other standards in Chapter 1 of the Report of the Task Force-- though subsequent standards (in Chapters 25 through 27 of id.) indicate that the process described in Chapter 1 should be integrated into the planning and evaluation procedure for the juvenile justice system in its entirety.
79. Report of the Task Force, p. 35.
80. See, e.g., the text accompanying note 68.
81. Report of the Task Force, p. 35.
82. The standards in Chapter 26 are also pertinent here. As mentioned in note 78, the standards in this latter chapter (which discuss planning for juvenile justice generally) supplement those in Chapter 1 (which discuss planning for delinquency prevention specifically). While the text will review only the standards in Chapter 1, it may be helpful simply to list the others here, together with their generally descriptive titles. The standards in Chapter 26 of the Report of the Task Force are: 26.1, Analyze the Present Situation (pp. 741-42), 26.2, Develop Goals (pp. 743-44), 26.3, Developing Problem Statements (pp. 745-46), 26.4, Program Development (pp. 747-48), 26.5, Program Implementation (pp. 749-50). See also id., Standards 25.1 through 25.4 (pp. 730-36) (regarding planning and evaluation generally) and 27.1 through 27.4 (pp. 755-65) (regarding evaluation).
83. See id., pp. 37-38. See also id., Standards 25.4 (pp. 735-36) and 26.1 (pp. 741-42).
84. See id., pp. 39-40. See also id., Standards 26.1 (pp. 741-42) and 26.3 (pp. 745-46).
85. Id., p. 41. See also id., Standard 26.2 (pp. 743-44).
86. See id., pp. 43-44. See also id., Standards 26.1 (pp. 741-42) and 26.3 (pp. 745-46).
87. Id., p. 45. See also id., Standards 26.3 through 26.5 (pp. 745-50).
88. Id., p. 45.
89. Id. The commentary continues: "This does not mean that each program must clear some exact percentage reduction in the rate of delinquency, but there should be a statement of the anticipated number of clients to be served, the levels of service to be provided and cost data." Id.
90. Id., p. 47. See also id., Standards 27.1 through 27.4 (pp. 755-65).
91. Id., p. 47.

92. IJA/ABA Youth Service Agencies, p. 65. Regarding the organizational structure, see id., Standards 1.1 (pp. 35-37) and 3.1 (p. 39). As to the evaluation procedure to be undertaken once the program is in place, see id., Standard 6.3 (pp. 62-65). See also IJA/ABA Monitoring, Standards 5.1 (pp. 74-77), 8.1 (p. 87), and 10.1 (pp. 93-97).
93. See IJA/ABA Youth Service Agencies, pp. 52-53.
94. See id., p. 53. See also id., Standards 2.1 (pp. 37-38) and 5.7 (pp. 53-61).
95. See notes 57 and 59 and accompanying text.
96. IJA/ABA Planning, pp. 90-91.
97. See id., Standard 3.1 (pp. 75-76).
98. See id., Standard 3.2 (pp. 76-82).
99. Id., p. 75. See also id., Standard 3.3 (pp. 82-85).
100. Id., p. 82.
101. Id., pp. 75-76. See also id., Standard 3.4 (pp. 86-90).
102. Id., p. 86.
103. See id., pp. 90-93. To be fully precise, Standard 3.5 uses the terms "simplicity," "focus," and "flexibility."
104. It should also be mentioned that the IJA/ABA's Youth Service Agencies volume does contain one standard on the suggested content of service programs. See id., Standard 5.7 (pp. 53-61). See also IJA/ABA Noncriminal Misbehavior, Standards 4.1 through 4.4 (pp. 52-55).
105. See the text accompanying note 65.
106. NAC Final Report, Introduction to the Prevention Function.
107. See Report of the Task Force, pp. 23-30, 77-83.
108. Id., p. 77. See also id., pp. 78-80.
109. See id., Standards 3.1 and 3.2 (pp. 84-87).
110. See id., Standards 3.3 through 3.8 (pp. 88-100).
111. See id., Standards 3.9 through 3.21 (pp. 101-26).
112. See id., Standards 3.22 through 3.28 (pp. 127-41).
113. See id., Standards 3.29 through 3.33 (pp. 142-53).
114. See id., Standards 3.34 through 3.38 (pp. 154-63).



115. See id., Standards 3.39 through 3.41 (pp. 164-69).
116. See id., Standard 3.42 (pp 170-71).
117. See id., Standards 3.43 and 3.44 (pp. 172-74).
118. Id., p. 30.
119. See id., pp. 127-29.
120. See id., pp. 130-31.
121. See id., pp. 132-33.
122. See id., pp. 134-35.
123. See id., pp. 136-39.
124. See id., pp. 140-41.
125. Id., p. 140.
126. NAC Final Report, Introduction to the Prevention Function.
127. See generally id.
128. See id., Prevention Strategies: Focal Point The Individual--Strategies Cor. F-1 through Cor. F-3; Focal Point Social Institutions--Strategies Cor. F-1 through Cor. F-3, and Strategy Mec. F-1.
129. See id., Prevention Strategies: Focal Point The Individual--Strategies Cor. H-1 through Cor. H-3.
130. See id., Prevention Strategies: Focal Point The Individual--Strategies Cor. Ed-1 through Cor. Ed-3; Focal Point Social Institutions--Strategies Cor. Ed-1 through Cor. Ed-5; Focal Point Social Interaction--Strategy Cor. Ed-1.
131. See id., Prevention Strategies: Focal Point The Individual--Strategy Cor. Em-1; Focal Point Social Institutions--Strategies Cor. Em-1 through Cor. Em-3.
132. See id., Prevention Strategies: Focal Point The Individual--Strategy Cor. Rc-1; Focal Point Social Institutions--Strategy Cor. Rc-1.
133. See id., Prevention Strategy: Focal Point The Individual--Strategy Cor. R-1.
134. See id., Prevention Strategies: Focal Point Social Institutions--Strategy Cor. J-1, Strategies In. J-1 and In. J-2, and Strategies Mec. J-1 and Mec. J-2; Focal Point Social Interaction--Strategies Cor. J-1 and Cor. J-2, and Strategy Re. J-1.
135. See id., Prevention Strategies: Focal Point Social Institutions--Strategy Cor. Ho-1, and Strategy Mec. H-1.

136. See id., Prevention Strategy: Focal Point Social Institutions--Strategy In. M-1.
137. Id., Introduction to the Prevention Function.
138. See id., Prevention Strategies: Focal Point The Individual--Strategies Cor. Ed-1 and Cor. Ed-2.
139. See id., Prevention Strategy: Focal Point The Individual--Strategy Cor. Ed-3.
140. Id., Commentary to Prevention Strategy: Focal Point The Individual--Strategy Cor. Ed-3.
141. Id., Introduction to the Prevention Function.
142. See id., Prevention Strategy: Focal Point Social Institutions--Strategy Cor. Ed-1.
143. See id., Prevention Strategy: Focal Point Social Institutions--Strategy Cor. Ed-3 and Commentary.
144. See id., Prevention Strategy: Focal Point Social Institutions--Strategy Cor. Ed-2 and Commentary.
145. See id., Prevention Strategy: Focal Point Social Institutions--Strategy Cor. Ed-4 and Commentary.
146. Id., Commentary to Prevention Strategy: Focal Point Social Institutions--Strategy Cor. Ed-5.
147. Id., Prevention Strategy: Focal Point Social Interaction--Strategy Cor. Ed-1.

## **Diversion**

### DESCRIPTION OF THE ISSUE

Consistent adherence to the principles that originally spawned the juvenile justice system--a system which may itself be viewed as a wholesale "diversion" of juvenile offenders from the mechanisms for handling adult criminals--has long led to recognition that formal judicial processing may be inappropriate in many cases where the juvenile's conduct technically authorizes the court's jurisdiction. Thus, the bulk of police contacts do not result in a referral to the juvenile intake unit. So, too, fewer than half of the cases processed by intake personnel culminate in filing a petition to the court.<sup>1</sup> But in many of these cases of "early exit" from full-dress processing the provision of social services for the juvenile offender is viewed as appropriate.

[D]iversion refers to formally acknowledged...efforts to utilize alternatives to...the justice system. To qualify as diversion, such efforts must be undertaken prior to adjudication and after a legally proscribed action has occurred....Diversion implies halting or suspending formal criminal or juvenile justice proceedings against a person who has violated a statute in favor of processing through a non-criminal disposition.<sup>2</sup>

At present, diversion is widely practiced throughout the juvenile justice system--often in a very informal fashion and, in some instances, with few if any strictures on administrative discretion governing the conditions that are imposed.<sup>3</sup> This analysis reviews the postures of the Juvenile Justice and Delinquency Prevention Act and of the various standards-issuing groups toward the subject of diversion generally and, more specifically, the directives on diversion targeted to (1) police and (2) intake personnel.

### PERTINENT PROVISIONS OF THE ACT\*

The Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is replete with references to diversion, mentioning the subject explicitly at least seven times.<sup>4</sup> For example, in the purposes section of the Act it is specified as the "declared policy of Congress" to provide "the necessary resources, leadership, and coordination" to, among other things, "develop and conduct effective programs...to divert juveniles from the traditional juvenile justice system."<sup>5</sup> Moreover, the definitions section incorporates the term "diversion" in its broad-scoped definition

\* After this Comparative Analysis was completed and while it was undergoing final editorial review, the 1980 Amendments to the JJDP Act were approved. The text above discusses the Act, as amended through 1977. Appendix A on pages 81 and 82 of the present volume identifies those portions of the 1980 Amendments relevant here.

of "juvenile delinquency program,"<sup>6</sup> suggesting that the Act's several references to the latter phrase should be read expansively to encourage the use of diversion in appropriate cases.

The two most substantial references to diversion are found in the delineation of "advanced techniques" in Sec. 223(a)(10) and the listing of "special emphasis prevention and treatment programs" in Sec. 224. Among the "advanced techniques," to which the lion's share of the funds that the States receive under the formula grant program are to be devoted, are:

[Y]outh service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and other youth to help prevent delinquency.<sup>7</sup>

Under the "special emphasis" section additional grants are authorized to:

[D]evelop and implement effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.<sup>8</sup>

Overall, these and other references to diversion sprinkled throughout the Act<sup>9</sup> appear to manifest a clear congressional intent to be strongly supportive of the general concept of diversion and, at the same time, rather nondirective as to the specific features which should characterize such programs--an approach very possibly intended to encourage experimentation among the States.

#### SUMMARY OF POSITIONS RECOMMENDED BY STANDARDS GROUPS

Table 1 on page 51 summarizes, in a general fashion, the recommendations of the four standards groups surveyed here which are pertinent to diversion. The subsequent discussion in the Analysis of the Standards section elaborates the positions identified summarily in Table 1.

Table 1

Summary of Positions Recommended by Standards Groups<sup>10</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
In General	Encourages the development of diversion efforts as a "prevention strategy."	Urges the development and use of diversion programs.	Recommends the formation of youth service agencies; strongly endorses diversion; offers detailed guidelines.	Because of the correctional focus of the project, addresses the issue only briefly re: intake.
Police	Specifies that decisions to take into custody or refer to intake should be made pursuant to written guidelines. Outlines criteria for these decisions. Also describes procedures to follow when a juvenile is not referred to intake. Prohibits police probation.	Recommends employing the "least coercive alternative" appropriate; urges use of diversion pursuant to written guidelines; suggests only cases of serious or repeated law violations be referred to intake; and, proscribes police probation.	Urges using "least restrictive alternative" appropriate. Diversion pursuant to written guidelines to be "an official policy." Elaborates detailed decision criteria. Prohibits informal probation. Requires written statement if a juvenile is <u>not</u> diverted.	Does not address the issue.
Intake	Requires written guidelines for the intake decision and specifies factors to be considered in the decision. Authorizes deferral of decision on whether to file petition for 30 days following decision to refer to services. Provides right to counsel at intake or earlier.	Calls for written guidelines for intake decision, but does not list criteria. Allows 90-day extension of filing decision when juvenile is referred to services. Right to counsel attaches at "earliest feasible stage"--"at least" at intake.	Requires written guidelines for all aspects of intake. Posits criteria for intake decisions. Filing decision (apparently) may be deferred (briefly) following a formal referral to services. Requires a written statement if a juvenile is <u>not</u> diverted. Right to counsel applies at "earliest stage" of processing, including intake.  In general, far more specific regarding diversion than other standards groups.	Recommends written policies and procedures for referrals to noncourt services. Such referrals are to be voluntary, pursuant to written agreement, and capable of completion within a specified time. Proscribes "nonjudicial probation and other forms of conditional dispositions."

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Summary of Positions: I. In General: All four groups support official use of diversion and disapprove of "informal probation."

II. Police: Three groups recommend diversion by police pursuant to written guidelines; two of these posit detailed criteria for the diversion decision (and the third does so in commentary). One of the three groups requires a written statement if the juvenile is not diverted.

III. Intake: All four groups call for written guidelines at intake. Three provide right to counsel at intake or earlier. At least two groups authorize deferring the filing decision for a specified time after referral to services. One group requires a written statement if a juvenile is not diverted.

## ANALYSIS OF THE STANDARDS

While the individual standards-issuing groups vary as to how specifically they address diversion, they agree across-the-board on certain key value choices. For example, there is consensus on formally recognizing and encouraging the use of diversion programs, and each group tenders essentially the same justifications for these practices. In the course of a fairly extensive review of the literature in this area, the IJA/ABA's volume on Youth Service Agencies identifies a dual rationale for diversion, composed of a "cost concern" and a "humanitarian concern."<sup>11</sup> Commentaries in both the Report of the Task Force on Juvenile Justice and Delinquency Prevention and the National Advisory Committee's volume emphasize these same two factors.<sup>12</sup> Thus, the Task Force indicates that cost-effective use of scarce judicial resources is best promoted by reserving formal processing to cases involving serious misconduct. Similarly, the National Advisory Committee comments that:

Many juvenile courts are already so overloaded with cases that additional juveniles would further diminish individual attention.<sup>13</sup>

In general, though, this pragmatic focus on targeting scarce resources to areas of greatest need is seen as only a partial or subsidiary justification for diversion; the bulk of the discussion and analysis is directed to what the IJA/ABA's volume refers to as the "humanitarian concern." Hence the National Advisory Committee remarks that:

[T]he most important reason for diversion is the ill-effect that the system can have on some juveniles.

If a juvenile is labeled by the system, he/she sometimes becomes stigmatized. The juvenile's family, friends, and school officials may treat the juvenile differently....Certain expectations are set for the youth who may then see no alternative but to continue committing delinquent acts. Rather than assisting the juvenile, the court experience may produce a negative self-image.<sup>14</sup>

Both the IJA/ABA and the Task Force concur, with each group citing some of the extensive literature in support of labeling theories that has emerged in recent years.<sup>15</sup>

All of the sets of standards reviewed here also agree on another basic point: the importance of increased formalization of the diversion process. Consistent with the post-Gault<sup>16</sup> emphasis on procedural fairness, each of the four groups calls for the official issuance of written guidelines to govern the diversion decision, and each condemns informal probation practices. Moreover, while there are variations in approach, all of the standards-issuing organizations stress the importance of voluntary participation in noncourt service programs. Thus, each set of standards establishes mechanisms limiting the coercive measures, if any, that may be used to assure the juvenile's participation in diversionary alternatives.

### Police

Three of the four standards groups--the National Advisory Committee, the Task Force, and the IJA/ABA--address the issue of diversion in the context of police operations. The Task Force, for example, specifies in Standard 5.10 that:

Where permitted by law, every police agency should immediately divert from the juvenile justice system any juvenile for whom formal proceedings would be inappropriate or other resources more effective. All such police diversion decisions should be made pursuant to written agency policy that ensures fairness and uniformity of treatment.

Police chief executives should develop written policies and procedures that allow juveniles to be diverted from formal proceedings in appropriate cases. Such policies and procedures should be prepared in cooperation with other elements of the juvenile justice system.<sup>17</sup>

In Standard 5.7, the Task Force again endorses referrals for noncourt services, but emphasizes that police handling of juvenile matters

should not include the imposition of sanctions by the police, nor should the police be permitted to place juveniles on police probation.<sup>18</sup>

Both the National Advisory Committee and the IJA/ABA agree on the importance of formulating written guidelines to structure the exercise of police discretion,<sup>19</sup> and both highlight the fact that these guidelines should be the product of careful consultation with other interested agencies.<sup>20</sup> They also concur in the view that informal, police-administered probation programs should be prohibited.<sup>21</sup>

The principal point at which the various groups diverge in opinion is in their respective assessments of the appropriate criteria for decisionmaking. As is apparent from the above-cited language in Standard 5.10, the Task Force did not choose to delineate particularized criteria in the standard itself. But in the commentary to that standard the Task Force recommends that the following nine factors be assessed in determining whether to divert a juvenile from formal processing: the nature of the alleged delinquent act; the complainant or victim's rights; the suspect's age; the suspect's employment or family responsibilities, or both; the nature of the problem that led to the alleged delinquent act; the suspect's attitude toward self-improvement; the suspect's character; the availability of community-based rehabilitation programs; and the responsibility of the juvenile's parents.<sup>22</sup> Task Force Standard 5.11 on Guidelines for Referral to Juvenile Intake should be read as an adjunct to these recommendations. It specifies that:

Police referral of alleged delinquents to juvenile intake should be restricted to those cases involving serious delinquent or criminal conduct or repeated law violations of a more than trivial nature.<sup>23</sup>

Again, the commentary provides more specific guidance: in this instance listing particular types of offenses for which formal processing is deemed essential.

The National Advisory Committee adopts a somewhat different approach. Of the Committee's several directives on police intercession in juvenile matters, the most pertinent to the present discussion is Standard 2.22<sup>1</sup> governing the criteria for police referrals to intake in delinquency cases.<sup>24</sup> This standard requires law enforcement agencies to issue written regulations and specifies that these regulations should authorize referral to intake only if the officer finds that: (1) there is probable cause to believe that the juvenile is subject to the court's jurisdiction, and (2) such referral is appropriate, based on an assessment of the case in terms of the following:

- a. Whether a complaint has already been filed;
- b. The seriousness of the alleged offense;
- c. The role of the juvenile in that offense;
- d. The nature and number of contacts with the law enforcement agency and the family court which the juvenile has had, and the results of those contacts;
- e. The juvenile's age and maturity; and
- f. The availability of appropriate persons or services outside the juvenile justice system willing and able to provide care, supervision, and assistance to the juvenile.<sup>25</sup>

The standard further specifies that:

A juvenile should not be referred to the intake unit solely because he/she denies the allegations or because the complainant or victim insists.<sup>26</sup>

As to the weight to be assigned to the criteria enumerated, the commentary states:

No one of these factors is intended to predominate. Each should be considered and weighed against the others.<sup>27</sup>

A careful comparison of subparagraphs (a) through (f) with the aforementioned Task Force recommendations on diversion (in the commentary to Standard 5.10), together with that group's analysis regarding referrals to intake (in the commentary to Standard 5.11), of course, reveals some areas of agreement, as well as some points of divergence of opinion.<sup>28</sup>

Still another, again slightly different, approach is taken by the IJA/ABA Joint Commission. In its volume on Police Handling of Juvenile Problems, the Joint Commission places repeated emphasis on selecting "the least restrictive alternative" appropriate to the circumstances of the case.<sup>29</sup> Standard 2.5 requires police agencies to "formulate administrative policies structuring the discretion of and providing guidance to individual officers..."

Such policies should stress:

1. avoiding the formal juvenile justice process unless clearly indicated and unless alternatives do not exist;
2. using the least restrictive alternative in attempting to resolve juvenile problems; and
3. dealing with all classes and races of juveniles in an even-handed manner.<sup>30</sup>

The same standard directs that police training programs "should give high priority" to "available and desirable alternatives for handling juvenile problems."<sup>31</sup>

Standard 4.5 in the Youth Service Agencies volume sets forth more detailed criteria for the diversion decision to be rendered by the police. It begins by reiterating the requirement for formal guidelines

to avoid discrimination based on race, color, religion, national origin, sex, or income.<sup>32</sup>

Then the standard states that these guidelines should "at a minimum" comport with the requirements established in subparagraphs A. through E. Subparagraph A. explicitly requires that if, prior to the existence of the diversionary alternative, a juvenile would have been released with a warning, the youth ought not now be formally referred to the diversion program--though it is deemed appropriate to inform the juvenile of the program and encourage voluntary self-referral. In conformity with the IJA/ABA's recommendation to abolish the court's traditional jurisdiction over status offenses, subparagraph B. specifies that these cases ought not be formally referred by police to youth service agencies--though, again, voluntary referrals may be in order.

Subparagraphs C. and D. are structured in terms of the IJA/ABA's classification of offenses scheme, which is outlined in the volume on Juvenile Delinquency and Sanctions. Roughly speaking, the latter categorizes actions that would constitute felonies if committed by adults as class 1, 2, or 3 offenses; and it designates misdemeanors as either class 4 offenses (those punishable by imprisonment for more than 6 months, but less than 1 year) or class 5 offenses (those carrying a maximum prison term of 6 months or less).<sup>33</sup> Subparagraph C. declares that all juveniles accused of class 4 or class 5 offenses who have no prior convictions or formal referrals to the youth service agency should be diverted from formal processing and referred to the agency. Subparagraph D. specifies the same course of action for all other juveniles accused of those same classes of offenses who have been free of involvement with the court for the preceding 12 months.

Finally comes the broad sweeping directive of Subparagraph E.:

Serious consideration should be given to formal diversion of all other apprehended juveniles, taking into account the following factors:

1. prosecution toward conviction might cause serious harm to the juvenile or exacerbate the social problem that led to his or her criminal acts;
2. services to meet the juvenile's needs and problems may be unavailable within the court system or may be provided more effectively by the youth service agency;
3. the nature of the alleged offense;
4. the age and circumstances of the alleged offender;
5. the alleged offender's record, if any;
6. recommendations for diversion made by the complainant or victim.<sup>34</sup>

Once more, there is substantial agreement between these criteria and those proposed by the other groups--again with some minor variations in wording, coupled with a purposeful exclusion of some of those factors recommended in the Task Force's commentary.<sup>35</sup>

One procedural feature unique to the IJA/ABA's proposals, and obviously intended to encourage greater use of the diversion option, should be highlighted. The volume on Youth Service Agencies' Standard 4.4 D. directs that in every case where the



police continue formal processing the referring officer should submit a written statement explaining why the juvenile was not diverted.<sup>36</sup>

Finally, it remains to be answered: Following the police decision to divert the juvenile or to pursue formal processing, what happens next? It is notable that each of these three groups proposes a two-tiered system. Thus, if the police decide to pursue formal processing by referring the case to intake, then the intake unit, in its turn (with varying degrees of collaboration or review by the prosecutor), must decide whether to dismiss the case, divert the juvenile, or continue with formal proceedings--as will be noted below.

If, on the other hand, the police opt for diversion without referring the case to intake, then each of the three groups proposes a slightly different procedure. In the commentary to its standard governing diversion by police, the Task Force states that participation in the service programs should be voluntary, with the qualification that if the juveniles refuse participation at the outset then formal processing should be fully pursued. But if the juveniles initially agree to the diversion, then the commentary states that:

[T]here should be no further legal action permitted on the original charges, if the juveniles fail to abide by the performance standards of the agencies where they have been diverted.<sup>37</sup>

While it is not explicitly addressed in the chapters on police procedures, the following recommendation in the commentary to the Task Force's Standard 3.29, which speaks to diversion generally, is apparently applicable in this context:

Youths and parents should be given a written contract outlining the nature of the services to be offered and the expectations for behavior on the part of the child and his parents.<sup>38</sup>

The approach of the National Advisory Committee to this issue is set forth in Standard 2.241 on Procedures Following a Decision Not to Refer to Intake. It states that:

Individuals who are not referred to intake by a law enforcement officer should be released without condition or ongoing supervision...[a]llthough those individuals and their families may be referred or taken to community resources offering services on a voluntary basis.<sup>39</sup>

The commentary elaborates as follows:

Although the standard urges that law enforcement agencies not provide direct services nor induce an individual to utilize services under the threat of being referred to the intake unit and the family court, it is not intended to prohibit police officers from transporting a youth to a runaway shelter, or an injured child to a hospital, or an intoxicated juvenile to a voluntary alcohol treatment program.<sup>40</sup>

The approach of the IJA/ABA is similar to that of the other two groups, but once again it incorporates some features distinctively its own. Standard 5.1 in the volume on Youth Service Agencies distinguishes between "formal referrals" to diversion programs--that is, those made by the police or the intake unit--and "informal referrals"--meaning self-referrals, referrals by parents or schools, and the

like. As to the latter, participation is regarded as entirely voluntary and the juvenile is free to drop out at any time. In formal referrals, however, the juvenile may be required to attend two program planning sessions--and attendance may be enforced by initiating the filing of a formal petition to the court in the event of nonattendance.<sup>41</sup> After these two sessions are completed, the juvenile is free to refuse participation in the diversion program if he or she chooses. But this refusal to cooperate may trigger the consequences outlined in Standard 5.3. This standard authorizes the youth service agency to file a recommendation with the police and the court that, if the juvenile is apprehended again, eligibility for diversion be barred unless the juvenile signs a participation agreement, breach of which will be understood to authorize formal processing to the court.<sup>42</sup>

Subject to the latter qualifications, these standards place great emphasis on juveniles' voluntary participation in services, stressing that this will decrease the likelihood of stigmatizing the youth and enhance the effectiveness of service programs.<sup>43</sup> Consistent with this philosophy, Standard 4.11, titled Legal Consequences of Diversion to YSA, states that:

Formal referral to a youth service agency should represent an alternative to prosecution; such referral therefore should be accompanied by a formal termination of all legal proceedings against the juvenile. Mere suspension or deferral of prosecution pending participation in a youth service program is inconsistent with the concept of a youth service agency as a voluntary option. Referral in exchange for a guilty plea is inconsistent with the goal of stigma avoidance.<sup>44</sup>

#### Intake

If a juvenile is not diverted from formal processing by law enforcement officers, then the second level of the two-tiered decisionmaking structure comes into play: the intake unit (and the prosecutor). In assessing diversion at intake, it is worth noting at the outset that two of the four groups--the Task Force and the IJA/ABA--direct that the intake unit be lodged in an executive agency, independent of direct judicial supervision.<sup>45</sup> The two groups argue that the proposed organizational structure--which differs from that currently employed in many jurisdictions--is necessary to preserve impartiality of judicial decisions and to assure the independence and professionalism of assessments by intake personnel, as well.<sup>46</sup>

The National Advisory Committee also considers this issue, reviewing the analysis of the two previous groups in its commentary to Standard 3.141. But the NAC opts to avoid recommending a particular organizational structure, instead specifying minimum standards of education and experience for intake personnel and concluding that:

The organization and location of such units will depend on state and local demographic factors and governmental structure.<sup>47</sup>

The Commission on Accreditation for Corrections assumes a similarly neutral stance, not adopting any recommendation on the subject, and specifying only that its standards regarding intake

apply to the [correctional] agency only where statutes require that agency personnel are responsible for the juvenile intake function.<sup>48</sup>



While the groups differ slightly on the organizational issue, they are unanimous on a key subject already familiar from the above review of police practices: the necessity of formal guidelines to structure discretion in decisionmaking.<sup>49</sup> Once again, though, there is appreciable variation in the level of detail of the recommendations, ranging from the standards of the Task Force (which are the least directive) to those of the IJA/ABA (which treat the subject in the greatest detail). The proposals offered by the Commission on Accreditation for Corrections and the National Advisory Committee fall somewhere between those two.

The Task Force merely specifies that the formal intake guidelines should be reviewed by the presiding judge of the family court, while stressing that:

In no event should a judge participate in intake decisions concerning individual case referrals. Judges and intake and probation officers should not discuss cases in the absence of counsel for the State and the child.<sup>50</sup>

But as to the appropriate content of the guidelines and the criteria for the decision to divert the juvenile or to pursue formal processing the Task Force is silent.<sup>51</sup>

The Commission on Accreditation for Corrections is likewise rather general in its approach. It calls for written policy and procedure to specify the authority and responsibility of intake personnel to refer a juvenile (and, when appropriate, his or her parents) for noncourt services,<sup>52</sup> and it further directs that:

Referrals for such service are understood to be voluntary and are agreed to by both the juvenile and parents, are in writing, and are capable of completion within a specific period of time.<sup>53</sup>

It also calls for guidelines under which

[w]hen a petition has not been filed, written policy prohibits nonjudicial probation and other forms of conditional dispositions by the intake unit or its parent agency.<sup>54</sup>

The recommendations of the National Advisory Committee are slightly more specific. In Standard 3.143, the Committee outlines its view of the appropriate criteria for the intake decision as follows:

In determining what disposition of a sufficient delinquency complaint best serves the interests of the community and of the juvenile, the following factors should be considered:

- a. The seriousness of the alleged offense;
- b. The role of the juvenile in that offense;
- c. The nature and number of contacts with the intake unit and family court that the juvenile has had and the results of those contacts;

- d. The juvenile's age and maturity; and
- e. The availability of appropriate services outside the juvenile justice system.

Referral for services or dismissal should not be precluded for the sole reason that the complainant objects or that the juvenile denies the allegations.<sup>55</sup>

A comparison of these criteria with those in the above-noted<sup>56</sup> Standard 2.221 governing the police decision on whether to refer to intake reveals that the two standards are very nearly identical--with the exception of the omission in Standard 3.143 of a mention of whether a complaint has been filed, for the obvious reason that in the absence of a complaint the intake unit would not be involved in the case.<sup>57</sup> The point to be stressed here is that, while both law enforcement officers and intake personnel are to ground their assessments on essentially the same criteria, the standards require an independent decision on diversion-versus-formal-processing by each agency.

As to the criteria themselves, in the commentary to Standard 3.143 the National Advisory Committee outlines its reasons for considering and rejecting such additional factors as school attendance and behavior, the juvenile's relationship with his or her family, and the youth's "attitude."<sup>58</sup> The Committee's earlier proscription of police probation (in Standard 2.241)<sup>59</sup> finds its parallel in Standard 3.141 and the attendant commentary, which makes explicit the Committee's disapproval of intake personnel engaging in such practices.<sup>60</sup>

A similar parallel between the standards on police practices and those on decisions by the intake unit is found in the directives formulated under the aegis of the IJA/ABA Joint Commission--though here there are some points of variation, as well. The Youth Service Agencies volume, in effect, reiterates for intake personnel precisely the same standards which that volume offered for law enforcement officers. For example, Standard 4.7 specifies that:

No juvenile should be petitioned to the court without an independent determination by the court intake official that diversion is not appropriate, pursuant to the guidelines of Standard 4.8. Every decision to petition should be accompanied by a written statement of the intake official as to why the juvenile is not diverted.<sup>61</sup>

Standard 4.8, in turn, directs that:

Court intake guidelines, at a minimum, should contain the same diversion standards set forth in Standard 4.5 above [--the standard on diversion decisions by police that is discussed in this Comparative Analysis in the text accompanying notes 32 to 35]. If it is determined that the apprehended juvenile is an active participant in a youth service agency program, the decision on whether to petition may be deferred up to twenty-four hours beyond the normal time limit in order to obtain a report from the youth service agency on the juvenile's progress in the program.<sup>62</sup>

Standard 4.9 introduces an additional review mechanism, designed to ensure fairness in diversion decisions. It stipulates that:

Each court intake staff should include a minority rights advocate who keeps records on which juveniles are diverted in order to ensure that the referral guidelines are being applied without regard to race, color, religion, national origin, sex, or income.<sup>63</sup>

While these three standards from the Youth Service Agencies volume (together with some others to be noted below) can stand on their own as a skeletal model for decisionmaking on diversion by the intake unit, the IJA/ABA's volume on The Juvenile Probation Function introduces some variations in approach. Most of the standards in the latter simply reinforce or flesh out the general framework established in the former.<sup>64</sup> But two points of departure should be noted. The first concerns the criteria that intake personnel should employ in determining whether diversion is appropriate.

The Juvenile Probation Function's Standard 2.8 addresses this issue as follows:

- A. If the intake officer determines that the complaint is legally sufficient, the officer should determine what disposition of the complaint is most appropriate and desirable from the standpoint of the best interests of the juvenile and the community. This involves a determination as to whether a judicial disposition of the complaint would cause undue harm to the juvenile or exacerbate the problems that led to his or her delinquent acts, whether the juvenile presents a substantial danger to others, and whether the referral of the juvenile to the court has already served as a desired deterrent.
- B. The officer should determine what disposition is in the best interests of the juvenile and the community in light of the following:
  1. The seriousness of the offense that the alleged delinquent conduct constitutes should be considered in making an intake dispositional decision. A petition should ordinarily be filed against a juvenile who has allegedly engaged in delinquent conduct constituting a serious offense, which should be determined on the basis of the nature and extent of harm to others produced by the conduct.
  2. The nature and number of the juvenile's prior contacts with the juvenile court should be considered in making an intake dispositional decision.
  3. The circumstances surrounding the alleged delinquent conduct, including whether the juvenile was alone or in the company of other juveniles who also participated in the alleged delinquent conduct, should be considered in making an intake dispositional decision. If a petition is filed against one of the juveniles, a petition should ordinarily be filed against the other juveniles for substantially similar conduct.
  4. The age and maturity of the juvenile may be relevant to an intake dispositional decision.

5. The juvenile's school attendance and behavior, the juvenile's family situation and relationships, and the juvenile's home environment may be relevant to an intake dispositional decision.
6. The attitude of the juvenile to the alleged delinquent conduct and to law enforcement and juvenile court authorities may be relevant to an intake dispositional decision, but a nonjudicial disposition of the complaint or the unconditional dismissal of the complaint should not be precluded for the sole reason that the juvenile denies the allegations of the complaint.
7. A nonjudicial disposition of the complaint or the unconditional dismissal of the complaint should not be precluded for the sole reason that the complainant opposes dismissal.
8. The availability of services to meet the juvenile's needs both within and outside the juvenile justice system should be considered in making an intake dispositional decision.
9. The factors that are not relevant to an intake dispositional decision include but are not necessarily limited to the juvenile's race, ethnic background, religion, sex, and economic status.<sup>65</sup>

A comparison of these criteria with those proposed in the Youth Service Agencies volume<sup>66</sup> shows that a number of factors--for example, the juvenile's school attendance, home environment, and attitude--are included here that were (intentionally) omitted in the earlier volume.<sup>67</sup>

A second point of divergence between the IJA/ABA's volume on Youth Service Agencies and that on The Juvenile Probation Function relates to whether the decision to divert a juvenile may serve as a basis for deferring a decision on whether to petition the court, or--in the alternative--whether such diversion must be accompanied by a formal dismissal of the complaint. The stance of The Juvenile Probation Function volume on this issue is set forth in its rather intricate Standard 2.4. Initially, this standard defines "nonjudicial disposition of a complaint" as including the following possible options: nonjudicial probation, the direct provision of services by intake personnel, conditional dismissal of the complaint, and community agency referrals. The standard then prohibits each of these practices except referrals to community agencies, stating, in pertinent part:

A "community agency referral" is the only permissible nonjudicial disposition, subject to the conditions set forth in Standard 2.4 E.<sup>68</sup>

Standard 2.4 E. establishes a series of safeguards designed to avert abuses in nonjudicial dispositions.<sup>69</sup> It directs that:

A nonjudicial disposition should be utilized only under the following conditions:

1. A nonjudicial disposition should take the form of an agreement of a contractual nature under which the intake officer promises not to file

a petition in exchange for certain commitments by the juvenile and his or her parents or legal guardian or both with respect to their future conduct and activities.

2. The juvenile and his or her parents or legal guardian should voluntarily and intelligently enter into the agreement.
3. The intake officer should advise the juvenile and his or her parents or legal guardian that they have the right to refuse to enter into an agreement for a nonjudicial disposition and to request a formal adjudication.
4. A nonjudicial disposition agreement should be limited in duration.
5. The juvenile and his or her parents or legal guardian should be able to terminate the agreement at any time and to request formal adjudication.
6. The terms of the nonjudicial agreement should be clearly stated in writing. This written agreement should contain a statement of the requirements set forth in subsections 2.-5. It should be signed by all the parties to the agreement and a copy should be given to the juvenile and his or her parents or legal guardian.
7. Once a nonjudicial disposition of a complaint has been made, the subsequent filing of a petition based upon the events out of which the original complaint arose should be permitted for a period of three (3) months from the date the nonjudicial disposition agreement was entered into. If no petition is filed within that period its subsequent filing should be prohibited. The juvenile's compliance with all proper and reasonable terms of the agreement should be an affirmative defense to a petition filed within the three-month period.<sup>70</sup>

The authorization in item 7. of a 3-month delay in the filing decision complicates the position set forth in Standard 4.11 in the Youth Service Agencies volume (which was discussed above in connection with police operations).<sup>71</sup> As noted earlier, the latter standard directs that a decision by police or the intake unit to divert a juvenile to a youth service agency

should be accompanied by a formal termination of all legal proceedings against the juvenile. Mere suspension or deferral of prosecution pending participation in a youth service program is inconsistent with the concept of a youth service agency as a voluntary option.<sup>72</sup>

To be sure, other standards in that same volume qualify this by stipulating that a petition may be filed for failure to attend the two mandatory program planning sessions.<sup>73</sup> But item 7. in the just-cited Standard 2.4 E. in the Juvenile Probation volume can plainly be read as extending the possible time for filing a petition beyond those two sessions.<sup>74</sup> While the standards in the two volumes are perhaps not actually inconsistent, they have not been fully coordinated.<sup>75</sup>

In any case, the arguments underlying the polar positions in this area are clear. On the one hand, there is the view--aptly espoused in the just quoted Standard 4.11 itself--that voluntarism is extremely important in diversion programs. Proponents

of this position usually elaborate it in terms of: (1) the juvenile's right to be free of coercive State intervention unless adequate due process safeguards are provided, and (2) the fact that the success of service programs is in large measure contingent upon the juvenile's cooperation and personal resolve.<sup>76</sup> On the other hand, the argument for staying the filing decision is usually presented as follows:

[I]f a nonjudicial disposition agreement is made a total bar to the subsequent filing of a petition based upon the original complaint, intake officers may become reluctant to make nonjudicial dispositions in cases in which they have any doubt about its [sic] success. Thus, such a bar may have the undesirable effect of reducing the rate of nonjudicial handling of juveniles.<sup>77</sup>

Both the Task Force and the National Advisory Committee apparently found this latter argument the more persuasive, since each group chose to authorize a stay in the filing decision if a juvenile is diverted to a service program by the intake unit. These two groups differed, however, on the proper duration of such a stay. In Standard 12.1, the Task Force authorized deferring the filing decision for 90 calendar days following diversion,<sup>78</sup> whereas the National Advisory Committee, in its Standard 3.142, opted for 30 calendar days.<sup>79</sup>

Before leaving the subject of diversion at intake, one additional feature of the IJA/ABA's proposals in this area should be mentioned. In Standard 2.5, The Juvenile Probation Function volume both authorizes and proposes a series of safeguards to control the use of consent decrees. These are written agreements regarding participation in service programs that are executed by the juvenile (together with his or her parents) and the intake unit. The agreements are then approved by the court without a formal adjudication of delinquency. As the commentary puts it:

[A] consent decree is in essence a nonjudicial disposition that has been put in the form of a court order.<sup>80</sup>

This being so, the safeguards proposed for the use of consent decrees follow the pattern that one would expect--viz., they closely parallel the mechanisms established in the above-noted<sup>81</sup> Standard 2.4 E. to avert abuses in nonjudicial dispositions.<sup>82</sup>

#### Right to Counsel

In addition to the procedural protections afforded the juvenile by requiring that diversion decisions at all levels be executed in accordance with written guidelines, three of the four groups--the IJA/ABA, the National Advisory Committee, and the Task Force--make explicit provision for a right to counsel at this stage. While there are some minor variations in the wording of the recommendations, the clearly expressed intent of each of the groups is that the right to assistance of counsel should attach at the earliest stages of processing--for example, when the juvenile is taken into custody or delivered to the intake unit.<sup>83</sup>

Aside from achieving the paramount objective of protecting juveniles' constitutional rights, across-the-board provision of effective counsel at these stages would likely have at least two noticeable effects on the system itself. On the one hand, it would probably increase participation in diversion programs, since counsel could be expected to challenge the decision to proceed with formal processing in cases where there is a question on whether diversion is warranted under the official

guidelines.<sup>84</sup> On the other hand, though, assistance of counsel might well result in some decrease in the number of participants in diversion programs, because counsel could be expected to challenge the decision to direct a juvenile to a diversion program in cases where the State lacks a legally sufficient case, arguing that dismissal is the only permissible course of action in these circumstances.<sup>85</sup>

#### Service Mix

Most of the standards groups offer only very sketchy recommendations on the appropriate content of diversion programs. The National Advisory Committee and the Task Force, for example, tender general endorsements of community-based youth service bureaus, but decline to set out specific guidelines on program content.<sup>86</sup>

The IJA/ABA's Youth Service Agencies volume, however, does speak to this issue in some detail. It stresses that the service delivery mechanism should maintain a mixed clientele, serving both youth diverted from formal processing in the judicial system and other juveniles from the community at large.<sup>87</sup> In addition, it provides the following directives on the types of service programs which should be made available--either through a system of coordinated referrals to other community agencies or by direct provision of services by the youth service agency itself:

The youth service agency should ensure the receipt of a mix of services rather than specializing in only one. The priorities will vary in each community; however, at a minimum the following should probably be available:

- A. individual and marital counseling;
- B. individual and family therapy;
- C. residential facilities;
- D. job training and placement;
- E. medical services;
- F. psychiatric services;
- G. educational programs;
- H. legal services;
- I. recreational and athletic programs;
- J. day care;
- K. crisis intervention services that are available twenty-four hours a day;
- L. bilingual services in communities with non-English-speaking residents.

The agency should, as an objective, honor personal preferences in selecting the services to be received by a particular individual or in developing new ones. Services should always be distributed in a manner that evidences respect for the participants and enhances the ability of participants to direct their own lives.<sup>88</sup>

#### MATRIX OF INTERRELATED STANDARDS

For readers who wish to explore individual issues in greater detail, Table 2 on the following pages uses the National Advisory Committee's standards as bases for comparison and identifies the interrelationships of all of the major standards on diversion that were surveyed in this analysis.

Immediately following the matrix are index pages, together with instructions for their use. These will permit ready identification of the subject-matter being compared. Titles which appear in parentheses on the index pages are not included in the original volume being cited, but have been supplied to facilitate identification of the content of the standards.

TABLE 2  
Matrix of Interrelated  
Standards on Diversion

NAC Final Report	Report of the Task Force														IJA/ABA Youth Service Agencies																		
	3.29	4.3	4.4	4.5	5.7	5.10	5.11	6.2	6.3	12.1	15.12	15.13	16.7	18.2	19.2	19.8	21.1	21.2	1.1	2.1	4.4	4.5	4.7	4.8	4.9	4.10	4.11	4.13	5.1	5.2	5.3	5.4	5.7
Cor. J-1	●			●				●	●							●			●	●								●	●				●
2.221		●	●	●	●	●	●							●							●	●											
2.241					●																												
2.242				●																						●	●						●
3.132													●													●							
3.141															●		●																
3.142										●								●										●	●	●			
3.143							●																●	●	●								
3.146													●																				
3.147											●	●	●																				
3.161										●																							
3.163											●	●																					

TABLE 2  
Matrix of Interrelated  
Standards on Diversion (Cont'd)

NAC Final Report	IJA/ABA Police							IJA/ABA Juvenile Probation							IJA/ABA Interim Status					IJA/ABA Pretrial		IJA/ABA Prosecution		IJA/ABA Counsel				CAC Juvenile Detention				CAC Juvenile Probation										
	2.3	2.4	2.5	3.4	4.2	4.3	4.4	5.2	2.4	2.5	2.6	2.7	2.8	2.9	2.13	2.14	2.16	2.19	5.3	5.5	6.4	6.5	3.9	5.1	3.7	4.1	2.4	6.1	6.2	6.3	8388	8390	8391	8394	7115	7117	7118	7121				
Cor. J-1	•	•	•		•	•	•	•																							•				•							
2.221	•	•	•		•	•	•	•			•																															
2.241									•																																•	•
2.242																		•																								
3.132															•	•			•			•	•	•			•	•	•	•												
3.141																																										
3.142				•													•																	•				•				
3.143												•	•																		•						•					
3.146														•																												
3.147																																										
3.161																																										
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TO USE THIS INDEX: Photocopy this page or clip it out as indicated. Lay it alongside the left edge of the matrix on page 66 or 67, lining up the corresponding numbers. Similarly copy or clip the index on page 71 or 73. Lay it along the top of the matrix.

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Procedures Following a Decision Not to Refer to Intake	2.241
Procedures Following a Decision to Refer to Intake--Delinquency	2.242
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NOTES

For a complete listing of the abbreviations used in these notes, see Appendix B on pages 83-85.

- See, e.g., IJA/ABA Juvenile Probation, p. 26.
- National Advisory Commission on Criminal Justice Standards and Goals, Corrections, p. 50 (1973), cited in IJA/ABA Youth Service Agencies, p. 5.
- See generally Report of the Task Force, pp. 142-43, 216-18; IJA/ABA Juvenile Probation, pp. 33-53.
- See 42 U.S. Code Sec. 5602(b)(2), 5603(3), 5614(b)(5), 5631, 5633(a)(10), 5633(a)(10)(C), 5634(a)(3) (1979 Supp.). See also id., Sec. 5633(a)(3)(C), 5633(a)(10)(A), 5633(a)(10)(B), 5633(a)(10)(H)(i), 5634(a)(2), 5701 et seq.
- Id., Sec. 5602(b)(2).
- Id., Sec. 5603(3).
- Id., Sec. 5633(a)(10)(C).
- Id., Sec. 5634(a)(3).
- See note 4.
- Sources: NAC Final Report, Prevention Strategy: Focal Point Social Interaction--Strategy Cor. J-1, Standards 2.221, 2.241, 2.242, 3.132, 3.141, 3.142, 3.143, 3.146, 3.147, 3.161, and 3.163.  
  
Report of the Task Force, Standards 3.29 (pp. 142-44), 4.3 (pp. 186-87), 4.4 (pp. 188-89), 4.5 (pp. 190-91), 5.7 (pp. 209-11), 5.10 (pp. 216-18), 5.11 (pp. 219-20), 6.2 (pp. 233-34), 6.3 (pp. 235-36), 12.1 (pp. 376-77), 15.12 (pp. 527-30), 15.13 (pp. 531-34), 16.7 (pp. 565-67), 18.2 (pp. 595-96), 19.2 (pp. 613-14), 19.8 (pp. 627-29), and 21.2 (pp. 655-57).  
  
IJA/ABA Youth Service Agencies, Standards 1.1 (pp. 35-37), 2.1 (pp. 37-38), 4.4 (pp. 42-43), 4.5 (pp. 43-45), 4.7 (p. 45), 4.8 (p. 46), 4.9 (pp. 46-47), 4.10 (pp. 47-48), 4.11 (pp. 48-49), 4.13 (pp. 49-50), 5.1 (pp. 50-51), 5.2 (p. 51), 5.3 (pp. 51-52), 5.4 (p. 52), and 5.7 (pp. 53-61); IJA/ABA Juvenile Probation, Standards 2.4 (pp. 33-53), 2.5 (pp. 53-57), 2.6 (pp. 57-63), 2.7 (pp. 63-64), 2.8 (pp. 64-76), 2.9 (pp. 76-78), 2.13 (pp. 92-101), 2.14 (pp. 101-03), and 2.16 (pp. 104-10); IJA/ABA Police, Standards 2.3 (pp. 31-33), 2.4 (pp. 33-45), 2.5 (pp. 45-51), 3.4 (pp. 78-81), 4.2 (pp. 86-92), 4.3 (pp. 92-98), 4.4 (pp. 99-104), and 5.2 (pp. 111-12); IJA/ABA Interim Status, Standards 2.19 (pp. 49-50), 5.3 (pp. 67-70), 5.5 (pp. 70-71), 6.4 (p. 75), and 6.5 (pp. 75-77); IJA/ABA Pretrial, Standards 3.9 (pp. 71-72) and 5.1 (pp. 88-94); IJA/ABA Prosecution, Standards 3.7 (p. 49) and 4.1 (pp. 52-56); IJA/ABA Counsel, Standards 2.4 (pp. 74-75), 6.1 (pp. 118-22), 6.2 (pp. 122-25), and 6.3 (pp. 125-27).  
  
CAC Juvenile Detention, Standards 8388, 8390, 8391, and 8394 (pp. 78-80); CAC Juvenile Probation, Standards 7115, 7117, 7118, and 7121 (pp. 23-24).

See also the standards cited in the subsequent Comparative Analysis on Deinstitutionalization of Status Offenders and Nonoffenders.

11. See IJA/ABA Youth Service Agencies, pp. 1-23. See also IJA/ABA Juvenile Probation, pp. 24-53.
12. See Report of the Task Force, pp. 13, 142-44; NAC Final Report, Commentary to Prevention Strategy: Focal Point Social Interaction--Strategy Cor. J-1.
13. Id.
14. Id.
15. See notes 11 and 12. It is notable that IJA/ABA prudently attaches the caveat that competent evaluations of the labeling effects that may accompany participation in diversion programs are few. Thus, granting the negative effects of labeling that accompany formal judicial processing, and granting also the logical character of the argument that avoiding formal processing should therefore minimize the adverse consequences of labeling, still there is a paucity of firm data to support this argument. Indeed, at least one study has adduced a smattering of data which seemingly supports the contrary proposition, viz., that youth in diversion programs are at least as vulnerable (if not more so) to the negative consequences attendant to labeling as those processed through formal judicial channels. See IJA/ABA Youth Service Agencies, pp. 19-20 n.74, 36. Nevertheless, the IJA/ABA concludes that properly administered diversion programs, particularly those with a mixed clientele--that is, not only clients of the juvenile justice system, but other youth from the community as well--can work significant improvements. Hence its strong support for youth service agencies.
16. In re Gault, 387 U.S. 1 (1967).
17. Report of the Task Force, p. 216. For other Task Force standards on police operations pertinent to diversion, see id., pp. 186-91, 209-11, 219-20, 233-36.
18. Id., p. 209. Commentary to Standard 5.7 cites six reasons for disapproving of police probation programs. See id., p. 210, citing R. Kobetz and B. Bosarge, Juvenile Justice Administration, p. 166 (1973). See also NAC Final Report, Commentary to Standard 2.241, citing id.
19. See NAC Final Report, Standards 2.221 and 2.31; IJA/ABA Youth Service Agencies, Standards 4.4 and 4.5 (pp. 42-45); IJA/ABA Police, Standards 2.5, 5.1, and 5.2 (pp. 45, 49-50, 108-12).
20. See NAC Final Report, Commentary to Standard 2.221; IJA/ABA Police, pp. 45, 50-51, 111-12.
21. See id., p. 33; NAC Final Report, Commentary to Standard 2.241.
22. See Report of the Task Force, pp. 217-18. See also id., pp. 209-10.
23. Id., p. 219.

24. For a review of the National Advisory Committee's posture on police handling of cases involving noncriminal misbehavior, see the subsequent Comparative Analysis on Deinstitutionalization of Status Offenders and Nonoffenders.
25. NAC Final Report, Standard 2.221.
26. Id.
27. Id., Commentary to Standard 2.221. This same commentary also discusses differences between these criteria and those proposed by the IJA/ABA and by the Task Force.
28. Compare id. with Report of the Task Force, pp. 216-20.
29. See IJA/ABA Police, Standards 2.3 (pp. 31-33), 2.4 (pp. 33-45), 2.5 (pp. 45-51), 4.3 (pp. 92-98), and 4.4 (pp. 99-104). See also the other standards from this volume cited in note 10.
30. Id., p. 45.
31. Id.
32. IJA/ABA Youth Service Agencies, p. 43.
33. See IJA/ABA Juvenile Delinquency, Standard 5.2 (pp. 42-43).
34. IJA/ABA Youth Service Agencies, p. 43.
35. Compare id., pp. 43-45 with the sources cited in note 28.
36. See IJA/ABA Youth Service Agencies, pp. 42-43.
37. Report of the Task Force, p. 217.
38. Id., p. 143. Alternatively, it may be that a written agreement is to be executed only in connection with diversion by the intake unit (though such agreements are not mentioned in the standards on intake either). It must be conceded that the Task Force is not entirely clear on this point.
39. NAC Final Report, Standard 2.241. (Parenthetically, Standard 2.242 deals with the other side of the coin--procedures to be followed if the juvenile is referred to intake. It recommends that the juvenile be given full-scale "Miranda warnings" and be apprised of his right to have a parent or primary caretaker present.)
40. Id., Commentary to Standard 2.241.
41. See IJA/ABA Youth Service Agencies, pp. 50-51.
42. See id., pp. 51-52. Standard 5.4 qualifies Standard 5.3 by prohibiting the filing of a recommendation against diversion in cases where the juvenile has participated in an agency program for one year. It also limits the term of required compliance under a participation agreement to a one-year period. See id., p. 52.

43. See *id.*, pp. 40, 48, 50-51.
44. *Id.*, p. 48.
45. See Report of the Task Force, Standards 18.2 (pp. 595-96), 19.2 (pp. 613-14), and 21.1 (pp. 653-54); IJA/ABA Juvenile Probation, Standard 4.2 (pp. 126-31).
46. See *id.*
47. NAC Final Report, Commentary to Standard 3.141.
48. CAC Juvenile Probation, p. 22. See also CAC Juvenile Detention, p. 78.
49. See NAC Final Report, Standard 3.143; Report of the Task Force, Standard 18.2 (pp. 595-96); IJA/ABA Youth Service Agencies, Standards 4.8 and 4.9 (pp. 46-47); IJA/ABA Juvenile Probation, Standards 2.6 (pp. 57-63), 2.8 (pp. 64-76), and 2.9 (pp. 76-78); CAC Juvenile Probation, Standards 7115, 7117, and 7118 (pp. 23-24); CAC Juvenile Detention, Standards 8388, 8390, and 8391 (pp. 78-79).
50. Report of the Task Force, p. 595.
51. If the juvenile is diverted, though, the Task Force's previously mentioned recommendation for a written "contract" with the youth and his parents (see the text accompanying note 38) presumably applies to this context, as well as to diversion by police.
52. See CAC Juvenile Detention, pp. 78-79; CAC Juvenile Probation, p. 23.
53. *Id.*
54. *Id.* The CAC standards also call for independent review (by either the prosecutor or the court) of the intake decision. See CAC Juvenile Detention, Standard 8394 (pp. 79-80); CAC Juvenile Probation, Standard 7121 (p. 24).
55. NAC Final Report, Standard 3.143.
56. See the text accompanying note 25.
57. There are two other ever-so-slight variations: whereas the police standard refers to previous contacts "with the law enforcement agency and the family court," the standard on intake directs attention to contacts "with the intake unit and family court"; and, while the earlier standard advocates consideration of the availability of "appropriate persons or services" outside the juvenile justice system, this one focuses on the availability of "appropriate services" only.
58. See NAC Final Report, Commentary to Standard 3.143.
59. See the text accompanying note 39.
60. See NAC Final Report, Commentary to Standard 3.141.
61. IJA/ABA Youth Service Agencies, p. 45.

62. *Id.*, p. 46.
63. *Id.*, pp. 46-47.
64. Thus, for example, Standard 2.6 reiterates the requirement for written guidelines to govern intake decisions; and Standard 2.9 addresses a collateral issue, calling for written guidelines on the matter of intake procedures. See IJA/ABA Juvenile Probation, pp. 57-63, 76-78. Similarly, Standard 2.4 D. supplements the IJA/ABA's proscription of police probation (see note 21 and accompanying text), by extending the same prohibition to intake personnel. See *id.*, pp. 33, 52.
65. *Id.*, pp. 64-65.
66. See the text accompanying notes 32 to 35 and note 62.
67. For divergent views on whether inclusion of these additional factors is appropriate, compare *id.*, pp. 64-76 with NAC Final Report, Commentary to Standard 3.143. Cf. Report of the Task Force, pp. 217-18 (discussing some of the same factors in the context of diversion decisions made by police).
68. IJA/ABA Juvenile Probation, p. 33.
69. It should be noted that the commentary indicates that these safeguards should be applied to all forms of nonjudicial dispositions--that is, not only to community agency referrals (the only form of nonjudicial disposition that the IJA/ABA supports), but also to such practices as nonjudicial probation or the direct provision of services by intake personnel. See *id.*, pp. 47, 52. Thus, the IJA/ABA Joint Commission argues, in effect: If a jurisdiction opts to reject our recommendation to abolish these other practices, we urge that it at least adopt these safeguards to minimize potential abuses.
70. *Id.*, pp. 33-34. The juvenile's right to refuse diversion and instead insist upon formal adjudication (stressed here in items 3. and 5.) is also emphasized in IJA/ABA Youth Service Agencies, Standard 4.13 (pp. 49-50). See also *id.*, Standard 4.10 (pp. 47-48).
71. See the text accompanying note 44.
72. *Id.*, p. 48. See also IJA/ABA Interim Status, Standard 2.19 (pp. 49-50) (accord).
73. See the text accompanying notes 41 and 42.
74. The standards in the two volumes might be read (or, in any event, interpreted) as fully consistent if one were to construe Standard 2.4 E.7. as: (a) authorizing filing only in cases where a juvenile breaches an agreement that fully and completely complies with the terms specified in Standards 5.1 through 5.4 (pp. 50-52) in IJA/ABA Youth Service Agencies, which were discussed in the text accompanying notes 41 and 42; and therefore (b) foreclosing--in less than 90 days--the option of filing a petition because of failure to comply with the agreement called for in 2.4 E. if, e.g., a juvenile (diverted for the first time) completes the two planning sessions in just two weeks. But see IJA/ABA Juvenile Probation, p. 53 (apparently suggesting that such a limitation on the

terms of the agreement is not contemplated; and, instead, that the terms are to be limited only by the criterion that they would have been "proper and reasonable" conditions for a court to impose via judicial probation), and *id.*, pp. 34, 53 (interposing no time limitation for determining whether to file a petition other than the specified 90 days). And cf. IJA/ABA Youth Service Agencies, Standards 4.11 (pp. 48-49) and 5.1 through 5.4 (pp. 50-52); IJA/ABA Interim Status, Standard 2.19 (pp. 49-50).

75. The Tentative Draft of the IJA/ABA's summary volume does not seem to clarify the interrelationship of the individual volumes in this area. See IJA/ABA Summary and Analysis, pp. 76, 116-19, 148-54, 270-71.
76. See generally IJA/ABA Youth Service Agencies, pp. 48-51.
77. IJA/ABA Juvenile Probation, p. 49.
78. See Report of the Task Force, p. 376.
79. See NAC Final Report, Standard 3.142. See also the commentary to *id.*
80. IJA/ABA Juvenile Probation, p. 55.
81. See the text accompanying note 70.
82. Compare *id.*, pp. 33-34 with *id.*, p. 54. There are, however, some minor variations. For example, the consent decree is to be subject to a 6-month durational limitation--subject to a 3-month extension, following notice and hearing.
83. The following are pertinent to the right to counsel: NAC Final Report, Standard 3.132; Report of the Task Force, Standard 16.7 (pp. 565-67); IJA/ABA Juvenile Probation, Standard 2.13 (pp. 92-101); IJA/ABA Youth Service Agencies, Standard 4.13 (pp. 49-50); IJA/ABA Police, Standard 3.2 (pp. 54-55, 69-73); IJA/ABA Pretrial, Standards 3.9 (pp. 71-72) and 5.1 (pp. 88-94); IJA/ABA Interim Status, Standards 3 (pp. 67-70) and 6.5 (pp. 75-77); IJA/ABA Counsel, Standards 2.4 (pp. 74-75) and 6.1 through 6.3 (pp. 118-27).
84. The IJA/ABA makes explicit provision for judicial review of a decision not to divert a juvenile. See IJA/ABA Youth Service Agencies, Standard 4.10 (pp. 47-48). See also *id.*, Standard 4.13 (pp. 49-50).
85. See IJA/ABA Juvenile Probation, Standards 2.7 (pp. 63-64) and 2.8 (pp. 64-65). Cf. NAC Final Report, Standards 3.143 and 3.163; Report of the Task Force, Standard 15.13 (pp. 531-34).
86. See *id.*, pp. 142-44, 235-36; NAC Final Report, Commentary to Prevention Strategy: Focal Point Social Interaction--Strategy Cor. J-1.
87. See IJA/ABA Youth Service Agencies, pp. 35-38.
88. *Id.*, p. 53. See also *id.*, pp. 54-61.

## Appendix A

### RELEVANT PROVISIONS OF THE 1980 AMENDMENTS

#### Delinquency Prevention

While the 1980 Amendments incorporate several minor changes in the wording of some of the sections of the JJDP Act cited in the foregoing Comparative Analysis on Delinquency Prevention,<sup>1</sup> the effect of these changes, in the present context, is very slight. In fact, the whole of the earlier discussion regarding the Act's overall posture toward prevention efforts can stand unaltered.<sup>2</sup>

It might be mentioned in passing that the Amendments continue the emphasis on educational programs that was noted earlier, adding additional references to this subject.<sup>3</sup> Also, it is perhaps notable that the amended Sec. 223(a)(8) now provides a slightly fuller description of the planning process contemplated for the field of juvenile justice generally and emphasizes that planning for prevention programs should be incorporated in this process. As amended, Sec. 223(a)(8) requires the State plan to

provide for (A) an analysis of juvenile crime problems and juvenile justice and delinquency prevention needs within the relevant jurisdiction, a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems and juvenile justice and delinquency prevention needs of the jurisdiction; (B) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and (C) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention.<sup>4</sup>

#### Diversion

The net effect of the 1980 Amendments on the JJDP Act's references to diversion is simply nil. All seven of the sections identified in the foregoing Comparative Analysis on Diversion as making explicit mention of this subject remain intact. Thus, all of the language from the Act that was cited in the text of the Comparative Analysis remains unaltered.

There are some very slight changes in the language of just three of the other sections of the Act identified in the footnotes in the Comparative Analysis as peripherally relevant to the issue.<sup>1</sup> But, in the context of the present discussion, the effect of these alterations is inconsequential.

### Notes on Prevention

1. For the sake of completeness, the changes generated by the Amendments and their relation to the references cited in the footnotes in the Comparative Analysis on Prevention can be noted here: The amendments to Sec. 102(b)(1)--the section which was cited in the text accompanying note 6 in the Comparative Analysis--insert a reference to maintaining and strengthening the family unit. See 42 U.S. Code Sec. 5602(b) (1979 Supp.), as amended by the Juvenile Justice Amendments of 1980 (Public Law 96-509). Also, some of the sections identified in note 6 as pertinent to the organization of Federal efforts have undergone slight alterations. See, e.g., id., Sec. 5611 and 5617, as amended. In addition, there are some minor changes regarding the duties of the advisory group mentioned in note 7 in the Comparative Analysis. See the amended Sec. 5633(a)(3)(F). Furthermore, the description of community-based programs that was cited in the text accompanying note 8 in the Analysis now also refers to education and special education programs. See the amended Sec. 5633(a)(10)(A). There is a grammatical change in Sec. 5633(a)(10)(E), which was mentioned in note 9 and cited in the text accompanying note 12 in the Analysis; and the former Sec. 5633(a)(15), which was cited in note 10 in the Analysis, is now renumbered Sec. 5633(a)(16). See also the newly added Sec. 5634(d), which essentially parallels the latter. Finally, Sec. 5634(a)(11), pertaining to learning disabilities, which was cited in note 12 in the Comparative Analysis, has undergone slight change; and it is now supplemented by the amended Sec. 5633(a)(10)(I). Other newly added or reorganized sections pertinent to prevention generally are: Sec. 5633(a)(10)(H), 5633(a)(10)(J), 5634(a)(5), and 5634(a)(12), as amended.
2. Actually, the statement in the text is subject to just one minor qualification: Since the 1980 Amendments designate the head of the Office of Juvenile Justice and Delinquency Prevention as the "Administrator," then the latter now has the authority ascribed to the head of LEAA in the text preceding note 14 in the earlier Comparative Analysis. See id., Sec. 5603(5) and 5611(c), as amended.
3. See id., Sec. 5633(a)(10)(A) and 5633(a)(10)(I), as amended. See also the very slight changes in the wording of the amended Sec. 5633(a)(10)(E) and 5634(a)(11).
4. Id., Sec. 5633(a)(8), as amended.

### Note on Diversion

1. The sections affected by minor amendments--all of which were cited in note 6 in the Comparative Analysis on Diversion--are: 42 U.S. Code Sec. 5633(a)(10)(A), 5633(a)(10)(H), and 5701 et seq. (1979 Supp.), as amended by the Juvenile Justice Amendments of 1980 (Public Law 96-509).

## Appendix B

### KEY TO ABBREVIATIONS

Since the notes in these reports include extensive citations to a small number of volumes, the following standardized abbreviations have been adopted:

<u>Title</u>	<u>Abbreviation</u>
Publications by the American Correctional Association's Commission on Accreditation for Corrections:	
<u>Manual of Standards for the Administration of Correctional Agencies</u> (June 1979).	<u>CAC Administration</u>
<u>Manual of Standards for Juvenile Community Residential Services</u> (April 1978).	<u>CAC Juvenile Community Residential Services</u>
<u>Manual of Standards for Juvenile Detention Facilities and Services</u> (February 1979).	<u>CAC Juvenile Detention</u>
<u>Manual of Standards for Juvenile Probation and Aftercare Services</u> (July 1978).	<u>CAC Juvenile Probation</u>
<u>Manual of Standards for Juvenile Training Schools and Services</u> (March 1979).	<u>CAC Juvenile Training Schools</u>
Publications by the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project (Tentative Draft, 1977):	
<u>Standards Relating to Abuse and Neglect</u> (R. Burt and M. Wald, Reporters).	<u>IJA/ABA Abuse and Neglect</u>
<u>Standards Relating to Adjudication</u> (R. Dawson, Reporter).	<u>IJA/ABA Adjudication</u>
<u>Standards Relating to Appeals and Collateral Review</u> (M. Moran, Reporter).	<u>IJA/ABA Appeals</u>
<u>Standards Relating to Architecture of Facilities</u> (A. Greenberg, Reporter).	<u>IJA/ABA Architecture</u>
<u>Standards Relating to Corrections Administration</u> (A. Rutherford and F. Cohen, Reporters).	<u>IJA/ABA Corrections</u>



Standards Relating to Counsel for Private Parties (L. Teitelbaum, Reporter).

Standards Relating to Court Organization and Administration (T. Rubin, Reporter).

Standards Relating to Dispositional Procedures (F. Cohen, Reporter).

Standards Relating to Dispositions (L. Singer, Reporter).

Standards Relating to Interim Status: The Release, Control, and Detention of Accused Juvenile Offenders Between Arrest and Disposition (D. Freed, J.L. Schultz, and T. Terrell, Reporters).

Standards Relating to Juvenile Delinquency and Sanctions (J. Junker, Reporter).

Standards Relating to the Juvenile Probation Function: Intake and Predisposition Investigative Services (J. Gittler, Reporter).

Standards Relating to Juvenile Records and Information Systems (M. Altman, Reporter).

Standards Relating to Monitoring (S. Bing and L. Brown, Reporters).

Standards Relating to Noncriminal Misbehavior (A. Gough, Reporter).

Standards Relating to Planning for Juvenile Justice (L. Buckle and S. Buckle, Reporters).

Standards Relating to Police Handling of Juvenile Problems (E. Bittner and S. Krantz, Reporters).

Standards Relating to Pretrial Court Proceedings (S. Fisher, Reporter).

Standards Relating to Prosecution (J. Manak, Reporter).

Standards Relating to Rights of Minors (B. Feld and R. Levy, Reporters).

Standards Relating to Schools and Education (W. Buss and S. Goldstein, Reporters).

IJA/ABA Counsel

IJA/ABA Court Organization

IJA/ABA Dispositional Procedures

IJA/ABA Dispositions

IJA/ABA Interim Status

IJA/ABA Juvenile Delinquency

IJA/ABA Juvenile Probation

IJA/ABA Juvenile Records

IJA/ABA Monitoring

IJA/ABA Noncriminal Misbehavior

IJA/ABA Planning

IJA/ABA Police

IJA/ABA Pretrial

IJA/ABA Prosecution

IJA/ABA Rights of Minors

IJA/ABA Schools

Standards for Juvenile Justice: A Summary and Analysis (B. Flicker, Project Director 1975-76).

Standards Relating to Transfer Between Courts (C. Whitebread, Reporter).

Standards Relating to Youth Service Agencies (J. Areen, Reporter).

Publication by the National Advisory Committee for Juvenile Justice and Delinquency Prevention:

Standards for the Administration of Juvenile Justice (1980).

Publication by the National Advisory Committee on Criminal Justice Standards and Goals' Task Force on Juvenile Justice and Delinquency Prevention:

Juvenile Justice and Delinquency Prevention: Report of the Task Force on Juvenile Justice and Delinquency Prevention (1976).

IJA/ABA Summary and Analysis\*

IJA/ABA Transfer Between Courts

IJA/ABA Youth Service Agencies

NAC Final Report

Report of the Task Force

\*While the other Tentative Drafts in this series were prepared by Reporters, reviewed by Drafting Committees, and thereafter examined and officially approved by the IJA/ABA Joint Commission, this exceptionally useful summary volume was individually authored by Barbara Flicker, who served as Project Director in 1975-76. Thus, in Tentative Draft form, it was not formally reviewed or approved by the Joint Commission. A revised Final Draft of the summary volume is forthcoming.



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