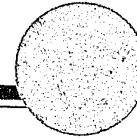




U. S. Department of Justice  
Office of Juvenile Justice and Delinquency Prevention  
*National Institute for Juvenile Justice and Delinquency Prevention*

76584



## Reports of the National Juvenile Justice Assessment Centers

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

#### *Volume IV*

- Advocacy for Services
- Due Process/Procedural Safeguards

76584

**JJS**  
Juvenile  
Justice  
Standards

---

## *Publications in the Juvenile Justice Standards Series*

---

### **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 and supplement)**

#### *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

A supplement to Volume IV, presenting a more detailed  
analysis of standards concerning due process/procedural  
safeguards, is in preparation and will be announced on  
publication.

---

U.S. Department of Justice

Office of Juvenile Justice and Delinquency Prevention

National Institute for Juvenile Justice and Delinquency Prevention

---

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

---

### *Volume IV*

---

- Advocacy for Services
  - Due Process/Procedural  
Safeguards
- 

Robert W. McCulloh

September 1982

U.S. Department of Justice  
National Institute of Justice

85876-76584

This document has been reproduced exactly as received from the  
person or organization originating it. Points of view or opinions stated  
in this document are those of the authors and do not necessarily  
represent the official position or policies of the National Institute of  
Justice.

Permission to reproduce this copyrighted material has been  
granted by

Public Domain/OJJDP/NIJ

U.S. Department of Justice

to the National Criminal Justice Reference Service (NCJRS)

Further reproduction outside of the NCJRS system requires permis-  
sion of the copyright owner

Prepared by the National Center for the Assessment of the Juvenile Justice System, operated by the American Justice Institute (AJI), under Grant Numbers 79-JN-AX-0013, 77-JN-99-0009, 77-JN-99-0008, 77-JN-99-0008 (S-1) and (S-2), from the National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention, U. S. Department of Justice. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U. S. Department of Justice.

Copyright © 1981 American Justice Institute

Principal author of this report was Robert W. McCulloh. General design and review were provided by AJI staff and by Barbara Allen-Hagen of NIJJDP. Administrative editing and manuscript production were done by Paula Emison and Andrea Marrs of AJI. Final editing, graphic design, and preparation for publication were performed by the National Juvenile Justice Clearinghouse, a component of the National Criminal Justice Reference Service (NCJRS). NCJRS is operated for the National Institute for Juvenile Justice and Delinquency Prevention, the National Institute of Justice, and other agencies of the U. S. Department of Justice, by Aspen Systems Corporation, Rockville, Maryland, under contract J-LEAA-013-81.

The Office of Juvenile Justice and Delinquency Prevention reserves the right to reproduce, publish, translate, or otherwise use, and to authorize others to publish and use, all or any part of the copyrighted materials contained in this publication.

NCJ 76584

## Table of Contents

	Page
Preface.....	iv
Foreword.....	v
INTRODUCTION.....	1
Notes to Introduction.....	4
ADVOCACY FOR SERVICES.....	5
Description of the Issue.....	5
Pertinent Provisions of the Act.....	6
Summary of Positions Recommended by Standards Groups.....	8
Table 1.....	9
Analysis of the Standards.....	10
Organization.....	10
Advocacy Techniques.....	15
The "Right to Treatment".....	31
Matrix of Interrelated Standards.....	35
Table 2.....	36
Notes.....	47
DUE PROCESS/PROCEDURAL SAFEGUARDS.....	59
Description of the Issue.....	59
Pertinent Provisions of the Act.....	60
Summary of Positions Recommended by Standards Groups.....	61
Table 1: Intervention.....	63
Table 2: Diversion.....	65
Table 3: Intake.....	67
Table 4a: Preadjudicatory Proceedings--Judicial Review of Detention and Emergency Custody.....	69
4b: Preadjudicatory Proceedings--Waiver and Transfer.....	71
4c: Preadjudicatory Proceedings--Notice, Arraignment, and Other Matters.....	73
Table 5a: Adjudication--Uncontested Proceedings.....	75
5b: Adjudication--Contested Proceedings.....	77
Table 6a: Dispositions--Predisposition Investigations and Reports....	79
6b: Dispositions--Dispositional Hearings.....	81
Table 7a: Appeals.....	83
7b: Other Forms of Postdispositional Review.....	85
Table 8a: Corrections--Grievances and Disciplinary Procedures.....	87
8b: Corrections--Transfers, Revocations of Community Supervision, and the "Right to Treatment".....	89
Notes.....	91
Appendix A: Relevant Provisions of the 1980 Amendments.....	105
Appendix B: Key to Abbreviations.....	107

## 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.

Wm Vaughan Stapleton  
Director  
National Center for the Assessment  
of the Juvenile Justice System

## 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."

Charles A. Lauer  
Acting Administrator  
Office of Juvenile Justice  
and Delinquency Prevention

James C. Howell  
Acting Director  
National Institute for Juvenile  
Justice and Delinquency Prevention

## Introduction

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

- Advocacy for Services
- Due Process/Procedural Safeguards.<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.

## Advocacy for Services

#### DESCRIPTION OF THE ISSUE

This Comparative Analysis adopts, as a definition of "advocacy," the following formulation by the Office of Juvenile Justice and Delinquency Prevention (OJJDP):

Youth advocacy--is a method of positive intervention by individual advocates or by advocacy groups on behalf of large numbers of youth to assure that problems confronting youth are effectively solved or managed through existing youth serving entities in the public, private and/or community sectors of society. A major objective of youth advocacy activities is to penetrate the blockages and obstacles between youth and service delivery systems which occur within complex social organizations. A further objective is the accomplishment of institutional (agency) change which results in improved service delivery to youths and reallocation of available resources. The level of effort required of advocacy in the representation process (negotiation, arbitration, contesting) is to support the needs and rights [of youth] as if they were the advocates' own.<sup>1</sup>

Several aspects of this definition should be emphasized. First, advocacy, as here described, is distinct from the delivery of social services: while advocacy efforts do endeavor to enhance the quality of such services, they are not synonymous with the service delivery mechanisms themselves. Second, "the focus...is on broad based change for large numbers of youth who are affected by statutes, policies, and practices of the targeted systems," rather than on representation of individual youth on a case by case basis<sup>2</sup>--though, in some instances, representation in an individual case may be an appropriate vehicle for effectuating such systemwide change. Third, it should be noted that, while the conception of advocacy employed here includes "legal advocacy," it is by no means limited to that. Community education programs designed to forge coalitions supporting improved services for juveniles, meaningful youth participation in monitoring efforts intended to enhance accountability and make programs more responsive--these and myriad similar strategies are also contemplated by the definition of advocacy outlined above. Moreover, as to legal efforts specifically:

[I]t is important to distinguish legal assistance to individual youth on a case by case basis (direct services) from legal support which involves the selection of cases for the purpose of contesting or establishing principles, policies and practices affecting classes of youth such as dropouts and pushouts, incarcerated youth, truants and others.<sup>3</sup>

Thus, OJJDP defines "legal advocacy" as follows:

Legal advocacy is an approach whereby test case litigation or representation is used to advocate for the interests and protect the rights of a given group or class of youth and seek systems change for the entire class of youth.<sup>4</sup>

It should also be reiterated that the present review concentrates on advocacy for services. The Comparative Analysis which follows this one will focus on Due Process/Procedural Safeguards, addressing a cluster of right to counsel issues, together with other matters pertinent to procedural protections. To highlight the distinction: There the analysis will focus on individual legal rights--particularly those recommendations by the standards groups which are designed to ensure that a juvenile's liberty is curtailed only in accordance with the dictates of the Due Process Clause. Here, on the other hand, individual legal rights are not (with a single exception)<sup>5</sup> at the forefront of the discussion. Instead, attention is directed primarily to advocacy techniques--including, but by no means limited to, those of legal advocacy (as defined above)--which are designed to enhance the level and quality of services available to juveniles.

Following a review of the directives of the JJDP Act in this area, the bulk of the present Comparative Analysis will be devoted to an exposition of the positions of the four standards groups on two issues: the organization of advocacy efforts and the specific techniques of advocacy to improve services for juveniles. A third issue--the "right to treatment"--will be discussed briefly. The latter, in a sense, straddles the subject-matter of the present paper and the one which follows in that, while it is indeed an individual legal right (which is often, though not always, grounded on the Due Process Clause<sup>6</sup>), its principal significance is typically as a doctrinal basis for class action suits designed to generate the sort of "system change" contemplated in the description of advocacy set forth above.

#### PERTINENT PROVISIONS OF THE ACT\*

Although the JJDP Act of 1974, as amended, makes only two mentions of the youth advocacy concept, these are strategically placed, evidencing a congressional intention to make such programs key features of the overall framework outlined in the Act. The Act refers to advocacy in both the "advanced techniques" section (Sec. 223) and the "special emphasis" section (Sec. 224). In Sec. 223(a)(10)(D), it is declared that among the "advanced techniques" to which the States are to devote the lion's share of their formula grant funding are the following:

[P]rojects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth impacted by the juvenile justice system.<sup>7</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 page 105 of the present volume identifies those portions of the 1980 Amendments relevant here.

In Sec. 224(a)(7), which was added to the Act in the 1977 Amendments, it is specified that the LEAA Administrator is authorized to provide "special emphasis" grant funding to

develop and support programs stressing advocacy activities aimed at improving services to youth impacted by the juvenile justice system.<sup>8</sup>

More particularized guidance regarding the appropriate scope of advocacy activities is to be found in LEAA's "Program Announcement--Youth Advocacy Initiative," issued in October 1979.<sup>9</sup> While the sometimes intricate specifics of this Program Announcement need not be fully recounted here, several of its more important features should be identified. Initially, it is specified that OJJDP's Youth Advocacy Initiative is to have a twofold objective. First:

To realize specific system reforms at the state and local levels leading to greater availability and better quality of services to youth by juvenile justice, education and social service agencies and institutions.<sup>10</sup>

And, second, to increase knowledge regarding the essential features of advocacy projects themselves "in order to facilitate replication of such projects in other states and localities."<sup>11</sup>

The remainder of the Program Announcement endeavors to flesh out the means envisioned to achieve the two objectives just discussed. In the section captioned "program description," it is noted that:

Advocacy approaches which are the major thrusts of this program include, but are not limited to: (1) effective coalition building among public and private groups and organizations to impact the needs of youth; (2) meaningful youth participation in policy decisions affecting youth for the purpose of better defining youth needs and impacting on the policies, practices and utilization of funds in youth serving institutions; and, (3) effective legal advocacy in support of the above two approaches for the purpose of protecting the interests and rights of children and youth.<sup>12</sup>

Under the heading "program strategy," the Program Announcement states that:

Projects must incorporate four key elements: (1) Functional independence from the organization(s)/system(s) in which change will be sought; (2) Participation by interested persons from various community sectors (government, business, political, industry, labor, churches, indigenous neighborhood groups, etc.); (3) Extensive and meaningful participation by youth of the population to be affected by the project in project design, planning and implementation (e.g. staff, consultants, advisors, investigators, board members, negotiators, etc.); youth employed by projects must reside in or have extensive experience with neighborhoods having high levels of crime and socio-economic disadvantage; and (4) The employment of skillful staff, knowledgeable and experienced both with respect to the system in which change is sought and with respect to problems associated with system change and advocacy.<sup>13</sup>



It is further specified that:

Action plans must be specific...and must include but not be limited to the following:

(1) Community education activities which foster public understanding of the needs of youth, clarify the associated issues, and build consensus about what to do to meet these needs through the use of a variety of communications and media techniques.

(2) Regular review of public and private youth serving institutions to: protect the rights of youth, assure that existing laws and policies mandating appropriate services to which youth are entitled are enforced and, identify policies and practices which are harmful to youth.

(3) Review and analysis of existing and proposed statutes, and expert testimony to facilitate responsiveness of decision makers to the needs of youth for positive development.

(4) Approaches which utilize administrative negotiation to facilitate systems change.<sup>14</sup>

#### SUMMARY OF POSITIONS RECOMMENDED BY STANDARDS GROUPS

Table 1 on the following page briefly summarizes the positions of the four standards groups surveyed here regarding advocacy for services. The subsequent discussion in the Analysis of the Standards section elaborates the individual recommendations with some detail.

Table 1  
Summary of Positions Recommended by Standards Groups<sup>15</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Organization of Advocacy Efforts	Calls for the establishment of a State Executive Office of Youth Advocate, independent of State and local planning agencies and organizations which deliver services. State and local planning authorities are also given some responsibilities re: advocacy.	Does not suggest creation of a separate entity. State agency charged with responsibilities re: delinquency prevention to, among other things, undertake "[a]dvocacy on behalf of the well-being of children and youth."	Recommends creation of a State Commission on Juvenile Advocacy to serve as a monitoring mechanism.  "Advocacy planning"--"a legitimate but informal element" of the planning process--to be undertaken principally by service agencies.	Does not propose creation of an independent entity. State and local correctional agencies assigned some responsibilities re: advocacy.
Advocacy Techniques	Office of Youth Advocate to "investigate and report misfeasance and malfeasance" in juvenile services, to "inquire into areas of concern," and to "conduct periodic audits." It may examine records, hold public hearings, issue reports, recommend funding cut-offs, and initiate legal action.  Individual juveniles provided right to counsel and ombudsman programs.	Standards are not specific re: advocacy techniques of State agency. Commentary mentions, e.g., building public support for youth programs, reviewing statutes and agency policies, exercising budgetary review powers, and monitoring service programs for compliance with State standards.  Individual juveniles accorded right to counsel.	Standards re: "advocacy planning" address constituency building.  State Commission on Juvenile Advocacy to monitor "all aspects of the juvenile justice system." It may hold public hearings, publish reports, propose legislation, and initiate lawsuits against agencies.  Individual juveniles assured of right to counsel. <u>Corrections commentary discusses ombudsman programs.</u>	Correctional agencies to, among other things, advocate desirable legislation, maintain community liaison, provide public information program, and hold public hearings re: construction of facilities.  Individual juveniles have right to legal counsel.
"Right to Treatment"	Standards support "right to care and treatment."	Standards endorse right to "services necessary for normal growth and development."	Standards support the juvenile's right to a "safe, human, caring environment."	Standards endorse the juvenile's right to a "safe and healthful living environment."

Summary of Positions: I. Organization

Two groups recommend creation of an independent entity with major responsibilities re: advocacy; two groups assign advocacy functions to other agencies.

II. Techniques

Each of the four groups proposes a slightly different mix of advocacy techniques; the two groups endorsing an independent entity support a wider range of powers.

All four groups support the individual juvenile's right to counsel; one group endorses (and another discusses) ombudsmen for juveniles in correctional programs.

III. "Right to Treatment"

With variations in emphasis, all four groups support the basic "right to treatment" concept.

## ANALYSIS OF THE STANDARDS

In discussing its Youth Advocacy Initiative, the Office of Juvenile Justice and Delinquency Prevention observes that:

In our society young people are conditioned to accept a passive, not assertive, posture vis-a-vis adults. Many adults in positions of responsibility tend to discount the views of young people if these views differ from their own. Youth is a transitional state which militates against sustained advocacy efforts by youth alone.<sup>16</sup>

OJJDP further notes that:

The need for youth advocacy increases as institutions gain influence over the lives of the young. Due to industrialization and urbanization, institutions such as the school system, the employment network, the juvenile justice system, and human service systems replaced and supplemented the family in influencing the development of young people. All of these systems are naturally subject to the inherent impersonal and inflexible character of complex bureaucracies. Advocacy efforts are needed to protect the rights of all, particularly low income and minority youth, when the institution is not serving young people's needs. The recent period of rapid social change undoubtedly has contributed to the heightened interest in advocacy activities.<sup>17</sup>

Accepting the basic premise--as it appears that all four of the standards groups surveyed here do<sup>18</sup>--that effective advocacy efforts can help overcome the inertia and rigidities of large scale organizations and make service programs more responsive to juveniles' actual needs, one of the key issues to be considered is: How should such advocacy programs be organized?

### Organization

In the present context, the principal question is whether advocacy functions (as broadly defined above) should be undertaken by service agencies and planning authorities or, in the alternative, by autonomous entities, possessing (in the OJJDP terminology previously cited) "[f]unctional independence from the organization(s)/system(s) in which change will be sought."<sup>19</sup> The four standards groups surveyed here are split on this issue, and even those groups that countenance the creation of autonomous organizations do not suggest that all of the activities encompassed in the broad definition of advocacy employed here be assigned exclusively to these independent entities.

For example, the IJA/ABA's Monitoring volume calls for the establishment of an autonomous State Commission on Juvenile Advocacy. Its Standard 4.1, which addresses the issue in some detail, provides that:

Each state, through appropriate legislation, should provide for the appointment by the governor of a commission on juvenile advocacy. Appointments should be for staggered terms of similar duration and should be renewable for an additional similar period. Members of any one political party should constitute no more than a bare majority of the commission.

A. The appointments should be made subject to legislative approval and the positions should be full time at a salary and rank of a state agency director or commissioner, but not subject to state civil service requirements.

B. Recommendations for appointments should be sought from all agencies and organizations that have established records as vigorous advocates for equal rights and opportunities for all juveniles. The commission members, in turn, should also have such records. Minority groups and women should be represented on the commission.

C. The commission should have an adequate supportive staff of full-time investigators, lawyers, budget examiners, planners, and other professionals as required to perform its responsibilities who, in addition to their professional qualifications, also have established records as vigorous advocates for equal rights and opportunities for juveniles.<sup>20</sup>

The accompanying commentary indicates that:

[This standard calls]...for the creation and operation of a central commission that would perform statewide and comprehensive monitoring of the juvenile justice system, while functioning independently of that system.<sup>21</sup>

The commentary further states that:

Under this model, the commission is viewed as an executive agency. Thus, the governor, as chief executive, is designated the appointing authority. Appointments are made subject to approval by the legislature to maintain the system of checks and balances. Input is to be sought from that part of the private sector that has established a record of vigorous child advocacy. The members themselves should have similar records. This is perhaps the most crucial ingredient. The commission is expected to take on the role of leadership in improving the way the state treats children. Not only experience but also a demonstrable record of advocating protection of juveniles' rights should be essential characteristics of the membership.<sup>22</sup>

While the proposed State Commission is to be granted considerable authority (as will be noted in the subsequent discussion of Advocacy Techniques), it should be stressed that the IJA/ABA standards do not suggest that all advocacy functions are to be the exclusive province of this commission. Thus, IJA/ABA's Planning for Juvenile Justice volume discusses what it terms "advocacy planning" (which seems generally equivalent to what OJJDP refers to as "coalition building"<sup>23</sup>). The volume indicates that these duties are to be apportioned among a State juveniles' services agency, regional components of that same agency, and local juvenile justice boards.<sup>24</sup> Specifically, the Planning volume's Standard 3.3 directs that:

A. Advocacy planning should be incorporated into the planning responsibilities of juveniles' services agencies, regional planning units, and local juvenile justice boards, as a legitimate but informal element of the overall planning process.

B. The task of advocacy planning should be divided among juvenile justice agencies according to the following criteria:

1. the juveniles' services agency should have primary responsibility for constituency building with the governor, legislature, and other state agencies;
2. regional planning units should maintain day-to-day contact with direct service providers and other service agencies closely related to juvenile justice;
3. local juvenile justice boards should regard it as their primary mandate to create support for juveniles' services through direct contact with citizens and with other juvenile advocacy groups.<sup>25</sup>

The commentary to Standard 3.3 notes:

This standard allocates the tasks...of advocacy planning...among the agencies of the juvenile justice system on the basis of their comparative advantages in performing particular forms of advocacy. Two factors are dominant in selecting particular tasks for each kind of agency: geographical proximity to potential constituencies for juvenile justice, and the extent to which more formal planning modes are apt to consume the agency's time and resources.<sup>26</sup>

Although the proposals of the National Advisory Committee differ from those of the IJA/ABA in that they allocate a somewhat different range of responsibilities to the agencies involved,<sup>27</sup> the NAC standards are similar to the IJA/ABA directives in two key respects: first, they, too, call for the creation of an independent State executive agency with extensive advocacy powers; second, they also assign some advocacy functions to other agencies as well. NAC Standard 1.126 stipulates, in pertinent part:

The state government should establish an executive office of youth advocate...<sup>28</sup>

The remainder of this standard delineates the powers and responsibilities of the proposed office--subjects that will be discussed below. The accompanying commentary states:

This standard recommends that the state government establish a single executive Office of Youth Advocacy. Although some programs currently function as youth advocates, the range of services is too scattered and random to effectively meet the special needs of youth....The Office would be principally responsible for serving as a centralized advocate for youth to maximize services through existing community-based facilities.<sup>29</sup>

In addition to supporting this concentration of advocacy powers in the office proposed in Standard 1.126, the NAC directives also indicate that other agencies should undertake certain types of advocacy duties compatible with their respective responsibilities. For example, Standard 1.121, which endorses the creation of a State planning and coordinating agency,<sup>30</sup> specifies that this agency should be empowered to, among other things:

Advocate the development of supplemental services as necessary at the state and local levels.<sup>31</sup>

The attendant commentary states, in part:

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 decisionmaking, 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 justice system to the local community and the legislature.<sup>32</sup>

This State agency is to work closely with the local planning authorities (proposed in NAC Standard 1.111) in formulating juvenile service programs. In its Standard 1.29, the National Advisory Committee indicates that these local agencies are also to assume advocacy roles to ensure the provision of adequate services. The standard stipulates, in pertinent part:

The local planning authority and the state agency should provide the necessary resources or serve as advocates for such resources to facilitate the implementation of new and expanded programs and assure the maintenance of existing services.<sup>33</sup>

In contrast to the approaches of the IJA/ABA and the National Advisory Committee, neither the Task Force nor the Commission on Accreditation for Corrections calls for the creation of an independent State agency devoted entirely to juvenile advocacy. Instead, the latter two groups propose that some of the advocacy functions described above be assigned to organizations responsible for planning services, delivering them, or both. Task Force Standard 2.3, for example, specifies that the duties of the State agency charged with coordinating delinquency prevention programs should include the following:

Advocacy on behalf of the well-being of children and youth.<sup>34</sup>

The accompanying commentary states:

The stresses and complexities of our society make it difficult for the traditional advocate for children, the parent, to be heard. Moreover, no single agency in the community or at the State level presently speaks for the total child or for all youth. As a result, efforts to help the young are fragmented among many agencies with differing philosophies, organizational structures and financial bases. There is little coordination and no plan for developing services.

To effectively prevent delinquency, there must be a single State agency to plan, facilitate and coordinate all prevention services for youth. This agency must be charged with the responsibility of serving as an advocate for youth interests.<sup>35</sup>

The activities of this State agency are to be supplemented by local Offices of Delinquency Prevention Planning working in the individual communities.<sup>36</sup>

The approach of the Commission on Accreditation for Corrections in this area is basically similar to that of the Task Force.<sup>37</sup> Given the CAC's (virtually) exclusive focus on correctional programs as such, though, it does not really discuss advocacy in much detail. Still, its standards do assign some of the advocacy functions noted above to State and local correctional agencies.<sup>38</sup> Most of these directives relate to constituency building, and the specifics of the recommendations will be explored below. For present purposes, the key point to be noted is that, like the Task Force--and in contrast to the IJA/ABA and the NAC--the CAC does not call for the creation of an independent entity vested with wide-ranging advocacy powers.

Brief comment should also be made here on the groups' positions regarding the organization of legal advocacy efforts. In practice, these will likely be among the most significant advocacy activities. But, while all four groups are clearly supportive of the right to counsel, only two groups direct standards to how legal services should be organized (with a third group alluding to the subject in commentary)--and these recommendations speak to the provision of legal representation generally, rather than specifically addressing entities whose principal mission is to provide counsel in test case or class action litigation designed to achieve "system change."

Thus, Standard 2.2(a) in the IJA/ABA's Counsel for Private Parties volume, for example, merely stipulates that:

Counsel should be provided in a systematic manner and in accordance with a widely publicized plan. Where possible, a coordinated plan for representation which combines defender and assigned counsel systems should be adopted.<sup>39</sup>

Similarly, Standard 16.9 in the Report of the Task Force simply provides that:

Where possible, a coordinated plan for providing representation that combines public defender and assigned counsel systems should be adopted.<sup>40</sup>

The position of the National Advisory Committee is also in accord, but it only addresses the issue in commentary rather than in a standard as such.<sup>41</sup> Clearly, all three of these groups take cognizance of, and even provide encouragement for, litigation designed to effectuate the types of "system change" contemplated in the definition of legal advocacy set forth above.<sup>42</sup> Moreover, it is even recognized that such lawsuits will require experienced, thoroughly prepared attorneys possessing very specialized skills.<sup>43</sup> Nevertheless, none of the three standards groups that speak in general terms to how the provision of legal services should be organized tender any further, more specific recommendations regarding the organization of legal services units devoted principally to this type of impact litigation.<sup>44</sup>

Finally, while it is not pertinent to litigation as such, one additional aspect of the IJA/ABA's proposals regarding legal counsel should also be noted here. Standard 3.2 in this group's Monitoring volume directs, in part:

Whether counsel is provided by public defender or legal aid organization, arrangement with the private bar, or by some other means, a specific lawyers' committee of the bar association comprised of counsel representing juveniles in the juvenile justice system should be established on a

local or regional basis, to systematically monitor the activities and performance of the juvenile justice agencies....<sup>45</sup>

The accompanying commentary states:

The lawyers committee suggested here and its activities are intended to be similar to those of other standing committees of the bar on both the local and state level.<sup>46</sup>

Subsequent standards and commentary delineate some of the contemplated committee's duties regarding advocacy activities, and the specifics of these recommendations will be explored in the section which follows.

#### Advocacy Techniques

Initially, it may be useful to explore the range of powers and responsibilities that the two groups which call for the creation of independent entities devoted to juvenile advocacy would assign to those organizations. The National Advisory Committee's position on this subject is set forth in its Standard 1.126. This standard (previously cited only in part) provides that:

The state government should establish an executive office of youth advocate with the responsibility for investigating and reporting misfeasance and malfeasance within the juvenile justice system, inquiring into areas of concern, and conducting periodic audits of the juvenile service system to ascertain its effectiveness and compliance with established responsibilities.

The office of youth advocate should have the authority to:

- a. Examine all records pertaining to the juvenile service system;
- b. Subpoena witnesses and hold public hearings;
- c. Issue reports to the governor, legislature, family court, and the director of the agency under consideration;
- d. Recommend revocation of federal and state funding and/or state certification;
- e. Initiate legal action to obtain compliance with the recommendations; and
- f. Publish its findings and recommendations on an annual basis for the general public.

The authority of the agency should extend over all juvenile services receiving state and/or federal funding.<sup>47</sup>

Contrasting the approach suggested in Standard 1.126 with some of the current youth advocacy efforts, the accompanying commentary states that:

Several biases have been observed in present youth advocacy programs, and such programs as presently constituted have been charged with creating more disarray than responses to problems in the juvenile service system. ...The biases that have been noted are (1) present youth advocacy agencies tend to emphasize program description rather than program implementation and evaluation, and as a result there are more "paper programs" than actual ones; (2) such agencies are usually dominated by one

particular profession, the concerns of which are often more "territorially dominated" than youth oriented; and (3) such agencies often over diagnose and over classify youth as a method for excluding them from particular services.<sup>48</sup>

The commentary argues that the "centralized advocate for youth" outlined in Standard 1.126, on the other hand, would facilitate the formulation of cogent, uniform standards and goals for the State's entire juvenile service system. It also says that:

In addition to remedying current biases in the juvenile service system and setting more relevant goals for these systems, an Office of Youth Advocacy could remedy the lack of accountability now evident in the scattered agencies....These agencies currently lack accountability to the very persons they were set up to serve--juveniles. All youth, in part because of the legal incapacities imposed by their status as children, require skilled and conscientious advocates. By empowering the Office of Youth Advocacy with the ability to initiate legal action, hold hearings, publish findings, etc., this standard attempts to ensure that children and their special concerns will not be forgotten by the community or the legislature....The present lack of accountability to the community would be diminished because the Office of Youth Advocacy would be directly accountable to the governor of the state.<sup>49</sup>

Commenting on the rationale for the specific powers and techniques articulated in paragraphs (a) through (f) of Standard 1.126, the commentary observes that:

This standard gives the Office of Youth Advocacy authority to examine all juvenile records, to subpoena witnesses, and to hold public hearings. See paragraphs (a) and (b) of this standard. This authority will enable the office freely to probe allegations of deficiencies and illegality within the juvenile service system, and should minimize the ability of agencies to impede the investigation of complaints. Consistent with the authority conveyed in paragraphs (a) and (b) of this standard, the office should be responsible for knowing the functions of all relevant state agencies to reveal areas in which such agencies inadequately serve juveniles and to work for improvements....

This standard also gives the Office of Youth Advocacy the prerogative to recommend revocation of program funding or certification. See paragraph (d). In so doing, this standard greatly bolsters the office's ability to carry out the continued improvement of a state's juvenile service system, and in turn to remain a strong advocate for children....This ability to recommend elimination of funding, supplemented by the ability to bring lawsuits, gives the Office of Youth Advocacy a unique capacity and potency to act quickly to remedy urgent and profound conditions which disserve juveniles and which abridge the letter or spirit of the law.<sup>50</sup>

A fairly similar range of powers and techniques is suggested by the IJA/ABA for the State Commission on Juvenile Advocacy proposed in its Monitoring volume. Standard 4.2 in this volume, titled Activities of the Commission, stipulates that:

The commission should perform the following activities:

- A. monitor (including the evaluation function) all aspects of the juvenile justice system within the state on an on-going basis in accordance with the applicable provisions of these standards;
- B. draft and disseminate proposals for changes in legislation, rules, regulations, policies, and practices relating to any aspect of the juvenile justice system, based on information gathered pursuant to such monitoring activities, and hold public hearings on any such proposed changes;
- C. publish regular and periodic reports on its findings in all appropriate media;
- D. report its findings directly to the governor and chief administrative judge responsible for the juvenile court system in the state and locality;
- E. appoint consultants to an agency or facility to oversee the implementation of remedies affecting juveniles in accordance with plans, standards, or procedures adopted by the agency;
- F. staff, on a temporary basis, legislative or judicial study or investigation commissions, committees, or other bodies probing juveniles' problems or issues.<sup>51</sup>

Standard 4.3, captioned Powers [of the Commission], is a corollary to the just-cited 4.2. Standard 4.3 directs that:

The commission should have the power and authority to:

- A. gain access to all appropriate information, records, staff, and persons subject to the jurisdiction of any agency involved in the juvenile justice system;
- B. investigate any aspect of the juvenile justice system, hold executive and public hearings, perform on-site inspection of facilities, and attend executive, judicial, and legislative meetings pertinent to the operation of the juvenile justice system, and, with the additional authority from the appropriate court, subpoena records and witnesses;
- C. require agencies responsible for any aspect of the juvenile justice system to produce plans or procedures to remedy problems;
- D. bring suit against an agency when proposed remedies are not being implemented or are implemented improperly.<sup>52</sup>

The commentary to Standards 4.2 and 4.3 (together with the commentary to other, related standards in the Monitoring volume) makes several observations regarding the rationale for the range of powers and advocacy techniques suggested by these standards which are pertinent here. For example, apropos of vesting the Advocacy Commission with substantial investigative and information-gathering powers, the commentary states that:

[C]ertain powers commensurate with the scope and purpose of the monitoring mechanism [should] be granted....The power to secure testimony and the production of documents, through application to the appropriate court for subpoenas, is one such power that is fundamental. Without such authority, the monitoring system is left helpless in the face of an intransigent agency.<sup>53</sup>



It is also noted that:

The monitoring process that criticizes certain agencies, programs, etc. and seeks to alter them or replace them with others is clearly a political activity not in the sense of partisan politics but in the sense of policy advocacy. Thus, generating political and public support becomes an essential element in a proper exercise of power.<sup>54</sup>

Therefore, the commentary places considerable emphasis on effectively disseminating the results of investigations, fostering public education efforts, and endeavoring to build coalitions dedicated to generating fundamental changes. For example, it suggests that:

[T]he widest possible dissemination of findings, reports, and recommendations [is] a specific goal in itself of the monitoring process. This is consistent with...[the] concepts of increasing visibility and enlarging the constituency seeking more basic changes, and is essential to the implementation function.<sup>55</sup>

Summarizing the range of powers proposed for the State Commission on Juvenile Advocacy in Standard 4.3, the commentary concludes:

The investigatory and enforcement powers suggested in Standard 4.3 represent minimum necessary powers for the proper functioning of any independent statewide monitoring mechanism. Without a broad grant of access to information and power to investigate and seek subpoenas, the commission or any similar mechanism could not adequately perform its monitoring activities. Without powers to insure adoption of and compliance with recommendations resulting from the monitoring process, the ultimate objectives of monitoring would be defeated.<sup>56</sup>

The IJA/ABA does express some wariness, though, that the commission's authority to initiate lawsuits to ensure compliance with its recommended reforms could perhaps be overutilized. Hence, the commentary attaches the following caveat:

The fact that this power to litigate exists does not imply that it must invariably be used. Enforcement through the courts is not presented here as, nor suggested to be, a panacea. In one sense, if it must be resorted to, the implication is that the monitoring system has failed. In the context of environmental laws, it has been observed that, "[a]ll available experience indicates that laws against pollution, like all other laws, must rest primarily on voluntary action if their purpose is to be achieved." The necessary dependence on voluntary compliance, however, should not obscure the fact that the degree of such compliance may depend upon the success of the control agency in carrying out legal prosecution.<sup>57</sup>

The commentary further states:

It was recognized...that a mechanism such as the one proposed could wield a great deal of power. Although such power is commensurate with the task assigned to, and the goals and objectives of, an independent-external monitoring mechanism, the necessity to guard against abuses ought to be

considered. Standard 4.4 is intended to provide a balance to that necessary power and offer a check to any possible abuse of that power.<sup>58</sup>

Standard 4.4 makes explicit provision for an agency which is subject to an allegedly improper order by the Advocacy Commission to challenge that order in court. Specifically, the standard directs that:

Any agency subject to any order of the commission, having good and reasonable cause to believe that the order is in excess of the commission's authority or otherwise improper, should be authorized to seek a judicial opinion from the highest court of general trial jurisdiction in the state as to the agency's duty and obligation to comply with such order.<sup>59</sup>

The commentary expounds upon this review procedure as follows:

It can be expected that, on occasion, disputes will arise between the monitor and the agencies being monitored. This standard recognizes the role of the courts in resolving such disputes. The prerequisite to initiating court action to resolve a dispute is "good and reasonable cause" to believe the commission is exceeding its authority. This standard is intended to prevent the use of the authorized court review procedure by agencies seeking to delay implementation by raising frivolous or dilatory allegations of excess of authority.<sup>60</sup>

Under the scheme proposed in the IJA/ABA's Monitoring volume, the bulk of the authority--in particular the enforcement power--is to be lodged in the State Commission on Juvenile Advocacy just described. The advocacy activities of this commission--especially its investigative endeavors and coalition building efforts--are to be supplemented, though, by the work of other organizations.<sup>61</sup> For example, Standard 5.1 in the Monitoring volume calls for the establishment of Community Advisory Councils and proposes that these councils be empowered to

advise, assist, criticize, and monitor the functions performed and services rendered by the [juvenile service] agencies.<sup>62</sup>

Standard 5.1 further directs that:

B. The community advisory councils should be granted access to persons, agencies, institutions, records, data, and information necessary to perform their monitoring functions in accordance with these standards.

C. The community advisory councils should periodically report their findings to the respective agencies, the community, and the commission on juvenile advocacy.<sup>63</sup>

In fact, the commentary even suggests that some of the enforcement powers (which the standards themselves view as the exclusive province of the State Commission) might be relegated to these local councils. Thus, the commentary states:

Remedial and compliance enforcement powers could be granted directly to the councils or exercised by the state commission on behalf of the councils upon the request of the latter and after a determination of need.

Here again a certain amount of experimentation is needed to identify the most appropriate models. Obviously no one model is best suited for every locality or region.<sup>64</sup>

The Monitoring volume also suggests that the activities of the State Commission (and the local councils) should be accompanied by efforts by independent advocacy groups. Hence, Standard 8.2 provides that:

Independent juveniles' rights advocacy organizations should be included in the monitoring process, and should be encouraged, assisted, and cooperated with by all monitoring mechanisms in efforts to enforce or prevent the violation of juveniles' rights.<sup>65</sup>

The accompanying commentary is quite nondirective as to the contemplated activities of these independent advocacy groups. It merely states that:

These standards recognize the importance of the activities of independent research centers, academics, and advocates in the overall scheme of monitoring. The continuation of such research and advocacy activities should be encouraged and assisted....

The underlying principle is that even though a comprehensive monitoring system is established, the contributions of independent research and advocacy should not be overlooked. Indeed, monitoring mechanisms and state and local governments should actively sponsor (as well as assist and cooperate with) research, evaluation, and advocacy by persons and organizations outside their respective systems.<sup>66</sup>

It will be seen, then, that both the National Advisory Committee and the IJA/ABA would grant the independent entities which they charge with primary responsibility regarding juvenile advocacy with broad-based investigatory and enforcement powers. The standards of each group, with only slight variations in emphasis, would empower the respective State office or commission with, among other things, substantial information-gathering capabilities, the authority to conduct public hearings, the right to disseminate reports of its findings to the public, the power to recommend legal or policy changes to juvenile service agencies, and the authority to initiate litigation against these agencies where such action is necessary to ensure compliance.<sup>67</sup> Moreover, the IJA/ABA, which views its State Commission as essentially a monitoring mechanism, would supplement the commission's advocacy activities with similar efforts by local councils and other, independent groups.

It should also be recalled that these two groups assign some advocacy duties to agencies whose major responsibilities lie in the realm of planning and/or delivering juvenile services. The approach of the IJA/ABA Planning volume is illustrative. Its Standard 3.1 B. defines "advocacy planning" as follows:

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. As such, it is largely directed outward, focusing on the process of consciously pursuing the interests of juveniles with regard to services.<sup>68</sup>

The previously cited Standard 3.3 in the Planning volume characterizes advocacy planning as "a legitimate but informal element of the overall planning process."<sup>69</sup> To reiterate, subsection B. of Standard 3.3 allocates responsibilities among agencies and boards arrayed in a three-tiered organizational structure, specifying that:

The task of advocacy planning should be divided among juvenile justice agencies according to the following criteria:

1. the juveniles' services agency should have primary responsibility for constituency building with the governor, legislature, and other state agencies;
2. regional planning units should maintain day-to-day contact with direct service providers and other service agencies closely related to juvenile justice;
3. local juvenile justice boards should regard it as their primary mandate to create support for juveniles' services through direct contact with citizens and with other juvenile advocacy groups.<sup>70</sup>

The juveniles' services agency mentioned here is envisioned as a statewide, umbrella organization.<sup>71</sup> In discussing this agency's duties regarding advocacy planning, the commentary remarks that:

[T]he juveniles' services agency is allocated principal responsibility for dealing with other elements of the central state government. This particular task of advocacy appears to fit well with the extensive agency planning assigned to this organization. In effect, it becomes primarily an advocate for its clients' interests within the statewide allocative processes and thus closely merges its advocacy and agency planning activities.<sup>72</sup>

Also pertinent here is Standard 4.3 B., which discusses planners' roles vis-a-vis the State Legislature. It states:

Planners in the juvenile justice system should develop a three-part legislative strategy, including the following steps: identification of existing legislative support for reform and strategies for the development of broader support; development of legislative proposals and provision of information concerning the findings and research on which their proposals are based; and support of legislative and public coalitions for change in juvenile justice.<sup>73</sup>

The accompanying commentary makes the cogent observation that:

This three-part program is proposed recognizing that reform of juvenile justice most often suffers in the legislature not from concerted opposition, but from extremely low visibility.<sup>74</sup>

The regional planning units, which are to undertake advocacy planning "with direct service providers and other [juvenile] service agencies,"<sup>75</sup> are components of the overall State juveniles' services agency; and these regional units may either engage in direct service provision themselves or purchase services from other providers.<sup>76</sup> The commentary to Standard 3.3 B. elaborates on these regional units' advocacy planning roles as follows:

The regional juvenile justice service agencies...are less deeply involved with the agency planning process and more concerned with the daily decisions about individual juveniles and direct negotiations with the service providers in the purchase of services system. This regular contact affords the regional agencies an exceptional opportunity to develop a constituency for improved juvenile justice services among the providers of those services and to provide that constituency with an accurate picture of the needs of the clients of the system. By building a self-conscious constituency at the regional level, too, these agencies can contribute to the efficiency of the whole system, for example, by facilitating coordination among service providers on the basis of mutually perceived advantages to be obtained.<sup>77</sup>

Regarding the advocacy planning responsibilities of the local juvenile justice boards, the commentary remarks:

The local boards bear the principal responsibility for constituency building through advocacy planning in the juvenile justice system....[T]he local boards are the main vehicle for contact between the juvenile justice system and its clients--both the juveniles who are brought into the system and the communities which act as the system's long-range clients. For this reason, they are uniquely capable of building an informed and concerned constituency among those most directly affected by the operation of the juvenile justice system. This constituency is vital to the system because only if effective client-oriented advocacy is generated can there be a check against the power of the agencies providing services and critical analysis of the condition of services in the juvenile justice system.<sup>78</sup>

The commentary also notes that:

The necessity of this advocacy can be seen in the fact that, in most states which have accomplished partial deinstitutionalization, the main thrust for change has come from organizations of private citizens who have become involved in issues related to the quality of juvenile services and thus provided a political base from which legislators could work.<sup>79</sup>

While there are, to be sure, some slight variations in approach, it is probably fair to say that the IJA/ABA standards regarding advocacy planning just reviewed, in general, demonstrate the basic postures of the other three groups in this area, as well. Each of these groups assigns to planning personnel, service providers, or both, a range of responsibilities relating to, e.g., representing their clients' interests in the allocative process; formulating and reviewing proposed changes in legislation or agency policies to enhance the level of juvenile-related services; developing public education and liaison programs--these and similar efforts to "build an informed and concerned constituency,"<sup>80</sup> and thus upgrade the quality of services available to juveniles. The National Advisory Committee, for example, would concentrate most of these duties in planning and coordinating authorities, which it views as separate and distinct from service providers. Thus, the previously cited Standard 1.121 charges the State planning authority with the responsibility to "[a]dvocate the development of supplemental services";<sup>81</sup> and the accompanying commentary suggests that this "centralization of authority" will provide "greater visibility" for juveniles' needs and "increase the accountability of the juvenile service system to the local community and the legislature."<sup>82</sup> As

was also noted above,<sup>83</sup> NAC Standard 1.29 requires the State agency to work in conjunction with the local planning authorities to either provide the necessary resources or "serve as advocates for such resources" to improve juvenile services. The commentary to Standard 1.29 notes that:

The philosophy underpinning this...standard is that with appropriate guidance...the individual service agencies are best equipped to develop specific, comprehensible, and workable programs with a realistically narrow geographic scope,...and that the local or regional planning body and the state agency are best equipped with the centralized authority necessary to insure program implementation....This standard specifically calls upon both local planning authorities and the centralized statewide agency to provide necessary resources or to serve as advocates to secure resources to insure the implementation of new or expanded programs, as well as to assure the maintenance of existing services.<sup>84</sup>

The commentary also suggests that such "centralized responsibility" is required "to guarantee the support necessary for program innovation and expansion."<sup>85</sup>

In addition to the foregoing recommendations intended to ensure vigorous advocacy for juveniles' interests in the allocative process, a number of NAC standards and their related commentary speak to the importance of building a constituency for improved juvenile services at the grassroots level in the community at large. For example, the commentary to NAC Standard 1.427 regarding the training of planning personnel notes that the planning process "will inevitably bring planners into direct contact with diverse groups within the community,"<sup>86</sup> and it suggests that:

This constant interchange and contact by planners with the community will permit planners to act "not only as professional planners but also as facilitators and coordinators of community prevention efforts."<sup>87</sup>

Also pertinent here is the Advisory Committee's Prevention Strategy captioned Citizen Efforts to Prevent Delinquency. It calls for

[p]rovisions of community mechanisms to encourage and involve citizens to prevent and control delinquency.<sup>88</sup>

The accompanying commentary states:

This strategy contemplates that the juvenile justice system will encourage citizen involvement in the prevention process. The justice system should actively sponsor and mobilize citizen activities. This may include involving local citizens in the plans and decisions of government agencies, encouraging citizens to attend community relation meetings set up by the local precinct, soliciting volunteers for juvenile service programs, and establishing citizen surveillance programs. Lobbying for [juvenile service] programs...is also an important activity of community groups.<sup>89</sup>

Although most of the standards of the National Advisory Committee just cited have focused on the advocacy role of planning personnel in their relations with community groups,<sup>90</sup> this last excerpt makes it clear that the Advisory Committee also conceives such a role as appropriate for those in agencies directly involved in

service provision. The point is reinforced by the commentary to NAC Standard 1.429, which governs the training of administrative personnel. The commentary states, in pertinent part:

Administrative personnel should also be trained in how to communicate effectively with community groups, members of the press, and individuals from the community. Many residential programs for youth have been halted or driven away by intense opposition to such programs from within the community. Under the worst of circumstances, youth program administrators should know something about how to defuse, deflect, or discourage community opposition to a residential youth facility. Under better circumstances, an administrator should know how to organize and galvanize community support behind new or additional youth services programs or facilities. Along these lines, this standard specifically provides that youth program administrators must be trained formally both in community organization techniques and in how to disseminate information to the public.<sup>91</sup>

It should be noted that the IJA/ABA's recommendations not only concur in this view, but make the point even more strongly, since the advocacy roles of service providers as well as planning personnel are addressed, not just in commentary, but in actual standards as well.<sup>92</sup> Thus, the IJA/ABA's Youth Service Agencies volume, for example, charges these agencies with the responsibility to develop

a comprehensive service system...by such means as coordination, advocacy, or purchase of services.<sup>93</sup>

In discussing what it refers to as "youth advocacy" or "systems change," the commentary in the Youth Service Agencies volume notes that:

Adequate funding, staffing, and effective youth advocacy directed toward improving the quality of services provided to youth by other community agencies are all vital to provision of this necessary mix of services.<sup>94</sup>

Moreover, Standard 2.5 E. in the IJA/ABA's Police volume directs that:

Police administrators should work collaboratively with both public and private agencies in ensuring that adequate services are available....In addition, police administrators, because of their knowledge of deficiencies in this area, should focus attention on gaps in public and private resources that must be filled in order to meet the needs of juveniles and their families, and on the unwillingness or inability of existing agencies and institutions to respond to the needs.<sup>95</sup>

Even the courts are assigned a similar role. Hence, Standard 3.5 A. in the IJA/ABA's Court Organization and Administration volume urges the family court division to establish "a program of community relations and public information" which includes

advocacy for law reform and improved agency services and facilities.<sup>96</sup>

These and other, similar standards<sup>97</sup> make clear the IJA/ABA's position that advocacy activities are not to be confined exclusively to the proposed State Commission on Juvenile Advocacy, or to that commission and planning personnel only, but are also to be undertaken by those involved in day-to-day contact with juveniles and the actual provision of services.

With the obvious exception that neither group endorses an independent commission devoted exclusively to advocacy, both the Task Force and the CAC are essentially in accord with this view. It was noted above that Task Force Standard 2.3 assigns to the State agency charged with planning and coordinating delinquency prevention programs the task of "[a]dvocacy on behalf of the well-being of children and youth," a duty that it is to undertake in conjunction with the local offices created in Standard 2.2.<sup>98</sup> The State agency called for in Standard 2.3, which is given extensive planning duties, may engage in direct service provision, though it need not.<sup>99</sup> The accompanying commentary makes it clear that, for the most part, the advocacy role is conceived in terms of what was described above as "advocacy planning." Vigorous advocacy for juveniles' interests in the allocative process is also highlighted. For example, the commentary suggests that:

[The State agency's]...comprehensive nature should place it in a better competitive position to secure a fair share of the tax dollar. The very existence of a single agency reminds the community and the legislature of the presence of special youth problems, and maintains a favorable bias on behalf of children and youth.<sup>100</sup>

In addition, the commentary stresses the importance of

political-legal-administrative action, such as revising educational codes to provide greater opportunities for those suffering educational or learning disabilities.<sup>101</sup>

The commentary also emphasizes the State agency's duty to monitor the activities of local service providers and its authority to review program budgets and terminate funding--powers that the National Advisory Committee assigned to its Office of Youth Advocate.<sup>102</sup> Furthermore, just as the NAC underscored the importance of constituency building efforts that work with community organizations at the grassroots level, so, too, the Task Force directs in its Standard 3.30 that:

Persons who administer the juvenile justice system should both encourage and assist citizen efforts to prevent and control juvenile delinquency.<sup>103</sup>

In an approach reminiscent of that of the IJA/ABA, the Task Force reinforces this latter, general directive with numerous standards addressing the advocacy responsibilities of individual components of the juvenile justice system. For example, Task Force Standard 6.2, which is directed to the police, stipulates in pertinent part:

Police should also provide initiative and leadership in forming needed youth service organizations in communities where needs exist.<sup>104</sup>

Similarly, Standard 18.5, titled The Leadership Role of the Family Court Judge, states in part:

Judges of family courts should provide strong leadership to citizen, agency, and government efforts in developing services....

Advocacy to achieve sharply expanded external agency services, as alternatives to court intervention for juvenile noncriminal misbehavior, should be an immediate priority.<sup>105</sup>

Another illustration is provided by Standard 19.8, which calls upon the State agency responsible for juvenile intake and correctional programs to form "an advisory citizens' committee." The commentary speaks to this committee's advocacy role in the allocative process, suggesting that:

The committee should concern itself primarily with budgets, policies, and procedures. It should speak out forcefully on how much it thinks the community should spend on juvenile justice and the manner in which the funds should be spent....[I]t should be the community's liaison with the system. If the system is sputtering and is the target of criticism, the committee can provide constructive suggestions for meeting this criticism.<sup>106</sup>

The emphasis on liaison mechanisms between correctional programs and citizens' groups evident in the last excerpt provides a good illustration of the overall approach to advocacy found in the standards of the Commission on Accreditation for Corrections. Unlike the other three standards groups, the CAC concentrates (almost) all of its recommendations on correctional programs only. Thus, it does not propose creation of an independent entity whose exclusive mission is advocacy, nor does it address juvenile justice planning personnel who function outside of correctional agencies. The CAC does, however, offer a variety of standards designed to build constituencies for juvenile service programs in the community at large and to give citizens an active voice in determining correctional policies. For example, Standard 6018 in the CAC's Juvenile Community Residential Services volume requires correctional agencies to establish "a local governing authority or advisory board which is representative of the community in which the agency is located."<sup>107</sup> The accompanying discussion suggests that:

In addition to fulfilling its legal responsibilities, the governing board should be a link between the program and the community it serves. Therefore, the composition of the governing board should be representative of that community, since the board is a reflection of the community's direct participation in corrections at the local level.<sup>108</sup>

Parallel standards in other CAC volumes make similar provisions for citizens' involvement in the governing boards of juvenile detention centers<sup>109</sup> and training schools.<sup>110</sup> In addition, a series of standards in each of the five CAC volumes highlights the importance of correctional agencies implementing effective public information programs and cooperating with the news media.<sup>111</sup> The discussion accompanying one of these standards in the Administration volume emphasizes the constituency building aspect of these activities, stating that:

Prompt attention to citizen concerns, and proper follow-up on issues raised, fosters community confidence in and support for system and component agency activities and programs.<sup>112</sup>

In this regard, particular attention is directed to securing support for innovative, community-based programs. Thus, Standard 6207 in CAC's Juvenile Community Residential Services volume requires that

[t]he agency documents its efforts in conducting a continuing planned program of public information and education.<sup>113</sup>

The discussion of Standard 6207 notes:

Community residential programs are a relatively new concept in corrections and, to some degree, represent a threat to the community. Thus, it is especially important that a planned and continuing public information and education program be conducted to communicate to the community and news media the goals and efforts of community residential programs.<sup>114</sup>

Moreover, the potential for public opposition to the construction of new detention facilities and training schools is also recognized, and explicit provision is made for public participation in decisions on where such facilities are to be located.<sup>115</sup>

Furthermore, a substantial number of standards sprinkled throughout CAC's five volumes emphasize, in a general fashion, the importance of correctional agencies consulting and cooperating with community groups.<sup>116</sup> For example, Standard 6210 in the Juvenile Community Residential Services volume requires, in pertinent part, that

[t]he agency administrator documents consultation with...community groups and community service agencies in the formulation of agency policies and procedures.<sup>117</sup>

The discussion of this standard states:

Consultation with fellow community agencies in the formulation of center policies, procedures and rules serves several important functions: it helps to establish the program as a co-partner in the furtherance of public welfare and safety; it provides valuable "outside the family" input into program operations; and most important, it should result in improved services for youth.<sup>118</sup>

The discussion of a related standard in the Administration volume concurs, noting that:

This cooperation may create greater community support for correctional services.<sup>119</sup>

The discussion of yet another related standard in the Juvenile Community Residential Services volume stresses the correctional agency's advocacy responsibilities in serving as a "change agent" to foster the development of needed services,<sup>120</sup> and a similar discussion in the Juvenile Probation volume suggests that the agency



should serve as "a catalyst, mobilizer, and developer" in securing improved services for juveniles.<sup>121</sup>

An additional array of standards underscores the correctional agencies' advocacy role in representing juveniles' interests in the allocative process,<sup>122</sup> and other standards highlight the importance of formulating proposals for legislative changes to improve juvenile services.<sup>123</sup> Finally, each of the five CAC volumes also contains standards emphasizing the efficacy of securing, not only the cooperation of other community agencies and groups that was noted above, but also direct citizen involvement in correctional programs.<sup>124</sup>

Standard 152 in the Administration volume is illustrative. It requires that

[w]ritten policy and procedure provide for securing citizen involvement in correctional programs, including roles as advisors, interpreters between the program and the public, direct service roles, and cooperative endeavors with individuals under supervision.<sup>125</sup>

The accompanying discussion indicates that:

A citizen involvement and volunteer service program can provide helpful advisory boards and a wide variety of services for offenders. As advisors, citizens can provide the views and concerns of the public and help interpret the agency's role and problems to the public. Volunteers can assist offenders by providing a means of expanding activities and services for them.<sup>126</sup>

One issue pertinent to correctional programs that the CAC does not address, but two of the other standards groups do discuss, is ombudsman programs. The National Advisory Committee's Standard 4.82 mandates the creation of such programs for adjudicated juveniles in residential placements or subject to community supervision. It states, in part:

In addition to the grievance procedures described in Standard 4.81, juveniles placed in residential or nonresidential programs should have access to an ombudsman.

The ombudsman should investigate matters adversely affecting juveniles under agency supervision which are not raised in grievance procedures, and whenever possible should serve on the assessment team for juveniles placed in training schools. Ombudsmen should report to the director of ombudsmen or, if such a position has not been created, to an agency official above the level of facility director who should not be administratively responsible for the program in which the ombudsman is assigned to serve.

Ombudsmen should have substantial experience in the area of juvenile law, youth services, and investigation.<sup>127</sup>

The accompanying commentary distinguishes the activities of the ombudsman proposed here from those of the Office of Youth Advocacy called for in NAC Standard 1.126 as follows:

Standard 1.126 provides for the creation of a State Office of Youth Advocacy which is not part of the agency responsible for supervision.

That program is set up as an external monitor, whereas the ombudsman recommended by this standard constitutes an internal monitoring system within the state youth agency. The ombudsman provided by this standard acts as an early warning mechanism to alert the agency to situations that negatively affect juveniles in its custody. By placing the ombudsman inside the program, institutional animosity can be avoided. Further, the state youth agency should be given the opportunity to correct its shortcomings through its own efforts before the outside agency forces those changes upon them.

The purpose of the Office of Youth Advocacy, on the other hand, is to expose those abuses that are not expeditiously corrected by the youth agency itself. The Office of Youth Advocacy is also concerned with monitoring the entire state program involving children and not just the supervision program.<sup>128</sup>

The IJA/ABA also discusses ombudsman programs; but, whereas the NAC standards would require the creation of ombudsmen, those of the IJA/ABA simply recommend such programs as one model which may be implemented. Two of the IJA/ABA's volumes address the issue: Corrections Administration and Monitoring. Standard 9.2 in the Corrections Administration volume focuses on grievance mechanisms for juveniles in residential facilities, setting forth an elaborate list of criteria to which such mechanisms should conform.<sup>129</sup> The commentary makes it explicit that ombudsman programs provide one vehicle for meeting these criteria, but the standard itself specifies that "[n]o single model is preferred."<sup>130</sup> Standards 7.1 through 7.4 in the Monitoring volume--which are captioned Ombudsman-Based Monitoring--consider ombudsmen generally, including but not limited to ombudsmen for residential correctional facilities.<sup>131</sup> Standard 7.2 A. states:

The appointment of ombudsmen in the juvenile justice system should be promoted and encouraged, whenever appropriate under these standards, by all agencies and monitoring mechanisms.<sup>132</sup>

While this offers a somewhat stronger endorsement for ombudsman programs than the standard in the Corrections volume noted earlier,<sup>133</sup> it is still clear that the IJA/ABA views ombudsmen as one of several possible approaches.<sup>134</sup> Where they are utilized, it is interesting to note that, in contrast to the NAC, the IJA/ABA would make ombudsmen directly accountable to its independent State Commission on Juvenile Advocacy.<sup>135</sup> As to the powers of ombudsmen, Standard 7.3 in the Monitoring volume stipulates:

Whenever an ombudsman is appointed, whether on a temporary or permanent basis, he or she should:

- A. be independent of the agency he or she investigates;
- B. have full powers of investigation;
- C. be authorized to recommend action and publicize recommendations but should not be authorized to take direct action to correct situations.<sup>136</sup>

The accompanying commentary explains that:

As structured in these standards, the power to take direct action to implement the ombudsman's recommendations rests with the state commission on child advocacy. The individual ombudsmen would thus be better able to



maintain an image of neutrality....Direct confrontation between the individual ombudsmen and the agencies would thus, hopefully, be minimized.<sup>137</sup>

The same commentary also notes that:

In performing their duties, ombudsmen might encounter patterns of repeated grievances of a similar nature, suggesting that more systematic problems are present. Such patterns could be directly referred to the state commission, which would then intensify its systematic monitoring activities and focus specifically on the problem.<sup>138</sup>

These same "patterns of repeated grievances of a similar nature" might also, in some circumstances, give rise to class action lawsuits or test case litigation; and it is in this respect, of course, that the individual juvenile's right to counsel becomes significant as an advocacy technique within the definition of advocacy employed in the present review.<sup>139</sup> The positions of the four standards groups on the right to counsel will be outlined in some detail in the following Comparative Analysis on Due Process/Procedural Safeguards; so, only the most general comments on this issue will be offered here. Obviously, all four groups take cognizance of the dictates of In re Gault,<sup>140</sup> and none of the groups, to be sure, proposes any narrowing of Gault. Moreover, the three groups that focus on the juvenile justice system as a whole would all extend the right to counsel beyond delinquency proceedings to other types of cases (e.g., status offenses, neglect, and abuse). Further, each group makes provision for the right to attach at a very early stage and extend through postdispositional proceedings.<sup>141</sup> In terms of advocacy for services, this latter phase obviously assumes a considerable importance, since the right to counsel at this point becomes the vehicle for endeavoring to give substance to the "right to treatment"--the subject to be discussed in the final section of this Comparative Analysis.

Before moving to that issue, though, one final aspect of the IJA/ABA proposals pertinent to legal advocates should also be noted here. As was noted above in the discussion on the organization of advocacy efforts,<sup>142</sup> the IJA/ABA's Monitoring volume suggests that, regardless of how legal services to juveniles are organized, the attorneys providing such services should form a Bar Association Committee to "systematically monitor the activities and performance of the juvenile justice agencies."<sup>143</sup> Standard 3.3 in the Monitoring volume, in effect, describes the types of advocacy techniques that this committee should employ. It states, in part:

In performing this monitoring function, the lawyers' committee should:

- A. advise, assist, criticize, and evaluate local or regional juvenile justice agencies;
- B. publish regular, periodic reports on its findings in all appropriate media;
- C. draft and disseminate comments on proposals for changes in legislation, rules, regulations, policies, and practices relating to activities of the juvenile justice system;<sup>144</sup>

### The "Right to Treatment"

Cognizant that it is oversimplifying matters somewhat, the IJA/ABA's Appeals and Collateral Review volume remarks that:

Treatment, as a legal right, is a somewhat uncomfortable transplant to the juvenile justice area from mental health civil commitments....Generally, the basis for acknowledging this right has been constitutional rather than statutory, and premised upon fourteenth amendment due process and equal protection, and eighth amendment cruel and unusual punishment. The due process argument is essentially...that since the goal and underlying purpose of the juvenile justice system is rehabilitative (through statutory interpretation or the parens patriae doctrine), if rehabilitation is not a significant part of the confinement, then the deprivation of liberty is a violation of due process.<sup>145</sup>

The National Advisory Committee elaborates upon the concept as follows:

The phrase "right to treatment" is frequently used in a comprehensive sense to include both the right to treatment and the right to care. As described by Malcolm Goddard....

Right to treatment cases are generally separated into two types: first, there are cases involving right to treatment, in accordance with basic concepts of human decency, which parallel in many ways the Geneva Convention relative to the treatment of prisoners of war. To wit, the issues here involve humane treatment, adverse distinctions based on race or creed, right to minimum standards of medical care, prohibition against close confinement, right to compensation for work performed, prohibitions against corporal and collective punishment, etc.

Secondly, there are cases involving right to treatment in a quasi-medical context. Here the litigation involves allegations that the various components of the rehabilitative program, including psychiatric and psychological services, group and individual counseling, child-care services, educational services, etc., are quantitatively or qualitatively inadequate to reasonably effectuate rehabilitation.<sup>146</sup>

While the four standards groups surveyed employ differing terminology--based, at least in large measure, on their varying perceptions of the appropriate objectives of juvenile corrections<sup>147</sup>--it seems a fair generalization to say that all four groups recognize both dimensions of the right identified here.<sup>148</sup>

Most of the development of the "right to treatment" concept has proceeded by case law fashioned by the courts. Each of the standards groups demonstrates its awareness of these decisions and endorses, if not all of their specifics, at least the general contours of the doctrine. For example, the National Advisory Committee's Standard 4.410, captioned Right to Care and Treatment, stipulates, in pertinent part:

Juveniles in residential facilities should have the right to a basic level of services, including but not limited to: an adequate and varied diet;

varied recreation and leisure-time activities; preventive and immediate medical/dental care; remedial, special, vocational, and academic educational services; protection against physical and mental abuse; freedom to develop individuality; opportunity to participate or not participate in religious observances; clean, safe, adequately heated and lighted accommodations; and maximum feasible contact with family, friends, and community.

Juveniles in residential facilities have a right to a maximum level of treatment services, in accordance with their needs, including individual and group counseling, psychiatric and psychological services, and case work services.<sup>149</sup>

The IJA/ABA addresses this issue at considerable length in its Dispositions and Corrections volumes,<sup>150</sup> and to a lesser extent in the volume on Appeals and others, as well.<sup>151</sup> Standard 4.1 in the IJA/ABA's Dispositions volume--which is titled Right to Services--states, in part:

All publicly funded services to which nonadjudicated juveniles have access should be made available to adjudicated delinquents. In addition, juveniles adjudicated delinquent should have access to all services necessary for their normal growth and development.<sup>152</sup>

Phrases such as "necessary for their normal growth and development" are found throughout the IJA/ABA volumes, since this group disavows "treatment" and "rehabilitation" as objectives of juvenile dispositions and correctional programs.<sup>153</sup> The IJA/ABA's Corrections volume elaborates the same basic concept in terms of "a safe, human, caring environment." Specifically, Standard 4.9 directs that:

A. A safe, human, caring environment is required by all juveniles in order to achieve normal growth and development. The department [of corrections] should have an affirmative obligation to ensure that all programs provide, and in no way inhibit, this safe, human, caring environment.

B. A safe, human, caring environment includes the provision of opportunities for juveniles to:

1. enhance individuality and self-respect;
2. enjoy privacy;
3. develop intellectual and vocational abilities;
4. retain family and other personal ties;
5. express cultural identity;
6. relate and socialize with peers of both sexes;
7. practice religious beliefs;
8. explore political, social, and philosophical ideas;
9. enjoy a nutritious and varied diet;
10. receive dental and medical care, including birth control advice and services;
11. have a choice of recreational activities;
12. be safe from physical and psychological attack and abuse.<sup>154</sup>

This standard is supplemented by the very lengthy and detailed Standard 4.10, captioned Provision of Services. Subsection A. of 4.10 is particularly pertinent here. It states:

Over and above the provision of a safe, human, caring environment the department should ensure that adjudicated juveniles have access to those services that are required for their individual needs.<sup>155</sup>

The Report of the Task Force addresses this issue in its Standard 14.20, titled Right to Services. In language identical to that in the IJA/ABA's Dispositions volume cited above, this standard requires that:

All publicly funded services to which nonadjudicated juveniles have access should be made available to adjudicated delinquents. In addition, juveniles adjudicated delinquent should have access to all services necessary for their normal growth and development.<sup>156</sup>

Other Task Force standards enumerate basic requirements regarding food, safety, medical care, education, and the like.<sup>157</sup> Also pertinent here is Standard 24.11. It states:

The State agency [for juvenile corrections] should provide or assure the provision of an array of rehabilitative services available on a voluntary basis to all delinquents placed in residential settings. These services should include, but not be limited to: individual counseling, small group counseling, community group counseling, drug abuse programs, religious services, and student government.<sup>158</sup>

Out of a considerable array of relevant proposals, the most pertinent of the Commission on Accreditation for Corrections' directives in this area is probably Standard 41 in its Administration volume. It requires that

[t]he [correctional] agency's written policy on juveniles'...rights includes provision for a safe and healthful living environment, and those services and programs conducive to maintaining physical and mental health.<sup>159</sup>

More specific standards throughout each of the CAC's other four volumes flesh out this general requirement in great detail. Just two directives from the Juvenile Training Schools and Services volume may be selected by way of illustration. Standard 9332 in that volume requires that

[t]here is written policy and procedure requiring a healthful environment for residents that includes, at a minimum:

- Supervision of living units;
- Clean and orderly surroundings;
- Toilet, bathing, hand washing and laundry facilities;
- Lighting, ventilation and heating;
- Compliance with all federal, state, and local fire and safety regulations;
- A wholesome and nutritionally adequate diet; and
- Clothing, mattress and bedding.<sup>160</sup>

Standard 9005 in the same volume establishes the requirement that

[t]he facility provides or makes available to all residents the following programs and services, at a minimum:

- Reception and orientation;
- Evaluation and classification;
- Academic education;
- Vocational training;
- Employment;
- Religious services;
- Social services and counseling;
- Psychological and psychiatric services;
- Library services;
- Medical and dental health care;
- Athletic, recreational and leisure time activities;
- Resident involvement with community groups;
- Mail and visiting;
- Access to media, legal materials, attorneys and courts;
- Volunteer seminars; and
- Pre-release orientation and planning.<sup>161</sup>

Just as the other standards groups supplement their overall standards in this area with directives on the specific types of services that agencies are required to provide,<sup>162</sup> a whole panoply of additional CAC standards complement those cited here.<sup>163</sup>

Moreover, at least three of the standards groups belabor additional aspects of the generic "right to treatment" concept, emphasizing requirements of juveniles' informed consent to participation in certain types of service programs and so forth.<sup>164</sup> In the present context, however, the key point to be noted is simply that, by recognizing and endorsing the "right to treatment" in formally approved standards, the groups sanction the right as a doctrinal basis for challenging the adequacy of services in court. The IJA/ABA addresses this latter point most directly, making explicit what is clearly implicit in the recommendations of the other three groups--viz., that the group recommends adoption of State statutes designed to ensure that the right is respected. In the commentary to the standard in its Appeals and Collateral Review volume that briefly addresses the "adequacy of treatment," the IJA/ABA remarks:

It is the intent of this standard to encourage the adoption of statutes providing a forum for determining the adequacy of the juvenile justice system's delivery of services to the individual juveniles whose liberty it has restricted....

This standard merely provides judicial recourse for the affected parties regarding the state's performance in living up to its part of the exchange....The purpose of the standard is to provide rapid review by the juvenile court of the adequacy of the services offered and delivered, and to encourage follow-up by juvenile courts which do not already do so.<sup>165</sup>

Although the other groups are somewhat less precise, it seems abundantly clear that they, too, support such legislative enactments.<sup>166</sup> Furthermore, as was noted above, when recognition of the "right to treatment" is coupled with effective

provision of the right to counsel, then a sound vehicle is provided for initiating class action suits and test case litigation designed to facilitate the sort of "system change" identified at the outset of this Comparative Analysis, and thus to improve the quality of services available to juveniles.<sup>167</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 advocacy for services 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. 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 Advocacy for Services

NAC Final Report	Report of the Task Force																								IJA/ABA Planning				IJA/ABA Monitoring													
	2.1	2.2	2.3	2.7	3.30	4.6	6.1	7.4	14.19	14.20	14.21	16.1	16.2	16.5	16.9	18.5	19.2	19.7	19.8	23.4	24.11	25.1	25.3	3.1	3.3	4.2	4.3	1.7	3.1	3.2	3.3	4.1	4.2	4.3	4.4	5.1	7.1	7.2	7.3	7.4	8.2	
Mec. J-1																																										
1.111																																										
1.114																																										
1.121																																										
1.125																																										
1.126																																										
1.29																																										
1.424																																										
1.427																																										
1.429																																										
3.132																																										
3.134																																										
3.189																																										
3.192																																										
4.32																																										
4.410																																										
4.411																																										
4.53																																										
4.82																																										

TABLE 2  
Matrix of Interrelated Standards on Advocacy for Services  
(cont'd)

NAC Final Report	IJA/ABA Counsel						IJA/ABA Corrections					IJA/ABA Police	IJA/ABA Youth Service Agencies					IJA/ABA Court Organization	IJA/ABA Pretrial	IJA/ABA Dispositions	IJA/ABA Adjudication	IJA/ABA Appeals	IJA/ABA Juvenile Records	CAC Administration										CAC Juvenile Probation															
	1.7	2.1	2.2	10.1	10.2	10.3	10.5	3.6	4.9	4.10	7.6	9.2	2.5	2.1	4.9	5.6	5.7	3.5	5.1	4.1	4.2	5.2	1.2	3.1	6.4	2.1	19	20	23	37	41	52	143	146	147	148	149	152	7030	7033	7034	7105							
Mec. J-1								•					•	•		•	•	•														•		•	•	•	•	•	•		•	•	•	•					
1.111													•	•		•	•											•				•	•								•								
1.114													•	•		•	•													•			•									•							
1.121													•	•		•												•			•		•																
1.125								•																								•											•		•				
1.126															•												•	•																					
1.29													•	•		•													•			•																	
1.424	•		•																																														
1.427								•																									•	•	•	•	•	•	•	•	•	•	•	•	•	•			
1.429								•											•														•	•	•	•	•	•	•	•	•	•	•	•	•	•			
3.132		•		•		•	•				•												•																										
3.134	•	•		•							•																																						
3.189				•	•		•				•										•		•			•					•	•																	
3.192				•	•	•																		•								•																	
4.32																																	•											•					
4.410								•	•	•	•										•	•	•		•				•	•	•	•	•																
4.411								•	•	•	•										•	•	•		•				•	•	•	•	•																
4.53								•	•	•	•										•	•	•		•				•	•	•	•	•																
4.82												•																																					

TABLE 2  
Matrix of Interrelated Standards on Advocacy for Services  
(cont'd)

NAC Final Report	CAC Juvenile Detention								CAC Juvenile Community Residential Service					CAC Juvenile Training Schools									
	8026	8031	8032	8033	8186	8316	8349	8405	6015	6102	6187	6207	6210	9005	9033	9034	9035	9036	9197	9332	9432	9460	9479
Mec. J-1	•	•	•	•	•			•	•		•	•			•	•	•	•	•				•
1.111					•								•						•		•		
1.114										•			•										
1.121										•													
1.125	•							•	•		•							•					•
1.126																							
1.29										•													
1.424																							
1.427	•	•	•	•	•			•	•		•	•	•		•	•	•	•	•		•		•
1.429	•	•	•	•	•			•	•		•	•	•		•	•	•	•	•		•		•
3.132																							
3.134																							
3.189																							
3.192																							
4.32																							
4.410						•	•							•						•		•	
4.411						•	•							•						•			
4.53						•	•							•						•			
4.82																							



INDEX PAGE FOR PAGES 36-38---LEFT OF TABLE

TO USE THIS INDEX: Photocopy this page or clip it out as indicated. Lay it alongside the left edge of the matrix on page 36, 37, or 38, lining up the corresponding numbers. Similarly copy or clip the indexes on pages 41, 43, and 45. Lay them along the top of the matrix on the appropriate page.

NAC Final  
Report

PREVENTION STRATEGY

FOCAL POINT: SOCIAL INSTITUTIONS	
Citizen Efforts to Prevent Delinquency Mac. J-1	
STANDARDS	
Organization of the Local Juvenile Service System	1.111
Evaluation and Modification of the Local Juvenile Service System Program Efforts	1.114
Organization of the State Juvenile Service System	1.121
Evaluation of Local and State Efforts	1.125
Office of Youth Advocate	1.126
Program Implementation	1.29
Legal Services Personnel	1.424
Planning Personnel	1.427
Administrative Personnel	1.429
Representation by Counsel--For the Juvenile	3.132
Role of Counsel	3.134
Review and Modification of Dispositional Decisions	3.189
Right to Counsel and a Record of the Proceedings	3.192
(Nonresidential Programs--Services	4.32
Right to Care and Treatment	4.410
Denial of Enumerated Rights	4.411
Loss of Privileges	4.53
Ombudsman Programs	4.82

INDEX FOR PAGE 36--TOP OF TABLE

2.1	The Local Role in Delinquency Prevention	
2.2	Office of Delinquency Prevention Planning	
2.3	The State's Role in Delinquency Prevention	
2.7	Youth Participation	
3.30	Justice System--Citizen Efforts to Prevent Delinquency	
4.6	Participation in Policy Formulation Efforts	
6.1	Participation in Community Planning Organizations	
7.4	Citizen Involvement in Evaluation of Juvenile Operations	
14.19	Provision of Dispositional Services	
14.20	Right to Services	
14.21	Modification of Dispositional Orders	
16.1	Juvenile's Right to Counsel	REPORT OF THE TASK FORCE
16.2	The Role of Counsel in the Family Court	
16.5	Representation for Children in Family Court Proceedings	
16.9	Organization of Defense Services	
18.5	The Leadership Role of the Family Court Judge	
19.2	Creation of a State Agency for Juvenile Intake and Corrections	
19.7	Right to Refuse Services	
19.6	Duties of the State Agency--General	
23.4	Level of Services	
24.11	Rehabilitative Services	
25.1	State and Local Responsibility for Planning and Evaluation	
25.3	Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation	
3.1	Definitions of Planning Modes	
3.3	Advocacy Planning	IJA/ABA PLANNING
4.2	State Executive Leadership	
4.3	Legislators and the Legislative Process	
1.7	Remedial and Compliance Enforcement Powers	
3.1	Monitoring Individual Cases	
3.2	Establishment of Lawyers' Committee	
3.3	Role of Lawyers' Committee	
4.1	Creation and Staffing of Commission	
4.2	Activities of the Commission	
4.3	Powers (of the Commission)	
4.4	Review of Commission Orders	IJA/ABA MONITORING
5.1	Establishment and Role (of Community Advisory Councils)	
7.1	Definition (of Ombudsman-Based Monitoring)	
7.2	Criteria for Placement of Ombudsmen	
7.3	Powers of Ombudsmen	
7.4	Appointment and Supervision of Ombudsmen	
8.2	Advocacy Groups	
9.4	Implementation in Civil Courts	

(cut along dotted line)

Preceding page blank

INDEX FOR PAGE 37--TOP OF TABLE

1.7	Improvement in the Juvenile Justice System	
2.1	General Principles	
2.2	Organization of Services	
10.1	Relations with the Client after Disposition	IJA/ABA COUNSEL
10.2	Post-Dispositional Hearings Before the Juvenile Court	
10.3	Counsel on Appeal	
10.5	Post-Dispositional Remedies: Protection of the Client's Right to Treatment	
3.6	Volunteers	
4.9	Safe, Human, Caring Environment	
4.10	The Provision of Services	IJA/ABA CORRECTIONS
7.6	General Requirements of All Residential Programs	
9.2	Grievance Mechanism	
2.5	(Statutory Revision and Police Administrative Policymaking)	IJA/ABA POLICE
2.1	Service Provision	
4.9	Minority Review	IJA/ABA YOUTH SERVICE AGENCIES
5.6	Service Development	
5.7	Service Provision	
3.5	Community Relations Function	IJA/ABA COURT ORGANIZATION
5.1	Scope of the Juvenile's Right to Counsel	IJA/ABA PRETRIAL
4.1	Right to Services	
4.2	Right to Refuse Services; Exceptions	IJA/ABA DISPOSITIONS
5.2	Reduction Because Services Not Provided	
1.2	Attorneys for Respondent and the Government	IJA/ABA ADJUDICATION
3.1	Right to Counsel	IJA/ABA APPEALS
6.4	Petitions Concerning Adequacy of Treatment	
2.1	Juveniles' Privacy Committee	IJA/ABA JUVENILE RECORDS
19	(Advocacy for Legislation Regarding Employment of Program Participants)	
20	(Provision of Services)	
23	(Provision of Special Services)	
37	(Protection of the Rights of Juveniles and Adult Offenders)	
41	(Right to a Safe and Healthful Living Environment)	
52	(Community Participation in Determining Facility Site)	
143	(Consultation With Other Agencies and Community Groups)	CAC ADMINISTRATION
146	(Public Information Program)	
147	(Providing Accurate Information to the News Media)	
148	(Maintaining Contact With the News Media)	
149	(Granting the Media Access to the Agency's Facilities)	
152	(Securing Citizen Involvement in Programs)	
7030	(Consultation With Other Agencies and Community Interest Groups)	
7033	(Public Information Program)	CAC JUVENILE PROBATION
7034	(Public Report)	
7105	(Securing Citizen Involvement in Programs)	

(cut along dotted line)

Preceding page blank

INDEX FOR PAGE 38--TOP OF TABLE

8026	(Public Report)	
8031	(Public Information Program)	
8032	(Granting the Media Access to the Facility)	
8033	(Maintaining Contact With the Media)	
8186	(Community Participation in Determining Facility Site)	CAC JUVENILE DETENTION
8316	(Healthful Environment for Juveniles)	
8349	(Minimum Services and Programs)	
8405	(Securing Citizen Involvement in Programs)	
6015	(Public Report)	
6102	(Development and Use of Community Resources)	
6187	(Securing Citizen Involvement in Programs)	CAC JUVENILE COMMUNITY RESIDENTIAL SERVICES
6207	(Public Information and Education Program)	
6210	(Consultation With Other Agencies and Community Groups)	
9005	(Minimum Programs and Services)	
9033	(Public Information Program)	
9034	(Granting the Media Access to the Facility)	
9035	(Maintaining Contact With the Media)	
9036	(Public Report)	
9197	(Community Participation in Determining Facility Site)	CAC JUVENILE TRAINING SCHOOLS
9332	(Healthful Environment for Residents)	
9432	(Cooperating With Labor and Industrial Organizations)	
9460	(Right to Refuse Services; Exceptions)	
9479	(Securing Citizen Involvement in Programs)	

(cut along dotted line)

Preceding page blank

## NOTES

For a complete listing of abbreviations used in these notes,  
see Appendix B on pages 107-09.

1. Law Enforcement Assistance Administration, "Response to Public Comment and Notice of Issuance of LEAA Program Announcement--Youth Advocacy Initiative," 44 Federal Register, p. 59000 (Oct. 12, 1979) (emphasis deleted) (hereinafter cited as Youth Advocacy Initiative).
2. Id., p. 58996. See also Office of Juvenile Justice and Delinquency Prevention, "Program Announcement [Re: Youth Advocacy Initiative]," Appendix 3, p. 2 (n.d. [ca. June 1979]) (distinguishing "class advocacy" focusing on "system change" from "case advocacy," where the latter is defined as "advocacy on behalf of an individual...or small group").
3. Youth Advocacy Initiative, note 1 above, p. 58996.
4. Id. See also id., p. 59001.
5. The exception is the "right to treatment" issue to be noted below.
6. It will be recognized that courts addressing the "right to treatment" have frequently alluded, not only to the Due Process Clause as a basis for the right, but also (in addition to particular State statutes pertinent to juvenile dispositions and corrections) to the Equal Protection Clause, as well as the Eighth Amendment's proscription of cruel and unusual punishment. For a brief synopsis of relevant case law, see NAC Final Report, Commentary to Standard 4.410.
7. 42 U.S. Code Sec. 5633(a)(10)(D) (1979 Supp.). Cf., e.g., id., Sec. 5633(a)(10), subsections (E), (G), and (I).
8. Id., Sec. 5634(a)(7). And cf., e.g., id., Sec. 5634(a), subsections (1), (5), (6), and (8) through (11).
9. See generally Youth Advocacy Initiative, note 1 above, pp. 58994-59001.
10. Id., p. 58997. See also id., pp. 58998, 59000-01.
11. Id., p. 58997.
12. Id. For additional specifics, see id., p. 58998. For a definition of "youth participation," see the next footnote.
13. Id., p. 58998. The definitions of two terms elaborated in a subsequent section of the Program Announcement should also be cited here:

Citizen participation--is active, continuous and meaningful involvement of youth, neighborhood residents and representatives of neighborhood organizations and city-wide institutions (minority, business, industry, labor, religious) in the planning, development and monitoring of programs affecting young people. Id., p. 59000 (emphasis deleted).

Youth participation--is defined as "involving youth in responsible, challenging action, that meets genuine needs, with opportunity for planning and/or decision making affecting others, in an activity whose impact or consequences extend to others--i.e., outside or beyond the youth participants themselves." (Judge Mary Conway Kohler) Id., p. 59001 (emphasis deleted). See also id., pp. 58995-96.

14. Id., pp. 58998-99.

15. Sources: NAC Final Report, Prevention Strategies: Focal Point Social Institutions--Strategy Mec. J-1; Focal Point Social Interaction--Strategy Re. J-1; Standards 1.111, 1.114, 1.121, 1.125, 1.126, 1.29, 1.424, 1.427, 1.429, 3.132, 3.134, 3.189, 3.192, 4.32, 4.410, 4.411, 4.53, and 4.82.

Report of the Task Force, Standards 2.1 (pp. 55-56), 2.2 (pp. 57-58), 2.3 (pp. 59-60), 2.7 (pp. 69-70), 3.30 (pp. 145-47), 4.6 (pp. 192-93), 6.1 (pp. 230-32), 7.4 (pp. 252-53), 14.19 (pp. 470-72), 14.20 (pp. 473-74), 14.21 (pp. 475-77), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.5 (pp. 559-62), 16.9 (p. 570), 18.5 (pp. 601-02), 19.2 (pp. 613-14), 19.7 (pp. 625-26), 19.8 (pp. 627-29), 23.4 (pp. 682-83), 24.11 (pp. 719-20), 25.1 (pp. 730-31), and 25.3 (pp. 733-34).

IJA/ABA Planning, Standards 3.1 (pp. 74-75), 3.3 (pp. 82-85), 4.2 (pp. 109-12), and 4.3 (pp. 112-15); IJA/ABA Monitoring, Standards 1.7 (pp. 47-52), 3.1 through 3.3 (pp. 60-64), 4.1 through 4.4 (pp. 64-74), 5.1 (pp. 74-75), 7.1 through 7.4 (pp. 78-86), 8.2 (p. 87), and 9.4 (pp. 91-93); IJA/ABA Counsel, Standards 1.7 (pp. 47-48), 2.1 (pp. 48-60), 2.2 (pp. 60-67), 10.1 (pp. 187-90), 10.2 (pp. 190-94), 10.3 (pp. 194-202), and 10.5 (pp. 204-08); IJA/ABA Corrections, Standards 3.6 D. (pp. 74-75), 4.9 (pp. 83-86), 4.10 (pp. 86-94), 7.6 N. (pp. 132, 142), and 9.2 (pp. 177-84); IJA/ABA Police, Standard 2.5 E. (pp. 45-46, 50-51); IJA/ABA Youth Service Agencies, Standards 2.1 C. (pp. 37-38), 4.9 (pp. 46-47), 5.6 (p. 53), and 5.7 (pp. 53, 60-61); IJA/ABA Court Organization, Standard 3.5 (pp. 40-42); IJA/ABA Pretrial, Standard 5.1 (pp. 88-94); IJA/ABA Adjudication, Standard 1.2 (pp. 14-16); IJA/ABA Dispositions, Standards 4.1 (pp. 80-101), 4.2 (pp. 101-17), and 5.2 (p. 128); IJA/ABA Appeals, Standards 3.1 (pp. 29-32) and 6.4 (pp. 44-48); IJA/ABA Juvenile Records, Standard 2.1 (pp. 44-47).

CAC Administration, Standards 19 (p. 4), 20 (p. 5), 23 (p. 5), 37 (pp. 8-9), 41 (p. 9), 52 (p. 11), 143 (p. 30), 146 through 149 (p. 31), and 152 (p. 32); CAC Juvenile Probation, Standards 7030 (p. 6), 7033 (pp. 6-7), 7034 (p. 7), and 7105 (p. 21); CAC Juvenile Detention, Standards 8026 (pp. 5-6), 8031 through 8033 (pp. 6-7), 8186 (p. 37), 8316 (p. 64), 8349 (p. 71), and 8405 (p. 82); CAC Juvenile Community Residential Services, Standards 6015 (p. 4), 6102 (p. 20), 6187 (p. 37), 6207 (p. 41), and 6210 (p. 42); CAC Juvenile Training Schools, Standards 9005 (p. 2), 9033 through 9036 (pp. 7-8), 9197 (p. 40), 9332 (p. 67), 9432 (p. 87), 9460 (p. 93), and 9479 (p. 97).

16. Youth Advocacy Initiative, note 1 above, p. 58997.

17. Id. And see generally Appendix 3, "Background Paper: Youth Advocacy," in Office of Juvenile Justice and Delinquency Prevention, note 2 above.

18. See generally the sources cited in note 15.

19. See the text accompanying note 13.

20. IJA/ABA Monitoring, pp. 64-65.

21. Id., p. 68. Incidentally, the Community Advisory Councils proposed in the same volume are to report periodically to the State Commission on Juvenile Advocacy. See id., Standard 5.1 (pp. 74-77).

22. Id., pp. 71-72 (footnotes omitted). See also id., Standards 6.1 through 6.3 (pp. 77-78) (regarding monitoring by the State Legislature).

23. Compare the text accompanying notes 12 and 14 with IJA/ABA Planning, Standard 3.1 B. (pp. 75-77).

24. See id., Standards 2.1, 2.2, and 2.4 (pp. 42-52, 52-58, 70-74). These organizations are discussed in the Comparative Analysis on Delinquency Prevention.

25. Id., pp. 82-85.

26. Id., p. 84.

27. As was noted in the earlier Comparative Analysis on Delinquency Prevention, the two groups also propose different organizational frameworks for planning and service delivery. See, e.g., NAC Final Report, Commentary to Standards 1.121 and 4.11.

28. Id., Standard 1.126.

29. Id., Commentary to Standard 1.126.

30. In contrast to the proposals in IJA/ABA Planning, which assign most planning duties to the agencies delivering services, the planning agencies contemplated in the NAC recommendations are distinct from the service delivery mechanisms (and, of course, distinct from the Office of Youth Advocate suggested in NAC Standard 1.126, as well). See the sources cited in note 27.

31. NAC Final Report, Standard 1.121.

32. Id., Commentary to Standard 1.121.

33. Id., Standard 1.29.

34. Report of the Task Force, p. 59. See also id., Standards 2.1 and 2.2 (pp. 55-58) (regarding local Offices of Delinquency Prevention Planning). And see id., Standard 25.1 (pp. 730-31).

35. Id., p. 59. See also id., Standard 2.7 (pp. 68-70) (regarding youth participation). And see id., pp. 53-54, 57.

36. See id., Standards 2.2 (pp. 57-58), 25.1 (pp. 730-31), and 25.3 (pp. 733-34).

37. It might be noted, though, that, in keeping with its long-standing policies, the CAC is less prescriptive regarding the organizational structures for State and local correctional entities. See, e.g., CAC Administration, pp. xx-xxi; CAC Juvenile Probation, p. ix.
38. See generally the sources cited in note 15.
39. IJA/ABA Counsel, p. 60. See also the remainder of Standard 2.2 (pp. 61-67). And see Standard 2.1, subsections (a) (pp. 48-52) and (d) (pp. 58-60).
40. Report of the Task Force, p. 570. See also id., Standard 16.10 (pp. 571-72). And see id., p. 548.
41. See NAC Final Report, Commentary to Standard 1.424. See also id., Standards 3.132 and 3.134.
42. See, e.g., id., Standard 4.410; Report of the Task Force, Standard 14.19 (pp. 470-72); IJA/ABA Dispositions, Standard 4.1 (pp. 80-101). And see the text accompanying note 4.
43. See, e.g., IJA/ABA Counsel, p. 206.
44. Id. does provide some general directives regarding defender services. See Standards 2.1(d) (pp. 58-60) and 2.2(b) (pp. 61-65). And the independent entities proposed by the IJA/ABA and the NAC are authorized to initiate legal action, as will be noted below.
45. IJA/ABA Monitoring, p. 61.
46. Id., p. 64.
47. NAC Final Report, Standard 1.126.
48. Id., Commentary to Standard 1.126 (emphasis deleted).
49. Id.
50. Id. (emphasis deleted).
51. IJA/ABA Monitoring, p. 65.
52. Id., pp. 65-66. See also id., Standards 1.6 (pp. 41-47) and 1.7 (pp. 47-52).
53. Id., p. 43. See also id., Standards 1.6 (pp. 41-47) and 2.5 (pp. 58-60).
54. Id., p. 50 (footnotes omitted). See also IJA/ABA Planning, Standards 3.1 A. (p. 75) and 3.3 (pp. 82-85).
55. IJA/ABA Monitoring, p. 29 (footnotes omitted). See also id., Standard 1.6, subsections C. and D. (pp. 45-47).
56. Id., p. 73 (footnote omitted).

57. Id., pp. 74-75 (footnote omitted), citing J. Davies, The Politics of Pollution, p. 185 (1970).
58. IJA/ABA Monitoring, p. 74.
59. Id., p. 66.
60. Id., p. 74.
61. In addition to the duties of the two types of organizations that will be discussed in this paragraph of the text, the responsibilities of the proposed Bar Association Committee (mentioned in the text accompanying note 45) will be discussed below. See also id., Standards 6.3 (pp. 77-78) (regarding legislative monitoring), 7.3 and 7.4 (pp. 79-86) (as to monitoring by ombudsmen), 9.1 through 9.4 (pp. 87-93) (re: court-based monitoring), and 10.1 (pp. 93-97) (regarding self-monitoring by agencies).
62. Id., p. 74.
63. Id., p. 75.
64. Id., p. 77.
65. Id., p. 87. The related Standard 8.1 addresses independent research. See id.
66. Id.
67. See the text accompanying notes 47, 51, and 52.
68. IJA/ABA Planning, p. 75.
69. See the text accompanying note 25.
70. IJA/ABA Planning, p. 84.
71. See id., Standard 2.1 (pp. 41-52).
72. Id., pp. 84-85.
73. Id., p. 113. See also id., Standard 4.2 (pp. 109-12) (regarding State Governors' advocacy responsibilities). And see IJA/ABA Monitoring, Standards 6.1 through 6.3 (pp. 77-78).
74. IJA/ABA Planning, p. 113.
75. See the text accompanying note 70.
76. See id., Standard 2.2 (pp. 52-58).
77. Id., p. 85.
78. Id. See also IJA/ABA Monitoring, Standard 5.1 (pp. 74-77).



79. IJA/ABA Planning, p. 85 (footnote omitted).
80. Cf. the text accompanying note 78.
81. For the whole of this subsection of NAC Standard 1.121, see the text accompanying note 31.
82. NAC Final Report, Commentary to Standard 1.121.
83. See the text accompanying note 33.
84. NAC Final Report, Commentary to Standard 1.29.
85. Id.
86. Id., Commentary to Standard 1.427.
87. Id., citing Report of the Task Force, Commentary to Standard 2.2 (p. 57).
88. NAC Final Report, Prevention Strategy: Focal Point Social Institutions--Strategy Mec. J-1.
89. Id., Commentary to Prevention Strategy: Focal Point Social Institutions--Strategy Mec. J-1.
90. For additional remarks regarding interaction between planning personnel and the community, see, e.g., id., Commentary to Standards 1.122, 1.125, 1.22, 1.24, and 1.25.
91. Id., Commentary to Standard 1.429.
92. Moreover, under the IJA/ABA framework (in contrast to that of the NAC), most planning personnel are themselves employees of service-providing agencies, as was noted above. See note 30.
93. IJA/ABA Youth Service Agencies, Standard 2.1 C. (p. 38). See also id., Standards 4.9 (pp. 46-47), 5.6 (p. 53), and 5.7 (pp. 53, 60-61).
94. Id., p. 61.
95. IJA/ABA Police, pp. 45-46. See also id., pp. 50-51.
96. IJA/ABA Court Organization, p. 40.
97. See, e.g., IJA/ABA Corrections, Standard 3.6 D. (pp. 74-75); IJA/ABA Prosecution, Standard 7.2 (pp. 80-81); IJA/ABA Counsel, Standard 1.7 (pp. 47-48); IJA/ABA Juvenile Probation, Standard 2.4 C. (pp. 33, 52); IJA/ABA Monitoring, Standard 9.2 (pp. 88-90); IJA/ABA Juvenile Records, Standard 2.1 (pp. 44-47).
98. See the text accompanying notes 34 through 36.

99. See Report of the Task Force, pp. 59-60. See also id., Standards 19.2 (pp. 613-14) and 19.3 (pp. 615-16). The local offices, incidentally, are viewed as service providers. See id., Standards 2.1 (pp. 55-56) and 2.2 (pp. 57-58). See also id., Standards 25.1 (pp. 730-31) and 25.3 (pp. 733-34).
100. Id., pp. 59-60. See also id., Standards 2.8 (pp. 71-73), 2.9 (pp. 74-75), and 7.5 (pp. 254-55).
101. Id., p. 60.
102. Compare id. with the text accompanying note 47. See also id., Standards 2.5 (pp. 63-65) and 25.3 (pp. 733-34).
103. Id., p. 145. See also id., Standards 2.7 (pp. 68-70), 4.6 (pp. 192-93), 7.4 (pp. 252-53), and 25.3 (pp. 733-34).
104. Id., p. 233. See also id., Standards 6.4 (pp. 237-38) and 6.5 (pp. 239-40).
105. Id., p. 601. See also id., Standard 15.11 (pp. 525-26).
106. Id., p. 628. The IJA/ABA would also assign advocacy responsibilities to citizens' groups working with correctional programs. See, e.g., IJA/ABA Corrections, Standards 3.6 D. (pp. 74-75) and 9.4 A.2. (pp. 190-92).
107. CAC Juvenile Community Residential Services, p. 4. Standard 6018 applies specifically to private agencies; a basically parallel requirement for public agencies is found in Standard 6026. See id., p. 6.
108. Id., p. 4.
109. See CAC Juvenile Detention, Standards 8043 (p. 9) and 8050 (p. 10).
110. See CAC Juvenile Training Schools, Standards 9039 (p. 9) and 9047 (p. 10).
111. See, e.g., CAC Administration, Standards 146 through 151 (pp. 31-32); CAC Juvenile Probation, Standards 7033 and 7034 (pp. 6-7); CAC Juvenile Detention, Standards 8026 (pp. 5-6), and 8031 through 8033 (pp. 6-7); CAC Juvenile Community Residential Services, Standards 6015 (p. 4) and 6207 (p. 41); CAC Juvenile Training Schools, Standards 9033 through 9036 (pp. 7-8).
112. CAC Administration, p. 32.
113. CAC Juvenile Community Residential Services, p. 41.
114. Id.
115. See CAC Administration, Standard 52 (p. 11); CAC Juvenile Detention, Standard 8186 (p. 37); CAC Juvenile Training Schools, Standard 9197 (p. 40).
116. See, e.g., CAC Administration, Standards 47 (pp. 10-11) and 143 (p. 30); CAC Juvenile Detention, Standards 8009 (p. 2) and 8037 (p. 8); CAC Juvenile Probation, Standards 7030 (p. 6) and 7175 (p. 35); CAC Juvenile Community Residential Services, Standards 6102 (p. 20), 6125 (p. 25), 6208 (p. 41), 6210

- (p. 42), and 6213 (p. 42); CAC Juvenile Training Schools, Standards 9029 (p. 7) and 9031 (p. 7).
117. CAC Juvenile Community Residential Services, p. 42.
118. Id.
119. CAC Administration, p. 11.
120. See CAC Juvenile Community Residential Services, p. 20.
121. See CAC Juvenile Probation, p. 35. And see generally the sources cited in note 116.
122. See, e.g., CAC Administration, Standards 91 (p. 19), 100 (p. 21), and 101 (p. 21).
123. See, e.g., id., Standards 10 (p. 3), 13 (p. 3), 15 (p. 4), 16 (p. 4), 19 (p. 4), and 91 (p. 19). See also CAC Juvenile Probation, Standard 7029 (p. 6); CAC Juvenile Detention, Standard 8029 (p. 6); CAC Juvenile Community Residential Services, Standard 6211 (p. 42); CAC Juvenile Training Schools, Standard 9027 (p. 6).
124. See, e.g., CAC Administration, Standard 152 (p. 32); CAC Juvenile Probation, Standard 7105 (p. 21); CAC Juvenile Detention, Standard 8405 (p. 82); CAC Juvenile Community Residential Services, Standard 6187 (p. 37); CAC Juvenile Training Schools, Standard 9479 (p. 97).
125. CAC Administration, p. 32.
126. Id.
127. NAC Final Report, Standard 4.82.
128. Id., Commentary to Standard 4.82.
129. See IJA/ABA Corrections, pp. 177-84.
130. Id., p. 177. See also id., pp. 179-80.
131. See IJA/ABA Monitoring, pp. 78-86.
132. Id., pp. 78-79. Standard 7.2 B., in effect, sets forth a rather detailed set of criteria for determining when the "whenever appropriate under these standards" language of 7.2 A. is met.
133. See note 130 and accompanying text.
134. See IJA/ABA Monitoring, pp. 81-83.
135. See id., Standard 7.4 (pp. 79-80). The statement in the text assumes, of course, that such a State Commission is also established. The standard itself makes provision for alternative organizational structures where this is not the case. See id.

136. Id., p. 79.
137. Id., p. 85.
138. Id., p. 86.
139. See the text accompanying notes 3 and 4. The reader may well have noticed that providing the individual juvenile with access to an ombudsman (just like providing a right to counsel) in itself does not qualify as advocacy under the definition of that term employed here. Still, the discussion of the standards on ombudsman programs in the text has seemed warranted, since just as the right to counsel can be a vehicle for undertaking "system change" advocacy as it is conceived here, so, too, can the right to an ombudsman.
140. 387 U.S. 1 (1967).
141. See, e.g., NAC Final Report, Standards 3.132 and 3.134; Report of the Task Force, Standards 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.5 (pp. 559-62), and 16.7 (pp. 565-67); IJA/ABA Counsel, Standards 1.1 (pp. 35-36), 2.3 (pp. 67-74), 2.4 (pp. 74-76), and 10.5 (pp. 204-08); IJA/ABA Pretrial, Standard 5.1 (pp. 88-94); IJA/ABA Appeals, Standard 6.4 (pp. 44-48); CAC Administration, Standards 37 and 38 (pp. 8-9); CAC Juvenile Detention, Standard 8384 and 8385 (pp. 77-78); CAC Juvenile Training Schools, Standards 9340 through 9343 (p. 69).
142. See the text accompanying note 45.
143. IJA/ABA Monitoring, p. 61.
144. Id., pp. 61-62. The remainder of the standard reads as follows:
- D. ensure that the bases for monitoring provided for under these standards and the other volumes of the Juvenile Justice Standards Project or similar bases under the laws, rules, and regulations of the jurisdiction, are established and maintained;
- E. assist and cooperate with the monitoring activities conducted by any other monitoring mechanism to the fullest extent possible while preserving client confidentiality.
- Id. See also IJA/ABA Counsel, Standard 1.7 (pp. 47-48). And see IJA/ABA Prosecution, Standard 7.2 (pp. 80-81); IJA/ABA Monitoring, Standard 3.1 (pp. 60-64).
145. IJA/ABA Appeals, p. 45. It should perhaps be noted that, notwithstanding the use of the terms "treatment" and "rehabilitation" in this excerpt, the IJA/ABA consistently rejects "rehabilitation" as the objective of juvenile dispositions and a "treatment model" for correctional programs. See, e.g., id., pp. 47-48; IJA/ABA Dispositions, Standards 1.1 (pp. 15-20), and 4.1 through 4.3 (pp. 80-125); IJA/ABA Corrections, Standards 1.1 (pp. 45-46), 1.2 (pp. 46-49), 4.9 (pp. 83-86), and 4.10 (pp. 86-94).
146. NAC Final Report, Commentary to Standard 4.410, citing M. Goddard, The Effect of Right to Treatment Litigation Upon the Relationship of Juvenile Offenders, Institutions and the Family Court, pp. 21-35 (1976) (quotation marks deleted).

147. Compare, e.g., NAC Final Report, Standard 4.410 and Commentary with the sources cited in note 145.
148. See, e.g., Report of the Task Force, Standard 14.20 (pp. 473-74); NAC Final Report, Standard 4.410; IJA/ABA Corrections, Standards 4.9 (pp. 83-86) and 4.10 (pp. 86-94); IJA/ABA Dispositions, Standard 4.1 (pp. 80-101); CAC Administration, Standards 20 (p. 5), 23 (p. 5), and 41 (p. 9); CAC Juvenile Detention, Standards 8316 (p. 64) and 8349 (p. 71); CAC Juvenile Training Schools, Standards 9005 (p. 2) and 9332 (p. 67).
149. NAC Final Report, Standard 4.410. Other portions of the standard proscribe certain forms of treatment (e.g., psychosurgery), emphasize the efficacy of voluntary participation by the juvenile, and indicate that, while the juvenile has an obligation to be physically present for services ordered by the court, force or punishment should not be used to compel participation. See also id., Standards 3.189, 4.32, 4.411, and 4.53.
150. See IJA/ABA Dispositions, Standards 4.1 through 4.3 (pp. 80-125); IJA/ABA Corrections, Standards 4.9 (pp. 83-86) and 4.10 (pp. 86-94).
151. See IJA/ABA Appeals, Standard 6.4 (pp. 44-48). See also IJA/ABA Counsel, Standard 10.5 (pp. 204-08); IJA/ABA Monitoring, Standards 9.2 B. (pp. 88-90) and 9.4 (pp. 91-93).
152. IJA/ABA Dispositions, p. 80.
153. See the sources cited in note 145.
154. IJA/ABA Corrections, p. 83 (captions of subsections omitted). See also IJA/ABA Appeals, Standard 6.4 (pp. 44-48).
155. IJA/ABA Corrections, p. 86 (caption of subsection omitted). The rest of the standard, among other things, requires the juvenile's informed consent for participation in certain types of programs, and proscribes and regulates certain services. See id., pp. 86-94.
156. Report of the Task Force, p. 473. See also id., Standards 14.3 (pp. 437-39), 14.19 (pp. 470-72), 14.21 (pp. 475-77), 19.3 (pp. 615-16), 19.4 (pp. 617-18), 19.7 (pp. 625-26), and 23.4 (pp. 682-83).
157. See, e.g., id., Standards 24.5 through 24.10 (pp. 709-18), and 24.12 through 24.16 (pp. 721-25).
158. Id., p. 719.
159. CAC Administration, p. 9. See also id., Standard 20 (p. 5) and 23 (p. 5). And see, e.g., CAC Juvenile Training Schools, Standard 9460 (p. 93).
160. Id., p. 67. See also CAC Juvenile Detention, Standard 8316 (p. 64).
161. CAC Juvenile Training Schools, p. 2. See also id., p. 80 and Standard 9460 (p. 93); CAC Juvenile Detention, Standard 8349 (p. 71).

162. See the sources cited in note 157. See also NAC Final Report, Standards 4.213, 4.215 through 4.218, 4.2193, 4.223, 4.233, 4.252, 4.263, 4.32, and 4.41 through 4.49; IJA/ABA Corrections, Standards 4.11 (pp. 94-98), and 7.1 through 7.11 (pp. 118-64).
163. See, e.g., CAC Juvenile Detention, Standards 8145 through 8327 (pp. 30-66); CAC Juvenile Community Residential Services, Standards 6065 through 6089 (pp. 13-17) and 6100 through 6164 (pp. 19-32); CAC Juvenile Training Schools, Standards 9156 through 9354 (pp. 32-71).
164. See, e.g., NAC Final Report, Standard 4.410; Report of the Task Force, Standard 19.7 (pp. 625-26); IJA/ABA Dispositions, Standards 4.2 and 4.3 (pp. 101-25); IJA/ABA Corrections, Standard 4.10 (pp. 86-94). See also CAC Juvenile Training Schools, Standard 9460 (p. 93). And see the sources cited in notes 149-51 and 155-56.
165. IJA/ABA Appeals, pp. 47-48. See also IJA/ABA Dispositions, pp. 84, 91; IJA/ABA Monitoring, pp. 88, 91-92.
166. See, e.g., NAC Final Report, Standards 3.189 and 4.410; Report of the Task Force, Standards 14.20 and 14.21 (pp. 473-77). Cf. CAC Administration, Standard 41 (p. 9).
167. See the text accompanying notes 4 and 6 and following note 141.

## Due Process/Procedural Safeguards

### DESCRIPTION OF THE ISSUE

It is hardly a revelation to observe that were it not for the U.S. Supreme Court's 1967 decision In re Gault<sup>1</sup> the four sets of standards surveyed in this Comparative Analysis might never have emerged--at least in their present form. Plainly, Gault inaugurated--or, in any case, made more explicit<sup>2</sup>--a fundamental shift in judicial perspectives on the juvenile justice system. Theretofore, an absence of procedural regularity in the handling of juvenile cases had, for the most part, been widely tolerated--even encouraged--as a necessary adjunct to the beneficent purposes of the juvenile or family court and the informal, treatment-oriented character of its proceedings. But the holdings in Gault and its progeny<sup>3</sup> have demonstrated an increased willingness on behalf of the judiciary to subject this rationale for abridging procedural safeguards to much more rigorous scrutiny. These cases have been widely recognized as initiating at least a partial "constitutionalization" of juvenile proceedings. Given the incremental nature of judicial decisionmaking, the precise contours of this emerging doctrine cannot be fully discerned. Still, certain basic parameters are apparent. On the one hand, it is clear from Gault itself that the respondent in a delinquency proceeding is guaranteed certain minimal procedural protections at the adjudicatory hearing by the Due Process Clause of the 14th amendment to the U.S. Constitution; that these include, among other things, the right to counsel and the privilege against self-incrimination; and that the rehabilitative character of juvenile proceedings does not constitute a persuasive rationale for denying these basic rights.<sup>4</sup> On the other hand, the Supreme Court's opinion in McKeiver v. Pennsylvania,<sup>5</sup> which held that the respondent in a delinquency case need not be accorded the right to trial by jury, makes it apparent that the Court does not endorse a wholesale conversion of delinquency proceedings into precise counterparts of adult criminal trials: the retention of the juvenile or family court as a unique entity with its own distinctive philosophy is viewed as an objective of great importance. In sum, it is clear that a juvenile must--as a matter of constitutional law--be granted certain procedural protections in at least (some stages of) some types of proceedings. It is likewise apparent that the Constitution does not require that the juvenile be accorded all of the procedural rights available to his or her adult counterpart. But which specific rights apply, at what stages of processing, and in what types of proceedings are questions often difficult to resolve.

It was, of course, against this background that the four sets of standards surveyed here were formulated and the present Comparative Analysis was conceived. Some comments on the scope of the present review, therefore, seem appropriate. Initially, the intentionally equivocal title is intended to denote two things. First, in terms of the traditional dichotomy of substantive versus procedural due process, the concern here is exclusively with procedural matters.<sup>6</sup> Second--and this is the key point--while the phrase "Due Process" is retained in the title, no attempt has been made to limit the discussion to an enumeration of those procedural protections which are mandated by the Due Process Clause itself. This is a survey of what the standards groups have proposed; it is not an examination of the details of constitutional law in this area at the present point in time. Thus, it purposely traverses the line between law and policy, between due process as such and "procedural safeguards" more broadly conceived. Still, the discussion is limited to matters "due process-like"--so long as that phrase is not understood to denote only those protections which have been held

to be required in juvenile proceedings by the 14th amendment. Particular attention is paid to stipulations that decisions at various stages of processing be rendered pursuant to written criteria or be subject to review, since these sorts of requirements seem consonant with the concern for averting "arbitrary and capricious" decisionmaking that lies at the heart of so much due process litigation.

A series of examples should illustrate the point. The IJA/ABA's Adjudication volume recommends that, as a matter of public policy, the respondent in a delinquency proceeding should be provided the right to trial by jury--notwithstanding the U.S. Supreme Court's decision in McKeiver.<sup>7</sup> The IJA/ABA's proposals in this area, together with their rationale, will be noted, though this is plainly an instance where due process as such does not require the procedure endorsed. More typically, the recommendations of the standards groups will focus on areas where the state of the law is by no means clear, or in any case has never been definitively enunciated by the U.S. Supreme Court. For example, Gault itself, strictly speaking, applies only to the adjudicatory phase of delinquency proceedings. But the standards groups have tendered numerous (sometimes parallel) procedural recommendations applicable to judicial proceedings occurring before and after the adjudicatory hearing, and these proposals will be noted here. So, too, the suggested procedural safeguards in case processing by the police, intake officers, corrections personnel, and the like--both before and after the judicial proceedings themselves. The effort throughout is to provide an accurate, comprehensive survey of what the standards groups have endorsed and why, rather than a belabored exposition of the often still evolving case law in these areas.

The present review will briefly note the posture of the JJDP Act regarding procedural safeguards and then examine the positions of the standards groups on this subject. Eight stages--or, more accurately, eight possible stages--of case processing will be explored--viz., Intervention, Diversion, Intake, Preadjudicatory Proceedings, Adjudication, Disposition, Appeals and Other Forms of Postdispositional Review, and Corrections. In each of these areas, the suggested procedural protections in delinquency, noncriminal misbehavior, and abuse or neglect cases will be examined.<sup>8</sup> While there is frequently a paucity of recommendations on the appropriate procedures in noncriminal misbehavior and abuse or neglect cases, it seems important to survey the proposals in these areas, too, not only because these cases are important in their own right, but also because adoption of some of the more rigorous procedures suggested for such cases might help diminish the often criticized practice of treating these types of jurisdiction as "lesser included offenses" to be invoked when a delinquency petition could not be sustained.<sup>9</sup>

#### PERTINENT PROVISIONS OF THE ACT\*

By deliberate congressional design, the JJDP Act focuses principally on programmatic concerns, rather than individual legal rights. The Act endeavors to outline certain broad policy objectives and establish mechanisms to provide finan-

\*The text above discusses the JJDP Act, as amended through 1977. The effect of the 1980 Amendments in this area is noted in Appendix A on page 106 of the present volume.

cial and technical assistance to State and local programs which attempt to achieve these overall objectives in innovative ways. Thus, the JJDP Act is not a Federal delinquency statute,<sup>10</sup> and neither is it model legislation intended to prescribe exemplary procedures for handling individual cases.<sup>11</sup> To say this, however, is not to suggest that the JJDP Act does not display considerable sensitivity to the subject of procedural safeguards, for it mentions the matter prominently in both the "special emphasis" section and the "advanced techniques" section. For example, Sec. 224(a)(9) designates as "special emphasis prevention and treatment programs" those programs designed to "improve the juvenile justice system to conform to standards of due process."<sup>12</sup> Similarly, Sec. 223(a)(10)(D)--which was cited in the preceding Comparative Analysis on Advocacy for Services--also emphasizes the importance of protecting the legal rights of individual juveniles. It specifies that among the "advanced techniques" that are to receive the major portion of formula grant funding are the following:

[P]rojects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth impacted by the juvenile justice system.<sup>13</sup>

Finally, of course, the Act views the adoption of proposed standards as an important means of safeguarding individual rights, and it devotes substantial attention to the standards efforts of the National Advisory Committee<sup>14</sup>--a group which was itself created by the JJDP Act. The importance of adopting standards is highlighted in both of the key grant sections. Thus, Sec. 223(a)(10)(I) designates the following as "advanced techniques":

[P]rograms and activities to establish and adopt, based on the recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State.<sup>15</sup>

And the "special emphasis" section contains a very similar provision.<sup>16</sup>

#### SUMMARY OF POSITIONS RECOMMENDED BY STANDARDS GROUPS

The tables on the following pages summarize, in a general fashion, the positions of the standards groups on key issues pertinent to procedural safeguards at various (possible) stages of case processing. Table 1 examines Intervention; Table 2 discusses Diversion; and Table 3 focuses on Intake. Table 4 consists of a trilogy devoted to various aspects of Preadjudicatory Proceedings: 4a explores Judicial Review of Detention and Emergency Custody; 4b describes Waiver and Transfer Hearings; and 4c addresses Notice, Arraignment, and Other Matters. The two parts of Table 5 review the standards on Adjudication: 5a examines Uncontested Proceedings, and 5b considers Contested Proceedings. Table 6a covers Predisposition Investigations and Reports; its companion, Table 6b, focuses on Dispositional Hearings. Tables 7a and 7b are devoted to Appeals and Other Forms of Postdispositional Review. Finally, the two components of Table 8 examine issues relevant to Corrections: 8a explores Grievance and Disciplinary Procedures; 8b surveys Transfers, Revocation of Community Supervision, and the "Right to Treatment." Each table is accompanied by an extensive annotation, which identifies all of the major (and most of the minor) standards pertinent to the subject-matter discussed.

This is an abridged edition of this Comparative Analysis, consisting of the tables just described and their accompanying notes. A supplementary volume, which will contain a narrative Analysis of the Standards in each of these areas, is forthcoming.



Table 1

Summary of Positions Recommended by Standards Groups: Intervention<sup>17</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Presents specific criteria to be included in statutes and written rules governing decisions by law enforcement agencies on: (a) intervention, (b) referral to intake, and (c) taking into custody. Details procedures for interrogations and the like. When custody or referral to intake occurs, calls for full Miranda warnings and notice of the right to have a parent or other adult caretaker present. Also outlines procedures for waiving these rights.</p> <p>The juvenile's right to counsel attaches as soon as he or she is taken into custody, a complaint is filed, or the juvenile appears at intake or a detention hearing--whichever occurs first.</p>	<p>Describes, in general terms, the authority of police to refer to intake and take into custody; calls for formal issuance of specific guidelines in these areas. The juvenile is to receive full Miranda warnings before a custodial interrogation. And the privilege against self-incrimination may not be waived without the advice of counsel.</p> <p>The juvenile's right to counsel attaches at the "earliest feasible stage." Waiver of the right to counsel is permitted only after the juvenile has conferred at least once with an attorney.</p>	<p>Calls for clarification, by statute and administrative guidelines, of the discretionary powers of the police. Speaks generally to bases for taking into custody and more specifically to criteria for referral to intake. Juveniles "should receive at least the same safeguards available to adults" regarding preliminary investigations, arrests, search and seizure, interrogations, and the like. Requires the presence of an attorney for effective waiver of Miranda rights.</p> <p>The juvenile's right to counsel attaches when he or she is taken into custody, a petition is filed, or the juvenile appears at an intake conference; and this right is (apparently) nonwaivable.</p>	<p>Because of the correctional focus of the project, does not address the issue.</p>
Noncriminal Misbehavior	<p>Although the criteria for official actions differ, the recommendations on decisions by law enforcement officers cover the same issues addressed regarding delinquency. Additional standards, establishing similar procedural requirements, govern intervention and referral to intake by other government agencies--though custody by such agencies is barred.</p> <p>The juvenile's right to counsel is identical to that in delinquency cases.</p>	<p>Urges all States to "clearly define by statute the authority and guidelines for, and limitations on, taking a juvenile into custody" for noncriminal misbehavior. Also recommends the issuance of formal regulations on this subject by law enforcement agencies. Is not entirely explicit on whether these juveniles are to receive full Miranda warnings.</p> <p>The juvenile is entitled to counsel at the "earliest feasible stage." Waiver of the right to counsel is not addressed specifically.</p>	<p>Police volume calls for statutory and administrative clarification of "protective custody" powers and specifies that in handling these cases officers "should be subject to the same investigative restrictions" applicable in delinquency matters. <u>Noncriminal Misbehavior</u> volume abolishes the court's traditional jurisdiction over status offenses, but authorizes "limited custody" when an officer "reasonably determines" that a juvenile faces "substantial and immediate" physical danger. Also outlines procedures for dealing with runaways and juveniles with emergency medical or psychiatric problems.</p> <p>Where court jurisdiction is retained, the juvenile's right to counsel is (apparently) identical to that in delinquency cases.</p>	<p>Does not address the issue.</p>

Abuse or Neglect	<p>Again with appropriate modifications of the substantive criteria, the standards establish a decision framework for law enforcement and other agencies which generally parallels that in delinquency cases. But custody, which requires prior court approval if possible, is authorized on "reasonable belief" (rather than "probable cause to believe") the criteria are met. Parents' (or other defendants') right to counsel and <u>Miranda</u> warnings attach when they are referred to intake or the child is taken into emergency protective custody. The child is entitled to counsel as soon as is practicable.</p>	<p>"Police should have clear statutory authority to intercede and provide necessary protection for children whose health or safety is endangered." Outlines criteria and procedures for temporary custody by police or other designated personnel; requires court approval prior to custody if time permits.</p> <p>Both the parents and the child are entitled to assistance of counsel. Does not discuss waiver of the right to counsel.</p>	<p>Designated personnel are obligated to file reports where there is "reasonable cause to suspect" that a child is abused. Emergency temporary custody--which requires prior judicial approval if time permits--is authorized only when, among other things, there is "probable cause to believe" that it is "necessary to prevent the child's imminent death or serious bodily injury." Calls for court-approved investigation plans where parents refuse to cooperate with specified agencies.</p> <p>Both the parents and the child are entitled to representation by counsel, and their rights to counsel attach when a petition is filed (if not earlier).</p>	Does not address the issue.
------------------	--	--	---	-----------------------------

Summary of Positions: I. Delinquency

One group outlines guidelines for intervention; three groups speak, with varying degrees of detail, to structuring discretion on referral to intake and taking into custody; the same three groups require full Miranda warnings prior to custodial interrogation; and they outline special procedures for waiver of Miranda rights.

Three groups make provision for early assistance of counsel. But they adopt varying positions on whether the juvenile's right to counsel may be waived--and, if so, how.

II. Noncriminal Misbehavior

One group outlines criteria for initial intervention; three groups call for statutory and administrative clarification of police powers to take juveniles into custody; and at least one group requires full Miranda warnings prior to custodial interrogation.

Two groups provide a right to counsel identical to that in delinquency cases; a third would (apparently) do so where, contrary to its own recommendations, court jurisdiction over such conduct is retained.

III. Abuse or Neglect

One group establishes reporting requirements in abuse cases; two groups address the bases for intervention; and three groups outline criteria for custody decisions. While the criteria for custody differ, all would require prior court approval if time permits. One group provides for court-approved investigation plans. And one group provides Miranda warnings to the parents.

Three groups provide rights to counsel for both the parents and the child.

Table 2

Summary of Positions Recommended by Standards Groups: Diversion<sup>18</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Does not call for formal guidelines on diversion as such, but the proposed written criteria governing police referrals to intake and decisions by the intake unit achieve approximately the same result. Proscribes informal probation by either the police or intake personnel. Referral to voluntary services can stay the filing decision for up to 30 days. The commentary indicates that a juvenile's request (after consulting counsel) for a judicial determination of the truth of the allegations should be honored.</p> <p>The juvenile's right to counsel attaches as soon as, e.g., a complaint is filed or the juvenile appears at intake.</p>	<p>All diversion decisions by the police "should be made pursuant to written agency policy that insures fairness and uniformity of treatment." So, too, diversion by the intake unit. The commentary emphasizes voluntary participation and calls for a written "contract" with the juvenile and parents. The filing decision may be deferred for up to 90 days when the juvenile is referred to services. Informal probation by the police is explicitly prohibited.</p> <p>The juvenile's right to counsel attaches at the "earliest feasible stage"--"at least" at intake.</p>	<p>Police decisions on diversion to be made pursuant to written guidelines. Requires a written statement if the juvenile is not diverted. Calls for formal guidelines on all aspects of intake. Intake personnel should also provide a written report if the juvenile is not diverted--and their decision is subject to judicial review. The filing decision (apparently) may be deferred (briefly) following a formal referral to services. Such referrals are to be governed by voluntary written agreements "of a contractual nature." Informal probation by either the police or the intake unit is explicitly prohibited. And the juvenile's right to refuse diversion and elect formal processing is emphasized.</p> <p>The juvenile's right to counsel attaches at intake, if not earlier; and this right is (apparently) nonwaivable.</p>	<p>Does not discuss diversion by the police. Recommends that referrals to noncourt services by the intake unit be governed by written policies and procedures. 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 by the intake unit or its parent agency." And the juvenile can (apparently) insist upon formal processing.</p>
Noncriminal Misbehavior	<p>With modifications of the substantive criteria, the decision framework and recommended procedures parallel those in delinquency cases. Child protective service workers and others are likewise prohibited from undertaking informal probation.</p> <p>The juvenile's right to counsel is identical to that in delinquency cases.</p>	<p>Repeatedly emphasizes the use of voluntary services, but does not discuss diversion in these cases specifically. Probably the comments on diversion of delinquents are applicable by analogy.</p> <p>The juvenile's right to counsel attaches at the "earliest feasible stage"--"at least" at intake.</p>	<p>Since the court's traditional jurisdiction over status offenses is abolished, all such cases are, in effect, "diverted" (and only the types of limited intervention noted above are authorized). Supports referrals by parents and self-referrals to youth service agencies--when participation in programs is fully voluntary. Informal probation by the police is explicitly prohibited.</p> <p>Where court jurisdiction is retained, the juvenile's right to counsel is (apparently) identical to that in delinquency cases.</p>	<p>Does not address the issue.</p>

Abuse or Neglect	<p>The decision process and procedural requirements are the same as those in delinquency and noncriminal misbehavior cases--save for the difference in substantive criteria. And informal probation by child protective service workers and others is, again, prohibited.</p> <p>Both the parents and the child are entitled to counsel.</p>	<p>Stresses the provision of services on a voluntary basis, but does not discuss diversion in abuse or neglect cases specifically.</p> <p>Both the parents and the child are entitled to assistance of counsel.</p>	<p>Emphasizes the voluntary use of services. Prohibits informal probation by the police. Directs the intake unit to issue "detailed guidelines and rules" to govern its decisions in these cases. Specifies that out-of-home placements (other than by court order or via emergency temporary custody) are to be truly voluntary, pursuant to written agreement, and subject to judicial monitoring.</p> <p>Both the parents and the child are (apparently) entitled to assistance of counsel at this stage.</p>	Does not address the issue.
------------------	--	---	--	-----------------------------

Summary of Positions: I. Delinquency

Two groups call for written guidelines on police diversion decisions, and a third recommends written criteria of a similar nature. Three groups prohibit informal probation by the police. And one group requires a written statement if the juvenile is not diverted.

Four groups urge (varying types of) written criteria for intake decisions; three groups specifically prohibit informal probation by intake personnel; and at least two groups authorize deferring the filing decision after referral to services. One group requires a written statement if the juvenile is not diverted, and it authorizes judicial review in such cases.

All four groups emphasize voluntary participation; three groups suggest written "contracts"; and at least two groups stress the right to refuse diversion. Three groups make explicit provision for assistance of counsel.

II. Noncriminal Misbehavior

Three groups stress the voluntary use of services, but none provides detailed guidance on diversion. One group recommends written criteria on police referrals to intake and decisions by the intake unit; one group "diverts" all cases by eliminating the court's traditional jurisdiction. Two groups explicitly prohibit informal probation by the police; one of these also proscribes similar practices by intake personnel, child protective service workers, and others.

Two groups provide a right to counsel identical to that in delinquency cases; a third would (apparently) do so where, contrary to its own recommendations, court jurisdiction over such conduct is retained.

III. Abuse or Neglect

Three groups emphasize the provision of services on a voluntary basis, but none discusses diversion at length. One group calls for written guidelines on police referrals to intake; two groups propose written criteria for intake decisions. Two groups prohibit informal probation by the police; one of these extends the same proscription to child protective service workers and others. One group calls for written agreements on voluntary placements and provides judicial monitoring of such placements. At least two--and probably three--groups provide both the parents and the child with rights to counsel at this stage.

Table 3

Summary of Positions Recommended by Standards Groups: Intake 19

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Requires a written complaint, which is to be signed and sworn. Sets forth criteria for formal rules to structure discretion in intake decisions. Calls for written guidelines on, and identifies specific bases for, detention and conditioned release. Limits the scope of the intake investigation and emphasizes the privilege against self-incrimination. The prosecutor's office is to review the legal sufficiency of the complaint upon request by intake personnel. Intake to give written notice of its recommendation within 24 hours ("excluding nonjudicial days") if the juvenile is in custody and within 30 calendar days if the juvenile is not in custody.</p> <p>The juvenile's right to counsel attaches at this stage (if not earlier).</p>	<p>The complaint is to be in writing, signed, and sworn. Outlines bases for detention. Calls for written guidelines to govern other intake decisions, but does not identify specific criteria. The prosecutor is to advise the intake officer on the legal sufficiency of the complaint upon request. Intake to finish processing within 48 hours if the juvenile is in detention or shelter care and within 30 calendar days in noncustody cases (unless the juvenile is diverted).</p> <p>The juvenile's right to counsel attaches at the "earliest feasible stage"--"at least" at intake. And waiver of this right is permitted only after the juvenile has consulted with an attorney.</p>	<p>Specifies that the complaint (or "report") is to be in writing, signed, and sworn. Calls for written guidelines to govern intake decisions and procedures. Posits detailed criteria for detention and conditioned release. Emphasizes the privilege against self-incrimination and limits the scope of the investigation by intake personnel. Directs that a waiver of the juvenile's rights should, among other things, be in writing. Any complaint lacking legal sufficiency to be unconditionally dismissed; the prosecutor to review legal sufficiency upon request. For juveniles in custody, a petition for a release hearing is to be filed within 24 hours; for juveniles not in custody (and not diverted), the intake decision is to be made within 30 days.</p> <p>The juvenile's right to counsel attaches at this stage, if not earlier; and this right is (apparently) nonwaivable.</p>	<p>The juvenile is to be "informed of the steps in the process at the initiation of intake." Calls for "written policy and procedure" to govern intake decisions. Specifies detention criteria. Calls for written guidelines on conditions of release. Recommends "independent review" of intake decisions "through the court or appropriate prosecuting office."</p>
Noncriminal Misbehavior	<p>The decision structure and procedural directives parallel those in the standards on delinquency--except for the differences in the substantive criteria for intake decisions.</p> <p>The juvenile's right to counsel is identical to that in delinquency cases.</p>	<p>Specifies criteria for preadjudicatory shelter care. Calls for written guidelines to govern intake decisions and indicates that the unit responsible for processing delinquency complaints should handle these cases as well--but the actual standards on intake practices mention delinquency cases only.</p> <p>The juvenile's right to counsel attaches at the "earliest feasible stage"--"at least" at intake.</p>	<p>Since the court's traditional jurisdiction over status offenses is eliminated, the intake unit is (apparently) not involved. Specifies criteria for "limited custody." And directs that if a juvenile in such custody is placed in a "temporary nonsecure residential facility" the staff of that facility "should promptly explain to the juvenile his or her legal rights."</p> <p>Where the court's jurisdiction is retained, the juvenile's right to counsel is (apparently) identical to that in delinquency cases.</p>	Does not address the issue.

Abuse or Neglect	<p>With modifications of the substantive criteria for intake decisions, the standards track those on delinquency and non-criminal misbehavior.</p> <p>Both the parents and the child are accorded rights to counsel.</p>	<p>Outlines criteria for preadjudicatory temporary custody; recommends formal guidelines to structure discretion in intake decisions. While the standards on intake practices refer to delinquency cases only, the commentary assigns responsibility for abuse or neglect cases to the same unit which handles delinquency complaints.</p> <p>Both the parents and the child are provided rights to counsel.</p>	<p>The complaint is to be written, signed, and sworn. Requires the intake unit to issue "detailed guidelines and rules" to govern its decisions. Establishes criteria for emergency temporary custody. The prosecuting official is to review the legal sufficiency of the complaint upon request by intake. Mandates court-approved investigation plans where the parents refuse voluntary interviews. The investigating agency to provide written reports to the court and all parties.</p> <p>Both the parents and the child are (apparently) entitled to assistance of counsel at intake.</p>	Does not address the issue.
------------------	--	--	--	-----------------------------

Summary of Positions: I. Delinquency

Three groups require the complaint to be in writing, signed, and sworn. All four groups recommend formal, written guidelines to structure discretion in intake decisions, and two groups identify criteria for screening complaints. All four groups specify bases for detention; two groups also outline grounds for conditioned release. Two groups emphasize the privilege against self-incrimination and limit the scope of intake investigations; one of these requires a waiver of the juvenile's rights to be in writing. Three groups indicate that the prosecutor should review the legal sufficiency of the complaint upon request by intake; the fourth group authorizes review of intake decisions by either the prosecutor or the court. And three groups establish time limits for intake decisions (or filing a petition for a release hearing).

Three groups accord the juvenile right to counsel; one of these (apparently) makes this right nonwaivable.

II. Noncriminal Misbehavior

At least one group recommends the same procedures applicable in delinquency cases--with appropriate modifications of the substantive criteria for decisions. Two groups identify bases for preadjudicatory placements. One group eliminates the court's traditional jurisdiction, but authorizes "limited custody" in a manner (apparently) not involving intake personnel.

Two groups provide the juvenile right to counsel; a third would do so where, contrary to its own recommendations, court jurisdiction is retained.

III. Abuse or Neglect

At least two groups require complaints to be written, signed, and sworn. Three groups call for written guidelines to structure discretion in decisions by intake, and the same three groups specify bases for preadjudicatory placements. One group also identifies criteria for screening complaints. Two groups indicate that the prosecutor should review the complaint for legal sufficiency upon request by intake. One group requires court-approved investigation plans where the parents refuse voluntary interviews.

At least two--and probably three--groups provide both the parents and the child rights to counsel at this stage.

Table 4a

Summary of Positions Recommended by Standards Groups: Preadjudicatory Proceedings--Judicial Review of Detention and Emergency Custody<sup>20</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>A judicial hearing is provided within 24 hours of taking into custody. The juvenile is entitled to written notice, an impartial judge, the privilege against self-incrimination, a public hearing upon request, a verbatim record, and other procedural protections. The imposition of money bail is prohibited.</p> <p>The prosecution must establish "probable cause" to believe the allegations and demonstrate the need for continued detention by "clear and convincing evidence." A review hearing is required at least every 7 days. Appeals of detention orders "should be heard and decided as expeditiously as possible."</p> <p>The juvenile's right to counsel attaches here (if not earlier), and the judge should inform the juvenile of this right.</p>	<p>Provides judicial review of detention or shelter care within 48 hours of taking into custody. The hearing "should conform to due process requirements." The juvenile is entitled to, among other things, written notice, an impartial judge, the presence of a parent or guardian, a public hearing upon request, the privilege against self-incrimination, and a verbatim record. The imposition of money bail is proscribed.</p> <p>The prosecution must show "probable cause" to believe the allegations, and it must demonstrate the need for further detention by "clear and convincing evidence." Where secure detention is continued, the judge should review the case at least every 10 court days; and provision is made for expedited appeals.</p> <p>The juvenile's right to counsel attaches here (if not earlier), and waiver of this right is permitted only after the juvenile has consulted at least once with an attorney.</p>	<p>A judicial hearing is to be convened within (24 or) 48 hours of taking into custody. The juvenile's rights include, but are not limited to, written notice, hearing by an impartial judge, the privilege against self-incrimination, and having his or her parents present. "There should be a strong presumption against the validity of a waiver of any constitutional or statutory right of the juvenile," and any such waiver must, among other things, be in writing. The imposition of money bail is prohibited.</p> <p>The prosecution must provide "probable cause" to believe that the juvenile committed the offense charged and show the necessity of continued detention by "clear and convincing evidence." There is an automatic review hearing every 7 days. Appeals to be heard within 24 hours of notice or motion, and "decisions on appeal should be filed at the conclusion of the hearing."</p> <p>The juvenile's continuing right to counsel is (apparently) nonwaivable.</p>	<p>Juveniles in detention or shelter care are to be brought before the court "within 48 hours of admission." The nature of the hearing is not discussed. A review hearing on continued detention is provided every 10 court days. Does not comment on appeals.</p>
Noncriminal Misbehavior	<p>While the substantive criteria for continued custody differ, the rights, procedures, and time limits are identical to those in delinquency cases.</p> <p>The parents are also entitled to counsel.</p>	<p>The standards themselves do not address the nature or timing of the review hearing, but the accompanying text suggests that the recommendations for delinquency cases are applicable here also.</p> <p>And the standards do explicitly provide the juvenile a right to counsel at such a hearing (or earlier).</p>	<p>Since the court's jurisdiction over status offenses is eliminated, there is no judicial review of the voluntary, short-term placement mechanisms (except regarding "alternative residential placements," which will be noted below).</p> <p>Where the court's jurisdiction is retained, the juvenile's right to counsel is (apparently) identical to that in delinquency cases.</p>	<p>Does not address the issue.</p>



Abuse or Neglect	But for the differing custody criteria, the framework parallels those in delinquency and noncriminal misbehavior cases. Both the parents and the child are entitled to assistance of counsel.	A petition is to be filed within 24 hours of taking into emergency protective custody; upon receipt of the petition, "the court should immediately convene a hearing." "Both parents and child should be present at this hearing and both should be represented by counsel."	The State agency is to petition the court "no later than the first business day after taking custody." The court should "immediately" ensure notice to the parties, inform the parents of their right to (appointed) counsel, and appoint independent counsel for the child. The hearing is to be convened "on the same business day if at all practicable, and no later than the next business day." The rules of evidence are those in civil proceedings.	Does not address the issue.
------------------	---	---	---	-----------------------------

Summary of Positions: I. Delinquency

At least one group provides judicial review within 24 hours of taking into custody; two--and probably three--groups require such review within 48 hours. Three groups accord the juvenile a wide array of procedural rights, including written notice, hearing by an impartial judge, and the privilege against self-incrimination. And at least one group requires a juvenile's waiver of his or her rights to be in writing.

Three groups require a showing of "probable cause" and proof of the need for continued detention by "clear and convincing evidence." Two groups provide further review hearings every 7 days; the other two, every 10 days. Three groups authorize expedited appeals.

Three groups explicitly provide the juvenile right to counsel; one of these (apparently) makes the right nonwaivable.

II. Noncriminal Misbehavior

At least one group calls for the same procedures applicable in delinquency cases (though the criteria for continued custody, of course, differ). Another group seems to be in agreement, but it offers no standards on the subject.

Two groups provide the juvenile right to counsel, and one of these would also provide counsel for the parents. A third group would provide the juvenile right to counsel where, contrary to its own recommendations, court jurisdiction over such conduct is retained.

III. Abuse or Neglect

Two groups require a judicial hearing within 24 hours of taking into emergency protective custody; one group calls for a hearing within 2 "business days." One group makes the hearings directly analogous to those in delinquency cases (excepting the differing custody criteria); the other two groups are less specific on procedural issues. One group directs that the rules of evidence are those applicable in civil proceedings.

Three groups provide both the parents and the child rights to counsel.

Table 4b

Summary of Positions Recommended by Standards Groups: Preadjudicatory Proceedings--Waiver and Transfer Hearings<sup>21</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Transfer to adult criminal court is authorized only if: the juvenile is at least 16; there is "probable cause" to believe (a) that the juvenile committed the alleged offense and (b) that the alleged offense is of a "heinous or aggravated nature" or that the juvenile has committed "repeated serious delinquency offenses"; and there is "clear and convincing evidence" that the juvenile is "not amenable to treatment by the family court"--"because of the seriousness of the alleged conduct, the juvenile's record of prior adjudicated offenses, and the inefficacy of each of the dispositions available to the family court."</p> <p>Requires a "full and fair hearing" at which the juvenile is accorded "all essential due process safeguards," including the right to counsel. The court should state, on record, the basis for its findings. And either the juvenile or the prosecution can appeal the court's order.</p>	<p>Transfer is allowable only if: the juvenile was at least 16 at the time of the alleged offense; that offense was "aggravated or heinous in nature" or "part of a pattern of repeated delinquent acts"; there is "probable cause" to believe that the juvenile committed the offense; and the juvenile is "not amenable, by virtue of his maturity, criminal sophistication, or past experience in the juvenile justice system, to services provided through the family court."</p> <p>Mandates a hearing "that comports with due process including but not limited to the right to counsel and a decision rendered in accord with specific criteria promulgated by either the court or the legislature." The criteria in the Appendix to Kent "should be the minimum specific criteria on which these decisions are based." Waiver of the right to counsel is permitted only after the juvenile has conferred at least once with an attorney. The juvenile can (apparently) appeal the court's order; appeals by the prosecution are not mentioned specifically.</p>	<p>Authorizes transfer to adult criminal court only if: the juvenile was at least 16 at the time of the alleged offense; the conduct charged is a "class one juvenile offense"; there is "probable cause" to believe that the juvenile committed the offense; and there is "clear and convincing evidence" that the juvenile is "not a proper person to be handled by the juvenile court." To hold that the juvenile is "not a proper person," the court must find: that the offense is "serious"; that the juvenile has previously been adjudicated delinquent on a charge of inflicting or threatening "significant bodily injury"; that the dispositions available to the juvenile court would likely be inefficient; and that an appropriate disposition is available to the adult criminal court.</p> <p>Requires an adversary hearing, and directs the court to issue written findings and reasons for its decision. The juvenile is accorded a nonwaivable right to counsel and numerous other procedural protections. Either the juvenile or the prosecution can appeal the court's order, and appellate courts are to render their decisions "expeditiously."</p> <p>*That is, an offense for which, under criminal statute, the maximum sentence is "death or imprisonment for life or for a term in excess of twenty years."</p>	<p>Because of the correctional focus of the project, does not address the issue.</p>
Noncriminal Misbehavior	Not Applicable			
Abuse or Neglect				

**CONTINUED**

**1 OF 2**

Summary of Positions: I. Delinquency

A. Criteria for Waiver and Transfer

Three groups stipulate that the juvenile must be at least 16 years old. And the same three groups require a finding of "probable cause" by the juvenile or family court.

Two groups require that the alleged offense be "aggravated or heinous in nature" or that the juvenile have committed repeated delinquent acts. The third group links waiver to its proposed classification scheme, requiring a "class one juvenile offense."

Two groups call for a finding that the juvenile is "not amenable to" the services or treatment which might be ordered by the family court; one of these groups requires "clear and convincing evidence" on this issue; and both groups outline general criteria to govern the determination. The third group requires a demonstration, by "clear and convincing evidence," that the juvenile is "not a proper person to be handled by the juvenile court," specifying that such a demonstration must conform to strict criteria--including, among other things, proof of a prior adjudication on charges of threatening or inflicting "significant bodily injury."

B. Judicial Hearings, Procedural Rights, and Appeals

Three groups call for judicial hearings on waiver and transfer; two of these specify, in general terms, that the hearings should comply with due process requirements; and the third group outlines hearing procedures in some detail.

Three groups provide the juvenile right to counsel and other procedural safeguards; one group makes the juvenile's right to counsel nonwaivable; another group requires that the juvenile consult with an attorney at least once before waiving the right to counsel. Two groups explicitly authorize appeals by either the juvenile or the prosecution, and one of these directs that such appeals be processed "expeditiously." The third group (apparently) authorizes appeals by the juvenile, but does not specifically mention appeals by the prosecution.

II. Noncriminal Misbehavior -- Not applicable.

III. Abuse or Neglect -- Not applicable.

Table 4c

Summary of Positions Recommended by Standards Groups: Preadjudicatory Proceedings--Notice, Arraignment, and Other Matters<sup>22</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Written petition to give specific notice of the charges; summons (or other written notice) to advise the juvenile of his or her legal rights. "Each state should develop rules and guidelines permitting as full discovery as possible prior to adjudication and other judicial hearings." Guardians ad litem to be appointed where appropriate. A "probable cause" hearing in cases not involving detention or waiver is available upon request. All forms of plea negotiations are prohibited. The juvenile to be arraigned within 5 days of filing the petition; the judge to fully inform the juvenile of the nature and possible consequences of the charges and his or her rights.</p> <p>Throughout preadjudicatory proceedings, the juvenile is provided the right to counsel and "all the other rights accorded to defendants in criminal cases except for the right to indictment by a grand jury...[and the right to bail]."</p>	<p>Written petition to specify the allegations "with reasonable particularity"; summons to inform the juvenile of his or her right to counsel. "Comprehensive rules" for family court practice to cover pretrial discovery "in detail." Guardians ad litem to be appointed for incompetent clients. "Plea bargaining in all forms should be eliminated from the delinquency adjudication process." Juveniles in custody to be arraigned at the detention hearing; other juveniles, within 72 hours of receipt of a citation or summons.</p> <p>The juvenile is accorded a continuing right to counsel, which can be waived only after consulting with an attorney. "Court procedures...prior to adjudication should conform to due process requirements. Except for the right to bail...[and the right to grand jury indictment], the juvenile should have all the procedural rights given a criminal defendant."</p>	<p>Written petition to set forth the allegations "with particularity"; the juvenile is also to receive written notice of his or her legal rights. An elaborate series of standards support broad pretrial discovery. Guardians ad litem to be appointed in appropriate cases. All juveniles (apparently) have a right to a "probable cause" hearing. Plea bargaining on charges is permitted, but bargaining on dispositions is proscribed. The juvenile's "initial appearance" ("similar to arraignment") to be no more than 5 days after the petition is filed; the judge to personally explain the juvenile's rights. A waiver of these rights to be in writing and truly voluntary.</p> <p>The juvenile's right to counsel is altogether nonwaivable. Parents, while not accorded full party status, are entitled to "subordinate participation" in the proceedings and are provided the right to (appointed) counsel.</p>	Because of the correctional focus of the project, does not address the issue.
Noncriminal Misbehavior	<p>The same standards applicable to delinquency proceedings govern these cases, as well.</p> <p>The parents are also entitled to counsel "throughout the proceedings."</p>	<p>Except for brief mention in commentary, preadjudicatory proceedings in these cases are not discussed.</p> <p>The standards do provide the juvenile the right to counsel at the "earliest feasible stage."</p>	<p>Recommends abolition of the court's traditional jurisdiction over status offenses.</p> <p>Where such jurisdiction is retained, the juvenile's right to counsel is (apparently) identical to that in delinquency cases.</p>	Does not address the issue.

Abuse or Neglect	<p>The standards governing delinquency and noncriminal misbehavior cases explicitly cover these matters, too.</p> <p>Both the parents and the child are accorded rights to counsel.</p>	<p>While these cases are mentioned occasionally in commentary, most of the pertinent standards focus on delinquency matters only.</p> <p>The standards do extend rights to counsel to both the parents and the child.</p>	<p>Upon filing of a petition, the court should appoint independent counsel for the child and "promptly interview the parents," notifying them of their right to (appointed) counsel. Court review of the investigation plan and, if any party so requests, a full hearing on the plan is required; the court must find "probable cause" to approve the investigation. The rules of evidence are those in civil matters; both the parents and the child have the discovery rights of the delinquency respondent in the <u>Pretrial</u> volume.</p>	Does not address the issue.
------------------	---	---	---	-----------------------------

Summary of Positions: I. Delinquency

Three groups require that written petitions give specific notice of the charges and set forth the allegations "with particularity" (or "with reasonable particularity"). One group directs that the summons should inform the juvenile of his or her right to counsel; two groups call for a similar, more detailed notification of rights in the summons or other written document.

Three groups support broad pretrial discovery; two of these address the issue in general terms; the third tenders detailed standards on the subject. Three groups provide for appointments of guardians ad litem in appropriate cases--but the grounds for appointments differ. Two groups prohibit all forms of plea bargaining; a third allows bargaining on charges, but not on dispositions.

Two groups provide a right to a "probable cause" hearing in cases not involving detention or waiver. Three groups make provision for arraignment (or "initial appearance") within a specified period and require the judge to explain the juvenile's rights. One group directs that a waiver of these rights be in writing.

Two groups explicitly grant the juvenile "all the procedural rights given a criminal defendant" prior to trial except the rights to bail and grand jury indictment; a third group is in accord. One group allows waiver of the juvenile's right to counsel only after consulting with an attorney; another group makes the juvenile's right to counsel nonwaivable. And one group authorizes "subordinate participation" by the juvenile's parents.

II. Noncriminal Misbehavior

One group calls for procedures identical to those in delinquency cases. Another group recommends abolition of the court's traditional jurisdiction over status offenses.

Two groups provide the juvenile a right to counsel; a third would do so where court jurisdiction over such conduct is retained; and one of these groups also provides the parents a right to counsel.

III. Abuse or Neglect

One group establishes procedures identical to those in delinquency cases. Two groups provide broad pretrial discovery rights. One group calls for court review of agency investigation plans and requires a finding of "probable cause" to approve such plans. One group directs that the rules of evidence in civil proceedings are applicable.

Three groups provide rights to counsel to both the parents and the child.

Table 5a

Summary of Positions Recommended by Standards Groups: Adjudication--Uncontested Proceedings<sup>23</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
75 Delinquency	<p>The judge should "inquire thoroughly into the circumstances" pertinent to the admission. Proscribes acceptance of any bargained-for admission; the judge should explain this prohibition to the respondent and ask the respondent and the attorneys, on record, if any bargain has been made. Before accepting an admission, the judge must also determine, on record: that the respondent is able to, and does, understand the nature and consequences of the admission; that the respondent has received "effective assistance of counsel"; and that "there is a factual basis for the allegations."</p> <p>In determining that the respondent does, in fact, understand the nature and consequences of the admission, the judge is to explain, on record: the allegations; the rights of the respondent; the effect of the admission on those rights; and the most restrictive disposition that can be imposed.</p> <p>"Respondents should be permitted to withdraw an admission for any fair and just reason prior to disposition of their case."</p>	<p>The judge must "inquire thoroughly into the circumstances" surrounding the admission. "No admission that is the result of a plea agreement should be accepted by the court." And "statements of counsel that no such agreements have been made should appear on the record." Before accepting an admission, the judge must determine: that the respondent "has the capacity to understand the nature and consequences of the proceeding"; that the admission is "knowingly and voluntarily offered"; and that the respondent has been "fully and effectively represented" by counsel. To determine that the admission is "knowingly and voluntarily offered," the judge must find that the respondent understands the allegations, the nature of the rights waived, the consequences of such waiver, and the most restrictive disposition that could be imposed. "By inquiry of the juvenile, the court should then determine that the allegations in the petition are true."</p> <p>"Alford pleas" are specifically prohibited. And, if a guardian ad litem has been appointed, "no admission should be accepted without independent proof of the acts alleged."</p> <p>The respondent may withdraw the admission prior to disposition for "any fair and just reason."</p>	<p>If plea bargaining (which is permitted only on the charges, not the disposition) has occurred, the judge should, on record, "require disclosure of the agreement and the reasons therefor in advance of the time for tender of the plea." And the judge is to "reach an independent decision whether to grant the concessions contemplated in the agreement." Before accepting any admission, the judge must admonish the respondent of his or her rights and explain the most restrictive disposition that could be imposed. And the judge must determine: that the respondent "has the mental capacity to understand his or her legal rights...and the significance of such a plea"; that the respondent understands the allegations; that the plea is voluntary; that "the allegation admitted is true"; and that the respondent "was given the effective assistance of an attorney." "Alford pleas" are (apparently) prohibited. And the views of parents (who are not complainants) regarding the plea should be considered by the court "in exercising discretion in whether to reject the tendered plea."</p> <p>Prior to disposition, the respondent may withdraw the admission for "any fair and just reason."</p>	<p>Because of the correctional focus of the project, does not address the issue.</p>



Noncriminal Misbehavior	The procedures are (apparently) identical to those in delinquency cases, except that both the parents and the child are entitled to (appointed) counsel.	The juvenile is accorded the right to counsel, but uncontested proceedings in these cases are not specifically addressed.	Recommends elimination of the court's jurisdiction over such conduct.  Where the court's jurisdiction is retained, the juvenile is entitled to assistance of counsel.	Does not address the issue.
Abuse or Neglect	The procedures are (apparently) identical to those in delinquency and noncriminal misbehavior cases, except that both the parents and the child are entitled to (appointed) counsel.	Both the parents and the child are provided rights to counsel, but uncontested proceedings are not specifically discussed.	Both the parents and the child are accorded rights to counsel. Does not specifically discuss admissions, but directs that if the parents agree to out-of-home placement of the child after the agency's investigation, then the court should convene a hearing "regarding the propriety of and the anticipated duration of such placement." After the hearing, the petition may be dismissed, and the procedures for voluntary placement pursuant to written agreement are then applicable.	Does not address the issue.

Summary of Positions: I. Delinquency

Two groups prohibit all forms of plea bargaining and direct that no admissions resulting from such bargaining should be accepted by the court. These two groups require the judge to obtain statements of counsel, on record, affirming that no plea negotiations have occurred. A third group allows bargaining on the charges, but not on dispositions. This group specifies that the judge should require disclosure of the plea agreement and the reasons for it prior to the time for tendering the plea; the judge is then to independently decide whether to concur in or reject the agreement.

Three groups direct the court to make specified findings before accepting any admission. All three groups stipulate that the judge should find that the respondent possesses the requisite mental capacity--but the wording of the relevant tests varies slightly. The three groups also require the judge to find that the admission is made voluntarily and with an understanding of its consequences; and, while the phrasing of the groups' decision criteria varies somewhat, the tests seem virtually identical in substance. In addition, the three groups call for a finding that the juvenile has received effective assistance of counsel. And the three groups require the court to find that the allegations admitted are true (or that "there is a factual basis for the allegations"). At least one group--and probably another--specifically prohibits "Alford pleas." And one group directs the court to consider noncomplainant parents' views on the admission.

Three groups allow liberal withdrawal of admissions prior to disposition, permitting such withdrawal for "any fair and just reason."

II. Noncriminal Misbehavior

One group (apparently) calls for procedures identical to those in delinquency cases, except that the parents are also accorded the right to counsel. One group would eliminate the court's jurisdiction over noncriminal misbehavior; but, where such jurisdiction is retained, it would provide the juvenile assistance of counsel. And one group grants the juvenile the right to counsel, but does not comment specifically on uncontested proceedings.

III. Abuse or Neglect

One group (apparently) approves the same procedures applicable to delinquency cases, except that the parents are also provided the right to counsel. One group mentions only that both the parents and the child are entitled to assistance of counsel. And one group provides the same rights to counsel and further specifies that, if the parents assent to out-of-home placement of the child before the adjudicatory hearing, then after a hearing on such placement the petition may be dismissed and the case handled by voluntary, written agreement.

Table 5b

Summary of Positions Recommended by Standards Groups: Adjudication--Contested Proceedings<sup>24</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	The respondent is provided the right to counsel and the right to a public hearing upon request. He or she is also entitled to receive prior notice, to be present, to compel the attendance of witnesses, to present evidence, to confront and cross-examine witnesses, to have an impartial decisionmaker, and to have "all the other rights accorded to defendants in criminal cases except for...[the right to trial by jury]." No statement made by the juvenile while in the custody of a law enforcement officer is admissible "as part of the government's case-in-chief" unless it was made in the presence of either a parent or an attorney. The allegations must be proved "beyond a reasonable doubt." "A verbatim record should be made of all proceedings."	Adjudications "should conform to due process requirements." The juvenile is entitled to public proceedings upon request. "At the adjudicatory hearing, the juvenile alleged to be delinquent should have all the rights given a criminal defendant except for the right to trial by jury." These include, among others, the rights to receive prior notice, to compel the attendance of witnesses, to confront and cross-examine witnesses for the State, to have an impartial judge, and to require proof "beyond a reasonable doubt." Statements made by the juvenile during interrogation are (apparently) inadmissible "to prove the government's case" unless such statements were made in the presence of an attorney (or, perhaps, a parent). The juvenile is entitled "to avoid waiving his or her constitutional rights without prior consultation with an attorney," and the right to counsel itself cannot be waived without such consultation. There should be a verbatim record of the proceedings.	The juvenile's timely receipt of written notice of the charges, the presence of attorneys for the juvenile and the State, and the presence of the juvenile are "requirements for adjudication proceedings to begin." The juvenile is entitled to a public trial upon request and to trial by jury requiring a unanimous verdict. The respondent also has the right to call witnesses and to confront and cross-examine witnesses for the State. "Unless advised by counsel" statements of the juvenile made in custody of the police, or made to the prosecutor, intake officer, or social service worker "during the process of the case," should be inadmissible "prior to a determination of the petition's allegations." The standard of proof is "beyond a reasonable doubt." Parents of the juvenile "should be permitted to make representations to the court either pro se or through counsel in a jury-waived contested adjudication proceeding." The juvenile's right to counsel is nonwaivable. And a verbatim record of the proceedings is required.	Because of the correctional focus of the project, does not address the issue.
Noncriminal Misbehavior	The procedures are identical to those in delinquency cases, except that the parents and the child are both entitled to (appointed) counsel.	The juvenile is accorded the right to counsel, but these proceedings are not specifically discussed.	Recommends abolition of the court's traditional jurisdiction over status offenses. Creates a "special jurisdiction to approve or disapprove alternative residential placement or its continuation" where the juvenile and the parents cannot agree to such placement voluntarily. The parties to a hearing on such placement are entitled to prior notice; they are accorded rights to counsel; and they may present evidence. Where traditional jurisdiction over status offenses is retained, the juvenile is provided the right to counsel.	Does not address the issue.

Abuse or Neglect	The procedures are the same as those in delinquency and non-criminal misbehavior cases, except that the parents, as well as the child, are entitled to (appointed) counsel; the standard of proof is "clear and convincing evidence"; and the limits on admitting juveniles' custodial statements are (presumably) not applicable.	The proceedings are to be governed by "the general rules of evidence applicable to the trial of civil cases" in the jurisdiction. The standard of proof is "clear and convincing evidence." And both the parents and the child are entitled to assistance of counsel.	Both the parents and the child are entitled to prior notice, to (appointed) counsel, to be present (though the court may, on motion, find that attendance "would be detrimental to the child"), to present evidence, and to request a jury trial requiring a unanimous verdict. The rules of evidence are (basically) those in civil proceedings. And the standard of proof is "clear and convincing evidence."	Does not address the issue.
------------------	--	---	---	-----------------------------

Summary of Positions: I. Delinquency

Three groups provide the juvenile the right to a public hearing upon request. One group accords the juvenile the right to trial by jury requiring unanimous verdict.

Three groups specify that the juvenile is entitled to, among other things, receive prior notice, compel the attendance of witnesses, confront and cross-examine witnesses for the State, and require proof "beyond a reasonable doubt." Two groups specify that the juvenile is, in addition, entitled to all of the other adjudicatory rights given to a criminal defendant except for the right to jury trial. The third group reaches essentially the same result--and grants the aforementioned right to trial by jury, as well.

Three groups impose limitations on the admissibility of the juvenile's uncounseled statements to prove the allegations--but there are numerous subtle variations (and ambiguities) in the groups' respective positions on this issue.

Three groups grant the juvenile the right to counsel; one of these specifies that this right--or any other constitutional right--can only be waived after consulting with an attorney; and another group makes the juvenile's right to counsel non-waivable. One group also grants the parents a right to counsel and permits them to make representations to the court in jury-waived proceedings. Three groups require a verbatim record of all proceedings.

II. Noncriminal Misbehavior

One group calls for procedures identical to those in delinquency cases, except that the parents are also entitled to counsel (including appointed counsel, where appropriate). One group accords the juvenile the right to counsel, but does not specifically address these proceedings. And one group recommends elimination of the court's traditional jurisdiction over these cases (though it would provide the juvenile assistance of counsel where such jurisdiction is retained). The latter group would create a "special jurisdiction" to approve or disapprove "alternative residential placement"; it would grant the parents and the juvenile the rights to notice and counsel at a hearing on such placement, and allow them to present evidence.

III. Abuse or Neglect

Three groups accord rights to counsel to both the parents and the child; the same three groups call for proof by "clear and convincing evidence." And one of these groups directs that in all other respects (presumably excepting the limits on admitting juveniles' custodial statements) the standards on delinquency are applicable. Two groups specify that the rules of evidence in civil proceedings are (generally) controlling. And one group provides the parents and the child the right to jury trial requiring unanimous verdict.

Table 6a

Summary of Positions Recommended by Standards Groups: Dispositions--Predisposition Investigations and Reports<sup>25</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Calls for written guidelines and rules to govern investigations, as well as the preparation and dissemination of reports. Investigations should proceed prior to adjudication only with the respondent's informed, written consent; and the information obtained should not be considered by the court before the adjudicatory decision. Limits the scope of the investigation by specifying permissible sources of information; directs that information sought must be "essential to the making of dispositional decisions." "In requesting an interview with the subject of a petition or his/her family... [the investigator] should advise interviewees that they may decline to participate in the interview and that they are entitled to be represented by counsel." Requires a court hearing prior to diagnostic examinations or commitments. Outlines the proper format for reports. And requires that counsel for the juvenile, the parents, and the State be granted access to these reports in a timely fashion.</p>	<p>"The sources of dispositional information, the techniques for obtaining it, and the conditions of its use should be subject to legal rules." Investigations may begin prior to adjudication, so long as the information obtained is not admissible until the petition is sustained. Outlines permissible sources of information. Requires that juveniles being interviewed be informed of the possible dispositional consequences of their statements and be allowed access to counsel or a parent prior to questioning "to insure voluntariness and an informed judgment concerning the providing of information." Mandates a hearing prior to diagnostic commitments. Directs that attorneys for the State and the juvenile be provided copies of the report "in sufficient time...to permit careful review and verification if necessary." Indicates that the parents are entitled to counsel "at the dispositional stage" in some cases.</p>	<p>Urges the adoption of "written guidelines and rules for the conduct of predisposition investigations and the preparation and submission of predisposition reports." Investigations prior to adjudication are permitted only when "the juvenile and the juvenile's attorney consent in writing to an earlier undertaking." "In no event should the court consider the report in advance of adjudication." Identifies permissible sources of information. Requires that juveniles being questioned be informed of the possible dispositional consequences of their statements and be allowed to consult with counsel; also establishes strict standards for determining the voluntariness of juveniles' statements. Calls for a hearing prior to diagnostic examinations or commitments. Establishes a format for reports. Attorneys for the juvenile and the State must receive copies of the report in time "to allow for independent investigation, verification, and the development of rebuttal information."</p>	<p>Recommends "[w]ritten policy and procedure [to] define the scope and conduct of predisposition investigations...[and] the preparation and submission of predisposition reports." Investigations prior to adjudication require the juvenile's counseled consent and "adequate precautions" to assure nondisclosure to the court before the adjudicatory decision. The investigation is to be completed within "three weeks in general, or ten judicial days for youths in detention." And the report is to be submitted to the court and to respondent's counsel "a minimum of two working days in advance of the date set for disposition."</p>
Noncriminal Misbehavior	<p>The standards on delinquency explicitly cover these cases also, prescribing a slightly different format for reports. And both the parents and the juvenile have continuing rights to counsel.</p>	<p>While investigations and reports are not specifically discussed, the juvenile has a continuing right to counsel. And the parents are also entitled to counsel "at the dispositional stage...when it appears that their affirmative participation will be required in the dispositional order or plan."</p>	<p>Recommends elimination of the court's traditional jurisdiction over status offenses. Where such jurisdiction is retained, the juvenile has a continuing right to counsel.</p>	<p>Does not address the issue.</p>

Abuse or Neglect	The procedures pertinent to delinquency are explicitly applied to abuse and neglect cases as well, though a different format is required for reports. Both the parents and the child have continuing rights to counsel.	Accords continuing rights to counsel to both the parents and the child, but does not specifically address predisposition investigations and reports.	Specifies the proper format and content of the report; provides continuing assistance of counsel to the parents and the child; and (inferentially) grants counsel timely access to the report. Additional standards on preadjudicatory investigations may be applicable by analogy.	Does not address the issue.
------------------	---	--	---	-----------------------------

Summary of Positions: I. Delinquency

Four groups call for formal rules to structure discretion pertinent to predisposition investigations and the preparation and dissemination of predisposition reports. Three groups require the juvenile's informed consent for any investigation prior to adjudication, and all four groups prohibit the admission of information obtained in such investigations until after the petition is sustained. Three groups identify permissible sources of information--but the sources designated differ. Three groups prescribe (slightly varying, but generally similar) safeguards to ensure the voluntariness of juveniles' statements; two of the groups provide the juvenile a right to consult counsel; the third group authorizes consultation with counsel or a parent; and one of the three groups extends similar safeguards to other members of the juvenile's family. Three groups require court hearings prior to diagnostic commitments; two groups require such hearings before diagnostic examinations not involving commitments. All four groups require that counsel for the juvenile and the State receive copies of the report in a timely manner. At least one group also provides counsel for the parents a copy of the report.

II. Noncriminal Misbehavior

Only one group explicitly addresses predisposition investigations and reports in these cases; and, except for a modification of the format of the reports, it prescribes the same rules and procedures applicable to delinquency matters. This group also accords rights to counsel to both the juvenile and his or her parents. Another group provides the juvenile a continuing right to counsel, and directs that the parents are entitled to counsel "at the dispositional stage" in some cases. A third group urges elimination of status offense jurisdiction, but would provide the juvenile right to counsel where such jurisdiction is retained.

III. Abuse or Neglect

One group explicitly applies the same rules and procedures pertinent to delinquency cases, though a different format for reports is prescribed. Another group details the proper format and content of predisposition reports and (inferentially) grants counsel timely access to these reports. Three groups provide continuing rights to counsel to both the parents and the child.

Table 6b

Summary of Positions Recommended by Standards Groups: Dispositions--Dispositional Hearings<sup>26</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>The dispositional hearing is to be "separate and apart from," and held within 15 days of, the adjudicatory proceedings. Attorneys for the juvenile, the parents, and the State "should be afforded an opportunity to present evidence...; to examine and controvert any written evidence; and to cross-examine any witnesses." The parties may subpoena, e.g., persons who prepared or provided information for the predisposition report. The court may rely on any "relevant and material" evidence which "was not obtained in violation of the adjudicated person's constitutional rights." Establishes general guidelines to structure judicial discretion in the dispositional decision. The judge "should explain the terms of the disposition to the respondent and should state, on the record, the facts and reasons underlying the dispositional decision." The parents are entitled to counsel, "if it appears that they will be required to participate affirmatively in the dispositional order or plan." The juvenile has a continuing right to counsel.</p>	<p>A "full dispositional hearing" is to be held within (15 or) 30 days of adjudication. The parties are entitled to receive timely, written notice; to employ compulsory process; to present evidence; and to cross-examine witnesses, "including any person who prepares a report concerning the juvenile which is before the court." Presents guidelines to structure judicial discretion in selecting a disposition. The judge should, on record, make "specific findings on all controverted issues of fact"; state "the reasons for selecting the particular disposition"; indicate "those alternative dispositions...which were explored and the reasons for their rejection"; and outline "the precise terms of the disposition which is imposed." The juvenile has a continuing right to counsel; the parents are entitled to counsel, "without cost if necessary,... when it appears that their affirmative participation will be required in the dispositional order or plan."</p>	<p>"Jurisdictions...are encouraged to experiment with various forms of predisposition conferences," which are to be governed by formal rules. If such a conference does not result in agreement on a disposition or if the judge disapproves of the disposition suggested, a "formal dispositional hearing" should be held within 15 (or 30) days of adjudication. The parties are entitled to receive written notice in a timely manner; to employ compulsory process; to present evidence; and to cross-examine witnesses, including "any person who prepares any report concerning the juvenile." "Dispositional information should be relevant and material." General guidelines are established for the court's dispositional decision. The judge should "make specific findings on all controverted issues of fact, and on the weight attached to all significant dispositional facts"; "state for the record...the reasons for selecting the particular disposition"; "indicate for the record those alternative dispositions...that were explored and the reason for their rejection"; and describe "with particularity the precise terms of the disposition that is imposed." The juvenile has a continuing right to counsel. And the parents are (apparently) entitled to counsel, as well.</p>	<p>Because of the correctional focus of the project, does not address the issue.</p>
Noncriminal Misbehavior	<p>The procedures are identical to those in delinquency cases, except that the parents, as well as the juvenile, have a continuing right to counsel in all cases--and the substantive criteria for the court's dispositional decision differ.</p>	<p>While very general guidelines for some dispositional decisions are set forth, the standards do not address dispositional hearings--but the parents have a right to counsel identical to that in delinquency cases, and the juvenile has a continuing right to assistance of counsel.</p>	<p>Urges elimination of the court's traditional jurisdiction over status offenses. Where such jurisdiction is retained, the juvenile is provided the right to counsel.</p>	<p>Does not address the issue.</p>

Abuse or Neglect	Save for differences in the substantive criteria for selecting a disposition and granting a right to counsel in all cases to the parents, as well as the child, the procedures are the same as those in delinquency proceedings.	Tenders general guidelines for the judge's dispositional decision and accords rights to counsel to both the parents and the child, but does not consider dispositional hearings in these cases specifically.	A separate hearing is to be held "as soon as practicable" after adjudication--within 2 (or 6) working days for children in custody. "All parties ...should be able to participate in this hearing, and all matters relevant to the court's determination should be presented in evidence at the hearing." Establishes guidelines for the judge's dispositional decision. Both the child and the parents have continuing rights to counsel.	Does not address the issue.
------------------	--	--	--	-----------------------------

Summary of Positions: I. Delinquency

One group endorses experimentation with predisposition conferences, which are to be governed by formal rules. Three groups call for separate dispositional hearings, and each group establishes a (sometimes ambiguous) time limit for holding such hearings. These three groups grant the parties the rights to receive timely, written notice; to employ compulsory process; to present evidence; and to cross-examine witnesses, including persons who prepared the predisposition report. In addition, they direct the court to consider "relevant and material" evidence; and they establish general guidelines to structure judicial discretion in selecting a disposition. Each of the three groups requires the court to make specific findings of fact and to indicate the reasons for its decision, though the directives in this area differ slightly. The three groups also accord the juvenile a continuing right to counsel. Two of the groups provide a right to counsel to the parents, when it appears that they will be required to participate in the disposition; the third group (apparently) grants the parents a right to counsel in all cases.

II. Noncriminal Misbehavior

One group calls for procedures identical to those in delinquency cases, except that both the parents and the juvenile have continuing rights to counsel in all cases--and the guidelines for the court's dispositional decision embody different substantive criteria. One group, while not addressing dispositional hearings specifically, tenders very general guidelines for some dispositional decisions, accords the juvenile a continuing right to assistance of counsel, and grants the parents a right to counsel identical to that in delinquency proceedings. A third group endorses elimination of the court's traditional jurisdiction over status offenses; it also specifies that, where such jurisdiction is retained, the juvenile should have access to counsel.

III. Abuse or Neglect

One group recommends the same procedures employed in delinquency proceedings--with two differences: both the parents and the child are granted rights to counsel in all cases, and different guidelines are proposed to structure judicial discretion in selecting a disposition. One group tenders general guidelines for the judge's decision and accords rights to counsel to both the parents and the child, but does not consider dispositional hearings specifically. A third group calls for a separate dispositional hearing, which is to be held "as soon as practicable" after adjudication--and within a specified time limit when the child is in custody. This group grants rights to counsel to both the parents and the child, specifies that all parties can participate in the hearing, directs the court to consider "relevant" evidence, and establishes guidelines for the judge's dispositional decision.



Table 7a

Summary of Positions Recommended by Standards Groups: Appeals<sup>27</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	The respondent can appeal the court's "adjudication or dispositional order." He or she is granted the right to counsel and is entitled to a verbatim transcript of the proceedings (at public expense, where appropriate). The commentary indicates that "parents should not be authorized to appeal a delinquency adjudication on their child's behalf." The prosecution is accorded limited rights to appeal specified orders--e.g., an order declaring a statute unconstitutional or dismissing the case on grounds of double jeopardy. Appeals are to be decided within 90 calendar days of filing.	"Any juvenile aggrieved by a final order or judgment should be entitled to appeal to the appropriate appellate court. The appeal should be heard upon the files, records and transcript of the evidence of the family court." Indigents are entitled to transcripts at public expense. And the juvenile has a continuing right to counsel. Appeals by the prosecution are not discussed. Appellate decisions are to be rendered within 90 calendar days of the decision by the trial court.	"[I]t is essential that there be one appeal of right afforded to all parties materially affected by a juvenile court order, to review the facts found, the law applied, and the disposition ordered." The juvenile and "his or her parents, custodian, or guardian" can appeal "any final order of the juvenile court."* The appellant is entitled to (appointed) counsel and a verbatim transcript (at public expense). The prosecution is granted limited rights to appeal specified orders--e.g., an order denying transfer to adult criminal court or upholding the defense of double jeopardy. Appeals of juveniles in detention should usually be resolved within 90 (to 100) days.  *A "final order" is defined as including "any order of disposition after adjudication."	Because of the correctional focus of the project, does not address the issue.
Noncriminal Misbehavior	The standards on delinquency are applicable; except that the parents can also appeal dispositional orders which "materially affect their liberty or interests." The juvenile and the parents are both accorded continuing rights to counsel.	The juvenile has a continuing right to counsel, but the standards do not address appeals in these cases.	Since elimination of the court's traditional jurisdiction over status offenses is recommended, the issue is not discussed in the <u>Noncriminal Misbehavior</u> volume.  Where the court's jurisdiction is retained, the juvenile is entitled to assistance of counsel.	Does not address the issue.

Abuse or Neglect	Both the prosecution and the respondents are entitled to appeal "the adjudication or dispositional order." "Other parties...[can] appeal dispositional orders that materially affect their liberty or interests." The parents and the child are provided continuing rights to counsel. And the parties are entitled to a verbatim transcript (at public expense).	Both the parents and the child are accorded continuing rights to counsel, but appeals are not specifically discussed.	The Abuse and Neglect volume details other forms of post-dispositional review (as will be noted below). The Appeals standards authorize the child, the parents, and the State to appeal "any final order"; and they grant the appellant rights to (appointed) counsel and to a verbatim transcript (at public expense).	Does not address the issue.
------------------	---	---	---	-----------------------------

Summary of Positions: I. Delinquency

Three groups accord the juvenile the right to appeal (variously designated) "final orders"; one group (apparently) provides the parents a right to appeal in these cases; one group explicitly disapproves of appeals by parents; and two groups enumerate limited grounds for appeals by the prosecution. Three groups provide a right to (appointed) counsel on appeal, and the same three groups authorize provision of verbatim transcripts (at public expense, where appropriate). These three groups adopt slightly varying time limits for rendering appellate decisions--with each limit of 90 days starting at a different point in the proceedings.

II. Noncriminal Misbehavior

One group establishes procedures identical to those in delinquency cases, except that the parents can also appeal dispositional orders which "materially affect their liberty or interests." This same group accords continuing rights to counsel to both the parents and the child. One group would eliminate the court's traditional jurisdiction over status offenses, but provides right to counsel where such jurisdiction is retained. And one group provides assistance of counsel to the juvenile, but does not discuss appeals.

III. Abuse or Neglect

Two groups accord both the prosecution and the respondents the right to appeal "the adjudication or dispositional order" (or a "final order"); one of these also explicitly provides the child the right to appeal; and the other does so inferentially. Both of these groups extend rights to (appointed) counsel to the parents and the child, and both groups provide verbatim transcripts (at public expense). One group grants rights to counsel to the parents and the child, but does not address appeals specifically.

Table 7b

Summary of Positions Recommended by Standards Groups: Other Forms of Postdispositional Review<sup>28</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Procedures are established for modifying dispositions by reducing their duration or the degree of restraint imposed when the court finds that specified criteria are met (e.g., the disposition exceeded the statutory maximum or "because of changed circumstances" a reduction "would prevent an unduly harsh or inequitable result").</p> <p>The agency responsible for carrying out the disposition can apply to the court if the juvenile willfully fails to comply with "any part of the dispositional order." A hearing is provided. The juvenile has the right to counsel and is to receive written notice. He or she is also entitled to employ compulsory process, to present evidence, and to cross-examine witnesses. The court may invoke specified sanctions if the application is sustained, and it must explain its decision, on record. The parents are accorded the right to counsel when the (modified) disposition requires their participation.</p>	<p>Recommends procedures for reducing "the nature or duration of the disposition" when the judge finds that specified grounds exist (e.g., the disposition "was imposed in an illegal manner" or "is inappropriate in light of newly discovered evidence").</p> <p>The agency responsible for executing the disposition can petition the court if the juvenile "has willfully failed to comply with any part of the dispositional order." A hearing is provided, which should "afford the juvenile all the procedural protections to which [he or she is] entitled." The juvenile has a continuing right to counsel (and the parents may in some cases be entitled to counsel, too).</p>	<p>Creates procedures for reducing the duration of a disposition or the degree of restraint imposed when the court finds that specified criteria are met (e.g., the disposition "is unduly severe with reference to the seriousness of the offense, the culpability of the juvenile, or the dispositions given by the same or other courts to juveniles convicted of similar offenses").</p> <p>The agency carrying out the disposition can petition the court if the juvenile willfully fails to comply with any part of the order. The juvenile is accorded a hearing and is granted the right to counsel. He or she is entitled to receive notice of the charges, to present evidence, to confront and cross-examine witnesses, and to obtain "specific, written findings that are sufficient to provide effective appellate review." If a more severe disposition is imposed, the formalities applicable to the original dispositional hearing must be followed.</p>	<p>Does not discuss judicial proceedings to reduce the duration or degree of restraint imposed in the dispositional order.</p> <p>The agency administering probation or aftercare can petition the court "or statutorily defined releasing authority" if the juvenile willfully fails to comply with the order (as is noted in Table 8b).</p>
Noncriminal Misbehavior	<p>The procedures for modifying dispositions are identical to those in delinquency cases; so, too, the procedures for enforcing dispositional orders, except that any party may initiate proceedings, the available sanctions differ slightly, and both the parents and the juvenile are entitled to counsel in all cases.</p>	<p>Does not address the issue specifically--but the juvenile has a continuing right to counsel (and the parents may be entitled to assistance of counsel, as well).</p>	<p>Because it eliminates the court's traditional jurisdiction over status offenses, there are no postdispositional reviews as such. But "alternative residential placements" are to be reviewed by the court every 6 months. And the parties to such proceedings are entitled to present evidence and to be represented by counsel.</p> <p>When the court's traditional jurisdiction is retained, the juvenile has a continuing right to counsel.</p>	<p>Does not address the issue.</p>

Abuse or Neglect	The procedures for modifying and enforcing dispositional orders generally parallel those in noncriminal misbehavior cases. Also calls for judicial review hearings at least every 6 months. Both the parents and the child have rights to counsel and are entitled to receive a report from the agency, to employ compulsory process, to present evidence, and to cross-examine witnesses. The court should explain, on record, "the facts and reasons underlying the decision." General guidelines are established for judicial decisions on whether to return the child to the home or to terminate parental rights.	"The court should conduct a hearing to review the status of each child in placement at least every 6 months." The parties (i.e., the child, the parents, and the appropriate agency) are entitled to be present, to present evidence, and to be represented by counsel. The rules of evidence are those employed in civil cases. Establishes general guidelines to structure judicial discretion in decisions on whether to return the child to the home or to terminate parental rights.	Requires judicial monitoring of all children under court supervision at least every 6 months. Both the parents and the child are entitled to timely receipt of a report from the agency. "All interested parties should be accorded the right to counsel and the admission of evidence should be governed by the rules applicable to civil cases." Hearings should examine the issues "thoroughly" and "should not be pro forma reviews." Posits guidelines for judicial decisions on whether to return the child to the home or to terminate parental rights.	Does not address the issue.
------------------	--	---	--	-----------------------------

Summary of Positions: I. Delinquency

Three groups outline procedures for reducing the duration of a disposition or the degree of restraint imposed when the court finds that specified criteria are met--but the particulars of the groups' criteria differ somewhat.

Three groups establish general procedures for enforcing the dispositional order when the juvenile willfully fails to comply. Each of the three requires a judicial hearing in such cases. Two of the groups specify that the juvenile's hearing rights include receiving notice, being represented by counsel, presenting evidence, cross-examining witnesses, and obtaining written findings from the court; the third group accords the juvenile the right to counsel, but does not discuss the juvenile's hearing rights specifically. At least one group grants the parents the right to counsel when the disposition requires their participation. A fourth group would provide judicial hearings in some cases involving violations of the terms of probation or aftercare (as is noted in Table 8b).

II. Noncriminal Misbehavior

One group adopts procedures for modifying dispositions which are identical to those in delinquency cases; its recommended procedures for enforcing dispositional orders also track the standards on delinquency, except that any party is entitled to initiate proceedings, the available sanctions differ slightly, and both the parents and the juvenile are entitled to counsel in all cases. One group provides the juvenile a continuing right to counsel (and may grant counsel to the parents, too), but it does not discuss postdispositional reviews specifically. Another group urges elimination of the court's traditional jurisdiction over status offenses, though it would accord the juvenile the right to counsel where such jurisdiction is retained; this group also calls for judicial review of "alternative residential placements" every six months.

III. Abuse or Neglect

One group recommends procedures for modifying dispositions and enforcing dispositional orders which generally parallel those in noncriminal misbehavior cases. Three groups endorse judicial monitoring of abuse or neglect cases at least every six months. Each of the three groups calls for a formal hearing, and each grants rights to counsel to both the parents and the child. Two groups specify that the parents and the child should receive a copy of the agency's report in advance of the hearing. And two groups direct that the rules of evidence should be those employed in civil proceedings. Three groups tender general guidelines to structure judicial discretion in decisions on whether to return the child to the home or to terminate parental rights.

Table 8a

Summary of Positions Recommended by Standards Groups: Corrections--Grievance and Disciplinary Procedures<sup>29</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>"Written grievance procedures should be established for all residential and nonresidential programs." Juveniles should receive "an explanation and a copy of these procedures." While the procedures may vary, they should specify time limits for resolving grievances, provide for "[i]nvolvement of staff and juveniles," and establish a mechanism for appellate review. "In addition to the grievance procedures..., juveniles placed in residential or nonresidential programs should have access to an ombudsman."</p> <p>Requires that written rules be posted in all residential facilities and explained to the residents. Before juveniles in any facility "other than a foster home" are confined to a room for more than 1 hour or have a privilege suspended for more than 24 hours, they should receive notice of the alleged infraction, be granted access to an ombudsman (or "person in an equivalent capacity"), and be given an "opportunity to respond to the allegations." Room confinement cannot exceed 24 hours. Before juveniles in any residential facility "including a foster home" have a privilege suspended for more than 7 days, there should be a hearing. Hearing rights include receiving timely, written notice; securing "representation" (e.g., an ombudsman, another juvenile, or a staff member); presenting evidence and testifying; and confronting and cross-examining witnesses. The hearing should be tape recorded and provision made for appellate review. A written record should specify the reasons for any disciplinary action.</p>	<p>Calls for grievance procedures to enable juveniles "to challenge the substance or application of any policy, behavior, or action...by the State agency or any of its program units." Provides rights "to be present and to participate in" a hearing, for which juveniles are "entitled to select a representative" (i.e., another juvenile, a staff member, or a volunteer). Recommends providing appellate reviews and setting time limits for appeals.</p> <p>"Juveniles [in residential facilities] should be assured of prior knowledge of rules through orientation and by posting of written regulations." They are entitled to "an impartial and objective fact-finding hearing" when facing charges which "might result in a deprivation greater than 24 hours restriction to secure quarters (discipline unit)." Hearing rights include receiving timely, written notice; selecting "substitute counsel"; calling witnesses and presenting evidence; confronting accusers; and receiving a written record, which includes "a statement of the disposition and the reasons for the disposition." Juveniles may appeal "to an independent and impartial hearing officer within the State agency" on specified grounds.</p>	<p>Speaks generally to grievance mechanisms; "[n]o single model is preferred." Endorses procedures that include "representation...at all levels"; "brief time limits"; "a speedy, written response...with reasons for the action taken"; and an appellate process, which provides, "as a final review, some form of independent review by a party or parties outside the department." The use of ombudsmen is discussed, but not mandated.</p> <p>Disciplinary procedures cover residential placements other than foster homes. Juveniles should receive a written copy and explanation of facility regulations. "Major," "minor," and "petty" rule infractions are defined. "Petty" infractions do not require a "formal hearing," but "an opportunity to be heard" is accorded. Cases involving "major" or "minor" infractions (which are not prosecuted in court) require a "hearing before an impartial disciplinary board." The juvenile's hearing rights include receiving timely, written notice; selecting a "representative" (e.g., a staff member, another juvenile, or legal counsel); calling witnesses and presenting evidence; cross-examining opposing witnesses; and receiving a "written decision based on clear and convincing evidence," which specifies the evidence relied upon and the reasons for the decision. Cases of "petty" infractions are nonreviewable; decisions involving "minor" infractions are appealable "at the request of the juvenile"; and cases based on "major" infractions are reviewed automatically.</p>	<p>Recommends that "[w]ritten policies and procedures exist for filing of grievances, including an appeals procedure." Suggests "relatively short, enforceable time limits" and a "written report as to the final disposition."</p> <p>Written rules should be "posted conspicuously" and explained to residents of designated facilities. The Training Schools volume recommends providing "an opportunity to explain the behavior" before imposing any disciplinary measures and calls for a formal hearing in cases involving "major rule violations." The juvenile is entitled to receive timely, written notice; to be present and participate; and to secure "assistance in presenting his/her position, if requested." There should be a written statement of the findings and an opportunity to appeal. The Community Residential Services volume also calls for "an opportunity to explain the behavior" before any disciplinary action. And it requires "an administrative hearing" and a written report prior to facility restriction in excess of 48 hours.</p>

Noncriminal Misbehavior	The procedures are identical to those applicable to delinquents (and the above-noted distinctions regarding foster homes are particularly relevant).	Does not address the issue.	Because it eliminates the court's traditional jurisdiction over status offenses and thus precludes court-ordered placements following adjudication, does not address the issue.	If these juveniles are intermingled with delinquents in nonsecure facilities (other than foster homes), the standards in the <u>Community Residential Services</u> volume on grievance and disciplinary procedures for delinquents may be applicable.
Abuse or Neglect	The procedures are the same as those applicable to delinquents (and the above-noted distinctions regarding foster homes are particularly relevant).	Does not address the issue.	Recommends that grievance officers "should be available to receive complaints from any parent or child who feels he/she is not receiving the services ordered by the court."	If these children are intermingled with delinquents in nonsecure facilities (other than foster homes), the standards in the <u>Community Residential Services</u> volume on grievance and disciplinary procedures for delinquents may be applicable.

Summary of Positions: I. Delinquency

All four groups endorse the use of some kind of grievance mechanism, though the specifics of the recommendations vary somewhat. At least two groups accord the juvenile the right to secure (some type of) representation in the grievance process. Two groups explicitly call for written decisions (and the other two seem to do so inferentially). All four groups recommend setting time limits for handling grievances, and all four suggest establishing an appellate procedure. One group also calls for the creation of ombudsman programs; another group discusses ombudsmen, but does not mandate their use.

All four groups require the use of formal disciplinary procedures--but the recommendations differ in numerous respects. Each of the four groups specifies that written rules should be posted in the facility and explained to the residents. Three groups explicitly provide that some sort of "opportunity to be heard" (short of a full hearing) should be accorded in cases involving minor (or "petty") rule infractions, though the procedures suggested for such cases vary. All four groups call for a formal hearing in cases based on "major" rule infractions (or in cases which may generate a sanction of a specified severity)--and one of the groups also requires a hearing in cases involving (specifically defined) "minor" rule infractions. Three groups indicate that the juvenile's hearing rights should include receiving timely, written notice; selecting a "representative"; presenting evidence; and cross-examining witnesses. The fourth group apparently supports the same rights, at least in disciplinary procedures for training schools. At least three groups require a written record of the disposition; one group suggests that hearings be tape recorded. And at least three groups authorize appeals.

II. Noncriminal Misbehavior

One group specifies that the same grievance and disciplinary procedures applicable to delinquents should cover these juveniles, as well. Another group would follow the same approach in some cases.

III. Abuse or Neglect

One group directs that the same grievance and disciplinary procedures applicable to delinquents should cover neglected and abused children, too. Another group would employ the same approach in some cases. A third group endorses the use of grievance officers to handle complaints from either the parents or the child.

Table 8b

Summary of Positions Recommended by Standards Groups: Corrections--Transfers, Revocation of Community Supervision, and the "Right to Treatment"<sup>30</sup>

	NAC	Task Force	IJA/ABA (Tentative Draft, 1977)	CAC
Delinquency	<p>Transfers from less secure to more secure facilities are authorized pursuant to specified criteria and require an administrative hearing where the juvenile is accorded "all rights specified for disciplinary hearings" (which were noted in Table 8a). A copy of the decision is to be provided to the court, the juvenile and his or her representative, and the parents. Transfers from foster care to other residential facilities are authorized only after a judicial hearing, as are transfers to facilities for the treatment of the mentally ill or drug abusers; and transfers to adult correctional agencies are proscribed.</p> <p>As to revocation of community supervision: "Transfers from nonresidential programs to residential programs...should only be authorized after a judicial hearing" (which follows the procedures pertinent to hearings for the enforcement of dispositional orders that were noted in Table 7b).</p> <p>The standards support the juvenile's "right to care and treatment."</p>	<p>The commentary suggests that judicial hearings are required before transfers from less secure to more secure facilities. The standards require court approval for transfers to facilities for the treatment of the mentally ill; and transfers to facilities housing adult criminals are prohibited.</p> <p>"Community supervision workers should petition the family court in cases involving alleged non-compliance with the conditions of the court's dispositional order." The specifics of the hearing procedures are not described.</p> <p>The standards endorse the juvenile's right to "services necessary for normal growth and development."</p>	<p>"Alterations in the status or placement of a juvenile that result in more security, additional obligations, or less personal freedom should be subject to regularized proceedings designed to allow for challenge through the presentation of evidence to an impartial tribunal." Transfers to facilities for the treatment of the mentally ill require judicial approval; and transfers to institutions or programs administered by the adult correctional agency are proscribed.</p> <p>Community supervision can be revoked only after a judicial hearing (which follows the procedures for hearings to enforce dispositional orders that were noted in Table 7b).</p> <p>The standards support the juvenile's right to a "safe, human, caring environment."</p>	<p>Suggests adoption of written policy requiring that in cases where "transfers are to a more restrictive environment, due process safeguards are provided." Transfers to facilities for the treatment of the mentally ill require judicial approval; and transfers to adult programs are inferentially (though not explicitly) prohibited.</p> <p>Calls for written policy to ensure that "[p]robation/after-care is revoked only after a review by the court or statutorily defined releasing authority." The juvenile is entitled to notice, access to official records, the right to confront and cross-examine witnesses, and a written statement of the findings.</p> <p>The standards endorse the juvenile's right to a "safe and healthful living environment."</p>
Noncriminal Misbehavior	<p>The procedures are the same as those in delinquency cases--but placement in or transfer to "a secure detention or correctional facility or institution" is prohibited, and both the parents and the juvenile have rights to counsel at any judicial hearings.</p>	<p>Grants the juvenile (and, in some cases, the parents) a continuing right to counsel at any judicial proceedings, and prohibits placing these juveniles in any institution "that is locked or fenced," but does not address the issue specifically.</p>	<p>Eliminates the court's traditional jurisdiction over status offenses, and directs that "alternative residential placements" must be in nonsecure facilities.</p> <p>Where the court's traditional jurisdiction is retained, the juvenile has a continuing right to counsel at any judicial hearings.</p>	<p>Prohibits placement of these juveniles in training schools, but does not address the issue specifically.</p>



Abuse or Neglect	Insofar as they are relevant, the standards on delinquency apply to these cases, too; but neglected or abused children can only be placed in nonsecure facilities, and both the parents and the child have continuing rights to counsel at any judicial hearings.	Directs that these children be placed only in nonsecure facilities, and accords both the parents and the child continuing rights to counsel at any judicial hearings, but does not discuss the issue specifically.	Stipulates that these children should be placed only in nonsecure facilities, and provides both the parents and the child rights to counsel at any judicial proceedings.	Prohibits placing these children in training schools, but does not address the issue specifically.
------------------	---	--	--	--

Summary of Positions: I. Delinquency

One group (apparently) requires judicial hearings before transfers from less secure to more secure facilities. The other three groups sanction such transfers after a formal administrative hearing; one of these groups prescribes that the procedures for such hearings should be those applicable to disciplinary proceedings; the other two groups are less precise as to what procedures should be employed--though both groups speak generally to meeting the requirements of due process. All four groups require judicial hearings before transfers to facilities for the treatment of the mentally ill. Three groups explicitly bar transfers to adult facilities; the fourth group does so inferentially.

Three groups require full judicial hearings prior to revocation of community supervision; two of these groups specify that the procedures for hearings to enforce dispositional orders (which were noted in Table 7b) are applicable to such proceedings. The fourth group requires a hearing before either the court or the "statutorily defined releasing authority"; and it directs that such a hearing should accord the juvenile specified procedural protections.

With variations in emphasis, all four groups support the basic "right to treatment" concept.

II. Noncriminal Misbehavior

One group covers these cases in the same standards pertinent to delinquency matters, but transfer to "a secure detention or correctional facility or institution" is foreclosed, since placement of these juveniles in such a facility is proscribed; this group also grants both the parents and the juvenile rights to counsel at any judicial hearings. A second group accords the juvenile (and, in some instances, the parents) a similar right to counsel and prohibits placement in any institution "that is locked or fenced." A third group urges elimination of the court's jurisdiction over status offenses, though it would grant the juvenile the right to counsel at judicial hearings where such jurisdiction is retained; this group also directs that "alternative residential placements" must be in nonsecure facilities. The fourth group prohibits placement of these juveniles in training schools.

III. Abuse or Neglect

One group indicates that, insofar as they are relevant, its standards on delinquency cover these cases, too; but this group forbids placing these children in secure facilities, and it provides both the parents and the child rights to counsel at any judicial proceedings. Two other groups endorse the same placement restrictions and accord the parents and the child the same rights to representation. The fourth group prohibits placing these children in training schools.

## NOTES

For a complete listing of abbreviations used in these notes,  
see Appendix B on pages 107-09.

1. 387 U.S. 1 (1967).
2. Cf. Kent v. United States, 383 U.S. 541 (1966).
3. See, e.g., In re Winship, 397 U.S. 358 (1970); McKeiver v. Pennsylvania, 403 U.S. 528 (1971); Breed v. Jones, 421 U.S. 519 (1975).
4. See generally In re Gault, 387 U.S. 1 (1967).
5. 403 U.S. 528 (1971).
6. The only qualification to the statement in the text is that the hybrid "right to treatment," which was discussed in the preceding Comparative Analysis on Advocacy for Services, will be noted here briefly in the section on Corrections.
7. See IJA/ABA Adjudication, Standard 4.1 (pp. 52-56). And compare, id. with NAC Final Report, Standard 3.173 and Report of the Task Force, Standard 13.4 (pp. 420-21) (contra).
8. For readers who have not previously consulted the other volumes in this series, some brief comments on definitions may be appropriate. The term "delinquency" is used throughout this Comparative Analysis to refer only to violations of criminal laws by juveniles. "Noncriminal misbehavior" is taken to denote those forms of misconduct (e.g., truancy, running away, and the like) which, while prohibited by statute when performed by juveniles, do not involve acts that would constitute crimes if committed by adults. The term "status offense" will occasionally be employed in the present review as a precise synonym for "noncriminal misbehavior." For a helpful review of the widely varying terminology in State laws governing this subject, see generally IJA/ABA Noncriminal Misbehavior, pp. 74-83. See also Volume II of this Comparative Analysis, p. 33 n.1. Finally, while it is recognized that the terms "dependency," "neglect," and "abuse" are (at least in theory) analytically distinct, for purposes of the present review these will be aggregated and, consistent with common usage, the phrase "abuse or neglect" will be used to identify the whole range of situations where intervention is premised on the fact that a nonoffender child's physical or emotional well-being is in jeopardy, usually through parental malfeasance. For a thorough review of the wording employed in the relevant statutes of all 50 States, see Katz, Howe, and McGrath, "Child Neglect Laws in America," 9 Family Law Quarterly, pp. 3-372 (Spring 1975), cited in Report of the Task Force, p. 336.
9. See, e.g., IJA/ABA Noncriminal Misbehavior, pp. 7-8; Report of the Task Force, pp. 367-68.
10. But cf. 18 U.S. Code Sec. 5031 et seq. (1979 Supp.) (establishing selected procedures for the handling of some delinquency matters in U.S. District Courts).
11. The Act does call for the development of such model legislation, though. See 42 U.S. Code Sec. 5657(d) (1979 Supp.). And cf. id., Sec. 5602(a)(5), 5614(b)(2), 5633(a)(10), 5633(a)(10)(I), 5634(a)(5), and 5635(c)(6).

12. Id., Sec. 5634(a)(9).
13. Id., Sec. 5633(a)(10)(D). See also id., Sec. 5633(a)(16).
14. See generally the sources cited in note 11.
15. Id., Sec. 5633(a)(10)(I).
16. See id., Sec. 5634(a)(5). See also id., Sec. 5635(c)(6) and 5657.
17. Sources: Regarding delinquency, see NAC Final Report, Standards 2.11, 2.21, 2.221, 2.231, 2.234, 2.241, 2.242, 2.245, 2.246, 2.247, 2.248, 3.132, and 3.134; Report of the Task Force, Standards 4.3 (pp. 186-87), 4.4 (pp. 188-89), 4.5 (pp. 190-91), 5.4 (pp. 203-04), 5.5 (p. 205), 5.6 (pp. 206-08), 5.7 (pp. 209-11), 5.8 (pp. 212-13), 5.9 (pp. 214-15), 5.10 (pp. 216-18), 5.11 (pp. 219-20), 5.12 (pp. 221-23), 12.6 (pp. 387-89), 12.7 (pp. 390-92), 15.14 (pp. 535-36), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), and 16.7 (pp. 565-67); IJA/ABA Police, Standards 2.3 (pp. 31-33), 2.4 (pp. 33-45), 2.5 (pp. 45-51), 3.1 (pp. 51-54), and 3.2 (pp. 54-78); IJA/ABA Juvenile Records, Standard 19.6 (pp. 143-46); IJA/ABA Interim Status, Standards 1.2 (pp. 41-42), 2.2 (p. 43), 2.13 (p. 47), 2.14 (pp. 47-48), 3.2 (pp. 50-51), 3.3 (pp. 51-56), 3.4 (pp. 56-57), 4.2 (pp. 59-60), 4.3 (p. 60), 4.5 (pp. 61-63), 4.6 (p. 63), 5.1 (p. 66), 5.3 (pp. 67-70), 5.4 (p. 70), 5.5 (pp. 70-71), 5.6 (pp. 71-73), 5.7 (p. 73), 7.1 (p. 84), 7.2 (p. 84), 7.3 (pp. 84-85), 7.4 (p. 85), 7.5 (pp. 85-86), 8.1 (pp. 94-95), and 8.2 (p. 95); IJA/ABA Pretrial, Standards 1.1 (pp. 23-25), 5.1 (pp. 88-94), 5.2 (p. 94), 5.3 (pp. 94-97), 6.1 (pp. 97-104), 6.2 (pp. 104-06), 6.3 (pp. 106-07), and 6.4 (pp. 107-09); IJA/ABA Youth Service Agencies, Standards 4.4 (pp. 42-43), 4.5 (pp. 43-45), 4.11 (pp. 48-49), and 4.13 (pp. 49-50); IJA/ABA Juvenile Delinquency, Standard 5.2 (pp. 42-43); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), and 5.2 (pp. 110-15); IJA/ABA Schools, Standards 2.2 (pp. 57-60), 7.2 (pp. 141-43), 7.3 (pp. 143-45), 7.4 (pp. 145-47), 7.6 (p. 148), 7.7 (pp. 148-50), 8.1 (pp. 151-52), 8.2 (pp. 152-53), 8.3 (pp. 153-54), 8.4 (pp. 154-55), 8.5 (p. 155), 8.6 (pp. 155-57), 8.8 (p. 158), and 8.9 (pp. 158-59).

As to noncriminal misbehavior, see NAC Final Report, Standards 2.12, 2.21, 2.222, 2.232, 2.234, 2.241, 2.243, 2.245, 2.247, 2.248, 2.31, 2.321, 2.341, 2.342, 3.132, 3.133, and 3.134; Report of the Task Force, Standards 4.3 (pp. 186-87), 4.4 (pp. 188-89), 4.5 (pp. 190-91), 5.5 (p. 205), 5.6 (pp. 206-08), 5.8 (pp. 212-13), 5.9 (pp. 214-15), 12.8 (pp. 393-95), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), and 16.7 (pp. 565-67); IJA/ABA Police, Standards 2.3 (pp. 31-33), 2.4 (pp. 33-45), 2.5 (pp. 45-51), and 3.3 (p. 78); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41), 2.1 (pp. 41-42), 2.2 (pp. 42-44), 2.3 (pp. 44-45), 2.4 (p. 45), 3.1 (pp. 46-50), 3.2 (pp. 50-52), 6.1 (pp. 61-62), 6.2 (pp. 62-63), 6.3 (pp. 63-64), and 6.5 (pp. 64-65); IJA/ABA Interim Status, pp. 4-5 and Standard 5.7 (p. 73); IJA/ABA Youth Service Agencies, Standards 4.1 (pp. 39-40), 4.2 (pp. 40-41), 4.3 (pp. 41-42), 4.5 (pp. 43-45), and 5.1 (pp. 50-51); IJA/ABA Schools, Standards 1.11 (pp. 50-53) and 1.12 (pp. 53-54); IJA/ABA Rights of Minors, Standards 4.5 (pp. 65-67), 4.7 (pp. 68-70), and 4.9 (pp. 83-85); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), and 5.2 (pp. 110-15).

On abuse or neglect, see NAC Final Report, Standards 2.13, 2.21, 2.223, 2.233, 2.234, 2.241, 2.244, 2.245, 2.248, 2.31, 2.322, 2.33, 2.341, 2.342, 2.343, 2.344,

3.132, 3.133, and 3.134; Report of the Task Force, Standards 4.3 (pp. 186-87), 4.4 (pp. 188-89), 4.5 (pp. 190-91), 5.3 (pp. 201-02), 5.6 (pp. 206-08), 5.9 (pp. 214-15), 12.9 (pp. 396-98), 12.10 (pp. 399-400), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), and 16.7 (pp. 565-67); IJA/ABA Police, Standard 2.4 (pp. 33-45); IJA/ABA Abuse and Neglect, Standards 1.3 (pp. 39-46), 2.1 (pp. 48-63), 3.1 (pp. 64-69), 3.3 (pp. 73-75), 4.1 (pp. 78-83), 4.2 (pp. 83-86), 5.1 A. (pp. 88-91), and 5.2 (pp. 99-108); IJA/ABA Rights of Minors, Standards 4.1 (pp. 50-53) and 4.9 (pp. 83-85); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), and 5.2 (pp. 110-15).

18. Sources: As to delinquency, see NAC Final Report, Standards 2.221, 2.241, 2.242, 3.132, 3.134, 3.141, 3.142, 3.143, 3.146, 3.147, 3.161, 3.162, 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), 15.13 (pp. 531-34), 16.1 (pp. 550-52), 16.5 (pp. 559-62), 16.7 (pp. 565-67), 18.1 (pp. 593-94), 18.2 (pp. 595-96), and 21.2 (pp. 655-57); IJA/ABA Youth Service Agencies, Standards 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), 4.12 (p. 49), 4.13 (pp. 49-50), 5.1 (pp. 50-51), 5.2 (p. 51), 5.3 (pp. 51-52), and 5.4 (p. 52); IJA/ABA Juvenile Delinquency, Standard 5.2 (pp. 42-43); IJA/ABA Police, Standards 2.3 (pp. 31-33), 2.4 (pp. 33-45), 2.5 (pp. 45-51), 3.1 (pp. 51-54), 3.4 (pp. 78-81), and 5.1 B. (pp. 108-10); 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), 2.12 (pp. 81-92), 2.13 (pp. 92-101), 2.14 (pp. 101-03), 2.15 (pp. 103-04), 2.16 (pp. 104-10), and 4.2 (pp. 126-31); IJA/ABA Interim Status, Standards 2.19 (pp. 49-50), 5.3 (pp. 67-70), 5.5 (pp. 70-71), 6.4 (p. 75), 6.5 (pp. 75-77), and 6.6 (pp. 77-82); IJA/ABA Pretrial, Standards 3.9 (pp. 71-72), 5.1 (pp. 88-94), 5.2 (p. 94), 5.3 (pp. 94-97), 6.1 (pp. 97-104), 6.2 (pp. 104-06), 6.3 (pp. 106-07), and 6.4 (pp. 107-09); IJA/ABA Prosecution, Standards 3.6 (p. 48), 3.7 (p. 49), 4.1 (pp. 52-56), 4.3 (pp. 57-60), 4.4 (p. 60), and 4.5 (pp. 60-61); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 6.1 (pp. 118-22), 6.2 (pp. 122-25), and 6.3 (pp. 125-27); CAC Juvenile Probation, Standards 7114 (p. 23), 7115 (p. 23), 7117 (p. 23), 7118 (pp. 23-24), 7119 (p. 24), and 7121 (p. 24); CAC Juvenile Detention, Standards 8387 (p. 78), 8388 (p. 78), 8390 (p. 79), 8391 (p. 79), 8392 (p. 79), and 8394 (pp. 79-80).

On noncriminal misbehavior, see NAC Final Report, Standards 2.222, 2.241, 2.243, 2.321, 2.341, 2.342, 3.132, 3.133, 3.134, 3.141, 3.142, 3.144, 3.146, 3.147, 3.161, 3.162, and 3.163; Report of the Task Force, pp. 799-800 and Standards 3.29 (pp. 142-44), 4.3 (pp. 186-87), 4.4 (pp. 188-89), 4.5 (pp. 190-91), 6.3 (pp. 235-36), 10.2 (pp. 317-19), 16.5 (pp. 559-62), 16.7 (pp. 565-67), 18.1 (pp. 593-94), 18.2 (pp. 595-96), and 21.1 (pp. 653-54); IJA/ABA Youth Service Agencies, Standards 4.1 (pp. 39-40), 4.2 (pp. 40-41), 4.3 (pp. 41-42), 4.5 (pp. 43-45), and 5.1 (pp. 50-51); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41), 2.1 (pp. 41-42), 2.2 (pp. 42-44), 2.3 (pp. 44-45), 2.4 (p. 45), 3.1 (pp. 46-50), 3.2 (pp. 50-52), 4.2 (pp. 52-53), 6.1 (pp. 61-62), 6.2 (pp. 62-63), 6.3 (pp. 63-64), and 6.5 (pp. 64-65); IJA/ABA Police, Standards 2.3 (pp. 31-33), 2.4 (pp. 33-45), 2.5 (pp. 45-51), and 5.1 B. (pp. 108-10); IJA/ABA Juvenile Probation, Standard 2.8 B.1. (pp. 64-65, 68); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 6.1 (pp. 118-22), 6.2 (pp. 122-25), and 6.3 (pp. 125-27); CAC Juvenile Probation, p. 22; CAC Juvenile Detention, p. xix.

Regarding abuse or neglect, see NAC Final Report, Standards 2.223, 2.241, 2.244, 2.322, 2.341, 2.342, 3.132, 3.133, 3.134, 3.141, 3.142, 3.145, 3.146, 3.147, 3.161, 3.162, 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), 16.5 (pp. 559-62), 16.7 (pp. 565-67), 18.1 (pp. 593-94), 18.2 (pp. 595-96), and 21.1 (pp. 653-54); IJA/ABA Police, Standards 2.4 (pp. 33-45) and 5.1 B. (pp. 108-10); IJA/ABA Abuse and Neglect, Standards 1.1 (pp. 37-38), 3.3 (pp. 73-75), 5.1 B. (pp. 91-93), 10.1 (pp. 66-68), 10.2 (pp. 168-69), 10.4 (pp. 171-73), 10.7 (pp. 175-78), and 10.8 (pp. 178-79); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 6.1 (pp. 118-22), 6.2 (pp. 122-25), and 6.3 (pp. 125-27); CAC Juvenile Probation, p. 22; CAC Juvenile Detention, p. xix.

19. Sources: On delinquency, see NAC Final Report, Standards 2.248, 3.132, 3.134, 3.141, 3.142, 3.143, 3.146, 3.147, 3.151, 3.152, 3.161, 3.162, and 3.163; Report of the Task Force, Standards 12.1 (pp. 376-77), 12.7 (pp. 390-92), 15.8 (pp. 519-20), 15.12 (pp. 527-30), 15.13 (pp. 531-34), 15.14 (pp. 535-36), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.7 (pp. 565-67), 18.2 (pp. 595-96), 19.2 (pp. 613-14), 21.1 (pp. 653-54), 21.2 (pp. 655-57), and 22.4 (pp. 669-71); IJA/ABA Juvenile Probation, Standards 2.6 (pp. 57-63), 2.7 (pp. 63-64), 2.8 (pp. 64-76), 2.9 (pp. 76-78), 2.10 (p. 78), 2.11 (pp. 78-81), 2.12 (pp. 81-92), 2.13 (pp. 92-101), 2.14 (pp. 101-03), 2.15 (pp. 103-04), 2.16 (pp. 104-10), and 4.2 (pp. 126-31); IJA/ABA Interim Status, Standards 3.2 (pp. 50-51), 3.3 (pp. 51-56), 3.4 (pp. 56-57), 4.2 (pp. 59-60), 4.3 (p. 60), 4.4 (pp. 60-61), 4.5 (pp. 61-63), 5.5 (pp. 70-71), 6.4 (p. 75), 6.5 (pp. 75-77), 6.6 (pp. 77-82), 6.7 (pp. 82-83), 7.11 (p. 92), 8.1 (pp. 94-95), 8.2 (p. 95), 9.1 (pp. 95-96), 9.2 (p. 96), and 10.7 (pp. 100-01); IJA/ABA Police, Standard 3.4 (pp. 78-81); IJA/ABA Pretrial, Standards 1.1 (pp. 23-25), 3.9 (pp. 71-72), 5.1 (pp. 88-94), 5.2 (p. 94), 5.3 (pp. 94-97), 6.1 (pp. 97-104), 6.2 (pp. 104-06), 6.3 (pp. 106-07), and 6.4 (pp. 107-09); IJA/ABA Court Organization, Standard 1.2 (pp. 14-17); IJA/ABA Prosecution, Standards 3.7 (p. 49), 4.1 (pp. 52-56), 4.3 (pp. 57-60), and 4.4 (p. 60); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 6.1 (pp. 118-22), 6.2 (pp. 122-25), 6.3 (pp. 125-27), and 6.4 (pp. 127-32); CAC Juvenile Probation, Standards 7113 (pp. 22-23), 7114 (p. 23), 7115 (p. 23), 7116 (p. 23), 7117 (p. 23), 7118 (pp. 23-24), 7119 (p. 24), 7121 (p. 24), 7122 (p. 24), 7123 (pp. 24-25), and 7124 (p. 25); CAC Juvenile Detention, Standards 8386 (p. 78), 8387 (p. 78), 8388 (p. 78), 8389 (pp. 78-79), 8390 (p. 79), 8391 (p. 79), 8392 (p. 79), 8394 (pp. 79-80), 8395 (p. 80), 8396 (p. 80), and 8397 (p. 80). See also the standards on diversion of delinquency cases in note 18.

Regarding noncriminal misbehavior, see NAC Final Report, Standards 2.248, 3.132, 3.134, 3.141, 3.142, 3.144, 3.146, 3.147, 3.153, 3.161, 3.162, and 3.163; Report of the Task Force, pp. 799-800 and Standards 10.2 (pp. 317-19), 12.8 (pp. 393-95), 15.14 (pp. 535-36), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.7 (pp. 565-67), 18.2 (pp. 595-96), 19.2 (pp. 613-14), and 21.1 (pp. 653-54); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41), 2.1 (pp. 41-42), 2.3 (pp. 44-45), 3.1 (pp. 46-50), 6.1 (pp. 61-62), 6.4 (p. 64), and 6.5 (pp. 64-66); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 6.1 (pp. 118-22), 6.2 (pp. 122-25), 6.3 (pp. 125-27), and 6.4 (pp. 127-32); IJA/ABA Juvenile Probation, Standard 2.8 B.1. (pp. 64-65, 68); CAC Juvenile Probation, p. 22; CAC Juvenile Detention, p. xix and Standard 8005 (p. 2); CAC Administration, p. ix and Standard 16 (p. 4). See also the standards on diversion of noncriminal misbehavior cases in note 18.

As to abuse or neglect, see NAC Final Report, Standards 2.248, 3.132, 3.133, 3.134, 3.141, 3.142, 3.145, 3.146, 3.147, 3.154, 3.161, 3.162, and 3.163; Report of the Task Force, Standards 12.9 (pp. 396-98), 12.10 (pp. 399-400), 15.14 (pp. 535-36), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), 18.2 (pp. 595-96), 19.2 (pp. 613-14); and 21.1 (pp. 653-54); IJA/ABA Abuse and Neglect, Standards 3.3 (pp. 73-75), 4.1 (pp. 78-83), 4.2 B. (pp. 85-86), 5.1 (pp. 88-99), and 5.2 (pp. 99-108); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 6.1 (pp. 118-22), 6.2 (pp. 122-25), 6.3 (pp. 125-27), and 6.4 (pp. 127-32); CAC Juvenile Probation, p. 22; CAC Juvenile Detention, p. xix and Standard 8005 (p. 2); CAC Administration, p. ix and Standard 16 (p. 4). See also the standards on diversion of neglect or abuse cases in note 18.

20. Sources: Regarding delinquency, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.134, 3.151, 3.152, 3.155, 3.156, 3.158, 3.161, 3.162, 3.167, 3.171, 3.172, 3.191, and 3.192; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 12.3 (pp. 380-82), 12.4 (pp. 383-84), 12.6 (pp. 387-89), 12.7 (pp. 390-92), 12.11 (pp. 401-03), 12.12 (pp. 404-05), 13.8 (pp. 428-29), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.13 (pp. 531-34), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.7 (pp. 565-67), 17.3 (pp. 584-85), and 22.4 (pp. 669-71); IJA/ABA Interim Status, Standards 4.2 (pp. 59-60), 4.3 (p. 60), 4.4 (pp. 60-61), 4.6 (p. 63), 4.7 (pp. 63-66), 5.6 (pp. 71-73), 6.5 (pp. 75-77), 6.6 (pp. 77-82), 7.6 (pp. 86-88), 7.7 (pp. 88-89), 7.9 (pp. 89-90), 7.10 (pp. 90-92), 7.11 (p. 92), 7.12 (pp. 92-93), 8.1 (pp. 94-95), 8.2 (p. 95), 9.1 (pp. 95-96), 9.2 (p. 96), and 10.7 (pp. 100-01); IJA/ABA Pretrial, Standards 2.1 (pp. 46-48), 2.2 (pp. 48-49), 2.3 (pp. 49-55), 3.1 (pp. 55-64), 3.2 (p. 64), 4.1 (pp. 78-87), 4.2 (pp. 87-88), 5.1 (pp. 88-94), 5.2 (p. 94), 5.3 (pp. 94-97), 6.1 (pp. 97-104), 6.2 (pp. 104-06), 6.3 (pp. 106-07), 6.4 (pp. 107-09), 6.5 (pp. 109-16), 6.8 (pp. 121-23), 6.9 (pp. 123-24), and 6.10 (p. 124); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 4.6 (pp. 61-62), and 4.7 (p. 62); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), and 6.4 (pp. 127-32); CAC Juvenile Probation, Standards 7114 (p. 23), 7120 (p. 24), 7121 (p. 24), 7124 (p. 25), and 7125 (p. 25); CAC Juvenile Detention, Standards 8384 (p. 77), 8385 (pp. 77-78), 8387 (p. 78), 8393 (p. 79), 8394 (pp. 79-80), 8397 (p. 80), and 8398 (p. 80); CAC Administration, Standard 37 (pp. 8-9).

As to noncriminal misbehavior, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.153, 3.155, 3.156, 3.158, 3.161, 3.162, 3.167, 3.171, 3.172, 3.191, and 3.192; Report of the Task Force, pp. 374-75 and Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41), 2.3 B. (pp. 44-45), 3.1 (pp. 46-50), 3.2 (pp. 50-52), 5.1 (p. 55), 5.4 (pp. 56-60), 6.5 (pp. 64-65), and 6.6 (pp. 65-66); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 35); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), and 6.4 (pp. 127-32); CAC Juvenile Probation, p. 22; CAC Juvenile Detention, p. xix and Standard 8005 (p. 2); CAC Administration, p. ix and Standard 16 (p. 4).

On abuse or neglect, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.154, 3.156, 3.157, 3.158, 3.161, 3.162, 3.167, 3.171, 3.172, 3.191, and

3.192; Report of the Task Force, pp. 374-75, and Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.9 (pp. 396-98), 12.10 (pp. 399-400), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Abuse and Neglect, Standards 4.2 B. (pp. 85-86), 4.3 (pp. 86-88), 5.1 (pp. 93-99), and 5.2 (pp. 99-108); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), and 6.4 (pp. 127-32); CAC Juvenile Probation, p. 22; CAC Juvenile Detention, p. xix and Standard 8005 (p. 2); CAC Administration, p. ix and Standard 16 (p. 4).

21. Sources: NAC Final Report, Standards 3.111, 3.115, 3.116, 3.124, 3.131, 3.132, 3.134, 3.161, 3.162, 3.167, 3.168, 3.171, 3.172, 3.175, 3.191, and 3.192; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 9.1 (pp. 295-96), 9.3 (pp. 299-300), 9.4 (pp. 301-02), 9.5 (pp. 303-05), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 12.3 (pp. 380-82), 12.6 (pp. 387-89), 13.1 (pp. 409-13), 13.8 (pp. 428-29), 14.2 (pp. 435-36), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.17 (p. 540), 15.18 (pp. 541-42), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Juvenile Delinquency, Standards 2.1 (pp. 13-17), 2.2 (pp. 17-23), 2.3 (pp. 23-24), and 5.2 (pp. 42-43); IJA/ABA Transfer Between Courts, Standards 1.1 (pp. 13-19), 1.2 (pp. 19-22), 1.3 (pp. 22-24), 2.1 (pp. 24-34), 2.2 (pp. 34-42), 2.3 (pp. 42-49), and 2.4 (pp. 49-53); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Pretrial, Standards 2.1 (pp. 46-48), 2.2 (pp. 48-49), 2.3 (pp. 49-55), 3.1 (pp. 55-64), 3.2 (p. 64), 4.1 (pp. 78-87), 4.2 (pp. 87-88), 5.1 (pp. 88-94), 5.2 (p. 94), 5.3 (pp. 94-97), 6.1 (pp. 97-104), 6.2 (pp. 104-06), 6.3 (pp. 106-07), 6.4 (pp. 107-09), 6.5 (pp. 109-16), 6.8 (pp. 121-23), 6.9 (pp. 123-24), and 6.10 (p. 124); IJA/ABA Interim Status, Standard 7.10 (pp. 90-92); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 4.3 (pp. 57-60), 4.6 (pp. 61-62), 4.7 (p. 62), and 5.1 (pp. 62-66); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 7.3 (pp. 138-42), 8.1 (pp. 160-62), 8.2 (pp. 162-66), 8.3 (p. 166), 8.4 (pp. 166-67), and 8.5 (pp. 167-68); IJA/ABA Appeals, Standards 1.4 (pp. 15-18), 2.1 (pp. 18-21), 2.2 (pp. 22-29), 3.1 (pp. 29-32), 3.2 (pp. 32-34), and 3.3 (pp. 34-35).

22. Sources: As to delinquency, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.134, 3.161, 3.162, 3.163, 3.164, 3.165, 3.166, 3.167, 3.168, 3.169, 3.171, 3.172, 3.175, 3.191, and 3.192; Report of the Task Force, Standards 5.8 (pp. 212-13), 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 12.3 (pp. 380-82), 12.4 (pp. 383-84), 12.5 (pp. 385-86), 12.6 (pp. 387-89), 13.1 (pp. 409-13), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.13 (pp. 531-34), 15.15 (pp. 537-38), 15.16 (p. 539), 15.17 (p. 540), 15.18 (pp. 541-42), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Pretrial, Standards 1.2 (pp. 25-28), 1.3 (pp. 28-34), 1.4 (pp. 34-36), 1.5 (pp. 36-42), 1.6 (pp. 42-43), 1.7 (pp. 43-46), 2.1 (pp. 46-48), 2.2 (pp. 48-49), 2.3 (pp. 49-55), 3.1 (pp. 55-64), 3.2 (p. 64), 4.1 (pp. 78-87), 4.2 (pp. 87-88), 5.1 (pp. 88-94), 5.2 (p. 94), 5.3 (pp. 94-97), 6.1 (pp. 97-104), 6.2 (pp. 104-06), 6.3 (pp. 106-07), 6.4 (pp. 107-09), 6.5 (pp. 109-16), 6.7 (pp. 117-21), 6.8 (pp. 121-23), 6.9 (pp. 123-24), and 6.10 (p. 124); IJA/ABA Adjudication, Standards 1.1 (pp. 13-14) and Alternate 3.3 (pp. 81-86); IJA/ABA Interim Status, Standards 4.5 A. (pp. 61-63), 4.7 (pp. 63-66), and 7.10 (pp. 90-92); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2

(pp. 28-31), and 3.3 (p. 31); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 4.1 (pp. 52-56), 4.2 (pp. 56-57), 4.3 (pp. 57-60), 4.4 (p. 60), 4.5 (pp. 60-61), 4.6 (pp. 61-62), 4.7 (p. 62), 5.1 (pp. 62-66), 5.2 (pp. 66-67), 5.3 (pp. 67-68), and 5.4 (p. 68); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 7.1 (pp. 131-36), and 7.3 (pp. 138-42); IJA/ABA Appeals, Standards 2.2 (pp. 22-29), 2.3 (p. 29), 3.1 (pp. 29-32), 3.2 (pp. 32-34), 3.3 (pp. 34-35), and 4.1 (pp. 35-36).

On noncriminal misbehavior, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.163, 3.164, 3.165, 3.166, 3.167, 3.168, 3.169, 3.171, 3.172, 3.175, 3.191, and 3.192; Report of the Task Force, Standards 5.8 (pp. 212-13), 8.3 (pp. 282-83), 8.6 (pp. 288-90), 10.1 (pp. 315-16), 10.2 (pp. 317-19), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.15 (pp. 537-38), 15.16 (p. 539), 15.17 (p. 540), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41), 5.1 (p. 55), and 5.4 C. (pp. 56-60); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 78-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 7.1 (pp. 132-36), and 7.3 (pp. 138-42).

Regarding abuse or neglect, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.163, 3.164, 3.165, 3.166, 3.167, 3.168, 3.169, 3.171, 3.172, 3.175, 3.191, and 3.192; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 11.17 (p. 371), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.16 (p. 539), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-98), 5.2 (pp. 99-108), and 5.3 (pp. 108-12); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.1 (pp. 97-98), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 7.1 (pp. 132-36), and 7.3 (pp. 138-42).

23. Sources: On delinquency, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.134, 3.161, 3.162, 3.164, 3.166, 3.168, 3.169, 3.171, 3.172, 3.175, 3.176, and 3.177; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 12.3 (pp. 380-82), 12.4 (pp. 383-84), 12.5 (pp. 385-86), 12.6 (pp. 387-89), 13.1 (pp. 409-13), 13.2 (pp. 414-17), 13.3 (pp. 418-19), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.15 (pp. 537-38), 15.16 (p. 539), 15.17 (p. 540), 15.18 (pp. 541-42), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Adjudication, Standards 1.1 (pp. 13-14), 1.2 (pp. 14-16), 1.3 (pp. 16-17), 1.4 (pp. 17-19), 1.5 (pp. 19-20), 2.1 (pp. 20-22), 2.2 (pp. 22-23), 2.3 (pp. 23-24), 2.4 (pp. 24-25), 2.5 (pp. 25-26), 2.7 (pp. 26-28), 3.1 (pp. 29-31), 3.2 (pp. 31-35), 3.3 (pp. 35-40), 3.4 (pp. 40-42), 3.5 (pp. 42-43), 3.6 (pp. 43-47), 3.7 (pp. 47-48), 3.8 (pp. 48-51), 5.1 (pp. 63-64), 5.2 (pp. 64-67), 5.3 (pp. 67-70), 6.1 (pp. 70-72), 6.2 (pp. 72-75), 6.3 (pp. 75-76), Alternate 3.3 (pp. 81-86), Alternate 3.4 (pp. 86-87), and Alternate 3.8 (pp. 87-88); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Interim Status, Standard 7.10 (pp. 90-92); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 4.2 (pp. 56-57), 4.7 (p. 62), 5.1 (pp. 62-66), 5.2 (pp. 66-67), 5.3 (pp. 67-68), 5.4 (p. 68), 6.1 (pp. 69-70), and 6.2 (pp. 70-71); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 7.1 (pp. 132-36), and 7.2 (pp. 136-38).



Regarding noncriminal misbehavior, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.164, 3.166, 3.168, 3.169, 3.171, 3.172, 3.175, 3.176, and 3.177; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 10.1 (pp. 315-16), 10.2 (pp. 317-19), 10.3 (pp. 320-21), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.15 (pp. 537-38), 15.16 (p. 539), 15.17 (p. 540), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Noncriminal Misbehavior, pp. 7-8 and Standard 1.1 (pp. 35-41); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 7.1 (pp. 132-36), and 7.2 (pp. 136-38).

As to abuse or neglect, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.164, 3.166, 3.168, 3.169, 3.171, 3.172, 3.175, 3.176, and 3.177; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 11.17 (p. 371), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.16 (p. 539), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-99), 5.3 (pp. 108-10), 10.1 (pp. 166-68), 10.2 (pp. 168-69), 10.4 (pp. 171-73), 10.7 (pp. 175-78), and 10.8 (pp. 178-79); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 4.3 (pp. 102-05), 5.2 (pp. 110-15), 7.1 (pp. 132-36), and 7.2 (pp. 136-38).

24. Sources: Regarding delinquency, see NAC Final Report, Standards 2.247, 3.124, 3.131, 3.132, 3.134, 3.161, 3.162, 3.164, 3.166, 3.168, 3.169, 3.171, 3.172, 3.173, 3.174, and 3.177; Report of the Task Force, Standards 5.8 (pp. 212-13), 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 12.3 (pp. 380-82), 12.5 (pp. 385-86), 12.6 (pp. 387-89), 13.3 (pp. 418-19), 13.4 (pp. 420-21), 13.5 (pp. 422-23), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.15 (pp. 537-38), 15.16 (p. 539), 15.17 (p. 540), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Adjudication, Standards 1.1 (pp. 13-14), 1.2 (pp. 14-16), 1.3 (pp. 16-17), 1.4 (pp. 17-19), 1.5 (pp. 19-20), 2.1 (pp. 20-22), 2.2 (pp. 22-23), 2.3 (pp. 23-24), 2.4 (pp. 24-25), 2.6 (p. 26), 2.7 (pp. 26-28), 4.1 (pp. 52-56), 4.2 (pp. 56-58), 4.3 (pp. 58-60), 4.4 (pp. 60-62), 4.5 (pp. 62-63), 5.1 (pp. 63-64), 5.2 (pp. 64-67), 5.3 (pp. 67-70), 6.1 (pp. 70-72), 6.2 (pp. 72-75), and 6.3 (pp. 75-76); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Interim Status, Standard 7.10 (pp. 90-92); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 4.2 (pp. 56-57), 4.7 (p. 62), 5.4 (p. 68), 6.1 (pp. 69-70), 6.2 (pp. 70-71), and 6.3 (p. 71); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 5.2 (pp. 110-15), and 7.2 (pp. 136-38).

As to noncriminal misbehavior, see NAC Final Report, Standards 2.247, 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.164, 3.166, 3.168, 3.169, 3.171, 3.172, 3.173, 3.174, and 3.177; Report of the Task Force, Standards 5.6 (pp. 212-13), 8.3 (pp. 282-83), 8.6 (pp. 288-90), 10.1 (pp. 315-16), 10.2 (pp. 317-19), 10.3 (pp. 320-21), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.15 (pp. 537-38), 15.16 (p. 539), 15.17 (p. 540), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41), 5.1 (p. 55), and 5.4 (pp. 56-60); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3

(p. 31); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 5.2 (pp. 110-15), and 7.2 (pp. 136-38).

On abuse or neglect, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.164, 3.166, 3.168, 3.169, 3.171, 3.172, 3.173, 3.174, and 3.177; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 11.17 (p. 371), 13.6 (pp. 424-25), 13.7 (pp. 426-27), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.16 (p. 539), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-99) and 5.3 (pp. 108-14); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 3.1 (pp. 77-83), 3.2 (pp. 83-88), 5.2 (pp. 110-15), and 7.2 (pp. 136-38).

25. Sources: As to delinquency, see NAC Final Report, Standards 1.533, 3.132, 3.133, 3.134, 3.167, 3.186, and 3.187; Report of the Task Force, Standards 8.6 (pp. 288-90), 14.5 (pp. 442-44), 14.6 (pp. 445-46), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), 18.2 (pp. 595-96), and 21.3 (p. 658); IJA/ABA Juvenile Probation, Standards 3.2 (p. 113), 3.3 (pp. 113-20), and 3.4 (pp. 120-23); IJA/ABA Dispositional Procedures, Standards 2.1 (pp. 24-26), 2.2 (pp. 26-31), 2.3 (pp. 31-35), 2.4 (pp. 35-38), and 2.5 A. (pp. 38-40); IJA/ABA Juvenile Records, Standards 5.2 (pp. 78-80), 5.5 (pp. 83-84), 7.1 (pp. 93-94), and 9.1 (pp. 96-98); IJA/ABA Pretrial, Standard 3.3 (pp. 64-69); IJA/ABA Interim Status, Standards 4.4 (pp. 60-61) and 4.5 (pp. 61-63); IJA/ABA Adjudication, Standard 4.4 (pp. 60-62); IJA/ABA Court Organization, Standard 3.1 (pp. 25-27); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.1 (pp. 168-72), 9.2 (pp. 172-77), and 9.3 (pp. 177-83); CAC Juvenile Probation, Standards 7220 (p. 44), 7221 (p. 44), 7222 (pp. 44-45), 7224 (p. 45), 7226 (p. 45), 7228 (pp. 45-46), 7229 (p. 46), and 7230 (p. 46).

On noncriminal misbehavior, see NAC Final Report, Standards 1.533, 3.132, 3.133, 3.134, 3.167, 3.186, and 3.187; Report of the Task Force, Standards 8.6 (pp. 288-90), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 18.2 (pp. 595-96); IJA/ABA Noncriminal Misbehavior, Standard 1.1 (pp. 35-41); IJA/ABA Court Organization, Standard 3.1 (pp. 25-27); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.1 (pp. 168-72), 9.2 (pp. 172-77), and 9.3 (pp. 177-83); CAC Juvenile Probation, pp. ix,xx.

Regarding abuse or neglect, see NAC Final Report, Standards 1.533, 3.132, 3.133, 3.134, 3.167, 3.186, and 3.187; Report of the Task Force, Standards 8.6 (pp. 288-90), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 18.2 (pp. 595-96); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-96), 5.2 F. (pp. 106-08), 5.3 C. (p. 111), and 6.2 (pp. 115-16); IJA/ABA Court Organization, Standard 3.1 (pp. 25-27); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 9.1 (pp. 168-72), 9.2 (pp. 172-77), and 9.3 (pp. 177-83); IJA/ABA Juvenile Records, Standards 5.2 (pp. 78-80), 5.5 (pp. 83-84), 7.1 (pp. 93-94), and 9.1 (pp. 96-98); CAC Juvenile Probation, pp. ix,xx.

26. Sources: On delinquency, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.167, 3.171, 3.172, 3.175, 3.181, 3.182, and 3.188; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 13.1 (pp. 409-13), 14.3 (pp. 437-39), 14.4 (pp. 440-41), 14.7

(pp. 447-48), 14.8 (pp. 449-50), 14.13 (pp. 459-60), 14.14 (pp. 461-62), 14.15 (pp. 463-64), 14.16 (pp. 465-66), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.17 (p. 540), 15.18 (pp. 541-42), 15.19 (pp. 543-45), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Disposition Procedures, Standards 1.1 (pp. 21-23), 2.1 (pp. 24-26), 2.4 (pp. 35-38), 2.5 (pp. 38-41), 3.1 (pp. 41-42), 3.2 (pp. 42-43), 4.1 (p. 43), 5.1 (p. 43), 5.2 (p. 43), 5.3 (p. 44), 5.4 (pp. 44-47), 6.1 (pp. 47-48), 6.2 (pp. 48-50), 6.3 (pp. 50-51), and 7.1 A. (pp. 51-54); IJA/ABA Dispositions, Standards 1.2 (pp. 20-34), 2.1 (pp. 34-38), and 3.3 (pp. 61-80); IJA/ABA Juvenile Delinquency, Standards 5.2 (pp. 42-43), 6.1 (pp. 43-44), and 6.2 (pp. 44-47); IJA/ABA Interim Status, Standards 4.5 (pp. 61-63) and 7.10 (pp. 90-92); IJA/ABA Pretrial, Standard 3.3 (pp. 64-69); IJA/ABA Adjudication, Standards 4.4 (pp. 60-62), 5.1 (pp. 63-64), Alternate 3.3 (pp. 81-86), and Alternate 3.4 (pp. 86-87); IJA/ABA Juvenile Probation, Standard 3.4 (pp. 120-23); IJA/ABA Court Organization, Standards 1.1 B. (pp. 9-11), 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 4.7 (p. 62), 5.1 A. (pp. 62-66), and 7.1 (pp. 78-80); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.1 (pp. 168-72), 9.2 (pp. 172-77), 9.3 (pp. 177-83), and 9.4 (pp. 183-86).

Regarding noncriminal misbehavior, see NAC Final Report, Standards 3.124, 3.131, 3.133, 3.134, 3.161, 3.162, 3.167, 3.171, 3.172, 3.175, 3.183, and 3.188; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 10.3 (pp. 320-21), 14.24 (pp. 482-83), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.17 (p. 540), 15.19 (pp. 543-45), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Noncriminal Misbehavior, Standard 1.1 (pp. 35-41); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.1 (pp. 168-72), 9.2 (pp. 172-77), 9.3 (pp. 177-83), and 9.4 (pp. 183-86).

As to abuse or neglect, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.167, 3.171, 3.172, 3.175, 3.184, 3.185, and 3.188; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 11.17 (p. 371), 14.26 (pp. 486-87), 14.27 (pp. 488-91), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-98), 5.3 C. (p. 111), 6.1 (pp. 114-15), 6.4 (pp. 119-29), 8.1 (pp. 148-51), 8.2 (pp. 151-54), and 8.4 (pp. 157-61); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), 3.2 (pp. 28-31), and 3.3 (p. 31); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 9.1 (pp. 168-72), 9.2 (pp. 172-77), 9.3 (pp. 177-83), and 9.4 (pp. 183-86).

27. Sources: Regarding delinquency, see NAC Final Report, Standards 3.131, 3.132, 3.134, 3.161, 3.162, 3.171, 3.191, and 3.192; Report of the Task Force, Standards 12.1 (pp. 376-77), 13.8 (pp. 428-29), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), and 16.7 (pp. 565-67); IJA/ABA Appeals, Standards 1.2 (pp. 10-12), 1.3 (pp. 12-15), 2.1 (pp. 18-21), 2.2 (pp. 22-29), 3.1 (pp. 29-32), 3.2 (pp. 32-34), 3.3 (pp. 34-35), 4.1 (pp. 35-36), 4.2 (pp. 36-37), 4.3 (pp. 37-38), 5.1 (p. 39), 5.2 (pp. 39-40), 5.3 (pp. 40-41), 5.5 (pp. 41-42), and 5.6 (p. 42); IJA/ABA Interim Status, Standards 7.13 (pp. 93-94) and 7.14 (p. 94); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 8.1 (pp. 81-83), 8.2

(pp. 83-84), and 8.3 (pp. 84-85); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 10.1(b) (pp. 189-90), 10.3 (pp. 194-202), and 10.4 (pp. 202-04).

As to noncriminal misbehavior, see NAC Final Report, Standards 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.171, 3.191, and 3.192; Report of the Task Force, Standards 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), and 16.7 (pp. 565-67); IJA/ABA Noncriminal Misbehavior, Standard 1.1 (pp. 35-41); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 10.1(b) (pp. 189-90), 10.3 (pp. 194-202), and 10.4 (pp. 202-04).

On abuse or neglect, see NAC Final Report, Standards 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.171, 3.191, and 3.192; Report of the Task Force, Standards 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), and 16.7 (pp. 565-67); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-97) and 7.1 (pp. 135-39); IJA/ABA Appeals, Standards 1.2 (pp. 10-12), 1.3 (pp. 12-15), 2.1 (pp. 18-21), 2.2 (pp. 22-29), 3.1 (pp. 29-32), 3.2 (pp. 32-34), 3.3 (pp. 34-35), 4.1 (pp. 35-36), 4.2 (pp. 36-37), 4.3 (pp. 37-38), 5.1 (p. 39), 5.2 (pp. 39-40), 5.4 (p. 41), 5.5 (pp. 41-42), and 5.6 (p. 42); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 10.1(b) (pp. 189-90), 10.3 (pp. 194-202), and 10.4 (pp. 202-04).

28. Sources: As to delinquency, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.167, 3.168, 3.171, 3.172, 3.176, 3.177, 3.188, 3.189, and 3.1811; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 14.3 (pp. 437-39), 14.16 (pp. 465-66), 14.21 (pp. 475-77), 14.22 (pp. 478-79), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.19 (pp. 543-45), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Dispositions, Standards 5.1 (pp. 126-28), 5.2 (p. 128), and 5.4 (pp. 129-31); IJA/ABA Corrections, Standards 5.1 (pp. 103-05) and 5.2 (pp. 105-07); IJA/ABA Disposition Procedures, Standards 6.1 (pp. 47-48), 6.2 (pp. 48-50), 6.3 (pp. 50-51), and 7.1 B. (p. 54); IJA/ABA Appeals, Standards 6.1 (pp. 42-43) and 6.2 (p. 43); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), and 3.2 (pp. 28-31); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 7.2 (pp. 80-81), 8.1 (pp. 81-83), and 8.2 (pp. 83-84); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.5 (pp. 186-87), 10.1 (pp. 187-90), 10.2 (pp. 190-94), and 10.5 (pp. 204-08). See also the standards on delinquency in note 30.

On noncriminal misbehavior, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.167, 3.168, 3.171, 3.172, 3.176, 3.177, 3.188, 3.189, 3.1810, and 3.1811; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 10.3 (pp. 320-21), 14.23 (pp. 480-81), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.19 (pp. 543-45), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41) and 5.4 E. (pp. 58-60); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), and 3.2 (pp. 28-31); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.5 (pp. 186-87), 10.1 (pp. 187-90), 10.2 (pp. 190-94), and 10.5 (pp. 204-08). See also the standards on noncriminal misbehavior in note 30.

Regarding abuse or neglect, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.167, 3.168, 3.171, 3.172, 3.176, 3.177, 3.185, 3.188, 3.189, 3.1810, 3.1812, and 3.1813; Report of the Task Force, Standards 8.3 (pp.



282-83), 8.6 (pp. 288-90), 11.17 (p. 371), 14.30 (pp. 496-97), 14.31 (pp. 498-99), 14.32 (pp. 500-01), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-97), 5.3 C. (p. 111), 7.1 (pp. 135-39), 7.2 (p. 139), 7.4 (pp. 140-42), 7.5 (pp. 142-48), 8.1 (pp. 148-51), 8.3 (pp. 154-57), 8.4 (pp. 157-61), and 8.5 (pp. 161-63); IJA/ABA Appeals, Standard 6.3 (pp. 43-44); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), and 3.2 (pp. 28-31); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 9.5 (pp. 186-87), 10.1 (pp. 187-90), 10.2 (pp. 190-94), and 10.5 (pp. 204-08). See also the standards on abuse or neglect in note 30.

29. Sources: On delinquency, see NAC Final Report, Standards 3.2, 4.47, 4.411, 4.51, 4.52, 4.53, 4.54, 4.81, and 4.82; Report of the Task Force, Standards 20.1 (pp. 639-40), 20.2 (pp. 641-42), 20.3 (pp. 643-44), 20.4 (pp. 645-46), 20.5 (pp. 647-48), and 20.6 (p. 649); IJA/ABA Corrections, Standards 4.4 (pp. 77-79), 4.5 (pp. 79-80), 4.8 (pp. 81-83), 7.6 M. (pp. 131,141-42), 7.11 H. (pp. 157-58,162-64), 8.1 (pp. 165-66), 8.2 (p. 166), 8.3 (pp. 166-68), 8.4 (pp. 168-69), 8.5 (p. 169), 8.6 (pp. 169-70), 8.7 (pp. 170-72), 8.8 (pp. 173-74), 8.9 (pp. 174-77), and 9.2 (pp. 177-84); IJA/ABA Monitoring, Standards 7.1 (p. 78) and 7.3 (pp. 79-86); CAC Juvenile Training Schools, Standards 9336 (p. 68), 9344 (pp. 69-70), 9355 (p. 72), 9356 (p. 72), 9359 (pp. 72-73), 9360 (p. 73), 9361 (p. 73), 9362 (p. 73), 9363 (p. 73), 9364 (p. 73), 9365 (p. 74), 9366 (p. 74), 9367 (p. 74), 9368 (p. 74), 9369 (p. 74), 9370 (p. 75), 9371 (p. 75), 9372 (p. 75), 9373 (pp. 75-76), 9374 (p. 76), 9375 (p. 76), 9377 (p. 76), 9378 (pp. 76-77), and 9450 (p. 91); CAC Juvenile Community Residential Services, Standards 6097 (p. 19), 6112 (p. 22), 6113 (p. 23), 6123 (pp. 24-25), 6172 (p. 34), 6173 (p. 34), 6174 (p. 34), 6175 (p. 34), 6176 (pp. 34-35), 6177 (p. 35), 6178 (p. 35), and 6179 (p. 35); CAC Juvenile Probation, Standards 7136 (p. 27), 7212 (p. 42), and 7213 (pp. 42-43); CAC Administration, Standards 28 (p. 6), 29 (p. 7), 30 (p. 7), 31 (p. 7), 32 (p. 7), 33 (pp. 7-8), 34 (p. 8), 35 (p. 8), 36 (p. 8), 37 (pp. 8-9), 38 (p. 9), 39 (p. 9), and 40 (p. 9).

Regarding noncriminal misbehavior, see NAC Final Report, Standards 3.2, 4.47, 4.411, 4.51, 4.52, 4.53, 4.54, 4.81, and 4.82; IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41) and 5.4 E. (pp. 58-60); CAC Administration, p. ix and Standard 16 (p. 4); CAC Juvenile Community Residential Services, pp. vii,xix; CAC Juvenile Training Schools, pp. ix,xx and Standard 9004 (p. 1); CAC Juvenile Probation, p. xx.

As to abuse or neglect, see NAC Final Report, Standards 3.2, 4.47, 4.411, 4.51, 4.52, 4.53, 4.54, 4.81, and 4.82; Report of the Task Force, Standards 14.29 (pp. 494-95) and 14.30 (pp. 496-97); IJA/ABA Abuse and Neglect, Standards 7.1 (pp. 135-39), 7.2 (p. 139), and 7.3 (pp. 139-40); IJA/ABA Appeals, Standard 6.3 (pp. 43-44); CAC Administration, p. ix and Standard 16 (p. 4); CAC Juvenile Community Residential Services, pp. vii,xix; CAC Juvenile Training Schools, pp. ix,xx and Standard 9004 (p. 1); CAC Juvenile Probation, p. xx.

30. Sources: Regarding delinquency, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.134, 3.161, 3.162, 3.168, 3.169, 3.171, 3.172, 3.189, 3.1810, 3.2, 4.33, 4.410, 4.411, 4.54, 4.71, 4.72, and 4.73; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 12.1 (pp. 376-77), 12.2 (pp. 378-79), 14.16 (pp. 465-66), 14.18 (pp. 468-69), 14.19 (pp. 470-72), 14.20 (pp. 473-74), 14.21 (pp. 475-77), 14.22 (pp. 478-79), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.19 (pp. 543-45), 16.1 (pp. 550-52), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.7 (pp. 565-67), 17.3 (pp. 584-85), 19.4 (pp. 617-18), 19.5 (pp. 619-21),

19.6 (pp. 622-24), 19.7 (pp. 625-26), 23.6 (pp. 686-87), 23.7 (pp. 688-89), 23.8 (pp. 690-91), and 24.11 (pp. 719-20); IJA/ABA Corrections, Standards 2.2 (pp. 52-53), 2.3 (pp. 53-55), 4.4 (pp. 77-79), 4.5 (pp. 79-80), 4.9 (pp. 83-86), 4.10 (pp. 86-94), 5.1 (pp. 103-05), 5.2 (pp. 105-07), 6.2 (pp. 109-15), 7.6 N. (pp. 132,142), 7.7 (pp. 142-45), and 8.6 E. (p. 169); IJA/ABA Dispositions, Standards 4.1 (pp. 80-101), 4.2 (pp. 101-17), 4.3 (pp. 117-25), 5.1 (pp. 126-28), 5.2 (p. 128), and 5.4 (pp. 129-31); IJA/ABA Appeals, Standards 6.1 (pp. 42-43), 6.2 (p. 43), and 6.4 (pp. 44-48); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), and 3.2 (pp. 28-31); IJA/ABA Prosecution, Standards 1.1 (pp. 25-28), 7.2 (pp. 80-81), 8.1 (pp. 81-83), and 8.2 (pp. 83-84); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.5 (pp. 186-87), 10.1 (pp. 187-90), 10.2 (pp. 190-94), 10.5 (pp. 204-08), and 10.6 (pp. 208-10); CAC Juvenile Training Schools, p. 80 and Standards 9005 (p. 2), 9314 (p. 63), 9325 (pp. 65-66), 9332 (p. 67), 9340 (p. 69), 9341 (p. 69), 9460 (p. 93), 9461 (p. 93), 9462 (p. 93), 9463 (p. 93), 9464 (pp. 93-94), 9476 (p. 97), and 9478 (p. 97); CAC Juvenile Community Residential Services, Standard 6135 (p. 27); CAC Juvenile Probation, Standards 7141 (p. 28), 7144 (p. 29), 7145 (p. 29), 7148 (p. 29), 7168 (p. 33), 7172 (p. 34), 7185 (p. 37), 7187 (p. 37), 7188 (pp. 37-38), 7191 (p. 38), 7192 (p. 38), 7195 (p. 39), 7196 (p. 39), 7197 (p. 39), 7216 (p. 43), 7219 (p. 44), 7257 (p. 52), and 7259 (p. 52); CAC Administration, Standards 9 (p. 2), 11 (p. 3), 37 (pp. 8-9), 38 (p. 9), and 41 (p. 9).

As to noncriminal misbehavior, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.168, 3.169, 3.171, 3.172, 3.183, 3.189, 3.1811, 3.2, 4.33, 4.410, 4.411, 4.54, 4.71, 4.72, and 4.73; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 10.3 (pp. 320-21), 14.23 (pp. 480-81), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 15.19 (pp. 543-45), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Noncriminal Misbehavior, Standards 1.1 (pp. 35-41), 5.2 (pp. 55-56), and 6.6 (pp. 65-66); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), and 3.2 (pp. 28-31); IJA/ABA Counsel, Standards 2.3 (pp. 67-71), 2.4 (pp. 74-76), 9.5 (pp. 186-87), 10.1 (pp. 187-90), 10.2 (pp. 190-94), 10.5 (pp. 204-08), and 10.6 (pp. 208-10); CAC Administration, p. ix and Standard 16 (p. 4); CAC Juvenile Community Residential Services, pp. vii,xix; CAC Juvenile Training Schools, pp. ix,xx and Standard 9004 (p. 1); CAC Juvenile Probation, p. xx.

On abuse or neglect, see NAC Final Report, Standards 3.124, 3.131, 3.132, 3.133, 3.134, 3.161, 3.162, 3.168, 3.169, 3.171, 3.172, 3.184, 3.189, 3.1812, 3.1813, 3.2, 4.33, 4.410, 4.411, 4.54, 4.71, 4.72, and 4.73; Report of the Task Force, Standards 8.3 (pp. 282-83), 8.6 (pp. 288-90), 11.7 (p. 371), 14.25 (pp. 484-85), 14.30 (pp. 496-97), 15.7 (pp. 516-18), 15.8 (pp. 519-20), 16.2 (pp. 553-54), 16.3 (pp. 555-56), 16.4 (pp. 557-58), 16.5 (pp. 559-62), 16.6 (pp. 563-64), 16.7 (pp. 565-67), and 17.3 (pp. 584-85); IJA/ABA Abuse and Neglect, Standards 5.1 (pp. 93-97), 5.3 C. (p. 111), 6.3 (pp. 116-19), 7.1 (pp. 135-39), 7.2 (p. 139), and 7.3 (pp. 139-40); IJA/ABA Appeals, Standard 6.3 (pp. 43-44); IJA/ABA Court Organization, Standards 2.2 (pp. 21-24), 3.1 (pp. 25-27), and 3.2 (pp. 28-31); IJA/ABA Counsel, Standards 2.3(b) (pp. 71-74), 2.4 (pp. 74-76), 9.5 (pp. 186-87), 10.1 (pp. 187-90), 10.2 (pp. 190-94), and 10.5 (pp. 204-08); CAC Administration, p. ix and Standard 16 (p. 4); CAC Juvenile Community Residential Services, pp. vii,xix; CAC Juvenile Training Schools, pp. ix,xx and Standard 9004 (p. 1); CAC Juvenile Probation, p. xx.

## Appendix A

### RELEVANT PROVISIONS OF THE 1980 AMENDMENTS

#### Advocacy for Services

The 1980 Amendments to the JJDP Act incorporate just one change relevant to advocacy for services; but, this change is a significant one. A newly added Sec. 227(c) now distinguishes between the legitimate use of grant funding for the general advocacy activities described in Secs. 223(a)(10)(D) and 224(a)(7) and the impermissible use of such funds for lobbying. Specifically, Sec. 227(c) provides that:

Funds paid pursuant to section 223(a)(10)(D) and section 224(a)(7) to any public or private agency, organization, or institution or to any individual (whether directly or through a State criminal justice council) shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure by the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved. The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 224(a)(7) are used either directly or indirectly in any manner prohibited in this subsection.<sup>1</sup>

#### Note

1. 42 U.S. Code Sec. 5637 (1979 Supp.), as amended by the Juvenile Justice Amendments of 1980 (Public Law 96-509). The Administrator mentioned in the last sentence is the head of the Office of Juvenile Justice and Delinquency Prevention.

Incidentally, two of the subsections cited in the footnotes of the Comparative Analysis on Advocacy for Services as peripherally relevant to the subject have been renumbered (and altered slightly in verbiage, though not in substance). For the former Sec. 5633(a)(10)(I) mentioned in note 7 of the Comparative Analysis on Advocacy, see the amended Sec. 5633(a)(10)(H)(iii); and, for the former Sec. 5634(a)(5) mentioned in note 8 of the same Analysis, see the amended Sec. 5634(a)(5)(c).

## Due Process/Procedural Safeguards

The net effect of the 1980 Amendments on the JJDP Act's references to procedural safeguards is simply nil. With one exception, all of the language from both the "advanced techniques" section and the "special emphasis" section which was set forth in the foregoing analysis remains intact. The sole exception is found in the former Sec. 223(a)(10)(I), pertaining to the adoption of juvenile justice standards. This has been consolidated with another subsection and undergone a slight alteration in wording. It now appears in the amended Sec. 223(a)(10)(H), which identifies the following as "advanced techniques":

[S]tatewide programs through the use of subsidies or other financial incentives to units of local government designed to--  
...  
(iii) establish and adopt, based upon the recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State....<sup>1</sup>

Other subsections mentioned in the notes in the analysis have undergone minor changes of a similar nature or simply been renumbered.<sup>2</sup> But, in the context of the present discussion, the effect of these modifications is inconsequential.

### Notes

1. 42 U.S. Code Sec. 5633(a)(10)(H) (1979 Supp.), as amended by the Juvenile Justice Amendments of 1980 (Public Law 96-509).
2. Thus, the former Sec. 5634(a)(5), which was cited in notes 11 and 16 in the earlier analysis, now appears (with very minor alterations) in the amended Sec. 5634(a)(5)(C). Sec. 5633(a)(16), which was cited in note 13 in the foregoing analysis, is now renumbered Sec. 5633(a)(17). Finally, some of the language in Sec. 5633(a)(10), mentioned in note 11 in the analysis, has been altered in a manner not pertinent here.

## **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:

#### Title

#### Abbreviation

Publications by the American Correctional Association's Commission on Accreditation for Corrections:

Manual of Standards for the Administration of Correctional Agencies (June 1979).

CAC Administration

Manual of Standards for Juvenile Community Residential Services (April 1978).

CAC Juvenile Community Residential Services

Manual of Standards for Juvenile Detention Facilities and Services (February 1979).

CAC Juvenile Detention

Manual of Standards for Juvenile Probation and Aftercare Services (July 1978).

CAC Juvenile Probation

Manual of Standards for Juvenile Training Schools and Services (March 1979).

CAC Juvenile Training Schools

Publications by the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project (Tentative Draft, 1977):

Standards Relating to Abuse and Neglect (R. Burt and M. Wald, Reporters).

IJA/ABA Abuse and Neglect

Standards Relating to Adjudication (R. Dawson, Reporter).

IJA/ABA Adjudication

Standards Relating to Appeals and Collateral Review (M. Moran, Reporter).

IJA/ABA Appeals

Standards Relating to Architecture of Facilities (A. Greenberg, Reporter).

IJA/ABA Architecture

Standards Relating to Corrections Administration (A. Rutherford and F. Cohen, Reporters).

IJA/ABA Corrections

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.

**END**