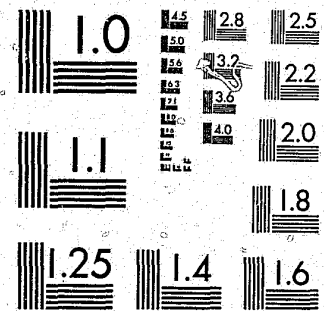


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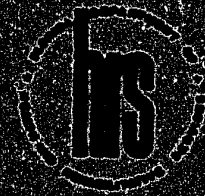
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Evaluation of Second Degree Misdemeanant Commitments



DEPARTMENT
OF
HEALTH
AND
REHABILITATIVE
SERVICES

Youth
Services
Program

Washington
D.C.

EVALUATION OF SECOND DEGREE
MISDEMEANANT COMMITMENTS

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Highlight Findings

1. Ten percent, or eighteen, of the 181 second degree misdemeanor commitments studied in this evaluation were placed in programs identified in Youth Services placement policy as inappropriate for this group. Five of the eighteen youth were subsequently transferred to appropriate placements.
2. More than half (60 percent) of the population studied were not discharged from commitment status within the two months (60 days) stipulated by law. Only twenty-five percent were discharged within two months. Fourteen percent were not discharged as stipulated because of a change in their program status. They were either transferred, recommitted or they absconded before the expiration of two months from their date of commitment.
3. More than a fourth (28 percent) of all the second degree misdemeanants studied were committed from HRS District IV. By comparison, only 8 percent of the study population were committed from HRS District XI. The large number of commitments from District IV is consistent with the high rate of commitment from District IV for all offenses.
4. Second degree misdemeanor commitments from District IV, despite the large number, had the lowest rate of non-compliance with the time requirement of the law. Only 35 percent of this group were not discharged within two months. HRS Districts I, VI, VIII, IX, and XI had substantially large percentages of children who remained on commitment status beyond the maximum period allowed.
5. The findings of this study pointed out the need to district central admissions and program office staff for supplemental policies and procedures related to second degree misdemeanor commitments. This was done, and full compliance with the law should now occur.

EVALUATION OF SECOND DEGREE MISDEMEANANT COMMITMENTS

A. BACKGROUND INFORMATION

The Juvenile Justice Act passed by the 1978 Florida Legislature impacts dramatically on the philosophy of delinquency programming throughout Florida's juvenile justice system. There has been an increased emphasis on processing certain juvenile offenders as adults and applying sanctions commensurate with the offense. At the same time, the newly revised juvenile justice law reflects greater sensitivity to the due process rights of children. Not only does the new law assure the right of children to an attorney at all stages of any delinquency proceeding, but the minor offender is now protected by a provision that limits his or her period of confinement to a time no greater than that which could be applied as an adult. The new law states that the time delinquents spend in commitment status "shall not exceed the maximum term of imprisonment which an adult may serve for the same offense" (F.S. 39.11(3)) thus limiting the holding of youth committed for second degree misdemeanor acts to a maximum of 60 days.

The importance of this provision in Florida's new law is reflective of the Legislature's concern that the state avoid becoming overly involved with youth whose law violations are not serious offenses. The *parens patriae* orientation of the juvenile court has come under both legislative and judicial scrutiny in recent years. In *Breed vs. Jones* in 1975 Chief Justice Warren Berger speaking for a unanimous Supreme Court, summed up this concern when he said,

"Although the Juvenile Court System has its genesis in the desire to provide a distinctive procedure and setting to deal with the problem of youth, including those manifested by anti-social conduct, our decisions in recent years have recognized that there is a gap between the originally benign conception of the system and its realities."

The following policies were developed, effective October 1, 1978, to help insure implementation of the provisions of the law regarding length of commitment and commensurate sanctions as they relate to second degree misdemeanants:

1. Second degree misdemeanants committed prior to October 1, 1978, should be identified and furloughed as soon as programmatically possible.

2. No second degree misdemeanor shall be initially placed in or transferred to an institution.
3. No second degree misdemeanor shall be placed, either initially or as a transfer, in the following types of programs: Halfway Houses, START Centers, Group Treatment Homes, Eckerd Camps, San Antonio Boys Village.
4. Placement for second degree misdemeanants shall be as follows, with consideration always given to keeping the youth as close to home and in the least restrictive program feasible:
 - a. Non-residential programs- specially developed short-term programs, within TRY Centers, Intensive Counseling, AMI, and if available, local (non-Youth Services) non-residential commitment programs.
 - b. Family Group Homes
 - c. STEP, STOP, and if available, local non-Youth Services short-term community residential commitment programs.
5. Transfers of second degree misdemeanants are allowable only among the programs listed in four (4) above, and no transfers are permitted from STEP or STOP. Transfers must not result in total commitment time exceeding the legal limit of 60 days.

B. EVALUATION DESIGN STRATEGY

Evaluation should be an aid to rational thought and action within the decision-making process. This evaluation focuses on second degree misdemeanor commitments since the October 1, 1978, implementation of the revised juvenile justice law and Youth Services policies related to their placement. It is intended to aid in the decision-making process regarding the handling of second degree misdemeanants committed to the Florida Department of Health and Rehabilitative Services. The purpose of the evaluation is to collect, analyze and report information to answer the following evaluation question: Are second degree misdemeanants being discharged from Youth Services commitment within the 60 days time limitation required by law? In answering the evaluation question, the data collected will also provide an indication of the extent to which the placement policies for second degree misdemeanor commitments have been observed.

Because of the lack of an on line computerized system at that time for compiling and processing information relative to the commitment and discharge of second degree misdemeanants, evaluative data were gathered manually through a review of the following central office reports and files: commitment orders, community control and furlough (parole) recap reports, discharge card file, facility recapitulation reports, and individual case files.

Community control and furlough recap reports are reviewed routinely and a discharge card file is maintained on youths who have been discharged from commitment status. Commitment orders were reviewed to identify the second degree misdemeanants committed during the five month period studied (October 1, 1978 to February 28, 1979). The discharge card file was then checked to obtain a date of discharge from commitment status for each case.

Because the date of discharge from commitment status was only recorded by the month and year, it was not possible to calculate the exact number of days between the date of commitment and the date of discharge. As a result, a case was considered discharged within the 60 day period if the discharge occurred within two months of the month of commitment. For example, if a person committed on January 10, 1979 was shown as discharged in March 1979, he was considered to have been discharged within the 60 days (2 months) required, even though the exact date of discharge may have exceeded 60 days.

Follow-up data were compiled on the discharge status, as of May 1, 1979, of all cases in the study population. This allowed for the expiration of at least two months (approximately 60 days) between the date of commitment and the May 1 follow-up date. Depending upon the date of commitment, the period of time between commitment and follow-up ranged from two to seven months. Moreover, every case was allowed enough time for the expiration of the two months time limitation imposed by law. Therefore, except for extenuating circumstances, all of the study population were expected to have been discharged from Youth Services.

Even though the scope of the evaluation was limited because of the time consuming procedure for gathering data, enough information was processed manually to allow for an analysis of the number discharged by HRS districts as well as by the commitment programs in which clients were placed.

C. DESCRIPTION OF THE POPULATION

A total of 181 youngsters were committed to Youth Services for second degree misdemeanor offenses during the five months period of October 1, 1978, to February 28, 1979. Examples of second degree misdemeanor offenses are shoplifting, petit larceny, loitering and prowling, disorderly conduct, and prostitution.

Table 1 provides a breakdown of the study population by sex, committing HRS district, and type of program in which the committed youngsters were placed. Because of limitations imposed by having to process all data by hand, average length of stay data as well as data on age and race are not available.

Approximately one-third (34%) of all the commitments were female. More than a fourth of the total study population were committed from HRS District IV. The disproportionate number of second degree misdemeanor commitments from District IV is consistent with the high rate of commitment from the district for all offenses. In fiscal year '78-'79, District IV had the largest number of commitments as well as the highest commitment rate of all HRS districts.

More than a third (39%) of the misdemeanor population studied were placed in a Youth Services Family Group Home. Ten percent of all commitments entered programs that, according to Youth Services policy, are inappropriate placements for second degree misdemeanor commitments.

TABLE 1
 Population Profile
 October 1978 - February 1979
 Second Degree Misdemeanant Commitments

<u>SEX</u>	<u>NUMBER</u>	<u>PERCENTAGE</u>
Female	62	34%
Male	119	66%
	<u>181</u>	<u>100%</u>

<u>HRS DISTRICT</u>	<u>NUMBER</u>	<u>PERCENTAGE</u>
I	4	2%
II	9	5%
III	11	6%
IV	48	27%
V	16	9%
VI	16	9%
VII	16	9%
VIII	18	10%
IX	14	8%
X	12	7%
XI	15	8%
	<u>179*</u>	<u>100%</u>

<u>PLACEMENT PROGRAM</u>	<u>NUMBER</u>	<u>PERCENTAGE</u>
Family Group Homes	70	39%
Intensive Counseling	30	17%
STEP	8	4%
TRY Centers	19	10%
Associated Marine Institutes	10	6%
STOP	21	12%
Local Commitment Programs	5	3%
Inappropriate Placements	18	10%
	<u>181</u>	<u>100%</u>

* Total does not equal 181 because of missing information on two cases.

D. RESULTS OF DATA ANALYSIS

An analysis was performed of second degree misdemeanor cases discharged by district and commitment program. Table 2 displays discharge information for the total population studied. Tables 3 and 4 provide a breakdown by district and commitment program.

TABLE 2
 DISCHARGE OF SECOND DEGREE MISDEMEANANTS
 FOR THE TOTAL POPULATION STUDIED

	<u>NUMBER</u>	<u>PERCENTAGE</u>
NOT DISCHARGED WITHIN 2 MONTHS	107	60%
DISCHARGED WITHIN 2 MONTHS	46	25%
NOT DISCHARGED BECAUSE OF CHANGE IN PROGRAM STATUS*	27	15%
	<u>180**</u>	<u>100%</u>

*Clients were transferred, recommitted, or absconded from the commitment program before expiration of two months from the date of commitment.

**Information was unavailable on 1 of the 181 cases studied.

As illustrated in Table 2, only a fourth, 25 percent, of the second degree misdemeanants studied were discharged within the two months required by law. Fifteen percent were not discharged as stipulated because of a change in their program status. They were transferred, recommitted or absconded before the expiration of two months from their date of commitment. It is possible that some of those in this group who were transferred to different programs or absconded still ended up spending more than 60 days in a commitment program. Information on their commitment period following transfer or return from runaway status was not easily accessible for analysis. Even without counting the 14 percent not discharged because of a change in program status, more than half (60 percent) of the population studied were not discharged from commitment status within the time period stipulated by law.

TABLE 3

DISCHARGE OF SECOND DEGREE MISDEMEANANTS
BY COMMITTING HRS DISTRICTS

Discharge Status at Follow-up	HRS DISTRICTS											Total Population	
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	N	%
Not Discharged within 2 months	3	4	7	17	10	12	10	15	13	5	11	107	60%
Discharged within 2 months	0	5	2	23	4	2	2	2	0	5	0	45	25%
Not Discharged Because of Change in Program Status*	1	0	2	8	2	2	4	1	1	2	4	27	15%
TOTAL	4	9	11	48	16	16	16	18	14	12	14	179*	100%

* Clients were transferred, recommitted, or they absconded from the commitment program before the expiration of two months.

** Information missing on 2 of the 181 cases studied.

TABLE 4
DISCHARGE OF SECOND DEGREE MISDEMEANANTS
BY COMMITMENT PROGRAM

Discharge Status at Follow-up	Family Group Homes		Intensive Counseling		STEP		TRY		AMI		Local Programs		STOP		Inappropriate Placements		Total Population	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Not Discharged within 2 months	39	56%	18	60%	4	50%	10	53%	6	60%	3	80%	17	81%	10	56%	107	60%
Discharged within 2 months	19	27%	9	30%	4	50%	7	37%	3	30%	1	20%	3	14%	0	--	46	25%
Not Discharged Because of Change in Program Status*	12	17%	3	10%	-	--	2	10%	1	10%	-	--	1	5%	8	44%	27	15%
TOTAL	70	100%	30	100%	8	100%	19	100%	10	100%	4**	100%	21	100%	18	100%	160**	100%

* Clients were transferred, re-committed, or they absconded from the program before the expiration of two months.

** There were 5 clients placed in local programs but discharge information was missing on one.

Table 3 shows that HRS District IV had the lowest percentage (35%) of second degree misdemeanor commitments that were not discharged within two months. More than half of the commitments from eight of the eleven HRS districts spent more than two months committed to Youth Services. Districts I, VI, VIII, IX and XI had the highest percentages of non-compliance with the law.

Looking at the population in light of the commitment programs in which they were placed (Table 4), it can be seen that at least half of the placements in each commitment program exceeded the maximum period for incarceration allowed by law. However, the percentage not discharged within two months is not necessarily an indication of the commitment programs' failure to comply with the statutes. It is possible that some youths may have been furloughed from the program and under furlough supervision in the community when the two months period expired. For example, 14 of the 17 STOP Camp youth not discharged within two months were under furlough supervision when their two months expired.

Table 4 also shows that 10 percent (18 youth) of the total population entered programs that Youth Services placement policies had identified as being inappropriate placements for second degree misdemeanor commitments. None of these youth were discharged within two months. It should be pointed out, however, that five of the eighteen youth were subsequently transferred to appropriate placements.

An analysis of program status at the expiration of the two months commitment period gives an indication of why 60 percent of the total population was not discharged within two months. Table 5 provides follow-up data which shows that 33 percent were still in the commitment program when followed up, and that 38 percent were in the community under Youth Services furlough supervision. Eighteen percent, or 19 youth, had been discharged, but the discharge had occurred after the expiration of two months from the date of commitment. Of the nineteen, eight were still in the commitment program when their two months expired, and eleven were in the community under furlough supervision.

Table 5

Follow-up Status of Cases Not Discharged Within 2 Months

<u>STATUS AT FOLLOW-UP</u>	<u>Percentage</u>	<u>N</u>
Had been discharged, but after expiration of two months	18%	19
Not Discharged:		
a. Still in commitment program	33%	35
b. Still under furlough supervision	38%	41
c. Recommitted (after 2 months)	6%	7
d. Transferred (after 2 months)	3%	3
e. Adscorder (after 2 months)	1%	1
f. Furlough Revoked (after 2 months)	1%	1
	<u>100%</u>	<u>107</u>

Upon learning of the preliminary findings of this evaluation, the Non-Residential Services Unit of the Youth Services Program Office requested each HRS district to provide a response, for each individual case, explaining why the child was not discharged within the time period required. The responses that were received indicated lower non-compliance rates than the preliminary data had shown but still substantiated this study's basic findings. Not only had the youth not been discharged, but there were few legitimate explanations for not discharging these youth in conformity with the law. Reasons varied from "paperwork delays" to "the attempt was made to do what was best for the child." In the largest number of cases, however, non-compliance was due to staff oversight in following the guidelines of the new law.

E. DISCUSSION AND POLICY IMPLICATIONS

Despite the limitations imposed by having to collect and analyze the data in this evaluative study by hand, enough information was gathered to provide decision-makers with knowledge of the extent to which time constraints specified by law for second degree misdemeanor commitments were initially adhered to. Effective October 1, 1978, the revised juvenile justice law, Florida Statutes, 39.11(3), now requires that the time delinquents spend in commitment status "shall not exceed the maximum term of imprisonment which an adult may serve for the same offense." This limits the holding of youth committed for second degree misdemeanor acts to a maximum of 60 days.

This study's finding that more than half, 60 percent, of the 181 second degree misdemeanants followed up were not discharged from commitment status within two months of their commitment date was quite startling. Even though these youth were committed during the first five months following the implementation of the revised law, the newness of the statutory requirement was not believed by Youth Services staff to be a totally sufficient explanation for such a large percentage of non-compliance. Clearly, further policy development in this area was needed.

The Youth Services policy limiting the placement alternatives for second degree misdemeanor commitments did not sufficiently insure compliance with the legal limitations on the period of incarceration for this group. The need for an additional policy concerning the discharge of these youth from commitment status was apparent to decision-makers in Youth Services, both program office and district, when the findings were shared with them. It precipitated swift action on their part, and they, along with Central Admissions, have already drafted policies to insure compliance with the law. The following criteria for the direct discharge of all second degree misdemeanants from commitment programs were developed:

1. A child shall be directly discharged when he has completed the maximum term of confinement which an adult would serve for the same offense (Florida Statutes, 39.11(3)).
2. A child shall be directly discharged when he, while in the program, commits a violation of law for which he is tried and sentenced to confinement or probation in the adult system.

3. A child committed as a second degree misdemeanor shall be directly discharged when he has successfully completed the commitment program requirements prior to expiration of his maximum term of commitment.
4. A child may be directly discharged upon entering the job corps, the armed services, private schools or other similar situations where furlough is not deemed necessary.

The policy also includes procedures for notifying the court and the child's home district regarding the child's release (discharge) from a commitment program.

In summary, the findings of this study pointed out to district and program office staff the need for supplementary policies related to second degree misdemeanor commitments. This was done, and full compliance with the law should now occur. The program office and districts will continue to monitor adherence to these requirements.

END